

PUBLIC PROCUREMENT RULES, 2024

Islamabad, January 1st, 2024

S.R.O. XXX/2024.- In exercise of the powers conferred by section 26 of the Public Procurement Regulatory Authority Ordinance, 2002 (XXII of 2002), the Federal Government is pleased to make the following rules, namely:-

- 1. Short title and commencement.**-(1) These rules may be called the Public Procurement Rules, 2024.
(2) They shall come into force at once.
(3) They shall extend to whole of Pakistan.

GENERAL PROVISIONS

- 2. Definitions.**- (1) In these rules, unless there is anything repugnant in the subject or context,
- (a) "bid" means, as the context requires, 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, consultant, firm, company, or an organization, agent, consortium, joint venture partner, contractor and supplier or vendor who submits a bid;
 - (c) "blacklisted" means a bidder that is declared by the Authority untrustworthy after establishing the fact that the bidder was found involved in any corrupt and fraudulent practice or practices; or if the bidder is declared incapable by the Authority due to its established performance failure during the execution of the contract; or if the bidder deviates from its prior commitment or declaration made regarding the bid or proposal submitted by the bidder;
 - (d) "call off order" means an order placed by a procuring agency under general terms and pricing on a range of goods under closed framework agreement, without having to negotiate terms every time;
 - (e) "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;
 - (f) "contractor" means a person, consultant, firm, company or an organization who undertakes to supply goods, services and/or works;
 - (g) "contract" means an agreement enforceable by law;
 - (h) "corrupt and fraudulent practices" in respect of procurement process, shall be either one or any combination of the practices including,-
 - (i) "coercive practices" which means any impairing or harming or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence the actions of a party to achieve a wrongful gain or to cause a wrongful loss to another party;

- (ii) "collusive practices" which means any arrangement between two or more parties to the procurement process designed to stifle open competition for any wrongful gain, and to establish prices at artificial, non-competitive levels;
- (iii) "corrupt practices" as defined in the Anti-Corruption Establishment Ordinance 1961 and the National Accountability Ordinance 1999 and may include the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence the acts of another party for wrongful gain
- (iv) "fraudulent practices" means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation; and
- (v) "obstructive practices" which means harming or threatening to harm, directly or indirectly, persons to influence their participation in a procurement process, or affect the execution of a contract;
- (i) "e-Procurement" means use of information and communication technologies or digital or electronic means developed by the Authority for procurement process;
- (j) "force account" means execution of procurement of small works and non-consultancy services through direct contracting with any state owned agency having resources to perform that particular assignment subject to ascertaining that it is cost and time effective;.
- (k) "framework agreement" means a contractual arrangement which allows a procuring agency to procure goods, services or works that are needed continuously or repeatedly at agreed terms and conditions over an agreed period of time, through placement of a number of orders;
- (l) 'GRC' means Grievance Redressal Committee
- (m) "most advantageous bid" means,-
 - (i) a bid or proposal for goods, works or services that after meeting the eligibility or qualification criteria, is found responsive to the terms and conditions as set out in the bidding or request for proposals documents; and
 - (ii) evaluated as the highest ranked bid or proposal on the basis of cost or quality or qualification or any combination thereof, which shall be in conformity with the criteria as specified in the bidding documents or request for proposal documents;
- (n) "Ordinance" means the Public Procurement Regulatory Authority Ordinance, 2002 (XXII of 2002);
- (o) "Performance guarantee" means a bank guarantee or any other negotiable instrument provided by the successful bidder as prescribed by the procuring agency to secure the obligation under the contract in accordance with the requirement set out in the bidding document;
- (p) "Procurement Assignment"; means handing over of procurement functions i.e. acquisition of Goods, Works, Services and/or disposal of public assets of procuring agency to any public sector entity to perform on probono basis on behalf of the Procuring Agency;

- (q) 'Procurement notice' means formal intimation of procurement opportunities.
- (r) 'SBDs' means a standard bidding documents;
- (s) "Turnkey Contracts" involve major specialised engineering works where the supply of goods and the performance of various works are closely integrated. Turnkey Contracts include Engineering, Procurement and Construction (EPC) and Engineering, Procurement, Construction, Installation and Commission (EPCC) and Software & IT Projects where the contractor is required to design, develop, implement, install and commission;
- (t) "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; and
- (u) "written" or "in writing" means any expression consisting of words or figures which can be read, reproduced and subsequently communicated. It may include information which is transmitted and stored by electronic means.

(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 public procurement made by the procuring agencies of the Federal Government whether within or outside Pakistan.

4. Principles of procurement.- Procuring agencies, while engaging in procurement

- a) shall treat economic operators equally and without discrimination and shall act in a transparent and proportionate manner
- b) will ensure value for money
- c) will use procurement processes that are relevant, efficient and economical.

5. International and inter-governmental commitments of the Federal Government.- Whenever these rules are in conflict with an obligation or commitment of the Federal Government 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.

Provided that the Authority shall have the right of oversight to ensure that the procurement is being carried out in efficient and in transparent manner strictly in compliance with the framework being followed under this Rule.

6. Language.- (1) All communications and documentation related to procurements of the Federal Government 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 a 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 the regulations, between the procuring agency and the suppliers or contractors.

8. e- Procurement.- The procuring agencies shall use e-PADS for carrying out public procurements which is an information and communication technology solution and covering all aspects of the procurement process, strictly in accordance with the provisions of e-procurement regulations notified by the Authority.

RESPONSIBILITY FOR PROCUREMENT

9. Principal Accounting Officer / Head of the Organization.- (1) The principal accounting officer or head of the organization as the case may be has overall responsibility for the conduct of all public procurement by the procuring agency.

(2) Without limiting the generality of sub-rule (1), the principal accounting officer / head of the organization shall –

- (a) ensure that all public procurement is conducted in accordance with the Ordinance, Rules and Regulations;
- (b) approve the annual procurement plan of the procuring agency;
- (c) establish a procurement cell in accordance with sub-rule (3);
- (d) establish an oversight committee with an odd number of members, with the majority comprising of senior public officers from outside the jurisdiction of the procuring agency delegated with necessary authority;
- (e) set up Bid Evaluation Committees under rule 11;
- (f) approve or specifically delegate powers to approve the recommendation for the award of procurement contracts;
- (g) sign or authorize to sign all procurement contracts awarded by a procuring agency;

(3) In respect of sub-section (2)(c) –

- (a) the Principal Accounting Officer shall decide the size, location, and structure of the procurement cell, taking into account its procurement requirements and the availability of trained and experienced officers;
 - (b) the procurement cell may also consist of persons in different parts of the procuring agency provided their duties and functions and lines of responsibilities are clearly established;
 - (c) where the level of procurement activity does not justify the creation of a procurement cell, the Principal Accounting Officer may nominate a single public officer to carry out the functions of a procurement cell;
- (4) where the Principal Accounting Officer for reasons of efficiency or expertise is of the opinion that one or more procurement tasks in relation to a procurement of the administrative department or procuring agency under his control are better performed by the procurement cell of another procuring agency he may empower the latter to perform the said tasks.

10. Procurement Cell.- (1) The Procurement Cell shall be responsible for:

- (a) preparation of the procuring agency's procurement plan;
- (b) liaising with end users to establish full contract requirements and technical specifications;
- (c) managing, where appropriate, the engagement of third party technical experts where there is no relevant in-house technical expertise;
- (d) preparation and distribution of bidding documents, requests for quotations, and requests for proposals;
- (e) publishing invitations to participate in procurement;
- (f) responding to requests for clarification of invitations to bid, bidding documents, requests for quotations and requests for proposals documents;
- (g) receiving and safeguarding bids, quotations and proposals;
- (h) conducting the **opening of bids**, quotations and proposals in respect of procurement contracts with an estimated value below PKR 70 M;
- (i) carrying out the **evaluation of bids**, quotations and proposals in respect of procurement contracts with an estimated value below PKR 70 M;
- (j) **sending the bids**, quotations and proposals to the procurement committee for evaluation in respect of procurement contracts pertaining
 - i. to goods and services having an estimated value above PKR 70 M and up to PKR 500 M
 - ii. to works having an estimated value above PKR 70 million and upto PKR 1000 M,
- (k) **sending the bids**, quotations and proposals to the evaluation committee established under rule 11 for evaluation in respect of procurement contracts with an estimated value above PKR 500 M in the case of goods and services and above PKR 1000 M in the case of works and
- (l) preparing and submitting procurement contract award recommendations to the Principal Accounting Officer or the head of the procuring agency or an officer authorised by the Principal Accounting Officer or the head of the organization under para 13 of the Public Financial Management and Powers of Principal Accounting Officers Regulations, 2021, for approval
- (m) Communicating the outcome of the relevant procurement process to the unsuccessful bidders;
- (n) ensuring that procurement contracts are performed in accordance with procurement contract terms and conditions;
- (o) forwarding the case of blacklisting to the blacklisting committee;
- (p) preparing and submitting to the Principal Accounting Officer / head of the organization, quarterly reports on the procuring agency's procurement activities no less than two weeks after the end of each quarter;
- (q) undertaking procurement contract administration through a contract management committee;
- (r) managing the performance of suppliers, contractors and consultants under procurement contracts awarded by the procuring agency;
- (s) maintaining complete records of all procurement proceedings.

- (2) In respect of procurement carried out by the centralised purchasing organisation under rule 13, the Procurement Cell shall be responsible for,
- (a) placing purchase orders for the required goods directly from the providers with whom framework agreements have been concluded in accordance with the terms and conditions communicated by the centralised purchasing organisation;
 - (b) making payment directly to the supplier;
 - (c) recording and reporting on the purchases made to the centralised purchasing organisation at mandated intervals.
- (3) Procuring agencies which directly purchase goods through the framework agreements established by the centralised purchasing organisation in accordance with rule 13 shall be deemed to have complied with the Ordinance, Rules and Regulations in so far as the centralised purchasing organisation has complied with them.

11. Bid Evaluation Committee.- (1) A Bid Evaluation Committee shall be established by the Principal Accounting Officer for all contracts with an estimated value above PKR 1000 M in the case of works and PKR 500 M in the case of goods and services.

(2) A Bid Evaluation Committee shall comprise of a minimum of three members, at least two of whom shall have experience in procurement, law, engineering, finance, business, public administration / policy or a field that is relevant to the goods, works or service to be procured.

(3) The procuring agency may invite a third party technical expert to be a member of the Bid Evaluation Committee where there is no relevant internal technical expertise.

(4) The functions of the Bid Evaluation Committee are to:

- (a) receive under rule 10(k) from the Procurement Cell the bid opening record and the bids, quotations or proposals;
- (b) evaluate under rule 10(k) the bids, quotations or proposals fairly, impartially and in accordance with the evaluation criteria in the bidding documents;
- (c) prepare a bid evaluation report including recommendations for award and submit the same to the Procurement Cell which shall forward the same to the Principal Accounting Officer for decision; and
- (d) respond to queries raised by the Procurement Cell, Oversight Committee or Principal Accounting Officer.

12. Oversight Committee.- (1) The Oversight Committee has the following responsibilities in respect of procurement proceedings for contracts with an estimated value above PKR 70 M and below PKR 1000 M in the case of works and PKR 500 M in the case of goods and services –

- (a) examine and undertake review of the opening of bids, quotations and proposals;
- (b) undertaking a review of the documentary record of the procurement proceedings conducted by a procuring agency prior to the procuring agency's issuing a notice of intention to award a procurement contract or, where no standstill period applies, prior to the procuring agency's award of the procurement contract.

(2) Where the Oversight Committee determines that the procurement proceedings as conducted by a procuring agency comply with the relevant provisions of the Ordinance, Rules and Regulations and standstill period applies the Committee shall confirm the compliance of the procurement proceedings with the Ordinance, Rules and Regulations and refer the procurement to the Principal Accounting Officer or the head of the procuring agency or an officer authorised by the Principal Accounting Officer or the head of the organization as the case may be under para 13 of the Public Financial Management and Powers of Principal Accounting Officers Regulations, 2021.

(3) Where the Oversight Committee determines that the procurement proceedings conducted by the procurement cell do not comply with the relevant provisions of the Ordinance, Rules and Regulations it shall decline to confirm compliance and advise the Principal Accounting Officer / head of the organization or an officer duly authorized by them in this regard in writing of the measures to be taken by the procuring agency to bring the procurement proceedings in compliance with the Ordinance, Rules and Regulations and where the procurement proceedings cannot be brought in compliance with the Ordinance, Rules and Regulations cancel the procurement.

(4) The Oversight Committee may require any Procurement Cell staff or Bid Evaluation Committee member to furnish it with such information or documentation as it considers necessary for the purposes of this subsection.

13. Centralised Procurement.- (1) The Federal Government / Prime Minister/Secretary of the Division may authorise the centralised procurement of common use items by a centralised purchasing organisation –

- (a) when different procuring agencies procure the same goods and aggregating the demand could lead to value for money / volume discounts; or
- (b) as part of planning for emergency situations.

(2) The centralised purchasing organisation shall –

- (a) identify the annual aggregated requirements for goods, that may be suitable for procurement by the centralised purchasing organisation on behalf of all procuring entities by way of framework agreements; and, in doing so, consider all relevant factors, including:
 - (i) when it is appropriate to aggregate in order to achieve economies of scale;
 - (ii) which items are of a similar nature and likely to attract the same potential bidders;
 - (iii) when items will be ready for tendering and when delivery, implementation or completion is required;
 - (iv) the optimal size and type of contract to attract the greatest and most responsive competition, taking into account the market structure for the items required;
 - (v) which items could be subject to the same bid requirements and conditions of contract;
 - (vi) the potential to realise savings in time or transaction costs or to facilitate contract administration by the procuring agency; and

- (vii) any other special factors related to the specific item.
- (b) finalise a procurement plan for the centralised procurement of goods and informing all procuring agencies of the goods that will be purchased centrally;
- (c) conduct centralised procurement for such aggregated requirements by way of framework agreements in accordance with rule 29;
- (d) inform all procuring agencies of the contact details of the providers with whom framework agreements have been concluded and a list of all the goods available for purchase from the providers together with details of how purchases (call-offs) are to be made from the Framework Agreement.

14. Function of Procurement Assignment from one procuring agency to other.- A procuring agency may assign whole or part of procurement process to another procuring agency with the consent of that other procuring agency.

Provided that the procuring agency to whom procurement function is assigned shall carry out the procurement in accordance with Federal Public Procurement Rules, 2004.

The procuring agency who assigns the procurement function shall remain responsible for the procurement being carried out by the other procuring agency.

PROCUREMENT PLANNING

15. Procurement planning.- (1) 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.

(2) Every procuring agency shall plan for its annual procurement requirements for the following year with reference to –

- (a) operational requirements for goods, works, services;
- (b) available financial resources;
- (c) the required delivery times for goods and completion times for works, services and
- (d) the benefits which are planned to accrue to the procuring agency from the planned procurement.

(3) Without limiting the generality of sub-rule (1), a procuring agency shall, where appropriate, before commencing the procurement of goods, works, services:

- (a) plan the quantity and quality of its procurement requirements to meet but not to exceed its operational requirements;
- (b) prepare a detailed cost estimate for each procurement in accordance with the rules on procurement contract valuation under rule 16;
- (c) commit the amount of the total estimated cost of its procurement requirements in the budget of the procuring agency in accordance with the General Financial Rules;
- (d) plan to procure its requirements using the most appropriate procurement method as specified under Rule 51;

- (e) record the justification for each use of a procurement method other than open tendering in the record of procurement proceedings; and
 - (f) record its justification for the use of prequalification or two-stage tendering.
- (5) For the purpose of forewarning potential bidders of the contracts likely to be awarded over the forthcoming financial year, the procuring agency shall not less than 14 days after the beginning of each financial year, arrange for the publication on the Authority's website a summary of the annual procurement plan in the form specified by the Authority.
- (6) The annual procurement plan shall consolidate the annual requirements of the procuring agency either –
- (a) by product area or category using appropriate customs or other codes used in the definition of product categories; or
 - (b) by identifying products with similar characteristics or a range of related products and services likely to be provided by individual bidders.
- (7) A procuring agency shall retain all documents relating to the determination of its annual procurement requirements and its annual procurement plan in its record of procurement proceedings.
- (8) A procuring agency shall ensure that, to the fullest extent practicable, all public procurement is conducted in accordance with its annual procurement plan.

16. Valuing Procurement and Artificial Aggregation or Division.- (1) The calculation of the estimated value of a procurement contract, or of all contracts under a framework agreement, shall be based on the total amount payable as estimated by the procuring agency, including any form of option or renewals of the contract.

(2) Calculation of the estimated value of works contracts shall take account of both the cost of the works and the total estimated value of the supplies necessary for executing the works.

(3) The estimated value shall be calculated at the time of the issuance of the invitation to bid.

(4) A procuring agency shall neither aggregate nor artificially divide an object of procurement with the intention of avoiding the prescribed financial thresholds for determining the appropriate procurement method or otherwise limiting competition.

(5) Notwithstanding the prohibition in sub-rule (4), a procuring agency may divide a procurement requirement, which could be procured as a single contract, into a package, consisting of one or more lots which are to be tendered together, where it is anticipated that the award of several separate contracts may result in:

- (i) the best overall value for the procuring agency; or
- (ii) the achievement of the Government's sustainable procurement goals.

(6) The estimated value of a contract divided into lots shall be the total value of all the lots to be procured.

17. Specifications.- (1) The procuring agency shall allow the widest possible competition by defining specifications in a manner that they do not favour any single contractor or supplier nor put others at a disadvantage.

(2) The statement of a procuring agency's requirements shall include, where appropriate:

- (a) the purpose and objectives of the procurement;

- (b) a full description of the requirement;
- (c) a generic specification to an appropriate level of detail;
- (d) a functional description of the requirements, including any environmental or safety features;
- (e) performance parameters, including outputs, timescales and any indicators or criteria by which satisfactory performance can be judged;
- (f) process and materials descriptions;
- (g) dimensions, symbols, terminology language, packaging, marking and labelling requirements;
- (h) the common procurement vocabulary applicable in the case if devised
- (i) inspection and testing requirements; and
- (j) any applicable standards.

(2) Any terms, specifications, standards features, characteristics and requirements prescribing the technical or quality characteristics shall be generic in nature and shall not include reference to brand name, model number, catalogue number, name or origin of the country or similar classification except in case of sub rule (3).

(3) In case the procuring agency is of the firm opinion that the use of or a reference to a brand name or a catalogue number is essential to complete, an otherwise incomplete specification, and no other sufficiently precise or understandable way of describing the characteristics of the goods, works or services to be procured is provided, the words "or equivalent" shall be used, after recording specific justifications in writing therein. The procuring agency shall be responsible for defining the parameters of "equivalence" in order to ensure transparency.

(4) Bidding documents and any additional information made available to a prospective participant.

PROCUREMENT ADVERTISEMENTS

18. Methods of advertisement.- (1) All procurements over one hundred thousand Pakistani Rupees including request for quotation as envisaged under clause (b) of rule 53 shall be published on the E-Pak Acquisition and Disposal System (EPADS), on the Authority's website as well as the Procuring agency's website (if any) through a procurement notice.

(2) A procuring agency utilising 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.

19. Response time.- (1) The procuring agency shall set 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 shall the response time be less than seven days for national competitive bidding and fourteen days for international competitive bidding from the date of uploading and publication of advertisement or notice on the EPADS.

(2) The response time shall be calculated from the date of first publication of the advertisement on the EPADS.

- 20. Exceptions.-** (1) Except where otherwise provided by these rules it shall be mandatory for all procuring agencies to advertise all procurement requirements;
- (2) The requirement of prior publication shall not be applicable where the procuring agency obtains prior approval of the Authority on one or more of the following grounds :-
- (a) the proposed procurement is related to national security and its publication could jeopardize national security objectives;
 - (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.

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

- 21. Eligibility of Bidders.-** (1) A bidder shall be eligible to participate in a procurement process if the bidder:
- (a) possesses or has access to the technical competence, financial resources, equipment and other physical facilities, personnel, managerial capability, experience and reputation necessary to complete the procurement contract;
 - (b) has the legal capacity to enter into a procurement contract;
 - (c) is not insolvent, in receivership, bankrupt or being wound up and its activities or affairs are not suspended or being administered under any Act, by a court or by a judicial officer;
 - (d) is not the subject of legal proceedings for any of the matters mentioned in sub-rule (c);
 - (e) has paid the amount of tax or any contribution payable by it on account of its employees and
 - (f) has not, or in the case of a company, its owners and beneficial owners, directors or officers have not, been convicted of a criminal offence related to:
 - (i) its professional conduct; or
 - (ii) a prohibited practice within the period specified in the tender documents but not exceeding three years preceding the commencement of the procurement process; and has not, or in the case of a company, its owners and beneficial owners, directors or officers have not, been debarred from a procurement process in Pakistan.
- (2) The procuring agency may require a bidder participating in the procurement process to provide the prescribed documentary evidence or other information to satisfy itself that the bidder is qualified in accordance with the criteria laid down under sub-rule (1).
- (3) A procuring agency shall set out in a prequalification document or bidding document all the criteria for qualification to be applied in accordance with sub-rule (1).
- (4) Except as permitted under the Ordinance, Rules and Regulations, the procuring agency shall not establish a criteria for eligibility of a bidder that:
- (a) discriminates against or among a bidder or against categories of bidders; or
 - (b) is not required for the performance of the procurement contract, or

(c) is not related to the avoidance or management of legal, reputational or economic risk to the procuring agency unless it is in the national interest to do so, and the criteria is set out in the bidding documents.

(5) A procuring agency shall assess the eligibility of a bidder for participation in the procurement process against the criteria for qualification under sub-rule (1).

22. Pre-qualification of suppliers and contractors.- (1) A procuring agency, prior to the floating of tenders, invitation to proposals or offers in procurement proceedings, may engage in pre-qualification 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 having adequate managerial capability are invited to submit bids. Such pre-qualification shall determine the qualifications of the interested parties and shall solely be based on the ability of the interested parties to perform that particular work or for a particular period satisfactorily.

(2) A procuring agency while engaging in pre-qualification shall take into consideration the factors set out in rule 21.

23. 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 publish pre-qualification documents on the EPADS.

(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.

24. Qualification of suppliers and contractors.- (1) 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.

(2) Qualification shall form part of the records of that procurement proceeding.

25. Dis-qualification of suppliers and contractors.- (1) A procuring agency may disqualify a bidder from the procurement process if that bidder:

(a) does not satisfy a criteria for eligibility, including experience and performance related criteria; or

(b) knowingly submits information concerning its eligibility that is materially inaccurate, materially incomplete or false; or

- (c) is in breach of its obligations under sub-rule 2 of Rule 26.

26. Blacklisting.- (1) The Authority shall devise a comprehensive mechanism in accordance with the regulations for the blacklisting of bidders, respecting principles of due process.

(2) A procuring agency may initiate blacklisting procedures before the Authority in accordance with the Blacklisting Regulations against any person who

- (a) has been involved in corrupt and fraudulent practices or convicted under the laws of Pakistan that calls into serious question the honesty of the person; or
- (b) in or in relation to a submission of bids, has knowingly provided false or misleading information or has failed to disclose material information concerning its eligibility in accordance with rule 21; or
- (c) has failed to perform his contractual obligations during the execution of the contract, provided action has been taken by the procuring agency under the contract to establish a breach of contract.

(3) The Blacklisting Committee established by the Authority shall provide an opportunity for the parties to be heard and if the allegations against the bidder are found to be substantiated, shall

- (a) debar the bidder, for a period prescribed through regulations, from being considered for any procurement contract by any procuring agency; or
- (b) debar the bidder from participation in any or a certain type of procurement process, subject to any condition the authority considers necessary.
- (c) Impose any other penalty i.e. imposition of fine other than debarment keeping in view the gravity of the failure in performance of the contract.

(4) Notwithstanding anything contained in this rule, the blacklisted bidder shall, at the option of respective procuring agency, be bound to perform its contractual obligations in any public contract or contracts in which such bidder is already engaged.

METHODS OF PROCUREMENT

26A. Methods of procurement.- A procuring agency may use one of the following methods for procurement:

- (a) Open competitive bidding: a procurement procedure in which an eligible economic operator may submit a tender or bid in response to a procurement notice;
- (b) Request for proposal: a procurement procedure in which technical specifications or characteristics cannot be precisely determined or are of a complicated or specialised nature which require significant input from the supplier;
- (c) Shopping: a procurement procedure for procurement of small amounts of off-the shelf goods or standard specification commodities or urgent minor civil works;
- (d) Direct contracting: a procurement procedure where a procuring agency enters into a procurement contract with an economic operator without

- bidding due to legal, technical, economic or efficiency constraints listed in rule 53(1)(c);
- (e) Negotiated tendering: a procurement with or without publication of a procurement notice where the procurement involves research or innovation;
 - (f) Force account: a procurement procedure for smalls works and non-consultancy services through direct contracting with a state owned agency in accordance with rule 53(1)(e);

27. Principal method of procurement.- (1) Save as otherwise provided in these rules, a procuring agency shall use

- a) open competitive bidding for the procurement of goods, services and works whenever 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 53.
 - b) single stage two envelope bidding procedure for purchase of commodities listed in schedule I of these rules
 - c) open competitive bidding for procurement of goods or services under framework agreements .
 - d) Request for proposals for consulting services
- (2) A procuring agency shall not engage in negotiations with respect to scope and price with the supplier with respect to the supplier's bid as submitted except when the procuring agency conducts a procurement using direct contracting or a request for proposals with evaluation based on quality alone.

28. Procedure for procurement of commodities listed in schedule 1

- (1) Notwithstanding anything contained in these rules,
 - a) the procuring agency shall follow the accelerated timelines set in schedule I for the procurement of commodities listed therein
 - b) an advertisement for purchase of commodities listed in schedule I shall be published on the website of the Authority, procuring agency and such international websites or journals where advertisements for trade of these commodities are usually placed
- (2) Bidding documents for the procurement under this rule shall define the specifications, quantities, quality parameters, evaluation criteria and relevant national or international standards in addition to the specimen criteria
- (3) The bidding documents shall be uploaded on procuring agency's and the Authority's website and shall contain the tentative dates for issuance of final evaluation report and signing of contract.
- (4) The evaluation report shall be communicated to all the bidders electronically immediately after its issuance in addition to hosting the same on the procuring agency's as well as the Authority's website.
- (5) If it is mentioned in the bid data sheet that the bidders may offer less quantity as required to meet the demand, the procuring agency may award the remaining quantity to the next most advantageous bidder and so on

until the desired quantities advertised by the procuring agency are met with and if they agree to bring the price at par with the most advantageous bidder or otherwise.

29. Framework Agreements.- (1) A Procuring Agency shall procure through framework agreements items of recurrent or common use, services including maintenance services and those commodities whose market prices fluctuate during the term of the agreement, and there is a recurrent need for the same, but the nature and timing of specific requirements are not known until the time an order is placed.

(2) A framework agreement shall not be for more than three years

(3) A procurement contract under a framework agreement may be awarded only to a supplier that is a party to the framework agreement and shall be awarded either:

(a) by way of limited competition among suppliers who are parties to the framework agreement; or

(b) without competition between framework suppliers -

(i) where only one supplier is party to the framework; or

(ii) the framework sets out an objective mechanism for supplier selection.

(4) The procuring agency shall prepare provisional annual estimates including description, specifications, statement of requirements and quantities, based on rational demand estimates for goods or services to be procured through framework agreements.

(5) Based on such estimate, procuring agency shall initiate the prequalification proceedings for selection of suppliers and service providers. Framework agreements may be made with the selected suppliers and service providers.

(6) The procuring agency may on need basis pre-qualify new suppliers or service providers during continuity of open framework agreements with previously pre-qualified suppliers or service providers.

(7) The Authority shall make regulations, regulatory guides, guidelines or templates for procurement through framework agreements.

BIDDING

30. Bidding Documents.-

(1) Procuring agencies shall formulate precise and unambiguous bidding documents by filling standard entries in the prescribed sections of the standard bidding documents notified by the Authority

(2) Bidding documents shall be published through EPADS or through such other methods as may be allowed by the Authority immediately after the publication of invitation to bid

(3) The bidding documents shall include the following, namely:-

(a) invitation to bid;

(b) instructions to bidders;

(c) bid data sheet;

(d) technical specification (where applicable);

(e) form of bid;

(f) form of contract;

- (g) general or special conditions of contract;
 - (h) specifications and drawings or performance criteria (where applicable);
 - (i) list of goods or bill of quantities (where applicable);
 - (j) delivery time or completion schedule;
 - (k) qualification criteria (where applicable);
 - (l) bid evaluation criteria;
 - (m) format of all securities required (where applicable);
 - (n) details of standards (if any) that are to be used in assessing the quality of goods, works or services specified; and
 - (o) any other detail not inconsistent with these rules that the procuring agency may deem necessary.
- (4) In the case of framework agreements, the bidding documents shall specify:
- (a) that the procurement will lead to the conclusion of a framework agreement;
 - (b) whether the framework agreement is to be concluded with one or more than one bidder;
 - (c) if the framework agreement will be concluded with more than one bidder, any minimum or maximum limit on the number of bidders that will be parties thereto; and
 - (d) the form, terms and conditions of the framework agreement
- (5) 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
- (6) Procuring agencies shall use standard bidding documents as and when notified by regulation by the Authority:
- 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.

31. Reservations and preference.- (1) Procuring agencies shall allow all prospective bidders to participate in procurement proceedings without regard to nationality, except in cases in which a 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 Federal Government.

(2) The procuring agency shall, while evaluating and comparing bids, allow for preference to domestic suppliers or contractors, while competing with the international bidders in accordance with the policies of Federal Government or regulations made by the Authority for-

- (a) works projects;
- (b) certain goods manufactured, mined, extracted and grown in the Islamic Republic of Pakistan; and

(3) The percentage of preference, to be accorded shall be clearly mentioned in the bidding documents under the bid evaluation criteria.

32. Bid Security.- The procuring agency may require the bidder to furnish a fixed amount of bid security not exceeding two percent of the estimated value of procurement determined by the procuring agency:

Provided that in case where the procuring agency does not require the bid security, the bidder shall submit bid security declaration on the format prescribed by the Authority in Standard Procurement Documents.

33. 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 through EPADS. Such extension shall be for one time and not more than 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.

34. Clarifications. (1) Clarifications of the bidding documents may be requested in writing by any bidder up to 5 days prior to the deadline for the submission of bids.

(2) The procuring agency shall respond promptly and in writing to any request by a bidder for clarification of the bidding documents and in any event no later than 2 days prior to the deadline for the submission of bids or proposals.

(3) Responses to requests for clarification shall be communicated simultaneously and in writing to all bidders participating in the procurement proceedings.

(4) No bidder shall be allowed to alter or modify his bid after the bid has been opened, however, the procuring agency may seek and accept a clarification to the bid that does not change the substance of the bid, through EPADS.

35. 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 but 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.

36. Opening of bids.- (1) The date for opening of bids and the last date for the submission of bids shall be the same.

- (2) Bids shall be opened at the time specified in the bidding documents. The bids shall be opened not less than thirty minutes after the deadline for submission of bids.
- (3) All bids received through EPADS shall be opened at the time announced prior to the bidding in the presence of the bidders or their representatives who may choose to attend, in a manner which guarantees the security and regularity of the process.
- (4) The procuring agency shall read aloud the unit price as well as the bid amount and shall record the minutes of the bid opening. Bidders or their representatives' attendance and minutes of the bid opening shall be uploaded on the EPADS.

37. Evaluation criteria.- Procuring agencies shall formulate an appropriate and unambiguous evaluation criteria 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 appropriate and unambiguous evaluation criteria in the bidding documents shall amount to mis-procurement.

- 38. 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 rule 51 no evaluation criteria shall be used for evaluation of bids that have 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.

39. Abnormally low bids. –

- (1) Subject to sub-rule (2), a procuring agency may, in the procurement of goods, works and services, reject a bid if it has determined that the price, in combination with other constituent elements of the bid, is abnormally low in relation to the subject matter of the procurement such that it raises material concerns on the part of the procuring agency as to the ability of the bidder to perform the procurement contract satisfactorily for the offered price
- (2) A procuring agency shall not reject a bid as abnormally low under sub-rule (1) unless the procuring agency –
- (a) requested in writing through EPADS from the bidder a written clarification of its bid, including a detailed price analysis of its bid price in relation to the subject matter of the procurement contract, scope, methodology, schedule, allocation of risks and responsibilities and any other requirements of the bidding documents; and
 - (b) having taken into account the information provided by the bidder in response to a request under paragraph (a) and the information included in the bid, the procuring agency determines that the bidder has failed to demonstrate its ability to perform the procurement contract satisfactorily for the offered price.

(3) The procuring agency shall promptly communicate to the bidder concerned its decision to reject the bid, including the reasons for the decision.

(4) Every abnormally low bid shall be investigated in order to determine the reason for filing the bid including whether the bid was filed in order to remove other bidders from competition.

(5) If it is observed that the bidders have been consistently involved in putting abnormally low bids in order to disrupt the procurement process and to waste the public resources the matter may be referred to the blacklisting committee for further investigation and imposing of any penalty including blacklisting of the bidders under the relevant rule.

40. 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 unnecessary 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.

41. 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 where –

(a) the bids, proposals or quotations submitted are substantially non-responsive; or

(b) there is evidence of lack of competition; or

(c) where the bid materially impairs fair competition or is prejudicial to the interests of the procuring agency.

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

(3) The procuring agency shall upon request communicate to any bidder who submitted a bid or proposal, the grounds for its rejection of all bids or proposals, but is not required to justify those grounds.

(4) 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.

42. Cancellation of procurement.- (1) The cancellation of procurement proceedings is not permitted unless there is a written finding that:

(a) the procurement need has ceased to exist or changed significantly;

(b) insufficient funding is available for the procurement;

(c) there is a significant change in the required technical details, bidding conditions, conditions of contract or other details, such that the recommencement of procurement proceedings is necessary;

(d) or it is otherwise in the public interest.

(2) A procuring agency shall incur no liability towards bidders solely by virtue of its invoking this rule.

43. Re-bidding.- (1) If the procuring agency has rejected all bids under rule 41 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.

44. Announcement of evaluation result.- Based on the procedure adopted for the respective procurement, the procuring agency shall announce the result of bid evaluation, in the form of final evaluation report giving justification for acceptance or rejection of the bids at least seven days prior to the award of procurement contract or within 10 days of a request for debriefing under rule 45 where such is requested: Provided that in a case where technical proposal is to be evaluated separately, prior to opening of financial proposal, the technical evaluation report shall be announced before opening of the financial proposal.

45. Debriefing.-

(1) A procuring agency shall, upon a request made in writing within ten days of the publication of the evaluation report required under rule 44, communicate promptly to a bidder the reason for the rejection of its bid.

(2) Any debriefing shall be provided in writing, within a reasonable period and in any case before the end of 10 days from the date of the request.

(3) The debriefing shall state the stage of the evaluation at which the submission was rejected and –

(i) provide brief details of any material deviation, reservation or omission leading to rejection of the submission; or

(ii) state that a submission was substantially responsive, but failed to offer the most advantageous tender, as required.

(4) Except in so far as they are identified, the debriefing shall not provide details of any other submission, other than information that is publicly available from bid openings or published notices

ACCEPTANCE OF BIDS AND AWARD OF PROCUREMENT CONTRACTS

46. Acceptance of bids.- The bidder with the most advantageous bid, if not in conflict with any other law, rules, regulations or policy of the Federal Government, shall be awarded the procurement contract, within the original or extended period of bid validity.

47. Single responsive bid in goods, works and services.- (1) The procuring agency shall consider single bid in goods, works and services if it-

(a) meets the evaluation criteria, ensures compliance of specifications and other terms & conditions expressed in advertisement or bid solicitation documents;

(b) is not in conflict with any provision of the Ordinance;

(c) conforms to the technical specifications;

(d) has financial conformance in terms of rate responsibility:

(2) The procuring agency shall make decisions with due diligence and in compliance with general principles of procurement like economy, efficiency and value for money.

(3) Where a single bid in relation to goods, works and services has been received or is found to be technically responsive, the procuring agency may undertake market survey to determine whether the bid is reasonable and in accordance with market conditions.

48. 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.

49. Letter of credit.- Where required the procuring agency may incorporate the provision of letter of credit (LC) and International Chamber of Commerce incoterms, in such processes where shipments and custom clearance are involved and where procuring agency's bank mitigate procurement risk in terms of quality assurance and delivery mechanism and bidder's bank in terms of its payments.

50. 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 44.

OPEN COMPETITIVE BIDDING

51. Procedures of open competitive bidding.- Save as otherwise provided in these rules the following procedures shall be used for open competitive bidding, namely:-

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

(b) **Single stage – two envelope procedure.-**

(i) The bidder shall upload separately the financial proposal and the technical proposal;

(ii) initially, the technical proposal shall be opened through EPADS whereas the financial proposal shall remained unopened;

(iii) 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. During the technical evaluation no amendments in the technical proposal shall be permitted;

(iv) 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 through EPADS, and

(v) the bid found to be the most advantageous shall be accepted.

(c) **Two stage bidding procedure.-**

FIRST STAGE:

The bidders shall first submit according to the required specifications, a technical proposal without price;

(i) the technical proposal shall be evaluated in accordance with the specified evaluation criteria and any deficiencies and unsatisfactory technical features may be discussed with the bidders;

(ii) after such discussions, all the bidders shall be permitted to revise their respective technical proposals to meet the requirements of the procuring agency;

(iii) 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.

Provided further that in setting the date for the submission of the revised technical proposal and financial proposal a procuring agency shall allow sufficient time not less than seven days to the bidders to incorporate the agreed upon changes in the technical proposal and prepare their financial proposals accordingly.

(iv) 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:

(v) 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;

(vi) 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

(vii) the revised technical proposal and the financial proposal shall be evaluated in the manner prescribed above. The bid found to be the most advantageous shall be accepted:

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

FIRST STAGE:

(i) The bidder shall upload separately the financial proposal and the technical proposal;

(ii) initially, the technical proposal shall be opened through EPADS, whereas the financial proposal shall remained unopened;

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

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

(v) 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:

(vi) 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;

(vii) the revised technical proposal and original financial proposal along with supplementary financial proposal shall be opened on respective specified time, date and venue announced in advance by the procuring agency:

(viii) the procuring agency shall evaluate the whole proposal in accordance with the evaluation criteria and the bid found to be the most advantageous shall be accepted.

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 not less than seven days to the bidders to incorporate the agreed upon changes in the technical proposal and to prepare the required supplementary financial proposal.

52. 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 procurements. 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 manufacturing plant.

OTHER METHODS OF PROCUREMENT

53. Other methods of procurements.- (1) A procuring agency may utilize the following additional methods of procurement of goods, services and works, namely:-

(a) *Shopping without request for quotations.-* Procuring agencies may procure off-the-shelf goods or commodities or minor civil works directly where the total amount of procurement is below three hundred thousand rupees.

(b) *Shopping through request for quotations.-* Procuring agencies may procure off the shelf goods or commodities or minor civil works directly where the total value of procurement is more than three hundred thousand rupees but less than seven hundred thousand Pak rupees through request for quotations from GST registered firms, original equipment manufacturers or authorized dealers, provided a minimum of three quotations have been obtained and the object of the procurement is purchase from the supplier offering the lowest price

(c) *direct contracting.-* A procuring agency may 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) for reasons connected with protection of exclusive rights or intellectual property, the supplies may be manufactured or delivered only by a particular supplier;
 - (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;
 - (iv) repeat orders not exceeding fifteen per cent of the original contract amount within six month after expiry of the original procurement contract on the same terms and conditions; and
 - (v) 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
 - (vi) 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 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. Provided that any procuring agency desirous of using negotiated tendering as a method of procurement shall record its reasons and justifications in writing for resorting to negotiated tendering and shall place the same on record.
- (e) *force account*.- A Procuring agency, may use force account if the value of procurement does not exceed two hundred million Pakistan Rupees, subject to the following conditions, namely:-
- (i) the required works are small, scattered or remotely located for which qualified construction firms are unlikely to bid at reasonable prices;
 - (ii) work is required to be carried out without disrupting ongoing operations;
 - (iii) urgent repairs, rehabilitation and remodelling works of national heritage requiring prompt attention to prevent further damages;
 - (iv) where unavoidable risk is better borne by the procuring agency than that of contractor;
 - (v) there are extreme urgencies which require prompt attention, or
 - (vi) the project is of sensitive nature and its information cannot be shared with private sector:

Provided that the procuring agency or other government agency engaged for the procurement shall accomplish the task exclusively through its own resources without involving private sector as a partner or in the form of joint venture or as a sub-contractor:

(2) All financial thresholds enumerated in this Rules shall be fixed by the Authority from time to time.

54. Procurement of Second-hand Goods: (1) A procuring agency may procure second-hand Goods if doing so would provide an economic and efficient means of achieving the procuring agency's objectives. The following requirements shall apply in such a case:

- (a) any risk mitigation measures that may be necessary shall be reflected in the SBDs;
- (b) the procurement of second-hand Goods shall not be combined with the procurement of new Goods;
- (c) the specifications/technical requirements shall describe the minimum characteristics of the second-hand Goods, including the age and condition.

(2) A procuring agency shall consider the following criteria in making the determination for procuring a used item:

- (a) Quality, type, use and life expectancy of new against used item;
- (b) the estimated purchase price of "new" against "used" item, and "used" against "used" item;
- (c) risks presented by "used" against "new" item, including the possible contamination from prior usage, modification of item that may pose safety hazards or other similar hazards;
- (d) the relative price and general condition of a used item;
- (e) the warranty offered for "used" against "new" item;
- (f) the availability of service, maintenance plans, and parts of a used against new item;
- (g) payment terms;
- (h) that it meets minimum international safety standards (where applicable); and
- (i) the consideration of the freight and insurance charges, where applicable

(3) Inspection Committee, Contract Manager or Supervisor Engineer as the case may be shall ensure pre-shipment / onsite inspection / verification and post-delivery inspection / verification of the product being procured under this rule.

55. On account payments.- All procuring agencies shall make prompt payments through e-payment systems (when applicable) 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.

56. Entry into force of the procurement contract.-A procurement contract shall come into force:

- (a) not less than 10 days from the publication of the evaluation report provided in rule 44 or of the debriefing provided for in rule 45 whichever is the later;

- (b) 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
- (c) 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 fulfilment of a certain condition or conditions, the contract shall take effect from the date whereon such fulfilment takes place.

57. 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.

MAINTENANCE OF RECORD AND FREEDOM OF INFORMATION

58. 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.

59. 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 Authority.

CONTRACT MANAGEMENT AND ADMINISTRATION

60. Appointment of contract manager.-

- (1) The procuring agency shall designate a contract manager for each procurement.
- (2) The contract manager shall manage the contract in accordance with the terms and conditions of the contract, Ordinance, Rules and Regulations., but

shall not agree to any change in the contract price or the material terms of a procurement contract without the prior approval, in writing, of the Principal Accounting Officer / head of the organization.

- (3) Without limiting the generality of sub-rule (2), the contract manager shall—
 - (a) keep an accurate record of all dealings with the contractor including minutes of every meeting with the contractor and the details of any matter discussed or decision made; and
 - (b) represent the interests of the procuring agency under every procurement contract.
- (4) The contract manager shall not permit any performance to commence before a procurement contract has been signed or notice to commence work or supply has been issued
- (5) The contract manager shall report any substantial breach of contract to the Principal Accounting Officer / head of the organization or an officer authorised by them.

61. Duties of the contract manager. - (1) The contract manager shall-

- (a) manage the obligations and duties of the procuring agency specified in the contract; and
 - (b) ensure that the contractor performs the contract in accordance with the terms and conditions of the contract.
- (2) The contract manager shall be responsible for-
- (a) monitoring the performance of the contractor to ensure that all delivery or performance obligations are met or appropriate action taken by the procuring agency in the event of obligations not being met;
 - (b) in the case of works contracts, interacting with any independent supervisor or engineer within the meaning of FIDIC contracts for the purposes of sub-rule (a);
 - (c) ensuring that the contractor submits all required documentation;
 - (d) ensuring that the procuring agency meets all its payment and other obligations on time and in accordance with the contract;
 - (e) ensuring that there is adequate costs, quality and time control, where required;
 - (f) preparing any required contract variations or modifications and obtaining, as appropriate, approval of the Principal Accounting Officer / head of the organization or officers authorised by them under Para 13 of the Financial Management and Powers of Principal Accounting Officers Regulations, 2021 before their issue;
 - (g) managing any handover or acceptance procedures;
 - (h) making recommendations for contract termination, where appropriate, and obtaining all required approvals and managing the termination process;
 - (i) ensuring that the contract is complete, prior to closing the contract file;
 - (j) ensuring that all contract management records are kept and archived as required; and
 - (k) ensuring that the contractor and the procuring agency act in accordance with the Ordinance, these Rules and the contract.

62. Contract performance evaluation. (1) The contract manager shall evaluate the performance of each procurement contract with an estimated value exceeding PKR 70 M–

- (a) in the case of short-term contracts, as soon as the contract has ended and
 - (b) in the case of long-term contracts, at intervals agreed with the Principal Accounting Officer / head of the organization or officers authorised under Para 13 of the Financial Management and Powers of Principal Accounting Officers Regulations, 2021, and submit a performance evaluation report to the Principal Accounting Officer / head of the organization or officers authorised under Para 13 of the Financial Management and Powers of Principal Accounting Officers Regulations, 2021
- (2) The contract manager must ensure that –
- (a) the contract is monitored throughout the contract period and
 - (b) that the performance of the contractor is regularly reviewed and recorded in writing.
- (3) The contract manager must record and as soon as is practical, report to the Principal Accounting Officer / head of the organization any incidences of non-performance by the contractor.
- (a) The contract manager must also at intervals not exceeding three months, provide the Authority with a written report on the performance of contracts with a value exceeding PKR 70 M for which that contract manager is responsible, using the template(s) provided by the Authority.
 - (b) The Authority may develop a policy guiding the format and frequency of the performance evaluation report.

63. Inspection and verification.-

- (1) The procuring agency shall constitute an inspection committee comprising of an odd numbers of members from outside the jurisdiction of the procuring agency and from amongst the panel of experts maintained by the Authority.
- (2) The contract shall state that the procuring agency has the right to inspect goods or works at any reasonable time or place and clearly state all requirements relating to inspection at the cost of procuring agency.
- (3) The procuring agency shall ensure that all goods, works and services are subject to inspection and verification by the contract manager, supervising engineer or inspection committee, as appropriate, prior to their acceptance.
- (4) The procuring agency shall for any contract whose value exceeds PKR 500 M engage a third party technical expert or team of technical experts, testing facility or use of laboratories for the required inspections and verifications.
- (5) The inspection and verification shall ensure that-
- (a) the correct quantity has been received;
 - (b) the goods, works or services meet the technical standards defined in the contract;
 - (c) the goods, works or services have been delivered or completed on time, or that any delay has been noted;
 - (d) all required deliverables have been submitted; and
 - (e) all required manuals or documentation have been received.

(6) The contract manager, supervising engineer or inspection and receipt committee responsible for inspecting the goods, works or services shall issue interim or completion certificates or goods received notes, as appropriate and in accordance with the contract.

SUSTAINABLE PROCUREMENT

64. Socio-economic development.- (1) If indicated in the bidding documents, and only where a policy has been issued by the Authority, a procuring agency may through its procurement seek to promote national industry and socio-economic development by:

- (a) applying a margin of preference of not more than 15% to the bid offering goods of domestic origin or using domestic labour or service; or
- (b) setting aside a percentage of not more than 20%, of their total estimated value of procurement for defined target groups of suppliers.

65. Environmental Objectives.- (1) A procuring agency may seek to procure goods, services, and works with a reduced environmental impact throughout their life cycle when compared to goods, services, and works with the same primary function that would otherwise be procured.

(2) In undertaking a procurement under sub-rule (1), a procuring agency shall comply with any Government policy setting out the requirements related to the purchase of environmentally friendly products and with any targets set out in the policy.

REDRESSAL OF GRIEVANCES AND SETTLEMENT OF DISPUTES

66. Redressal of grievances by the procuring agency.- (1) The procuring agency shall constitute a committee comprising of odd number of persons completely independent from the procuring agency and from amongst the panel of experts maintained by the Authority, with necessary powers and authorizations, to address the complaints of bidders that may occur prior to the entry into force of the procurement contract.

(2) Any party may file its written complaint against the eligibility parameters, evaluation criteria or any other terms and conditions prescribed in the bidding documents if found contrary to the provisions of the procurement regulatory framework, and the same shall be addressed by the grievance redressal committee (GRC) well before the proposal submission deadline.

(3) Any bidder or party feeling aggrieved by any act of the procuring agency after the submission of his bid may lodge a written complaint concerning his grievances within five days of announcement of the technical evaluation report and five days after issuance of final evaluation report.

(4) In case, the complaint is filed against the technical evaluation report, the GRC shall suspend the procurement proceedings.

(5) In case, the complaint is filed after the issuance of the final evaluation report, the complainant cannot raise any objection on technical evaluation of the report.

Provided that the complainant may raise the objection on any part of the final evaluation report in case where single stage single envelope bidding procedure is adopted.

(6) The GRC shall investigate and decide upon the complaint within ten days of its receipt.

(7) Any bidder or party not satisfied with the decision of the GRC, may file an appeal before the appellate committee comprising of odd number of members including external member. Authority within ten days of communication of the decision subject to depositing the prescribed fee and in accordance with the procedure issued by the Authority. The decision of the Authority shall be considered as final.

67. 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.

(3) The procuring agency shall specify mechanism for the appointment of an arbitrator expressly in the contract and the competent Authority who shall appoint the arbitrator.

68. Mis-procurement.-Any breach of these rules shall amount to mis-procurement.

69. Overriding effect.-The provisions of these rules shall have effect notwithstanding anything to the contrary contained in any other rules concerning public procurement.

Schedule I-

S. No	Name of product	Response time (from the advertisement) (Minimum)	Bid validity period (after issuance of evaluation report) (Minimum)	Grievance period (after issuance of evaluation report) (Minimum)	Grievance redress period (after filing of grievance) (Minimum)	Maximum period restraining from signing of contract (after issuance of evaluation report) (Minimum)
1	Agricultural products namely fertilizer, grains and sugar	7 days	3 days	1 day	1 day	1 day
2	Petroleum products	3 days	3 days	1 day	1 day	1 day
	(a) Motor gasoline (MOGAS)					
	(b) Motor gasoline 95 RON and HOBC RON 97					
	(c) High Speed Diesel/Gasoil (HSD)					
	(d) Jet fuel/Aviation fuel					
	(e) Furnace oil (High Sulfur and low Sulfur furnace oil)					
	(f) Base oil(all groups)					
	(g) Additives chemicals and allied petrochemical products					
	(h) High Density Polyethylene(HDPE) (Blow grade/Injection grade)					
	(i) Any other petroleum product as advised by Petroleum Division					
3	Coal(sub-bituminous)	3 days	3 days	1 day	1 day	1 day
4	LNG and LPG	24 hours	8 hours	3 hours	4 hours	3 hours