

to be taken into account while preparing the cost estimate by the public entity.

(2) A public entity shall, in preparing the cost estimate, make separate item of tender or performance guarantee, mobilization and demobilization cost, insurance, facilities to be provided to consultants, quality test, occupational health and security, as built design and commission for performance guarantee, etc. and include the same in the cost estimate.

10. Cost estimate of construction work: (1) A public entity shall prepare the cost estimate of any construction works, subject to Rule 9.

(2) In preparing the cost estimate of any construction works, the public entity shall prepare the cost estimate in consonance with the norms of construction works and underground works such as archaeological excavation and tunnel building, deep tube-well, petroleum research etc. if such norms are in force and, absent such norms, prepare necessary norms, get the same approved by the Government of Nepal, Council of Ministers and prepare the cost estimate in consonance with the approved norms.

Provided that in the course of performing work as per such norms, if specific type of norms shall be required for any specific work, the chief of the concerned public entity may get necessary norms prepared by the technician of the concerned body and, in the event of absence of such technician, by the concerned technician of another public entity and get such norms approved by the departmental head.

(3) In preparing a cost estimate pursuant to this Rule, the public entity shall do study whether the goods are available on site or not and specify the time required for the completion of the construction work.

(4) The public entity shall, in the course of preparing the cost estimate, fix the rate of cement, iron rods, brick, stones, soil, zinc sheets, bitumen and emulsion, fuels, polythene pipes, G.I. pipes, D.I. pipes,

sanitary goods, electrical goods, G.I. wires and similar other construction materials, rent of machines and equipment or wages of workers on the basis of the rate specified by the rate fixation committee.

Provided that, where the rate specified by the rate fixation committee is not available, it shall be fixed on the basis of the rate, rent or wages specified by the concerned governmental office or government owned corporation, authority or similar other organization near the construction site or provided by the chamber of commerce and industry.

(5) Where even the rate, rent or wages referred to in Sub-rule (4) shall not be available, such rate shall be fixed on the basis of the rate, rent or wages specified by the departmental head.

(6) The public entity shall cause the cost estimate of construction works prepared pursuant to this Rule, as well as design and drawing thereof, to be examined by the technician or group of technicians, one level higher in rank than the technician who has prepared such cost estimate and have mistakes, if any, corrected. If there is no higher level technician in such entity, the departmental head shall arrange for the examination of such cost estimate.

(7) The cost estimate of construction work shall be prepared in the format of Schedule-1.

11. Cost estimate of goods: (1) A public entity shall prepare the cost estimate of goods subject to Rule 9 and the specification of the goods concerned.

(2) The following matters shall be taken into account while preparing the cost estimate of goods pursuant to Sub-rule (1):

- (a) Actual cost incurred in the procurement of the same nature by the concerned public entity or another public entity in the district where such public entity is situated in the current year or in previous years,

- (b) Rate prevailing at the local market,
- (c) Rate prevailing at other market and estimated transportation costs to the place of delivery of goods,
- (d) Rate issued by the chamber of commerce and industry.

12. Cost estimate of consultancy service: (1) A public entity shall prepare the cost estimate of consultancy service subject to Rule 9.

(2) The following matters shall be taken into account while preparing the cost estimate of consultancy service pursuant to Sub-rule (1):

- (a) Where the concerned Ministry has prepared the norms relating to the cost estimate of consultancy service, such norms,
- (b) Terms of reference of the concerned consultancy service,
- (c) Actual cost incurred in the procurement of the same nature by the concerned public entity or any other public entity in the current year or in previous years,

Provided that, in preparing the cost estimate based on this Clause, the cost estimate shall be prepared by adjusting the price at the rate of previous years.

(3) In preparing the cost estimate referred to in this Rule, a public entity shall set out the following costs:

- (a) Remuneration of key human resources and other human resources,

- (f) If any act contrary to conduct as referred to in Section 62 is committed.

(3) After the conclusion of a procurement contract under Section 52, the Public Entity shall return the bid security of the bidder who has signed the procurement contract and the bid security of those bidders whose bid security is not liable to forfeiture pursuant to Sub-section (2).

22. Opening of Bids: The Public Entity shall have to open bids as prescribed at the time and place specified in the bidding documents on the same day immediately after expiry of the deadline for the submission of bids.

23. Examination of Bids: (1) The Public Entity shall have to submit to the evaluation committee the bids opened pursuant to Section 22.

(2) The committee shall, prior to evaluating the bids submitted pursuant to Sub-section (1), examine the bids in order to ascertain the following matters:-

- (a) Whether documents establishing that the bidder is qualified under law to submit the bid are submitted or not,
- (b) Whether the bid is complete in accordance with the instructions to bidders set forth in the bidding documents or not and whether it is signed by the bidder or by the bidder's authorized agent or not,
- (c) Where a bid security is required to be submitted along with the bid, whether a bid security of such type, period and amount as set forth in the bidding documents is accompanied with the bid or not,
- (d) Whether the bid is substantially responsive to the technical specifications set forth in the bidding documents and the terms and conditions of procurement contract attached with the bidding documents or not.

- (d) Requirement that it be opened only on the day and in the time stipulated for the opening of the tender or proposal for consultancy service.

(2) If a sealed envelope referred to in Sub-rule (1) is received, the concerned public entity shall keep such envelope in a secure manner pursuant to Rule 57.

59. Opening of tenders: (1) The public entity shall open the tenders in presence of the bidders or their agents.

Provided that, nothing shall bar the opening of tenders by the reason only that any bidder or its agent is not present.

(2) Prior to opening tenders pursuant to Sub-section (1), the public entity shall make groupings of the envelopes of tenders received after the deadline, envelopes of applications made for the withdrawal or modification of tenders and envelopes of tenders duly registered and return the tenders received after the deadline to the concerned bidders. In so returning tenders, the report of procurement proceedings shall be prepared indicating, *inter alia*, the details, date and time thereof.

(3) After returning the tenders pursuant to Sub-rule (2), the public entity shall open the envelopes of tender marked withdrawal and announce the name of such bidder, and then open all envelopes marked modification and read out the contents in such envelopes.

(4) After reading out the contents referred to in Sub-rule (3), the public entity shall open each submitted tender in a sequential manner, read out the following matters of such tender and prepare a recognizance deed thereof, which has to be signed by the bidder present or its agent:

- (a) Name and address of bidder,
- (b) Tender price and each unit rate,
- (c) If the tender offers any discounts, contents thereof,

- (d) If any alternative to technical specification is proposed, tender price thereof,
- (e) Whether there is absence of tender security or not,
- (f) If there is a discrepancy between figures and words, details thereof,
- (g) Whether the tender form bears the signature of the bidder or its agent or not,
- (h) If the tender documents contain any correction or overwriting, amount so overwritten and details thereof,
- (i) Whether the bidder or its agent has signed or not,
- (j) If the bidder has mentioned any remarks in the tender form, contents thereof and requested for information of rate, details thereof, and
- (k) Such other matters as the public entity considers appropriate.

(5) No decision as to the acceptance or rejection of any tender shall be made at the time of opening of tenders pursuant to this Rule.

60. Examination of completeness of tenders: While examining the completeness of a tender, the evaluation committee shall examine the following matters, in addition to the matters set forth in Sub-section (3) of Section 23 of the Act:

- (a) Whether the bidder is involved individually or as a partner in a joint venture in more than one tender or not,
- (b) Whether the bidder is disqualified to take part in the procurement proceedings pursuant to Sub-sections (2) and (3) of Section 63 of the Act or not,

- (f) Such other documents as the public entity considers necessary.

(3) If it is omitted to mention the documents referred to in Sub-rule (2) in the tender documents or such documents are not clearly mentioned or any other matter is to be amended therein, the public entity may mention such documents, make clarification or amendment by publishing a notice in a daily newspaper of national circulation and in an international communication means in the case of an international bidding, within the period for the submission of bids.

Provided that, where additional time is required for bidders to submit tenders by the reason of such notice, the dead line for the submission of tenders shall also be extended.

(4) The tender of a bidder who fails to submit the documents referred to in Sub-rules (1) and (2) shall not be entertained.

- 41. Language of tender:** (1) Except as otherwise provided in the Act and these Rules, the prequalification documents, tender documents, request for proposal documents, notice of request for prequalification, tender or proposal and procurement contract shall be prepared in the Nepali language as far as possible and in the English language if it is not possible.

(2) Bidders may submit procurement related documents written or materials printed in the Nepali or English language to the public entity.

Provided that, the relevant portions of such documents or printed materials have to be translated in the English language by a competent body of the concerned country; and in the case of divergence between such documents or printed materials and such translated portions, the translated portions shall prevail.