

PUNJAB PROCUREMENT RULES-2009 (PPR-009)

NOTIFICATION

No.MD(PPRA)2-1/2010. In exercise of the powers conferred by Section 26 of the Punjab Procurement Regulatory Authority Ordinance, 2007 (Pb. Ord. XIX of 2007), the Government of Punjab is pleased to direct that the following amendments shall be made in the Punjab Procurement Rules, 2009 by addition of rules for Public Private Partnership Projects, namely:-

Short title and commencement.– (1) These rules may be cited as the Punjab Procurement Rules, 2009 (Amended).

CHAPTER I GENERAL PROVISIONS

2. (I) "Public Private Partnership" means a contractual arrangement between the public and private sectors, built on the expertise and resources of each partner that best meets clearly defined public needs through appropriate allocation of resources, risks and rewards;

- (a) "bid" means a tender, or an offer, in response to an invitation, by a person, consultant, firm, company or an organization expressing his or its willingness to undertake a specified task at a price;
- (b) "bidder" means a person who submits a bid;
- (c) "competitive bidding" means a procedure leading to the award of a contract whereby all the interested persons, firms, companies or organizations may bid for the contract and includes both national competitive bidding and international competitive bidding;
- (d) "contractor" means a person, consultant, firm, company or an organization who undertakes to supply goods, services or works;
- (e) "contract" means an agreement enforceable by law;
- (f) "corrupt and fraudulent practices" includes the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official or the supplier or contractor in the procurement process or in contract execution to the detriment of the procuring agencies; or misrepresentation of facts in order to influence a procurement process or the execution of a contract, collusive practices among bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the procuring agencies of the benefits of free and open competition and any request for, or solicitation of anything of value by any public official in the course of the exercise of his duty;
- (g) "emergency" means natural calamities, disasters, accidents, war and operational emergency which may give rise to abnormal situation requiring prompt and immediate action to limit or avoid damage to person, property or the environment;

- *(gg) "framework contract" means a contract whereby the procurement is made for a certain volume or quantity of a particular good, a set of goods or services and works over a specific period against a consideration i.e an agreed sum or rate (per item or lump sum)."
- (h) "lowest evaluated bid" means,-
- (i) a bid most closely conforming to evaluation criteria and other conditions specified in the bidding document; and
 - (ii) having lowest evaluated cost;
- (i) "Ordinance" means the Punjab Procurement Regulatory Authority Ordinance, 2007 (XIX of 2007);
- (j) "repeat orders" means procurement of the same commodity from the same source without competition and includes enhancement of contracts;
- (k) "supplier" means a person, consultant, firm, company or an organization who undertakes to supply goods, services or works; and
- (l) "value for money" means best returns for each rupee spent in terms of quality, timeliness, reliability, after sales service, up-grade ability, price, source, and the combination of whole-life cost and quality to meet the procuring agency's requirements.
- (m) "Public Private Partnership Board Punjab" means a board established within the Government of Punjab comprising of:
1. Minister for Law & Parliamentary Affairs (Chairman)
 2. Chairman P&D
 3. Secretary Finance
 4. Secretary of the Concerned Department.
 5. Chairman Special Initiatives Entity.
 6. Vice Chairman Punjab Board of Investment & Trade
 7. Four private sector individuals (to be nominated subsequently)
- (n) "Public Procurement" means acquisition of goods, services or construction of any works financed wholly or partly out of the public fund, including projects of Public Private Partnership, unless excluded otherwise by Government;
- (o) "Conflict of Interest" means -
- (i) where a contractor, supplier or consultant provides, or could provide, or could be perceived as providing biased professional advice to a procuring agency to obtain an undue benefit for himself or those affiliated with him;
 - (ii) receiving or giving any remuneration directly or indirectly in connection with the assignment except as provided in the contract;
 - (iii) any engagement in consulting or other procurement activities of a contractor, consultant or service provider that conflicts with his role or

relationship with the procuring agency under the contract;

(iv) where an official of the procuring agency engaged in the procurement process has a financial or economic interest in the outcome of the process of procurement, in a direct or an indirect manner;

(2) The expressions used but not defined in these rules shall have the same meanings as are assigned to them in the Ordinance.

3. **Scope and applicability.**— Save as otherwise provided, these rules shall apply to all procurements made by all procuring agencies of the Government of the Punjab whether within or outside the Punjab.

4. **Principles of procurements.**— Procuring agencies, while engaging in procurements, shall ensure that the procurements are conducted in a fair and transparent manner, the object of procurement brings value for money to the agency and the procurement process is efficient and economical.

5. **International and inter-governmental commitments of the Government of the Punjab.**— Whenever these rules are in conflict with an obligation or commitment of the Government of the Punjab arising out of an international treaty or an agreement with a State or States, or any international financial institution the provisions of such international treaty or agreement shall prevail to the extent of such conflict.

6. **Language.**— (1) All communications and documentation related to procurements of the Government of the Punjab shall either be in Urdu or English or both. Except where a procuring agency is situated outside the territories of Pakistan and procurements are to be made locally, the procuring agency may use the local language in addition to Urdu or English.

(2) Where the use of local language is found essential, the original documentation shall be in Urdu or English, which shall be retained on record; for all other purposes their translations in local language shall be used:

Provided that such use of local language ensures maximum economy and efficiency in the procurement.

(3) In case of the dispute reference shall be made to the original documentation retained on record.

7. **Integrity pact.**— Procurements exceeding the prescribed limit shall be subject to an integrity pact, as specified by regulation with approval of the Government of the Punjab, between the procuring agency and the suppliers or contractors.

CHAPTER II PROCUREMENT PLANNING

8. **Procurement planning.**— Within one year of commencement of these rules, all procuring agencies shall devise a mechanism, for planning in detail for all proposed procurements with the object of realistically determining the requirements of the

procuring agency, within its available resources, delivery time or completion date and benefits that are likely to accrue to the procuring agency in future.

9. **Limitation on splitting or regrouping of proposed procurement.**— Save as otherwise provided and subject to the regulation made by the PPRA, with the prior approval of the Government of the Punjab, a procuring agency shall announce in an appropriate manner all proposed procurements for each financial year and shall proceed accordingly without any splitting or regrouping of the procurements so planned. The annual requirements thus determined would be advertised in advance on the PPRA's website as well as on the website of the procuring agency in case the procuring agency has its own website.

10. **Specifications.**— Specifications shall allow the widest possible competition and shall not favour any single contractor or supplier nor put others at a disadvantage. Specifications shall be generic and shall not include references to brand names, model numbers, catalogue numbers or similar classifications. However if the procuring agency is convinced that the use of or a reference to a brand name or a catalogue number is essential to complete an otherwise incomplete specification, such use or reference shall be qualified with the words "or equivalent".

Provided that this rule shall not apply to procurement made by public sector commercial concerns on the demand of private sector client specifying, in writing, a particular brand, model or classification of equipment, machinery or other objects.

11. **Approval mechanism.**— All procuring agencies shall provide clear authorization and delegation of powers for different categories of procurement and shall only initiate procurements once approval of the competent authorities concerned has been accorded.

CHAPTER III PROCUREMENT ADVERTISEMENTS

12. **Methods of advertisement.**— (1) Procurements over one hundred thousand rupees and up to the limit of two million rupees shall be advertised on the PPRA's website in the manner and format specified by regulation by the PPRA from time to time. These procurement opportunities may also be advertised in print media, if deemed necessary by the procuring agency:

Provided that the lower financial limit for advertisement on PPRA's website for open competitive bidding shall be the prescribed financial limit for request for quotations under clause (b) of rule 42.

(2) All procurement opportunities over two million rupees should be advertised on the PPRA's website as well as in other print media or newspapers having wide circulation. The advertisement in the newspapers shall principally appear in at least two national dailies, one in English and the other in Urdu.

(3) In cases where the procuring agency has its own website it may also post all advertisements concerning procurement on that website as well.

(4) A procuring agency utilizing electronic media shall ensure that the

information posted on the website is complete for the purposes for which it has been posted, and such information shall remain available on that website until the closing date for the submission of bids.

13. **Response time.**– (1) The procuring agency may decide the response time for receipt of bids or proposals (including proposals for pre-qualification) from the date of publication of an advertisement or notice, keeping in view the individual procurement's complexity, availability and urgency. However, under no circumstances the response time shall be less than fifteen days for national competitive bidding and thirty days for international competitive bidding from the date of publication of advertisement or notice. All advertisements or notices shall expressly mention the response time allowed for that particular procurement along with the information for collection of bid documents which shall be issued till a given date, allowing sufficient time to complete and submit the bid by the closing date:

Provided that no time limit shall be applicable in case of emergency.

(2) The response time shall be calculated from the date of first publication of the advertisement in a newspaper or posting on the web site, as the case may be.

(3) In situations where publication of such advertisements or notices has occurred in both electronic and print media, the response time shall be calculated from the day of its first publication in the newspapers.

14. **Exceptions.**– It shall be mandatory for all procuring agencies to advertise all procurement requirements exceeding prescribed financial limit which is applicable under sub-clause (i) of clause (b) of rule 42. However under following circumstances deviation from the requirement is permissible with the prior approval of the PPRA,-

- (a) the proposed procurement is related to national security and its publication could jeopardize national security objectives; and
- (b) the proposed procurement advertisement or notice or publication of it, in any manner, relates to disclosure of information, which is proprietary in nature or falls within the definition of intellectual property which is available from a single source.

CHAPTER IV

PRE-QUALIFICATION, QUALIFICATION AND DIS-QUALIFICATION OF SUPPLIERS AND CONTRACTORS

***15. Pre-qualification of suppliers and contractors.**

(1) Subject to sub-rule (1b), a procuring agency may, prior to floating the tenders, or invitation to proposals or offers in procurement proceeding, engage in prequalification of bidders in case of services, civil works, turnkey projects and in case of procurement of expensive and technically complex equipment to ensure that only technically and financially capable firms persons having adequate expertise and capacity are invited to submit bids.

(1a) The procuring agency shall ensure that prequalification is based on the capacity of the interested parties to perform satisfactorily the services or work.

(1b) A procuring agency shall prequalify bidders in case of procurement of goods of one hundred million rupees or more in accordance with the provisions of sub-rules (1) and (1a).

(2) A procuring agency while engaging in pre-qualification may take into consideration the following factors, namely:

- (a) relevant experience and past performance;
- (b) capabilities with respect to personnel, equipment, and plant;
- (c) financial position;
- (d) appropriate managerial capability; and
- (e) any other factor that a procuring agency may deem relevant, not inconsistent with these rules.

***15A. Framework contract.**-(1) A procuring agency may procure goods through framework contract in order to ensure the uniformity in the procurement of goods.

(2) The procuring agency shall adopt any of the methods of procurement mentioned in these rules for entering into a framework contract.

16. Pre-qualification process.– (1) The procuring agency engaging in pre-qualification shall announce, in the pre-qualification documents, all information required for pre-qualification including instructions for preparation and submission of the pre-qualification documents, evaluation criteria, list of documentary evidence required by suppliers or contractors to demonstrate their respective qualifications and any other information that the procuring agency deems necessary for pre-qualification.

(2) The procuring agency shall provide a set of pre-qualification documents to any supplier or contractor, on request and subject to payment of price, if any.

Explanation.- For the purposes of this sub-rule price means the cost of printing and providing the documents only.

(3) The procuring agency shall promptly notify each supplier or contractor submitting an application to pre-qualify whether or not it has been pre-qualified and shall make available to any person directly involved in the pre-qualification process, upon request, the names of all suppliers or contractors who have been pre-qualified. Only suppliers or contractors who have been pre-qualified shall be entitled to participate further in the procurement proceedings.

(4) The procuring agency shall communicate to those suppliers or contractors who have not been pre-qualified the reasons for not pre-qualifying them.

17. **Qualification of suppliers and contractors.**– A procuring agency, at any stage of the procurement proceedings, having credible reasons for or prima facie evidence of any defect in supplier's or contractor's capacities, may require the suppliers or contractors to provide information concerning their professional, technical, financial, legal or managerial competence whether already pre-qualified or not:

Provided that such qualification shall only be laid down after recording reasons thereof in writing. They shall form part of the records of that procurement proceeding.

18. **Disqualification of suppliers and contractors.**– The procuring agency shall disqualify a supplier or contractor if it finds, at any time, that the information submitted by him concerning his qualification as supplier or contractor was false and materially inaccurate or incomplete.

19. **Blacklisting of suppliers and contractors.**– The procuring agencies shall specify a mechanism and manner to permanently or temporarily bar, from participating in their respective procurement proceedings, suppliers and contractors who either consistently fail to provide satisfactory performances or are found to be indulging in corrupt or fraudulent practices. Such barring action shall be duly publicized and communicated to the PPRA:

Provided that any supplier or contractor who is to be blacklisted shall be accorded adequate opportunity of being heard.

CHAPTER V METHODS OF PROCUREMENT

20. **Principal method of procurement.**– Save as otherwise provided hereinafter, the procuring agencies shall use open competitive bidding as the principal method of procurement for the procurement of goods, services and works.

21. **Open competitive bidding.**– Subject to the provisions of rules 22 to 37 the procuring agencies shall engage in open competitive bidding if the cost of the object to be procured is more than the prescribed financial limit which is applicable under sub-clause (i) of clause (b) of rule 42.

22. **Submission of bids.**– (1) The bids shall be submitted in a sealed package or packages in such manner that the contents are fully enclosed and cannot be known until duly opened.

(2) A procuring agency shall specify the manner and method of submission and receipt of bids in an unambiguous and clear manner in the bidding documents.

23. **Bidding documents.**– (1) Procuring agencies shall formulate precise and unambiguous bidding documents that shall be made available to the bidders immediately after the publication of the invitation to bid.

(2) For competitive bidding, whether open or limited, the bidding documents shall include the following, namely:-

- (a) invitation to bid;
- (b) instructions to bidders;
- (c) form of bid;
- (d) form of contract;
- (e) general or special conditions of contract;
- (f) specifications and drawings or performance criteria (where applicable);
- (g) list of goods or bill of quantities (where applicable);
- (h) delivery time or completion schedule;
- (i) qualification criteria (where applicable);
- (j) bid evaluation criteria;
- (k) format of all securities required (where applicable);
- (l) details of standards (if any) that are to be used in assessing the quality of goods, works or services specified; and
- (m) any other detail not inconsistent with these rules that the procuring agency may deem necessary.

(3) Any information, that becomes necessary for bidding or for bid evaluation, after the invitation to bid or issue of the bidding documents to the prospective bidders, shall be provided in a timely manner and on equal opportunity basis. Where notification of such change, addition, modification or deletion becomes essential, such notification shall be made in a manner similar to the original advertisement.

(4) Procuring agencies shall use standard bidding documents as and when notified by regulation by the PPRA:

Provided that bidding documents already in use of procuring agencies may be retained in their respective usage to the extent they are not inconsistent with these rules, and till such time that the standard bidding documents are specified by regulations.

(5) The procuring agency shall provide a set of bidding documents to any supplier or contractor, on request and subject to payment of price, if any.

Explanation.— For the purpose of this sub-rule price means the cost of printing and providing the documents only.

24. Reservations and preference.— (1) Procuring agencies shall allow all prospective bidders to participate in procuring procedure without regard to nationality, except in cases in which any procuring agency decides to limit such participation to national bidders only or prohibit participation of bidders of some nationalities, in accordance with the policy of Government of the Punjab.

(2) Procuring agencies shall allow for a preference to domestic or national suppliers or contractors in accordance with the policies of the Government of the Punjab. The magnitude of price preference to be accorded shall be clearly mentioned in the bidding documents under the bid evaluation criteria.

25. Bid security.— The procuring agency may require the bidders to furnish a bid

security not exceeding five per cent of the bid price.

26. **Bid validity.**– (1) A procuring agency, keeping in view the nature of the procurement, shall subject the bid to a bid validity period.

(2) Bids shall be valid for the period of time specified in the bidding document.

(3) The procuring agency shall ordinarily be under an obligation to process and evaluate the bid within the stipulated bid validity period. However under exceptional circumstances and for reason to be recorded in writing, if an extension is considered necessary, all those who have submitted their bids shall be asked to extend their respective bid validity period. Such extension shall be for not more than the period equal to the period of the original bid validity.

(4) Bidders who:

- (a) agree to extension of their bid validity period shall also extend the validity of the bid bond or security for the extended period of the bid validity;
- (b) agree to the procuring agency's request for extension of bid validity period shall not be permitted to change the substance of their bids; and
- (c) do not agree to an extension of the bid validity period shall be allowed to withdraw their bids without forfeiture of their bid bonds or securities.

27. **Extension of time for submission of bids.**– Where a procuring agency has already prescribed a deadline for the submission of bids and due to any reason the procuring agency finds it necessary to extend such deadline, it shall do so only after recording its reasons in writing and in an equal opportunity manner. Advertisement of such extension in time shall be done in a manner similar to the original advertisement.

CHAPTER VI OPENING, EVALUATION AND REJECTION OF BIDS

28. **Opening of bids.**– (1) The date for opening of bids and the last date for the submission of bids shall be the same. Bids shall be opened at the time specified in the bidding documents. The bids shall be opened at least thirty minutes after the deadline for submission of bids.

(2) All bids shall be opened publicly in the presence of the bidders or their representatives who may choose to be present, at the time and place announced prior to the bidding. The procuring agency shall read aloud the unit price as well as the bid amount and shall record the minutes of the bid opening. All bidders in attendance shall sign an attendance sheet. All bids submitted after the time prescribed shall be rejected and returned without being opened.

29. **Evaluation criteria.**— Procuring agencies shall formulate an appropriate evaluation criterion listing all the relevant information against which a bid is to be evaluated. Such evaluation criteria shall form an integral part of the bidding documents. Failure to provide for an unambiguous evaluation criteria in the bidding documents shall amount to mis-procurement.

30. **Evaluation of bids.**— (1) All bids shall be evaluated in accordance with the evaluation criteria and other terms and conditions set forth in the prescribed bidding documents. Save as provided for in sub-clause (iv) of clause (c) of rule 36 no evaluation criteria shall be used for evaluation of bids that had not been specified in the bidding documents.

(2) For the purposes of comparison of bids quoted in different currencies, the price shall be converted into a single currency specified in the bidding documents. The rate of exchange shall be the selling rate, prevailing on the date of opening of bids specified in the bidding documents, as notified by the State Bank of Pakistan on that day.

(3) A bid once opened in accordance with the prescribed procedure shall be subject to only those rules, regulations and policies that are in force at the time of issue of notice for invitation of bids.

31. **Clarification of bids.**— (1) No bidder shall be allowed to alter or modify his bid after the bids have been opened. However the procuring agency may seek and accept clarifications to the bid that do not change the substance of the bid.

(2) Any request for clarification in the bid, made by the procuring agency shall invariably be in writing. The response to such request shall also be in writing.

32. **Discriminatory and difficult conditions.**— Save as otherwise provided, no procuring agency shall introduce any condition, which discriminates between bidders or that is considered to be met with difficulty. In ascertaining the discriminatory or difficult nature of any condition reference shall be made to the ordinary practices of that trade, manufacturing, construction business or service to which that particular procurement is related.

33. **Rejection of bids.**— (1) The procuring agency may reject all bids or proposals at any time prior to the acceptance of a bid or proposal. The procuring agency shall upon request communicate to any supplier or contractor who submitted a bid or proposal, the grounds for its rejection of all bids or proposals, but is not required to justify those grounds.

(2) The procuring agency shall incur no liability, solely by virtue of its invoking sub-rule (1) towards suppliers or contractors who have submitted bids or proposals.

(3) Notice of the rejection of all bids or proposals shall be given promptly to all suppliers or contractors that submitted bids or proposals.

34. **Re-bidding.**— (1) If the procuring agency has rejected all bids under rule 33 it may call for a re-bidding.

(2) The procuring agency before invitation for re-bidding shall assess the reasons for rejection and may revise specifications, evaluation criteria or any other condition for bidders as it may deem necessary.

35. **Announcement of evaluation reports.**– Procuring agencies shall announce the results of bid evaluation in the form of a report giving justification for acceptance or rejection of bids at least ten days prior to the award of procurement contract.

36. **Procedures of open competitive bidding.**– Save as otherwise provided in these rules the following procedures shall be permissible for open competitive bidding, namely:-

(a) Single stage – one envelope procedure.– Each bid shall comprise one single envelope containing, separately, financial proposal and technical proposal (if any). All bids received shall be opened and evaluated in the manner prescribed in the bidding document.

(b) Single stage – two envelope procedure.–

(i) The bid shall comprise a single package containing two separate envelopes. Each envelope shall contain separately the financial proposal and the technical proposal;

(ii) the envelopes shall be marked as “FINANCIAL PROPOSAL” and “TECHNICAL PROPOSAL” in bold and legible letters to avoid confusion;

(iii) initially, only the envelope marked “TECHNICAL PROPOSAL” shall be opened;

(iv) the envelope marked as “FINANCIAL PROPOSAL” shall be retained in the custody of the procuring agency without being opened;

(v) the procuring agency shall evaluate the technical proposal in a manner prescribed in advance, without reference to the price and reject any proposal which does not conform to the specified requirements;

(vi) during the technical evaluation no amendments in the technical proposal shall be permitted;

(vii) the financial proposals of bids shall be opened publicly at a time, date and venue announced and communicated to the bidders in advance;

(viii) after the evaluation and approval of the technical proposal the procuring agency, shall at a time within the bid validity period, publicly open the financial proposals of the technically accepted bids only. The financial proposal of bids found technically non-responsive shall be returned unopened to the respective bidders; and

(ix) the bid found to be the lowest evaluated bid shall be accepted.

(c) Two stage bidding procedure.-

First stage

- (i) the bidders shall first submit, according to the required specifications, a technical proposal without price;
- (ii) the technical proposal shall be evaluated in accordance with the specified evaluation criteria and may be discussed with the bidders regarding any deficiencies and unsatisfactory technical features;
- (iii) after such discussions, all the bidders shall be permitted to revise their respective technical proposals to meet the requirements of the procuring agency;
- (iv) the procuring agency may revise, delete, modify or add any aspect of the technical requirements or evaluation criteria, or it may add new requirements or criteria not inconsistent with these rules:

Provided that such revisions, deletions, modifications or additions are communicated to all the bidders equally at the time of invitation to submit final bids, and that sufficient time is allowed to the bidders to prepare their revised bids:

Provided further that such allowance of time shall not be less than fifteen days in the case of national competitive bidding and thirty days in the case of international competitive bidding;

- (v) those bidders not willing to conform their respective bids to the procuring agency's technical requirements may be allowed to withdraw from the bidding without forfeiture of their bid security;

Second stage

- (vi) the bidders, whose technical proposals or bids have not been rejected and who are willing to conform their bids to the revised technical requirements of the procuring agency, shall be invited to submit a revised technical proposal along with the financial proposal;
- (vii) the revised technical proposal and the financial proposal shall be opened at a time, date and venue announced and communicated to the bidders in advance; and
- (viii) the revised technical proposal and the financial proposal shall be evaluated in the manner prescribed above. The bid found to be the lowest evaluated bid shall be accepted:

Provided that in setting the date for the submission of the revised technical proposal and financial proposal a procuring agency shall allow sufficient time

to the bidders to incorporate the agreed upon changes in the technical proposal and prepare their financial proposals accordingly.

(d) Two stage – two envelope bidding procedure.–

First stage

(c) the bid shall comprise a single package containing two separate envelopes. Each envelope shall contain separately the financial proposal and the technical proposal;

(ii) the envelopes shall be marked as “FINANCIAL PROPOSAL” and “TECHNICAL PROPOSAL” in bold and legible letters to avoid confusion;

(iii) initially, only the envelope marked “TECHNICAL PROPOSAL” shall be opened;

(iv) the envelope marked as “FINANCIAL PROPOSAL” shall be retained in the custody of the procuring agency without being opened;

(v) the technical proposal shall be discussed with the bidders with reference to the procuring agency’s technical requirements;

(vi) those bidders willing to meet the requirements of the procuring agency shall be allowed to revise their technical proposals following these discussions;

(vii) bidders not willing to conform their technical proposal to the revised requirements of the procuring agency shall be allowed to withdraw their respective bids without forfeiture of their bid security;

Second stage

(viii) after agreement between the procuring agency and the bidders on the technical requirements, bidders who are willing to conform to the revised technical specifications and whose bids have not already been rejected shall submit a revised technical proposal and supplementary financial proposal, according to the technical requirement;

(ix) the revised technical proposal along with the original financial proposal and supplementary financial proposal shall be opened at a date, time and venue announced in advance by the procuring agency:

Provided that in setting the date for the submission of the revised technical proposal and supplementary price proposal a procuring agency shall allow sufficient time to the bidders to incorporate the agreed upon changes in the technical proposal and to prepare the required supplementary financial proposal; and

- (x) the procuring agency shall evaluate the whole proposal in accordance with the evaluation criteria and the bid found to be the lowest evaluated bid shall be accepted.

37. Conditions for use of single stage two envelope, two stage and two stage two envelope bidding procedures.-

Single stage one envelope bidding procedure shall ordinarily be the main open competitive bidding procedure used for most of the procurement. Other appropriate procedures of open competitive bidding shall be selected in the following circumstances, namely:-

- (a) single stage two envelope bidding procedure shall be used where the bids are to be evaluated on technical and financial grounds and price is taken into account after technical evaluation;
- (b) two stage bidding procedure shall be adopted in large and complex contracts where technically unequal proposals are likely to be encountered or where the procuring agency is aware of its options in the market but, for a given set of performance requirements, there are two or more equally acceptable technical solutions available to the procuring agency; and
- (c) two stage two envelope bidding method shall be used for procurement where alternative technical proposals are possible, such as certain type of machinery or equipment or manufacturing plant.

CHAPTER-VII

ACCEPTANCE OF BIDS AND AWARD OF PROCUREMENT CONTRACTS

38. **Acceptance of bids.**— The bidder with the lowest evaluated bid, if not in conflict with any other law, rules, regulations or policy of the Government of the Punjab, shall be awarded the procurement contract, within the original or extended period of bid validity.

39. **Performance guarantee.**— Where needed and clearly expressed in the bidding documents, the procuring agency shall require the successful bidder to furnish a performance guarantee which shall not exceed ten per cent of the contract amount.

*40. **Limitation on negotiations.**—(1) Save as otherwise provided in these rules, a procuring agency shall not negotiate with any of the bidders.

(2) In case of goods of highly technical nature, the procuring agency shall ensure that the bidders submit the revised financial bids immediately after opening of the financial bids in the same manner as the earlier financial bids were submitted and the procuring agency shall not allow extra time for submission of revised financial bids by the bidders.

(3) In this rule, the expression 'goods of highly technical nature' means all goods including machinery, its parts and micro-components, industrial, scientific or electronic equipment, plant and tools which are sophisticated in nature costing more than fifty million rupees and procured by adopting the two stages-two envelope procurement procedures in accordance of rule 36.

41. **Confidentiality.**—The procuring agency shall keep all information regarding the bid evaluation confidential until the time of the announcement of the evaluation report in accordance with the requirements of rule 35.

42. **Alternative methods of procurements.**—A procuring agency may utilize the following alternative methods of procurement of goods, services and works, namely:-

(a) **petty purchases.**-

Procuring agencies may provide for petty purchases where the object of the procurement is below the financial limit of twenty five thousand rupees. Such procurement shall be exempt from the requirements of bidding or quotation of prices:

Provided that the procuring agencies shall ensure that procurement of petty purchases is in conformity with the principles of procurement prescribed in rule 4:

Provided further that procuring agencies convinced of the inadequacy of the financial limit prescribed for petty purchases in undertaking their respective operations may approach the *Board for enhancement of the same with full and proper justifications; and

*Substituted vide Notification bearing No.ADMN(PPRA)/10-2/2013 dated 20.08.2013.

****Provided further that the Board may fix an appropriate limit for procurement through the method of three quotations, subject to a maximum of five hundred thousand rupees, as the maximum financial limit for procurement on the basis of three quotations.**

(b) request for quotations.-

A procuring agency shall engage in this method of procurement only if the following conditions exist, namely:-

(i) the cost of object of procurement is below the prescribed limit of one hundred thousand rupees:

Provided that the respective Boards of Autonomous bodies are authorized to fix an appropriate limit for request for quotations method of procurement subject to a maximum of rupees five hundred thousand which will become financial limit under this sub-rule:

(ii) the object of the procurement has standard specifications;

(iii) minimum of three quotations have been obtained; and

(iv) the object of the procurement is purchased from the supplier offering the lowest price:

Provided that procuring agencies convinced of the inadequacy of the financial limit prescribed for request for quotations in undertaking their respective operations may approach the *Board for enhancement of the same with full and proper justifications;

(c) direct contracting.- A procuring agency shall only engage in direct contracting if the following conditions exist, namely:-

(i) the procurement concerns the acquisition of spare parts or supplementary services from original manufacturer or supplier:

Provided that the same are not available from alternative sources;

(ii) only one manufacturer or supplier exists for the required procurement:

Provided that the procuring agencies shall specify the appropriate fora, which may authorize procurement of proprietary object after due diligence; and

(iii) where a change of supplier would oblige the procuring agency to acquire material having different technical specifications or characteristics and would result in incompatibility or disproportionate technical difficulties in operation and maintenance:

*Substitute vide Notification bearing No.ADMN(PPRA)/10-2/2013 dated 20.08.2013.

**Inserted vide Notification bearing No.ADMN(PPRA)/10-2/2013 dated 20.08.2013.

Provided that the contract or contracts do not exceed three years in duration;

- (iv) repeat orders not exceeding fifteen per cent of the original procurement;
- (v) in case of an emergency:

Provided that the procuring agencies shall specify appropriate fora vested with necessary authority to declare an emergency;

- (vi) when the price of goods, services or works is fixed by the government or any other authority, agency or body duly authorized by the Government, on its behalf, and

- (vii) for purchase of motor vehicle from local original manufacturers or their authorized agents at manufacturer's price.

- (d) **negotiated tendering.**- A procuring agency may engage in negotiated tendering with one or more suppliers or contractors with or without prior publication of a procurement notification. This procedure shall only be used when,-

- (i) the supplies involved are manufactured purely for the purpose of supporting a specific piece of research or an experiment, a study or a particular development;

- (ii) for technical or artistic reasons, or for reasons connected with protection of exclusive rights or intellectual property, the supplies may be manufactured or delivered only by a particular supplier;

- (iii) for reasons of extreme urgency brought about by events unforeseeable by the procuring agency, the time limits laid down for open and limited bidding methods cannot be met. The circumstances invoked to justify extreme urgency must not be attributable to the procuring agency:

***42A. Exemption.**-(1) The Government or the Board shall not exempt application of these rules for procurement of services.

(2) The Board may exempt application of these rules for procurement of goods from a public sector manufacturing unit through the method of three quotations involving procurement of one hundred thousand rupees or more.

(3) For all procurements beyond the prescribed or enhanced limit, the procuring agency shall give the first right of refusal to a public sector manufacturing unit participating in the bidding process or competition.

43. On account payments.— All procuring agencies shall make prompt payments to suppliers and contractors against their invoices or running bills within the time given in the conditions of the contract, which shall not exceed thirty days.

44. Entry into force of the procurement contract.— A procurement contract shall come into force,-

(a) where no formal signing of a contract is required, from the date the notice of the acceptance of the bid or purchase order has been given to the bidder whose bid has been accepted. Such notice of acceptance or purchase order shall be issued within a reasonable time; or

(b) where the procuring agency requires signing of a written contract, from the date on which the signatures of both the procuring agency and the successful bidder are affixed to the written contract. Such affixing of signatures shall take place within a reasonable time:

Provided that where the coming into force of a contract is contingent upon fulfillment of a certain condition or conditions, the contract shall take effect from the date whereon such fulfillment takes place.

45. Closing of contract.— (1) Except for defect liability or maintenance by the supplier or contractor, as specified in the conditions of contract, performance of the contract shall be deemed close on the issue of overall delivery certificate or taking over certificate which shall be issued within thirty days of final taking over of goods or receiving the deliverables or completion of works enabling the supplier or contractor to submit final bill and the auditors to do substantial audit.

(2) In case of defect liability or maintenance period, defect liability certificate shall be issued within thirty days of the expiry of the said period enabling the supplier or contractor to submit the final bill. Except for unsettled claims, which shall be resolved through arbitration, the bill shall be paid within the time given in the conditions of contract, which shall not exceed sixty days to close the contract for final audit.

CHAPTER VIII

MAINTENANCE OF RECORD AND FREEDOM OF INFORMATION

46. Record of procurement proceedings.— (1) All procuring agencies shall maintain a record of their respective procurement proceedings along with all associated documentation for a minimum period of five years.

(2) Such maintenance of record shall be subject to the regulations framed in this regard from time to time.

47. Public access and transparency.— As soon as a contract has been awarded the procuring agency shall make all documents related to the evaluation of the bid and award of contract public:

Provided that where the disclosure of any information related to the award of a contract is of proprietary nature or where the procuring agency is convinced that such disclosure shall be against the public interest, it can withhold only such information from public disclosure subject to the prior approval of the PPRA.

CHAPTER IX

REDRESSAL OF GRIEVANCES AND SETTLEMENT OF DISPUTES

48. **Redressal of grievances by the procuring agency.**– (1) The procuring agency shall constitute a committee comprising of odd number of persons, with proper powers and authorizations, to address the complaints of bidders that may occur prior to the entry into force of the procurement contract.

(2) Any bidder feeling aggrieved by any act of the procuring agency after the submission of his bid may lodge a written complaint concerning his grievances not later than fifteen days after the announcement of the bid evaluation report under rule 35.

(3) The committee shall investigate and decide upon the complaint within fifteen days of the receipt of the complaint.

(4) Mere fact of lodging of a complaint shall not warrant suspension of the procurement process.

(5) Any bidder not satisfied with the decision of the committee of the procuring agency may lodge an appeal in the relevant court of jurisdiction.

49. **Arbitration.**– (1) After coming into force of the procurement contracts, disputes between the parties to the contract shall be settled by arbitration.

(2) The procuring agencies shall provide for a method of arbitration in the procurement contract, not inconsistent with the laws of Pakistan.

*50. **Mis-procurement.**–(1) A procurement shall be treated as mis-procurement if the procuring agency fails to observe the process of procurement envisaged in these rules or contravenes any provision of these rules.

(2) The Authority shall specify minor and major mis-procurement.

(3) The Government shall, by notification, constitute a committee in order to deal with and decide any allegation of major mis-procurement by a procuring agency.

(4) The officer immediately superior to the head of the procuring agency shall constitute a committee in order to deal with and decide any allegation of minor mis-procurement by the procuring agency.

51. **Overriding effect.**– The provisions of these rules shall have effect notwithstanding anything to the contrary contained in any other rules concerning public procurements:

Provided that the prevailing rules and procedures will remain applicable only for the procurement of goods, services and works for which notice for invitation of bids had been issued prior to the commencement of these rules unless the procuring agency deems it appropriate to re-issue the notice for the said procurement after commencement of these rules.

* Inserted vide Notification bearing No.ADMN(PPRA)/10-2/2013 dated 20.08.2013.

52. Public Private Partnership Projects.- (1) The rules under this part shall be applicable for procurement of goods, works and services through Public Private Partnership;

(2) The rules for procurement of goods, works and services in shall *mutatis mutandis* apply to the projects in which the design, financing and operations and maintenance will be undertaken under any of the following mode of procurement;

- (a) Service Contract
- (b) Management Contract
- (c) Lease Contract
- (d) Build, Operate and Transfer
- (e) Build, Own and Operate
- (f) Design, Build, Finance and Operate and Transfer
- (g) Build, Own, Operate, Transfer
- (h) Build, Lease and Transfer
- (i) Build and Transfer
- (j) Rehabilitate, Operate and Transfer
- (k) any combination or variation of the above modes or any other arrangement under PPP mode approved by the Public Private Partnership Board.

(3) The competent authority to approve PPP Projects and related processes for all sectors shall rest with the Public Private Partnership Board

(4) In case of any conflict in provisions or their interpretation within the rules, for PPP projects rules under this part shall take precedence over rules in other parts.

53. Procurement Process under Public Private Partnership.- (1) Some or all the functions and responsibilities of procurement planning and execution may be performed by the professional transaction advisers and consultants subject to approval by the Public Private Partnership Policy Board

(2) The Government shall appoint a committee for each Public Private Partnership project for technical and financial evaluation of the project. The terms of reference of each such committee shall be approved by the Government;

(3) Except otherwise provided in these rules all the Public Private Partnership contracts and concessions shall be granted through national or international open competitive bidding, as the case may be;

(4) The procuring agency may levy a reasonable fee for submitting requests for proposals. Such fee shall not exceed Rs. 100,000/-;

(5) Bidding documents shall be prepared according to Rule 23 and shall also

include the following;

- (a) minimum design and performance standards and specifications, land and economic parameters;
- (b) draft concession or management contract;
- (c) other documents as may be deemed necessary by the procuring agency concerned;

(6) The instructions to bidders shall be unambiguous, comprehensive and fair to all bidders and shall, as far as necessary and practicable, include but not be limited to the following information;

- (a) general description and objectives of the project;
- (b) bid submission procedures and requirements, which shall include information on the manner of bid submission, the number of copies of bid proposal to be submitted, where the bids are to be submitted, the deadline for the submission of bids and permissible mode of transmission of bid proposals;
- (c) Government undertaking such incentives to be provided, subsidies debt financing, if any, and equity by government or other government guarantees;
- (d) bid security and bid validity period;
- (e) milestone bonding;
- (f) method and criteria, including the minimum amount and form of equity, for the evaluation of the bids;
- (g) formulas and indices to be used in the adjustments of tolls, fees, rentals, royalties and charges, where applicable;
- (h) requirements of concerned regulatory bodies, if any;
- (i) monetary rules and regulation governing foreign exchange remittances;
- (j) revenue sharing arrangements;
- (k) expected commissioning date.

(7) Minimum design and performance standards or specifications, including applicable environmental standards shall be clearly defined and shall refer more to the desired quantity and quality of the outputs of the facility and shall state that non-conformity with any of these minimum requirements shall render the bids as non-responsive. Likewise, the following economic and financial parameters, among others, shall be prescribed:

- (a) discount rate and foreign exchange rate as prescribed by the government, where applicable;
- (b) maximum period of project construction;
- (c) fixed term or variable term for project operation and collection of tolls,

fees, rentals and charges authorized or approved by the government;

(d) formula and price indices to be used for adjustments in tolls, fees, rentals and charges, in the case of Build Operate Transfer, Build Operate Own and other variations thereof authorized or approved by the government;

(e) other financial features embedded in the Public Private Partnership project to enhance Value for Money.

54. **Negotiations.-** (1) Notwithstanding the provisions of Rule 40, negotiations may be permissible after the financial bids have been opened. In case the procuring agency has valid reasons, which must be recorded in writing, that the financial offers are not providing best value for money or need changes, the procuring agency may invite sealed revised financial bids from all qualified bidders or through open bidding. The procuring agency shall keep complete minutes of the negotiation process;

(2) Direct negotiations shall be resorted to when there is only one complying bidder left as defined hereunder:

(a) If, in response to advertisement, only one interested bidder responds for prequalification, and it meets the pre-qualification criteria;

(b) If after advertisement, more than one interested bidders respond for pre-qualification, if any but only one of them meets the prequalification criteria;

(c) After pre-qualification, if any, more than one interested bidders respond, and only one of them submits a bid, which is found by procuring agency to be complying;

(d) After pre-qualification, if any, more than one interested bidders submits the bid, but only one is found by the procuring agency to be complying.

55. **Bid Evaluation.** - The best evaluated bid shall be determined on the basis of the following criteria;

(1) Lowest bid in terms of user fees if the concession period is fixed.

(2) Highest return or profit for the government if the concession period is fixed and the user fees is the same or lower than other bidder.

(3) Shortest concession period if the user fee is fixed.

(4) Lowest Net Present Value of return to the bidder if user fee, concession period and subsidy element is same as those of other bidders, if government equity is not involved.

(5) Lowest amount of subsidy if the other considerations are almost same.

(6) Any other factor deemed relevant to the particular project by the procuring agency.

56. **Award of Contract.-** Notwithstanding anything contained in these rules, award of contract under Public Private Partnership shall be based on the criteria of evaluation prepared by the procuring agency, and published along with the Request for Proposal.

Subsequently, if procuring agency deems it necessary to change the evaluation criteria after the

Request for Proposal has been issued, it shall issue fresh Request for Proposal to afford equal opportunity to all the interested bidders;

(2) In so far as applicable, the same rules provided for the evaluation of the technical and financial aspects of bid proposals in Part II shall be applied in the evaluation of single bid;

(3) The procuring agency concerned shall have the right to cancel bidding process, as provided in rules.

57. Unsolicited Proposal.- (1) To promote and invigorate innovation the government may receive unsolicited proposals for Public Private Partnership investment from any source;

(2) The concerned procuring agency shall get the proposal reviewed by their respective technical committee to determine whether the project for which the proposal has been submitted is an appropriate project for implementation under Public Private Partnership mode. Such proposal, if found feasible for Public Private Partnership mode, shall be submitted to the Public Private Partnership Board, Government of Punjab for approval of concept. The concerned procuring agency shall carry out further process in collaboration with the Public Private Partnership Board, Government of Punjab.

(3) A prequalification process is not required in this case.

(4) Procuring agencies shall ensure competitiveness through advertising the proposed project for open bidding without disclosing the name of the initiator of unsolicited proposal. The initiator will be given five percent additional weightage on the combined secured score, technical and financial, in evaluation. If there is no other bid submitted in response to the competitive bidding, the procuring agency may award the contract to the initiator under these rules.

58. Power to Frame Procedures.- Public Private Partnership Board, Government of Punjab shall be empowered to devise guidelines and procedures for effective, efficient and transparent procurement process for Public Private Partnership projects, subject to concurrence by the Authority.

59. Removal of Difficulties.- To remove the difficulties with respect to any procurement related issues, not expressly covered in these rules, the procuring agencies or the Public Private Partnership Board shall refer the matter to the Authority for resolution. The Authority shall co-opt a representative of Public Private Partnership Board in a committee, formed to resolve such issues.

**CHIEF SECRETARY
GOVERNMENT OF THE PUNJAB**
