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PART II

Statutory Notifications (S. R. O.)

GOVERNMENT OF PAKISTAN
CABINET SECRETARIAT
(Cabinet Division)

NOTIFICATION

Islamabad, the 15th May, 2020

S. R. O. 442(I)/2020.—In exercise of the powers conferred by section 26 of the Public Procurement Authority Ordinance, 2002 (No. XXII of 2002), the Federal Government is pleased to direct that the following further amendments shall be made in the Public Procurement Rules, 2004, namely:—

In the aforesaid Rules,—

- (i) in rule 2, in sub-rule (1),—
- (a) after clause (b), the following new clauses shall be inserted, namely:—
- “(ba) “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;

(1165)

Price: Rs. 10.00

[5562(2020)/Ex.Gaz.]

- (bb) “Closed framework agreement” means an agreement with specified terms and conditions with an agreed price;”;
- (b) for clause (h), the following shall be substituted, namely:—
- “(h) “most advantageous bid” means—
- (i) a bid or proposal for goods, works or services that after meeting the eligibility or qualification criteria, is found substantially responsive to the terms and conditions as set out in the bidding or request for proposals document; and
- (ii) evaluated as the highest ranked bid or proposal on the basis of cost or quality or qualification or any combination thereof, as specified in the bidding documents or request for proposal documents which shall be in conformity with the selection techniques to be issued by the Authority;”;
- (c) after clause (h), substituted as aforesaid, the following new clause shall be inserted, namely:—
- “(ha) “open framework agreement” means an agreement with specified terms and conditions without an agreed price;”;
- (d) after clause (g), the following new clauses shall be inserted, namely:—
- “(ga) “e-Procurement” means use of information and communication technologies or digital or electronic means for procurement process;
- (gb) “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;”;
- (e) in clause (k), the word “and” at the end shall be omitted and thereafter the following new clause shall be inserted, namely:—
- “(ka) “unsolicited project proposal” means any proposal containing a unique and innovative idea and approach

which is not submitted in response to any procurement request, however is aligned with the mission and objectives of the procuring agency and is subject to competitive selection process by soliciting counter proposals challenging the initiator's proposal in all the technical and financial aspects; and”;

(ii) after rule 7, the following new rule shall be inserted, namely:—

“7A. e-public procurement.—The procuring agencies may carry out e-procurement process by using information and communication technologies or digital or electronic means, in such manner as to cover any or all aspects of the procurement process, in accordance with the regulations or guidelines to be prescribed by the Authority.”;

(iii) in rule 12, in sub-rule (1), for the words “one hundred thousand Rupees,” for the words “five hundred thousand Pakistani Rupees” and for the words “two million rupees”, the words “three million Pakistani Rupees” shall be substituted;

(iv) in rule 13, in sub-rule (2), for full stop at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:—

“Provided that for all procurements up to three million Pakistani Rupees, the response time shall be considered from the date of appearance of the advertisement on the Authority's website.”;

(v) after rule 16, the following new rules shall be inserted, namely:—

“16A. Procurement of common use items, services and commodities through framework agreements.—(1) The procuring agency shall arrange the procurement through framework agreements of recurrent or common use items, services including maintenance services and those commodities, whose market prices fluctuate during the term of the agreement, for a maximum period of three years.

(2) The procuring agency shall prepare provisional annual estimates including description, specifications, statement of requirements and quantities, based on rational demand estimates.

- (3) Based on such estimate, procuring agency shall initiate the pre-qualification proceedings for selection of suppliers and service providers.
 - (4) Open and closed framework agreements may be made with the selected suppliers and service providers. Maximum duration of open framework agreements shall not be more than three years and the closed framework agreements shall not exceed one year.
 - (5) The procuring agency may on need basis pre-qualify new suppliers or service providers during continuity of framework agreements with previously pre-qualified suppliers or service providers.
 - (6) The Authority shall make regulations, regulatory guides, guidelines or templates for procurement through framework agreements.
- 16B. **Price adjustment for framework agreements.**—(1) The procuring agency may, during the contract execution, accept a request to make price adjustment (under circumstance of above normal price volatility) and shall make a comparison of the prices requested against the national or international price indicator guides adopted by the Authority and verify the justification for such price adjustment.
- (2) The procuring agency shall determine the factor or percentage for price adjustment approved by the principal accounting officer (PAO).”;
- (vi) in rule 36,—
- (A) in clause (b), in sub-clause (ix), for the words “lowest evaluated bid”, the words “most advantageous bid” shall be substituted;
 - (B) in clause (c), in sub-clause (viii), for the words “lowest evaluated bid”, the words “most advantageous bid” shall be substituted; and
 - (C) in clause (d), in sub-clause (x), for the words “lowest evaluated bid”, the words “most advantageous bid” shall be substituted;

(vii) after rule 37, the following new rule shall be inserted, namely:—

- 37A. **Unsolicited proposal.**—(1) An unsolicited proposal received by the procuring agency from any individual or agency, private or public, consistent with the mission of the procuring agency, shall be assessed by the Assessment Committee, consisting of at least three technical experts, to be notified by the procuring agency. The assessment committee shall ascertain the viability of the proposal. If the proposal of the initiator is found viable, the procuring agency shall—
- (a) advertise the proposal for open competition without disclosing the name of the initiator of un-solicited proposal;
 - (b) conduct pre-qualification process;
 - (c) exempt the initiator of the un-solicited proposal from the pre-qualification; and
 - (d) award five percent additional weightage to the project proponent in the combined evaluation of his proposal.
- (2) If no other bidder in response to the advertisement submits bid, the procuring agency may award the contract to the initiator of the proposal.
- (3) In case of bidding competition, if the bid of initiator does not emerge as the most advantageous bid, procuring agency shall give the initiator an opportunity to make his bid at par with the most advantageous bid, however, if the initiator does not want to accept the challenge to match the proposal, he shall be given right of refusal without forfeiture of bid security.
- (4) The proprietary information of the initiator contained in the proposal shall remain confidential and shall not be disclosed to any interested bidder.
- (5) Subject to sub-rule (4), the procuring agency shall not be responsible for any intellectual property rights accruing to the proposal of the initiator.
- (6) Unless otherwise expressly stated in writing by the initiator, the procuring agency may, if it considers necessary, disclose

any information of the unsolicited proposal or the bidders as part of procurement process.”;

(viii) in rule 38, for the words “lowest evaluated bid”, the words “most advantageous bid” shall be substituted;

(ix) after rule 38, the following new rules shall be inserted, namely:—

“38A. **Bid discount.**—The procuring agencies may seek un-conditional discount by incorporating the same in bid solicitation documents. The bidder may offer un-conditional discount, in percentage of their quoted price or bids, before opening of the financial proposal. The discounted bid price shall be considered as original bid for evaluation being an integral part of the bid. No offer of discount shall be considered after the bids are opened.

38B. **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 reasonability:

Provided that except un-solicited proposal, in case of pre-qualification proceedings single bid shall not be entertained.

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

(x) after rule 39, the following new rule shall be inserted, namely:—

“39A. **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.”;

(xi) for rule 40, the following shall be substituted, namely:—

“40. **Limitation on negotiations.**—(1) Without changing the cost and scope of work or services, the procuring agency may negotiate with the successful bidder with a view to streamline the work or task execution, at the time of contract finalization, on methodology, work plan, staffing and special conditions of the contract.

(2) The Authority may determine the extent and types of negotiations on procurement by making regulations.”;

(xii) in rule 42, for clause (a), the following shall be substituted, namely:—

“(a) Petty purchases.—Procuring agency may provide for petty purchases through single quotation where value of the object of the procurement is up to the financial limit of one hundred thousand Pakistani Rupees, without resorting to bidding or quotations and the contract for the provision of such goods, services or works may be a local purchase order.”;

(xiii) in rule 42, in clause (b), for sub-clause (i), the following shall be substituted, namely:—

“(i) where the value of procurement is more than one hundred thousand Pakistani Rupees but does not exceed five hundred thousand Pakistani Rupees, the procuring agency may engage in procurement through request for three quotations from GST registered firms, original equipment manufacturers or authorized dealers, without resorting to bidding.”; and

(xiv) rule 52 shall be omitted.

[F.No.5/25/2005-RA-III (PPRA).]

MUHAMMAD USMAN MUNAWAR,
Section Officer (RA-III).