

F.No.17/6/2014-PPD
Ministry of Finance
Department of Expenditure
Procurement Policy Division

168-C, North Block, New Delhi.
Dated the 24th May, 2016

OFFICE MEMORANDUM

Subject:- Seeking feedback from Stakeholders for Revision of Manuals on Policies and Procedures for Purchase of Goods, Works & Consultancy - reg.

Attention is invited to the Manuals on Policies and Procedures for Purchase of Goods, Works and Consultancy issued by this Department in 2006. These Manuals were circulated keeping in view need to introduce quality, competition and transparency in the public procurement. These Manuals were prepared in conformity with the General Financial Rules, 2005 and contained broad generic Guidelines. To suit their local/specialized needs, Ministries / Departments were to supplement these manuals by issuing Detailed Operating Instructions; Checklists and customized formats to serve as practical instructions. These Manuals are available at the website of Ministry of Finance and can be accessed at following address:

http://www.finmin.nic.in/the_ministry/dept_expenditure/acts_codes/index.asp

2. It is now proposed to revise and update these Manuals. For this purpose, it is proposed to seek feedback of stakeholders about areas of concern in the above mentioned Manuals and to also solicit their suggestions for further improvement.

3. It is requested to send your feedback in the enclosed Annexure-I, Annexure-II and Annexure-III. To structure and crystallize the feedback - certain indicative preliminary areas identified for the revision in the Manuals are mentioned in the attached Annexure. Feedback outside these areas is also welcome. Though the list is long but areas which have no outstanding concern may be skipped.

4. The views of Attached/Subordinate offices and Autonomous Bodies under your control may also be taken and incorporated in the feedback sent to this Department. The feedback may preferably be sent through email at Email IDs: sanjay.aggarwal68@nic.in, girish.bhatnagar@gmail.com. The feedback may please be sent by **15th June, 2016**.

(Vinayak T. Likhari)

Under Secretary to the Govt. of India
Telefax: 011-23094961

- To,
1. All the Secretaries/Financial Advisers of Central Government Ministries/ Departments (As per List enclosed)
 2. Other Organizations / Individuals as per attached list with a request to send similar feedback.

DG. ICMR OFFICE
Diary No :3158.....
Date :31/5/16.....

Sr. DDG(A) ICMR OFFICE
Diary No903.....
Date1/6/2016.....

MS-2162
Cobrand
7/6/16
Dy No 446
8/6/16

So(AFI)
8/7/16

R.S. Sharma

DC(OT)

Sr. DDG(A)

Sr. FA

FS(MP)

DHR

31/5/16

Copy to:- (i) AS(PF-I); (ii) JS(Pers.); (iii) JS(PF-II); (iv) JS(IC);
(v) CGA; (vi) Chief Adviser (Cost) & (vii) Director (NIFM).



(Vinayak T. Likhari)

Under Secretary to the Govt. of India

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IN CHARGE OFFICE

Copy No. ...

Manual on Policies and Procedures for Procurement of Goods.

| Preliminary Areas identified for revision | Reference to Existing Chapters/ Paras | Your suggestions in this regard. | Justification and reasons for your Suggestions |
|---|--|----------------------------------|--|
| I) Chapter 1 and 2: Preamble/ Introduction and Objectives/ Policies of Procurement | | | |
| 1. Manual should also explain certain concepts like Value for Money, Life Cycle Costing? (Presently these are presumed to be understood). | Nil | | |
| 2. In fundamental principles of public procurement more than 20 adjectives (transparency, economy, equality, ethical etc) are used with overlapping scope. These should be grouped into 4-5 broad fundamental principles – for clarity. | Chap 1, Para 1.1.2, 1.1.3,; Chap-2, Para.2.1 | | |
| II) Chapter 3 - Legal Aspects of Procurement | | | |
| 3. Essence of other relevant laws (Sales of Goods Act; Arbitration and Conciliation Act etc) relating to procurement should also be covered? | Nil | | |
| III) User/ Indenter's Point of view - Chapter 4: Need Assessment and Indenting | | | |
| 4. The Manual should also cover satisfactorily - need assessment, Technical and Budgetary approval, Indenting procedures and delegations. | Nil | | |
| 5. Guidelines for handling long-gestation procurement involving expenditure over a number of years, needing budgetary support – needs to be tackled | Nil | | |

| Preliminary Areas identified for revision | Reference to Existing Chapters/ Paras | Your suggestions in this regard. | Justification and reasons for your Suggestions |
|--|---------------------------------------|----------------------------------|--|
| 6. Technical Specification framing and its role in transparency may need to be elaborated. | Chap 4, Para 4.1 – 4.3 | | |
| 7. Though deciding tenders on the basis of sample is not normally permitted, but handling of sample is involved in certain BIS specifications for intangible properties. This needs to be detailed. | Chap-4, Para 4.1 | | |
| 8. Estimation of quantity, Delivery Time and Cost also needs to be covered. | Nil | | |
| 9. A strict ban on procurement to brands causes problem in practice in some cases. Is there a case for transparently specifying multiple brand of equal quality to procure small requirements in a simple way? | Nil | | |
| IV) Vendors' Point of view - Chapter 5: Supplier Relations Management | | | |
| 10. Registration of Vendors may need to be further elaborated. | Chap 5, Para 5.1 to 5.6 | | |
| 11. A Code of Integrity for Procurement (and penalties and punishments) needs to be laid down for officers and vendors to follow. These obligations at present are scattered. | Nil | | |
| 12. Removal and Banning of delinquent firms need to be further elaborated. Some Public Sector organisations also use concept of Holiday listing for minor demeanours, may also be discussed. | Chapt 5, Para 5.8 to 5.11 | | |

| Preliminary Areas identified for revision | Reference to Existing Chapters/ Paras | Your suggestions in this regard. | Justification and reasons for your Suggestions |
|--|--|----------------------------------|--|
| 13. Channels of complaints, grievance redressal for vendors need to be covered | Nil | | |
| V) Procurement Agency's Viewpoint: Chapter 6: Modes of Procurement, Bid Preparation, Publishing, Receipt and Opening | | | |
| 14. Procurement Planning aspects also need to be covered. | Nil | | |
| 15. There may be situations where transparent clubbing/ splitting of demand in larger interest of the organisation, may have to be enabled. | Chap 6, Para 6.1 to 6.13; 6.23 to 6.25 | | |
| 16. Mode of Procurements need to include modes like reverse auction, Spot Purchase. EProcurement needs to be elaborated. | | | |
| 17. There have been request for permitting procurement from Malls/ internet eProcurement aggregators. | | | |
| 18. Expression of Interest (EOI) as a mode of procurement/ Type of Bidding needs to be added, in the light of CVC guidelines in this regard. | | | |
| 19. While discussing the modes of procurement and Types of Bidding, the Risk factors and mitigation should also be explicitly discussed. | | | |
| 20. Preparation of Bid Document needs to be elaborated and various broad sections of Bid Documents and their role need to be discussed. | Chap 6, Para 6.15 | | |
| 21. Cost of Bid Documents is an area where | | | |

| Preliminary Areas identified for revision | Reference to Existing Chapters/ Paras | Your suggestions in this regard. | Justification and reasons for your Suggestions |
|---|---------------------------------------|----------------------------------|--|
| Organizations look for guidelines. | | | |
| 22. Publishing, Receiving and opening of tenders needs to be tailored to eProcurement also. | Chap 6, Para 6.16 to 6.22 | | |
| VI) Evaluation of Bids and Award of Contract, Contract Formulation – Chapter 11 | | | |
| 23. Evaluation of Technical Bids may be elaborated, bringing out Risk areas and mitigations. | Chap 11, Para 11.1 to 11.13 | | |
| 24. Guidelines regarding roles and responsibilities of Tender Committees and Competent Authorities needs to be delineated. | Nil | | |
| 25. Formulation of Contract its risks and mitigation strategies may be laid down. It should be covered in this Chapter. | Chapter 12, Para 12.1 to 12.4 | | |
| VII) Earnest Money and Performance Security – Chapter 7 | | | |
| 26. The Chapter is sufficiently detailed, except that enabling provision needs to be incorporated for electronic Bank Guarantee provision under Structured Financial Management System (SFMS) | Chap 7, Para 7.1 to 7.8 | | |
| 27. Provisions of obtaining Warrantee Guarantee also need to be included. | | | |
| VIII) Elements of Price and Terms of Payment – Chapter 9 | | | |
| 28. The Chapter is sufficiently detailed, except that ECS mandate form needs to be brought out. | Chap 9, para 9.13 | | |
| IX) Contract Management, Delivery Period, Delays, Quality Control/ Inspection; Settlement of Disputes – Chapter 8, Chapter 12 and 13+ | | | |
| 29. Latest INCOTERM 2010 would be incorporated | Chap8, Para 8.4 | | |
| 30. Need to reconsider provision for Risk | Chap8, Para 8.19 | | |

| Preliminary Areas identified for revision | Reference to Existing Chapters/ Paras | Your suggestions in this regard. | Justification and reasons for your Suggestions |
|--|---------------------------------------|----------------------------------|--|
| Purchase. | | | |
| 31. Quality Assurance need to be further detailed | Chap 10, Para 10.1 to 10.13 | | |
| 32. Contract Management needs to be further detailed. | Chap 12, 12.5 to 12.8 | | |
| 33. Contract Closure is an important area to be further detailed. | Chap 12, 12.9 | | |
| 34. Dispute Resolution and in particular Arbitration and Conciliation (Amendment) Act, 2015 needs to be further detailed. | Chap 13, Para 13.1 to 13.5 | | |
| X) Central Procurement Agency's Role - Rate Contracts – Chapter 14 | | | |
| 35. DGS&D operations have undergone changes, with most of work being done online. This needs to be brought out. | Chap 14, para 14.1 to 14.17 | | |
| XI) Central Public Procurement Portal's Role | | | |
| 36. A separate chapter may be warranted to cover the CPPP portal and E-Publishing and E-procurement | Nil | | |
| XII) Management Issues in Procurement Function | | | |
| 37. A separate Chapter on Management aspects of Procurement function needs to be added covering: a. Management and Organisational aspects of Procurement Functions b. Record Keeping Standards c. Grievance Redressal and Bid Protest d. Proactive Disclosures under RTI e. Management Reporting, Key | Nil | | |

| Preliminary Areas identified for revision | Reference to Existing Chapters/ Paras | Your suggestions in this regard. | Justification and reasons for your Suggestions |
|--|---------------------------------------|----------------------------------|--|
| Performance Indices | | | |
| XIII) Miscellaneous Topics – Chapter 15 | | | |
| 38. Topics like specialities of procurement of Capital Equipment/ Turnkey projects, IT, Maintenance Contracts, Imports, Disposals need to be elaborated. | Chap 15, Para 15.1 to 15.4 | | |

Manual on Policies and Procedures for Employment of Consultants

| Preliminary Areas identified for revision | Reference to Existing Chapters/ Paras | Your suggestions in this regard. | Justification and reasons for your Suggestions |
|--|--|----------------------------------|--|
| I) Introduction | | | |
| 1. Fundamental Principles of Public Procurement may be discussed again in the context of Employment of Consultants and Non-Consultancy Services. | Nil | | |
| 2. In Legal aspects, implications of special issues like Principal and Agent relationship needs to be brought out in relation to Consultants and Service Providers | Nil | | |
| 3. Some guidelines and definitions are needed to enable distinction between Consultancy and Non-Consultancy services on one hand and between Works and Service on the other hand. | Nil | | |
| II) Types Of Contracts, Systems Of Selection And Categories Of Procurement | | | |
| 4. Procurement Planning aspects also need to be covered. | Nil | | |
| 5. Fundamental Concepts like Types of Contracts, System of Selection of Service Providers/ Consultants should be discussed in detail. Terminologies like CQCCBS which are not in line with internationally accepted usage needs to be avoided. | 1.5.2, 1.5.3, 1.8.1, 1.8.2, 5.1 to 5.5 | | |
| 6. Categories of Procurements like Direct Negotiations, Selection of Service Providers, Procurement and Inspection Agents, Financial Advisors and Auditors needs to be elaborated. Similarly Selection of Individual | Para 4.1 to 4.6; 7.1 to 7.5 | | |

| Preliminary Areas identified for revision | Reference to Existing Chapters/ Paras | Your suggestions in this regard. | Justification and reasons for your Suggestions |
|--|---------------------------------------|----------------------------------|--|
| Consultants, | | | |
| 7. For Non-consultancy Services (or also perhaps minor consultancy) for small procurement modes of procurement/ system of selection similar to Procurement of Goods (without quotation or through Committee), needs to be enabled. | Nil | | |
| 8. While discussing the Types of Contracts and Selection of Consultants/ Service Providers, the Risk factors and mitigation should also be explicitly discussed. | Nil | | |
| III) User/ Indenter's Point of view - Procurement Proposal/ Concept Paper, Terms Of Reference And Cost Estimates | | | |
| 9. The Manual should also cover satisfactorily the process of procurement proposal/ Concept Paper, justification, (Objective / Service Outcomes Statement) their approvals and delegations. | 1.2.1 | | |
| 10. Further stages of preparation of Detailed Scope of Work, Timelines, Terms of Reference (Key Professionals/ Reports and Deliverable, Procedure for review of Work), Cost Estimates and final approval needs to be more detailed. Risks and Mitigation at these stages needs to be brought out. It may perhaps be pertinent to add Formats of ToR/ SoW as Annexures. | 3.2, 3.3 | | |
| 11. Some guidelines for fixing Threshold and limits for approvals, considering Risk factors and Checks and balances may be needed | 1.2.2 | | |

| Preliminary Areas identified for revision | Reference to Existing Chapters/ Paras | Your suggestions in this regard. | Justification and reasons for your Suggestions |
|--|---------------------------------------|----------------------------------|--|
| IV) Short-listing or Single Stage Procurement of Consultants/ Service Providers | | | |
| 12. Preparation of EOI Document, Publication, invitation and receipt of proposals needs to be further elaborated. Particularly in the context of ePublishing and eProcurement. | Para 2.1 to 2.5 | | |
| 13. Evaluation of EOI proposals needs to be further elaborated, keeping in view risks and mitigations at various stages | | | |
| V) Preparation of RFP, Evaluation of Proposals and Award of Contract, Contract Formulation | | | |
| 14. Preparation of RfP Document, Publication, invitation and receipt of RfP needs to be further elaborated. Particularly in the context of ePublishing and eProcurement. | Para 3.4 to 3.6 | | |
| 15. Important provisions of RfP and their relevance to transparency of procedure needs to be elaborated | Para 6.1 to 6.9 | | |
| 16. Evaluation of Technical Bids may be elaborated, bringing out Risk areas and mitigations. | Para 3.7 to 3.9 | | |
| 17. Evaluation of Financial Proposal and Award of Contract may be elaborated, bringing out Risk areas and mitigations. | Para 3.10 to 3.15 | | |
| 18. Guidelines regarding roles and responsibilities of Consultancy Evaluation Committee and Competent Authorities needs to be delineated. | Para 1.6 | | |
| 19. Formulation of Contract in Consultancy and Services is much more critical than in Goods and its risks and mitigation strategies may be | Para 6.1 to 6.9 | | |

| Preliminary Areas identified for revision | Reference to Existing Chapters/ Paras | Your suggestions in this regard. | Justification and reasons for your Suggestions |
|---|---------------------------------------|----------------------------------|--|
| laid down. | | | |
| VI) Contract Management: Monitoring of Delays, Quality; Payments and Settlement of Disputes | | | |
| 20. Contract Management of Consultancy is much more difficult and requires involvement of Employer intensively. This needs to be extensively elaborated – Professional Liability, Substitution of Key Personnel, Inception Phase, stages and Stage wise payments etc. | Para 6.11 | | |
| 21. Role of Contract Management Committee and Competent Authority needs to be elaborated | 1.7 | | |
| 22. Contract Closure is an important area to be further detailed. | Nil | | |
| VII) Service Providers' Point of view :- Service Provider Relations Management | | | |
| 23. Eligibility of various types of Service Providers/ Consultants needs to be laid down – consulting firms, engineering/ Construction firms, management firms, procurement agents, inspection agents, auditors, investment and merchant bankers, universities, research institutions, government agencies, non-governmental organisations (NGOs) and individuals/experts; Retired Govt/ PSU Officers | Para 1.1.2, 1.2.3, 1.4 | | |
| 24. Registration of Service Provider may be required at least for non-consultancy services, and certain routine consultancies. | Nil | | |
| 25. Code of Integrity for Procurement of Services (and penalties and punishments) | Para 6.10 | | |

| Preliminary Areas identified for revision | Reference to Existing Chapters/ Paras | Your suggestions in this regard. | Justification and reasons for your Suggestions |
|---|---------------------------------------|----------------------------------|--|
| needs to be re-discussed with unique issues like Unfair Competitive advantage and Conflict of Interest. | | | |
| 26. Removal and Banning of delinquent Service Providers need to be further elaborated. | | | |
| 27. Channels of complaints, grievance redressal and bid protest for service providers/ Consultants need to be covered | Nil | | |
| 28. Dispute Resolution and in particular Arbitration and Conciliation (Amendment) Act, 2015 needs to be further detailed. | Nil | | |

Annexure III

Revision of Manual on Policies and Procedures for Procurement of Works

| Preliminary Areas identified for revision | Reference to Existing Chapters/ Paras | Your suggestions in this regard. | Justification and reasons for your Suggestions |
|---|---------------------------------------|----------------------------------|--|
| I) General | | | |
| 1. Changes since 2005 in CPWD manual, procedures and eProcurement may be reflected in this manual. | Nil | | |
| 2. Lessons from various CVC guidelines issued since 2005 including inspection of CWG related works, if any may be incorporated in the Manual. | Nil | | |
| 3. Legal aspects, implications of Indian Contract Act, Labour laws and special issues like Principal and Agent relationship needs to be brought out in relation to Works | Nil | | |
| 4. Integrity risks associated with various stages of Procurement and Contract Management and their mitigation measures may be highlighted in the relevant paras. | Nil | | |
| II) Chapter 2: Preparation of Estimates | | | |
| 5. Guidelines for Ministries/ Departments contracting routine repair works on annual running contract basis to local private sector may also be indicated, as in some places there may be no other alternative. | Para 2.2.1 | | |
| 6. Internal process to be followed by Ministries/ Departments for preparing requisition for the PWDs i.e. Need Assessment, Acceptance of Need (in principle approval), Rough | Para 2.2.3 | | |

| Preliminary Areas identified for revision | Reference to Existing Chapters/ Paras | Your suggestions in this regard. | Justification and reasons for your Suggestions |
|--|---------------------------------------|----------------------------------|--|
| Indication of Costs (RIC)... may also be elaborated. | | | |
| 7. Internal process to be followed by Ministries/ Departments for obtaining 'Go Ahead' sanction and for provisioning of funds in Budget/ or RE may also be elaborated. | Para 2.4.1 | | |
| 8. Packaging and Splitting may also be discussed as an important part of Procurement planning. | Para 2.1 | | |
| III) Chapter 3: Preparation of Tender Documents | | | |
| 9. Forms of Contracts based on arrangements between employer and contractors – Design & Build; BOT, BOOT, BOLT, DBFO, EPC, PPP, Contracts etc may also be brought out. | Para 3.1 | | |
| 10. Changes if any due to Arbitration and Conciliation (Amendment) Act, 2015 may be incorporated. It may better be shifted to Chapter 5. | Para 3.8 | | |
| 11. A sample Price Variation Formula and Clause may be incorporated in Annexure. | Para 3.9 | | |
| IV) Chapter 4: Call of Tenders and Award of Work | | | |
| 12. Registration of Vendors may be elaborated including class/ grades of registration. | Para 4.1 | | |
| 13. Code of Integrity for Procurement of Works (and penalties and punishments) needs to be re-discussed with unique issues like Conflict of Interest. | Para 4.1 | | |
| 14. Removal and Banning of delinquent Contractors need to be further elaborated. | Nil | | |
| 15. Channels of complaints, grievance redressal and bid protest for bidders need to be covered | Nil | | |

| Preliminary Areas identified for revision | Reference to Existing Chapters/ Paras | Your suggestions in this regard. | Justification and reasons for your Suggestions |
|---|---------------------------------------|----------------------------------|--|
| 16. Pre Qualification criteria may be elaborated considering CVC guidelines in this regard. A sample Pre Qualification Criteria may be incorporated in Annexure. | Para 4.2.3 | | |
| 17. Treatment of JVs and other associated bidders needs to be brought out, especially in the context of Pre-qualification criteria or eligibility conditions and registration of Contractors. | Para 4.1 and 4.2 | | |
| 18. The para 4.2.7, Award of Work without call of tenders, at present has flavour of procurement of Goods. Award of work on quotations may be elaborated specifically for works, setting out any value limit and minimum number of quotations to be obtained. | Para 4.2.7 | | |
| 19. Two Envelop bid system with Technical and Financial Bids may be discussed | Para 4.7 | | |
| 20. Risks and Mitigations in various methods of calling tenders and modes of tendering may be elaborated | Nil | | |
| 21. Standard Bidding Documents and its Sections may also be elaborated | Para 4.4 | | |
| 22. Issue and sale of Tender documents, cost of Tender Documents may need elaboration | Para 4.4 | | |
| 23. Obligatory publishing of tenders on CPPP may be incorporated | Para 4.4 | | |
| 24. For abundant clarity, in Pre Bid Conference, beside issue of minutes, any change warranted in Bid Documents, may be formally issued as amendment/ corrigendum. | Para 4.5 | | |

| Preliminary Areas identified for revision | Reference to Existing Chapters/ Paras | Your suggestions in this regard. | Justification and reasons for your Suggestions |
|---|---------------------------------------|----------------------------------|--|
| 25. Opening of Bids may be further elaborated | Para 4.6 | | |
| 26. Provisions about, corrigendum to Bid Document, Revision/ withdrawal of bids by bidders may also be touched upon. | Para 4.7 | | |
| 27. Procedure for obtaining Performance Guarantee before signing of contract may also be discussed | Para 4.8 | | |
| 28. Obligatory publishing of Award of contract on CPPP may be incorporated | Para 4.8 | | |
| 29. Measurement and Payment, may be shifted to Chapter 5: Project Monitoring | Para 4.9 | | |
| 30. EProcurement process and implications for bid preparation, publishing, issue of tenders, opening of tenders and publishing of award may be discussed. | nil | | |
| V) Chapter 5: Project Monitoring and Quality Assurance | | | |
| 31. Issues relating to Land Acquisition, environmental and other clearances may be discussed | | | |
| 32. Contract Monitoring and Quality assurance needs to be further elaborated detailing – responsibilities of parties, concept of Engineer, role of Project Management Consultant, Methods Statement, Work Programme and Quality Management Plan, Safety issues, Quarries and borrow areas, materials, compliance of law, Sub-contracting, | Para 5.2 | | |
| 33. Delays, Extension of Time, Time at Large, Incentive and Bonus payment, Breach of Contract and Terminations may also be discussed | Para 5.2 | | |

| Preliminary Areas identified for revision | Reference to Existing Chapters/ Paras | Your suggestions in this regard. | Justification and reasons for your Suggestions |
|---|--|---|---|
| 34. Dispute resolution, Dispute Resolution Board procedures, Arbitration, litigation etc may be further elaborated. | Para 3.7, 3.8 | | |
| 35. Interim and Final Payments, Payment Certificates, Claims, Financial control may be further elaborated | Para 4.9, 4.10 | | |
| 36. Procedure for approval of Variations, Substituted and Extra items, valuation of variations, Day work etc needs to be discussed. | Para 5.2 | | |
| 37. Substantial completion, Handing over/ taking over certificates, defects liability period etc may be discussed. | Para 5.3 | | |
| 38. Measurement of work, Test Checks, Measurement Book procedures need to be elaborated | Para 4.9.1 | | |
| 39. Important contract monitoring dairies, registers, reports and records may be discussed. | Para 4.9, 5.3.2 | | |
| 40. Contract Closure is an important area to be further detailed. | Para 5.2 | | |