

In pursuance, of the provisions of clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of Notification No. 177/XXVII(7)/2008, Dehradun dated May 01, 2008 for general information.

**Government of Uttarakhand**  
**Department of Finance**

No. 177/XXVII(7)/2008

Dehradun: Dated: 01 May, 2008

In exercise of the powers conferred by the provision to Article 166 of the Constitution of India and in supersession of all existing rules and orders on the subject, the Governor is pleased to make the following rules for the purpose of procurement of goods, works and services and for Public Private Partnership arrangements in infrastructure and service delivery projects and to regulate the matters connected therewith or incidental thereto-

**THE UTTARAKHAND PROCUREMENT RULES, 2008**

Chapter-1

General Instructions

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| Short Title,<br>Commencement,<br>Extent and<br>overriding effect | 1(1) These rules may be called The Uttarakhand Procurement Rules, 2008.<br>(2) They shall come into force with immediate effect.<br>(3) These rules shall be applicable to all Government Departments, State Public Sector Undertakings (PSUs), Statutory Authorities, Panchyati Raj Institutions Municipalities/Urban Local Bodies, Government societies and other entities, which are under the administrative control of the State Government for the purpose of procurement of goods, works, services and for Public Private Partnership arrangements in infrastructure and service delivery projects.<br>(4) The provisions of these rules shall have effect notwithstanding anything inconsistent therewith contained in any other rules and orders for the time being in force or in any instrument having effect by virtue of any rules and orders other than these rules. |
| Definitions  | 2 In these rules, unless the context otherwise requires: -<br>(a) 'State' means the State of Uttarakhand;<br>(b) 'Governor' means the Governor of Uttarakhand;   |

- (c) 'Department' means concerned Administrative Department of the Government;
- (d) 'Head of Department' means the such office bearer appointed by the State Government, who have been declared as head of the department under the financial rules of the State;
- (e) 'Head of Office' means the seniormost gazetted officer in an office or establishment, declared as such by the Government or by the Head of the Department as per financial rules;
- (f) 'Goods' means all articles, products, materials, commodities, live stock, furniture, fixtures, raw materials, spares, equipments, machinery, industrial plant, stationary etc;  
Provided that it excludes books, publications, periodicals etc. for a library;
- (g) 'Work' means original work, repair and maintenance;
  - (i) 'Original work' means and includes all new construction, addition and alteration to existing works, special repairs to newly purchased or previously abandoned buildings or structures, including remodeling or replacement;
  - (ii) 'Repair or Maintenance' includes and means works undertaken to maintain buildings and fixtures in usable condition or to bring them in usable condition;
- (h) 'Service' means professional services, technical services, management services, maintenance services, consultancy services;
- (i) 'Competent Authority' means the authority that has been authorized by rules, procedures, Government order to make financial transactions, purchases and procurements;
- (j) 'Procurement Officer /Purchase Officer' means the officer authorized by Competent Authority to procure/purchase the goods, works and services;
- (k) 'Central Purchase Organization' means such departmental procurement organization, as are declared by the State for centralized procurement of specific goods and services;
- (l) 'Public Works Organization' means the organization, authorized to carry out construction works on behalf of the Government.

Fundamental Principles of Procurement

- 3 (1) In all procurement procedures, transparency, competitiveness and fairness must be ensured, to secure best value for money.
- (2) All procurements shall be made through tenders, unless exempted under these rules or under specific orders.
- (3) Invitation of competitive bids shall be open to all participants, unless otherwise specified under the rules or specially restricted by the Competent Authority.
- (4) The specifications in terms of quality, type etc. as also quantity of goods to be procured, should be clearly spelt out keeping in view the specific needs of the procuring organizations. The specifications so worked out should meet the basic needs of the organization without including superfluous and non-essential features, which may result in unwanted expenditure. Care should also be taken to avoid inventory carrying cost.
- (5) The Competent Authority shall ensure that the selected item adequately meets the requirement in all respects.
- (6) Other conditions being equal, the lowest tender should ordinarily be accepted, otherwise, the reasons, why the lowest tender has not been accepted, should always be recorded.

- (7) The Competent Authority shall satisfy itself that the price of the selected offer is reasonable and consistent with quality.
- (8) The Competent Authority shall ensure the safe custody of documents of all stages of procurement and must place on record, the considerations, which weighed with it while taking the procurement decisions.
- (9) Negotiations shall be avoided. It may be conducted under exceptional circumstances with lowest bidder L-1 only and the reasons for such negotiations should be clearly recorded.
- (10) Efforts shall be made to bulk the demands as far as practicable so as to achieve advantage of lower rates. A demand shall not be split to bring down the value of procurement nor divided into small quantities to make piecemeal purchases to avoid the necessity of obtaining the sanction of higher authority required with reference to the estimated value of the total demand.
- (11) Standard Bidding Documents: Standard Bidding Documents should be used for procurement to achieve uniformity and to avoid repetitive work and possible errors.
- (12) The Departments should ensure placement of contract within the original validity of the bids. Extension of bid validity must be discouraged and resorted to only in exceptional circumstances.
- (13) Standards of Financial Propriety: In exercising these powers, the authority making purchases shall pay strict regard to the standards of financial propriety, among which are the following:-
  - (i) The main duty of officers making procurement is to see that the Government gets a fair return for the money to be spent,
  - (ii) The expenditure should not prima facie be more than the occasion demands,
  - (iii) Every Government servant shall exercise the same vigilance in respect of expenditure incurred from public moneys as a person of ordinary prudence would exercise in respect of the expenditure of his own money, and
  - (iv) No authority shall exercise its powers to pass an order, which will be directly or indirectly to its own advantage.

## **Chapter -2**

### **Goods**

Authorities  
Competent to  
Procure Goods

4. An authority authorized by rules, procedures or Government orders to procure goods, will be called the Competent Authority. It includes the authority given in the Financial Hand Book Vol-1 (Delegation of financial powers) to the Head of Office, Head of Department, Administrative Department or any other authority authorized by the Government from time to time.

Powers for  
Procurement of  
Goods

5. The Departments of the State Government shall have full authority to procure goods/services as per standards or norms prescribed by the concerned Administrative Department and within limits of delegation of power to them. In case of procurement not covered under prescribed powers & norms, the procurement shall be done with the concurrence of the Finance Department.

Registration of  
Suppliers

6.(1) With a view to establishing reliable sources for procurement of goods commonly required for Government use, the concerned Administrative

Department or the designated Central Purchase Organization will prepare and maintain item-wise lists of eligible and capable suppliers. Such approved suppliers will be known as “Registered Suppliers”. The Departments may utilize these lists as and when necessary. Such registered suppliers shall be prima facie eligible for consideration for procurement of goods through Limited Tender Enquiry. They shall ordinarily be exempted from furnishing bid security along with their bids.

- (2) Credentials, manufacturing capability, quality control systems, past performance (for the goods in question), after sales service, financial background etc. of the supplier(s) should be carefully verified before registration.
- (3) The supplier(s) will be registered for a fixed period (between 1 to 3 years) depending on the nature of the goods. At the end of this period, the registered supplier(s) willing to continue with registration may apply afresh for renewal of registration. New supplier(s) may also be considered for registration at any time, provided they fulfill all the required conditions.
- (4) Performance, conduct etc. of every registered supplier is to be watched by the concerned Department/Competent Authority. The registered supplier(s) are liable to be removed from the list of approved suppliers, if they fail to abide by the terms and conditions of the registration or fail to supply the goods on time or supply substandard goods or make any false declaration to any Government agency or for any ground which in the opinion of the Government, is not in public interest.

Purchase/Price preference

- 7. The State Government, through the Administrative Department and with the concurrence of Finance Department may provide purchase/price preference for goods manufactured within the State by small, cottage/khadi/tiny enterprises/established within the State. The preference should not be more than ten percent of the lowest quoted rate.

Procurement without Quotation

- 8. Procurement of goods upto a value of Rs.15000/- (Rs. Fifteen thousand) on each occasion may be made without inviting quotations/bids but based on open market prices, on the basis of certificate to be recorded by the Competent Authority in the following format:-

“I..... am personally satisfied that these goods purchased are of the requisite quality and specification and have been purchased from a reliable supplier at a reasonable price.”

Signature.....  
 Name of the Officer.....  
 Designation.....

Purchase of Goods by Purchase Committee

- 9. Purchase of goods costing above Rs.15000/- (Rs. Fifteen thousand) and upto Rs.1,00,000/- (Rs. One lakh only) on each occasion may be made on the recommendations of a duly constituted Local Purchase Committee consisting of three members of an appropriate level as decided by the Head of Department/Head of Office. In such a committee one member should be either from finance services or audit services or a person specially trained in

procurement/purchase to advise on procedural aspects of procurement and financial rules. The committee will survey the market to ascertain the reasonableness of rate, quality and specification and identify the appropriate supplier. Before recommending placement of purchase order, the members of the committee will jointly record a certificate as under :-

“Certified that we (1)..... (2) ..... (3) ..... members of the purchase committee are jointly and individually satisfied that the goods recommended for purchase are of the requisite specification and quality, priced at prevailing market rate and the supplier recommended is reliable and competent to supply the goods in question.”

Signature (1)..... (2).....(3).....  
 Name.....Name.....Name.....  
 Designation..... Designation..... Designation.....

Purchase of Goods directly under Rate Contract

- 10(1) For goods and items, which are identified as common user items and are needed on recurring basis by the various Departments and agencies of the Government, such Rate Contracts may be concluded by the designated Central Purchase Organization of the State Government or Administrative Departments of the State Government. All details of such Rate Contracts should be kept on the website of the department/Government. The department/organization shall ensure that the rate contract prices do not exceed either market prices or the prices quoted in other similar rate contracts in other organizations.
- (2) Ordinarily, rate contracts may be concluded for one year at a time. However, in case of goods which are subject to frequent price fluctuation or where prices tend to decline overtime, the validity of the rate contract may be kept for a shorter period and a close watch be kept over the market price of such goods. In special circumstances, the Department with the concurrence of Finance Department may be authorised to purchase goods on the basis of rate contracts, concluded by the central purchase organization of Government of India (For example DGS&D)

Purchase of Goods by Obtaining Bids/Tenders

11. The Competent Authority shall procure goods by following standard methods of obtaining bids/ tenders as follows, except in cases covered under rule 8, 9 & 10:-
- (a) Limited tender enquiry
  - (b) Advertised tender enquiry
  - (c) Single tender enquiry.

Limited Tender Enquiry

- 12(1) This method of Limited Tender Enquiry may be adopted when estimated value of the goods to be procured is upto Rs.15,00,000/- (Rs. Fifteen lakh)
- (2) Copies of the bidding document should be sent directly by speed post/registered post/ courier/e-mail to more than three firms which are borne on the list of registered suppliers for the goods in question, so as to ensure that minimum three bids are received. Further, web based publicity should be given for a limited tender.
- (3) It should be ensured that maximum possible approved suppliers are identified to obtain more responsive bids on competitive basis. To identify such suppliers, the mechanism of advertisement, publications in high

circulation national newspaper and different web sites of concerned suppliers may be used.

- (4) Purchase through limited tender enquiry may be adopted even where the estimated value of procurement is more than Rs.15,00,000/- (Rs. Fifteen lakh), in the following circumstances.
  - (i) If the department certifies that the demand is urgent and additional expenditure involved by not procuring through advertised tender enquiry is justified in view of urgency. The Head of Department/ Head of Office should also put on record the nature of the urgency and the reasons why the procurement could not be anticipated.
  - (ii) When there are sufficient reasons, they should be recorded in writing by the Competent Authority, indicating that it will not be in public interest to procure the goods through advertised tender enquiry.
  - (iii) When the sources of supply are definitely known and possibility of fresh source(s) beyond those being tapped is remote.
  - (iv) In a limited tender enquiry, ordinarily, minimum two weeks time from the date of tender notice may be given for submitting the bids.

Advertised  
Tender Enquiry

- 13(1) Procurement of goods of estimated value of Rs.25,00,000/- (Rs. Twenty Five lakh) and above should be through invitation to tender by advertisement in at least two widely circulated National news papers. Procurement of goods of less than Rs.25,00,000/- (Rs. Twenty Five lakh) value should be through advertisement in widely circulated local, newspaper/newspapers and in case of any special need, in one widely circulated National newspaper.
- (2) The tender enquiry should also be placed on the website of the State Government/Department and have a hyperlink with the NIC web site.
- (3) All documents related to the tender enquiry should be prepared in advance, which would include the terms and conditions of tender, format of agreement, details and quality of goods etc. The documents should be placed on the department's/organization's website and prospective bidders should make use of the document downloaded from the web site. If such a downloaded bidding document is priced, there should be clear instructions for the bidder to pay the amount by demand draft or available e-banking facilities of the Government (if any) parallel to submission of bids.
- (4) Where the Department feels that the goods of the required quality, specifications etc. may not be available in the country and it is necessary to also look for suitable competitive offers from abroad, the department may send copies of the tender notice to the Indian embassies abroad as well as to the foreign embassies in India. The selection of embassies will depend on the possibility of availability of the required goods in such countries.
- (5) Ordinarily, the minimum time to be allowed for submission of bids should be three weeks from the date of publication of the tender notice or availability of the bidding document for sale, whichever is later. Where the department also contemplates obtaining bids from abroad, the minimum period should be kept up to four weeks for both domestic and foreign bidders.

Single Source  
Enquiry

14. Procurement/Purchase from Single Source may be resorted to in the following circumstances:-
  - (a) It is in the knowledge of the user department that only a particular firm is the manufacturer of the required goods,
  - (b) In a case of emergency, the required goods are necessarily be

- purchased from a particular source and reasons for such a decision are to be recorded and approved by the Competent Authority,
- (c) For standardization of machinery or spare parts to be compatible to the existing sets of equipment on the advice of a competent technical expert and approved by Competent Authority, the required items are to be purchased only from a selected firm, and
  - (d) For such purchases, the competent authority should record the following certificate:-

“The intended goods/services are manufactured/performed by M/s .....No other make or model is acceptable for the following reasons:

.....  
 .....

Concurrence of the competent authority has been obtained on Letter/File No.....dated.....

Signature of Procuring Authority .....  
 Name .....  
 Designation .....

**Bid System**

**15(1) Single Bid System:-**

For procurement of items having no registered suppliers, single bid system may be opted up to purchase limit of Rs. 5,00,000/- (Rs. Five lakh), in which specifications of items and financial bid may be quoted together on prescribed form issued by Competent Authority.

**(2) Two Bid System:-**

For procuring high value plant, equipment or machinery etc. of a complex and technical nature, bids may be invited in two parts:-

- (a) Technical bids:- The technical bid consisting of all technical details, along with commercial terms and conditions, and
- (b) Financial bid:- The Financial Bid should Indicate item-wise price for the items mentioned in the technical bid.

The technical bid and the financial bid should be sealed by the bidder in separate covers/duly superscribed and both those sealed covers will put in a bigger cover which should also be sealed and duly superscribed. The technical bids are to be opened by Competent Committee/Authority on specified date and time. The committee/authority shall evaluate and rank the technical bid based on already defined specifications/parameters and prepare the list of technically qualified bidders. The financial bids of only those bidders should be opened who have qualified in the technical bid for further evaluation in ranking and the remaining financial bids (Envelopes) will not be opened and as such returned to the bidders.

**Late Bids**

16. In the case of advertised tender enquiry or limited tender enquiry, late bids (i.e. bids received after the specified date and time for receipt of bids) should not be considered.

- e-Procurement 17. The following procedure may be followed in case of e-Procurement:-
- (1) The digital signature, login and password of each member of the purchase committee shall be authenticated by N.I.C. or any other agency approved by the Government of India. The registered suppliers should also be registered with such agency for their signature and password at their own cost.
  - (2) In case of open tender enquiry, all bidders must be registered on authorized website for the tender. The registered bidders must provide the authorized signature and specific login and password shall be issued to all such bidders by the agency. The terms and conditions of tender agreement, technical details, conditions of agreement and restrictions etc. will be placed on the website of the State, so that, bidders can download the relevant documents. The tender documents shall only be accepted, when the bidders submit the cost of tender, cost related to website and earnest money etc. either through demand draft or e-banking in advance.
  - (3) The bidders may put their enquiries/queries on prescribed web site and time bound clarification shall be given by the Competent Authority through website.
  - (4) The authorized committee/authority shall open the technical bid under given login/password on specified date and time, so that, no unauthorized person may see the details before the given time and date.
  - (5) After opening the technical bid, technical evaluation of the technical bid and other decisions for technically qualified bidders should be placed on the same web site. The financial bids can be opened under log-in and password on specified date and time for such qualified bidders only.
  - (6) On the basis of technical and financial evaluation, the final bidders shall be selected and supply orders will be placed through website, using digital signature
  - (7) The agency of e-procurement and date of implementation of e-procurement for the Department will be notified by the Government.
- Contents of Bidding Documents 18(1) All the terms, conditions, stipulations and information to be incorporated in the bidding document are to be shown in the appropriate chapters as below:-
- Chapter-1:- Instructions to bidders.
  - Chapter-2:- Conditions of contract and restrictions.
  - Chapter-3:- Details of demand of goods/services.
  - Chapter-4:- Specification and allied technical details.
  - Chapter-5:- Price Schedule (to be utilized by the bidders for quoting their prices)
  - Chapter-6:- Format/Pro-forma of Contract/Agreement.
  - Chapter-7:- Other standard forms, if any, to be utilized by the purchaser and bidders.
- (2) The bidding documents should be self contained and in simple and specified language. Financial status of bidders, place and time of delivery, punishment clauses and court jurisdictions etc. must be without ambiguity.
- Maintenance Contract 19. Depending on the cost and nature of the goods to be purchased, it may also be necessary to enter into maintenance contract(s) of suitable period either with supplier of the goods or with any other competent firm, not necessarily the supplier of the subject goods. Such maintenance contracts are specially needed for sophisticated and costly equipment and



machinery. It may however be kept in mind that the equipment/ machinery is maintained free of charge by the supplier during its warranty period or such other extended period as the contract terms may provide and the paid maintenance should commence only thereafter.

**Bid Security or Earnest Money**

- 20(1) To safeguard against a bidder's withdrawing/altering its bid during the bid validity period in the case of advertised or limited tender enquiry, bid security (also known as earnest money) is to be obtained from the bidders except those who are exempted under specific provisions of law or rules. Amount of bid security should ordinarily range between 2% to 5%. The given percentage will depend on the total cost of the goods as follows:-
- (i) Upto Rs. 1 lakh - 5%
  - (ii) Rs. 1 lakh to 5 lakh - 4%.
  - (iii) Rs. 5 lakh to 25 lakh - 3% and,
  - (iv) Above Rs 25 lakh -2% shall be charged.
- (2) From time to time the Government may revise such rates. The bid money should be pledged in the name of Government/authority in the form of demand draft or fixed deposit receipt or Bankers cheque or Bank guarantee or deposited in given heads of account through e-banking (if any) to the satisfaction of the competent authority safeguarding the interest of the purchaser in all respects. The bid security is normally to remain valid for a period of 45 days beyond the final bid validity period and the period may also be extended.
- (3) Bid securities of the unsuccessful bidders should be returned to them at the earliest after expiry of the final bid validity but not later than 30 days after the award of the contract by the concerned department/authority.

**Performance Security**

- 21(1) To ensure due performance of the contract, performance security is to be obtained from the successful bidder who has been awarded the contract. Performance security is to be obtained from every successful bidder irrespective of their registration status etc. Performance security should be for an amount which is 5 to 10% of the value of the contract. Performance security may be furnished in the form of account payee demand draft, fixed deposit receipt from commercial bank, Bank Guarantee in an acceptable form safeguarding the department/competent authority's interest in all respects.
- (2) Performance security should remain valid for a period of 60 days beyond the date of completion of all contractual obligations of the suppliers/bidders including warranty obligations.
- (3) Bid security should be refunded to the successful bidder on receipt of performance security.

**Advance Payment to Supplier**

- 22(1) Ordinarily, payments for services rendered or supplies made, should be released only after the services have been rendered or supplies made. However, it may become necessary to make advance payments in the following types of cases:-
- (i) Advance payment demanded by firms holding maintenance contract for servicing of Air-conditioners, Computers, other costly equipments etc.
  - (ii) Advance payment demanded by firms against fabrication contracts, turn-key contracts etc.

- (2) Such advance payments should not exceed the following limits:-
  - (a) 30% of the contract value to private firms.
  - (b) 40% of the contract value to a State/Central Government agency or a public undertaking agency.
  - (c) In case of maintenance contract, the amount should not exceed the amount payable for six months under the contract.
- (3) With adequate safeguards, the administrative department with the consent of Finance Department, may relax the rates. While making any advance payment as above adequate safeguard in the form of bank guarantee etc should be obtained from the firm.

Part Payment to Suppliers

23. Depending on the terms of delivery incorporated in a contract, part payment to the supplier may be released after it dispatches the goods from its premises under the contract.

Transparency, Competition, Fairness and Elimination of Arbitrariness in the Procurement Process

- 24(1) All government purchases should be made in transparent, competitive and fair manner, to secure best value for money. This will also enable the prospective bidders to formulate and send their competitive bids with confidence.
- (2) Some of the measures for ensuring the above are as follows:-
  - (i) The text of the bidding document should be self-contained and comprehensive without any ambiguities. All essential information, which a bidder needs for sending a responsive bid, should be clearly spelt out in the bidding document in simple language. The bidding document should contain, inter alia:-
    - (a) The criteria for eligibility and qualifications to be met by the bidders such as minimum level of experience, past performance, technical capability, manufacturing facilities and financial position etc,
    - (b) Eligibility criteria for goods indicating any legal restrictions/conditions about the origin of goods etc which may need to be met by the successful bidder,
    - (c) The procedure as well as date, time and place for sending the bids,
    - (d) Date, time and place of opening of the bids,
    - (e) Terms of delivery,
    - (f) Any special terms affecting performance, and
    - (g) Suitable provisions should be kept in the bidding document to enable a bidder to question the bidding conditions, bidding process and/or rejection of its bid.
  - (ii) Suitable provisions for settlement of disputes, if any, emanating from the resultant contract, should be kept in the bidding document.
  - (iii) The bidding document should clearly indicate that the resultant contract will be interpreted under Indian Laws.
  - (iv) The bidders should be given sufficient time to send their bids.
  - (v) The bids should be opened in public and authorized representatives of the bidders should be permitted to attend the bid opening.
  - (vi) The specifications of the required goods should be clearly stated without any ambiguity, so that the prospective bidders can send meaningful bids. In order to attract sufficient number of bidders, the specification should be broad based to the extent feasible. Efforts should also be made to use standard specifications which are widely known to the industry.
  - (vii) Pre-bid conference- In case of turn-key contract(s) or contract(s) of special nature for procurement of sophisticated and costly equipments, a

suitable provision is to be kept in the bidding documents for a pre-bid conference for clarifying issues and clearing doubts, if any, about the specifications and other allied technical details of the plant, equipment and machinery projected in the bidding document. The date, time and place of pre-bid conference should be indicated in the bidding document. This date should be sufficiently ahead of the bid opening date.

- (viii) Criteria for determining responsiveness of bids, criteria as well as factors to be taken into account for evaluating the bids on a common platform and the criteria for awarding the contract to the responsive lowest bidder should be clearly indicated in the bidding document.
- (ix) Bids received should be evaluated in terms of the conditions already incorporated in the bidding document: no new condition, which was not incorporated in the bidding document, should be brought in for evaluation of the bids.
- (x) Determination of a bid's responsiveness should be based on the contents of the bid itself without recourse to extrinsic evidence or oral discussions.
- (xi) Bidders should not be permitted to alter and modify their bids after expiry of the deadline for receipt of bids.
- (xii) Negotiation with bidders after bid opening must be severely discouraged. However, in exceptional circumstances where price negotiation against ad-hoc procurement is necessary due to some unavoidable circumstances, the same may be resorted to only with the lowest evaluated responsive bidder.
- (xiii) In the rate contract system, where a number of firms are brought on rate contract for the same item, negotiation as well as counter offering of rates is permitted to the bidders under specific permission of the Government.
- (xiv) Contract should ordinarily be awarded to the lowest evaluated bidder whose bid has been found to be responsive and who is eligible and qualified to perform the contract satisfactorily as per the terms and conditions incorporated in the corresponding bidding document. However, where the lowest acceptable bidder is not in a position to supply the full quantity required, the remaining quantity, as far as possible, be ordered from the next higher responsive bidder at the rates offered by the lowest responsive bidder.
- (xv) The name of the successful bidder and contract amount should be mentioned in the departmental notice board/bulletin/website.

Efficiency,  
Economy and  
Accountability in  
Public  
Procurement  
System

25. Public procurement procedure should also ensure efficiency, economy and accountability in the system. To achieve this, the following key areas should be addressed:
- (a) To reduce delay, appropriate time frame for each stage of procurement should be prescribed by the department. Such a time frame will also make the concerned purchase officials more alert.
  - (b) To minimize the time needed for decision making and placement of contract, every department/head of department, with the approval of the competent authority, may delegate, wherever necessary, appropriate purchasing powers to the lower functionaries.
  - (c) The department/competent authority should ensure placement of contract within the original validity of the bids. Extension of bid validity must be discouraged and resorted to only in exceptional circumstances.

Buy-Back Offer 26. When it is decided with the approval of the Competent Authority to replace

an existing old item(s) with a new and better version, the department may trade the existing old item while purchasing the new one. For this purpose, a suitable clause is to be incorporated in the bidding document so that the prospective and interested bidders formulate their bids accordingly. Depending on the value and condition of the old item to be traded, the time as well as the mode of handing over the old item to the successful bidder should be decided and relevant details in this regard suitably incorporated in the bidding document. Further, suitable provisions should also be kept in the bidding document to enable the purchaser either to trade or not to trade the item while purchasing the new one.

### Chapter-3 Procurement of Works

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|--------------------------------|---|
| Procurement of Works           | <p>27(1) General principles for procurement of works shall be the same as in Chapter 1 and 2 except where specific procedure has been described in this chapter. The procedures for obtaining bids/tenders, e-procurement, contents of bidding documents, maintenance contract, earnest money, performance security and principles of transparency, arbitrariness, efficiency, economy, and accountability shall be applicable for the procurement of works/construction as well.</p> <p>(2) Authority competent to procure work:-<br/>As contained in Financial Hand Book (FHB), Volume-1 and FHB Volume-6 or any other authority specified by the Department or the Competent Authority or the Government. In case anything is not covered in these rules, the procurement shall be done with the concurrence of the Finance Department.</p> <p>(3) Powers for execution of works:-<br/>The Departments and organization who are empowered to execute the works will exercise the power as per delegation of powers. Anything not covered by these rules, shall be clarified by the Finance Department as mentioned in above sub-rule (2)</p> |
| Perspective Planning for works | <p>28. Each department shall prepare a perspective plan for 5 years for undertaking different types of works. There shall also be a provision of annual review of plan for making modifications, if any.</p>  |
| Processing of Works            | <p>29. Following stages should be normally observed for the execution of work:<br/>Inclusion in Procurement Plans</p> <ul style="list-style-type: none"> <li>(i) Preparation of Preliminary Project Report (PPR),</li> <li>(ii) Acceptance of necessity,</li> <li>(iii) Administrative Approval,</li> <li>(iv) Financial sanction,</li> <li>(v) Preparation of Detailed Project Report (DPR) &amp; Detailed Estimates,</li> <li>(vi) Technical sanction,</li> <li>(vii) Appropriation of funds,</li> <li>(viii) Preparation of Tender documents,</li> <li>(ix) Call of Tenders and Award of Work,</li> <li>(x) Execution of works,</li> <li>(xi) Monitoring of works and Quality Assurance,</li> </ul>  |

- (xii) Satisfactory Completion, and
- (xiii) Maintenance of assets created.

Note: For repair works up to Rs.5,00,000/- (Rs. Five lakh), sanction may be given on the basis of Preliminary Project Report itself.

Method of Starting any new work, repair, maintenance etc.

30. Before starting any original work, repair, maintenance etc. the following principles should be observed:-
- (1) No work shall be commenced or liability incurred in connection with it until:-
    - (a) Administrative approval is received from the competent authority,
    - (b) There is availability of budget and a sanction order to incur expenditure from the competent authority,
    - (c) A properly detailed design has been approved,
    - (d) Estimates containing the detailed specification and quantities of various items have been approved by Public Works Department (PWD) or any other specialized agency,
    - (e) Funds to cover the expenditure during the year have been provided by the competent authority,
    - (f) Tenders have been invited and processed in accordance with the rules, and
    - (g) A work order has been issued under prescribed norms.
  - (2) A Department may, at its discretion, assign original/repair works estimated to cost above Rs.10,00,000/- (Rs. Ten lakh) to any Public Works Organization, which may include undertakings of State Government or Central Government authorized to carry out civil or electrical works.
  - (3) The Head of Department may be assigned to work as Public Works Organization for original and repair works costing up to Rs.10,00,000/- (Rs. Ten lakh)
  - (4) All original and repair works estimated to cost above Rs.10,00,000/- (Rs. Ten lakh) should be executed by the Public Works Organization.

Yardsticks for execution of Assigned Work

31. For the execution of assigned work the following yardsticks should be followed:-
- (1) A Department at its discretion may directly execute original work/repair work estimated to cost upto Rs.10,00,000/- (Rs. Ten lakh) after following due procedure indicated in Rule 40.
  - (2) A Department may, at its discretion, assign original/repair works estimated to cost above Rs.10,00,000/- (Rs. Ten lakh) to any Public Works Organization, which may include undertakings of State Government or Central Government authorized to carry out civil or electrical works.
  - (3) The Head of Department may be assigned to work as Public Works Organization for original and repair works costing up to Rs.10,00,000/- (Rs. Ten lakh)
  - (4) All original and repair works estimated to cost above Rs.10,00,000/- (Rs. Ten lakh) should be executed by the Public Works Organization.
  - (5) Works not specifically allotted to any agency in departmental grant, departmental orders and budget provisions will be administered by the State Public Works Department (PWD)
  - (6) Subject to the observance of these general rules, the initiation, authorization and execution of works allotted to a particular Department shall be regulated by detailed rules and orders contained in the respective departmental regulations and by other special orders applicable to them.

- (7) On grounds of urgency or otherwise, if it becomes necessary to carry out a work or incur a liability under circumstances when the provisions set out under sub rule(1) above can not be complied with, the concerned executive officer may do so on his/her own judgment and responsibility. Simultaneously, he/she should initiate action to obtain approval from the Competent Authority and also to intimate the other concerned authorities.
- (8) Any development of a project considered necessary while a work is in progress, which is not contingent on the execution of work as first sanctioned, shall have to be covered by supplementary estimate. Ordinarily, the work/project should be completed in given time and cost.

Registration of contractors

- 32(1) To ensure reliability and capability a system of registration of contractors should be based on the following:-
- (a) They should possess the technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation and the personnel, to perform the works contract,
  - (b) They should have adequate legal status to enter into the procurement contract,
  - (c) They are not insolvent, in receivership, bankrupt or being wound up, their affairs are not being administered by a court or judicial officer, their business activities have not been suspended and they are not the subject of legal proceedings for any of the foregoing,
  - (d) They have fulfilled their obligations to pay taxes and social security contributions,
  - (e) They have not been convicted of any criminal offence related to their professional conduct or the making of false statement or misrepresentation as to their qualifications to enter into a procurement contract or have not been otherwise disqualified pursuant to administrative suspension or disbarment.
- (2) Review of Performance of Registered Contractors:-  
Review of performance of registered contractors shall be done every year and a procedure shall be laid down by the registering department/agency. In case, the contractors do not fulfill the norms of registration, such contractors may be asked not to execute any work or their registration may be cancelled by the registering department/ agency.
- (3) The concerned departments and agencies should try to organize capacity building programmes to orient the contractors, about the latest building etc, standard code and technology so that, competitiveness and quality based supply/works may be ensured.

Methods of Calling Tenders

- 33.(a) Single Bid System:-  
Single bid system shall be adopted where it is feasible to work out the schedule of quantities and to formulate detailed specifications for goods or construction. The procedures shall provide for adequate competition in order to ensure reasonable prices. Methods used in evaluation of tenders and the award of contract shall be made known to all bidders and not be applied arbitrarily.
- (b) Two Bid System:-  
Two bid system shall be adopted in case it is not feasible to formulate detailed specifications for goods or construction and in order to obtain the

most satisfactory solution to its procurement needs.

- (i) The tender documents shall call upon suppliers or contractors to submit in the first stage, initial tenders containing their proposals without a tender price. The tender documents may solicit proposals relating to the technical, quality or other characteristics of the goods or constructions as well as to contractual terms and conditions of their supply. These bids will be evaluated against pre-determined criteria and those who meet the criteria alone will be considered technically qualified and others rejected.
  - (ii) In the second stage of two bid tendering, the procuring entity shall invite suppliers or contractors whose tenders have not been rejected to submit final tenders with prices with respect to a single set of specifications. In formulating those specifications, procuring entity may delete or modify any aspect originally set-forth in the tender documents, all the technical or quality characteristics of the goods or constructions to be procured and any criterion originally set-forth in those document for evaluating and comparing tenders and for ascertaining the successful tender and may add new characteristics or criteria. Any such deletion, modification or addition shall be communicated to suppliers or contractors in the invitation to submit final tender. The supplier or contractor not willing to submit a final tender may withdraw from tendering without forfeiting earnest money that the supplier or contractor may have been required to provide.
- (c) Tenders with Pre-Qualification:-
- (i) Criteria for pre-qualification along with evaluation system should be clearly spelt out in detail.
  - (ii) The procuring entity may engage in pre-qualification proceedings with a view towards identifying, prior to the submission of tenders, proposals or offers in procurement proceedings, suppliers and contractors that are qualified.
  - (iii) If the procuring entity engages in pre-qualification proceedings, it shall provide a set of pre-qualification documents to each supplier or contractor that requests them in accordance with the invitation to pre-qualify and that pays the price, if any, charged for those documents.
- (d) Tenders with Post-Qualification:-
- (i) Procuring entity may also resort to post qualification verification. It may call financial offers and eligibility related documents in separate envelops simultaneously. Financial offers of only eligible contractors shall be considered.
  - (ii) Eligibility criteria for post qualification along with evaluation system, if any, should be clearly spelt out in detail. In addition to other requirement which procuring entity may consider necessary, following be spelt out clearly:-
    - (1) Experience on similar works executed during the last five years and details like monetary value, proof of satisfactory completion of works etc.
    - (2) Registration, if any, with specified Departments/Organizations, Class/Type of Registration to fulfill the eligibility criteria.
    - (3) Documentary evidence of adequate financial standing of certain specified value of contract amount.
- (e) Tenders for works of a complex nature:-

- (i) For works which would require a high degree of technical skill and or involve complex or innovative technology, the competent authority may decide to select the contractors by following the EOI/RFQ route. Under this methodology, the procurement process is divided into two stages. In the first stage, eligible and prospective bidders are short listed. This stage is generally referred to as Request for Qualification (RFQ) or Expression of Interest (Eoi) The objective is to short-list eligible bidders for stage two of process. In the second and final stage, which is generally referred to as the Request for Proposal (RFP) or invitation of financial bids, the bidder engages in a comprehensive scrutiny of the project before submitting their financial offers.
- (ii) The Eoi/RFQ process should aim at short-listing and pre qualifying applicants who will be asked to submit financial bids in the RFP stage. The objective is to identify credible bidder who have the requisite technical and financial capacity for undertaking the projects. In order to encourage greater participation the RFQ document should not require respondents to incur significant expense in preparing a response.
- (iii) The information sought for the purpose of pre-qualification should generally be restricted to technical and financial capabilities that are relevant to the project. Such information should be precise and quantified so that the process of short-listing is fair and transparent, and does not expose the government to disputes or controversies.
- (iv) To ensure a fair and transparent system of evaluation at the RFQ/EOI stage followed by the final selection of bidder at the RFP stage, the competent authority shall constitute a Committee which shall also include experts familiar with similar type of projects/technology.
- (f) Single-source procurement may be adopted in case, if:-
  - (i) The goods or construction material are available only from a particular supplier or contractor, or a particular supplier or contractor has exclusive rights in respect of goods or construction, and no reasonable alternative or substitute exists,
  - (ii) There is an urgent need for the goods or constructions and engaging in competitive tendering process would, therefore, be impractical, provided that the circumstances giving rise to the urgency were neither foreseeable by procuring entity nor the result of dilatory conduct on its part,
  - (iii) Owing to a natural calamity, there is an urgent need for the goods or constructions, making it impractical to use other methods of procurement because of the time involved in using those methods,
  - (iv) The procuring entity, having procured goods, equipments or technology from a supplier or contractor, determines that additional supply must be procured from that supplier or for compatibility with existing goods, equipments or technology, and
  - (v) In all such cases, suitable reasons will be recorded in writing before resorting to single source procurement.

Schedule of Rates

- 34 (1) Standard schedule of rates shall be published by the State Public Works Department at regular intervals for commonly used items and a copy should be sent to all Heads of Departments of concerned Departments. On the basis of these schedule rates, the bill of quantities should be prepared for calling of tender from the bidders. If any additions to such rates or additional items are required, it should be exclusively mentioned in the tender.
- (2) The schedule of rates shall be based on rate analysis and proper



documentation is essential. To maintain transparency schedule of rates should be kept on website.

- (3) The schedule of rates shall be approved by the Competent Authority, which is normally the head of the organization.
- (4) The schedule of rates shall be revised as and when there is a marked fluctuation in the market rates for inputs. Ordinarily, it should be updated at least once a year.

Bonus,  
Liquidated  
Damages

35(1) A work may be completed ahead of schedule or delayed due to unforeseen fortuitous circumstances, extra effort or developments beyond the control of the procuring entity or the tenderer and it is sometimes difficult to apportion credit or responsibility. Incentives for early completion and penalties for delay should, therefore, be built into the contract very judiciously.

(2) Normally, tenders shall be invited with reference to a pre-determined period of completion of works. Provision of incentives for completion of work before schedule should be sparingly made after careful assessment of tangible benefits there from and disclosed in the tender documents in clear monetary terms.

(3) In case of delay in completion of the contract, liquidated damages should be levied at a specified rate of the contract value, subject to a maximum of 10% of the contract value. The penalties proposed for identified lapses or omission or commission must be disclosed in the tender documents in clear monetary terms.

Amount of  
Earnest Money,  
Performance  
Guarantee,  
Security  
Deposit, Bonus  
and Liquidated  
damages

36. Ordinarily the following percentages may be specified. Exact amount may be decided by the procuring entity depending on the type of work, quantum of work and the urgency involved.

(a)- Earnest Money:-

1.	For works estimated to cost up to Rs. 25 crore	2% of the estimated cost.
2.	For works estimated to cost above Rs. 25 crore	Rs. 50 lakh plus 1% of the excess of estimated cost over Rs. 25 crores.

- (a)- Performance Guarantee - 5% of the contract value.
- (b)- Security Deposit - 5 % of the contract value.
- (c)- Bonus - 1% of the contract value per month subject to a maximum of 5% of contract value.
- (d)- Liquidated Damages - For repair works costing up to Rs.10,00,000/- (Rs. Ten lakh) - 1% of the contract value per week and for all other works 0.5% of the contract value per week of delay subject to a maximum of 10% of contract value.

Price Variation

37(1) This provision relating to price variation will deal with rise and fall of the prices in construction materials/labour. However this shall not be applicable in the contracts where period of completion is eighteen months or less.

(2) The amount payable to the contractor shall be adjusted in respect of the rise or fall in the cost of labour, POL and materials to the work for which appropriate formula shall be prescribed.

- (3) To the extent that full compensation for any rise or fall in costs to the contractor is not covered by the provisions of the contract, the unit rates and prices included in the contract shall be deemed to include amounts to cover the contingencies of such other rise or fall of costs. The formulae may be based on weightages of the material/labour/POL and cost indices/base prices. Indices shall be appropriate for their purpose and shall relate to the contractor's proposed source of supply of inputs on the basis of which his contract price shall have been computed.
- (4) If any statutory regulations or bye-laws come into force after submission of the bids, which cause additional or reduced cost to the contractor in the execution of the contract, such additional or reduced cost (except which are covered in cost indices) shall be added or deducted from the contract price.

Procurement of works without quotation

38. Works of emergent nature or petty works e.g. minor repair, replacement, clearance of slip for traffic opening can be undertaken up to Rs.15,000/- (Rs. Fifteen thousand) without quotations, with due approval of the competent authority and the officers so authorized shall record the following certificate:-

I.....am personally satisfied that the works carried out through contractor/division were of the requisite quality and specification.

Signature.....

Name of Officer.....

Designation.....

Procurement of works on work order basis without call of tenders

39. Work order can be drawn up to an amount of Rs.1,00,000 (Rs. One Lakh) in each case by the competent authority based on quotations from at least three registered contractors. Award of work without call of tender/through work order shall be resorted to only in emergent conditions and suitable reasons should be recorded.

Procurement of works by obtaining of Bids/Tenders

40. Competent Authority shall procure works under different types of contracts like percentage rate, piece rate, item rate, lump sum contract etc. which are detailed below :-
  - (a) Percentage Rate Contract:-  
For percentage rate of tenders, the contractors are required to quote rate as overall percentage above or below the total estimated cost. This kind of form of tender can be used in respect of maintenance works, levelling and development works including such works as storm water drainage, water supply and sewer lines. Such percentage rate contract should be confined to maintenance works up to the value of Rs.10,00,000/- (Rs. Ten lakh) only. All other works contract should be well planned and awarded as lumpsum contracts.
  - (b) Item Rate Contract:-  
For item rate tenders, contractors are required to quote rate for individual items of work on the basis of schedule of quantities. The contractors has to quote the rates against each item of work.
  - (c) Piece Work Contract:-  
The contract is used for small pieces of work and not for the complete work. These are particularly useful for maintenance works upto Rs.1,00,000/- (Rs. One lakh) The contract is placed on the basis of spot

quotations or even on single quotation principles in remote areas/hilly terrain for immediate and urgent work resulting from cloud burst, land-slide, road block etc., but the rates should either be based on schedule rates or open market price. The payment should be made after measurement and entry in the measurement book.

(d) Lump sum Contract:-

This form is used for work in which contractors are required to quote a lump sum figure for completing the works in accordance with the given designs, specifications and functional requirements.

41. All procurement shall be made under standardized bidding documents approved by the government.

Sanction for a Group of Works Forming One Project

42. (1) A group of works which forms one project shall be considered one work, and technical, administrative and financial approval from the competent authority should be taken as one work. The work should not be split just to avoid the procedure of getting the needed approval of the higher authority. This provision, however, shall not apply in case of works of similar nature, which are independent of each other.

(2) In Case of Savings any anticipated or actual savings from sanctioned estimates for a specific project shall not be used either for additional work or any other work not contemplated in the original project without prior approval of the Competent Authority.

Procedure for Execution of Works by Department itself

43. Subject to the delegations prescribed in Rule-30 and 31, the broad procedure to be followed by a Department for execution of works under its own arrangement shall be as under:-

(a) The detailed procedures relating to expenditure on such works shall be prescribed by departmental regulations framed in consultation with the Finance Department. The procedures shall be generally based on the principles underlying the financial and accounting rules for similar works carried out by the Public Works Department (P.W.D.)

(b) Preparation of detailed design and estimates shall precede any sanction for works.

(c) No work shall be taken up before issue of administrative and financial approval by the Competent Authority on the basis of estimates framed.

(d) Open tenders will be called for works costing above Rs. 5,00,000/- (Rs. Five lakh)

(e) Limited tenders will be called for works costing upto Rs. 5,00,000/- (Rs. Five lakh)

(f) Execution of contract agreement or award of work should be done before commencement of the work.

(g) Final payment for work shall be made only on the personal certificate of the officer-in-charge of execution of the work in the format given below:

“I.....Executive Officer of .....  
(Name of the Scheme), am personally satisfied that the whole work has been executed as per the specifications laid down in the contract agreement and the workmanship/quality is upto the standards followed in the subject.”

.....

Procedure for Execution of Work by Public Works Organization:-

- (h) For original works and repair/maintenance/upkeep works entrusted to Public Works Organization, the administrative approval and financial sanction shall be accorded and funds allotted by the concerned authority under these rules and in accordance with the delegation of financial powers. The Public Works Organization shall execute the work entrusted to it in accordance with the rules and procedures in that organization to complete the work within given time and estimates. However, the Public Works Organisation will ensure, its rules and procedures are not inconsistent with the Uttarakhand Procurement Rules, 2008.
- (i) The procedures and practices laid down in chapter-2 for goods shall be adopted for works also. For small works, where the estimated cost is up to Rs.5,00,000/- (Rs. Five lakh) and such work is a small component of the total project, or works, which are small and scattered or are situated in remote areas/hilly terrain where adequate number of contractors may not be available or where mobilization costs for contractors would be unreasonably high, the work may be executed on the basis of single source procurement either on the basis of schedule rates or standardized rates. However in such case the executive authority will certify that the work was urgent and bidding was not feasible outlining the circumstance of adopting the single source procurement. Such authority will also inform his Controlling Officer within one month whenever a work is executed by single source procurement.

Dispute  
Resolution  
Mechanism

- 44(i)(a) A dispute resolution mechanism shall be specified clearly in the bidding document. It may be through a Disputes Resolution Board.
- (b) If a dispute of any kind, whatsoever, arises between the procuring entity and contractor in connection with or arising out of the contract or the execution of the works, whether during the execution of the works or after their completion and whether before or after the repudiation or termination of the contract, including any disagreement by either party with any action, inaction, opinion, instruction, determination, certificate or valuation of the Engineer; the matter in dispute shall, in the first place, be referred to the Dispute Resolution Board.
- (c) The Works Committee may act as Dispute Resolution Board. The board may co-opt any other officer, if required for dispute resolution.
- (ii) Arbitration :-
- (a.) All questions and disputes relating to the meaning of the specifications, design, drawings and instructions herein and as to the quality of workmanship or materials used on the work or as to any other question, claim, right, matter or thing, whatsoever in any way arising out of or relating to the contract, designs, drawings, specifications, estimates, instructions, orders or these conditions or otherwise concerning the works or the execution or failure to execute the same, whether arising during the progress of the work or after the cancellation, termination, completion or abandonment thereof, shall be referred to a sole arbitrator for adjudication through arbitration. The arbitration shall be conducted in accordance with the provisions of the Arbitration and Conciliation Act, 1996 or any statutory modifications or re-enactment thereof and the rules made there under and for the time being in force, shall apply to the arbitration

proceedings.

(b.)An officer, not below the rank of Additional Secretary to the State Government or from the panel of Arbitrators if any, drawn by the Government, may be appointed to act as arbitrator by an Appointing Authority, which should normally be an officer not below the rank of, Secretary to the Government. The Appointing Authority for an arbitrator should be clearly defined in the bidding document.

Procurement of Goods and Execution of Works 45. Any point not covered specifically in this chapter can be referred to in chapter-2, if the same has been referred to in that chapter and has direct relevance for proper completion of the work.

### Quality Control & Payment Procedures

Inspection of Works 46(1) Inspection of works shall be carried out by the engineer, supervising the works to ensure that the works are executed as per specifications laid down in the works contract. Purpose of inspection is also to identify and remove hindrances, if any, being faced in execution of the project.

#### (2) Quality Assurance

A Quality Assurance Cell shall be formed by the Government in every district, comprising experienced technical personnel/engineers to ensure the compliance of quality standards both of material and works under execution and within three months of completion. This Quality Assurance Cell will be headed by a senior officer, who will report directly to the concerned Head of Department and Government at least once in three months in normal course and as and when required in specific circumstances. The Cell will ensure quality standards for works above Rs.1,00,00,000 (Rs one crore) For works less than Rs.1,00,00,000 (Rs one crore), the departmental officer will ensure timely and quality based completion. For works other than roads costing less than Rs.25,00,000 (Rs Twenty five lakh), the concerned technical officer of the construction agencies as well as local departmental officers will directly ensure the quality. For works costing more than Rs.5,00,00,000 (Rs. Five crores), the Head of Department will ensure the appointment of a Third Party Inspection Authority, which may be an outside Consultant or a Professional of requisite experience & repute. In case the Department does not have the resources for this Third Party inspection, the Technical Audit Cell of the State will make on the spot checks of the works costing more than Rs. 5,00,000,00 (Rs. five crore) once a year and at least twice during the continuity of work.

#### (3) Project Monitoring System:-

(i) A system of project monitoring for each work procurement shall be prepared before start of the work and same shall be available at site of work. The work shall be monitored quarterly/monthly basis by the Quality Assurance Cell and a status report should be submitted to the Secretary and Head of Department in charge of the concerned Department.

(ii) There should be a stipulation in the contract for large value works (magnitude to be specified), for the contractor to submit monthly progress report of the work in a computerized form. The progress report shall contain the following apart from whatever else may be required to be

specified:-

- (a) Project information, giving the broad features of the contract,
- (b) Introduction, giving a brief scope of the work under the contract and the broad structural or other details,
- (c) Construction schedule of the various components of the work through a bar chart for the next three quarters or as may be specified, showing the milestones, targeted tasks and up to date progress,
- (d) Progress chart of the various components of the work that are planned and achieved, for the month as well as cumulative up to the month, with reasons for deviations, if any, in a tabular format,
- (e) Plant and machinery statement, indicating those deployed in the work, and their working status,
- (f) Man-power statement, indicating individually the names of all the staff deployed in the work along with their designations,
- (g) Financial statement, indicating the broad details of all the running account payments received up to date, such as gross value of work done, advances taken, recoveries effected, amounts withheld, net payments, details of cheque payments received, etc,
- (h) A statement showing the extra and substituted items submitted by the contractor, and the payments received against them, broad details of the bank Guarantees, indicating clearly their validity periods, broad details of the insurance policies taken by the contractor, if any, the advances received and adjusted from the department, etc,
- (i) Progress photographs, in colour, of the various items/components of the work done up to date, to indicate visually the actual progress of the work.
- (j) Quality assurance and quality control tests conducted during the month, with the results thereof,
- (k) Any hold -up shall be specified, and
- (l) Dispute, if any, shall also be highlighted.

Measurement  
Book

- 47(1) Most of the contracts for works are paid on the basis of measurements entered in measurement book. Such measurement book should be updated periodically and payment should be made at least once a month as per prescribed standards. The measurement books should be maintained by junior engineers or any other authorized person who shall be responsible for completing it in the prescribed time and preparing the bills on prescribed form accordingly. The bill is signed by the contractor. Such measurement book and bills should be examined by the Assistant Engineer or other Competent Authority and these are further checked by the accounting authority and payment is made by the Executive Engineer. The Executive Engineer should be satisfied with the progress of works and other details before allowing the payment. If any tax, fee, advances are due for deduction from the bills in accordance with law, the same should be deducted from such bills. The payments shown in current bill should be treated as running payment against the final payment of the whole work.
- (2) The payment should be made in accordance with steps shown in terms and conditions of the contract and the Competent Authority should certify the payment at each step.

Advance to

- 48(1) Ordinarily, advances to contractors are prohibited and payment should be

Contractors for Works

made only against the work actually done. However, exceptions may be permitted in a few predefined uses only with the sanction of the Government or by the Competent Authority on the basis of established rules and procedure. Some of these instances may include:-

- (a) mobilization advance
  - (b) advance against machinery equipment
  - (c) advance for accelerating progress of works
- (2) The advances shall be subject to payment of interest, till the amount is deducted or adjusted. A bank guarantee or adjustment of advance should be taken to secure the repayment or adjustment of advance. In case bank guarantee is taken its authenticity and validity period should be checked before acceptance.

#### Chapter-4 Procurement of Services

Details of Services

49. (1) The Department/competent authority may hire external professionals, consultancy firms/consultants etc. for a specific job, which is well defined in terms of content and time frame for its completion or outsourcing.
- (2) For identification of work/service, required to be performed by consultants; Engagement of consultants may be resorted to in situations requiring high quality services for which the concerned Department /Competent Authority does not have requisite expertise. Approval of the Competent Authority should be obtained for engaging consultant(s)
- (3) The Department/Competent Authority should prepare in simple and concise language the requirements, objectives and scope of assignment. The eligibility and pre-qualification criteria to be met by the consultants should also be clearly identified at this stage.
- (4) The Department/Competent Authority proposing to engage consultant(s) should estimate reasonable expenditure by ascertaining the prevalent market conditions and consulting other organizations engaged in similar activities.

Identification of likely sources

- 50(1) Where the estimated cost of the work/service is upto Rs.15,00,000/- (Rs. Fifteen lakh), preparation of a list of potential consultants may be done on the basis of formal/ informal enquiries from other organizations/Departments /Chambers of Commerce & Industry etc. involved in similar activities.
- (2) Where the estimated cost of the work/service is above Rs.15,00,000/- (Rs. Fifteen lakh), an 'Expression of Interest' should be published in at least one national newspaper and the website of the department/organization. The website address should also be given in the advertisement.
- (3) Enquiry for seeking expression of interest should include in brief, the broad scope of work/service, inputs to be provided for eligibility and pre-qualification criteria to be met by the consultant and consultant's past experience in similar work/service. The consultant may also be asked to send their comments on the objectives and scope of the work/service provided in the enquiry. The consultant may be allowed to respond within two weeks, subject to a maximum of four weeks.

Short listing of Consultant

51. On the basis of responses received from the interested parties as per Rule-50 above, consultants meeting the requirements should be short listed for further consideration. The number of short listed consultants should not

- be less than three.
- Preparation of Terms of Reference (TOR) 52. Terms of reference should include the following points:-
- (a) Precise statement of objectives,
  - (b) Outline of the tasks to be carried out,
  - (c) Schedule for completion of tasks,
  - (d) The support/inputs to be provided by the Department/Competent Authority to facilitate the consultant, and
  - (e) The final outputs that will be required of the consultant.
- Preparation and Issues of Request for Proposal (RFP) 53. Request for proposal is the document to be used by the department/competent authority for obtaining offers from the consultants for the required work/service. The RFP should be issued to the short listed consultants to seek their technical and financial proposal. The RFP should contain:-
- (a) A letter of invitation,
  - (b) Information to consultants regarding the procedure for submission of proposal,
  - (c) Terms of Reference (TOR),
  - (d) Eligibility and pre-qualification criteria in case the same has not been ascertained through enquiry for expression of interest (EOI),
  - (e) List of works, human resources, experiences, financial status to be evaluated,
  - (f) Bid evaluation criteria and selection procedure,
  - (g) Standard formats for technical and financial proposal,
  - (h) Proposed contract terms, and
  - (i) Procedure proposed to be followed for mid term review of the progress of the work and review of the final draft report.
- Receipt and Opening of Proposals 54. The proposal should ordinarily be asked for from consultants in a 'Two-bid' system with technical and financial bids sealed in separate envelopes. The bidder should enclose these two sealed envelopes in a bigger envelope duly sealed and submitted at a specified date, time and place. The technical proposal should be opened at the specified date and time.
- Late Bids 55. The bids received after the specified date and time should not be considered.
- Evaluation of Technical Bids 56. Technical bids should be analyzed and evaluated by a Consultancy Evaluation Committee (CEC) constituted by department/competent authority. The CEC will record in detail the reasons for acceptance/rejection of the technical proposals after thorough analysis. One method of doing this could be that the minimum qualifying mark may be prescribed and all proposals above the minimum compete only on 'cost'. In such case, the minimum qualifying mark shall be stated in the RFP.
- Evaluation of Financial Bids of the Technically Qualified Bidders 57. The financial bids of only those bidders, who have been declared technically qualified by the CEC, should be opened, for further analysis, evaluation, ranking and selection of successful bidder.
- Consultancy by Nomination 58. Single source selection of consultants should ordinarily be avoided as it does not provide the benefits of competition, lacks transparency in selection and could encourage unacceptable practices. However, under some special



circumstances, it may become necessary to select a particular consultant, where adequate circumstances and justification is there to nominate such firm/consultant in the context of the overall interest of the concerned department/organization. Full justification for single source selection should be recorded and approval of the Competent Authority should be obtained before resorting to such single source selection. For single source selection above Rs.10,00,000/- (Rs. Ten lakh), approval of the Administrative Department and concurrence of the Finance Department will be necessary.

Quality and  
Cost Based  
Selection

59(1) The Department or Competent Authority may opt for a QCBS (Quality and Cost Based Selection) methodology in cases where assignments are not of a standard or routine nature but are complex and specialized requiring high intellectual component for which the Department expects the consultant to demonstrate innovation or creativity in their proposal. Before opting for the QCBS method of selection, the Department/Competent Authority should obtain prior clearance of the Administrative Department when the estimated cost is below Rs.25,00,000/- (Rs. Twenty Five lakh) and where the estimated cost is above Rs.25,00,000/- (Rs. Twenty Five lakh) the Department/Competent Authority shall obtain the concurrence of the Finance Department before starting the selection process.

(2) The Selection Process:-

(i) QCBS uses a competitive process among short-listed firms that takes into account the quality of the proposal and the cost of the services in the selection of the successful firm. Cost as a factor of selection shall be used judiciously. The relative weight to be given to the quality and cost shall be determined for each case depending on the nature of the assignment.

(ii) The selection process shall include the following steps:-

- (a) preparation of the TOR,
- (b) preparation of cost estimate and the budget,
- (c) advertising,
- (d) preparation of the short list of consultants,
- (e) preparation and issuance of the RFP [which should include the Letter of Invitation (LOI); Instructions to Consultants (ITC); the TOR and the proposed draft contract],
- (f) receipt of proposals,
- (g) evaluation of technical proposals: consideration of quality,
- (h) public opening of financial proposals,
- (i) evaluation of financial proposal,
- (j) final evaluation of quality and cost, and
- (k) negotiations and award of the contract to the selected firm.

(iii) Terms of Reference (TOR)

(a) The Department/Competent Authority shall be responsible for preparing the TOR for the assignment. TOR shall be prepared by a person(s) or a firm specialized in the area of the assignment. The scope of the services described in the TOR shall be compatible with the available budget. TOR shall define clearly the objectives, goals, and scope of the assignment and provide background information (including a list of existing relevant studies and basic data) to facilitate the consultants for preparation of their proposals.

(b) If transfer of knowledge or training is an objective, it should be

specifically outlined along with details of number of staff to be trained, and so forth, to enable consultants to estimate the required resources. TOR shall list the services and surveys necessary to carry out the assignment and the expected outputs (for example, reports, data, maps, surveys etc) Firms shall be encouraged to comment on the TOR in their proposals. The Department/Competent Authority and Consultants' respective responsibilities should be clearly defined in the TOR.

(iv) Advertising:-

The Department/Competent Authority shall advertise requests for expressions of interest in a national newspaper and in addition wherever applicable a technical magazine. The information requested shall be the minimum required to make a judgment on the firm's suitability and not be so complex as to discourage consultants from expressing interest. Two weeks minimum time may be then allowed for responses.

(v) Short List of Consultants:-

(a) The Department/Competent Authority shall proceed to prepare a short list. The Department/Competent Authority shall give first consideration to those firms expressing interest that possess the relevant qualifications.

(b) The short list should preferably comprise consultants of the same category, similar capacity, and business objectives. Consequently, the short list should normally be composed of firms of similar experience or of not-for-profit organizations (NGOs, Universities, etc) acting in the same field of expertise.

(vi) Preparation and Issuance of the Request for Proposals (RFP):-

The RFP shall include a Letter of Invitation, Information to Consultants, the TOR, and the proposed contract conditions.

(vii) Letter of Invitation (LOI):-

The LOI shall state the intention of the Department/competent authority to enter into a contract for the provision of consulting services, the source of funds, the details of the client and the date, time, and address for submission of proposals.

(viii) Instructions to Consultants (ITC):-

The ITC shall contain all necessary information that would help consultants prepare responsive proposals, and shall bring as much transparency as possible to the selection procedure by providing information on the evaluation process and by indicating the evaluation criteria and factors and their respective weights and the minimum passing quality score. The ITC shall indicate an estimate of the level of key staff inputs (in staff time) required of the consultants or the total budget, but not both. Consultants, however, shall be free to prepare their own estimates of staff time to carry out the assignment and to offer the corresponding cost in their proposals. The ITC shall specify the proposal validity period, which should be adequate for the evaluation of proposals, decision on award, competent authority review, and finalization of contract negotiations.

(ix) Contract:-

The proposed draft contract or the key conditions of the proposed contract should be included in the R.F.P.

(x) Receipt of Proposals:-

The Department/Competent Authority shall allow enough time for the

consultants to prepare their proposals. The time allowed shall depend on the assignment, but normally shall not be less than three weeks or more than three months (for example, for assignments requiring establishment of a sophisticated methodology, preparation of a multidisciplinary master plan) During this interval, the firms may request clarifications about the information provided in the RFP. The Department/Competent Authority shall provide these clarifications in writing and copy them to all firms on the short list (who intend to submit proposals) If necessary, the Department/Competent Authority shall extend the deadline for submission of proposals. The technical and financial proposals shall be submitted at the same time. No amendments to the technical or financial proposal shall be accepted after the deadline. To safeguard the integrity of the process, the technical and financial proposals shall be submitted in separate sealed envelopes. The technical envelopes shall be opened immediately by a committee of officials drawn from the relevant departments (technical, finance, legal, as appropriate), after the closing time for submission of proposals. The financial proposals shall remain sealed. Any proposal received after the closing time for submission of proposals shall be returned unopened.

(xi) Evaluation of Proposals: Consideration of Quality and Cost:-

The evaluation of the proposals shall be carried out in two stages: first the quality, and then the cost. Evaluators of technical proposals shall not have access to the financial proposals until the technical evaluation, is concluded. Financial proposals shall be opened only thereafter. The evaluation shall be carried out in full conformity with the provisions of the RFP.

(xii) Evaluation of the Quality:-

(a) The Department/Competent Authority shall evaluate each technical proposal (using an evaluation committee of three or more specialists in the sector), taking into account several criteria, i.e. the consultant's relevant experience for the assignment, the quality of the methodology proposed, the qualifications of the key staff proposed, transfer of knowledge, if required in the TOR. Each criterion shall be marked on a scale of 1 to 100. Then the marks shall be weighted to become scores. The following weights are indicative. The actual percentage figures to be used shall fit the specific assignment and shall be within the ranges indicated below, except with the approval of the Government. The proposed weights shall be disclosed in the RFP.

Consultant's specific experience	: 0 to 10 points
Methodology	: 20 to 50 points
Key personnel	: 30 to 60 points
Transfer of knowledge	: 0 to 10 points
Total	: 100 points

(b) The Department/Competent Authority shall normally divide these criteria into subcriteria. For example, subcriteria under methodology might be innovation and level of detail. However, the number of subcriteria should be kept to the essential. The weight given to experience can be relatively modest, since this criterion has already been taken into account when short-listing the consultant. More weight shall be given to the methodology in the case of more

complex assignments (for example, multidisciplinary feasibility or management studies)

- (c) Evaluation of only the key personnel is recommended. Since key personnel ultimately determine the quality of performance, more weight shall be assigned to this criterion if the proposed assignment is complex. The Department/Competent Authority shall review the qualifications and experience of proposed key personnel in their curricula vitae, which must be accurate, complete, and signed by an authorized official of the consulting firm and the individual proposed.
  - (d) The individuals shall be rated in the following three subcriteria, as relevant to the task:-
    - (i) general qualifications: general education and training, length of experience, positions held, time with the consulting firm as staff, experience in developing countries, and so forth,
    - (ii) adequacy for the assignment: education, training, and experience in the specific sector, field, subject, and so forth, relevant to the particular assignment, and
    - (iii) experience in the region: knowledge of the local language, culture, administrative system, government organization, and so forth.
  - (e) The Department/Competent Authority shall evaluate each proposal on the basis of its responsiveness to the TOR. A proposal shall be considered unsuitable and shall be rejected at this stage if it does not respond to important aspects of the TOR or it fails to achieve a minimum technical score specified in the RFP.
  - (f) At the end of the process, the Department/competent authority shall prepare a Technical Evaluation Report of the “quality” of the proposals. The report shall substantiate the results of the evaluation and describe the relative strengths and weaknesses of the proposals. All records relating to the evaluation, such as individual mark sheets, shall be retained until completion of audit.
- (xiii) Evaluation of Cost:-
- (a) After the evaluation of quality is completed and the Competent Authority has issued its no objection, the Department/Competent Authority shall inform the consultants who have submitted proposals, the technical points assigned to each consultant and shall notify those consultants whose proposals did not meet the minimum qualifying mark or were considered non-responsive to the RFP and TOR that their financial proposals will be returned unopened after the signature of the contract. The Department/Competent Authority shall simultaneously notify the consultants that have secured the minimum qualifying mark, the date, time, and place set for opening the financial proposals.
  - (b) The opening date shall be defined allowing sufficient time for consultants to make arrangements to attend the opening of the financial proposals. The financial proposals shall be opened publicly in the presence of representatives of the consultants who choose to attend (in person or online) The name of the consultant, the technical points, and the proposed prices shall be read aloud (and posted online when electronic submission of proposals is used) and recorded when the financial proposals are opened. The Department/Competent Authority shall also prepare the minutes of

the public opening.

- (c) The Department/Competent Authority shall then review the financial proposals. If there are any arithmetical errors, they shall be corrected.
  - (d) For the purpose of evaluation, “cost” shall exclude local identifiable indirect taxes on the contract. The cost shall include all consultant’s remuneration and other expenses such as travel, translation, report printing, or secretarial expenses. The proposal with the lowest cost may be given a financial score of 100 and other proposals given financial scores that are inversely proportional to their prices.
  - (e) Alternatively, a directly proportional or other methodology may be used in allocating the marks for the cost. The methodology to be used shall be described in the RFP.
- (xiv) Combined Quality and Cost Evaluation:-  
The total score shall be obtained by weighting the quality and cost scores and adding them. The weight for the “cost” shall be chosen, taking into account the complexity of the assignment and the relative importance of quality. The weight for cost shall normally be 20 points out of a total score of 100. The proposed weightings for quality and cost shall be specified in the RFP. The firm obtaining the highest total score shall be awarded the assignment.
- (xv) Monitoring the Contract:-  
The Department/Competent Authority should be involved throughout in the conduct of consultancy, preferably by taking a task force approach and continuously monitoring the performance of the consultant(s) so that the output of the consultancy is in line with objectives and within prescribed time limit.

## Chapter-5 Outsourcing of Services

Services by  
Outsource

60. The department/competent authority/organization/institution may outsource certain services in the interest of economy and efficiency, but following procedures should be followed compulsorily:-
- (a) The department/competent authority should prepare a list of likely and potential contractors on the basis of formal /informal enquiry from the specialized firms/ contractors/ institutions / departments/ organizations involved in similar works. The information related to such organizations may be collected through advertisement, professional journals, websites etc.
  - (b) The department/competent authority should prepare the tender enquiry for outsourcing containing the following details:-
    - (i) The details of works/services to be performed by the contractor,
    - (ii) The facilities and the inputs which will be provided to the contractor by the department/competent authority,
    - (iii) Eligibility and qualification criteria to be met by the contractor for performing the required work/service, and
    - (iv) The statutory and contractual obligations to be complied with by the contractor.

Invitation of Bids 61(1) For estimated value of the work/service upto Rs.10,00,000(Rs. 10 lakh) or less the department/competent authority should invite tender enquiry from

the preliminary list of likely contractors/firms/institutions identified as per Rule-60 above and issue limited tender enquiry to them asking for offers by specified date and time. The number of the contractors/institutions/organizations so identified should not be less than six.

(2) For estimated value of the work/service above Rs.10,00,000/- (Rs. Ten lakh) the department/competent authority should issue tender enquiry in at least one largely circulated national news paper and also the website of the organization asking for offers by a specified date and time etc.

(3) For Estimated value of work/service above Rs.50,00,000/- (Rs. Fifty lakh) a Two-bid system may be adopted through the EOI/RFP route as prescribed in Rules- 51 to 58.

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|-----------------------------|---|
| Late Bids                   | 62. The bid proposals received after specified date and time should not be accepted.  |
| Evaluation of Bids Received | 63. The Department/Competent Authority should evaluate, segregate, rank the responsive bids and select the successful bidder for placement of the contract.   |
| Outsourcing by Choice       | 64. If it become necessary in an exceptional situation to outsource a job to a specifically chosen contractor, the administrative department with the consultation of finance department in Government can do so after providing detailed justification and the circumstances leading to outsourcing by choice, and the special interest or purpose it shall serve. |
| Monitoring the Contract     | 65. The work/service outsourced should be monitored regularly, so that their is no compromise with performance, time schedule and quality.  |

## Chapter-6

### Public Private Partnership (PPP)

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|---|--|
| Public Private Partnership (PPP)                            | 66(1) A Department may in the interest of economy and efficiency, decide to outsource certain services being provided by the Government under a PPP arrangement.<br>(2) The procedure for selection of the private partner shall be such as given in Chapter-4 (Procurement of Services) and Chapter-5 (Outsourcing of Services)   |
| Public Private Partnership (PPP) in Infrastructure Projects | 67.(1) Public Private Partnership (PPP) in infrastructure projects typically involve transfer of public assets, delegation of Governmental authority for recovery of user charges, private control of monopolistic services and sharing of risks and contingent liabilities by the Government. Protection of user interests and the need to secure value for public money, as such, demand a more rigorous treatment of these projects.<br>(2) Predictability and risk mitigation are key to successful Public Private Partnerships. They shall require a framework that can assure the private investor of a market driven return at reasonable levels of risk, and the user of adequate service quality at an affordable cost. The nature of the risks and the involvement of many participants including project sponsors, lenders, Government agencies, and regulatory authorities, the terms of the project agreements as well as the tendering arrangements being complex, |

should involve detailed legal and contractual agreements that clearly set forth the risks, rewards and obligations of various participants.

(3) Applicability:-

- (a) These guidelines will apply to all PPP projects sponsored by Government Departments or State Public Sector Undertaking (PSUs), statutory authorities or other entities under their administrative control.
- (b) The procedure specified herein will apply to all PPP projects with capital costs exceeding Rs.5,00,00,000/- (Rs. Five crore) or where the underlying assets are valued at a sum greater than Rs.5,00,00,000/- (Rs. Five crore)
- (c) PPP projects with capital cost underlying asset value of less than Rs.5,00,00,000/- (Rs. Five crore) shall be processed as per existing procedures. The Administrative Department shall seek the concurrence of the Finance Department and the Competent Authority before invitation of bids.
- (d) Project identification:-  
The Administrative Department will identify the projects to be taken up through PPPs and undertake preparation of feasibility studies, project agreements etc. with the assistance of legal, financial and technical experts as necessary.

(4) Inter Departmental Consultations:-

The Administrative Departments may, if deemed necessary, discuss the details of the project and the terms of concession agreement in an inter-department committee and comments, if any, may be incorporated or annexed to the proposal for consideration of the Government/Competent Authority.

(5) In principle approval of Project:-

The Administrative Department shall then seek clearance/concurrence of the Finance Department, Planning Department and from the Competent Authority/appropriate level in the Government as per Rules of Business. While seeking clearance/concurrence of Planning/Finance Department, the Administrative Department, should provide information about the proposed project in Annexure I & II

(6) Expression of Interest:-

Following the 'in principle' clearance of Government/Competent authority, the Administrative Departments may invite expressions of interest in the form of Request for Qualification (RFQ) to be followed by short-listing of pre-qualified bidders.

(7) Two Stage Process:-

The bidding process for PPP projects is divided into two stages. The First stage is generally referred to as Request for Qualification (RFQ) or Expression of Interest (EoI) The objective is to short-list eligible bidders for stage two of the process. In the second and final stage, generally referred to as the Request for Proposal (RFP) or invitation of financial bids, the bidders engage in a comprehensive scrutiny of the project before submitting their financial offers.

(8) Request for Qualification (RFQ):-

The RFQ process should aim at short-listing and pre-qualifying applicants, who will be asked to submit financial bids in the RFP stage. The objective is to identify credible bidders who have the requisite technical and financial capacity for undertaking the project. In order to encourage greater participation from credible domestic and international investors, the RFQ

document should not require respondents to incur significant expense in preparing a response. The information sought for the purposes of pre-qualification should generally be restricted to technical and financial capabilities that are relevant to the project. Such information should be precise and quantified so that the process of short-listing is fair and transparent, and does not expose the Government to disputes or controversy.

(9) Number of bidders to be pre-qualified:-

The number of bidders to be pre-qualified and short-listed for the final stage of bidding i.e. the RFP stage needs careful consideration. On the one hand, the number should be adequate for ensuring real competition in bidding. On the other hand, a large number of short-listed bidders could dampen participation by serious bidders, thus diluting competition.

(10) About five pre-qualified bidders should be considered as an international best practice for securing high quality bids. In case short-listing is to be done for two or three projects at the same time, the number of short-listed bidders could be increased to 7 and 10 respectively. For this purpose, a fair and transparent system of evaluation at the RFQ stage would be necessary.

(11) Specifying stringent pre-qualification criteria:-

While stringent eligibility criteria would ensure pre-qualification of bidders well suited for the RFP stage, it would also effectively reduce the number of qualified bidders. A balance, therefore, needs to be drawn for serving the objective of pre-qualifying a reasonable number of suitable bidders for the RFP stage. The principles for determining the eligibility criteria such as technical and financial capacity should be formulated keeping these considerations in view.

(12) Evaluation Criteria:-

The criteria for short-listing of bidders should be divided into technical and financial parameters as stated below:-

(a) Technical Capacity:-

The applicant should have acquired sufficient experience and capacity in building infrastructure projects. This can be measured either from the construction work undertaken/commissioned by him, or from revenues of Build Operate Transfer (BOT)/ Build Own Operate Transfer (BOOT) etc. projects, or from both, during the 5 years preceding the application date.

Eligibility conditions, as necessary, may also be stipulated in respect of Operation and Maintenance (O&M) experience. The technical capacity of bidders can be assessed on the following parameters:-

(i) Project/Construction Experience: Experience on eligible projects in the specified sector or other core sectors should be considered for determining the technical capacity of the applicant.

(ii) Operation and Maintenance (O&M) Experience: The applicant should have experience of five years or more in operation and maintenance (O&M) of projects in the specified sector. In the absence of such experience, the applicant may be required to enter into an operation and maintenance (O&M) agreement with an entity having equivalent experience, failing which the concession agreement would be liable to termination. While suggesting this arrangement, it is proposed to provide sufficient flexibility for modifying these requirements to suit the needs of individual sectors/projects.

(b) Financial Capacity:-



Applicants should have a minimum net worth equivalent to 25% of the estimated capital cost of the project for which bids are to be invited. In the case of projects with an estimated cost of Rs. 500,00,00,000 (Rs five hundred crore) or more, the requirement of net worth could be suitably reduced, but should be no less than 15%. This would ensure that pre-qualified applicants have sufficient financial strength to undertake the project.

(c) Eligibility of Experience:-

The members of the consortium, who claim experience or net worth in the RFQ must hold at least 26% of the consortium's equity. This condition is necessary for ensuring that only the experience of those members who have a substantial stake is counted for the purposes of pre-qualification, and members with small equity holding are not added with the sole objective of improving the ranking in pre-qualification.

(d) Technical evaluation at the RFP stage:-

(i) Technical proposals of different bidders could vary significantly. Apart from the difficulties in evaluating diverse proposals on a common set of parameters, such evaluation also implies that instead of the government determining the assets and services to be provided by the selected bidder, it is the technical bid that would tend to guide the outcome. Logically, the Government should set the technical parameters and ask for financial bids only, leaving sufficient flexibility for bidders to design and engineer the project in a manner that conforms to pre-determined standards and specifications, including service outputs.

(ii) In case of exceptionally complex projects where the project authority determines that the bidders must submit their technical proposals/plans, the requirements thereof should be specified in detail and such proposals/plans should be invited at the qualification stage, either along with the initial applications or at an intermediate stage preceding the bid stage. Only pre-qualified applicants should be invited to participate in the bid stage, which shall only consist of an invitation to submit financial offers.

(13) Formulation of Project Documents:-

(a) The documents that would need to be prepared would, inter-alia, include the various agreements to be entered into with the concessionaire detailing the terms of the concession and the rights and obligations of the various parties. These project documents would vary depending on the sector and type of project. Typically, a PPP will involve the concession agreement that will specify the terms of the concession granted to the private party and will include the rights and obligations of all parties. There could be associated agreements based on specific requirements.

(b) Request of Proposals (RFP), i.e. invitation to submit financial bids, should normally include a copy of all the agreements that are proposed to be entered into with the successful bidder. After formulating the draft RFP, the Administrative Department would seek clearance of the Expenditure Finance Committee (E.F.C) and the competent authority before inviting the financial bids.

(14) Clearance by Expenditure Finance Committee(E.F.C.):-

(a) The proposal for seeking clearance of the Expenditure Finance Committee (E.F.C.) shall be sent in 3 copies in the format specified at Annexure-III & IV along with copies of all draft project agreements and

the Project Report. Before reference to the Expenditure Finance Committee (E.F.C.), the views of the Law Department and other related Departments should have been obtained by the Administrative Department.

(b)The Expenditure Finance Committee (E.F.C.) would comprise of the following:-

(i)Principal Secretary/Secretary Finance- Chairperson

(ii)Principal Secretary/Secretary Planning

(iii)Principal Secretary/Secretary Law

(iv)Principal Secretary/Secretary Administrative Department sponsoring the project.

(c.)Committee may co-opt experts, if necessary. The E.F.C. would be serviced by the Planning Department. A special PPP cell will be set up for this purpose in Planning Department.

(d.)After clearance of the Finance Department, the Administrative Department will seek the prior approval of the Competent Authority/appropriate level in Government as per Rules of Business.

(e.)Financial bids may be invited after final approval of the Competent Authority/appropriate level has been obtained.

## Chapter-7 Miscellaneous

- Regular training 68. Regular training should be given to all concerned officers and officials involved in procurement/purchase.
- Audit 69. It shall be mandatory for every audit report (specially internal audit), to contain a detailed report and analysis related to procurement/purchase in the department.
- Pre Bid Conference 70(a) A supplier or contractor related to goods/works/services may request a clarification of the tender documents from the procuring entity within a reasonable time prior to the deadline for the submission of tender. The procuring entity shall respond within a reasonable time, so as to enable the supplier or contractor to make a timely submission of its tender. Any such clarification shall be sent to all potential bidders who have been provided the tender documents.
- (b) At any time prior to the deadline for submission of tenders, the procuring entity may for any reason, whether on its own initiative or as a result of a request for clarification by a supplier or contractor, modify the tender documents by issuing addendum.
- (c) If the procuring entity convenes a meeting of suppliers or contractors, it shall prepare minutes of the meeting containing the request submitted at the meeting for clarification of the tender documents. The minutes shall be provided promptly to all applicants to whom the procuring entity provided the tender documents, so as to enable those applicants to take the minutes into account in preparing the tenders.
- Maintenance of Records 71. Keeping in view the provisions of Right to Information Act, 2005, the documents related to procurement/purchase should be kept atleast for 20 years and extract of the procurement should be maintained in the format given at Annexure-'V'. This register is separate from the store ledger,

	stationery register etc. prescribed under different provisions.
Clarification & Modifications	<p>72.(1) Where a doubt arises as to the interpretation of any of the provisions of these Rules, the matter shall be referred to the Finance Department for decision.</p> <p>(2) The systems and procedures established by these rules are subject to general or special instructions/orders, which the Department of Finance may issue from time to time.</p> <p>(3) The systems and procedures established by these rules may be modified by any other authority only with the express approval of the Department of Finance.</p> <p>(4) The Department of Finance may permit relaxation of these rules in special circumstances and in the case of Externally Aided Projects/Special Projects based on proper justification.</p>
Executive order	73. The State Government can, from time to time revise the different rates/amounts mentioned in these rules, based on inflation or the current prices by the executive order.
Effect	74. These rules shall also be applicable to grant-in-aids or financial assistance given by the State Government to any autonomous or statutory body, public or private.
Annual basis	75. The Competent Authority should prepare on annual basis a procurement plan based on a forecast of future requirement of goods, services and works.
Physical Verification	76. The Head of Office/Competent Authority or his nominee should do the annual verification on 31 <sup>st</sup> March every year to ensure the availability of assets/goods as mentioned in the register and also disposal of old and unusable goods.

**By order,**

**(Alok Kumar Jain)**  
**Principal Secretary,**  
**Government of Uttarakhand**

**Memorandum for 'in principle approval'**  
(Please see sub-rule (5) of rule 67 )

A. Sponsoring Department

C. Legal Consultant(if any)

B. Name and location of the Project

D. Financial Consultant(if any)

S.No.	Item	Response
<b>1. General</b>		
1.1	Name of the Project	
1.2	Type of PPP (BOT, BOOT etc.)	
1.3	Location (State/District/Town)	
1.4	Administrative Department	
1.5	Name of Sponsoring Authority	
1.6	Name of the Implementing Agency	
1.7	Does the implementing agency have the legal right to enter into an agreement	
1.8	Has consent for the project from other concerned department/s been obtained	
<b>2. Project Description</b>		
2.1	Brief description of the project	
2.1.1	Project Objectives	
2.1.2	Problems to be addressed by Project	
2.1.3	Target beneficiaries	
2.1.4	Project strategy	
2.2	Justification for the project	
2.3	Have the necessary technical studies been done (attach separate sheet if necessary)	
2.4	Possible alternatives for the project, if any	
2.5	Estimated Capital & operating costs with break-up under major heads of expenditure. Also indicative the basis cost estimation	
2.6	Phasing of investment	
2.7	Project Implementation Schedule(PIS)	
2.8	Have consultations been done with stakeholders	
2.9	Benefits to stakeholders	
<b>3. Financing Arrangements</b>		
3.1	Sources of financing (equity, debt, mezzanine capital etc.)	
3.2	Indicate the revenue streams of the Projects (annual flows over project life) Also indicate the underlying assumptions.	
3.3	Indicate the NPV of revenue streams with 12% discounting	
3.4	Who will fix the tariff/user charges? Please specify in detail.	
3.5	Have any FIs been approached? If yes, their response may be indicated.	

<b>4. IRR</b>		
4.1	Economic IRR (if computed)	
4.2	Financial IRR, indicating various assumptions (attach separate sheet if necessary)	
4.3	Sensitivity analysis on key variables	
<b>5. Social Sector Projects</b>		
5.1	In case of social sector project please indicate expected social benefits	
5.2	Indicate expected gains in terms of cost saving (economy)	
5.3	Indicate expected gains in terms of (efficiency) improved service delivery	
5.4	Indicate gains in terms better reach & access	
5.5	Have output based specifications/performance parameters been identified	
5.6	What will be the monitoring arrangements of output/performance	
<b>6. Clearances</b>		
6.1	Status of environmental clearances	
6.2	Clearance required from the State Government and other local bodies.	
6.3	Other support required from the State Government	
6.4	Responsibility of obtaining remaining clearances	
<b>7. Government of India Support</b>		
7.1	Viability Gap Funding, if required	
7.2	GOI guarantees being sought, if any	
<b>8. State-Government Support</b>		
8.1	What is the expected financial support from State Government	
8.2	Any Non-financial support from State Government	
<b>9. Concession Agreement</b>		
9.1	Term sheet of the proposed Concession Agreement (Attached at Annexure -II)	
9.2	Have output based specifications been adopted/used (requirements specified in terms of service output delivery)	
<b>10. Criteria for short-listing</b>		
10.1	Is short-listing to be in one stage or two stages?	
10.2	Indicate the criteria for short-listing (attach separate sheet if necessary) Are they quantitative?	
10.3	Does the short-listing criteria for the final stage include parameters other than financial	
<b>11. Others</b>		
11.1	Remarks, if any	

**Term Sheet of the proposed Concession Agreement**  
(Please see sub-rule (5) of rule 67 )

A. Sponsoring Department

C. Legal Consultant(if any)

B. Name and location of the Project

D. Financial Consultant(if any)

S. No.	Item	Response
<b>1. General</b>		
1.1	Scope of the Project (in about 200 words)	
1.2	Nature of Concession to be granted	
1.3	Period of Concession and justification for fixing the period	
1.4	Estimated capital cost	
1.5	Likely construction period	
1.6	Conditions precedent, if any, for the concession to be effective	
1.7	Status of land acquisition	
<b>2. Construction and O&amp;M</b>		
2.1	Designing Agency	
2.2	Designing parameters and norms	
2.3	Design review Agency	
2.4	Minimum standards of constructions	
2.5	Monitoring of construction; whether an independent agency/engineer is provided	
2.6	Minimum standards of Operation and Maintenance whether Output based / input based	
2.7	Penalties for violation of prescribed design, construction and O&M standards	
2.8	Safety related provisions	
2.9	Environment related provisions	
<b>3. Financial</b>		
3.1	Maximum period for achieving financial close	
3.2	Whether Right to mortgage / pledge / hypothecate / lien is being given	
3.3	Performance Security Value	
3.4	Source, nature and extent of capital grant/subsidy contemplated	
3.5	Bidding parameter (capital subsidy or other parameter)	
3.6	Provisions for change of scope and the financial burden thereof	
3.7	Likely Concession fee, if any, payable by/payable to the Concessionaire.	
3.8	User charges/fee to be collected by the Concessionaire	
3.9	Indicate how the user fee is to be determined; the legal provisions in support of user fee (attach the relevant rules/notification); and the extent and nature of indexation for inflation	

3.10	Provisions, if any, for mitigating the risk of lower revenue collection	
3.11	Provisions relating to escrow account, if any	
3.12	Provisions relating to insurance	
3.13	Provisions relating to audit and certification of claims	
3.14	Provisions relating to assignment/substitution rights relating to lenders	
3.15	Provisions relating to change in law	
3.16	Provisions, if any for compulsory buy-back of assets upon termination/expiry	
3.17	Contingent liabilities of the government	
	(a) Maximum Termination Payment for Government/Authority Default	
	(b) Maximum Termination Payment for Concessionaire Default	
	(c) Specify any other penalty, compensation or payment contemplated under the agreement.	
3.18	Who will bear Project monitoring /supervision expenses	
<b>4. Risk Sharing</b>		
4.1	Sponsoring department/GoU risk/s	
4.2	Is there any unusual risk allocation to GoU	
4.3	Major obligations of sponsoring department/GoU	
4.4	Provisions for indemnity (design, construction, patents, accidents, legal violations)	
<b>5. Others</b>		
5.1	Provisions relating to competing facilities, if any	
5.2	Specify the proposed Dispute Resolution Mechanism	
5.3	Specify the proposed governing law and jurisdiction	
5.4	Provisions relating to Hand back obligations/provisions/guarantee.	
5.5	Other Remarks, if any	

**Memorandum of Expenditure of Finance Committee  
for final approval of Public Private Partnership  
(Please see sub-rule (14) of rule 67 )**

A. Sponsoring Department

C. Legal Consultant(if any)

B. Name and location of the Project

D. Financial Consultant(if any)

S.No.	Item	Response
<b>1.</b>	<b>General</b>	
1.1	Name of the Project	
1.2	Type of PPP (BOT, BOOT etc.)	
1.3	Location (State/District/Town)	
1.4	Administrative Department	
1.5	Name of Sponsoring Authority	
1.6	Name of the Implementing Agency	
1.7	Does the implementing agency have the legal right to enter into an agreement	
1.8	Has consent for the project from other concerned department/s been obtained	
<b>2. Project Description</b>		
2.1	Brief description of the project	
2.1.1	Project Objectives	
2.1.2	Problems to be addressed by Project	
2.1.3	Target beneficiaries	
2.1.4	Project strategy	
2.2	Justification for the project	
2.3	Have the necessary technical studies been done (attach separate sheet if necessary)	
2.4	Possible alternatives for the project, if any	
2.5	Estimated Capital & operating costs with break-up under major heads of expenditure. Also indicative the basis cost estimation	
2.6	Phasing of investment	
2.7	Project Implementation Schedule(PIS)	
2.8	Have consultations been done with stakeholders	
2.9	Benefits to stakeholders	
<b>3. Financing Arrangements</b>		
3.1	Sources of financing (equity, debt, mezzanine capital etc.)	
3.2	Indicate the revenue streams of the Projects (annual flows over project life) Also indicate the underlying assumptions.	
3.3	Indicate the NPV of revenue streams with 12% discounting	
3.4	Who will fix the tariff/user charges? Please specify in detail.	
3.5	Have any FIs been approached? If yes, their response may be indicated.	



<b>4. IRR</b>		
4.1	Economic IRR (if computed)	
4.2	Financial IRR, indicating various assumptions (attach separate sheet if necessary)	
4.3	Sensitivity analysis on key variables	
<b>5. Social Sector Projects</b>		
5.1	In case of social sector project please indicate expected social benefits	
5.2	Indicate expected gains in terms of cost saving (economy)	
5.3	Indicate expected gains in terms of (efficiency) improved service delivery	
5.4	Indicate gains in terms better reach & access	
5.5	Have output based specifications/performance parameters been identified	
5.6	What will be the monitoring arrangements of output/performance	
<b>6. Clearances</b>		
6.1	Status of environmental clearances	
6.2	Clearance required from the State Government and other local bodies.	
6.3	Other support required from the State Government	
6.4	Responsibility of obtaining remaining clearances	
<b>7. Government of India Support</b>		
7.1	Viability Gap Funding, if required	
7.2	GOI guarantees being sought, if any	
<b>8. State Government Support</b>		
8.1	What is the expected financial support from State Government	
8.2	Any Non-financial support from State Government	
<b>9. Concession Agreement</b>		
9.1	Is the Concession Agreement based on Model Concession Agreement (MCA) of GOI? if yes, indicate the variations, if any, in a detailed note( to be attached)	
9.2	Details of Concession Agreement (Attached at Annexure - IV)	
<b>10. Criteria for short-listing</b>		
10.1	Is short-listing to be in one stage or two stages?	
10.2	Indicate the criteria for short-listing (attach separate sheet if necessary) Are they quantitative?	
10.3	Does the short-listing criteria for the final stage include parameters other than financial	
<b>11. Others</b>		
11.1	Remarks, if any	

## Brief particulars of the Concession Agreement

(Please see sub-rule (14) of rule 67 )

A. Sponsoring Department

C. Legal Consultant(if any)

B. Name and location of the Project

D. Financial Consultant(if any)

S. No.	Item	Response
<b>1. General</b>		
1.1	Scope of the Project (in about 200 words)	
1.2	Nature of Concession to be granted	
1.3	Period of Concession and justification for fixing the period	
1.4	Estimated capital cost	
1.5	Likely construction period	
1.6	Conditions precedent, if any, for the concession to be effective	
1.7	Status of land acquisition	
<b>2. Construction and O&amp;M</b>		
2.1	Designing Agency	
2.2	Designing parameters and norms	
2.3	Design review Agency	
2.4	Minimum standards of constructions	
2.5	Monitoring of construction; whether an independent agency/engineer is provided	
2.6	Minimum standards of Operation and Maintenance whether Output based / input based	
2.7	Penalties for violation of prescribed design, construction and O&M standards	
2.8	Safety related provisions	
2.9	Environment related provisions	
<b>3. Financial</b>		
3.1	Maximum period for achieving financial close	
3.2	Whether Right to mortgage / pledge / hypothecate / lien is being given	
3.3	Performance Security Value	
3.4	Source, nature and extent of capital grant/subsidy contemplated	
3.5	Bidding parameter (capital subsidy or other parameter)	
3.6	Provisions for change of scope and the financial burden thereof	
3.7	Likely Concession fee, if any, payable by/payable to the Concessionaire.	
3.8	User charges/fee to be collected by the Concessionaire	
3.9	Indicate how the user fee is to be determined; the legal provisions in support of user fee (attach the relevant rules/notification); and the extent and nature of indexation for inflation	
3.10	Provisions, if any, for mitigating the risk of lower revenue collection	

3.11	Provisions relating to escrow account, if any	
3.12	Provisions relating to insurance	
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4.4	Provisions for indemnity (design, construction, patents, accidents, legal violations)	
<b>5. Others</b>		
5.1	Provisions relating to competing facilities, if any	
5.2	Specify the Dispute Resolution Mechanism	
5.3	Specify the governing law and jurisdiction	
5.4	Provisions relating to Hand back obligations/provisions/guarantee.	
5.5	Other Remarks, if any	

**Format of Procurement Register**

(Please see rule 71)

Financial Year .....

Sl. No.	Date of Order	Short description of Goods/Services	Procured from the firm	Supply/Work Completion Date	Cost of Supply/Work	Remark e.g. Delay in supply/work quality issues etc.

**No.** 177/XXVII(7)/2008 Dated above.

Copy for information and necessary action to following:-

1. Secretary to Governor, Uttarakhand.
2. Secretary, Vidhan Sabha, Uttarakhand.
3. All Principal Secretary/Secretary, Uttarakhand Government.
4. All Head of Departments/Head of the Offices Uttarakhand.
5. Accountant General, Uttarakhand, Dehradun.
6. Resident Commissioner, Uttarakhand, New Delhi
7. All sections, Uttarakhand Secretariat, Dehradun.
8. All Treasury Officers, Uttarakhand.
9. Director, Administrative Training Institute, Nainital.
10. Deputy Director, Government Press Roorkee for publication in State Gazette.
11. Director, N.I.C. Uttarakhand unit, Dehradun.
12. Guard File.

**By Order**

**( T. N. Singh )  
Additional Secretary**