DISCLAIMER

Corporate M&C Department of Hindustan Copper Limited has taken every care to ensure that the contents of this manual are accurate and updated in accordance with the latest Government/CVC guidelines issued relating to procurement of goods & services. However, the procuring entities in the Company are advised to check the current provisions of law and other applicable instructions, as may be received subsequently from Government/CVC. Any subsequent instructions / amendments issued by the Government shall be deemed to be applicable instantly from the date of notification.

The Manual shall be reviewed every alternate year by the Management.
ABBREVIATIONS

AP: Automatic Procurement
BG: Bank Guarantee
CA: Competent Authority
CMD: Chairman-cum-Managing Director
CO: Corporate Office
CHA: Custom House Agent
CIF: Cost Insurance and Freight
CPA: Centralized Procurement Agency
CPPP: Central Public Procurement Portal
CPSE: Central Public Sector Enterprise
CVC: Central Vigilance Commission
CVO: Chief Vigilance Officer
DGS&D: Director General of Supplies & Disposal
DOP: Delegation of Powers
DRO: Direct Reporting Officer
ECS: Electronic Clearing System
EMD: Earnest Money Deposit
EoI: Expression of Interest
FA: Forward Auction
FIFO: First In First Out
FM: Force Majeure
FOR: Free On Rail
GARN: Goods Acceptance / Rejection Note
GCC: General Conditions of Contract
GCS: General Conditions of Sale
GFR: General and Financial Rules, 2017
GoI: Government of India
GST: Goods and Services Tax
GTE: Global Tender Enquiry
HOD: Head of the Department
IEM: Independent External Monitor
IP: Integrity Pact
IRDA: Insurance Regulatory and Development Authority
ITJ: Indian Trade Journal
L1: Lowest Bidder
LC: Letter of Credit
LCC: Life Cycle Cost
LCNS: Landed Cost Net of Set Off
LCNC: Landed Cost Net of Cenvat
LD: Liquidated Damages
LoA: Letter of Award
LoI: Letter of Intent
LTE: Limited Tender Enquiry
M&C: Materials & Contract
MoEF: Ministry of Environment and Forests
MSE: Micro and Small Enterprise
MSME (D): Micro Small and Medium Enterprises (Development Act, 2006)
MSTC: Metal Scrap Trading Corporation
NIT: Notice Inviting Tender
### ABBREVIATIONS

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**NOTE:** In case of any subsequent revision of Govt. guidelines and/or Commission's advice on above matters or on any matter related to Public procurement, either in general terms or based on specific advices rendered to HCL, same shall also be incorporated with the approval of the Competent Authority.
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PROCUREMENT GLOSSARY

i) “Bid” (including the term ‘tender’, ‘offer’, ‘quotation’ or ‘proposal’) means an offer to supply goods, services or execution of works made in accordance with the terms and conditions set out in the document inviting such offers;

ii) “Bidder” (including the ‘tenderer’, ‘consultant’ or ‘service provider’) means any eligible person or firm or company, including a consortium, participating in a procurement process with a Procuring Organization;

iii) “Standard Bid Document” [including the term ‘tender (enquiry) document’ or ‘Request for Proposal (RFP) document’] means a document issued by the Procuring Entity, including any amendment thereto, that sets out the terms and conditions of the given procurement and includes the invitation to bid;

iv) “Bid Security” [including the term ‘Earnest Money Deposit (EMD)’] means a security from a bidder securing obligations resulting from a prospective contract award with the intention to avoid the withdrawal or modification of an offer within the validity period of the bid, after the deadline for submission of such documents; failure to sign the contract or failure to provide the required security for the performance of the contract after an offer has been accepted; or failure to comply with any other condition precedent to signing the contract;

v) “Central Public Sector Enterprise (CPSE)” means a body incorporated under the Companies Act or established under any other Act and in which the Central Government owns more than 50 per cent of the issued share capital;

vi) “Competent Authority (CA)” means the officer who finally approves the decision;

vii) “e-Procurement” means the use of information and communication technology (specially the internet) by the Procuring Entity in conducting its procurement processes with bidders for the acquisition of goods (supplies), works and services with the aim of open, non-discriminatory and efficient procurement through transparent procedures;

viii) “Goods” includes all articles, material, commodity, livestock, raw material, consumables, spare parts, instruments, machinery, equipment, industrial plant, vehicles, assemblies, sub-assemblies, accessories, medicines, furniture, fixtures and services or such other categories of goods or intangible products like technology transfer, licenses or other intellectual properties procured or otherwise acquired by the Procuring Entity;

ix) “Indenter” [or the term ‘User (Department)’] means the entity and its officials initiating a procurement indent to procure goods, works or services specified therein;

x) “Inventory” means any material, component or product that is held for use at a later time;

xi) “Notice Inviting Tenders” (including the term ‘Invitation to bid’ or ‘request for proposal’) means a document and any amendment thereto published or notified by the Procuring Entity, which informs the potential bidders that it intends to procure goods, services and/or works;

xii) “Pre-qualification document” means the document including any amendment thereto issued by a Procuring Entity, which sets out the terms and conditions of the pre-qualification bidding;

xiii) “Procurement Contract” (including the terms ‘Purchase Order’ or ‘Supply Order’ or ‘Work Order’ or ‘Consultancy Contract’ or ‘Contract for Services’) means a formal legal agreement in writing relating to the subject matter of procurement, entered into between the Procuring Entity and the Supplier, Service
Provider or Contractor on mutually acceptable terms and conditions and which are in compliance with all the relevant provisions of the laws of the Country;

xiv) “Procurement process” means the process of procurement extending from the assessment of need; issue of invitation to pre-qualify or to register or to bid, as the case may be; the award of procurement contract; execution of contract till closure of the contract;

xv) “Procuring Entity” means the department to which powers of procurement have been delegated;

xvi) “Prospective Bidder” means anyone likely or desirous to be a bidder;

xvii) “Rate Contract” means an agreement between Procuring Entity with one or more bidders, valid for a specified period of time, which sets out terms and conditions under which specific procurements can be made during the term of the agreement and may include an agreement on prices either pre-determined or be determined at the stage of actual procurement;

xviii) “Registered Supplier” means any supplier who is on a list of registered suppliers of the Procuring Entity/Organization;

xix) “Reverse Auction” (or the term ‘Electronic Reverse Auction’) means an online real-time purchasing technique utilized by the Procuring Entity to select the successful bid, which involves presentation by bidders of successively more favourable bids during a scheduled period of time and automatic evaluation of bid;

xx) “Service” means any subject matter of procurement other than goods or works, except those incidental or consequential to the service, and includes physical, maintenance, professional, intellectual, training, consultancy and advisory services or any other service classified or declared as such by a Procuring Entity;

xxi) “Works” refer to any activity, sufficient in itself to fulfill an economic technical function, involving construction, fabrication, repair, overhaul, renovation, installation, erection, excavation etc. which make use of a combination of one or more of engineering design, material and technology, labour, machinery and equipment.
FOREWORD

1 With a view to improve transparency in decision making in procurement of goods and services, our Company had prepared its own ‘Procurement of Goods & Services Manual (Policy & Procedure)’ in the year 2014, which, over the years, has served as a guide book for procurement.

2 Government of India later issued new instructions in the domain of public procurement, which included mandatory introduction of Central Public Procurement Portal (CPPP), E-Publishing, E-Procurement, Preferential market access for micro and small enterprises, preference for domestic manufactures etc.

3 I am glad that the Corporate Materials & Contracts Department of our Company has consequently revised its ‘Procurement of Goods & Services Manual (Policy & Procedure)’ in keeping with latest guidelines of Govt. of India. In this revised manual, efforts have been made by the Company to cover all major aspects of procurement, to bring more clarity with simplified & uniform procedures as well as to make it more user-friendly and helping in speeding up decision making processes. This will make procurements transparent, fair, competitive, cost effective and efficient.

4 The revised “Procurement of Goods & Services Manual (Policy & Procedure), 2020” has been approved by the Board in its 395th meeting held on 1st June, 2020 and comes into force with effect from 1st July, 2020.

5 I wish to place on record my appreciation for the hard work done by the team members of the Company.

1st July, 2020
Kolkata

(Arun Kumar Shukla)
1.0 INTRODUCTION

POLICIES AND PRINCIPLES

1.1 The main tenets of public procurement process are economy, efficiency, transparency, fairness, uniformity and equitable treatment of Suppliers/Contractors. The main objective of this Procurement of Goods & Services Manual (Policy & Procedure)-2020 in HCL is to ensure procurement of material / services of desired quality at desired time in desired quantity and at the optimum cost maintaining transparency.

1.2 The Procurement of Goods & Services Manual (Policy & Procedure)-2020 is prepared in line with the latest Govt. of India and CVC guidelines regarding public procurement after in-depth deliberations with the executives of Materials and Contract departments and other concerned departments at Units & CO. Provisions of GFR, 2017 has been considered only as a guidance while updating the Manual.

1.3 For maintaining the dynamism of the procedure, thrust is maintained on regular interaction with the users. Towards this end, workshops /deliberations are held involving executives of Materials & Contract Department and Contract Cells of Units for suggesting modifications to the procedure for making it more user friendly.

1.4 Accordingly, a modified procedure i.e. The Procurement of Goods & Services Manual (Policy & Procedure)-2020 has been prepared within the ambit of GoI/CVC guidelines, superseding the earlier Manual. The procedure is applicable to all purchases /award of contracts. As most of the stages of procurement as well as award of contract are common, a common procedure has been evolved. However, wherever, there is a distinct requirement for award of contract, the same has been incorporated in the procedure.

1.5 Deviation with respect to the Purchase/Contract Procedure Manual shall be rare. In exceptional cases, deviation may be permitted for recorded reasons with the specific approval of Directors/CMD on case to case basis. The deviation shall be reported to CMD through Unit heads.

1.6 In cases any discrepancy is observed by Unit, suitable clarification can be obtained from CO. But processing of tender should not be stopped.

1.7 If any change is required to be made in the procedure due to CVC instructions or otherwise, amendments will be issued by Corporate M&C Group with the approval of the CMD. It will be mandatory to review the Procurement of Goods & Services Manual every alternate year by M&C department and in case of any changes in the policy (major changes), the same will be informed to the Board of HCL.
1.8 The Manual also takes into account GoI notification no. P-45021/2/2017-BE-II dated 15th June, 2017 (subsequently revised vide orders dated 28.05.2018 and 29.05.2019) on the subject ‘Public Procurement (Preference to Make in India), Order 2017’, which has provided for mandatory procurement of any goods or services from any category of bidders, or provide for preference to bidders on the grounds of promotion of locally manufactured goods or locally provided services. A copy of above notification is appended along with other Govt./CVC Circulars, and forms a part of this manual. The procuring entity should also check the latest directives of GoI in this regard and keep suitable provision in the NIT accordingly.

1.9 **Basic Aims of Procurement**

The basic aim, in public procurement, is to achieve just the right balance between costs and requirements concerning the following five parameters called the Five R's of procurement:

i) **Right Quality**: It aims to buy just the right quality that will suit the needs – no more and no less – with clear specification of the organization’s requirement, understanding of functional value and cost and quality awareness.

ii) **Right Quantity**: There are extra costs involved with both procuring a requirement too frequently in small quantities or with buying large quantities for prolonged uses. Hence, the right quantity should be procured which balances extra costs associated with larger and smaller quantities.

iii) **Right Price**: The price should be just right for the quality, quantity and other factors involved. It should not be abnormally low for facilities/works/services which could lead to a situation of non-performance or failure of contract. The concept of price can be refined further to take into account not only the initial price paid for the requirement but also other costs such as maintenance costs, operational costs and disposal costs, termed as ‘Life Cycle Cost’.

iv) **Right Time and Place**: It will be costly for an organization to procure the required material (or facility or services) too late or too early. Similarly, non delivery of material/facility/services at the right place would involve extra time and money. An unrealistic time schedule for completion of a facility may lead to delays, claims and disputes.

v) **Right Source**: The source of delivery of goods, works and services of the requirement must have the right financial capacity and technical capability, matching to the needs of the organization, demonstrated through satisfactory past performance of contracts of same or similar nature.

1.10 **Refined Concept of Cost and Value – Value for Money**

The concept of price or cost has been further refined into ‘Life Cycle Cost (LCC)’ to take into account not only the initial acquisition cost but also cost of operation, maintenance and disposal during the lifetime of the external resource procured.

Similarly, the concept of quality has been refined into the concept of utility/value. These two, taken together, are used to develop the concept of ‘Value for Money (VfM)’, VfM means the effective, efficient and economic use of resources, which may involve the evaluation of relevant costs and benefits, along with an assessment of risks, non-price attributes and/or life cycle costs, as appropriate. Price alone
may not necessarily represent VfM. In public procurement, VfM is achieved by attracting the widest competition by way of optimal description of need; development of value-engineered specifications/Terms of Reference (ToR); appropriate packaging; selection of an appropriate mode of procurement and bidding system.

1.11 **Fundamental Principles of Public Procurement**

The Fundamental Principles of Public Procurement and other additional obligations of procuring authorities in public procurement can be organized into five fundamental principles of public procurement, which all procuring authorities must abide by and be accountable for:

i) **Transparency Principle:** All procuring authorities are responsible and accountable to ensure transparency, fairness, equality and competition. This involves simultaneous, symmetric and unrestricted dissemination of information to all likely bidders, sufficient for them to know and understand the bidding opportunities, time-limits prescribed for completion of registration of bidders, bidding, evaluation, grievance redressal, award and management of contracts. As a part of this principle, all procuring authorities should ensure that offers should be invited following a fair and transparent procedure and also ensure publication of all relevant information on the Central Public Procurement Portal (CPPP).

ii) **Professionalism Principle:** The procuring authorities have a responsibility and accountability to ensure professionalism, economy, efficiency, effectiveness and integrity in the procurement process. They must avoid wasteful and improper practices violating the Code of Integrity for Public Procurement. They should ensure that the methodology adopted for procurement should not only be reasonable and appropriate for the cost but should also effectively achieve the planned objective of procurement.

iii) **Broader Obligations Principle:** Over and above transparency and professionalism, the procuring authorities have also the responsibility and accountability to conduct public procurement in a manner to facilitate achievement of the broader objectives of the Government – to the extent these are specifically included in the ‘Procurement of Goods and Services’ manual:

   a) Preferential procurement from backward regions, weaker sections and MSEs, locally manufactured goods or services, to the extent these are specifically included in manual;

   b) Support to broader social policy and programme objectives of the Government like, strengthening of local industry – Make-in-India etc.

   c) Reservation of procurement of specified class of goods from or through certain nominated CPSEs or Government organizations, to the extent specifically included in the manual.

iv) **Legal Responsibilities Principle:** The procuring authorities have the responsibility and accountability to comply with the laws relating to Governance Issues like Right to Information (RTI) Act and Prevention of Corruption Act, and so on.

v) **Public Accountability Principle:** Each individual public procurement transaction is liable to be scrutinized independently over a period of time by several statutory and official bodies in the
country like CVC, CAG, CBI etc. Procuring authorities thus have responsibility and accountability for compliance of rules and procedures in each individual procurement transaction. The procuring authority, at each stage of procurement, must therefore place on record, in precise terms, the considerations which weighed with it while making the procurement decision from need assessment to fulfillment of need. Such records must be preserved, retained in easily retrievable form and made available to such agencies/bodies. The documents and records include:

a) documents pertaining to determination of need for procurement;

b) description of the subject matter of the procurement;

c) statement of the justification for choice of a procurement method other than open competitive bidding;

d) documents relating to PQC, EMD and other T&C of the subject procurement;

e) particulars of issue, receipt, opening of the bids and the participating bidders at each stage;

f) requests for clarifications and any reply thereof;

g) bids evaluated, and documents relating to their evaluation;

h) minutes of meeting of tender evaluation committee;

i) contracts and contract amendment; and

j) complaint handling, correspondences with clients etc.
2.0 PROCUREMENT OF GOODS AND SERVICES – POLICY & PROCEDURE

2.1 RAISING OF PURCHASE REQUISITIONS (PR) / INDENTS
The Purchase requisitions / indents for purchase of materials / job contracts shall be raised by the department(s) concerned or designated centralized agencies. These PRs for purchase of goods shall be raised in the ERP system. The Indents for Job contracts shall be prepared in the prescribed format. The PRs/Indents shall be approved by the competent authority as per the DOP. A sample format of Purchase Requisition for Goods (Non-Stock) is given at Annexure-1.

Proposals financially concurred and approved as per DOP in files in case of exigencies can be considered requisitions approved for further processing. However, the same shall be regularized in ERP system.

The Unit shall devise a proper system of numbering the PRs / Indents initially and their processing reference at different stages to facilitate cross-reference. Suitable Index registers shall also be maintained for such numbering/ references at different stages for control purposes.

2.2 For Purchase of Goods

2.2.1 The Indenter should give full and complete information regarding the description and specification of the material to be procured. To the extent possible, specifications given should be standard specifications conforming to BIS etc. The cut-off points for performance and the points for bonus and penalties should be indicated wherever feasible / required.

2.2.2 Manufacturing Drawings, wherever required, should be enclosed in adequate numbers with the Indent. While sending the drawings, it should be ensured that the latest relevant revision is enclosed.

2.2.3 Along with the PR / indent, the Indenter shall also prepare and attach/enclose the following:

a) In respect of new items, a check-list as per the prescribed proforma (to be designed by M&C dept CO/Unit), Justifying the indented quantity, with all columns correctly and completely filled.

This check list shall be certified by the HOD.

b) In respect of proprietary items, a certificate on the prescribed proforma (refer Annexure-2) signed by the HOD has to be provided. Due diligence must be made before making items as Proprietary.

The purchase of items on proprietary basis should be kept at the minimum possible level and should be resorted to when other technically acceptable substitutes are not available.

c) Proposed criteria for technical eligibility (Pre Qualification Criteria) & acceptance. The PQC shall be prepared by Indenter in consultation with the M&C dept within the guidelines of CVC. It should be ensured that the eligibility criteria are exhaustive yet specific and there is fair competition. It should also be ensured that the criteria are clearly stipulated in unambiguous terms. In case of deviation in PQC from the CVC guidelines (OM No. 12-02-1-CTE-6 dated 2.0 PROCUREMENT OF GOODS AND SERVICES – POLICY & PROCEDURE

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17.12.2002), the same shall be mentioned in the proposal with reasons thereof and approval of competent authority based on DoP should be obtained.

2.2.4 In the PRs / Indent, the Indenter will ensure, depending upon the nature of the item indented, incorporation of special requirement of inspection/checklist for special packing instructions, if any. This should be made part of the tender document.

2.2.5 In case some of the items in the Indent are matching / complementary parts of an equipment / assembly and are required to be supplied by one supplier only, the Indenter shall specify this in the Indent.

2.2.6 Clubbing of Indents: Indents of similar nature should be clubbed together as far as possible.

2.3 For Job Services

2.3.1 The Indenter should give detailed information regarding description of the jobs to be executed along with the materials to be supplied and equipment to be deployed by the contractor, wherever applicable. For the items to be supplied, the quantity along with detailed specifications and drawing number, etc., should be given in the indent. Similarly, for the equipment to be deployed the desired capacities of the equipment, their ownership, procurement through rent/lease, etc., should be specified in the Indent.

2.3.2 The overall quality of the jobs to be executed along with the expected Performance Guarantees should be clearly indicated in the Indent. The Indent should also include any other special terms and conditions required for the execution of the jobs.

2.3.3 In case only one contractor is to be engaged for some of the jobs/all the jobs given in the Indent, the Indenter shall specify this in the Indent.

2.3.4 In the Indent, the Indenter will ensure incorporation of suitable special terms and conditions, particularly the Inspection Clause, and specify the Inspecting agency for certifying the execution of jobs as per contracted terms and conditions. The name and the designation of the Executing Officer/ Operating Authority would also be mentioned in the Indent/Proposal.

2.3.5 With a view to optimizing the utilization of internal resources, each Unit is to prepare an annual plan and get it approved by the Competent Authority three months before the beginning of each financial year for the ensuing financial year of the jobs which cannot be undertaken internally and are to be off-loaded to the contractors during the financial year. Such list should be in decreasing number on cost-effective basis. Indents shall not be raised for the jobs not included in the annual plan for the financial year. In rare/exceptional cases, where the jobs were not included in the annual plan for the financial year, such indents shall be raised with recorded reasons and the approval of the Competent Authority.

2.3.6 For same scope of work to be executed at different locations and/ or in different phases, the annual list of such jobs prepared by different departments / shops should be scrutinized and coordinated by one Centralized Agency before it is approved by the Competent Authority. Accordingly, only one consolidated indent should be raised by the Centralized Agency for same / similar scope of work and if more than one Contractor is required to be engaged for such jobs, justification must be recorded in the indent (Ref. Para 2.6). In exceptional cases, where one consolidated indent cannot be raised for same/similar scope of work, approval of the Competent Authority shall be obtained to raise these indents.

2.3.7 Before processing the indent for approval, the Indenter in consultation with M&C Dept./Contract Cell shall determine/record the Pre-Qualification Criteria (PQC) for eligibility of the bidders, which may include:
a) Required experience and past performance in similar type of contracts,
b) Required manpower (skill-wise) and type/capacities of equipment & construction/ manufacturing facilities,
c) Proof of ownership / licensee of required equipment and construction / manufacturing facilities,
d) Audited Financial position and the average Turnover during the last three completed financial years,
e) Service support, if any,
f) Earnest money/Security deposit in the form of Bank Draft / Bank Guarantee (along with validity period),
g) Bidder’s PAN, TIN, GSTN No. for purchase/works contracts. Also, PF Regn. & ESI Regn. No. for works contracts.
h) Any other criteria, considered necessary.

The above criteria shall be specified in the Tender Document under special terms and conditions.

M&C Dept. / Contract Cell shall follow the latest CVC guidelines while framing PQC. A sample PQC is shown at Annexure-4 for guidance.

Note: The basic objective being to encourage maximum competition without compromising on the quality, delivery and other aspects of the PR, Annexure-4 is a guideline and the same be varied (items deleted / added), based on complexity etc. of a tender. However, the basic guidelines as provided in CVC OM No. 12-02-1-CTE-6 dated 17.12.2002 should be implemented for all type of PRs (Goods & Services). In case of any deviation under exceptional circumstances, the same should be regulated as per Para 2.2.3 (c).

2.4 Estimated Value

2.4.1 It will be the prime responsibility of the Indenter to prepare judicious estimate of the current value of the PR/Indent. The Indenter shall take the help of Engineering Services and other Centralized Agencies, if so required, for the preparation of judicious estimate using scientific/technical methods. The estimated value of each and every item to be procured/each and every item of work to be executed will be filled in the appropriate column in the indent. The detailed estimate signed by the Head of the Indenting Department will be attached/enclosed with the PR/indent.

Following shall be the guidelines for preparation of estimates:

a. For frequently purchased items (i.e. items purchased at least twice during last three years), the estimate shall be based on the last purchase price obtained through normal tendering and competitive bids with adjustment for variations in the prices of raw materials, wages and other inputs including current market conditions.
b. For infrequently purchased items (i.e. items not purchased at least twice during last three years)/new items, engineering estimates shall be prepared on a scientific basis, taking into consideration the cost of raw material, casting/machining, treatment/testing, labour, overhead expenses, transportation and applicable statutory duties and levies etc. In case, costs of making pattern / engineering drawing / development of the items are also included in the estimate, all care should be taken to exclude this portion of cost in future while re-indenting/re-ordering. If required, for guidelines, budgetary quotations may be obtained for infrequently purchased items preferably from registered vendors/last
supplier. For new item(s) or new technology, efforts should be made to get more than one budgetary quotation.

c. For the procurement of proprietary items, suppliers’ price list/rates along with the applicable discounts shall be obtained for preparing the estimate. Such list should preferably be obtained directly from the manufacturer and the list supplied by dealers/authorized agents should not be considered unless directed by the manufacturers.

d. For job contracts, fresh estimates shall be prepared for each Indent and only the last order value shall not be considered as the basis. For the preparation of estimates, the proposed job contract may be split into:

i) Job elements  
ii) Supplies to be made  
iii) Mobile equipment/tools and tackles to be provided  
iv) Any other services, fee against statutory obligations, overheads, etc  
v) Green field/Brown field jobs and its completion period

Detailed estimates of labour cost for each element of job, cost of supplies, hiring/operation cost of mobile equipment/tools and tackles and any other services, etc., as mentioned above, shall be prepared.

However, in case of jobs of repetitive nature (jobs undertaken in the past), the last executed rates/values should be mentioned along with when the same was executed.

e. For Project cases, the initial estimate prepared by the Consultant, should be examined by M&C dept. and duly approved by the CA.

The estimates finalized prior to the NIT should be duly recorded. In case the estimates are required to be modified/updated after pre-bid discussions or techno-commercial discussions, the detailed reason for such modification/update should be duly recorded in writing by the Tender Committee with proper deliberations duly approved by the Competent Authority. If necessary, the Consultant, who had prepared the initial estimate, should be asked to submit their views on the necessity to revise the estimates.

2.5 The names of the suggested registered manufacturers/suppliers/traders/contractors, as the case may be, shall be indicated by the Indenter in the PR/Indent on the basis of past experience of parties along with order references, if any.

2.6 In case, it is desired to split the order on more than one party, the Indenter/M&C department shall specify so in the PR/Indent giving the maximum number of suppliers/contractors desired to be engaged, justifying the reasons for the same.

2.7 In case there are certain quantifiable factors required to be considered/loaded while evaluating the prices quoted by the tenderers, such factors in clear quantifiable terms should be mentioned in the Indent by the Indenter for incorporating suitably in the tender document.

2.8 In case the tenderers are required to submit samples along with the quotation, the same should be clearly mentioned in the PR/Indent itself. However, no sample should be called for the items for which detailed/standard specifications are available. For procurement of clothing and textile items, detailed specifications may be mentioned & no sample shall be called. However, if required, provision for submission of an advance sample by successful bidder(s) may be stipulated, with the approval of the competent authority, for indeterminable parameters such as, shade/tone, size, make-up, feel, finish and workmanship, before giving clearance for bulk production of the supply.
3.0 SCRUTINY OF INDENTS

3.1 The Indents for purchase of material shall be scrutinized by the Screening Committee constituted by the Competent Authority for the nature of the items concerned, comprising the representatives of the related departments, Indenter, M&C Dept., Finance, etc. The committee members shall be of appropriate level, as decided by the Competent Authority. The Screening Committee shall scrutinize the Indent as early as possible but within a week of the receipt by it. The scrutiny by the Screening Committee shall inter-alia cover the following:-

a) Norms prescribed for inventory holding both in terms of value and duration of consumption,
b) Complete specifications including drawings, if required,
c) Consumption pattern,
d) Stock in hand and on-order quantity,
e) Budget availability,
f) Availability of all prescribed enclosures and certificates,
g) Estimates along with the basic data,
h) Suggested mode of tendering, giving reasons,
i) Names of suppliers suggested by the Indenter in the Indent,
j) Inspection guidelines,
k) Eligibility & acceptance criteria for open / global tender inquiries.

3.1.1 Intimation of the clearance of quantity and value of an Indent to be sent to the Indenter by the Screening Committee to update their records within three days of completion of the scrutiny by the Screening Committee.

3.1.2 In case of stock items for which automatic procurement (AP) is made based on the re-order level, screening is not required by the Screening Committee.

3.1.3 Indents for both procurement and job contracts valuing below Rs. 5 Lakh, covering the annual requirement (excluding Proprietary items and Non-Proprietary STE items) need not be scrutinized by the Screening Committee. However, in case of purchase of new items and job contracts being undertaken for the first time, the same should also be routed through the screening committee even for value less than Rs. 5 Lakh. Other indents of value less than Rs. 5 Lakh shall be cleared by the head of indenting department for further processing by M&C department. In such cases, Head of M&C Department shall ensure that there has been no splitting of the indent.
3.2 The Indents for the job contracts valuing Rs. 5 Lakh & above shall require screening by the Screening Committee, constituted by the Competent Authority for the nature of jobs concerned, comprising the representatives of the related departments i.e. Indenter, M&C, Finance etc. The committee members shall be of appropriate level, as decided by the Competent Authority. The Screening Committee shall scrutinize the Indents at the earliest but within a week of the receipt of the Indent by it.

The Screening Committee shall inter-alia cover the following:

a) Inclusion of the job in approved Annual Plan, mentioned at Para 2.3.5,
b) Complete job description including drawings, if required,
c) availability,
d) Availability of all prescribed enclosures & certificates,
e) Estimates along with the basic data,
f) Terms & conditions required for execution of the job,
g) Suggested mode of tendering, giving reasons,
h) Names of contractors, suggested by the Indenter in the Indent,
i) Eligibility & acceptance criteria for open / global tender inquiries.

3.2.1 Intimation of the clearance of quantity/ scope of work and value of an Indent to be sent to the Indenter by the Screening Committee to update their records within three days of completion of the scrutiny by the Screening Committee.

3.3 In case of any Indent going beyond the approved overall budget of the department concerned, for additional/ readjustment/ re-appropriation of the budget, approval of Competent Authority as per the Delegation of Power (DOP) should be obtained.

3.4 If the Indent is found to be incomplete in any respect, it will be returned by the respective Screening Committee to the Indenter for completion.

3.5 The scrutinized Indent, found complete in all respects, shall be sent to the M&C Dept/ Contract Cell after obtaining financial concurrence and approval of the Competent Authority.
4.0 ACTION ON INDENTS BY M&C DEPTT. / CONTRACT CELL

4.1 On receipt of the Indent by the M&C Dept. / Contract Cell, an entry will be made in the Indent Register/Computer and a case-file opened. Separate Indent Registers shall be maintained for purchase of material and for job contracts Indents. While processing the indent for tendering, if any discrepancy is found, the M&C dept. / Contract Cell shall return the PR/indent to the Screening Committee/ Indenter for compliance/clarification by either Screening Committee or by Indenter, on such discrepancies.

4.2 The PR/indents should be processed by the M&C Dept. / Contract Cell within three working days. The proposal seeking the approval of the Competent Authority in ERP as per DOP for the mode of tender shall envisage terms and conditions of the tender with deviations, if any, the cost of tender documents, to be fixed by M&C Dept. / Contract Cell, and in case of Open / Global Tender, the starting and closing date and time for sale of tender documents. Enquiry is to be issued by the M&C Dept. / Contract Cell, after receipt of the approval of the Competent Authority in ERP as per DOP.

4.3 Enquiry for the purchase of material shall be issued within three days, and for job contract within seven days from the date of the approval accorded by the Competent Authority for mode of tendering. Names of tenderers from whom tender is invited, in case of limited or single tender, shall also be approved by the Competent Authority as per DOP.

4.4 M&C Dept. / Contract Cell should make a time table of the activities with time schedule and responsibility and circulate the same to all concerned so as to ensure that order is finalized as per schedule. In case of centralized procured commodities, an Annual Calendar of activities & responsibilities should be made for each item by M&C dept at CO.
5.0 MODE OF TENDERING

5.1 The recommended modes of tendering for placement of orders are as under:

i) Single Tender Enquiry (STE) for Proprietary items (Original Equipment Manufacturers).

ii) Single Tender Enquiry (STE) (other than Proprietary items)

iii) Limited Tender Enquiry (LTE)

iv) Open Tender enquiry (OTE)

v) Global Tender Enquiry (GTE)

5.1.1 The above method of tendering to be used in case of Rate Contracts (Ref. Para 5.7) and Buy-Back Offers (Ref. Para 5.6.4) also.

5.1.2 Contracts arrived through the above method of tendering may also have Repeat Order Clause (Ref. Para 5.6.1 & 5.6.2) and Option Clause (Ref. Para 5.6.3).

5.1.3 Apart from the above methods of tendering, placement of orders may also be considered through GeM Portal (Ref. Para 5.8).

5.1.4 In addition to the above, there may be occasions when the Unit may have to resort to emergency purchase/job contract (Ref. Para 5.9) and direct procurement (Ref. Para 5.10).

5.1.5 Approval of Competent Authority shall be obtained in each of the above cases after financial concurrence.

5.2 Single Tender Enquiry (STE)

5.2.1 Single Tender Enquiry (Proprietary Items)

Single Tender Enquiries for Proprietary items (Original Equipment Manufacturer-OEM/ Technology Supplier/Job Contracts or manufacturers having proprietary rights) should be issued with the approval of Competent Authority as per the DOP. Such Proprietary items should be purchased from their manufacturers or their authorized dealers only, where the manufacturer does not supply the equipment directly. In case there is more than one dealer authorized to sell a particular proprietary item, discount may be possible through Limited Tender Enquiries. In such cases, LTE may be issued to the authorized dealers.

Users should enclose, with their Indent, a Proprietary Article Certificate (PAC) indicating the justification and approval at the appropriate level, for sourcing an item from OEM or their authorized agents. Proprietary items should be purchased only from OEM or its authorized dealer as recorded in the PAC (refer Annexure-2).
The firm should be asked to certify that the rates quoted by them are the same and not higher than those quoted with other Government/PSU or private organizations.

5.2.2 Single Tender Enquiry (Other than Proprietary Items)

The cases where the enquiry is restricted to only one source, though many sources/suppliers exist, such procurement is on nomination basis. Such Single Tender Enquiries for other than Proprietary Items should be issued as an exception only, after recording due reasons, with financial concurrence and the approval of the Competent Authority as per DOP. A periodic list is to be sent to M&C Dept., Corporate Office indicating such cases.

CVC Office Order No. 23/07/2007 dated 5th July 2007 as shown at ‘List of Circulars’ in this manual may be referred to.

5.2.3 Procurement from a single source should be resorted to in the following circumstances:

i) It is in the knowledge of the user department that only a particular firm is the manufacturer of the required goods;

ii) In a case of emergency, the required goods are necessarily to be purchased from a particular source and the reason for such decision should be recorded and approval of competent authority obtained;

iii) For standardization of machinery or spare parts to be compatible to the existing sets of equipment (on the advice of a competent technical expert), the required item is to be purchased only from a selected firm.

5.2.4 A list of items procured on single tender basis, of value Rs. 5 Lakh and above, should be published on CPP Portal and hosted on HCL website to enhance vendor base of such items, giving items details viz. Catalogue number, description, detailed specifications, annual requirement as well as area of use etc.

5.2.4 The instructions to be included on the CPP Portal and HCL website should be that, “Whoever is interested to be a registered supplier of these items, should fill up the vendor registration form, uploaded on the website. The normal registration process shall, thereafter be followed by the Units for registering the eligible suppliers.”

5.2.5 Units should ensure updating the list of Single tender items on website on a quarterly basis.

5.3 Limited Tender Enquiry (LTE)

5.3.1 Limited Tenders should be issued only when reliable manufacturers / suppliers / traders / contractors are known (>3). Normally, such enquiries are to be issued to the firms which are registered with the Company for the subject item, provided there is no adverse report on their performance. A list of such registered manufacturers / suppliers / traders / contractors shall be maintained by M&C Department/ Contract Cell along with their E-mail ID/Fax No. and updated periodically at least once in two years.

5.3.2 LTE may be issued against PRs having value up to Rs.10 Lakh for both procurement and job contracts. However, in case of exigencies, LTE can be issued with recorded reasons where the estimated value of the procurement/job contract is more than Rs. 10 Lakh with the approval
of the Competent Authority, provided that the requirement is urgent and there exists sufficient number of known and reliable vendors (>3) registered with the Company.

5.3.3 When the decision is to adopt LTE as a mode of tendering, the whole indent should be treated as one and no split up thereof should be made to reduce the value of tender enquiries.

5.3.4 The selection of firms for LTE shall be done by the M&C Dept. / Contract Cell/User Department in a judicious manner to ensure that:

i) The Manufacturers / Suppliers / Traders / Contractors are financially and technically sound;

ii) The past performance of the Manufacturers / Suppliers / Traders / Contractors with regard to quality and adherence to time schedule is satisfactory;

iii) The Manufacturers / Suppliers / Traders / Contractors, have successfully made the last supply / executed the last job;

iv) Wherever sub-category wise registration exists, enquiry should be issued to all such registered parties. Any deviation should be recorded with reasons;

v) All known Manufacturers/Suppliers/Traders/Contractors have been covered in the list for floating LTE, particularly those vendors who have successfully executed order during the last three years for similar items.

5.3.5 In cases where there are only two registered suppliers for an item, vendors registered for similar items with other units may be considered. The vendors registered for supply of items in any of HCL units should deem to be registered in other units of HCL for supply of similar items. HCL, therefore, should maintain a combined list of item-wise registered vendors. Under exceptional cases only, tender notice to only two registered suppliers shall be issued with the approval of competent authority as per DOP.

However, for the items so far purchased as proprietary for which another vendor has been found / developed, tender notice to these two vendors may be issued with the approval of competent authority as per DOP.

5.3.6 While issuing LTE to manufacturers/suppliers/traders/contractors, it should be clearly stipulated that in case any of their dealer(s)/distributor(s) is authorized to quote on their behalf, a copy of such authority letter be endorsed to HCL. Only after receipt of such authority letter, the quotation received from the dealer/distributor shall be entertained. Subsequently, a copy of all the correspondences with the dealer(s)/distributor(s) shall be sent to the manufacturer(s) simultaneously. For such indents, the LTE may be directly issued to the authorized dealer(s)/distributor(s) after confirming the validity of their dealership/distributorship. A copy of correspondences directly made with the dealer(s)/distributor(s) shall also be sent to the manufacturers simultaneously.

5.3.7 LTE should also be posted mandatorily on Central Public Procurement Portal (CPPP) as well as on the Company’s website. The manufacturers / suppliers / traders / contractors to whom the LTE is issued should be able to access such LTE documents through their ID and passwords.

5.3.8 The following instructions would be put up on the website: “The Offer against these tenders from manufacturers/suppliers/traders/contractors to whom LTE has been issued shall only be considered. Offer from any other party shall be treated as unsolicited.”
In order to increase competition, following shall also be posted on CPP Portal and HCL website:

Whoever is interested to be registered a supplier of these items, should fill up the vendor registration form, hosted on the website. The normal registration process shall, thereafter be followed for registering the eligible suppliers. This information is solely for the purpose of exploring the possibility of enhancing vendor base, wherever required and should not be considered as a purchase enquiry. Purchase enquiry in future may be issued to such suppliers, if registered.”

5.3.9. In case where large numbers of parties are registered in a particular category/ class, Notice Inviting Tender (NIT) can be posted in the website and notice board placed at prominent place mentioning that relevant category of contractor shall be only eligible for applying.

5.3.10 LTEs should be issued in such a way that sufficient competitive quotations are received from the parties. Copies of bidding documents should be sent free of cost directly by speed post/courier/e-mail to the approved vendors simultaneously.

5.3.11 If a single offer is received or a single offer is found to be technically suitable against LTE, such tender is also to be treated as a case of Single Tender.

5.3.12 In case adequate response is not received from the bidders against LTE, the Procuring Entity may initiate action for buying the materials/awarding job contracts on OTE basis, irrespective of value.

5.4 **Open Tender Enquiry (OTE)**

5.4.1 Open Tender Enquiry (OTE) procedures through e-Procurement should be adopted to attract wider competition in the following situations:

i) The value of PR/Indent exceeding the threshold of Rs. 10 Lakh;

ii) Even for procurement/job contract below Rs. 10 Lakh, OTE mode may be used, if warranted;

iii) Material description and specification with clear nomenclature, quantity required along with special terms specific to each tender enquiry is correctly incorporated in the tender document;

iv) Bidder pre-qualification criteria is stipulated in clear and unambiguous terms;

v) When requirements are not available from known sources or sources are limited and need to be broad based.

5.4.2 Bidders already registered are also free to participate subject to their fulfilling pre-qualification criteria.

5.4.3 Advertisement in case of OTE should mandatorily be given on Central Public Procurement Portal (CPPP) at www.eprocure.gov.in and on GeM. The advertised tender enquiries should also be hosted on HCL’s/Service Provider’s Website. Copy of the tender, floated in the website/portal along with references, are to be maintained in the corresponding procurement file.

5.4.4 M&C department/Contract Cell should post the complete bidding document in HCL’s website and on CPPP to enable prospective bidders to make use of the document by downloading from the website.
5.4.5 In order to promote wider participation and ease of bidding, no cost of tender document should be charged for the tender documents downloaded by the bidders. However, in case of sale of tender documents in hard copies to the prospective bidders, the same shall be priced minimally, keeping in view the value of tender as also the cost of preparation and publicity of the tender documents.

5.4.6 Tender documents should be sold/ made available for download up to the date of opening of tenders. M&C department shall maintain proper records about the number of tender documents sold, list of parties to whom sold, details of amount received through sale and, also the number of unsold tender documents, which are to be cancelled after opening of the tenders.

5.4.7 Simultaneous to publishing OTEs on CPPP and HCL's website, M&C department/Contract Cell shall continue to intimate the registered and known vendors separately through E-mail/ Fax/Letter for wider participation. There shall be no separate Press advertisement of NIT. For general information of all prospective bidders in this regard, HCL shall suitably notify in leading newspapers stating that henceforth, the Company shall only be e-publishing its tender enquiries (OTE/LTE/STE/GTE) on CPP Portal, GeM Portal and on HCL's own website, from where the bidders will be able to download the bidding document for participation through e-procurement.

5.4.8 Effort should be made to standardize specification of common items being procured by different units for common end use as far as possible to facilitate the bulk purchase.

5.4.9 If a single offer is received or a single offer is found technically suitable against web hosted enquiry, such tender is to be treated as a case of Single Tender (Ref. Para 21.5.7) and it should be processed accordingly.

5.5 Global Tender Enquiry (GTE)

5.5.1 Global Tender Enquiry (GTE) is similar to Open Tender Enquiry (OTE) but, through appropriate advertising and provision for payment in Foreign Currencies through Letter of Credit (LC). Development of local industry shall also be needed to be kept in mind. Hence, GTE shall be viable in the following situations:

i) Where Goods of required specifications/quality are not available within the Country and alternatives available in the Country are not suitable for the purpose;

ii) Requirement for compliance to specific international standards in technical specifications; and

ii) Absence of sufficient number of competent domestic bidders likely to comply with the required technical specifications, and in case of suspected cartel formation among the indigenous bidders.

5.5.2 Advertisement in such cases should be given on Central Public Procurement Portal (CPPP) at www.eprocure.gov.in and on GeM besides hosting in HCL's/Service Provider's website. Global Tender enquiries should also be published in the Indian Trade Journal (ITJ) published by the Director General of Intelligence & Statistics & India Export Bulletin and copies of tender notice shall be sent simultaneously to the Indian Embassies abroad as well as to the Foreign Embassies in India, requesting them to give wide publicity of the requirement in those countries. Selection of embassies for this purpose may be done in a judicious manner based on knowledge regarding availability of firms in those countries for undertaking the advertised job.
5.5.3 M&C department/Contract Cell should post the complete bidding document in HCL’s/Service Provider’s website and on CPPP to enable the prospective bidders to make use of the document by downloading from the website.

5.5.4 In order to promote wider participation and ease of bidding, no cost of tender document may be charged for the tender documents downloaded by the bidders. However, in case of sale of tender documents in hard copies to the prospective bidders, the same shall be priced minimally, keeping in view the value of tender as also the cost of preparation and publicity of the tender documents.

5.5.5 GTE tender documents shall contain technical specifications which are in accordance with national requirements or else based on an international trade standard.

5.5.6 In case of GTE, the price should be asked in Indian Rupees or US Dollars or Euros or in any other currencies under the RBI’s notified basket of currencies.

5.5.7 Currently there is no financial limit fixed to float a global tender. GoI, Ministry of Finance, Department of Expenditure vide OM No. F.12/17/2019-PPD dated 15.05.2020 has specified that no GTE shall be invited for tenders up to Rs. 200 crore, which will be applicable on all procurements including Goods, Non-consulting services, Consultancy Services and Works including turnkey projects. However, same may be reviewed with the approval of the competent authority based on conditions mentioned at Para 5.5.1 in appropriate cases.

5.6 Repeat Orders

5.6.1 Repeat Orders are those orders which are placed on the parties at the same terms and conditions of the previous order except for the quantity and delivery. Repeat orders shall be avoided normally. These are to be placed more as exception than a rule.

5.6.2 Normally, as per the lead time, prior to expiry of the running supplies /Job Contract, the Indenter has to process fresh Indent. However, due to unavoidable circumstances, if either the Indent is not processed or even after processing the Indent, it is not possible to place fresh order in time, under such circumstances for the Item / Job Contract for which continuity is essential, it may be necessary to place repeat order on existing party/ contractor. After recording the reasons leading to placement of repeat order, the proposal for repeat order on same terms, conditions and specifications may be considered based on the following:

i) There is a suitable repeat order clause specified in the original tender. The original order must have been placed in the usual course after issue of LTE or Open Tender. However, for proprietary and standardized items, which have been purchased from single source, repeat orders can be placed.

ii) The original orders, placed on the basis of a higher price for earlier delivery and Emergency orders shall not be considered.

iii) Repeat orders are normally to be processed 3 months prior to the expiry of the original contract.

iv) No price escalation for firm price orders shall be given.

v) No downward trend of the prices and the performance of the supplier is satisfactory, to be certified by the indenting department.

vi) Not more than one repeat order should be placed.
vii) The quantity considered for ordering is not more than 50% of the original ordered quantity, for repeat order.
viii) Delivery against the repeat orders should be regulated on such a fashion that no unnecessary inventory is built up.
ix) Repeat order shall be issued with the approval of Competent Authority (who originally approved the tender decision) based on the value of the contract with the increased quantity, after due concurrence of Finance.
x) Where the contract also includes an Option clause, Repeat Order may be placed only for such quantity, which, along with the quantity for which Option clause may have already been exercised, does not result in the total quantity under the Option clause and the Repeat Order exceeding 50% of the originally ordered quantity.

5.6.2.1 There should be no repeat order clause for development/trial orders.

5.6.3 Option Clause

Under this clause, the purchaser retains the right to place orders for an additional quantity up to a specified percentage of the originally contracted quantity at the same rate and terms of the contract, during currency of the contract. This clause and percentage should be part of the Bid Document and the Contract and ideally should not exceed 25%. Approval should be taken from the CA (who originally approved the tender decision), after financial concurrence, to exercise the option clause based on the value of the contract with the increased quantity. In case the recalculated value of the contract goes beyond the delegation of powers of the original CA, approval of the CA for the enhanced value may be taken.

Normally, for raw materials/consumables of regular and year-on-year recurrent requirements, all tenders of value above Rs. 50 Lakh should invariably include this clause. However, the CA may approve the inclusion of such a clause in lower denomination tenders if such items have a history of frequent disruptions in continuity of supplies. The clause may be framed along following lines:

“The purchaser reserves the right to increase/decrease the ordered quantity by up to 25% at any time at the same rates and terms & conditions, till final delivery date (or the extended delivery date of the contract), by giving reasonable notice even though the quantity ordered initially has been supplied in full before the last date of delivery period (or the extended delivery period).”

The following points must be kept in mind while operating the option clause:

i) There should be no declining trend in the price of the stores and the performance of the contractor / supplier is satisfactory, as certified by the indenting department;

ii) If the option clause exists, during provisioning of the next cycle and during tender evaluation in the next cycle of procurement, application of the option clause must be taken into account;

iii) The option clause is normally exercised after receipt of 50% quantity but if the delivery period is going to expire and other conditions are fulfilled, it can be exercised even earlier;

iv) The option clause shall be exercised during the currency of the contract such that the contractor has reasonable time/notice for executing such an increase and can be exercised even if the original ordered quantity is completed before the original last date of delivery. If
not already agreed upon, the delivery period shall be fixed for the additional quantity on the lines of the delivery period in the original order. This will satisfy the requirement of giving reasonable notice to the supplier to exercise the option clause;

v) There should be no option clause in development orders;

vi) This provision can also be exercised in case of single supplier (OEM);

vii) However, where parallel contracts on multiple suppliers are available, care should be taken in exercising the option clause, so that the original tender decision of splitting quantities is not upset or vitiated.

5.6.4 **Buy Back Offer**

When it is decided with the approval of the Competent Authority to replace an existing old item(s) with a new and better version, the department may trade the existing old item while purchasing the new one. For this purpose, a suitable clause shall be incorporated in the bidding document so that the prospective and interested bidders formulate their bid accordingly.

Depending on the value and condition of the old item to be traded, the time as well as the mode of handing over the old item to the successful bidder should be decided and relevant details in this regard suitably incorporated in the bidding document. Further, suitable provision should also be kept in the bidding document to enable the purchaser either to trade or not to trade the item while purchasing the new one. It may be added that the write-off of old asset shall be the responsibility of the Indenter.

The bidder should be selected, based on technical suitability and lowest cost to HCL after considering both the offered price and the buyback offer.

5.7 **Rate Contracts**

5.7.1 It is recognized that it is often advantageous on commercial as well as technical grounds to finalize orders on Rate Contract (RC) basis for items/jobs which are procured/ executed regularly, repetitively and for items of proprietary nature. The RC is finalized where the total annual requirement of such items/ quantum of such jobs is large but not fixed. In the RC, neither quantity is mentioned nor is any minimum commitment guaranteed.

For entering into rate contracts/ long term contracts, the mode of tendering to be followed may be decided as per the nature of the job/item, the available sources, etc.

Thus, rate contract enquiries may be either Open Tender/ Limited Tender/ Single Tender depending upon the nature of item/ job and value.

5.7.2 While issuing LTE for rate contract, it should be ensured that only reliable manufacturers/ suppliers/ contractors of proven ability are entertained.

5.7.3 For purchase cases, rate contracts may also be entered into for items which are identified as of regular and repetitive consumption with the consent of the Indenter without waiting for the Indent, in order to ensure speedy processing. In such cases, complete and up-to-date drawings/ specifications of the items should be obtained before calling for tenders.
Orders in such cases as per the DOP should, however, be finalized only after receipt of relevant Indents and technical recommendations.

5.7.4 To the extent feasible, the firm may be asked to certify that the rates quoted by them are the same and not higher than those quoted with other Government, Public Sector or Private Organizations.

5.7.5 For matching items of an assembly, where the indenting departments so specify at the indenting stage, rate contracts are to be finalized on a single source on overall L-1 basis.

5.8 **Government e-Marketplace (GeM)** (https://gem.gov.in)

The Government e-Marketplace (GeM) platform was launched on 9th August, 2016 as an online, end to end solution for procurement of commonly used goods and services for all Central Government and State Government Ministries, Departments, Public Sector Units (PSUs) and affiliated bodies.

An on-line marketplace is a type of e-commerce site where product or services are offered by a number of sellers and the buyers can select the product/services offered by any one of the seller, based on his own criteria. In an online marketplace, Purchaser’s transactions are processed by the marketplace operator and then product/services are delivered and fulfilled directly by the participating retailers. Since online marketplaces aggregate products from a wide array of providers, selection is usually wider, availability is higher, and prices are more competitive.

The agency authorized by the Government has developed an online Government e-Marketplace (GeM) for common use goods and services. The procurement process on GeM is end to end from placement of supply order to payment to suppliers. This is to ensure better transparency and higher efficiency. All the process will be electronic and online.

The credentials of suppliers on GeM shall be certified by the authorized agency. The procuring authorities will certify the reasonability of rates.

GeM Portal: https://gem.gov.in

Detailed instructions for user organization registration, supplier registration, listing of products, terms & conditions, online bidding, demand aggregation, call centre etc. are available on this portal.


The purpose of this document is to establish a robust structure and basic set of rules that will guide the different facets of the GeM initiative across strategy and operations.

**Note:** The following have been amended by GoI vide Office Memorandum No. F.1/26/2018-PPD dated 2nd April, 2019:

“Government of India has established the Government e-Marketplace (GeM) for common use Goods and Services. GeM SPV will ensure adequate publicity including periodic advertisement of the items to be procured through GeM for the prospective suppliers. The procurement of Goods and Services by Ministries or Departments will be mandatory for Goods and Services available on GeM. The credential of suppliers on GeM shall be certified by GeM SPV. The procuring authorities will certify the reasonability of rates. The GeM portal shall be utilized by the Government buyers for direct on-line purchases as under:

(i) Up to Rs. 25,000/- through any of the available suppliers on the GeM, meeting the requisite quality, specification and delivery period.
(ii) Above Rs. 25,000/- and up to Rs. 5,00,000/- through the GeM Seller having lowest price amongst
the available sellers (excluding Automobiles where current limit of 30 Lakh will continue), of at
least three different manufacturers, on GeM, meeting the requisite quality, specification and delivery
period. The tools for online bidding and online reverse auction available on GeM can be used by the
Buyers even for procurements less than Rs. 5,00,000/-.  

(iii) Above Rs. 5,00,000/- through the supplier having lowest price meeting the requisite quality,
specification and delivery period after mandatorily obtaining bids, using online bidding or reverse
auction tool provided on GeM (excluding Automobiles where current limit of 30 lakh will continue).”

5.8.1 In case an organization directly procures rate contracted goods from suppliers, the prices to be
paid for such goods shall not exceed those stipulated in the rate contract and the other salient
terms & conditions of the purchase should be in line with those specified in the rate contract. The
organization shall make its own arrangement for inspection and testing of such goods wherever
required.

5.8.2 DPE vide O.M. No. DPE-7(4)/2007-Fin dated 4th May, 2020 has issued instructions to all the
CPSEs regarding on boarding TReDS portal to address the issue of regular availability of liquid
funds to MSMEs, particularly in reference to their trade receivables. Besides, DPE has also been
issuing guidelines to CPSEs since November, 2018 for mandatory on boarding on GeM portal
and to enhance the procurement through the same.

The instructions issued on the aforesaid matters are hereby compiled together as consolidated
guidelines to facilitate CPSEs to ensure compliance as under:

A. Trade Receivables Discounting System (TReDS):
   i) All CPSEs to register themselves and ensure mandatory on boarding of MSE vendors on TReDs
      portal.

   ii) All CPSEs to have a real time bill tracking system for MSEs like an ERP system with facility for
      uploading of bills by vendors and releasing payments, and

   iii) In order to enable the MSEs to avail the benefit of TReDS portal, the CPSEs will ensure that
      after the delivery of goods or rendering of services, the decision on acceptance/rejection of the
      goods and the respective bills/invoices will be taken within 15 days of the delivery of the goods/
      rendering of services. It is pertinent to mention that it is in line with Section 2 (ii) of Micro,
      Small and Medium Enterprises Development (MSMED) Act, 2006, wherein it is provided that
      in case no objection is made by the buyer regarding acceptance of goods and services within 15
      days from the date of delivery of the goods or the rendering of services, it would be treated as
      “deemed acceptance”.

   iv) All CPSEs must ensure that the payment of MSE vendor be made using online mode within the
      stipulated time period of the contract and not more than 45 days in any case, as provided in the
      section 15 of the MSMED Act, 2006.

B. Government e-Marketplace (GeM) Portal:
   i) All CPSEs to register themselves and ensure mandatory on-boarding of vendors on GeM portal.
ii) Procurement of common use goods and services are mandatory from GeM for which product/service categories are available on GeM. In case goods and services are not available on GeM, CPSEs may help registered suppliers on boarding GeM as when the item or service gets listed on GeM.

iii) Also, CPSEs planning to float any bid for procurement through Central Public Procurement Portal (CPPP) are required to give an undertaking that category of goods and services being tendered/procured are not available on GeM and they have no objection in providing this information for making available such products/services on GeM.

iv) To ensure effective implementation of these guidelines, a new provision of GeM Availability Report and Past Transaction Summary (GeMAR& PTS) is introduced on GeM portal. The provision is there to help and benefit Buyers and Competent Authorities in taking informed procurement decisions in respect of availability of a product/service on GeM along with necessary details relating to past transaction summary. Therefore, once operational, GeMAR&PTS will be a pre-requisite for floating a procurement bid outside GeM.

v) CPSEs to bring the requirements of creation of new categories for products and services on GeM through either of the two mechanisms available in the GeM portal: (a) Request Management System and (b) Module for crowd sourcing of categories and sellers.

vi) CPSEs to invite sellers to onboard GeM through the seller invitation module available in the GeM portal.

vii) CPSEs to comply with the instructions issued by DPE in the matter from time to time and in particular vide DPE OM of even number dated 12th February, 2020 forwarding therewith Department of Expenditure’s OMs dated 23rd January, 2020, regarding procedure for procurement of Goods/Services through GeM and due payments to Sellers/Service Providers in GeM through PFMS or by non-PFMS Agencies/Entities. These OMs will come into force on July 1, 2020.

viii) The stated procedure and timelines shall be strictly adhered to by the CPSEs to ensure all procurement through GeM portal and timely payments to vendors.

5.9 Emergency Purchase/ Job Contract

5.9.1 Provisions for emergency purchase/ job contract have to be kept to meet the emergency needs of the Units and it is essential to delegate powers to meet such situations particularly in maintenance, commissioning and break down jobs so as to keep the flow of production uninterrupted. In case of purchase, such emergency normally occurs when there is no stock in the Stores and chances of getting supplies against pending orders within the stipulated time schedule are remote.

Similarly, in case of job contracts, such emergency occurs when breakdown of equipment occurs and internal resources are not adequate to take timely action.

5.9.2 Due to the very nature of the requirements which has to be met in the shortest possible time, the normal process of tendering stipulated in this procedure cannot be followed. For emergency Indents, the mode of tendering and method of placement of order may, therefore, be adopted as per the specific requirements of the case and the time available for the placement of order and
getting materials/ execution of jobs. Approval of the Competent Authority shall be obtained for the specific mode of purchase and award of contract.

5.9.3 Emergency Purchase/Job Contract may also involve direct procurement by local purchase committee of 3 members constituted by Competent Authority as per DOP. However, this mode of procurement shall be used for procurements valued up to Rs. 2,50,000/- only on each occasion subject to approval of the competent authority. It would be mandatory for the purchase committee to obtain at least 3 quotations for finalizing the order after surveying the market and ascertaining reasonableness of rate, quality with proper recording as per Annexure-3.

5.9.4 Emergency Indents should be accompanied by non-availability & criticality certificates issued by the concerned HOD on prescribed format.

5.9.5 The materials may be procured from best possible sources and jobs be awarded to the reliable Contractor for such emergency procurement/job contract respectively. Formal purchase orders should be issued/contracts entered into, in due course for regularizing the emergent action taken.

5.9.6 Such direct purchases will be adjusted against annual budget of respective Departments. All emergency purchases and issues thereof are to be guided as per normal procedure like receipt of the material at Central Store, preparation of Receipt Vouchers and issues through Move Orders.

5.9.7 The Stores Department is required to maintain separate register of all the emergency purchases made by different departments.

5.9.8 Suitable report about the emergency purchases shall be submitted to Project Head on monthly basis. Quarterly reports shall be submitted to Corporate M&C department by respective Units and Offices. Emergency purchases undertaken shall also be updated in HCL website.

5.9.9 If the item/(s) is/are proprietary or standardized or from single source, quotation may be accepted through e-mail /fax enquiry.

5.9.10 In case of emergency purchase, the delivery against the regular order should be rescheduled to avoid unnecessary build up of inventory.

5.9.11 Same items shall not be normally procured more than once in three months under this mode.

5.10 Direct Procurement without Quotation

5.10.1 Direct procurement of goods without inviting formal quotations should normally be done for the smallest value procurements. This is also called petty purchase. This procedure is suitable in the following situations:

i) Procurements do not exceed the threshold (for each requirement) of Rs. 25,000/- on each occasion on the basis of a certificate to be recorded by the competent authority;
ii) The requirement is urgent but not covered under procurement plan;
iii) The requirement is for off-the-shelf goods of simple and standard specifications.
iv) The competent officer of the M&C/user department can initiate and complete such purchase after diligent enquiries from the market and filling the certificate in the following format: “I, am personally satisfied that these goods purchased are of the requisite quality and specification and have been purchased from a reliable supplier at a reasonable price.”
6.1 Mandatory e-Publishing of Tenders: It is mandatory to publish tender enquiries, corrigenda thereon and details of bid awards on the Central Public Procurement Portal (CPPP). These instructions shall apply to all Tender Enquiries, Request for Proposals (RFP), Requests for Expressions of Interest, Notice for Pre-Qualification/Registration or any other notice inviting bids or proposals in any form whether they are advertised, issued to limited number of parties or to a single party. These instructions would not apply to Purchase of goods without quotations or Purchase of goods by purchase committee.

6.2 Before issue of NIT, M&C Dept. / Contract Cell should ensure that desired information, particularly specifications/ commercial terms are available in the case file.

6.3 The PQC as detailed in the PRs/Indents (Para 2.2.3 c & 2.3.7) shall be specified in the Tender Document under special terms and conditions (Refer Annexure-4).

6.4 The M&C Dept. / Contract Cell shall determine/ record the relevant factors in addition to the price to be considered in Tender Evaluation and the manner in which they will be applied for the purpose of determining the lowest evaluated tender. These factors, other than the price, to be used for determining the lowest determinable bidder shall, to the extent practicable, be expressed in monetary terms or given relative weightage in the evaluation provisions in the Tender Document. No factors other than those specified in the Tender Document shall be used in the evaluation of offers at the time of preparing the Comparative Statement. This shall also form part of the Tender Document under special terms and conditions.

6.5 M&C Dept. / Contract Cell should also determine and record whether the quotations are to be invited on firm prices or are subject to price variation with respect to major cost component of the items/ jobs. In case the quotations are to be invited with price variation clause, the method to be used for determining the price variation and the base date for calculating the variation shall be clearly defined and referred in the Tender Document under special terms and conditions.

6.6 For purchases, clause for the submission of sample along with quotation be incorporated in the tender papers, if submission of sample was specifically asked for in the Indent (Para 2.8 be read along with this Para).

6.7 In case of medicines, chemicals and other items having limited shelf life, the left over shelf life of each item at the time of delivery should be at least 80%. In emergency, the left over shelf life equal to 120% of the consumption period of such items may be accepted with the approval of the Competent Authority.

6.8 For import cases, preferably the Tender Document should specify that the closing selling exchange rates ascertained from Reserve Bank of India or any authorized agency as applicable on the previous working day of the date of price bid opening shall be adopted for evaluation. However, where the purchase proposal is likely to be made after 60 days from the Price Bid Opening Date, the rate prevailing on the 61st day may
form the basis for preparation of the Comparative Statement and so on and so forth. However depending upon the case to case the dates may be fixed suitably with the approval of competent authority well before release of tender.

6.9 In case the ordered quantity of the purchase indent or jobs of the Job Contract are required to be split into more than one party at the time of placement of order, the same will be specified under special terms and conditions of the tender document with the ratio of distribution of tendered quantity. It should be clearly mentioned in the tender document that the distribution of order will be in the descending order as per the quoted price ranking of the tenderers, i.e., L-1 tenderer will get the highest share and the last ranked tenderer within which the total order is to be distributed, will get the smallest share. However, before opening of the price bids, specific number of parties among whom order would be split would be decided and approval of Competent Authority would be obtained. Order shall not be placed on more than these numbers of parties.

6.10 In the Tender document under general terms and conditions, it should be clearly specified that order on one or more than one parties will be placed on the basis of L-1 quotation. All the tenderers may be required to explain/ justify the basis of their quoted price as and when asked for. In case, any tenderer fails to justify his quoted price or refuses to cooperate in this regard, they will not be considered for participating in the re-tendering if order/ contract is not finalized from the present tender.

6.11 For job contract cases, there should be a stipulation in the tender documents under general terms and conditions that if a tenderer quotes unworkable rates i.e. if the quoted price is less than (-) 20% of the estimated price and is considered for placement of order, the party will be asked to justify the rate quoted. Proper justification should be recorded before recommending for issue of Contract. In such cases, in order to ensure proper execution of work by that L-1 bidder both in terms of quality and quantity, HCL may obtain an additional Performance Bank Guarantee from the party, equivalent to 10% of the differential amount of the estimated price and the quoted price. It should be stipulated clearly in the bidding document.

6.12 CONSIDERATION OF AGENTS: Wherever, foreign company / Indian manufacturer / supplier participate in the tender, purchases should preferably be made directly from the suppliers/ manufacturers. However, either the agent on behalf of the principal or the principal directly be permitted to bid in a tender, but not both. One agent cannot represent two suppliers/ manufacturers or quote on their behalf in a particular tender.

6.13 COMPULSORY ENLISTMENT OF INDIAN AGENTS: As per the Compulsory Enlistment Scheme of the Department of Expenditure, Ministry of Finance, it is compulsory for Indian Agents who desire to quote directly on behalf of their foreign manufacturers/principals, to get them enlisted with HCL as per laid down procedure. Moreover, the registration of the foreign manufacturer is not a must for enlisting the Indian Agent under the scheme. The onus for verifying the authenticity of the agency agreement or validity of the authority to import or compliance of any statutory requirements of import or the quality of stores to be supplied rests with the purchasers. The purchasers should exercise due diligence in this regard.

HCL shall also make it compulsory for Indian Agents who desire to quote directly on behalf of their foreign manufacturers/principals, to get them enlisted with HCL as per laid down procedure.

6.14 If items under purchase are the matching/ complimentary parts to be supplied by single party or items of work in the job contract to be performed by single contractor, it should be clearly specified in the tender document that total price of all such items/ items of work shall be evaluated for determining the reasonableness of the price.
In line with the CVC Circular No. 41/12/07 dated 4th December 2007, the prospective vendor / bidder / contractor and the buyer have to enter into an agreement not to exercise any corrupt influence on any aspect of a contract. Accordingly, HCL has drafted its own Integrity Pact as per the CVC Guidelines.

Depending on the nature of procurements/contracts, HCL has fixed the threshold value for entering into Integrity Pact as under:

- In case of job contracts: Rs. 10 Crore (Rupees Ten Crore)
- In case of purchases: Rs. 20 Crore (Rupees Twenty Crore).

A copy of the Integrity Pact duly signed by the authorized signatory on behalf of HCL has to be enclosed with the tender/ bid document. Non-signing of the Integrity Pact by the bidder will disqualify its offer/ bid. In other words, entering into this Pact would be a preliminary qualification. Following instructions shall be included in the tender/bid/ Contract documents, valuing above Rs.10 Crore in case of job Contracts and above Rs. 20 Crore in case of Purchase:

(a) The Bidder(s) / Contractor(s) is required to enter into an “Integrity Pact” with the Principal i.e. HCL. The Integrity Pact has to be signed by the Proprietor / Owner / Partner / Director or by their duly authorized signatory. In case of failure to return the Integrity Pact along with the offer / bid, duly signed by the authority as mentioned above, will disqualify the offer / bid.

(b) In the tender documents it should be specified that the Bidder(s) / Contractor(s), if feel aggrieved, may raise complaints / pass on information, if any, to the Competent Authority / Operating Authority of the Tender / Contract and/or to the Independent External Monitor (IEM), HCL and/or to the Chief Vigilance Officer (CVO), HCL.

CVC vide Circular No. 015/VGL/091 dated 13.01.2017 has formulated a revised Standard Operating Procedure (SOP) for adoption of Integrity Pact in Government Departments/Organizations. In terms of compliance to the above revised SOP, CVC vide its Circular No. 007/VGL/033/396514 dated 28.09.2018 has issued the revised Integrity Pact for guidance, which may be used with suitable modifications to meet the individual organization’s requirements for Integrity Pact. A copy of the above mentioned revised SOP for Integrity Pact is annexed as a reference, with the manual as Appendix-4.
8.0 PREPARATION OF BID DOCUMENTS

8.1 The text of the bid document should be self-contained and comprehensive without any ambiguity. All essential information, which a bidder needs for sending responsive bid, should be clearly spelt out in the bidding document in simple language. Bid documents should be based on Standard Bidding Documents (SBDs) relevant for the category of procurement.

8.2 Till SBDs are developed for each category, complete in itself but may be slightly different for various categories of procurements, any bid documents should necessarily address all aspects enumerated at Sl. No. (i) to (x) below:

i) Description of the subject matter of procurement and its specifications including the quantity, time and place (s) of delivery;
ii) Limitation or preference for participation by bidders in terms of Government policies;
iii) The criteria for eligibility and qualification to be met by the bidder
iv) There are no such qualifications for the bidders that would be advantageous to the foreign manufactured goods at the cost of domestically manufactured goods;
v) The procedure as well as date, time and place for obtaining, submitting and opening of the bids;
vi) Suitable provisions for enabling a bidder to question the bidding conditions, bidding process and/or rejection of its bid. These provisions should include a time frame in which the procuring entity will address the bidder’s questions related to the tender;
vii) Criteria as well as factors to be taken into account for evaluating the bids on a common platform, and the criteria for awarding the contract to the suitable bidders;
viii) Suitable provision for settlement of disputes, if any, emanating from the resultant contract;
ix) Inclusion of a clause that “if a firm quotes NIL charges/consideration, the bid shall be treated as unresponsive and will not be considered”;
x) Essential terms of the procurement contract including a suitable clause mentioning that the resultant contract will be interpreted under Indian Laws.

8.3 Contents of Tender Documents
i) Notice Inviting Tender (NIT);
ii) Instructions to Bidders (ITB);
iii) Eligibility and Pre-Qualification Criteria (PQC);
iv) Schedule of requirement;
v) Technical specifications (including drawings) and Quality Assurance;
vi) General Conditions of Contract (GCC);

vii) Special Conditions of Contract (SCC);

viii) Standard Formats, including Bid Cover Letter, Price Schedules, Bank Guarantees and Contract Format

8.4 Format for quoting prices, wherever applicable, shall be provided with the NIT.

8.5 Information to Bidders (ITB) in the Bid document shall include the following clauses, wherever applicable:

i) Purchase Preference Policies: When it is intended to give a purchase preference in line with current Govt. policies;

ii) Pre-Bid meeting if so required;

iii) Clarification of Tender Documents: When a bidder requires clarification on the tender document in writing, well before the due date of bid submission, a response to the same will be sent in writing to the clarifications sought prior to the date of opening of the tender. Copies of the query and clarification shall be sent to all prospective bidders including those who have received the tender doc;

iv) Amendment of Tender Documents: At any time prior to the date of submission of bids, the purchaser may, whether at its own initiative or in response to a clarification sought by a prospective bidder, amend the bid document by issuing a corrigendum on its website as well as publishing on CPP Portal. Sufficient time should be provided for response in case of issue of corrigendum, by extension of the bid submission date, if felt necessary;

v) Bid Validity: In exceptional circumstances, the consent of the bidder may be requested in writing for an extension to the period of bid validity. Such requests should preferably be made much before the expiry of the bid validity. The bid security provided shall also be suitably extended. However, a bidder accepting the request and granting extension shall not be permitted to modify its bid;

vi) Sealing and Marking of Tenders: Whereas e-tendering will be the acceptable mode of tendering, in exceptional circumstances, wherein with the approval of the competent authority, bid documents are to be submitted in physical form, the following clause will be applicable.

The tender document shall indicate the total number of tender sets (for example, in duplicate or in triplicate etc.) required to be submitted, The tenderer is to seal the original and each copy of the tender in separate envelopes, duly marking the same as “Original”, “Duplicate” etc, and also writing the address of the purchaser office and tender reference number on each envelope. These envelopes are then to be put inside a bigger envelope, which will also be duly sealed marked as above. All the above instructions are to be suitably incorporated in the tender document;

vii) Withdrawal, Substitution and Modification of Tenders: The tenderer, after submitting the tender, is permitted to withdraw, substitute or modify the tenders in writing without forfeiture of EMD/Bid Security, provided these are received duly sealed and marked like the original tender, only up to the date and time of receipt of the tender. No bid may be withdrawn in the interval between the deadline for submission of bids and expiration of the period of bid validity. Withdrawal of the bid during this period will result in forfeiture of the bidder’s bid security (EMD) and other sanctions;
viii) **Conflict of Interest among Bidders/Agents:** A bidder shall not have conflict of interest with other bidders. Such conflict of interest can lead to anti-competitive practices to the detriment of the purchaser's interest. The bidder found to have a conflict of interest shall be disqualified. A bidder may be considered to have a conflict of interest with one or more parties in the bidding process, if:

a) They have controlling partner(s) in common; Or
b) They receive or have received any direct or indirect subsidy/financial stake from any of them; Or
c) They have the same legal representative/agent for purposes of this bid; or
d) They have relationship with each other, directly or through common third parties; Or
e) The bidder participates in more than one bid in this bidding process, which would result in their disqualification of all bids in which the parties are involved and/or such applicant has the same authorized signatory for the purposes of this bid as any other applicant or an applicant or member (in case of consortium or joint venture) of such applicant/ bidder is also a member of another applicant/ bidder; Or
f) A Bidder or any of its affiliates (i) participated as a consultant in the preparation of any document, design or technical specifications of the contract that is the subject of the bid; or (ii) has been engaged as legal, financial or technical adviser of HCL for this project; or (iii) has been engaged by the applicant, its member or any of its constituents in any manner for matters related to or incidental to this project during or prior to the bidding process up to the signing of the agreement; Or
g) Such Applicant, its Member (in case of Consortium) or any of the Constituents and any other Applicant, its member or any of its Constituents have cross HCL interest in HCL; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of an applicant, its members or any of its constituents in the other applicant, its member or any of its constituents is less than 10% (ten percent) of its paid up and subscribed shares; Or
h) A Bidder or any of its affiliates has been hired (or is proposed to be hired) by the employer as engineer (or construction supervision consultant) for the contract; or
i) A consultant appointed to prepare engineering design of any project shall not be appointed as a consultant to prepare environmental assessment of the same project; or
j) A consultant on the privatization of any enterprise owned by the Government shall not be appointed as a consultant of the buyer of such assets nor shall such consultant be allowed to purchase such assets in the name of his or her close relative or a partner in his or her name (provided that, this provision shall not apply to a turnkey contract or design and build contract
k) In case of a holding company having more than one independently manufacturing units, or more than one unit having common business ownership/management, only one unit should quote. Similar restrictions would apply to closely related sister companies. Bidders must proactively declare such sister/common business/management units in same/similar line of business.

All aspects related to selection and employment of consultants and submission of bids by them as specified in CVC Circular No. 08/06/11 dated 24.06.2011 will be applicable.
8.6 Invitation to the tender, including instructions to tenderers, should be issued in prescribed proforma updated from time to time by M&C department, CO. The invitation to tender should include general terms and conditions of contract of HCL as applicable to the case, i.e., (i) for purchases only, (ii) for other contracts. The tender documents should include detailed specifications and wherever applicable the Standards for specifications and drawings, etc.

8.7 The special terms and conditions applicable to supplies/ contracts such as stipulations made under Para 6.3 to 6.14 along with conditions for inspection, testing, acceptance and performance guarantee should be clearly defined and made part of the tender documents.

8.8 (a) The Integrity Pact has to be typed on plain paper and should be enclosed along with tender/ bid/ EOI documents after signing by the authorized signatory of M&C department.

(b) In case of uploading the tender/ bid/ EOI documents in website, Integrity Pact also has to be necessarily uploaded with either digital signature of the authorized signatory as mentioned above or after scanning of the signed copy of the Pact.

8.9 **Cost and Availability of Tender Documents**

The complete tender documents should be made available for download and this should be clearly indicated in the documents. In order to promote wider participation and ease of bidding, no cost of tender document should be charged for the tender documents downloaded by the bidders.
9.0 METHODS FOR CALLING TENDERS (BIDDING SYSTEMS)

9.1 The following types of bidding systems should be used depending on the complexity and criticality of technical requirement, criticality of capability of source and value of procurement:

9.1.1 Single Stage Bidding System

I) Single Stage Single Envelop System: It should be adopted where qualitative requirements and technical specifications stipulated in the tender documents are clear, well defined and non-negotiable, capability of source of supply is not too crucial and value of procurement is low or moderate. In this bidding system, eligibility, technical/commercial and financial details are submitted together in the same envelop. The conditional bids, i.e., bids not adhering to the tendered technical and commercial terms, will be rejected. The price bids of those tenderers, who quote as per the technical/commercial terms of the tender, will be considered for evaluation.

II) Single Stage Two Envelops System (Two Bid System): It should be adopted in technically complex requirements but where capability of source of supply is still not crucial and value of procurement is not low. In this method, the tenderers should be asked to bifurcate their quotations in two separate sealed envelops i.e. Part-I (Techno-Commercial Bid) and Part-II (Price Bid).

i) The first envelop (Part-I), called the Techno-Commercial Bid, contains the eligibility, technical quality and performance aspects, commercial terms and conditions and documents sought in the tender, except the price and relevant financial details;

ii) Generally in complex tenders, all technical parameters and techno-commercial conditions should be settled by holding pre-bid meetings so as to ensure that after opening of the techno-commercial bids, no fresh financial bids are invited at all;

iii) The techno-commercial bids should be opened first on the bid opening date & time, and scrutinized and evaluated by the Tender Committee (TC) with reference to the parameters prescribed in the tender documents, in order to decide responsive, eligible and technically compliant bidders;

iv) Thereafter, in the second instance, the financial bids (Part-II) of only the techno-commercially compliant offers (as decided in Para iii above) should be opened on a pre-announced date and time for further scrutiny, evaluation, ranking and placement of contract. The financial bids of technically non-compliant bidders should be returned unopened to the respective bidders by registered acknowledgement due/reliable courier or any other mode with proof of delivery. In e-Procurement, financial bids of technically non-complaint offers would not get opened.
III) **Single Stage Multiple Envelops System with pre-qualification:** It should be adopted where the procurement is moderately complex and the time and effort required from the bidder to participate in a tender is not very high, instead of a separate stage of Pre-Qualification bidding, a clear-cut qualification criteria can be asked to be submitted as the first envelope in a three envelop single stage bidding so that a bidder’s risk of having his bid rejected on grounds of qualification is remote, if due diligence is exercised by him. In this single stage bidding system, the bidders are asked to submit three (3) sealed envelopes separately as under:

i) Part-I envelop of the tender comprising Pre-Qualification offer (also containing EMD and other eligibility documents);

ii) Part-II envelop of the tender comprising technical & commercial offer, which shall be covering all terms except Price Bid;

iii) Part-III envelop of the tender comprising Price Bid only.

In the first instance on the bid opening date, only Part-I envelop is opened and evaluated to shortlist the responsive bidders who pass Pre-Qualification. Rest of procedure is same as two envelop system for only qualified bidders. Rest envelops of unqualified bidders should be returned unopened to the respective bidders by registered acknowledgement due/reliable courier or any other mode with proof of delivery.

9.1.2 **Two Stage Bidding System (Expression of Interest Tenders)**

This system should be adopted where the equipment/plant to be procured or outsourcing of job is of complex nature and the procuring entity does not possess the full knowledge of either the various technical solutions/knowhow available or the likely sources for such products in the market. In this system, a two-stage Expression of Interest (EoI) Bids should be invited to explore the market and to finalize specifications/methodology/knowhow/terms & conditions based on technical discussions/presentations held with the experienced manufacturers/suppliers/contractors in a transparent manner. EoI should be invited in following situations:

i) It is not feasible for the procuring entity to formulate detailed specifications or identify specific characteristics for the subject matter of procurement/job contract, without receiving inputs regarding the technical aspects from the prospective bidders;

ii) The character of the subject matter of procurement/job contract involves technological advances from time to time and/or new technology and details of such technology are not fully known in HCL or market fluctuations;

iii) The bidder is expected to carry out a detailed survey or investigation and undertake a comprehensive assessment of risks, costs and obligations associated with the particular procurement/job contract;

iv) Tender specifications are required to be finalized in consultation with the prospective bidders by calling bidder’s conference after receipt of pre-qualification bid;

v) Prospective bidders are to be identified before issuance of tender document in order to save time in processing the tender.
9.1.3 The procedure for two stage bidding shall include the following:

i) In the first stage of the bidding process, the procuring entity shall invite EoI bids containing the broad objectives, technical & financial eligibility criteria, terms & conditions of the proposed procurement/job contract etc. without a bid price;

ii) On receipt of the EoI, technical discussions/presentations should be held with the short-listed parties, which are prima facie considered technically and financially capable of supplying the material or executing the proposed work, giving equal opportunity to all such bidders. Short listing is to be done not on qualitative/subjective basis, but based on evaluation against predetermined quantifiable terms;

iii) During these technical discussions stage, the procurement entity may also involve other stakeholders in the discussions who could add value to the decision making on the various technical aspects and evaluation criteria. Proper record of discussions/presentations and the process of decision making should be kept;

iv) In revising the relevant terms and conditions of the procurement/job, if found necessary as a result of discussions with the shortlisted bidders, the procuring entity shall not modify the fundamental nature of the procurement/job itself;

v) In the second stage of the bidding process in response to revised set of terms and conditions, the procuring entity shall invite final bids with bid prices from all those bidders whose bids at the first stage were not rejected.

vi) Any bidder, invited to bid but not in a position to supply the item/execute the work due to modification in the specifications or terms and conditions, may withdraw from the bidding proceedings without forfeiting any bid security that he may have been required to provide or being penalized in any way;

vii) If the procuring entity is of the view that after EoI stage, there is likelihood of further participation by other bidders, the second stage bidding may not be restricted only to the shortlisted bidders of EoI stage and it may be so declared in the EoI document. Thereafter in the second stage, normal OTE/GTE bidding may be done. Such variant EoI is called ‘Non-committal’ EoI.

9.2 The tenderers shall be instructed to keep each part (as detailed above) in a separate sealed cover, clearly super scribing on the top of each envelope the relevant part number and description along with tender reference number and date of opening and submit all the parts simultaneously in a bigger sealed cover clearly super scribing on the top of that the tender reference no. and the date of opening.

9.3 The price bids shall be opened only after the Techno – Commercial terms have been settled and samples wherever applicable, are approved.

9.4 The following are the indicative time periods to be allowed for submission of bids by the tenderers from the date of publication of tender notice, which may vary depending upon the nature of items to be procured, the nature of work involved in the contract, delivery/completion period etc.:
i) Limited Tender: Min. 15 days from the date of issue of enquiry

ii) Open Tender: Min. 21 days from the date of publication

iii) Global Tender: Min. 30 days from the date of publication

For shorter bid submission period due to exigencies, it would require a higher level approval with recorded reasons.

9.5 Withdraw/Amendments/Modifications to Bids by Bidders

The tenderer, after submitting its tender, should be permitted to withdraw / alter / modify its tender so long such withdrawal/alterations/modifications are received duly sealed and marked like original tender, up to the date & time of receipt of tender. Any withdrawal/amendment/modification received after the prescribed date & time of receipt of tenders are not to be considered.

9.6 Submission, Receipt and Custody of Tenders

In e-Procurement, all tenders uploaded by tenderers are received, safeguarded and opened online on the portal. In offline tenders, receipt and custody of bids should be done in a transparent manner to maintain the credibility of the process. The following guidelines should be adhered to for receipt and custody of bids for off-line tenders:

i) The M&C department/Contract Cell shall maintain tender boxes for receiving the bids at suitable locations which would facilitate security and easy access to bidders. The tender box shall have two locks. Key of one lock shall be with the head of M&C department/Contract Cell and the key of other lock with the official nominated by him;

ii) Bids received by courier/registered post shall be deposited either to the head of M&C department/Contract Cell or his nominated officer or dropped in the tender box by the Dispatch Section after stamping date & time of receipt of the bid on the envelope. The nominated officer of M&C Department/Contract Cell shall be overall responsible to ensure that the bids received through courier/registered post till the due date & time of bid submission are duly put in the tender box;

iii) For bulky/oversized bids which cannot be dropped into tender box, the officials authorized to receive such bids shall maintain proper records and provide a signed receipt with date & time to the bearer of the bid. He will also sign on the cover, duly indicating the date & time of receipt the tender. Names and designations of at least two such authorized officers should be mentioned in the bid documents.

iv) FAX/verified e-mail quotations are not considered as valid quotations against competitive bidding (viz. LTE, OTE & GTE). However in case of STE, quotations received thro’ Fax/E-mail shall be considered as valid.

v) After due date & time of tender submission on the day, the tender box should be sealed.
10.0 ELECTRONIC PROCUREMENT (E-PROCUREMENT)

It is mandatory to receive all bids through e-Procurement portals in respect of all procurements/job contracts. These instructions will not apply to procurements made through approved rate contracts. There are e-Procurement service providers in Public Sector (e.g. NIC) and Private Sector which can be utilized for e-Procurement. A service provider should be engaged to provide an e-Procurement system covering the following:

i) All steps involved starting from hosting of tenders to determination of techno-commercially acceptable lowest bidders (highest bidder in case of sale);

ii) The system archives the information and generates reports required for management information system/decision support system;

iii) The system arranges and updates the Digital Signature Certificate (DSC) for Departmental users;

iv) Availability of different documents and formats and so on, required for providing e-Procurement systems; and

v) Provision of a helpdesk for online and offline support to different stakeholders.

At present HCL’s e-Procurement service provider is NIC. All on-line bids are to be received only through HCL’s service provider, NIC under CPP Portal.

10.1 SUBMISSION OF HARD COPIES

i) The bidders shall upload in e-procurement system the scanned copies of BG or RTGS / NEFT ref. no. towards EMD, certificates/documents in support of eligibility criteria as stipulated in NIT/Tender document, which shall be the primary requirement to consider bid responsive.

ii) M&C dept. shall carry out techno-commercial evaluation based on uploaded certificates/documents, BG (or RTGS/NEFT ref. no.) towards EMD etc. in the e-procurement system.

iii) M&C dept shall notify the responsive bidders for submission of original hard copies of all uploaded docs, BG towards EMD etc. for verification, if required, allowing them 10 days time from bid opening date.
Immediately after the deadline for bid submission, M&C Department / Contract Cell should proceed to the bid opening. In e-Procurement, bids are opened online. In case of e-tendering, the concerned authorized executive of M&C/Contract department shall open on-line bids on the scheduled date.

i) The authorized representatives of bidders, who intend to attend the on-line tender opening in STE/LTE/OTE/GTE are to bring with them letters of authority from the corresponding bidding organization;

ii) Erasure/cutting/overwriting/use of whitener/columns left blank in the uploaded documents, if any, should have the initials of the bidders with date;

iii) The authorized executive of M&C/Contract department after opening the on-line bids should announce the salient features of the bids such as description of goods/jobs, quoted price, terms of delivery, discount, if any, EMD furnished or not, and any other special feature of the bid for information of the bidder representatives attending the on-line bid opening. No clarifications by tenderers should be entertained or allowed to be recorded during the bid opening. The authorized representative of M&C/Contract department has no authority to reject any bid at the on-line opening stage;

iv) Proper sealing and codification need to be done on samples, wherever such conditions are a pre-requisite as per bidding document. These should be kept under lock and key for reference;

v) Documents related to money should be noted in the on-line bid opening report/register and handed over to Finance for safe custody and monitoring;

vi) The on-line bid opening report containing the names of bidders and other relevant features of the tenders should be prepared by the authorized representative of M&C/Contract department, and duly signed along with date & time. The on-line bids opened, list of the bidder representatives attending the on-line tender opening, and bid opening report should thereafter be handed over to the nominated officer of M&C Department/Contract Cell;

vii) FAX/verified e-mail quotations are not considered as valid quotations against competitive bidding (viz. LTE, OTE & GTE). However in case of STE, quotations received thro’ Fax/E-mail shall be considered as valid;

viii) For opening the on-line bids, a minimum of X+2 offers should have been received (‘X’ is the number of supplier/contractor on whom order is to be placed);

If the offers received are less than x+2, either the due date shall be auto extended as per the guidelines issued
by the on-line bid service provider or the same can be opened depending upon the situation/urgency. While the due date shall be auto extended as per relevant provisions made by the service provider under intimation to the head of M&C department, opening of less than x+2 offers would require administrative approval of the competent authority, depending upon the situation and to meet the urgencies. Information regarding extension shall be sent simultaneously to all the prospective bidders including the bidders from whom the offers are already received, by E-mail and shall also be put on HCL and CPP Portal. In such cases the bidders who have already submitted their bids will have option either to continue with their existing bid or to submit revised bid;

ix) Offers received against Single Tender cases can be opened before or after the tender opening date by the M&C Department/Contract Cell. Where the offer is received after the tender opening date such offer will not be considered as late/ delayed offer in respect of STEs;

x) Unsolicited Tenders: Tenders submitted by firms to whom tender enquiries were not issued in case of LTE will be considered as unsolicited. Similarly the tenders received from firms who have not paid the tender fee (wherever stipulated in the NIT) in case of OTE shall be considered as unsolicited. Unsolicited tender after opening will not be considered. However, in case of LTE issued to registered manufacturers, a tender received from the authorized dealer of the registered manufacturer along with the authorization letter of the manufacturer to whom the enquiry was originally issued shall not be considered as unsolicited;

xi) Where for any reason the due date and/or time of opening the on-line bids is extended, the M&C Department/Contract Cell shall intimate all the firms through e-mail to whom the tender papers had been sent irrespective of the number of quotations already received, the revised tender opening date and time;

xii) Where party/parties request for extension in tender submission date and/or time, the extension may be allowed on case to case basis with the approval of the Head of M&C department after recording the reasons;

xiii) Such information regarding extension shall be sent simultaneously to all the prospective suppliers including the bidders from whom the offers are already received, by E-mail and shall also be hosted in HCL website and CPP Portal. In such cases the bidders who have already submitted their on-line bids will have option either to continue with their existing bid or to submit revised bid;

xiv) Delayed/ Late Tenders will not be opened;

xv) Tenders not accompanied by requisite Earnest Money, wherever it is stipulated in the tender condition, shall be treated as invalid.

xvi) It shall be the responsibility of the authorized representative of M&C/Contract department to ensure that Integrity Pact duly signed as mentioned earlier, has been uploaded by the Bidder(s)/ Contractor(s) along with their on-line bid, wherever stipulated in the bidding document. Non–receipt of the same, shall lead to outright rejection of such offer / bid.

xvii) The price bids shall be opened in the presence of bidders who might choose to be present at the time of on-line bid opening. The dealing officer will evaluate the price bids of the short listed parties.

(A sample ‘Bid Opening Attendance Sheet cum Report’ is shown at Annexure-5).
A bid shall remain valid for the period as mentioned in the Tender Notice/Tender Document. Normally it should be between 60 - 90 days for LTE and between 120-180 days for OTE/GTE. In exceptional circumstances, the consent of the bidder may be requested in writing for an extension to the period of bid validity. Such requests should preferably be made before the expiry of the bid validity. The bid security provided shall also be suitably extended. A bidder accepting the request and granting extension shall, however, not be permitted to modify his bid.
CONSTITUTION OF TENDER EVALUATION COMMITTEE (TEC)

13.1 In case of procurement tenders valuing Rs. 5.00 Lakh and above against STE and valuing Rs. 10.00 Lakh and above against other tenders, the Tender Evaluation Committee (TEC) should be constituted with the approval of the Competent Authority, immediately after e-publishing of tender.

In case of Job Contracts/Service Contracts, TEC should be constituted with the approval of the Competent Authority for the tenders valuing Rs.5.00 Lakh and above.

TEC in the above cases shall be constituted based on estimated value of the tender. The Competent Authority may constitute ‘Standing Tender Evaluation Committee’, based on estimated value of the tender, comprising of Executives of appropriate level from the User/Indenting department, Finance department and M&C/Contract department. The Standing TEC shall also include alternate members from each of the above departments, who shall attend meetings in absence of the primary members, as and when such a situation arises, in order to ensure timely completion of bid evaluation process. In this regard, a proposal shall be initiated by the heads of M&C/Contract department for constitution of Standing TEC in the Units and Offices for approval of the Competent Authority.

13.2 The functions of the TEC would be as under:

a) Scrutinize the Technical and Commercial part of the tender and conduct clarification meetings with the tenderers;

b) TEC, if required, may constitute sub-committees and/or engage consultants and monitor progress made by them. In case of engagement of consultants, the same shall be with the approval of the competent authority;

c) Examine the recommendations of sub-committees and consultants, wherever constituted/engaged;

d) Provide recommendations to open the price bids of the qualified bidders after freezing the Technical and Commercial terms &conditions;

e) Evaluate price bids, conduct negotiation with L-1 tenderer, if required, under exceptional situations with the approval of Competent Authority, and shall put up the recommendations for order placement after justifying the reasonability of the price.

TEC should complete the scrutiny and give the recommendations to the Competent Authority within a period of max. 30 days from the date of opening of the tender in case of LTE and within a period of max. 60 days from the date of opening of the tender in case of OTE/GTE.

13.3 Return of Unopened Price Bids: The unopened price bids of the parties whose offers are not techno-commercially accepted should be returned by M&C Department/Contract Cell to the parties within 10 (ten) days from the date of price bid opening by Regd. Post or Speed Post.
14.1 Earnest Money Deposit (also known as Bid Security) is aimed at protecting the organization against irresponsible offers. Also to safeguard against a bidder's withdrawing or altering its bid during the bid validity period in case of all LTE, STE (Non proprietary), OTE & GTE tenders, EMD should be obtained from the bidders along with their bids;

14.2 Non requirement of EMD, if any, in any of the above tenders should be decided on case to case basis, after recording reasons, by M&C Department/Contract Cell with the approval of Competent Authority;

14.3 The amount of EMD should generally be between 2 to 5% of the estimated value of the goods to be procured, and such amount of EMD, rounded off to the nearest thousands of Rupees, as determined by the procuring entity, is to be indicated in the bidding document. The Procuring Entity in HCL may, however, keep lower of the above range i.e. 2% of the estimated value of the goods/services as the EMD, subject to a maximum of Rs. 50.0 Lakh.

14.4 No request for adjustment of earlier dues in place of EMD should be entertained

14.5 The following are exempted from paying EMD:

- Public Sector Undertakings /Govt. Dept./Govt. Institutions
- Micro and Small Enterprises registered with MSME Udyogaadhar Memorandum (UAM), Districts Industries Centers (DICs) / Khadi& Village Industries Commissions (KVIC) / Khadi& Village Industries Board (KVIB) / Coir Board/ NSIC/ Directorate of Handicrafts and Handloom or any other body specified by Ministry of Micro, Small & Medium Enterprises up to the extent of their monetary limit.

For MSEs, the exemption from paying EMD is to be granted only for the items for which they are registered with the concerned authorities.

- Original Equipment Manufacturers (OEMs).

14.6 EMD may be obtained on-line through NEFT/RTGS from the bidders in an acceptable form, safeguarding HCL's interest in all respect. However, in case the EMD amount is more than Rs. 5.00 Lakh and in case of foreign bidders in GTE tenders, it may also be allowed in the form of a Bank Guarantee (BG), issued/confirmed from any Schedule Commercial Bank in India as per HCL's Format enclosed with the bidding document.

14.7 The EMD should normally remain valid for a period of 45 (Forty Five) days beyond the final bid validity period;
14.8 In appropriate cases, submission of EMD may be waived with the Competent Authority’s approval, especially in the case of indigenization/development tenders, limited tenders and procurements directly from the manufacturer or authorized agents. Waiver of EMD, however, will only be an exception and with the specific approval of the competent authority based on cogent reasons;

14.9 A bidder’s EMD will be forfeited if the bidder withdraws or amends its tender or impairs or derogates from the tender in any respect within the period of validity of the tender or if the successful bidder fails to furnish the required Performance Security within the specified period.

14.10 For low value contract cases of perennial nature, HCL Units may give option to the valid registered contractors for deposition of onetime non-adjustable EMD, to be decided locally with the approval of the Unit Head. However, no interest shall be payable on such deposits.

14.11 EMD of the unsuccessful bidders should be returned to them at the earliest after expiry of the final bid validity period and latest by the 15th day after award of the contract. EMD should be refunded to the successful bidders on receipt of Performance Security. In case of discharge of tenders or for bidders, who are disqualified during processing of the bid, EMD is to be refunded (in case there is no forfeiture as per Para 14.9) within 7 days of such decision.

14.12 Information regarding receipt/ non-receipt of EMD, wherever applicable in the tender, would be recorded by TC/ dealing officer of M&C department where no TC is constituted and scrutinized by Finance during concurrence.
15.0 PERFORMANCE SECURITY DEPOSIT

15.1 To ensure due performance of the contract, Performance Security (or Performance Bank Guarantee (PBG) or Security Deposit (SD) should be obtained from the successful bidder awarded the contract.

15.2 Unlike contracts of Works and Plants, in case of contracts for Goods, the need for the Performance Security depends on the market conditions and commercial practice for the particular kind of goods.

15.3 The successful Tenderer shall deposit an amount equivalent to 10% of the Total Work Order Value in case of job contracts/transportation contracts towards Security Deposit. Out of this, the Initial Security Deposit will amount to 5% of the Total Work Order Value. The Initial Security Deposit is to be deposited by the successful Tenderer within 14 (Fourteen) days from the date issue of Letter of Intent in the shape of Bank Draft/Bankers Cheque/Bank Guarantee from a Scheduled Commercial Bank except Co-operative and Gramin Bank. In case of Bank Guarantee, it has to be as per HCL’s prescribed format.

15.4 Payment to the contractors shall be kept withheld till receipt of Performance Security/Security Deposit.

15.5 The Security Deposit equivalent to the balance 5% of the Total Work Order Value will be recovered from the progressive bills of the Contractor@ 7.5% from each RA bill.

15.6 In case of procurement/supply purchase orders, SD shall be 5% of basic order value.

15.7 The Security Deposit shall bear no interest and refund will be as per provision.

15.8 The method of submission of Bank Guarantee is as below:

   i) The bank guarantees issued by the issuing bank on behalf of the successful bidder in favour of Hindustan Copper Limited (HCL) shall be in hard copy in original on stamp paper as well as Structured Financial Messaging System (SFMS).

   ii) HCL has chosen State Bank of India to act advising/beneficiary bank of HCL. The bank issuing the guarantee should choose this bank to send confirmation through SFMS.

   iii) The details of beneficiary (i.e. HCL) for issue of bank guarantee through SFMS platform is as furnished below:
       State Bank of India as Advising Bank of HCL
### Name and Details of Beneficiary

<table>
<thead>
<tr>
<th>I</th>
<th>Name</th>
<th>Hindustan Copper Limited</th>
</tr>
</thead>
<tbody>
<tr>
<td>II</td>
<td>Address</td>
<td>Tamra Bhawan</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1, Ashutosh Chowdhury Avenue, Kolkata-700019</td>
</tr>
<tr>
<td>III</td>
<td>Area</td>
<td>Kolkata 700019</td>
</tr>
<tr>
<td>IV</td>
<td>Name of Bank</td>
<td>State Bank of India</td>
</tr>
<tr>
<td>V</td>
<td>Bank A/C No.</td>
<td>10373629348</td>
</tr>
</tbody>
</table>

### Beneficiary’s Advising Bank, Branch and Address for BG Confirmation through SFMS

<table>
<thead>
<tr>
<th>I</th>
<th>Name of Bank</th>
<th>State Bank of India</th>
</tr>
</thead>
<tbody>
<tr>
<td>II</td>
<td>Name of the Branch of the Bank</td>
<td>CAG Branch Kolkata</td>
</tr>
<tr>
<td>III</td>
<td>MICR Code</td>
<td>700002199</td>
</tr>
<tr>
<td>IV</td>
<td>IFSC Code</td>
<td>SBIN0009998</td>
</tr>
<tr>
<td>V</td>
<td>Address of the Branch of the bank</td>
<td>34, J L Nehru Road, Reliance House, Kolkata 700071</td>
</tr>
</tbody>
</table>

iv) The Successful bidders are required to take note of it that above particulars are to be incorporated by the issuing bank properly while issuing the Bank Guarantee under SFMS mode to avoid any future problem in accepting the BGs.

v) The Guarantor (BG issuing bank) shall send information about issuance of this Guarantee through SFMS gateway to the State Bank of India, CAG Branch Kolkata (IFSC- SBIN0009998), to aid in the process of confirmation of Bank Guarantee.

vi) The BG shall also have a clause that “The BG shall be operable including encashment at issuing bank’s any local branch in Kolkata.”

vii) The Original Bank Guarantee issued by the outstation bank shall be sent by the Issuing Bank to the Hindustan Copper Limited at Kolkata by Speed Post /Registered Post (AD).

15.9 The Company shall be at liberty to deduct and appropriate from the Security Deposit such penalties and dues as may be payable by the Contractor under the contract and the amount by which the Security Deposit shall get diminished will be made good by further deduction from the Contractor’s subsequent bills in the same manner as aforesaid until the security deposit is restored to its full limit mentioned above.

15.10 The Company shall have the full right to forfeit and appropriate the security deposit on breach of any of the terms and conditions laid down herein or will be applicable in future, without prejudice to the rights of the Company or otherwise available under the law.

15.11 Any dues of the Company against the Contractor under the contract resulting from award of work to some other agency at the risk and cost of the Contractor shall be adjustable against the security deposit and if SD is insufficient, the same shall be recovered from the Contractor.

15.12 In case of termination of the contract by the Contractor, the Company shall have the right to forfeit the Security Deposit.
15.13 On due and satisfactory performance and completion of the contract in all respect and settlement of final bills, the Security Deposit will be returned to the Contractor without any interest on presentation of an absolute No Demand Certificate in the form as may be prescribed by the Company.

15.14 In case of repeat order placed on the successful tenderer, subject to their satisfactory performance, the validity of PBG/SD provided for the original order shall be extended suitably by the successful tenderer to cover the additional quantity awarded in the repeat order. The same shall also be applicable in case Option Clause is invoked.

15.15 Submission of Performance Security is not necessary for a contract value up to Rs.1 (One) Lakh. However, in case the indenting department feels that Performance Security is necessary for contracts having value less than Rs. 1 Lakh, the same shall be made applicable.

15.16 The Performance Security should remain valid for a period of 60 (sixty) days beyond the date of completion of all contractual obligations of the supplier/contractor, including warranty obligations.

15.17 The Performance Security will be forfeited and credited to HCL's account in the event of a breach of contract by the contractor. Performance Security should be refunded to the contractor without interest, after successful performance and completion of the contract in all respects but not later than 60 (sixty) days of completion of all obligations including the warranty under the contract, subject to recovery of claim if any. Return of Bid/Performance Securities should be monitored by the senior officers in HCL and delays should be avoided. All details of the Performance Securities being obtained from the successful bidders should be recorded in computerized system by M&C Department/Contract Cell, to make the process transparent and visible.

15.18 Unit/Central Finance Department shall be custodian of Performance Securities.

15.19 The provision of Performance Security Clause shall not apply to the following:
- Public Sector Undertakings
- Government departments/Government Institutions
- OEMs
16.1 In case of works (service) contract and procurement of capital equipment, there is usually a defect liability/warranty clause against defects arising from design, material, workmanship or any omission on the part of the vendor/contractor during a specified period of months from the date of commissioning or from the date of dispatch in case of goods – whichever is earlier. In such cases, the Performance Guarantee is to be valid up to 60 (sixty) days beyond the warranty period. It is normally permissible in such a situation to allow Performance Guarantee to be valid up to 60 (sixty) days beyond delivery/commissioning period and the contractor may be allowed to submit a fresh Warranty Bank Guarantee of 10 (ten) per cent of the value of goods in the currency of the contract, valid up to 60 (sixty) days beyond the Warranty period. In such cases, the Performance Guarantee is to be returned only after satisfactory delivery/commissioning and receipt of a Warranty Bank Guarantee.

16.2 In procurement of other than Capital Equipment Goods and also in case of low value Capital Goods up to Rupees one Lakh, Warranty Clause may not be called for.

16.3 Warranty Bank Guarantee shall be furnished as detailed in Purchase Order/Contract. Alternatively, on request by party an amount equivalent to the Warranty Bank Guarantee may be retained from their bills.

16.4 Subject to any deduction which HCL is authorized to make, Warranty Bank Guarantee shall be released after fulfilling the guarantee / warranty as per the contractual terms. On breach of a contract by a supplier/contractor, Warranty Bank Guarantee shall be forfeited/encashed, whether or not the company has suffered a loss on this account and Purchase Order will be rescinded. Forfeiture/encashment of Warranty Bank Guarantee does not prejudice HCL’s rights to make risk purchase and recover damages on account of such risk purchases.
VERIFICATION OF BANK GUARANTEES

Bank Guarantees submitted by the tenderers/suppliers as EMD/Performance Security/Advance Payments should be immediately verified from the issuing bank before acceptance. There may not be any need to get the Bank Guarantees vetted from legal/finance authority, if it is in the specified format. Guidelines for verification of BGs submitted by the bidders/contractors against EMD/Performance Security/Advance Payments and for various other purposes are as follows:

i) BG shall be as per the prescribed format;

ii) The BG contains the name, designation and code number of the Bank Officer(s) signing the guarantee(s);

iii) The address and other details (including E-mail id of issuing branch, telephone no.) of the controlling officer of the bank are to be obtained from the branch of the bank issuing the BG;

iv) The confirmation from the issuing branch of the bank/zonal office of respective issuing branch/bank is obtained through E-mail/in writing through registered post/speed post/courier. The bank should be advised to confirm the issuance of the BGs specifically quoting the letter of Procuring Entity on the printed official letterhead of the bank indicating address and other details (including E-mail id, telephone nos.) of the bank and the name, designation and code number of the officer(s) confirming the issuance of the BG;

v) In case BG is received, payment should be released withholding amount of BG under confirmation. On receipt of confirmation, withhold amount shall be released.

vi) Pending receipt of confirmation as above, confirmation can also be obtained by responsible officers of HCL personally from the issuing branch of the bank and forward the confirmation report to the concerned Procurement Entity.

17.1 Safe Custody and Monitoring of EMDs, Performance Securities and Other Instruments

Mechanism for safe custody and monitoring of EMDs, Performance Securities and other instruments should be followed as per existing/updated SOP. The Procuring Entity should make suitable arrangements for taking all necessary actions on time for extension or encashment or refund of EMDs and Performance Securities as the case may be. Monitoring should include a monthly review of all bank guarantees and other instruments expiring in next 3 (three) months, along with a review of the progress of the corresponding contracts. Extension of bank guarantees and other instruments, when & where warranted should be sought immediately and implemented within their validity period. Bank Guarantees should never be handed over to the supplier/contractor for propose of extension of validity. Such a system of monitoring of securities and other instruments should be computerized with automatic alerts about lapse of validity etc.
18.1 The elements of price included in the quotation of a tender depend on the nature of the goods to be supplied and the allied services to be performed, location of the supplier, location of the user, terms of delivery, extant rules and regulations about taxes, duties etc.

It is, therefore, necessary that, to enable the tenderers to frame their quotations properly in a meaningful manner, the tender documents should clearly specify the desired terms & conditions and also the duties and responsibilities to be performed by the supplier for supply of goods/execution of contracts.

Where the price has several components such as price of the goods, cost of installation and commissioning, operators’ training etc., bidders should be asked to furnish a cost break up indicating the applicable prices and taxes for each of such components along with the overall price.

18.2 Payments should be made strictly according to terms & conditions as indicated in Purchase Order (PO)/Contract. Release of payment and settlement of the final bill should be processed through the Associated/Integrated Finance as per terms & conditions of the contract. Deviation, if any, in payment terms should be approved by Competent Authority with the concurrence of Associated/Integrated Finance.

18.3 No payments to contractors by way of compensation or otherwise outside the terms of the contract or in excess of the contract rates should be allowed.

18.4 Before the payment is made, the invoice should be cross-checked with the actual receipt of material/assets/services to ensure that the payment matches the actual performance. It should be ensured by Accounts Department that (i) the material both in quantity & quality and specification has been duly received as stipulated in the Purchase Order and has been taken on record by the Stores Department, as evidenced by RV and/or other specified documents, and (ii) the recoveries which are to be made from the party have been effected.

The Accounts Department should immediately on receipt of a bill, examine the availability of all supporting documents. In case of discrepancies, the dealing officer within two days of the receipt of the bill should refer the matter in writing to the M&C Dept. / Operating Authority.

To check fraudulent payment of bills, the respective Unit should prepare an elaborate system for inter-department forwarding/receipt/acknowledgement of various documents. Proper system of numbering the bills also should be laid down to avoid duplicate payments.

18.5 While claiming the payment, the contractor must certify on the bill that the payment being made is strictly within terms of the contract and all the obligations on his part for claiming this payment have been fulfilled as required under the contract. There should also be a suitable provision for verification of the authenticity of the person signing the invoice to claim the payment.
18.6 In case where delivery period has expired, documents sent through Bank should be released only on approval of the Competent Authority based on recorded reasons. Such approval should be obtained within two working days. In the case of payments through Bank, the Accounts Department after receipt of necessary advice from the concerned Bank will make payment to the Bank as per the terms of Purchase Order. In case the Accounts Department finds any discrepancy and is not able to get the documents released within two days, they will seek the instructions of M&C Dept. in writing and act accordingly. The documents thus received should be handed over to the Stores Department under intimation to the purchase Dept.

18.7 Running Account bills if payable as per contract and submitted by the contractors will be certified by the operating authority for the quality and volume of work executed and recorded in the Measurement Book. Bills of work executed by the contractor shall be jointly signed by the Operating Authority or his authorized representative and the contractor. These running bills will be sent to Finance for payment by the Operating Authority under acknowledgment obtained from the Finance Department.

18.8 Bills completed in all respect received by Finance Department should be paid on First In First Out (FIFO) basis.

18.9 In case payment to suppliers, including MSEs/MSMEs, are pending for more than 30 days, report should be generated and sent to HOD of M&C Department at CO for submission to D(F).

18.10 **Modes of Payment for Imported Goods**: It should be ensured that the imports into India are in conformity with the export-import policy in force. For imported goods, payment usually happens through the Letter of Credit (LC) opened by the State Bank of India or any other scheduled/authorized bank as decided by the Procuring Entity/Finance. The amount of LC should be equal to the total payable amount or as per terms of the work order/contract, and be released strictly as per the clauses mentioned in the work order/contract. The documents, which are needed from the supplier for release of payment, should be clearly specified in the work order/contract. The paying authority should verify the documents received from the supplier with corresponding stipulations made in the contract before releasing the payment.

18.11 **Letter of Credit (LC)**: While the purchaser’s bank opens the LC on behalf of the purchaser for transacting payment to the supplier through the supplier’s bank, care should be taken to ensure that the payment terms and documents to be produced for receiving payments through LC are identical with those shown in the contract. Generally, the irrevocable LC is to be opened so that the supplier is fully assured of his payment on fulfilling his obligations in terms of the contract. In case the delivery date of the contract is extended to take care of delay in supply, for which the supplier is responsible, the tenure of the LC is also to be extended, but the expense incurred for such an extension (of LC) is to be borne by the supplier.

18.12 It should be ensured that before releasing payments to the contractor, the employer’s contribution (12% EPS and EPF both) has been made/paid by the contractor himself and he has not availed the benefits under PMRPY scheme so that there is no double payment to the agency concerned.
19.1 Goods and Services Tax (GST), an indirect tax uniformly introduced by GoI from 1st July, 2017, is levied on the supply of domestic goods and services, excepting Petroleum products, which have separate tax system. GST rates vary from product to product. Unless a different intention appears from the terms of the contract, statutory variation in GST and other levies are to be borne by the buyer (Procuring Entity) as per Section 64A of the Sales of Goods Act, 1930. As a general policy, the statutory variation in such taxes and levies are to be allowed during the period from the date of the tender to the date of acceptance of the tender (that is, placement of the contract) and during the original/re-fixed delivery period of the contract so that both the supplier and purchaser are equally compensated for rise and fall in the price of the goods on account of such statutory variations.

19.2 In the tender enquiry conditions, the tenderers, wherever applicable, should be asked to specifically state in their offer whether they intend to ask for the taxes as extra over and above the prices being quoted. In the absence of any indication to this effect by the tenderers, it should be assumed that the prices quoted include these elements and no claim for the taxes or statutory variations there on should be entertained after opening of tenders and during the currency of the resultant contract.

If a tenderer chooses to quote price inclusive of taxes and other levies, if any, it should be presumed that the taxes and other levies, if any, so included is firm unless he has clearly indicated the rate of taxes and other levies included in his price and also sought adjustment on account of statutory variation thereon.

If the taxes, levies etc. are quoted separately by the tenderer and the same have been taken into consideration for calculating the landed cost, then the tenderer must furnish the necessary documents and indicate each element for reimbursement, even though the same might not have been claimed separately in the bills. In case, the tenderer fails to submit the requisite documents, the reimbursable amount on account of taxes and levies as indicated in his quotation/invoice/Purchase Order/Contract shall be deducted from his bill.

The above should be mentioned clearly in the tender documents and also in the Purchase Order/Contract.

19.3 GST number of the supplier/Contractor should be mentioned in the Purchase Order/Contract.

19.4 **Customs Duty on Imported Goods:** On imported goods, the tenderers shall also specify separately the total amount of customs duty included in the quoted price. The tenderers should also indicate correctly the rate of customs duty applicable for the goods and the corresponding Indian customs tariff number. Where customs duty is payable, the contract should clearly stipulate the quantum of duty payable, and so on, in unambiguous terms. The standard clauses to be utilized for this purpose are to be incorporated in the tender enquiry documents.

Any import of materials directly from the supplier or manufacturer should be in the name of Procuring Entity. In this regard, all formalities will be completed by Procuring Entity engaging a Custom House Agent (CHA) and payment in this regard will be borne by Procuring Entity.
E-PAYMENT

20.0

e-Banking and e-Payments are now used by most of the banks by adopting Electronic Clearing System (ECS) and Electronic Fund Transfer (NEFT/RTGS) procedure. Payments to suppliers should mandatorily be made through such mechanism where such facilities are available. As per RBI guidelines, ECS mandate in RBI’s format should be obtained at the time registration of suppliers and in the bid document. The Format is available with all Banks.

20.1 Deduction of Income Tax at Source from Payments to Suppliers
This will be done as per the existing law in force during the currency of the contract.

20.2 Refund from Supplier
Sometimes, the Supplier, after claiming and receiving reimbursements for sales tax, excise duty, customs duty etc., from the Purchaser (HCL), applies to the concerned authorities for refunds, on genuine grounds, of certain portion of such taxes and duties paid by it and receives the allowable refunds. Such refunds contain the Purchaser’s share also (out of the payments already made by the Purchaser to that Supplier). The tender enquiry document and the contract should, therefore, contain suitable provisions for obtaining such refunds from the Supplier.

20.3 Payment against Time Barred Claims
Ordinarily, all claims are time barred after a period of three (3) years calculated from the date when the payment falls due unless the payment claim has been under correspondence. However, the limitation is saved if there is an admission of liability to pay, and fresh period of limitation starts from the time such admission is made. The paying authority is to ensure that no payment against such time barred claim is made till a decision has been taken in this regard by the Competent Authority.
21.0 EVALUATION OF BIDS AND AWARD OF CONTRACT

21.1 Tender Evaluation

The evaluation of tenders is one of the most significant areas of purchase management and the process must be transparent. All tenders should be evaluated strictly on the basis of the terms & conditions incorporated in the tender document and those stipulated by the tenderers in their offer. No criteria should be used for evaluation of tenders that cannot be verified. Also, no undeclared condition should be brought in while evaluating the tenders. Similarly, no tender enquiry condition (especially the significant/essential ones) should be overlooked/relaxed while evaluating the tenders.

Information relating to evaluation of tenders and the Tender Evaluation Committee's (TEC's) deliberations should be confidential and not be shared with persons not officially connected with the process.

TEC should normally comprise of three (3) members including Finance representative and a representative of the user in order to carry out evaluation of the tenders. TEC should not be very large as it may slow down the evaluation process. However, if required, suitable domain/technical expert(s) may be included in the committee to render assistance in evaluation of the bids.

No member of the committee should be reporting directly to any other member of such committee.

21.2 Preparation and Vetting of Comparative Statement

21.2.1 The Procuring Entity (M&C Department/Contract Cell) should prepare comparative statements of quotations received in the order in which tenders were opened. In case of techno-commercial bid, comparative statement will have the information about deciding responsiveness and eligibility of bids and evaluation of technical suitability of offers. In case of financial bid, it would have information about rates quoted (including GST and other levies if any), discount, if any, and any other information having implications on ranking of bids etc. The comparative statement so prepared should be signed by the concerned officers. The comparative statement should be vetted by Tender Committee prior to its concurrence in Finance. The comparative statement should also be vetted by Finance for veracity of information.

21.2.2 Guidance on Loading on Price Bids: All the elements of cost such as basic cost, P & F charges, freight, insurance, taxes, levies, duties, installation/commissioning charges, training, cost of accessories, etc. shall be considered for working out the total cost of acquisition. In case there is no clear indication about the rates charged on the following factors, the loading of their bids may be done as per the factors specified below for the purpose of comparison of rates. These should be specifically mentioned in the RFQ/NIT.
P&F Charges (including handling charges) : 2%
Freight within 300 KMs : 2%
Freight 300 KMs to 500 KMs : 3%
Freight 500 Kms to 1000 Kms : 4%
Freight above 1000 Kms : 5%
Insurance : 0.25%

(Note: In case supplies of materials is on weight basis e.g. bulk chemicals, steel, gases, other volumetric stores, etc, the loading on the basis of the actual freight as per transportation contract shall be done. However, percentage loading will be limited to full truck / trailer load rate for each truck load. The above distances will be based on shortest route.)

Loading against Payment terms:
1% per month (whenever parties have quoted 100% through bank/advance against our standard payment terms of 100% after receipt and acceptance of materials within 30 days.)

In case of payment through bank, loading for a period of 30 days and in case of advance payment along with PO, the loading for the delivery period plus 30 days, may be taken.

In case of 90% through bank, and balance 10% within 30 days after receipt and acceptance of materials, loading factor will be 1.0X0.9=0.9%. Accordingly, for other payment terms loading factors will be calculated.

Loading procedure:
Basic Price
Packing & Forwarding charges (on basic price only)
GST on (Basic + P&F)
Freight on (Basic + P&F+GST)
Insurance on (Basic + P&F+GST)
Payment Term Loading on (Basic + P&F +GST)

21.3 Preliminary Examination
21.3.1 Unresponsive Tenders
All tenders received should first be scrutinized by the TEC to see whether the tenders meet the basic requirements as incorporated in the Bid document and to identify unresponsive tenders, if any. Some important points on the basis of which a tender may be declared as unresponsive are:

i) The tender is not in the prescribed format or is unsigned or not signed as stipulated in the bid document;

ii) The required EMD has not been provided or exemption from EMD is claimed without acceptable proof of exemption;

iii) The tenderer has quoted for goods manufactured by a different firm without the required authority letter from the proposed manufacturer;
iv) The bid departs from the essential requirements specified in the bidding document like not agreeing to give performance security etc.; or

v) Against a schedule in the list of requirements in the tender enquiry, the tenderer has not quoted for the entire requirement as specified in that schedule, unless the tenderer has been so allowed in the bidding document.

21.3.2 **Non-conformities between Figures and Words**

Sometimes, non-conformities/errors are also observed in responsive tenders between the quoted prices in figures and in words. This situation normally does not arise in case of e-Procurement. This should be taken care of in the manner indicated below:

i) If, in the price structure quoted for the required goods/services, there is discrepancy between the unit price and total price, the unit price shall prevail and the total price corrected accordingly;

ii) If there is a discrepancy between words and figures, the amount in words shall prevail;

Such a discrepancy in an offer should be conveyed to the tenderer asking him to respond by a target date and if the tenderer does not agree to Procuring Entity’s observation, the tender is liable to be rejected.

21.3.3 **Discrepancies between Original and Additional/Scanned Copies of a Tender**

Discrepancies can also be observed in responsive tenders between the original copy and other copies of the same tender set. In such a case, the text of the original copy will prevail. Here also, this issue is to be taken up with the tenderer in the same manner as above and subsequent actions taken accordingly. In e-Procurement there could be discrepancies between the uploaded scanned copies and the originals submitted by the bidder.

21.3.4 **Minor Infirmity/Irregularity/Non-conformity**

During scrutiny, some minor infirmity and/or irregularity and/or non-conformity may also be found in some tenders. Such minor issues could be missing pages/attachment; non-submission of requisite number of copies of the document; un-numbered pages of the offer/document; submission of bid in un-bind condition. Such minor issues may be waived provided they do not constitute any material deviation and financial impact and, also, do not prejudice or affect the ranking order of the tenderers. Wherever necessary, observations on such ‘minor’ issues may be conveyed to the tenderer by e-mail/registered/speed post, asking him to respond by a specified date, and also mentioning that if the tenderer does not conform to Procuring Entity’s view or respond by that specified date, his tender will be liable to be rejected. Depending upon the outcome, such tenders are to be ignored or considered further.

21.3.5 **Clarification of Bids/Shortfall Documents**

During evaluation and comparison of bids, the Procuring Entity/TC may, at its discretion, ask the bidder for clarifications on the bid. The request for clarification shall be given in writing by e-mail/registered/speed post, asking the bidder to respond by a specified date, and also mentioning therein that, if the tenderer does not comply or respond by the date, his tender will be liable to be rejected. Depending on the outcome, such tenders are to be ignored or considered further. No change in prices or substance of the bid shall be sought, offered or permitted. No post-bid clarification at the initiative of the bidder shall be entertained. The shortfall information/
documents should be sought only in case of historical documents which pre-existed at the time of the tender opening and which have not undergone change since then. So far as the submission of documents is considered with regard to qualification criteria, after submission of the tender, only related shortfall documents should be asked for and considered.

These should be called only on the basis of recommendation of TC.

21.4 Evaluation of Responsive Bids And Award of Contract

All responsive bids are evaluated by the TC with a view to select the lowest (L-1) bidder who meets the qualification criteria and techno-commercial aspects.

i) In case of Single Stage Single Envelop Bidding, the evaluation of qualification of bidders, technical, commercial and financial aspect is done simultaneously;

ii) In Single Stage Multiple Envelops, initially only the techno-commercial bids should be opened and evaluated for bids which successfully meet the qualification criteria and techno-commercial aspects. Financial bids of such successful bidders only should be opened for selecting the L-1 bidder among these after the recommendation of the TC has been concurred in Finance and approved by the competent authority. In case of manual tenders, financial bids of unsuccessful bidders should be returned unopened to them;

iii) In Two Stage Bids, the PQB/EoI would have been evaluated in the first stage to shortlist the qualified bidders. The second stage bid is for evaluation of responses from the shortlisted qualified bidders.

The authenticity, integrity and sanctity of unopened financial bids must be ensured before their opening. All financial bids received against a tender should be put in a large envelop, which should be dated, sealed and signed by the TC members and by the bidders present, to show that none of the bids were accessed during the custody. Such envelop should be in the custody of tender issuing authority till the time it is handed over to the constituted TC for its opening, subject to approval obtained for the same. In case of e-tendering, financial bids of qualified/successful bidders will be opened after financial concurrence and approval of the competent authority.

The process of evaluation of techno-commercial and financial aspects are as detailed below.

21.4.1 Evaluation of Techno-commercial Bid

In evaluation of the techno-commercial bid, conformity of the eligibility/qualification, technical and commercial conditions of the offered goods to those in the bid document shall be ascertained. Evaluation should be based only on the conditions included in the tender document.

i) Evaluation of Eligibility/Qualification Criteria: Procuring Entity should determine whether the tenderers are eligible, qualified and capable in all respects to perform the contract satisfactorily. Tenders that do not meet the required eligibility/qualification criteria prescribed should be treated as unresponsive and not considered further.

ii) Evaluation of Technical Suitability: TC should examine the technical terms and conditions including description, specifications, drawings etc. of the bids. No one outside the TC should be allowed to determine this evaluation. An important document is the exceptions/deviation statement if submitted by the tenderer. TC should judge whether that exception/deviation
submitted by the tenderer is minor or major. Minor exceptions/deviations may be waived provided they do not constitute any material deviation and do not have any significant financial impact and, also, would not prejudice or affect the ranking order of the price bid. These exceptions/deviations should not grant any undue advantage to the tenderers in comparison to other tenders.

iii) **Evaluation of Commercial Conditions:** The TC should also evaluate the commercial conditions quoted by the tenderer and, should confirm that all terms and conditions specified in the GCC/SCC have been accepted without reservations by the tenderer. Only minor deviations without any financial impact may be accepted, which do not grant any undue advantage to the tenderer in comparison to other tenders.

iv) **Declaration of Successful Bidders:** The TC should prepare a recommendation of techno-commercial bid to declare successful bidders. After financial concurrence and approval of the Competent Authority, the results of the Techno-commercial bid evaluation are to be announced (including informing the failed bidders). Price bids should thereafter be opened in the presence of technically qualified bidders, who are willing to attend the bid opening, at a pre-publicized date, time and place or in the portal in case of e-Procurement. In single envelop tender, TC should proceed to evaluate the price aspects without a reference to the Competent Authority at this stage.

21.4.2 **Right of Bidder to question rejection at Techno-Commercial Stage**

A tenderer shall have the right to be heard in case he feels that a proper procurement process has not been followed and/or his techno-commercial bid has been rejected wrongly. The tenderer shall be permitted to send his representation in writing to the Procuring Entity through e-mail/fax within 2 (two) working days from intimation of rejection of his offer. On receipt of representation, the Procuring Entity/TC should address the issue strictly in terms of the tender document and take expeditious decision and the bidder may be replied accordingly.

21.4.3 **Evaluation of Financial Bids and Ranking of Tenders:**

i) If the price bid is ambiguous in a way that it may very well lead to two equally valid total price amounts, then the bid should be treated as unresponsive;

ii) Discounts and rebates offered by the bidders after opening of the tender (techno-commercial or financial) should not be considered for the purpose of ranking the offer but if such a firm does become L-1 at its original offer, such suomotu rebates/discounts can be incorporated in the contracts.

iii) Unless announced beforehand explicitly in the tender documents, the quoted price should not be loaded on the basis of deviations in the commercial conditions. If it is decided to incorporate such clauses, these should be unambiguous and clear.

iv) Normally, the comparison of the responsive tenders shall be on total outgo for the procurement to be paid to the supplier, including all elements of costs as per terms of the proposed contract, taxes, duties, levies, freight insurance etc. Therefore, it should normally be on the basis of CIF/FOR destination basis, duly delivered, commissioned, as the case may be.
v) As per policies of the Government from time to time, the Procuring Entity reserves his option to give price/purchase preferences as indicated in the tender document.

vi) If the tenders have been invited on a variable price basis, the tenders will be evaluated, compared and ranked on the basis of the position prevailing on the day of tender (Technical Bid) opening and not on the basis of any future date.

21.5 Deliberations by the Tender Committee for Award of Contract

21.5.1 Timely Processing of Tenders

To enable timely decision making, complete Time schedule of finalizing the Tender process from the date of issuing the tender to date of issuing the contract should be published in the Bid Documents. Any deviation from the schedule may be monitored and reported to the Competent Authority by way of Management Reporting System.

21.5.2 Extension of Tender Validity Period

The entire process of scrutiny and evaluation of tenders, preparation of ranking statement and recommendation for award should be done within the original tender validity period.

If, however, due to some exceptional and unforeseen reasons, the Procuring Entity is unable to decide on the placement of the contract within the original validity period, it may request, before expiry of the original validity period, to all the responsive tenderers to extend their tenders up to a specified period. While asking for such extension, the tenderers are also to be asked to extend their offers as it is, without any changes therein. They may also be told to extend the validity of the EMD for the corresponding additional period. A tenderer may not agree to such a request and this will not be tantamount to forfeiture of its EMD. But the tenderers, who agree to extend the validity, are to do so without changing any terms & conditions of their original tenders.

In case, any tenderer does not agree to extend the bid validity, all efforts should be made to process the tender within the original time schedule, failing which with the approval of the competent authority, the bid submitted by the tenderer, who has refused to extend the bid validity will not be considered and the tender process will be continued with the approval of the competent authority in case sufficient valid bids (X+2) are available.

A periodic report regarding extension of tender validity period needs to be made available to Corporate M&C Department by individual Units.

In case price bids have been opened and L-1 bidder identified, but due to some reasons the contract cannot be awarded within the original bid validity period, extension of bid validity is to be sought from identified L-1 bidder only.

21.5.3 Variation of Quantities at the Time of Award

The tendered quantity can be increased or decreased by 10% for ordering, if so warranted, depending upon the ground conditions. This should be mentioned in the tender documents.

21.5.4 Option Clause

In case of long running contracts, yearly procurements etc., to take care of any change in the requirement during the currency of the contract, a plus/minus option clause (normally 25%)
should be incorporated in the tender document, reserving the purchaser's right to increase or
decrease the quantity of the required goods/services up to that limit without any change in the
terms and conditions and prices quoted by the tenderers.

21.5.5 Splitting of Contracts/Parallel Contracts

21.5.5.1 In case order is to be placed on one party only and the L-1 tenderer is within the
specified range of estimated price and the party has offered full tendered quantity/
scope of work, proposal for placement of order on L-1 tenderer will be made and
processed.

21.5.5.2 In case, the L-1 tenderer as indicated in Para 21.5.5.1, has not offered full quantity/
scope of work, the L-1 party may be asked to confirm full/increased quantity/scope
of work; and the quantity/scope of work so confirmed shall be ordered on that party.
This will be subject to meeting satisfactory capacity/performance criteria. The balance
quantity/scope of work, if any, can be ordered as follows:

a. All the remaining technically and commercially acceptable tenderers be asked to
offer maximum quantity up to the uncovered quantity/scope of work and match
L-1 price. Offers of such tenderers who match L-1 price may be accepted for the
quantity/scope of work offered by them in order of their rankings.

b. If the full quantity/scope of work is still not covered at L-1 price after step (a)
above, the balance quantity/scope of work can either be re-tendered or cancelled
with the approval of the Competent Authority as per DOP.

c. The above has to be suitably incorporated in the tender documents wherever
applicable.

21.5.5.3 In case 2 parties have same L-1 ranking and other conditions are same, the tendered
quantity/scope of work shall be distributed equally between these 2 parties. In case the
tendered quantity/scope of work cannot be split, both parties can be invited to submit
their revised offer in sealed bid for deciding the L-1 ranking. In such cases, no upward
revision in prices is to be permitted.

21.5.5.4 In case the order is to be placed on more than one tenderer as per the ratio specified in
the Tender Document and the L-1 price is established and finalized, then the L-2, L-3,
L-4 .... tenderers will be given counter offer in seriatim to match their prices with L-1
price for distribution of the items/jobs to be ordered. Only the tenderers, who agree to
match their prices with L-1, will be considered for the distribution of order quantity/
scope of work as per specified ratio.

21.5.5.5 For splitting the tender quantity/scope of work among more than one tenderers, the
basis will be their original rankings as per the comparative statement. The allocation
will be in the descending order with L-1 getting the highest share. The distribution
pattern for splitting the order into 2/3/4 parties will be broadly as indicated below:
In case of distribution for Ratio for Original Ranking L-1, L-2, L-3 & L-4
Two parties 70:30
Three parties 60:25:15
Four parties 50:25:15:10

However, capability, capacity and past performance will be kept in view for the allocation of quantity to multiple sources. In addition to the above, in case more than one party has the same rank, then their share will be added and equally distributed.

21.5.5.6 The proposal for purchase preference to PSUs/ Government Organizations shall be based on the guidelines issued by the Government of India.

21.5.5.7 Before splitting the quantity, it should be ensured that the L-1 price is reasonable. If it is not reasonable, negotiation with the L-1 party may be carried out, if justifiable, with the approval of the Competent Authority.

21.5.5.8 Parallel contracts (except for splitting of contracts) are normally to be avoided. However, considering that HCL is a continuous production Unit, wherein disruption in production schedule is not welcome, in exceptional circumstances only, same may be permitted for reasons to be recorded in writing with the approval of the competent authority.

Parallel tendering action is allowed for jobs which are repetitive in nature and where the delivery period of the existing contract is nearing completion. The same is to be undertaken with the approval of the competent authority. The same will also provide a firm basis as to whether to invoke the repeat order and / or option clause in a contract.

Developmental orders are not to be considered as parallel contracts.

21.5.6 Negotiations

i) Normally, there should be no post tender negotiations. Negotiations should be a rare exception rather than the rule and may be resorted to only in exceptional circumstances. Such exceptional situations would include procurement of proprietary items, items with limited source of supply, and items where there is suspicion of a cartel formation. The justification and details of such negotiations should be dully recorded and documented. If it is decided to hold negotiations for reduction of prices, they should be held only with the lowest acceptable bidder (L-1) who is techno-commercially responsive for the supply of goods/services, with the approval of the competent authority.

ii) During price negotiations, any changes in the already decided techno-commercial terms shall not be allowed and no increase in price is permitted.

iii) The decision whether to invite fresh tenders or to negotiate and with whom, should be made by the Procuring Entity based on the recommendation of the TC. Convincing reasons must be recorded by the authority recommending negotiations. The Competent Authority should exercise due diligence while accepting and approving the recommendation of the TC/M&C Department/Contract Cell.
iv) Normally all counters offers are considered negotiations. For example, a counter offer to L-1, in order to arrive at an acceptable rate, shall amount to a negotiation. However, any counter offer to L-2, L-3, and so on to match L-1 rate in case of splitting of quantities shall not be deemed to be a negotiation. Order on more than one party shall be considered only if such stipulation was made in the NIT.

v) When it is decided to call a specific bidder for negotiation, the following procedure should be adopted:

a) If the period of validity of the original offer expires before the close of negotiations, the original offer will not be available for acceptance. The period of validity of the original offer must, therefore, be extended, wherever necessary, before negotiations;

b) When a tenderer is called for negotiations (as per format given at Annexure-6), the rates originally quoted by him shall remain open for acceptance in the event of failure of the contemplated negotiation. A signed declaration from the negotiating supplier/contractor should be obtained before start of the negotiations meeting to this effect (A sample format of ‘Form of Declaration’ is given at Annexure-6/1);

c) Revised bids should be obtained in writing from the negotiating tenderer at the end of the negotiations. If necessary, the negotiating party may be given some time to submit its revised offer. In case, however, the selected bidder prefers to send a revised bid instead of being present at the negotiation meeting, its offer should be taken into account. In case a bidder does not submit the revised bid, its original bid shall be considered.

d) In case L-1 bidder backs out, re-tendering should be resorted to in a transparent and fair manner without considering the tenderer who has backed out.

21.5.7 Consideration of Lack of Competition in OTE/GTE/LTE

Sometimes, against advertised/limited tender cases, the Procuring Entity may not receive a sufficient number of bids and/or after analyzing the bids, ends up with only one responsive bid – it is to be referred as ‘Single Offer’. Such situation of ‘Single Offer’ is to be treated as ‘Single Tender’.

Even when only one bid is submitted, the process may be considered valid provided following conditions are satisfied:

i) The procurement was satisfactorily advertised and sufficient time was given for submission of bids;

ii) The qualification criteria were not unduly restrictive; and

iii) Prices are reasonable in comparison to market values.

For processing of the single bid received against the competitive OTE / GTE / LTE process, approval of competent authority for single tender enquiry based on the Delegation of Power, should be obtained.

In case it is decided to extend a tender because of less response, all prospective bidders particularly those, who may have submitted their bids should be informed regarding extension of the bid opening by mail and corrigendum to this effect is to be issued in HCL website and e-procurement portal.
21.5.8 Cancellation of Procurement Process/Rejection of All Bids/Re-tender

21.5.8.1 The Procuring Entity may cancel the process of procurement or reject all bids at any time before intimating acceptance of successful bid under following circumstances:

a) If the quantity and/or quality of requirements have changed substantially;
b) When none of the tenders is substantially responsive to the requirements of the procuring documents;
c) If none of the technical proposals meets the minimum technical qualifying criteria;
d) If effective competition is lacking;
e) If the Bid Prices are substantially higher than the updated cost estimate/budget;
f) If the bidder, whose bid has been found to be the lowest evaluated bid, withdraws from the procurement process, or whose bid has been accepted, fails to sign the procurement contract, or fails to provide the security as may be required for the performance of the contract.

In case where responsive bids are available, the aim should be to finalise the tender by taking mitigating measures even in the conditions described above. If it is decided to rebid the tender, the justification should balance the perceived risks in finalization of tender (marginally higher rates) against the certainty of resultant delays; cost escalation, loss of transparency in re-invited tender. After such decision, all participating bidders would be informed and bids if not opened would not be opened and in case of manual tenders be returned unopened.

21.5.8.2 Approval for re-tendering should be accorded by the Competent Authority after recording the reasons/proper justification in writing. The decision to cancel the procurement shall be communicated to all bidders that participated in the procurement process.

21.5.9 Tender Committee Recommendations/Report

The TC shall make formal recommendations for award of the contract to the successful bidder, whose bid has been determined to be responsive and the lowest evaluated bid and also, qualified to perform the contract satisfactorily and his credentials have been verified. It should also be ensured by the TC that any deviation/variation quoted by the bidder is not left un-discussed; otherwise there may be delay in acceptance of the contract by the successful bidder. The recommendations of the TC are submitted for concurrence in finance and approval of the competent authority as per DOP. The competent authority shall accept the recommendations of the TC after ensuring that the offers have been invited in accordance with the Purchase manual and fair & reasonable procedures have been followed.

After acceptance of the recommendations by the competent authority, the Procuring Entity can issue the Letter of Intent (LoI) to the successful bidder.

21.6 Award of Contract

21.6.1 Prior to the expiry of the period of bid validity, the successful bidder will be notified (briefly indicating therein relevant details such as scope of work, specification, quantity, prices etc.) in
writing by e-mail/registered letter or any other acknowledgeable and fool proof method that his bid has been accepted. In the above communication, the successful bidder shall be instructed to acknowledge receipt and acceptance of LoI/LoA and also to furnish the required performance security within a specified period (generally within 14 days from the date of LoI/LoA). Thereafter HCL may keep provision up to 2-3 weeks for verifying the BG and then issue the contract agreement (Work Order), stipulating the detailed terms & conditions of the contract to the successful bidder. All delivery liabilities would be counted from the date of LoI/LoA. (Refer a sample format of ‘LoI/LoA’ is given at Annexure-7).

In respect of contracts for purchases/services valued Rupees Five lakh and above, where tender documents include GCC, SCC and schedule of requirements, the LoI will result in a binding contract.

21.6.2 **Publication of Tender Results and Return of EMD to Unsuccessful Bidders**

In respect of contracts for purchases/services valued Rs. Ten Lakh and above, the details of award of contract and name of the successful bidder should be mentioned mandatorily on the CPPP and also on HCL’s website.

Refund of EMD shall be regulated as per Para 14.11 of the Procurement Manual.

21.6.3 **Performance Security**

The Supplier receiving the LoI is required to furnish the performance security, if it is part of tender conditions, in the prescribed form by the specified date; failing which, necessary action including forfeiture of EMD will be taken against the Supplier.

21.6.4 **Acknowledgement of Contract by Successful Bidder and Execution**

After the successful bidder is notified that his bid has been accepted, he will be sent an agreement, incorporating all terms & conditions, for signature and return. The agreement should indicate the details of Bank Guarantee submitted by the successful bidder towards security deposit and its validity etc.

The successful bidder should acknowledge and unconditionally accept, sign, date and return the agreement within 30 days from the date of issue of the contract in case of LTE/OTE and within 45 days in case of GTE. Such contract agreements may not be required in low value contracts, below Rs. Five Lakh.

Normally, the contract will be drawn in line with the NIT terms and conditions, incorporating any deviations that has been accepted / special concessions provided by the supplier during the bidding stage. However, while acknowledging the contract, the supplier may raise issues and/or ask for modifications against some entries in the contract. Such aspects shall be immediately looked into for necessary action and needs to be regulated in terms of the conditions stipulated in the NIT and any agreement / acceptable deviations during the bidding stage. Changes in the contract agreement beyond the same are generally not permitted and will only be as an exception to the rule and undertaken with approval of the Competent Authority recording the reasons thereof. Thereafter, the supplier’s unconditional acceptance of the contract be obtained. In case, the supplier does not accept the contract, citing issues which are beyond NIT terms and acceptable deviations / concessions during the bidding stage, then with due notice the EMD / Performance Security of the Contractor is to be forfeited.
If both the parties (Procuring Entity and the Supplier) simultaneously sign the contract across the table, further acknowledgement from the supplier is not required.

The agreement should also contain the details of Performance Security received and how the balance is to be adjusted. The LOI / LOA signed with the contractor should also be incorporated as a part of the contract agreement.

21.6.5 **Trial Purchase / Work Order**

21.6.5.1 Items for which the sources are required to be developed should be identified and listed by the user department and 10% of the assessed requirement of the identified items may be kept aside for issuing trial development order.

21.6.5.2 For development of new sources of supply, separate tenders should be floated. Tender should preferably be open tender.

21.6.5.3 Trial orders can be placed generally on a maximum of three parties even at different rates after negotiation. However, the landed cost of trial order should normally be not more than that of proven product.

21.6.5.4 During trial run, the cost-effectiveness of the new product, offered by the party, should be worked out and compared to the proven product.

21.6.5.5 In case one party develops the item(s) and his/her offer is technically and commercially accepted, the party’s product will be treated as acceptable substitute and can be procured against single tender enquiry until other parties are developed. Once more than one party is developed, purchases shall be made through Limited Tendering process by floating tenders to the developed vendors as well as to the proprietary supplier.

21.7 **Transparency in Works/Purchases/Consultancy contracts awarded on Nomination basis**

CVC vide Circular No. 06/07/18 dated 11.07.2018 has referred to its (i) Circular No. 15/5/06 dated 09.05.2006, (ii) Office Order No. 23/7/07 dated 05.07.2007 & (iii) Office Order No. 19/05/10 dated 19.05.2010, wherein the need for award of contracts in a transparent and open manner has been emphasized.

The Commission has reiterated its earlier instructions that, since the award of contracts/procurements/projects on nomination basis without adequate justification amounts to a restrictive practice eliminating competition, fairness and equity, the award of contracts on nomination basis could be restored to only in exceptional circumstances as laid down in Commission's Office Order No. 23/7/07 dated 05.07.2007.

The Commission has circulated these guidelines to All Ministries / Departments / CPSUs for strict compliance.

Further, all such contracts on nomination / STE basis will be periodically uploaded in Company website.

21.8 **Processing of Procurement Proposals:**

All procurement proposals which are for purchase of assets under CAPEX or R&R budget and any other items including spares the value of which exceeds Rs. 20 lakh should be initiated in the form of a Statement of case (SoC), which should clearly bring out all aspects of the proposal, including the
justification/reason for procurement, quantity, cost, likely sources of supply, mode of tendering, etc. It needs to be kept in view that expeditious processing of the proposal depends on the comprehensibility and quality of the SoC.

Costing of Procurement Proposals: The estimated cost of procurement proposal should be derived with due attention and care. The basis of costing must be placed on record.

Processing of Proposals Subject to Availability of Funds: A procurement proposal should normally be processed only if it figures in the Annual Procurement Plan (wherever such Plans are being prepared, irrespective of the nomenclature of the Plan) and subject to availability of funds. Availability of funds should be determined only after accounting for cash outgo during the relevant financial year on account of committed liabilities.

Stages of sanction: There are the following two stages of sanction:

(i) Administrative Approval: It is an approval in principle or Acceptance of Necessity for incurring expenditure. At this stage, item to be procured, quantity to be procured, PQCs, estimated cost, terms and conditions of tender (RFQ) and mode of tendering are approved.

(ii) Expenditure sanction: At this stage, based on the actual cost of procurement, the vendor from whom purchase is to be made, quantity to be purchased, terms and conditions of the PO/Contract, sanction is accorded by the competent authority to incur the expenditure.

Finance is to be associated at both the stages of sanction. As and when proposals for administrative approval or expenditure sanction are submitted, the same should specifically quote the relevant Para of DOP under which proposal is initiated and the designation of the sanctioning authority.

Ex-post Facto Financial Concurrence: There is no provision under the delegated financial powers to obtain ex-post facto concurrence of Finance. Such cases where prior concurrence is not obtained, though required as per the delegation of financial powers, would be treated as cases of breach of rules and regulations. However, in cases where CMD is the sanctioning authority in normal course, ex post fact sanction may also be accorded by him with the concurrence of Finance.

Disagreement with the Finance: In case of disagreement with Finance, the level of decision-making will be raised and the matter be brought to the notice of Director concerned. In case matter is not resolved even at the level of Director, orders of CMD may be obtained who can overrule the Finance recording reasons in writing. All such cases of overruling of Finance by CMD in procurement matters may be informed to BOD in its next meeting. Such items may be put up to BOD by the Indentor.

Quantity Vetting: Care should be taken to avoid purchasing quantities in excess of requirement to avoid inventory carrying costs. Finance is supposed to vet the quantity indented/ projected for procurement of scaled items so as to ensure timely provisioning. In order to ensure that there is no in-fructuous provisioning, the Finance must have access to all inputs required to assess the basis of the projection of indented quantity. The calculation sheet showing the authorized scales, if any, past consumption pattern, dues-in, dues-out, reserves, etc. must be made available to Finance.
22.0 CONTRACT MANAGEMENT

22.1 Amendment to the Contract

Once a contract has been concluded, the terms and conditions thereof should not be varied. No amendment to the contract should be made that can lead to a vitiation of the original tender decision or bestow an undue advantage on the contractor. However, due to various reasons, changes and modifications are needed in the contract. Where it becomes necessary / inescapable, any modification/amendment will be carried out with the prior approval of the competent authority after due concurrence in Finance. Further, if considered necessary, legal opinion may also be sought.

No change in the price quoted shall be permitted after purchase order/contract has been issued, except on account of price variation and any other statutory variations as per terms of the purchase order/contract.

22.2 Safeguards for Handing over Materials/Equipment to Contractors

For performance of certain contracts, Procuring Entity may have to loan stores, drawings, documents, equipment and assets (viz. accommodation, identity cards and gate passes etc.) to the contractor. Also in certain situations, the contractor may be supplied electricity, water, cranes, and weighing facilities on payment/hire basis. As a measure of transparency, the provision of handing over of such resources should have been announced in the tender document and/or written in the contract. Whenever stores or equipment or sub-assemblies are required to be issued to the contractor as per contract, these should be done against an appropriate bank guarantee. In addition to the bank guarantee, appropriate insurance may be asked for, if so considered necessary.

Before final payment or release of PBG/SD, a certificate may be taken from the concerned department that the contractor has returned all documents, drawings, material, equipment, facilities and assets loaned, including ID cards and gate passes in good condition. Further, it should be certified that payment from the contractor has been received for usage of electricity, water, crane, accommodation, weighing facility etc.

For low value items of less than Rupees 1 Lakh, or for sending spares for repairs to the OEMs, the stipulation of bank guarantee may be waived and, if feasible, an indemnity bond may be taken.

22.3 Payments to the Contractor and Handling of Securities

It should be ensured that all payments due to the supplier/contractor, including release of the Performance Security, are made on a priority basis as per tender/contract conditions. Before the payment is made, the invoice should be cross-checked with the actual receipt of material to ensure that the payment matches the actual performance.
Proper procedures for safe custody, monitoring and return of Bank Guarantees and other instruments should be followed. Before making a final payment or before releasing the performance bank guarantee, a ‘No Claim Certificate’ (as shown at Annexure-8) should be taken from the supplier/contractor to prevent any future claims. Whenever a bank guarantee is released following due procedure and safeguards, acknowledge thereof should also be taken from the contractor.

In case of payment of mobilization or other advances to the contractor, there should be suitable provision in the contract that the same should be against collateral security in the form of Bank Guarantee and should be interest-bearing.

22.4 Monitoring of Supplier Performance

As soon as the order is issued, its monitoring should be done to ensure that suppliers/contractors adhere to contract terms, performance expectations are achieved and any problems that arise are resolved in a timely manner. Hence a sound system should be in place for monitoring the performance of the suppliers/contractors in a contract, which would help in selecting a good supplier/contractor in future procurement/jobs of similar nature.

22.5 Delays in Performance of Contract

The period of delivery of the ordered goods and completion of allied services should be properly specified in the contract with definite dates and these shall be deemed to be the essence of the contract. The delivery period mentioned in the contract should be specific. In case of items delivered throughout the year or in case of long term job contracts, delivery/work schedule should be specified. Non-compliance of delivery schedule on the part of the supplier/contractor would be considered as delay, attracting imposition of LD.

22.6 Extension of Delivery

Suppliers/contractors shall be required to adhere to the delivery schedule specified in the purchase order/contract and, if there is delay in supplies/completion of work, LD shall be levied wherever there is failure by the party. Extension of delivery date amounts to amendment of the contract. No extension of the delivery date should be granted suomotu unless the supplier/contractor specifically asks for it. However, in a few cases, it may be necessary to grant an extension of the delivery period suomotu in the interest of HCL. In such cases, it is legally necessary to obtain clear acceptance of the extension letter from the supplier/contractor.

No correspondence should be entered into with the supplier/contractor after expiry of the contract delivery period or towards the end of it, which has the legal effect of condoning the delay/breach of contract. When it is necessary to obtain certain information related to the contract, it should be made clear that calling for such information is not intended to keep the contract alive and that it does not waive the breach and that it is without prejudice to the rights and remedies available to the purchaser under the terms of the contract. The last line of such a communication should therefore be: “This letter is issued without any prejudice to Procuring Entity’s rights and remedies under the terms and conditions of the subject contract and without any commitment or obligation.”

If at any time during the currency of the contract, the supplier/contractor encounters certain conditions hindering timely delivery of goods/completion of work, he shall promptly inform the concerned officer in writing. He should mention its likely duration and make a request for extension of the schedule accordingly. On receiving the supplier's/contractor's communication, the Procuring Entity shall examine
the proposal, and on approval from the competent authority, may agree to extend the delivery/contract schedule, with or without LD and with or without the denial clause, for completion of the contractor's contractual obligations, provided:

i) That a higher rate in the original tender was not accepted against other lower quotations in consideration of the earlier delivery; and

ii) That there is no downward trend in prices for this item/work as evidenced from the fact that, in the intervening period, no orders have been placed at rates lower than this contract nor any tender has been opened where lower rates have been received even though the tender is not yet decided.

When it is decided to extend the delivery schedule subject to recovery of LD for the delay, the contractors must be given a warning to this effect in writing at the time of granting extensions. It is not correct to grant extensions without any mention of LD, if it is to be recovered eventually. It would also not be correct to grant an extension of the delivery period by merely stating that the extension is granted “without prejudice to the rights of the purchaser under the terms and conditions of the contract” as this would mean that all the options given in the conditions of the contract would be available to the purchaser on expiry of the extended delivery period and would not amount to exercise of the option to recover LD. To take care of such complex legalities, extension of delivery period when granted should be done in writing, taking above factors into consideration.

22.6.1 Delay in Supplies for which Supplier is not Responsible

In case of some omission on the part of the purchaser, which affects the due performance of the contract by the supplier/contractor, the contractual delivery schedule needs to be re-fixed to take care of the lost period, without imposing any penalty to the supplier.

22.6.2 Performance Notice

A situation may arise where the supply/service has not been completed within the stipulated period due to negligence/fault of the supplier/contractor; however, the supplier/contractor has not made any request for extension of the delivery period but the contracted goods/services are still required by the Procuring Entity and he does not want to cancel the contract at that stage. In such a case, a performance notice (also known as notice-cum-extension letter) may be issued to the supplier/contractor by suitably extending the delivery date and by imposing LD with denial clauses in a identical lines as indicated in Para 22.6 above. The supplier’s/contractor’s acceptance of the performance notice and further action thereof should also be processed in the same manner as mentioned above.

22.6.3 Denial Clause

Since delay in delivery is a default by the supplier/contractor; the Procuring Entity should protect himself against extra expenditure during the extended period by stipulating a denial clause (over and above levy of LD) in the letter of extension of delivery period. In the denial clause, any increase in statutory duties and/or upward rise in prices due to the PVC clause are to be borne by the supplier/contractor during the extended delivery period, while the Procuring Entity reserves his right to get any benefit of a downward revisions in statutory duties, PVC and foreign exchange rate.
22.7 **Force Majeure Clause**

A Force Majeure (FM) means extraordinary events or circumstances beyond human control such as an act of God (like a natural calamity) or events such as a war, strike, riots, crimes (but not including negligence or wrong-doing, predictable/seasonal rain and any other events specifically excluded in the clause). An FM clause in the contract frees both parties from contractual liability or obligation when prevented by such events from fulfilling their obligations under the contract. An FM clause does not excuse a party's non-performance entirely, but only suspends it for the duration of the FM.

The supplier/contractor shall give notice of FM as soon as it occurs and it cannot be claimed ex-post facto. There may be a FM situation affecting the purchase organization only. In such a situation, the purchase organization shall communicate to the supplier/contractor in similar lines.

If the performance in whole or in part or any obligation under the contract is prevented or delayed by any reason of FM for a period exceeding 90 days, either party may at its option terminate the contract without any financial repercussion on either side.

Notwithstanding the punitive provisions contained in the contract for delay or breach of contract, the supplier/contractor would not be liable for imposition of any such sanction so long as the delay and/or failure of the supplier/contractor in fulfilling its obligations under the contract is the result of an event covered in the FM clause.

22.8 **Liquidated Damages (LD)**

Compensation of loss on account of late delivery/performance shortfall (actually incurred as well as notional) where loss is pre-estimated and mutually agreed to is termed as LD. The Procuring Entity is allowed to recover loss from the supplier/contractor provided such a term is included in the contract.

22.8.1 **Quantum of LD**

The Procuring Entity may recover from the contractor, as agreed, the LD a sum equivalent to 0.5 (half) per cent of the prices of any portion of stores delivered late, for each week or part thereof of delay. The total damages shall not exceed 10 (ten) per cent of the value of delayed goods. The LD cannot exceed the amount stipulated in the contract.

In contracts governed by any type of variation like PVC, LDs will be applicable on the price as varied by the operation of the PVC.

22.8.2 **Waiver of LD**

There should normally be no system of waiver of LDs and it may strictly be an exception rather than a rule. For an extension of delivery date with waiver of LD, approval of the competent authority in consultation with Finance may be taken and justifications recorded.

22.9 **Breach of Contract, Remedies and Termination**

In case the contractor is unable to honour important stipulations of the contract, or gives a notice of his inability to honour such a stipulation, a breach of contract is said to have occurred. As soon as a breach of contract is noticed, a show cause notice should be issued to the contractor reserving the right to implement contractual remedies. If there is an unsatisfactory resolution, remedial action may be taken immediately. The competent authority may terminate a contract in the following cases:
22.9.1 **Cancellation of Contract for Default**

Without prejudice to any other remedy for breach of contract, such as removal from the list of registered supplier, by written notice of default sent to the supplier, the contract may be terminated in whole or in part:

i) If the supplier/contractor fails to deliver any or all of the stores or fails to perform the contracted work within the time period(s) specified in the contract, or any extension thereof granted; and

ii) If the supplier/contractor fails to perform any other obligation under the contract within the period specified in the contract or any extension thereof granted.

iii) If the contract is terminated in whole or in part, recourse may be taken to any one or more of the following actions:

   a) Forfeiture of performance security;
   
   b) Invocation of risk purchase as per terms of the contract; and
   
   c) However, the supplier/contractor shall continue to fulfill the contract to the extent not terminated.

Before cancelling the contract and taking further action, it should be desirable to obtain legal advice.

22.9.2 **Termination of Contract for Insolvency**

If the supplier/contractor becomes bankrupt or becomes otherwise insolvent or undergoes liquidation or loses substantially the technical or financial capability (based on which he was selected for award of contract), at any time, the contract may be terminated, by giving a written notice to the supplier, without compensation to the supplier/contractor, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to Procuring Entity.

22.9.3 **Termination of Contract for Convenience**

After placement of contract, there may be an unforeseen situation compelling Procuring Entity to cancel the contract. In such a case, a suitable notice has to be sent to the supplier/contractor for cancellation of the contract, in whole or in part, for its (Procuring Entity’s) convenience, inter-alia, indicating the date with effect from which the termination will become effective. This is, however, not Procuring Entity’s legal right – the supplier/contractor has to be persuaded to acquiesce. Depending upon the merits of the case, the supplier/contractor may have to be suitably compensated on mutually agreed terms for terminating the contract. Suitable provisions to this effect should be incorporated in the tender document as well as in the resultant contract.

22.10 **Dispute Resolution**

Normally, there should not be any scope for dispute between the purchaser and supplier after entering into a mutually agreed valid contract. However, due to various unforeseen reasons, problems may arise during the progress of the contract, leading to a disagreement between the Procuring Entity and Supplier/Contractor. Therefore, the conditions governing the contract should contain suitable provisions for settlement of such disputes or differences binding on both parties.
The mode of settlement of such disputes/differences should be through arbitration. However, when a dispute/difference arises, both the parties should first try to resolve it amicably by mutual consultation. If the parties fail to resolve the dispute within 21 days, then, depending on the position of the case, either party should give notice to the other party of its intention to commence arbitration. The applicable arbitration procedure shall be as per the Indian Arbitration and Conciliation Act, 2015 and its amendments, if any, thereof. While processing a case for dispute resolution/litigation/arbitration, the Procuring Entity should take legal advice, at appropriate stages.

22.10.1 Arbitration Clause

If an amicable settlement is not forthcoming, recourse may be taken to the settlement of disputes through arbitration as per the Indian Arbitration and Conciliation Act, 2015 and its amendments, if any, thereof. When the contract is with a domestic supplier, a standard arbitration clause should be included in the bidding document indicating the arbitration procedure to be followed. The venue of arbitration should be the place from where the contract has been issued.

22.10.2 Foreign Arbitration

The Arbitration and Conciliation Act, 2015 and its amendments, if any, thereof has provisions for international commercial arbitration, which shall be applicable if one of the parties has its central management and control in any foreign country.

When the contract is with a foreign supplier/contractor, the supplier/contractor has the option to choose either the Indian Arbitration and Conciliation Act, 2015 or arbitration in accordance with the Rules of Arbitration of the Indian Council of Arbitration.

22.11 Closure of Contract

While making the final payment to the supplier/contractor and before releasing the PBG, it should be ensured that there is nothing outstanding from the contractor. Before the bank guarantee is released, a “No Claim Certificate” may be taken from the contractor. In case of high value contracts, it should be ensured that before the release of final payment/bank guarantee, the following reconciliations are done by the departments involved in the execution of the contract:

i) Materials Reconciliation

ii) Payment Reconciliation

On satisfactory reconciliation and against a “No Claim Certificate” from the contractor, the bank guarantee may be released and its acknowledgement taken from the contractor.

22.12 Risk and Purchase

22.12.1 When it is intended to cancel the Purchase Order or Contract which has been kept alive after expiry of delivery period by the conduct of parties, it is necessary to issue a notice to the concerned party before actual cancellation giving a period of fifteen days or such period as Legal Department may advise for supply of goods without prejudice to our rights to recover L.D. as per terms of the contract. Where the order is not kept alive beyond delivery period by implication or conduct of the parties, cancellation should be issued by the M&C Dept. / Contract Cell immediately after expiry of the delivery/completion period stating that quantities incomplete on the due date are cancelled and risk purchase will be made in terms of the relevant clause of the tender conditions of the contract. However, before resorting to the
risk purchase, approval of the competent authority should be taken. Wherever necessary, Legal Department should be consulted to protect the interests of the Plant/Company.

22.12.2 Risk & Expense Purchase: Risk and expense purchase clause may be included in the RFQ and the contract, if considered necessary. Risk and Expense purchase is undertaken by the purchaser in the event of the supplier failing to honour the contracted obligations within the stipulated period and where extension of delivery period is not approved. While initiating risk purchase at the cost and expense of the supplier, the purchaser must satisfy himself that the supplier has failed to deliver and has been given adequate and proper notice to discharge his obligations. Whenever risk purchase is resorted to, the supplier is liable to pay the additional amount spent by HCL, if any, in procuring the said contracted goods/services through a fresh contract, i.e. the defaulting supplier has to bear the excess cost incurred as compared with the amount contracted with him. Factors like method of recovering such amount should also be considered while taking a decision to invoke the provision for risk purchase. For Risk Purchase action after issue of notice to the defaulting party a tender enquiry will be issued excluding the defaulting party for finalization of order on alternate source. Preferably the date of tender opening of the alternative tender enquiry and the expiry of risk purchase notice to the defaulting party should be about the same time. Notice should be given to the defaulting party with a view to provide it with last chance to effect supply and as such its response should be considered before deciding on the cancellation or alternate procurement through risk purchase.

The decision to place order and cancellation of the original order should be taken after consideration of the response of the defaulting party and the receipt of the offers against the enquiry.

22.12.3 For service contract cases, notice for execution of order on risk & cost of any contractor can be issued during valid period of contract also if contractor either fails to start the work within reasonable time, the progress of the job is poor or for any breach of contract.

22.12.4 After expiry of notice period and on finalization of the alternate goods/services contract, the left-over/un-serviced quantity in the original goods/services contract should be cancelled and new order should be placed.

22.12.5 The Risk goods/services contract should as far as possible be on the same terms and conditions as the original goods/services contract (apart from delivery time), i.e., the goods should be of the same specifications, etc.

22.12.6 It should be ensured that Risk goods/services contract is concluded within a reasonable time.

22.12.7 Risk purchase at the cost and expense of the supplier may not always be a practical proposition as it may not be feasible to enforce recovery without legal action. This clause is rarely invoked in case of import contracts for this reason. In such cases where the item is of proprietary nature or there is only one qualified firm to supply the items and there is a remote possibility of procuring the same item from an alternative source, it will be essential that instead of having risk and cost clause in the contract, the contract should have performance guarantee clause to cover any such default.
22.13 **Repair Contract**

22.13.1 Wherever the cost of repair is less than 40% of the cost of new item, repair may be got carried out. Any proposal involving repair cost higher than the above limit may be treated as BER (Beyond Economic Repair). The repair indent is to be sent by the Indenter to the Procuring Agency, should clearly specify the type of equipment, quantity, type of repairs, history of previous major repair, name of the manufacturer, Total Technical Life (wherever it can be indicated), material code, material description, assessed cost of the repair (in situ or at the vendor’s work), target delivery date after repairs, special terms and conditions for the vendor such as interchangeability, inspection, testing, guarantee period, etc. The amount should preferably be assessed or, if such assessment is not feasible, it is to be obtained through a non-obligatory budgetary quote from all the possible sources i.e. authorized service centres, including the OEM.

22.13.2 The repair should be generally carried out by the original equipment manufacturer only. However, efforts should be made to identify alternative sources as well particularly in respect of items which are not technically complex and critical so that healthy competition could be generated. In the event of the OEM expressing difficulty to undertake repairs and there being no OEM’s authorized agency to undertake repairs, other possible sources may be approached. The contractor has to be made accountable for the performance of the equipment. There should be suitable PBG and Warranty/Guarantee provisions in the contract.

22.13.3 While in many contracts involving repairs and overhauling, the equipment do not have to be sent to the vendor’s works for repair and the repairs are carried out in situ, there are occasions when the equipment and machines have to be sent to the workshop of the vendor for repairs.

22.13.4 The following terms and conditions relating to unforeseen repairs should also be included in the RFQ and the contract:

(a) If during the process of repair, it is found that the equipment is incomplete, damaged or cannot be repaired in terms of the contract, the Contractor shall, if possible, install missing parts of the equipment or change parts of the equipment which cannot be repaired, only in consultation with HCL.

(b) The Customer shall pay additional cost to the Contractor for the new/ changed spare parts. The cost of such parts shall be mutually agreed upon by both the parties to the contract and an Additional Agreement shall be signed by HCL. Wherever inspection/dismantling charges are payable, they may be built into special terms and conditions before dispatch of equipment to the vendor’s works.

22.13.5 The date of delivery of the equipment for repair is the date on which the gate pass is issued. The date of delivery of the equipment after repair is the date on which the equipment is received back at the premises of HCL or as per the terms and conditions of the Work Order.
23.0 VENDOR DEVELOPMENT

It shall be the continuous endeavour on the part of all Units to find out and/or develop substitutes/sources of supply with a view to reduce cost of input materials/services. Consideration may also be given to save foreign exchange.

23.2 To achieve this objective, the Unit Head shall constitute a Vendor Development Cell (VDC) under HOD of M&C dept which will coordinate and monitor all related activities.

23.3 The need to develop a Vendor for an item/services shall be identified by concerned user Department/M&C Department and shall be approved by concerned HOD.

The requisition for such items shall be made by concerned department with the approval of the Competent Authority and shall contain:

a) The existing practices/material/technology and their shortcomings.

b) The proposed practice/material/technology and the anticipated cost-benefit analysis.

c) Minimum quantity for conducting trial.

d) Minimum period for conducting trial

23.4 Such proposals may be scrutinized by a Committee comprised for this purpose under HOD of M&C dept. One month before the beginning of each financial year, the Committee shall identify the items and in consultation with VDC and within the annual budget for the same, would get it approved by competent authority.

23.5 Before issuance of tender enquiry, the replacement specifications, functional requirements, input conditions, performance norms, relevant drawings, inspection procedures, method of conducting trials and outputs, etc., are to be worked out and finalized by the indenter/concerned department in consultation with Design Department, R&D, other technical Consultant Departments. The proposal shall also indicate the stage and final inspection criteria, procedures and methods of conducting trial.

23.6 Final acceptance of the item developed shall be done after field trial. The trial should be completed within the stipulated period from the date of receipt of material. The trial shall be monitored by a Committee constituted for the purpose by the HOD of concerned dept.
23.7 Evaluation of Suppliers’ Performance:

Suppliers all items critical to the product quality as identified and documented by HCL shall be annually evaluated for their actual performance against each of the items supplied. Evaluation shall be done based on:

(i) The quality of the material supplied;
(ii) Adherence to the delivery commitments.

**Supplier Performance Rating (SPR):**

\[
SPR = [(0.8 \times QR) + (0.2 \times DR) \times 100]
\]

Where;

\[
QR = \frac{(Q1 + 0.5 \times Q2)}{Q}
\]

Q1 = Qty accepted direct
Q2 = Qty accepted under deviation
Q = Qty received

\[
DR = \frac{(D1 + 0.5 \times D2)}{D}
\]

D1 = Qty received in time
D2 = Qty received beyond time
D = Qty ordered

If SPR is:

91-100 -------- VG (A)
81-90 --------- G(B)
71-80 -----------(Conditional acceptance)
< 70 -------------(Not to be considered)

Based on the deliveries made during the preceding year, the performance of supplier against each item shall be reviewed annually.

If the overall annual performance rating of a supplier is below 70% for two consecutive years, the name will be dropped from the approved list.

In the case of proprietary items, imported items, developmental items for de-proprietarization, and short supply items having limited sources, if the performance rating is below 70%, the same should be brought to the notice of the competent authority.

23.8 Vendor Registration: Online vendor registration is to be done by the bidder as per the format available at https://www.hindustancopper.com. It is an auto approved process.
Electronic Reverse Auction is a type of auction where the starting price, bid decrement, duration of auction, maximum number of automatic extensions are announced before start of online reverse auction. If required, RA may be preceded by an e-procurement stage of eligibility/PQB to shortlist competent bidders, who would be allowed to participate in the RA. The shortlisted bidders can after the start of RA start bidding online in an iterative process wherein the lowest bidder at any given moment can be displaced by an even lower bid of a competing bidder, within the duration of the RA. If a new lower bid is received within the last few minutes (say two minutes) of closing time, the closing time may get automatically extended by few minutes (say five minutes) for others to respond. Maximum number of such extensions may be stipulated beforehand. The most favourable bid at the end of stipulated/extended time is declared as successful. Items in the nature of commodities, commercially-off-the-shelf items, items having large number of suppliers and high value procurements may be more amenable to RA.

While permitting use of RA, CVC has asked the organizations to themselves decide on RA for purchases or sales and work out the detailed procedure in this regard (http://cvc.gov.in/ord46903.pdf).

RA is to be undertaken through a suitable and robust service provider. The procedure for electronic reverse auction shall include the following, namely:

i) The Procuring Entity shall solicit bids through an invitation to the electronic reverse auction to be published or communicated in accordance with the provisions similar to e-Procurement; and

ii) The invitation shall, in addition to the information as specified in e-Procurement, include details relating to:

a) Access to and registration for the auction;
b) Opening and closing of the auction;
c) Norms for conduct of the auction; and
d) Any other information as may be relevant to the method of procurement.
25.1 Registration of suppliers and their eligibility to participate in Procurement Entity’s procurements is subject to compliance with Code of Integrity for Public Procurement and good performance in contracts. Following grades of debarment from registration and participation in tenders can be considered against delinquent bidders/suppliers:

I) **Holiday Listing (Temporary debarment or suspension)**: In less serious cases, a supplier/contractor (including their related entities) may be temporarily debarred from the Procurement Entity’s procurements for short periods up to 12 (twelve) months, without the firm’s name removed from the list of registered vendors. When a supplier/contractor is on holiday listing, he is neither invited to bid nor are his bids considered for evaluation during the period of the holiday. The supplier/contractor automatically stands removed from the holiday listing on expiry of the holiday period. Performance issues may justify holiday listing of the vendor.

II) **Removal from list of registered vendors**: Debarment of a delinquent supplier/contractor (including their related entities) for a period of time (one to two years) from the Procuring Entity’s procurements with the removal of name from the list of registered vendors, due to serious deficiencies in performance or other serious transgressions. The vendors removed from the list of registered vendors are neither invited to bid nor are their bids considered for evaluation. Whenever a firm is removed from the list of registered vendors, its registration stands cancelled but the supplier data should not be deleted from the system. Suppliers/contractors removed from the list of registered vendors or their related entities may be allowed to apply afresh for registration after the expiry of the period of removal.

The issues which may justify removal of the supplier/contractor from the list of registered suppliers include:

i) failure to abide by the terms and conditions of the contract;
ii) ceases to exist or is acquired by or merged with another firm, or ceases to operate in the category of requirements for which it is registered;
iii) bankruptcy or insolvency as declared by a court of law;
iv) banning by Ministry/Department or any other Government agency;
v) CBI/CVC/C&AG or Vigilance Department of Procuring Entity recommending such a course in respect of a case under investigation;
vi) any other ground, based on which the registering authority considers that continuation of registration of the firm is not in public interest.

III) **Banning of Firms**: When the misconduct and moral turpitude of a firm goes beyond mere performance issues, imposition of a ban on business relations with the firm may be done for a
specified period of time (normally not exceeding three years), after following the debarment procedures mentioned in Para 25.2 below. The Procuring Entity should ensure that, before sending the proposal for banning of business, the name of the defaulting firm is removed from its list of registered vendors. An order for banning passed for a certain specified period shall be deemed to have been automatically revoked on the expiry of that specified period and it will not be necessary to issue a specific formal order of revocation. However, the firm would have to apply afresh for registration with procuring entities.

Firms and any of their successors should be banned or debarred if they indulge in following misdemeanors:

i) Debarment from participating in a procurement process of Procuring Entity for a period not exceeding three years, if the proprietor of the firm, its partner or representative:
   a) is convicted of any offence by a court under the Prevention of Corruption Act, 1988;
   b) is convicted of any offence by a court under the Indian penal Code or causing any legal liability to the Procuring Entity as part of execution of a public procurement contract;
   c) is suspected to have doubtful integrity
   d) any other ground which considers that banning is in public interest.

ii) Debarment from participating in any procurement process undertaken by the concerned Procuring Entity, for a period not exceeding two years, if there is strong justification for believing that the proprietor or representative of the firm has been guilty of violation of the code of Integrity for public procurement or Integrity Pact etc.

25.2 Debarment/Banning Procedures

Punitive actions of various grades of debarment against the suppliers / contractors should be examined by a Committee and approved by the competent authority at the appropriate level in case of holiday listing / removal from the list of registered suppliers / banning of firms, as the case may be.

The departments will furnish lists of such suppliers who have committed misdemeanors listed in the Para above to the Committee for considering various grades of debarment. On receipt of information from Departments, the Committee should take action to issue a show cause notice to such firms. The Committee may also order an interim debarment (holiday listing) during the process considering the severity of misdemeanor. The supplier/contractor should be given adequate opportunity to make representation and may be heard in person, if so required. If the response to the show cause notice is not satisfactory or not acceptable, such firms should be put on suitable grade of debarment, depending on the severity of the misdemeanor. The Procuring Entity shall maintain such list which will also be displayed on its website as well as on CPP Portal.

25.3 Safeguarding Procuring Entity’s Interests during debarment of Suppliers/Contractors

Suppliers/contractors are important assets for the procuring entities and punishing delinquent suppliers/contractors should be the last resort. It takes a lot of time and effort to develop, register and mature a new supplier/contractor. In case of shortage of suppliers/contractors, such punishment may hurt the interest of Procuring Entity. Therefore, views of the concerned department should always be sought about the repercussions of such punitive action on the continuity of procurements. Past records of performance of the supplier/contractor may also be given due weightage. In case of shortage of suppliers/contractors and in cases of less serious misdemeanors, the endeavour should be to pragmatically analyze the circumstances, reform the supplier and get a written commitment from, them that their performance will improve. If this fails, efforts should be to see if a temporary debarment can serve the purpose.
26.0 PUBLIC PROCUREMENT POLICY FOR MICRO AND SMALL ENTERPRISES (MSEs)

26.1 From time to time, Government of India lays down procurement policies to help inclusive national economic growth by providing long-term support to MSEs. The Procurement Policy for Micro and Small Enterprises, 2012 has been notified by the Government in exercise of the powers conferred in Section 11 of the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006.

26.2 Micro and Small Enterprises (MSE) must, along with their offer, provide proof of their being registered as MSE (indicating terminal validity date of their registration) for the item tendered, with any agency mentioned in the notification of the Ministry of Micro, Small and Medium Enterprises, indicated below:

i) District Industries Centres;
ii) Khadi and Village Industries Commission;
iii) Khadi and Village Industries Board;
iv) Coir Board;
v) National Small Industries Corporation;
vii) Directorate of Handicraft and Handloom; and
vii) Any other body specified by the Ministry of MSME.

26.3 For ease of registration of Micro and Small Enterprises (MSEs), Ministry of MSME has started Udyog Aadhar Memorandum (UAM), which is an online registration system w.e.f. 18th September, 2015 and all MSEs who are having UAM should also be provided all the benefits available for MSEs under the Public Procurement Policy for MSEs Order, 2012.

26.4 The MSEs are to be provided tender documents free of cost and are to be exempted from payment of earnest money, subject to furnishing valid certificate for claiming exemption. MSEs having UAM must furnish UAM No. in their offers to get such exemption.

26.5 MSMED Act, 2006 has provision for ensuring timely payments to the MSE suppliers. The period agreed upon for payment must not exceed forty five (45) days after the supplies. For delays in payment, the buyer shall be liable to pay compound interest to the supplier on the delayed amount at three times of the bank rate notified by the Reserve Bank. For Arbitration and Conciliation regarding recovery of such payments and interests; Micro and Small Enterprises Facilitation Council has been set up in States.

26.6 In tender, participating MSEs quoting price within band of L1+15% shall also be allowed to supply a portion of requirement by bringing down their price to L1 price in a situation where L1 price is from someone other than an MSE. Such MSEs shall be allowed to supply up to 25% of total tendered value. In case of more than one such MSE, the supply will be shared proportionately.
26.7 Within this 25 (Twenty Five) per cent quantity, a purchase preference of 4 (Four) per cent is reserved for MSEs owned by Schedule Caste (SC)/Schedule Tribe (ST) entrepreneurs (if they participate in the tender process and match the L-1 price). Provided that, in the event of failure of such SC/ST MSE to participate in the tender process or meet tender requirements and L-1 price, 4 (Four) per cent sub-target shall be met from other MSE. MSEs would be treated as owned by SC/ST entrepreneurs:

i) In case of proprietary MSE, proprietor(s) shall be SC/ST

ii) In case of partnership MSE, the SC/ST partners shall be holding at least 51% (Fifty One per cent) shares in the unit

iii) In case of Private Limited Companies, at least 51% (Fifty One per cent) share shall be held by SC/ST promoters.

26.8 Every Central Ministry / Department / PSU has to set an annual goal for procurement from MSEs at the beginning of every financial year, with the objective of achieving an overall procurement of minimum 25% (twenty five per cent) of total annual purchases of products produced/services rendered by MSEs. Refer MSME D.O. No. 21(8)/2018-MA dated 13.11.2018 for reference.

26.9 Also, there has to be a provision to provide 3% reservation for women owned MSEs within the above mentioned 25% reservation to make it more inclusive.

26.10 The Ministries or Departments or Public Sector Undertakings shall also prepare Annual Procurement Plan for purchases and upload the same on their official websites so that MSEs may get advance information on requirement of procurement agencies.

26.11 For enhancing participation of MSEs owned by SCs/STs in Government procurement, Central Government Ministries / Departments / PSUs may conduct Special Vendor Development Programmes/Buyer-Seller Meets.

26.12 As per Ministry of MSME, in case of tender item is non-split-able or non-dividable, MSE, quoting price within the price band L-1+15% (Fifteen per cent) may be awarded for full/complete supply of total tendered value, considering spirit of policy for enhancing the Government procurement from MSE, in terms of Sub-Para 26.5 above.

26.13 Ministry of MSME have clarified that all Central Ministries/Departments/PSUs may relax condition of prior turnover and prior experience with respect to Micro and Small Enterprises, subject to meeting of quality and technical specifications.

26.14 Where any Aggregator appointed by the Ministry of MSME, themselves quote on behalf of some MSE units, such offers will be considered as offers from MSE units and all such facilities would be extended to these also.

26.15 This Policy is meant for procurement of only goods produced and services rendered by MSEs and not for any trading activities by them. An MSE Unit will not get any purchase preference over another MSE Unit.
26.16  GoI has revised the definition of micro, small and medium enterprises to give them the confidence to grow. Under the new definition, the distinction between manufacturing and services enterprises has been eliminated. Under the new definition of MSMEs, the investment criteria for such enterprises have been revised upwards, while an additional criterion of turnover has been introduced.

Under the new definition, manufacturing and services enterprises with investments up to Rs 1 crore and turnover up to Rs 5 crore will be classified as micro enterprises. For small enterprises, the investment criteria has been revised upwards to Rs 10 crore, with the turnover criteria of Rs 50 crore added to the mix. Enterprises with investment up to Rs 20 crore and turnover up to Rs 100 crore will be termed medium enterprises. The Procuring entity may refer to GoI circulars in this regard, as & when it is issued.

26.17  HCL shall follow and implement all guidelines issued by GoI from to time in respect of Public Procurement for Micro, Small and Medium Enterprises.
27.0 DISPOSAL OF SCRAP GOODS

27.1 Scrap for Disposal
During the course of operation in the mines and plants, HCL units accumulate a large quantity of material which is neither usable for the purpose for which it was originally procured nor has any operational value. Such material is generally called "scrap" and should be distinguished from other stores and component parts which can be utilized after repair or renovation.

27.2 Survey of Materials for Classifying as Scrap for Disposal
27.2.1 Before any item of stores can be sold as 'scrap', it should be declared as such by the Survey Committee, appointed by the Competent Authority as per DOP, and the sanction of the competent authority obtained for such a sale. The Competent Authority may relax this need for survey by the survey committee, as a standing order, in case of items of scrap of small value (up to Rs. 5000/-).

27.2.2 Survey of Scrap: Generally, items may be identified as scrap in any of the following cases:

i) Whether the item has completed its expected useful life or not and its usability in the organization or any other office should also be considered before deciding on scrapping the equipment;

ii) The item has a limited shelf life, exists in surplus quantities and there is likely to be no future use of the item during the remaining period of its useful life;

iii) The reasons for declaring the item surplus or obsolete or unserviceable should be recorded by the survey committee. A standard format for survey committee's recommendations for disposal of goods is given at Annexure……

iv) The survey committee should seek the approval of the Competent Authority with the concurrence of Finance.

27.3 Modes of Disposal
The mode of disposal may be determined, keeping in view the necessity to avoid accumulation of such goods, consequent blockage of space and also deterioration in value of the goods to be disposed of. The usual modes of disposal of scrap are:

i) Small value scrap such as waste paper etc. up to a value of Rs. 5000/- (Rupees Five Thousand) in each case may be sold directly to the local scrap dealers on a summary quotation basis;

ii) Scrap up to Rs. 2 Lakh may be sold on a Limited Tender basis to locally known scrap dealers of relevant category;
iii) Sale through e-auction portal or a tender for disposal or public auction may be resorted to for scrap value above Rupees 2 Lakh. E-Auction should be the preferred mode for such disposals through MSTC or any other appropriate agency;

iv) Certain usable machinery which may be still useful by other PSUs should be disposed at book value plus 20% (7.5% freight + 12.5% handling charges) directly to the concerned organization. However, in case of spares of machinery, nominal depreciated cost may be considered based on the depreciation rate of the original machinery in which the spare was fitted. However, a committee should be constituted to explore further additional value of the machinery / spare in negotiation with the PSU concerned;

v) Sales by Submission of Tenders: Disposal may be done by submitting bids in response to public invitations for tenders for supplying scrap materials, which are in ‘fit to use condition’, whether such invitations are issued by Govt. Departments, PSUs or by private organizations;

vi) Sale of hazardous waste items shall be governed by the following procedures in addition to guidelines/notifications issued by the Central Pollution Control Board (CPCB)/Ministry of Environment and Forests (MoEF) from time to time:
   a) Sale of old batteries/lead acid batteries will be governed by the Batteries (Management & Handling) Rules, 2001 or as amended from time to time;
   b) Sale of other categories of hazardous waste items will be governed by the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 or as amended from time to time;
   c) Sale of e-waste shall be governed by E-Waste (Management) Rules, 2016 or as amended from time to time;
   d) Bidders must submit notarized copy of the valid registration certificates issued by the State Pollution Control Board (SPCB) and produce it at the time of taking delivery of the materials, failing which their bid will be liable for rejection. In case of nonferrous metal wastes, in addition to submitting necessary valid registration from the SPCB, the bidder must also submit notarized copy of valid registration certificate from CPCB (or MoEF).

27.4 Preparation for Disposal

27.4.1 Scrap recommended for disposal should be segregated from other materials into an identifiable lot. It should be marked as such with a board, indicating the lot number and brief description. Valuable scrap such as non-ferrous metals should be secured in lockable spaces/sites.

27.4.2 Determining Reserve Price

In any mode of disposal, material should preferably not be sold at rates per lot. The bids should rather be registered by rate per unit so that a complete check on the quantity delivered can be exercised, at any time. The Unit/Head Office may determine the reserve price with the concurrence of Finance and approval of the Competent Authority. In case of large value disposals, a Reserve Price Committee may be appointed to recommend the reserve price. The reserve price should be recorded on a page numbered register in advance of the date of disposal action. This register should be sealed immediately after the reserve prices of all lots have been recorded in the register, and kept in safe custody. The sealed register should be opened just before e-auction/tender opening.
Some methods for determining reserve prices are:

i) Book value with depreciation. In case the Book value is not available or has become insignificant, the reserve price may be based on 5% of the Original or Market cost of the new item;

ii) Last sale price moderated by quantity, quality, location, market condition etc.

iii) Prevailing market price ascertained through a market survey; and

iv) Costing analysis based on costs of various elements of the item, labour charges and transportation cost etc.

In cases where the reserve price cannot be fixed as per laid down procedure, an Insurance Regulatory and Development Authority (IRDA) - approved valuer may be engaged for valuation of such material and the Reserve Price Committee will take into account the valuation given by the valuer while recommending the reserve price.

27.5 **Conditions of Disposal Applicable to all Modes of Disposal**

27.5.1 ‘As-Is-Where-Is’ basis

Notwithstanding anything contained in the e-auction or advertisement issued on the description and particulars of material for sale, the sale is on ‘as-is-where-is’ basis only. ‘As-is-where-is’ shall mean that the descriptions/quality/quantity indicated are approximate and the seller does not give any assurance or guarantee that the material will strictly adhere to the advertisement or e-auction. All items, as advertised, shall be taken delivery of from the site by the successful bidders, with its faults and errors in description, if any. Neither can the sale be invalidated nor the bidder make any claim/compensation, whatsoever, on account of any defect in description or deficiency in the quantity and quality. No plea of misunderstanding or ignorance of conditions put forth subsequent to a confirmation of sale shall be accepted.

27.5.2 Inspection by Bidders

In view of the ‘as-is-where-is’ condition, bidders should be advised to quote rates only after inspection of items at the site. The bidder or his authorized representative may inspect the materials as per the inspection schedule mentioned in the tender/auction details during a specified time on any working day at the location specified against each lot with the prior permission of the contact person, as given in the tender/auction details.

27.5.3 Right to Reject all Bids

The seller shall reserve its right to accept/reject and cancel any bid, amend the quantity under any lot or withdraw any lot at any stage before or after acceptance of bid/issue of acceptance letter/sale order/delivery order/deposit of the full sale value by the bidder, without assigning any reason thereof and the value of such material, if paid for, shall be refundable. The seller shall not be responsible for damage/loss to bidders on account of such withdrawal at any stage from the sale.

27.5.4 Goods and Services Tax (GST)

Any statutory variations in the rate of GST are to be borne by the purchaser. The actual GST rates as applicable on the date shall be payable by the successful bidders to the seller at the time of taking delivery of materials. In order to avoid the imposition of penalty, the amount deposited by the successful bidder towards GST will be immediately deposited with the concerned tax authorities without waiting for the actual delivery.
Disposal through Tender

Disposal through tender may take place through the e-Procurement portal or normal tendering. In the bidding documents, General Conditions of Sale (GCS) may be laid out. Important aspects to be kept in view while disposing the goods through an advertised tender are:

a) The basic principle for sale of scrap materials through an advertised tender is to ensure transparency, competition, fairness and elimination of discretion. Wide publicity should be ensured of the sale plan and goods to be sold;

b) All required terms & conditions of sale should be incorporated in the bidding document. The applicability of taxes, as relevant, should be clearly stated in the document. The bidding document should also indicate the location and present condition of the goods to be sold so that the prospective bidders can inspect the goods before bidding;

c) Bidders should be asked to furnish Bid Security (EMD) along with their bids. The amount of EMD should ordinarily be 5% of the reserve price of the goods. The exact EMD amount should be indicated in the bid document. The EMD shall be forfeited if the tenderer unilaterally withdraws, amends, impairs or derogates from his offer in any respect within the bid validity period;

d) Late bids, that is, bids received after the specified date and time should not be considered;

e) The bid of the highest acceptable responsive bidder should be accepted and an acceptance/sale order be issued after concurrence in Finance and approval of the Competent Authority as per DOP. However, if the price offered by that bidder is not acceptable, a negotiation may be held only with that bidder;

f) In case the selected bidder does not show interest in depositing the balance sale value or in lifting the goods, his EMD should be forfeited and other actions initiated including resale of the goods in question at the risk and cost of the defaulter;

g) In case the total quantity to be disposed cannot be taken up by the highest acceptable bidder, the remaining quantity may be offered to the next higher bidder at the price offered by the highest acceptable bidder. The minimum quantity to be accepted shall be indicated in the tender;

h) If the tenderer's offer is not accepted, his EMD shall be refunded to him. No interest shall be payable on such refunds.

i) The EMD deposited by the successful tenderer shall remain with the disposing department/Finance department till payment of the SD money has been made. It may be adjusted as part of the total SD money at the discretion of the disposing organization;

j) The offer should be examined by the TC and TC recommendations should be submitted to the Competent Authority as per DOP for approval after concurrence in finance.

k) The acceptance letter/sale order would be issued to the successful bidder(s) notifying the amounts and schedule of submission of SD and balance sale value (BSV);

l) Successful tenderers shall have to submit SD @ 25% of the total sale value of the contract within 7 (Seven) calendar days of the issue of the acceptance letter/sale order (excluding the date of issue). The SD may be deposited in the form of bank draft/pay order, drawn in any schedule commercial bank in favour of the disposing organization as mentioned in the bidding document;

m) The successful tenderer may be allowed 15 (Fifteen) calendar days (including the date of acceptance letter/sale order) for payment of balance sale value (BSV). In case of any delay in payment of BSV by the successful tenderer, the disposing organization, at the request of such tenderer, may grant an extension of time for the payment of BSV with late payment charges @ 1% per week or
part thereof up to 2 (Two) weeks only and, thereafter, the SD will stand forfeited without notice. Extensions should not be granted as a matter of routine. No interest will be paid to the purchaser for the amounts paid or deposited and subsequently found refundable to the purchaser under any of the conditions of the contract; and

n) Delivery Order is an essential document required to be produced to take delivery of the material from the custodian and therefore after depositing BSV including taxes as relevant, the Delivery Order should be issued and the delivery should be made to the purchaser or his authorized agent on the strength of the Delivery Order and after verifying payment receipts.

27.7 Disposal at scrap value

If the disposing organization is unable to sell any surplus or obsolete or unserviceable item at the reserve price, in spite of at least three (3) attempts through advertised tender/e-Procurement Portal, it may be dispose it off at its scrap value with the approval of the Competent Authority, duly concurred in Finance.

27.8 Delivery of Sold Material

27.8.1 Free Delivery Time and Ground Rent

Delivery has to be taken within 30 (Thirty) calendar days or as stipulated in the acceptance letter/sale order, called free delivery period. If the purchaser is not able to lift the material within the free delivery period, he may request for an extension. Such extensions are generally granted after levying a ground rent @ ½% of the sale value per day. But, in some genuine cases, the levy of ground rent may be waived with the approval of the Competent Authority.

27.8.2 All Risks to the Buyer

The items shall remain, in every aspect, at the risk of the buyer from the time of acceptance of his offer. The seller will not undertake any liability whatsoever for the safe custody, protection or preservation after the sale has been confirmed. No complaint regarding the quality or description of the materials sold shall be entertained once the bid has been accepted.

27.8.3 Terms of Delivery

No picking, choosing, sorting or cutting of the materials shall be permitted unless otherwise specified. In mixed lots, the buyer may take undue advantage by leaving cheaper components behind. If any foreign material are found to be mixed in the lot, other than the items included in the sale catalogue and acceptance letter/sale order, the seller reserves the right to remove them at the time of delivery. The buyer shall not be entitled to re-sell an item, lot or part of a lot while the goods are still lying within the premises of the seller.

27.8.4 Default by Seller

The seller will not be, in any way, responsible for failure to deliver the material due to causes beyond his control such as a strike, lockout, cessation of work by labourers, act of God or other causes or other contingencies whatsoever. The buyer shall not be entitled to cancel the contract and the period of delivery shall automatically be extended proportionately.

27.8.5 Default by Buyer

Materials sold but not removed within the specified date will become the property of the seller and it will have the right to dispose of such goods in any manner as he deems fit without any notice.
27.8.6 Deliveries of Scrap
At the time of delivery of scrap material to the purchaser, the weighment is to be done in the presence of the disposing organization’s nominated representative (stock-holder). The stock-holder should arrange for the deliveries according to the agreement and terms and conditions of sale. He should ensure that only such kinds and quantities of materials as have been shown in the sold lot are being issued; he should sign the gate passes and issue notes in token of such a check. In giving delivery of scrap of non-ferrous items, the material should be weighed on electronic weighing scales. All the weigh bridges should have valid certificate from Weight & Measure Department of the concerned State Government.

27.8.7 Variation in Available Quantity
At the time of delivery, the actual quantity may vary from the quantity mentioned in the delivery order. In case of excess available material, the seller reserves the right to retain material in excess of quantity in the lot at its discretion. The purchaser may also be allowed, at seller's sole discretion, to lift the additional quantity after making the requisite additional payment to the seller.

If the quantity in a lot on actual weighment is less than the announced quantity, the seller will not make good the deficiency under any circumstances. The purchaser thereof will be entitled to obtain a refund for the undelivered quantity at the quoted rate. No interest will be paid on the amount of short delivered quantity. The reasons for the shortfall should be recorded by the stock-holder and the Unit head should also record his opinion. Any refund in this regard will be made with the concerned department's recommendation, concurrence in Finance and approval of the Competent Authority. Copies of the weighment slip will be the base for determining the refund amount. In case of short delivery of the material, the refund of taxes will be the responsibility of the successful bidder only.

27.8.8 Conclusion of Delivery
The seller’s responsibility ends after the consignment has been loaded and handed over to the representative of the buyers. The seller will be no party to any dispute that may arise after the loading has been completed. At the conclusion of the delivery of the lot or lots, pertaining to the item of scrap, any stock, left over should be verified by the concerned officers of the disposing organization with the book balance and any discrepancies adjusted. Such ‘left over’ stock may be transferred to fresh scrap of similar description. At the conclusion, a report of sale account of goods disposed should be submitted to Finance department and the Competent Authority.

27.8.9 Disposal of obsolete plant, machineries and equipment: There is a policy in HCL duly approved by the Board vide 303-B-3, which deals extensively with the guidelines for disposal of obsolete plant, machineries and equipment. The disposal of such items shall be governed by the said approval.
28.0 GENERAL

28.1 The employees associated with award/execution of contracts and purchase of items shall ensure that
a) Relevant provision of HCL Rules are complied with,
b) While dealing with relations, the relative shall be as defined in the Company’s Act, 2013.

28.2 Tender enquiry format should have a clause making it compulsory for a bidder to declare whether
the proprietor/partner/Director of the firm has any relation with any employee working in the Units
concerned or Director of HCL and if so, give the details and the relationship.

28.3 While procuring materials/awarding job contracts, the focus should be on electronic communication.

28.4 The General/consumables items, Stock and Non stocks items, insurance items, ABC classification etc.

General/Consumable items: These are the items which are consumed by more than one department/equipment mostly available off-the-shelf. These items are grouped as Nuts & Bolts, Electrode abrasives, lubricants, Electrical Cables, Light Fittings etc. For each group, there will be:

(i) Stock Items: These are Automatic Recoupment items. Consolidated indent for all the users is raised based on past consumption rate without waiting for the indent/requirement from individual user.

(ii) Non-Stock items: These are consumed by a few users and consumption rate is linked to Maintenance Planning. Indents for such items are raised by individual user and may be clubbed in Purchase Section if more than one indent is received before tendering.

Spares: These are items specific to an equipment/assembly. These are grouped as Mechanical Spares, Electrical Spares and Instrument/Electronic Spares. These spares for each category are further classified as:

(i) Normal: Individual items indented based on past rate of consumption or on specific requirement as per Maintenance planning.

(ii) Unit Replacement Items/Assemblies: As per the maintenance policy, certain assemblies/sub-assemblies is replaced as complete units to release defective assemblies for repairing in order to cut down on costly idle time of equipment. Such assemblies/assemblies which are to be replaced as complete units for quick repair of equipment will be classified as unit assemblies.

(iii) Insurance Items: Items or spare parts which are not normally required for routine maintenance but would cause long shut down of vital equipment or entire plant in case of non-availability are termed as insurance spares. These items are generally characterized by irregular consumption not easily susceptible to being closely foreseen and are highly reliable in performance and are of high value.
Capital Spares:

**ABC Classification of items:** ABC analysis is a technique by which selective control can be exercised on all Material Management Activities.

A-Class Items: Items having annual consumption over Rs. 2 lakhs are classified as ‘A’ class items.

B-Class Items: Items having annual consumption over Rs. 50,000/- and up to Rs. 2 lakhs are classified as ‘B’ class items.

C-Class Items: Items having annual consumption up to Rs.50,000/- are classified as ‘C’ Class items.

ABC Analysis based on Annual Rate of consumption i.e. Rs. /year will be done for all items class-wise / group-wise as detailed above.

Efforts will be made to identify fast moving and slow-moving items in each class / group (excluding Unit Replacement / Assemblies, Insurance and Capital Items under Spares) before ABC classification. This will facilitate exercising selective inventory control while planning procurement / raising indents.
29.0 Quality and Cost Based Selection (QCBS)

QCBS should be applicable to high value and specific type of contracts; viz. related to procurement of consultancy services, projects on PPP model, construction of plants/projects requiring new technology etc., where quality is of prime concern.

Under QCBS, both the technical and financial proposals are used to determine the winning submission. Typically, the technical and financial proposals are submitted at the same time in separate sealed envelopes (two-envelope system).

The evaluation methodology employed aims to identify the strongest technical proposal at the best price. Hence, each submission's technical proposal scores and financial proposal scores are weighted based on the quality-cost balance, the procurement team wants to apply, and the weighted scores summed, to produce the final results. So, for example, the weighting could be as follows:

- Weight assigned to technical proposal = 70%
- Weight assigned to financial proposal = 30%

The technical proposals are evaluated first. The score assigned to each proposal is then weighted as prescribed.

Thereafter, the financial proposals are evaluated. Typically, the lowest-priced financial proposal is awarded the full weighted score. Using the above weights, that would be 30%. The weighted scores of the other financial proposals are calculated as a fraction of the highest scoring proposal. So, if the lowest priced proposal was X, the weighted scores for another submission, for which the proposed price was Y, would calculated as (Y/X), multiplied by weight assigned to financial proposals (30%). Hence, their final weighted scores will always be less than that of the lowest-priced financial proposal.

Once the weighted technical scores and weighted financial scores are determined for each set of submissions, they are summed, to determine the final scores, and which is the winning submission.

The weightage given to quality and price in evaluating QCBS bid should be spelt out explicitly at the tendering stage. In no case, less than 30% weightage is to be allocated to each consideration, i.e. either quality or price. Qualitative parameters should not be subjective. Each bidder should be objectively evaluated against the pre-determined quality parameters, which should be spelt out in the NIT.

There should be a pre-determined cut-off as regard to quality parameter evaluation and price bids of only those bidders who achieve score equal to or more than the pre-determined cut-off for quality parameters to be evaluated.
Sample Purchase Requisition for Goods (Non-stock)

(To be sent in duplicate and separate requisition to be furnished for each Trade Group)

Name of Indenting Office:

<table>
<thead>
<tr>
<th>Reference No.:</th>
<th>Date</th>
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<tr>
<td>Unit:</td>
<td>Department:</td>
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Category of Stores:

- In case of equipment spares
- details of equipment/assembly
- where fitted:

Goods required by Date:

Consignee and place of delivery:

Details of Items

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<tr>
<th>Sl. No.</th>
<th>Description &amp; Specification/Code No.</th>
<th>Unit</th>
<th>Past Consumption</th>
<th>Available stock, if any &amp; quantity under supply as per pending orders</th>
<th>Total Qty. Indented</th>
<th>Estimated/Last Purchase Rate</th>
<th>Last Purchase Reference</th>
<th>Total Estimated Cost</th>
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Is Proprietary Certificate attached: Yes / No

Reference

It is certified that

1. Description and technical specification of the items indented have been checked and found to be in order.
2. Quantity of the items indented are in conformity with past consumption / Reasons for higher indented quantity are …………………
3. Funds are provisioned for in the budget.

Signature of Indenter: 
Designation & Date: 

Signature of HOD: 
Designation & Date:
### Proprietary Article Certificate

Name of Indenting Office:

<table>
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<tr>
<th>Reference</th>
<th>Description of Article/Item:</th>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Reference</th>
<th>Forecast of quantity/Annual requirement:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td></td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Reference</th>
<th>Estimated value for above quantity:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Reference</th>
<th>Manufacturer’s name and Address:</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>4</td>
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</tbody>
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<table>
<thead>
<tr>
<th>Reference</th>
<th>Name(s) of authorized dealers/stockists:</th>
<th></th>
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<tbody>
<tr>
<td>5</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Reference</th>
<th>It is certified that:</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>6</td>
<td></td>
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</tbody>
</table>

Note: Confirm 6(a) – without which PAC will be invalid.

\[\forall\text{Tick to retain only one out of 6(b), 6(c-1) or 6(c-2) whichever is applicable}\]

6(a) This is the only firm who is manufacturing/stocking this item

AND

6(b) A similar article is not manufactured/sold by any other firm, which could be used in lieu

OR

6(c-1) No other make/brand will be suitable for following tangible reasons (like OEM/Warranty Spares):

\[
\begin{align*}
\text{………………………………………………………………………………………} \\
\text{………………………………………………………………………………………}
\end{align*}
\]

OR

6(c-2) No other make/brand will be suitable for following intangible reasons:

\[
\begin{align*}
\text{………………………………………………………………………………………} \\
\text{………………………………………………………………………………………}
\end{align*}
\]

7 If PAC was also given in the last procurement cycle, what efforts made since then to locate more sources:

\[
\begin{align*}
\text{………………………………………………………………………………………}
\end{align*}
\]

### History of PAC purchases of this item for past three years

<table>
<thead>
<tr>
<th>Name of Supplier:</th>
<th>Order/Tender Reference &amp; Date</th>
<th>Quantity Ordered</th>
<th>Basic Rate (Rs.)</th>
<th>Adverse Performance Reported if Any</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

Signature of Indenter: ...........................................  Designation: ..............  Date: ...........

Signature of HOD: ..................................................  Designation: ..............  Date: ...........
# Purchase Committee Certificate Format

<table>
<thead>
<tr>
<th>Ref. No.</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit of HCL / Head Office:</td>
<td>Date:</td>
</tr>
</tbody>
</table>

Certified that we the undersigned, members of the purchase committee are jointly and individually satisfied that the items recommended for purchase are of requisite specification and quality, priced at the prevailing market rate and the supplier/contractor recommended is reliable and competent to supply the goods in question, and it is not debarred by HCL or any other Govt. Department. The details of recommended purchase are:

<table>
<thead>
<tr>
<th>Item:</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Quantity:</td>
<td>Unit:</td>
</tr>
<tr>
<td>Indenter:</td>
<td></td>
</tr>
</tbody>
</table>

**Details of Prices ascertained:**

<table>
<thead>
<tr>
<th>Bidder</th>
<th>Unit Rate</th>
<th>GST</th>
<th>Other Charges</th>
<th>Total Unit Price</th>
<th>Total Price</th>
<th>Recommendation</th>
</tr>
</thead>
</table>

Selected Bidder:

Unit Rate, GST & Other Charges:

Total Unit Rate:

Total Value of Purchase:

Payment be made in favour of:

<table>
<thead>
<tr>
<th>Signature:</th>
<th>Signature:</th>
<th>Signature:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name:</td>
<td>Name:</td>
<td>Name:</td>
</tr>
<tr>
<td>Designation:</td>
<td>Designation:</td>
<td>Designation:</td>
</tr>
</tbody>
</table>
Sample Pre-Qualification Criterion

The past experience of vendors as mandated by CVC Circular No. 12-02-1-CTE-6 dated 17.12.2002 in the Pre-Qualification Criteria:

The following points must be kept in view while fixing the eligibility criteria:

i) Average Annual financial turnover during the last 3 years, ending 31st March of the previous financial year, should be at least 30% of the estimated cost.

ii) Experience of having successfully completed similar works during last 7 years ending last day of month previous to the one in which applications are invited should be either of the following:
   a. Three similar completed works costing not less than the amount equal to 40% of the estimated cost.
   Or
   b. Two similar completed works costing not less than the amount equal to 50% of the estimated cost.
   Or
   c. One similar completed work costing not less than the amount equal to 80% of the estimated cost.

iii) Definition of “similar work” should be clearly defined.

In addition to above, the criteria regarding satisfactory performance of works, personnel, establishment, plant, equipment etc. may be incorporated according to the requirement of the Project.

The net worth of the Bidder Firm should not be negative on the 31st March of the previous financial year (or any other year ending followed in relevant country) and should not have eroded by more than 30% in the last three (3) years, ending 31st March of the previous financial year (or any other year ending followed in relevant country). Definition of Net Worth shall be as per Company Law.
NOTES:

1. Bids of Bidders quoting as authorized representatives of a principal manufacturer would also be considered to be qualified, provided:
   i) Their principal manufacturer meets the criteria above without exemption, and
   ii) The principal manufacturer furnishes a legally enforceable tender-specific authorization in the prescribed form assuring full guarantee and warranty obligations as per general and special conditions of the NIT
   iii) The Bidder himself should have been associated, as authorized representative of the same or other principal manufacturer for same set of services as in present bid for same or similar ‘Product’ for past three (3) years ending ‘The Relevant Date’.

2. Joint Ventures/Consortium: Credentials of the partners of Joint Ventures / Consortium can only be clubbed for the purpose of compliance of Pre-qualification criteria pertaining to the average annual financial turnover. In some cases, the average annual financial turnover of the lead member of the consortium may be specified as a percentage of the total financial turnover requirement. Apart from the consideration for the average financial turnover, for all other pre-qualification criteria, individual partners of the JV / Consortium need to qualify in at least one of the Pre-qualification criteria.

3. The bidder, along with all the necessary documents/certificates required as per tender conditions, should furnish a brief write up, explaining his available capacity (both technical and financial), for manufacture and supply of the required goods/equipment, within the specified time of completion, after meeting all their current commitments.
**Bid Opening Attendance Sheet cum Report**

Name of Procuring Entity: ……………………………………………………………………………………….

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Bidder's Name</th>
<th>Bidder's Address</th>
<th>Bidder's Authorization &amp; Date</th>
<th>Represented By</th>
<th>Contact No./e-mail id</th>
<th>Signature of representative</th>
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</table>

**Bid Opening Report**

Tender No.:  
Title:  
Date of Opening:  

Total Number of Tenders taken out from Tender Box:  
(in figures and in words)

<table>
<thead>
<tr>
<th>Offer No.</th>
<th>Bidder's Name</th>
<th>Bidder's Ref and Date</th>
<th>Submission of EMD (Y/N)</th>
<th>Submission of other Mandatory Documents (Y/N)</th>
<th>Submission of Price Bid in sealed envelope (Y/N)</th>
<th>Signature of Bidder Representative</th>
</tr>
</thead>
<tbody>
<tr>
<td>…/…</td>
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</tr>
</tbody>
</table>

Comments of Tender Opening Committee (if any):

Signature of Tender Opening Committee:

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<thead>
<tr>
<th>Name:</th>
<th>Designation:</th>
<th>Signature:</th>
<th>Date:</th>
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</thead>
<tbody>
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<tr>
<td>Name:</td>
<td>Designation:</td>
<td>Signature:</td>
<td>Date:</td>
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<td>Name:</td>
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<td>Signature:</td>
<td>Date:</td>
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</tr>
</tbody>
</table>

**ABBREVIATIONS**

**TABLE OF CONTENTS**
Invitation for Price Justification

(On letterhead of the Procuring Entity)

Ref. No…………………………………………………………..…………...  Date…………………………

To,

M/s …………………………………………………………..…………………………………………..………..

…………………………………………..……………..…………………………………………..………..……

…………………………………………..………………..…………………………………………..………..……

Sub: Tender No.…………………………………. Dated ................. Opened on..................

For Supply/Execution of ………………………………………………………………………………………...

Dear Sir,

This is to inform that you have quoted L-1 rate(s)/price in your tender against our subject tender. However, the rate(s) quoted in your tender is/are considered high. You are, therefore, requested to come for justifying your quoted rate(s)/price, on ………………… (date) at ………………… (time) at ……………………………………………………………………… (venue).

You should, however, come for price justification/negotiation only in case you are prepared to furnish the declaration appended herewith before such date.

Yours faithfully,

(Authorized Officer)

Enclosure:

Form of Declaration
FORM OF DECLARATION
(To be signed and submitted before start of negotiation)
(On company letterhead)
No………………………………………………………………………………………. Date:…………….……
To,
…………………………………………………………………………………………………………………………
…………………………………………………………………………………………………………………………
…………………………………………………………………………………………………………………………
…………………………………………………………………………………………………………………………
Sub: Tender No. ……………………….…………………… Dated …………………… Opened on………………
For Supply/Execution of …………………………………………………………………………………………...
Ref: Your invitation for price justification vide Letter No ……..…..……..……..……..…….. Dated ………..……..
Dear Sir,
I………………….duly authorized on behalf of M/s…………………………………… do declare that in the
event of failure of the contemplated negotiations relating to Tender No……………………………………………
opened on…………………, my original tender shall remain open for acceptance on its original terms and
conditions.

Yours faithfully,

Signature of Authorized Representative of Bidder

Place:……………………
Date:…………………..
Letter of Intent (LoI) / Letter of Award (LoA) of Contract

(On Letterhead of the Procuring Organization)

Ref. No…………………………………………………………………………………….. Date………………………

To,

M/s …………………………………………………………………………………………………………

Sub: Award of Contract for …………………………………………………………………. (Insert contract title)

Ref: 1. Tender No ……………………………………………….. Dated …………………………..………………

   2. Your Offer No………………………………. Dated ………………………… Opened on ………..…………

Dear Sir,

I am directed to inform you that after evaluating the bid documents submitted by you against the referred Tender Dated………., HCL [Enter Name of Procuring Entity] is pleased to inform you that you have been selected as the successful bidder for the supply/execution of …………………………………… [Enter Description] for a period of ……………..…………………… [Enter Contract Duration].

The total purchase/contract price shall be ……………………… [Enter Amount] as indicated in your financial bid submitted in your offer dated………/revised price bid submitted after negotiation on …………, in accordance with the procedures intimated in the relevant bid documents.

You/your authorized representative(s) are requested to be personally present at …………………………………… [Enter Address] for signing the contract by …………………………………. [Enter Date].

In this respect, we also request you to submit the performance security of Rs …………………[Enter Amount in words and figures] by …………………………………. [Enter Date] as per terms and conditions indicated in the bid document.

You are requested to execute necessary agreement within thirty (30) days from the date of issue of this letter. This notification concludes the legally binding contract between you and HCL, till issue of a formal contract.

Yours truly,

[Authorized Officer]
No Claim Certificate

(On Bidder Company Letterhead)

Date…………………
To,
The Authorized Officer of Procuring Entity

Sub: Contract Agreement/P.O. No……………………………….Dated…………………….. for the supply/execution of…………………………………………………………………………………………

We have received the sum of Rs ……………… (Rupees ………………………….. only) in full and final settlement of all payments due to us for the supply/execution of …………………………………………………………… under the abovementioned contract agreement, between us and HCL. We hereby unconditionally and without any reservation whatsoever, certify that with this payment, we shall have no claim whatsoever, on any account, against HCL, against aforesaid contract agreement executed by us.

We further declare unequivocally, that with this payment, we have received all the amounts payable to us, and have no dispute of any kind/description whatsoever; regarding the amounts worked out as payable to us and received by us. And that we shall continue to be bound by the terms and conditions of the contract agreement.

Yours faithfully,

Signature of Contractor or his authorized representative

Name of the Signatory :……………………………………

Name and seal of the Company …………………………….
# Letter of Credit (Draft)

<table>
<thead>
<tr>
<th>Field Name</th>
<th>Field Particulars</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEQUENCE OF TOTAL</td>
<td></td>
</tr>
<tr>
<td>FORM OF DOCUMENTARY CREDIT</td>
<td></td>
</tr>
<tr>
<td>DATE OF ISSUE</td>
<td></td>
</tr>
<tr>
<td>APPLICABLE RULES</td>
<td></td>
</tr>
<tr>
<td>DATE AND PLACE OF EXPIRY</td>
<td></td>
</tr>
<tr>
<td>APPLICANT BANK</td>
<td></td>
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<tr>
<td>APPLICANT</td>
<td></td>
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<tr>
<td>BENEFICIARY</td>
<td></td>
</tr>
<tr>
<td>CURRENCY CODE, AMOUNT</td>
<td></td>
</tr>
<tr>
<td>PERCENTAGE CREDIT AMOUNT TOLERANCE</td>
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<tr>
<td>AVAILABLE WITH ... BY ...</td>
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<td>DRAFTS AT ...</td>
<td></td>
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<td>DRAWEES</td>
<td></td>
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<tr>
<td>QUANTITY</td>
<td></td>
</tr>
<tr>
<td>HSN CODE</td>
<td></td>
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<tr>
<td>PARTIAL SHIPMENTS</td>
<td></td>
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<tr>
<td>TRANSSHIPMENT</td>
<td></td>
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<tr>
<td>PLACE OF TAKING IN CHARGE/DISPATCH</td>
<td></td>
</tr>
<tr>
<td>FROM .../PLACE OF RECEIPT</td>
<td></td>
</tr>
<tr>
<td>PLACE OF FINAL DESTINATION/FOR TRANSPORTATION TO .../PLACE OF DELIVERY</td>
<td></td>
</tr>
<tr>
<td>LATEST DATE OF SHIPMENT</td>
<td></td>
</tr>
<tr>
<td>DESCRIPTION OF GOODS AND/OR SERVICES</td>
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<td>DOCUMENTS REQUIRED</td>
<td></td>
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<tr>
<td>ADDITIONAL CONDITIONS</td>
<td></td>
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<td>CHARGES</td>
<td></td>
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<tr>
<td>PERIOD FOR PRESENTATION</td>
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<td>CONFIRMATION INSTRUCTIONS</td>
<td></td>
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<tr>
<td>'ADVISE THROUGH' BANK</td>
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<tr>
<td>SENDER TO RECEIVER INFORMATION</td>
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</tbody>
</table>
Legal Aspects Governing Public Procurement of Goods

A public procurement contract, besides being a commercial transaction, is also a legal transaction. There are a number of laws that may affect various commercial aspects of public procurement contracts. A public procurement professional is expected to be generally aware of the implications of following basic laws affecting procurement of goods; however, he or she is not expected to be a legal expert. Where appropriate in complex cases, legal advice may be obtained. The following are the additional set of laws which may be relevant in public procurement of goods:

i) Indian Contracts Act, 1872;

ii) Sale of Goods Act, 1930;

iii) Arbitration and Conciliation Act, 1996 read with the Arbitration and Conciliation (Amendment) Act, 2015;

iv) Competition Act, 2002 as amended with Competition (Amendment) Act, 2007;

v) Micro, Small and Medium Enterprises Development (MSME Development) Act, 2006;

vi) Information Technology Act, 2000 (IT Act regarding e-procurement and e-auction);

vii) Central Vigilance Commission Act, 2003;

viii) Prevention of Corruption Act, 1988;

ix) Right to Information Act, 2005;

x) Foreign Trade Policy (EXIM Policy), 2015

xi) Company’s Act, 2013
Management of Public Procurement Function

1.0 Organization of Procurement Function

The procurement function should be so organized that procurement executives get an opportunity to develop expertise in a particular market segment.

In a procurement entity, besides procurement activities, there are also ancillary activities. In a small procurement entity, these ancillary activities may be distributed among various executives. These ancillary activities are:

i) Policy and Guidelines;

ii) Advertising, bidding document sale/issue/receipt, tender boxes, tender opening, custody of samples;

iii) IT systems and master data management;

iv) Direct contracting/local purchase;

v) Supplier relations management and registration;

vi) Legal and Arbitration matters;

vii) Liaison;

viii) Procurement, performance measurement and management reporting;

ix) Human resources development and training

2.0 Management Reports for Monitoring of Procurement Function

For proper monitoring and control of the procurement function, regular monthly reports should be prepared for the higher management, highlighting delays/stagnation in the procurement process at each milestone. The milestones where delays/stagnation need to be studied in procurement management are:

i) Receipt of indent;

ii) Issue of tenders;

iii) Finalization of tender decision;

iv) Signing of contracts

v) Successful performance of the contract; and

vi) Payment for supplies/works/services.

The above reports will highlight stages where urgent intervention is required for efficient procurement to the management. These reports would be compiled by the Procuring Entity. Templates for these management reports are given in Appendix-3 (A), 3 (B) & 3 (C).
**Templates for Management Reports**

1.0 Delays by more than one month in floating tenders against indents received:

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Item / work and description</th>
<th>Quantity, Value Required/Indented</th>
<th>Date of receipt of Indent / Proposal</th>
<th>Date of Floating Tender</th>
<th>Remarks</th>
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<tbody>
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2.0 Delays by more than one month in finalizing tenders over the stipulated timelines:

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Tender No. &amp; Opening Date</th>
<th>Item/ work and description</th>
<th>Quantity &amp; Value</th>
<th>Date of receipt of Indent / Proposal</th>
<th>Delay over stipulated timeline</th>
<th>Likely Date of Tender finalization / Contract</th>
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</table>

3.0 Cases of Tenders discharged or proposed for Re-tendering:

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Tender No. &amp; Opening Date</th>
<th>Item/ work and description</th>
<th>Quantity &amp; Value</th>
<th>Reasons of Discharge/ Retender</th>
<th>Is it a case of Repeat Re-tendering?</th>
<th>Actions taken to avoid repetition</th>
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**Hindustan Copper Limited**


Appendix - 3 (A)
Appendix - 3 (B)

**Templates for Management Reports**

4.0 Delays by over one month in signing contracts after finalization of tender:

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Tender No. &amp; Opening Date</th>
<th>Item/ work and description</th>
<th>Quantity &amp; Value</th>
<th>Date of Finalization of Decision</th>
<th>Likely Date of Contract Signing</th>
<th>Remarks</th>
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5.0 Delays by over three months in Performance of Contract:

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Item/ work and description</th>
<th>Supplier/ Contractor Name</th>
<th>Original Delivery/ Performance Period/ Date</th>
<th>Delay in Weeks</th>
<th>Indicative Delivery/ Performance Date</th>
<th>Proposed Action/ Remarks</th>
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<tbody>
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6.0 Delays in Payment by over three months from Due Date:

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Item/ work and description</th>
<th>Supplier/ Contractor Name</th>
<th>Date of Performance/ Delivery</th>
<th>Due Date of Payment as per Contract</th>
<th>Delay in payment in months</th>
<th>Likely Date of Payment</th>
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</thead>
<tbody>
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</table>
7.0 KPIs during last month / quarter / financial year

<table>
<thead>
<tr>
<th>Description</th>
<th>Number / Value / Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number and Value of Indents pending contract placement</td>
<td></td>
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<tr>
<td>Number and Value of Indents received during the month</td>
<td></td>
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<tr>
<td>Number and Value of Tenders floated during the month</td>
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<tr>
<td>Number and Value of Tenders finalized during the month</td>
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<tr>
<td>Number and Value of Contracts signed during the month</td>
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<tr>
<td>Number and Value of payments made for deliveries / performance during the month</td>
<td></td>
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<tr>
<td>Average time taken for award decision for OTE, GTE, LTE &amp; STE categories of procurement</td>
<td></td>
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<tr>
<td>Proportions of tenders on STE basis with reference to total number / value of tenders</td>
<td></td>
</tr>
<tr>
<td>Proportions of tenders on LTE basis with reference to total number / value of tenders</td>
<td></td>
</tr>
<tr>
<td>Proportion of tenders through e-Procurement with reference to total number / value of tenders</td>
<td></td>
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<tr>
<td>Number of Vendors developed during the month</td>
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</table>
INTEGRITY PACT AGREEMENT

Between

Hindustan Copper Limited (HCL) hereinafter referred to as “the Principal”

and

……………………………………………………………………………………………………………………………..hereinafter referred to as “The Bidder”

Preamble

The Principal intends to award, under laid down organizational procedures, Contract/s of “[insert name of the work]”. The Principal values full compliance with all relevant laws of the land, rules, regulations, economic use of resources and of fairness/transparency in its relations with its Bidder(s).

In order to achieve these goals, the Principal will appoint an Independent External Monitor (IEM), who will monitor the Bidding Process and the execution of the Contract for compliance with the principles mentioned above.

Section I – Commitments of the Principal

(1) The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:

a. No employee of the Principal, personally or through family members, will in connection with the bidding, or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.

b. The Principal will, during the Bidding Process treat all Bidder(s) with equity and reason. The Principal will in particular, before and during the Bidding Process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential/additional information through which the Bidder(s) could obtain an advantage in relation to the Bidding Process or the Contract execution.

c. The Principal will exclude from the process all known prejudiced persons.

(2) If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the Indian Penal Code / Prevention of Corruption Act, or if there be a substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer and in addition can initiate disciplinary actions.

Section 2 – Commitments of the Bidder(s)

(1) The Bidder(s) commits himself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the Bidding Process and during the Contract execution.
The Bidder(s) will not, directly or through any other person or company, offer, promise or give to any of the Principal's employees involved in the Bidding Process or the execution of the Contract
a. or to any third person any material or other benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the Bidding Process or during the execution of the Contract.

b. The Bidder(s) will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of Bids or any other actions to restrict competitiveness or to introduce cartelization in the Bidding Process.

c. The Bidder(s) will not commit any offence under the Indian Penal Code / Prevention of Corruption Act; further the Bidder(s) will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.

d. The Bidder(s) will, when presenting his Bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the Contract.

(2) The Bidder(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

Section 3 – Disqualification from Bidding Process and exclusion from future contracts
If the Bidder(s), before award or during execution has committed a transgression through a violation of Section 2, above or in any other form such as to put his reliability or credibility in question, the Principal is entitled to disqualify the Bidder(s) from the Bidding Process or take action as per the procedure mentioned in the “Guidelines on Banning of Business Dealings”.

Section 4 – Compensation for damages
a. If the Principal has disqualified the Bidder(s) from the Bidding Process prior to the award according to Section 3, the Principal is entitled to demand and recover the damages equivalent to Bid Security.

b. If the Principal has terminated the Contract according to Section 3, or if the Principal is entitled to terminate the Contract according to Section 3, the Principal shall be entitled to demand and recover from the Bidder, liquidated damages/penalties of the Contract value or the amount equivalent to Performance Security.

Section 5 – Previous transgression
a. The Bidder declares that no previous transgressions occurred in the last 3 (three) years with any other company in any country conforming to the anti corruption approach or with any other public sector enterprise in India that could justify his exclusion from the Bidding Process.
b. If the Bidder makes incorrect statement on this subject, he can be disqualified from the Bidding Process or action can be taken against them as per the procedure mentioned in “Guidelines on Banning of Business Dealings”.

Section 6 - Equal treatment of all Bidders

a. The Bidder(s) undertake(s) to demand from all subcontractors a commitment in conformity with this Integrity Pact Agreement, and to submit it to the Principal before execution of the Contract.

b. The Principal will enter into agreements with identical conditions as this one with all Bidders,

c. The Principal will disqualify from the Bidding Process all Bidders who do not sign this Integrity Pact Agreement or violate its provisions.

Section 7 – Criminal charges against violating Bidder(s)

If the Principal obtains knowledge of conduct of a Bidder or of an employee or a representative or an Associate of a Bidder which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer of the same.

Section 8 - Independent External Monitor/Monitors

a. The Principal appoints competent and credible Independent External Monitor (“IEM”) for this Integrity Pact Agreement. The task of the IEM is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.

b. The IEM is not subject to instructions by the parties/ their representatives and performs its functions neutrally and independently. It reports to the Chairman- cum-Managing Director of HCL.

c. The Bidder(s) accepts that the IEM has the right of access without restriction to all Work documentation of the Principal. The Bidder will also grant the IEM, upon its request and demonstration of a valid interest, unrestricted and unconditional access to his Work documentation. The same is applicable to Subcontractors. The IEM is under a contractual obligation to treat the information and documents of the Bidder(s) with confidentiality.

d. The Principal will provide to the IEM sufficient information about all meetings among the parties related to the Work provided that such meetings could have an impact on the contractual relations between the Principal and the Bidders. The parties offer to the IEM the option to participate in such meetings.

e. As soon as the IEM notices, or believes, that there is a violation of this Integrity Pact Agreement, it will so inform the management of the Principal and request the management to discontinue or take corrective action, or to take other relevant action. The IEM can, in this regard, submit non-binding recommendations. Beyond this, the IEM has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.

f. The IEM will submit a written report to the Chairman-cum-Managing Director of HCL within 8 to 10 weeks from the date of reference or intimation to him by the Principal and, should the occasion arise, submit proposals for correcting problematic situations.
g. The IEM shall be entitled to compensation on the same terms as being extended to/provided to Independent Directors of HCL.

h. If the IEM has reported to the Chairman-cum-Managing Director of HCL, a substantiated suspicion of an offence under relevant Indian Penal Code/PC Act, and the Chairman-cum-Managing Director of HCL has not, within reasonable time taken visible action to proceed against such offence or reported it to the Chief Vigilance Officer, the IEM may also transmit this information directly to the Central Vigilance Commissioner.

Section 9 - Pact Duration
This Integrity Pact Agreement begins when both parties have legally signed it. It expires for the Selected Bidder 12 (twelve) months after the last payment under the Contract, and for all other Bidders 6 (six) months after the Contract has been awarded.

If any claim is made/lodged during this time, the same shall be binding and continue to be valid despite the lapse of this Integrity Pact Agreement as specified above, unless it is discharged/determined by Chairman-cum-Managing Director of HCL.

Section 10 - Other provisions
a. This agreement is subject to Indian laws. Place of performance and jurisdiction is the registered office of the Principal, i.e. Kolkata.

b. Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.

c. Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement as to their original intentions.

____________________________
(For & On behalf of the Principal)
(Office Seal)

____________________________
(For & On behalf of the Bidder)
(Office Seal)

Witness 1: ________________________________
(Name & Address) ________________________________
________________________________
________________________________

Witness 2: ________________________________
(Name & Address) ________________________________
________________________________
________________________________
VIGILANCE DIVISION

NO. CWC/XIII-13/75/91/AV

DATE: 11.05.2018

Subject: Instructions of CVC on Public Procurement (Preference to make in India), Order – 2017 (PPP-MII Order).

Central Vigilance Commission, New Delhi vide their communication no. 01/VGL/022- 377353 dated 20.04.2018 has directed to implement PPP-MII Order in letter & spirit so as to exercise oversight on all contracts over an amount of Rs.5.00 Crore and also to ensure that restrictive and discriminative clauses against domestic suppliers are not included in the tender documents for procurement of goods and services and that the tender conditions are in sync with the PPP-MII Order, 2017. Copy of above referred communication is enclosed for ready reference.

All the Divisional Heads of Purchase Division, Personnel Division, Engineering Division and MIS Division are advised to ensure compliance of CVC instructions while floating tenders for any contract for value more than Rs.5.00 Crore. The above compliance should also be ensure for implementation at the level of Regional Offices.

Personnel Division is also requested to inform all IEMs to keep in view the provisions of PPP-MII Order, 2017 while exercising their functions / duties as IEM in respect of procurement / contractors which fall in their purview.

This issues with the approval of the CVO.

Encl: as above.

(Rishi Pal)
AGM (Vig.)

GGM (Pur)/ GGM (Pers.)/ CE/GM (MIS)

Copy to:

1. All Regional Managers, CWC, Regional Offices.
2. GM (MIS) – with request to upload the instruction at CWC Portal.
Subject:- Public Procurement (Preference to Make in India), Order 2017 (PPP-MII Order) – regarding.

Department of Industrial Policy and Promotion (DIPP) has issued ‘Public Procurement (Preference to Make in India), Order 2017’ (PPP-MII Order) dated 15.07.2017 pursuant to Rule 153 (iii) of General Financial Rules, 2017, which seeks to promote domestic production of goods and services. As per this Order, restrictive and discriminative clauses cannot be included in procurement by Central Government agencies against domestic suppliers. The Commission has received a request from DIPP to widely disseminate the Order to the CVOs and IEMs to exercise oversight on all contracts over an amount of Rs. five crores.

2. In order to implement to PPP-MII order in letter and spirit, the Commission would direct all the Chief Vigilance Officers (CVO) to exercise oversight on all contracts over an amount of Rs. five crores so as to ensure that restrictive and discriminative clauses against domestic suppliers are not included in the tender documents for procurement of goods and services and that the tender conditions are in sync with the PPP-MII Order, 2017 in their respective Departments/Organisations.

3. The Commission further desires that the Independent External Monitors (IEMs) appointed by the respective organisations may keep in view the provisions of PPP-MII Order 2017 while exercising their functions / duties as IEM in respect of procurements / contracts which fall in their purview.

J.Vinod Kumar
Director

1. All Chief Vigilance Officers of Ministries/Departments/CPSUs/Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies etc. for compliance and to circulate to the Independent External Monitors.

2. To be placed on website.
No. PP-7(4)/2007-Fin
Government of India
Ministry of Heavy Industries & Public Enterprises
Department of Public Enterprises

Public Enterprises Bhawan
Block No.14, CGO Complex
Lodhi Road, New Delhi-110003

Date: 14.11.2018

OFFICE MEMORANDUM

Sub:- Amendment to the Public Procurement Policy for Micro & Small Enterprises(MSEs) Order, 2012 - regarding

The undersigned is directed to forward herewith the D.O. letter No.21(8)/2018-MA dated 13.11.2018 of M/o Micro, Small and Medium Enterprises (M/o MSME) regarding the amendment to the Public Procurement Policy for Micro & Small Enterprises(MSEs) Order, 2012 vide G.O. Gazette Notification S.O. 5670(E) dated 9th November, 2018 (copy enclosed).

2. This is in continuation of this Office OM of even number dated 8.12.2012 forwarding therewith copy of D.O. letter No.21(1)/2011-M.A. dated 25.4.2012 of M/o MSME advising all the Administrative Ministries/Departments to direct all the CPSEs under their control to take necessary steps for the implementation of the Public Procurement Policy for MSEs referred therein.

3. All Administrative Ministries/Departments are therefore requested to take note of the amendments made to the Public Procurement Policy and advise their CPSEs for compliance of the amended Public Procurement Policy for MSEs and implementation of the activities mentioned at Para 5 of the enclosed M/o MSME D.O. letter dated 13.11.2018.

4. This issues with the approval of Secretary, DPE.

(Kalyani Mishra)
Director
Tel 24362061

Encl: As above

To
The Secretaries to the Administrative Ministries/Departments of CPSEs
Copy also to
CMDs of CPSEs

Copy for information to: Shri Arun Kumar Panda, Secretary, M/o MSME, Udyog Bhawan,
New Delhi w.r.t. the aforesaid D.O. letter dated 13.11.2018.
Dear Secretary,

As you must be aware, Hon’ble PM has launched a far reaching Support and Outreach initiative for the benefit of Micro, Small and Medium Enterprises (MSME). One of the key announcements made in this regard is the amendment to the Public Procurement Policy (PPP). The changes effected therein are expected to improve the market accessibility and enhance competitiveness of the MSEs. They will also help in women empowerment.

2. The amendments so effected have been duly notified vide Government of India Gazette Notification S.O 5670(E) dated 9th November, 2018. A copy is enclosed herewith for ready reference.

3. The amendments made in the PPP are as follows:-
   (a) Increase in percentage of procurement of goods and services by Government Departments/CPSEs from MSEs from the present at least 20% at least 25% of their total procurement; and
   (b) Provide a minimum 3% reservation for women owned MSEs within the above mentioned 25% reservation.

4. It may please be noted that the amended policy has come into force with immediate effect i.e. from 9th November, 2018 (date of the publication of the notification).

5. I shall be grateful if all the CPSEs under your control are advised to implement the above changes made to the Public Procurement Policy and to provide information on procurements made from MSEs owned by women. MSME Sambandh Portal has been updated accordingly for the benefit of the CPSEs.

6. Top Priority may kindly be accorded to this matter.

   Yours sincerely,
   
   (Arun Kumar Panda)

To

Secretaries (All Ministries & Departments)

Copy to: Chief Secretaries, All States / UTs
भारत का राजपत्र
The Gazette of India

अब्दुल्ला
EXTRAORDINARY
भाग II—खंड III—उप-खंड III
PART II—Section 3—Sub-section III
प्रकाशित
PUBLISHED BY AUTHORITY

म. 4455] नई दिल्ली, शुक्रवार, नवंबर 9, 2018/कार्तिक 18, 1940
No. 4455] NEW DELHI, FRIDAY, NOVEMBER 9, 2018/KARTIKA 18, 1940

मुख्य, नन्दू और मध्यम उदाम मंज्यात
आदेश
नई दिल्ली, 9 नवंबर, 2018

[रा.बा. 5870(३)]—ब्रह्मण भारती, मुख्य, नन्दू और मध्यम उदाम विकास अभियान, 2006 (2006 का 27) ज्ञान 11 इंग्रज़ी प्रदेश समितियों का प्रयोग करने हुए, मुख्य और नन्दू उदाम (सम्मान) के लिए सार्वजनिक प्राप्ति नीति (३०), 2012 में लघुक्षणित संचालन करता है—

1. (१) यह आदेश मुख्य और नन्दू उदामों (सम्मान) के लिए सार्वजनिक प्राप्ति नीति संशोधन आदेश, 2018 का है।

(२) यह नन्दू राजपत्र में अपने प्रवालन की विधि में प्रवत्त होगा।

2. पुरे मुख्य और नन्दू उदामों (सम्मान) के लिए सार्वजनिक प्राप्ति नीति आदेश, 2012 (जिसे इसे इसके पहले “एक आदेश बनाया गया है”) में जहाँ भी भी आदेश और नन्दू “२० प्रतिशत” है उसे “२५ प्रतिशत” के आदेश और नन्दू के प्रतिशतर किया जाएगा।

3. उक्त आदेश के पैराग्राफ ४ के प्रभाव विस्तारित वैध को हो जाएगा—

“४ ए. महत्त्व के स्वायत्त वाले मुख्य और नन्दू उदाम के लिए निर्णय प्रवाहित होनें। मुख्य और नन्दू उदामों ने कृत कार्यक्रम अभियान से से २५ प्रतिशत के लक्ष्य पर संबंधित महत्त्व के स्वायत्त वाले मुख्य और नन्दू उदाम में दोहरी के लिए ३ प्रतिशत का अद्यतन निर्दिष्ट किया जाएगा।

[रा.बा. २१(२२)/२०१८-२०१९]
राम दीप गिरिजा, अधिकारसभी और विकास अभियान।

ABBREVIATIONS  <  124  >  TABLE OF CONTENTS
MINISTRY OF MICRO, SMALL AND MEDIUM ENTERPRISES
ORDER
New Delhi, the 9th November, 2018

S.O. 5670(E).—In exercise of the powers conferred by section 11 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006), the Central Government hereby makes the following amendments to the Public Procurement Policy for the Micro and Small Enterprises (MSEs) Order, 2012, namely:

1. This Order may be called the Public Procurement Policy for Micro and Small Enterprises (MSEs) Amendment Order, 2018.

2. This shall come into force on the date of its publication in the Official Gazette.

3. Throughout the Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2012, thereinafter referred to as the said Order), for the figures and word “20 per cent”, wherever they occur, the figures and word “25 per cent” shall be substituted.

After paragraph 4 of the said Order, the following paragraph shall be inserted, namely:

“4A. Special provision for Micro and Small Enterprises owned by women. Out of the total annual procurement from Micro and Small Enterprises, 3 per cent from within the 25 per cent target shall be earmarked for procurement from Micro and Small Enterprises owned by women.”

RAM MOHAN MISHRA, Addl. Secy. & Development Commissioner
Sub: Adoption of Integrity Pact (IP)—regarding.

The Commission vide its Circular No. 02/01/2017 dated 13.01.2017 had circulated a revised Standard Operating Procedure (SOP) for adoption of Integrity Pact in Government Department/Organisations.

2. In terms of compliance to the revised SOP issued vide circular dated 13.01.2017, SAIL has incorporated certain changes in their existing Integrity Pact which was earlier circulated vide Commission’s Office Order No. 41/12/07 dated 04.12.2007.

3. Accordingly, the copy of revised Integrity Pact of SAIL is enclosed herewith for guidance which may be used with suitable modifications to meet the individual organization’s requirements for Integrity Pact.

Encl: Revised IP of SAIL.

To: All Secretaries to the Govt. of India
All CMDs of PSUs
All CMDs of PSBs
All CVOs:
INTEGRITY PACT

Between:

Steel Authority of India Limited [SAIL] hereinafter referred to as “The Principal”

and

hereinafter referred to as “The Bidder/ Contractor”

Preamble

The Principal intends to award, under laid down organizational procedures, contract/s
for…………………………………The Principal values full compliance with all relevant
laws of the land, rules, regulations, economic use of resources and of fairness /
transparency in its relations with its Bidder(s) and / or Contractor(s).

In order to achieve these goals, the Principal will appoint independent External Monitors
[EMs] who will monitor the tender process and the execution of the contract for
compliance with the principles mentioned above.

Section 1 – Commitments of the Principal

[1] The Principal commits itself to take all measures necessary to prevent
corruption and to observe the following principles:

a. No employee of the Principal, personally or through family members, will in
connection with the tender for, or the execution of a contract, demand, take
a promise for or accept, for self or third person, any material or immaterial
benefit which the person is not legally entitled to.

b. The Principal will, during the tender process, treat all Bidder(s) with equity
and reason. The Principal will in particular, before and during the tender
process, provide to all Bidder(s) the same information and will not provide to
any Bidder(s) confidential / additional information through which the
Bidder(s) could obtain an advantage in relation to the tender process or the
contract execution.

c. The Principal will exclude from the process all known prejudiced persons.

[2] If the Principal obtains information on the conduct of any of its employees
which is a criminal offence under the IPC/PC Act, or if there be a substantive
suspicion in this regard, the Principal will inform the Chief Vigilance Officer
and in addition can initiate disciplinary actions.

Section 2 – Commitments of the Bidder(s)/ Contractor(s)

[1] The Bidder(s)/ Contractor(s) commit themselves to take all measures necessary
to prevent corruption. The Bidder(s)/ Contractor(s) commit themselves to
observe the following principles during participation in the tender process and
during the contract execution.

a. The Bidder(s)/ Contractor(s) will not, directly or through any other person
or firm, offer, promise or give to any of the Principal’s employees involved in
the tender process or the execution of the contract or to any third person
any material or other benefit which he/she is not legally entitled to, in order
to obtain in exchange any advantage of any kind whatsoever in the
tender process or during the execution of the contract.
1. The bidder(s)/ contractor(s) will not enter into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelisation in the bidding process.

c. The bidder(s)/ contractor(s) will not commit any offence under the relevant IPC/PC Act, further the bidder(s)/ contractor(s) will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.

d. The bidder(s)/ contractor(s) of foreign origin shall disclose the name and address of the agents/representatives in India, if any, Similarly the bidder(s)/ contractor(s) of Indian nationality shall furnish the name and address of the foreign principals, if any. Further details as mentioned in the “Guidelines on Indian Agents of Foreign Suppliers” shall be disclosed by the bidder(s)/ contractor(s). Further, as mentioned in the Guidelines all the payments made to the Indian agent/representative have to be in Indian Rupees only. Copy of the “Guidelines on Indian Agents of Foreign Suppliers” is placed at page nos. 6-7.

e. The bidder(s)/ contractor(s) will, when presenting their bid, disclose any and all payments made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.

f. Bidder(s)/ Contractor(s) who have signed the integrity pact shall not approach the courts while representing the matter to IEMs and shall wait for their decision in the matter.

2. The bidder(s)/ contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

Section 3 - Disqualification from tender process and exclusion from future contracts

If the bidder(s)/ contractor(s), before award or during execution, has committed a transgression through a violation of Section 2, above or in any other form such as to put their reliability or credibility in question, the principal is entitled to disqualify the bidder(s)/ contractor(s) from the tender process or take action as per the procedure mentioned in the “Guidelines on Banning of business dealings”. Copy of the “Guidelines on Banning of business dealings” is placed at page nos. 8-17.

Section 4 - Compensation for damages

1. If the principal has disqualified the bidder(s) from the tender process prior to the award, according to Section 3, the principal is entitled to demand and recover the damages equivalent to Earnest Money Deposit/Bid Security.
(2) If the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contract according to Section 3, the Principal shall be entitled to demand and recover from the Contractor liquidated damages of the Contract value or the amount equivalent to Performance Bank Guarantee.

Section 8 - Previous transgression

(1) The Bidder declares that no previous transgressions occurred in the last three years with any other Company in any country conforming to the anti-corruption approach or with any Public Sector Enterprise in India that could justify his exclusion from the tender process.

(2) If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or action can be taken as per the procedure mentioned in "Guidelines on Banning of business dealings".

Section 9 - Equal treatment of all Bidders / Contractors / Subcontractors

(1) In case of Sub-contracting, the Principal Contractor shall take the responsibility of the adoption of Integrity Pact by the Sub-contractor.

(2) The Principal will enter into agreements with identical conditions as this one with all Bidders and Contractors.

(3) The Principal will disqualify from the tender process all bidders who do not sign this Pact or violate its provisions.

Section 7 - Criminal charges against violating Bidder(s) / Contractor(s) / Subcontractor(s)

If the Principal obtains knowledge of conduct of a Bidder, Contractor or Subcontractor, or of an employee or a representative or an associate of a Bidder, Contractor or Subcontractor which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal will inform the same to the Chief Vigilance Officer.

Section 8 - Independent External Monitor

(1) The Principal appoints competent and credible Independent External Monitor for this Pact after approval by Central Vigilance Commission. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.

(2) The Monitor is not subject to instructions by the representatives of the parties and performs his/her functions neutrally and independently. The Monitor should have access to all Contract documents, whenever required. It will be obligatory for him/her to treat the information and documents of the Bidders/Contractors as confidential. He/she reports to the Chairman, SAIL.
(3) The Bidder(s)/Contractor(s) accepts that the Monitor has the right to access without restriction to all Project documentation of the Principal including that provided by the Contractor. The Contractor will also grant the Monitor, upon his/her request and demonstration of a valid interest, unrestricted and unconditional access to their project documentation. The same is applicable to Sub-contractors.

(4) The Monitor is under contractual obligation to treat the information and documents of the Bidder(s)/Contractor(s)/Sub-contractor(s) with confidentiality. The Monitor has also signed declarations on ‘Non-Disclosure of Confidential Information’ and of ‘Absence of Conflict of Interest’. In case of any conflict of interest arising at a later date, the IEM shall inform Chairman, SAIL and recuse himself/herself from that case.

(5) The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the Principal and the Contractor. The parties offer to the Monitor the option to participate in such meetings.

(6) As soon as the Monitor notices, or believes to notice, a violation of this agreement, he/she will so inform the Management of the Principal and request the Management to discontinue or take corrective action or to take other relevant action. The Monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.

(7) The Monitor will submit a written report to the Chairman, SAIL within 8 to 10 weeks from the date of reference or intimation to him by the Principal and, should the occasion arise, submit proposals for correcting problematic situations.

(8) If the Monitor has reported to the Chairman SAIL, a substantiated suspicion of an offence under relevant IPC/FC Act, and the Chairman SAIL has not, within the reasonable time taken visible action to proceed against such offence or reported it to the Chief Vigilance Officer, the Monitor may also transmit this information directly to the Central Vigilance Commissioner.

(9) The word ‘Monitor’ would include both singular and plural.

Section 9 – Pact Duration

This Pact begins when both parties have legally signed it. It expires for the Contractor 12 months after the last payment under the contract, and for all other Bidders 6 months after the contract has been awarded. Any violation of the same would entail disqualification of the bidders and exclusion from future business dealings.

If any claim is made / lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified above, unless it is discharged / determined by Chairman of SAIL.
Section 10 – Other provisions

(1) This agreement is subject to Indian Law. Place of performance and jurisdiction is the Registered Office of the Principal, i.e. New Delhi.

(2) Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.

(3) If the Contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.

(4) Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

(5) Issues like Warranty / Guarantee etc. shall be outside the purview of IEMs.

(6) In the event of any contradiction between the Integrity Pact and its Annexure, the Clause in the Integrity Pact will prevail.

(For & On behalf of the Principal)  
(Office Seal)

Place ————
Date ————

Witness 1:
(Name & Address)

Witness 2:
(Name & Address)
No. DPE-7(4)/2007-Fin
Government of India
Ministry of Heavy Industries & Public Enterprises
Department of Public Enterprises

Public Enterprises Bhawan
Block No. 14, CGO Complex
Lodhi Road, New Delhi – 110003

Date: 4th May, 2020

OFFICE MEMORANDUM

Subject: Consolidated guidelines to CPSEs on procurement from GeM portal and TReDS

DPE has been issuing instructions to all the CPSEs regarding onboarding TReDS portal to address the issue of regular availability of liquid funds to MSMEs, particularly in reference to their trade receivables. Besides, DPE has also been issuing guidelines to CPSEs since November, 2018 for mandatory onboarding on GeM portal and to enhance the procurement through the same.

2. The instructions issued on the aforementioned matters are hereby compiled together as consolidated guidelines to facilitate CPSEs to ensure compliance.

A. Trade Receivables Discounting System (TReDS):

i) All CPSEs to register themselves and ensure mandatory onboarding of MSE vendors on TReDS portal.

ii) All CPSEs to have a real time bill tracking system for MSEs like an Enterprise Resource Planning (ERP) system with facility for uploading of bills by vendors and releasing payments, and

iii) In order to enable the MSEs to avail the benefit of TReDS portal, the CPSEs will ensure that after the delivery of goods or rendering of services, the decision on acceptance/rejection of the goods and the respective bills/invoices will be taken within 15 days of the delivery of the goods/rendering of services. It is pertinent to mention that it is in line with Section 2 (ii) of Micro, Small and Medium Enterprises Development (MSMED) Act, 2006, wherein it is provided that in case no objection is made by the buyer regarding acceptance of goods and services within 15 days from the date of delivery of the goods or the rendering of services, it would be treated as “deemed acceptance”.

iv) All CPSEs must ensure that the payment of MSE vendor be made using online mode within the stipulated time period of the contract and not more than 45 days in any case, as provided in the Section 15 of the MSMED Act, 2006.

B. Government e-Marketplace (GeM) Portal:

i) All CPSEs to register themselves and ensure mandatory onboarding of vendors on GeM portal.
(i) Procurement of common use goods and services are mandatory from GeM for which product/service categories are available on GeM. In case goods and services are not available on GeM, CPSEs may help registered suppliers on boarding GeM as and when the item or service gets listed on GeM.

(ii) Also, CPSEs planning to float any bid for procurement through Central Public Procurement Portal (CPPP) are required to give an undertaking that category of goods and services being tendered/procured are not available on GeM and they have no objection in providing this information for making available such products/services on GeM.

(iii) To ensure effective implementation of these guidelines, a new provision of GeM Availability Report and Past Transaction Summary (GeMAR&PTS) is introduced on GeM portal. The provision is there to help and benefit Buyers and Competent Authorities in taking informed procurement decisions in respect of availability of a product/service on GeM along with necessary details relating to past transaction summary. Therefore, once operational, GeMAR&PTS will be a pre-requisite for floating a procurement bid outside GeM.

(iv) CPSEs to bring the requirements of creation of new categories for products and services on GeM through either of the two mechanisms available in the GeM portal : (a) Request Management System and (b) Module for crowd sourcing of categories and sellers.

(v) CPSEs to invite sellers to onboard GeM through the seller invitation module available in the GeM portal.

(vi) CPSEs to comply with the instructions issued by DPE in the matter from time to time and in particular vide DPE OM of even number dated 12th February, 2020 forwarding therewith Department of Expenditure’s OMs dated 23rd January, 2020, regarding procedure for procurement of Goods/Services through GeM and due payments to Sellers/Service Providers in GeM through PFMS or by non-PFMS Agencies/Entities. These OMs will come into force on July 1, 2020.

(vii) The stated procedure and timelines shall be strictly adhered to by the CPSEs to ensure all procurement through GeM portal and timely payments to vendors.

2. This issues with the approval of competent authority.

Kalyani Mishra
Director
Tel: 24362061

The Secretaries to the Administrative Ministries/Departments of CPSEs.

Copy to:
CMDs of CPSEs for compliance, as above
OFFICE MEMORANDUM

Subject 1: Procedure for payments for Goods/Services to Sellers/Service Providers in Government e-Marketplace (GeM) - through PFMS and by non-PFMS Agencies/Entities (NPAE) - reg.

and

Subject 2: Procurement of Goods/Services through Government e-Marketplace (GeM)

The undersigned is directed to forward copies of D/o Expenditure OMs No. F.6/18/2019.PPD dated 23rd January, 2020, on the subject cited above, regarding procedure for payments for Goods/Services to Sellers/Service Providers in GeM through PFMS and by non-PFMS Agencies/Entities and procurement of Goods/Services through GeM,

2. All Administrative Ministries/Departments are requested to ensure compliance of the instructions mentioned in the DoE’s OM and to monitor the compliance of the same by the CPSEs functioning under their administrative control.

3. This issues with the approval of competent authority,

(Dr. Nalin Aggrawal)
Joint Director
Tel. 24362058

Encl.: As above

To:
The Secretaries to the Administrative Ministries/Departments of CPSEs.

Copy for information to:
Sh. Kotlu Narayana Reddy, Deputy Secretary, Public Procurement Division, D/o Expenditure, 512, Lok Nayak Bhawan, New Delhi, in respect of OM No. F.6/18/2019.PPD dated 23rd January, 2020. All the concerned administrative Ministries/Departments of CPSEs have been requested for compliance of the guidelines of the DoE OM dated 23.01.2020, by the CPSEs under their control.
OFFICE MEMORANDUM

Subject: Procedures for payments for Goods / Services to Sellers / Service Providers in Government e- Marketplace (GeM) through PFMS and by non-PFMS Agencies / Entities (NPAs) - reg.


In supersession of the above referred OM dated 20.08.2015 and OM No F.13/4/2017-PFD (Pt.) dated 14.08.2018 and pursuant to Rule No. 149 of GFR 2017, the following procedures are prescribed for making payments to the Sellers / Service Providers in GeM which shall be complied and adhered to by all concerned for different type of contracts such as

a) Supply of Goods & Services
b) Supply, Installation, Testing and Commissioning of Goods
c) Supply, Installation, Testing, Commissioning of Goods and Training of operators and providing Satisfactory Clearances required (if any)

2. In respect of contracts for Supply of Goods, 100% payment including GST should be made after receipt and acceptance of Goods and generation of "Goods CRAC" (Consignment Receipt and Acceptance Certificate) subject to recoveries, if any, either on account of short supply and Liquidated Damages etc. for delay in supply.

3. In respect of contracts for Services, payment should be made as per periodicity defined in the contract i.e. Monthly, Quarterly or any other pre-defined payment periodicity. 100% payment including GST for the particular payment cycle should be made after receipt and acceptance of the Services and generation of "Service CRAC" (Consignment Receipt and Acceptance Certificate) subject to recoveries, if any, either on account of short supply, SLA (Service Level Agreement) deviations and Liquidated Damages for delay in supply etc.

4. In respect of contracts for Supply, Installation, Testing, Commissioning of Goods and Training of operators etc. the complete cost break-up indicating basic price, GST, Installation and commissioning charges, incidental Services, training etc. is to be indicated separately in the bid. In order to cater to installation intensive products, the different configurable payment terms will have to be incorporated in GeM functionalities (depending upon the quantum of installation and turnkey work required).
(a) First Milestone - On delivery of goods: 50 to 90% payment (lower initial payment if installation scope is very extensive) of the basic price of Goods along with 100% GST on the Goods price but excluding installation, testing and commissioning and other charges should be paid after receipt of Goods and generation of “Delivery CRAC for initial payment”. This will be issued after physical verification of quantity only but without commitment about quality or functionalities etc which would be verified after installation / commissioning etc. While creating the bid, Buyer shall have functionality to define the percentage of payment linked with delivery of Goods.

(b) Second Milestone - On Acceptance after installation, testing and commissioning : Balance 10 % to 20% payment of the basic price of Goods and 100% charges for installation, testing and commissioning and other charges along with GST on these charges should be paid after installation and final Acceptance of Goods and generation of “Installation CRAC” to be issued by the End User / Consignee. Recoveries, if any, either on account of short supply and Liquidated Damages etc. for delay in supply and / or installation etc. shall be made from the payment due under this milestone. While creating the bid, Buyer shall have functionality to define the deliverables in this milestone and the percentage of payment linked with this milestone.

(c) Third (and subsequent) milestones - Payment of Incidental Costs: 100% Payment related to Incidental costs at consignee site towards Incidental Services (such as providing training, or other work / service as per scope defined in the contract) to be paid on submission of “Final CRAC” by the End User / Consignee. While creating the bid, Buyer shall have functionality to define the deliverables in this milestone, in exceptional cases, Buyer may choose to split this milestone as required.

5. In case of contracts for Supply, Installation, Testing, Commissioning of Goods bundled with one or more Services such as Comprehensive Maintenance, Human Resource hiring for pre-defined time periods etc., the payments for Goods shall be governed by Para 4 above while payment for Services shall be governed as per Para 3 above.

6. In case of Milestone Based Payments, separate timelines / delivery periods for each milestone will be provided. In case of supply and installation contracts, the delivery period may be specified by filling up the blanks as under:

a) First Milestone - For delivery of goods at site: —— days / months from date of issue of contract with provision for staggered / multiple delivery period for same consignee
b) Second milestone - Installation, Testing and Commissioning etc. of goods: __________ days / months from the date of handing over of site complete in all respects per contract.

c) Third (and subsequent) milestones - Incidental Services etc. ________ days after installation and commissioning.

7. The payments on CeM are primarily categorized under two heads i.e. through PPMS or GeM Pool Account. The detailed instructions for both type of payment system are as under:

A. Payments through PPMS:

i) The Central Government Buyer in the concerned Programme Division or Administrative Unit in a Ministry/Department will place the Contract online after taking prior approval of the Competent Authority for procuring a particular Good or Service. Internally, the Contract form will also contain the following fields including fields required for payment related purposes:

a). Administrative approval of the Competent Authority indicating the designation of the approving authority,
b). Approval of Competent Financial Authority indicating designation of the officer,
c). Whether IFD concurrence required? (Yes/No)
d). If yes, then IFD Diary No. & Date
e). Budget Head of Account and Year, Major/Minor/Sub-head/Detailed Head/Object/Head as in Detailed Demands for Grants.
f). Budget availability as on date (Yes/No)
g). Amount (Contract Value) Rs.______, (Budget to be blocked)
h). If expenditure is committed for more than a year, the year-wise details __ (portal should generate a Liability Register for recording multi-year payment commitments, the format for which is prescribed in Rule 53 of the GFR).

ii). When these fields are duly captured, the Buyer will be in a position to place the Contract online. The GeM portal will generate a Sanction Order and the Contract which will be digitally signed by the Buyer. These documents duly digitally signed by the Buyer will be made available online to the concerned DDO and PAO or Paying Authority as defined in the contract and Seller/Service Provider. The DDO and PAO/Paying Authority shall have access to the Contract online in order to ensure that the Bill is generated at the stage of payment in accordance with the contractual provisions.

iii). The GeM portal will send the Sanction Order details to PFMS.

iv). On issue of Sanction order and placing the Contract for goods, the full amount required from the relevant Budget Head should be blocked in the PFMS. In cases of Services, amount should be blocked for one payment cycle as defined in the contract. Before releasing payment for any cycle, the funds required for the next
payment cycle should be blocked so as to ensure availability of payable funds for the next payment cycle. Blocked fund will be treated as accrued expenditure by PFMS for the financial year in question and it will not be withdrawn for any other purpose other than the one for which the amount is Blocked.

v) Should it be necessary to amend the Contract, such Amendment in the Contract with due approval of the Competent Authority and acceptance of the Seller/Service Provider (wherever required) shall be made available to the Seller / Service Provider/DDO/PAO/Paying Authority on the GeM portal.

vi) Similarly, in the event of complete / partial cancellation of the Contract the information would be made available to the Seller/Service Provider, DDO and PAO on the GeM portal. In that event, funds so blocked earlier would be released to the extent of cancelled amount.

vii) The Programme Division/Administrative Unit in the Ministries/Departments shall periodically review the blocked budget to ensure that funds are utilized within the same financial year.

viii) The Performance Security (if any) would be obtained from the Seller/Service Provider as per Contract, and their details would be reflected on the GeM portal by the buyer.

ix) Provisional Receipt of Stores on GeM:

a) On dispatch of Goods, the Seller would enter the Dispatch Details and date of Dispatch and will upload documentary evidence of Dispatch against each consignment on GeM Portal. All these documents and details shall be shown to the Consignee on his dashboard and shall also be notified to the consignee on his e-mail and on his registered mobile number.

b) The Seller shall prepare an electronic Invoice, digitally/e-signed, on GeM portal and shall submit the same on-line to the Buyer. GeM portal will send an SMS/email alert to the Buyer, on submission of Invoice. This Invoice will contain mode of dispatch of goods, dispatched/delivered quantity with date and all inclusive price claimed based on digitally/e-signed Contract. In case Services are procured, the required data as per Contract may be incorporated in the Invoice.

c) After actual delivery of goods at consignee destination / milestone achievement (such as completion of installation / commissioning or training etc.) as defined in the contract/service delivery, Seller would enter the actual date of delivery / milestone achievement / Service Log-sheet (as applicable) and will upload documentary evidence for the same duly digitally signed / e-signed. All these documents and details shall be shown to the Consignee on his dashboard and shall also be notified to the consignee on his e-mail and on his registered mobile number. In case of Services Contracts, the Service Provider
d) Immediately upon above entry by Seller / Service Provider regarding delivery of goods / milestone achievement / service delivery, an alert will be flashed on the Dashboard of the Consignee and an email and an SMS Alert will be sent to Consignee informing that consignee has to mandatorily acknowledge receipt of stores / milestone achievement / service delivery through generation of PRC on GeM. The Buyer / Consignee should receive the Goods / Services and issue an online Provisional Receipt Certificate (PRC), within 48 hours, on said to contain basis on the GeM portal with her/his digital signature / e-sign, mentioning the date of receipt. (From this date of receipt mentioned in PRC, the period of ten (10) days for consignee's buyer's right of rejection and return policy would be applicable unless otherwise specified in a particular contract).

e) In case the consignee does not issue PRC within 48 hrs from entry of delivery of goods / milestone achievement / service delivery by Seller / Service Provider, an alert will be flashed on the dashboard of the Consignee and an email and an SMS Alert will be sent to Consignee and Buyer informing that consignee has to mandatorily acknowledge receipt of stores / milestone achievement / service delivery through generation of PRC on GeM.

f) After expiry of 72 hrs from the first alert, another alert will be flashed on the dashboard of the Consignee, Buyer including HoD and an email along with an S/S Alert to Consignee, Buyer, HoD informing that consignee has to mandatorily acknowledge receipt of stores / milestone achievement / service delivery through generation of PRC on GeM and if the time limit of 96 hrs expires from the date of delivery of goods / milestone achievement / service delivery as per entry made by Seller / Service Provider and if the consignee does not acknowledge receipt of stores / milestone achievement / service delivery by generating PRC or disputes the same by rejecting receipt, it would be presumed that goods have been delivered / milestone achievement / service delivery has been made to consignee and PRC will be auto generated by the system (Deemed PRC).

g) However, if the consignee does not issue PRC within 96 hrs from delivery of goods / milestone achievement / service delivery as per entry made by Seller / Service Provider, GeM System / Portal would auto generate unsigned PRC considering the date of delivery of goods / milestone achievement / service delivery as indicated by the seller as deemed date of receipt for issuance of PRC. GeM portal shall also send periodic notifications every 24 hrs. to the Consignee, Buyer and the HoD about issuance of auto generated Deemed PRC for next 48 hrs.
h) In case the PRC is auto-generated, the consignee shall have the provision on GeM to respond back within 48 hrs. If the goods have not been received or short received recommending to cancel or amend/correct the date of receipt/quantity in the auto-generated Deemed PRC. In case nothing is reported/corrected by consignee on the system, it will be presumed that the consignee has nothing to say and the auto-generated Deemed PRC will be considered as final for all purposes.

i) If it is found at any stage that seller/service provider has sent/uploaded wrong information on GeM, based on which PRC has been wrongly auto-generated, the seller/service provider will be dealt severely and should be debarred by GeM for three years.

xi) Consignee Receipt and Acceptance of Stores on GeM:

After issue of PRC/Deemed PRC, the system will start sending an alert on the Dashboard of the consignee and an email and an SMS Alert will be sent as per escalation matrix specified below to issue the CRAC within 10 days.

a) Level 1 - Upto 3 days - Consignee
d) Level 2 - 4 and 5th day - Consignee and Buyer

c) Level 3 - 6 to 10th day - Consignee, Buyer, HOD

After verification including assessment of quality and quantity of goods verification of completion of all deliverables defined in the milestone/completion of service for the defined period, the Consignee(s) will issue an on-line digitally-signed Consignee’s Receipt & Acceptance Certificate (CRAC) (Goods CRAC/Service CRAC/Delivery CRAC/Installation CRAC/Final CRAC as the case may be) (within 10 days (unless otherwise specified in a particular contract) of date of receipt indicated in PRC/Deemed date of receipt as indicated in Deemed PRC. The CRAC would clearly indicate the order quantity/milestone achievement/service delivery, rejected quantity/unsatisfactory/milestone achievement/unacceptable service delivery (if any, with reasons for rejection including shortages/damaged/unsatisfactory quality), quantity/milestone achievement/service delivery accepted and cleared for payment. However, if the consignee does not issue CRAC within 10 days (unless some other time line is specified in a particular contract for issue of CRAC), on 11th day from the date of receipt/deemed date of receipt of quantity/milestone achievement/service delivery as indicated in PRC, GeM System/Portal would auto generate unsigned CRAC which, backed with digitally-signed PRC or deemed PRC based on Seller Evidence for the corresponding quantity/milestone achievement/service delivery shall be taken as deemed acceptance for payments in lieu of the requirement of digitally-signed CRAC. This will be made available on GeM to the Buyer/Seller and also the concerned DDO (if applicable) and PAO/Paying Authority. The GeM portal would generate a unique serial number for CRAC relating to concerned DDO (if applicable) & PAO/Paying Authority, so that the payments are made serially.
xii) After generation of CRAC, the Buyer shall prepare ‘Payment advice’ on GeM Portal indicating any contractual deductions such as penalties for violation of Service Level Agreement (as applicable)/Liquidated Damages for delayed supply/milestone achievement/service delivery etc. which will be used by GeM portal to compute the net amount payable for the accepted quantity/milestone achievement/service delivery after factoring in the contractual deduction(s) and generate claim for payments digitally signed by the Buyer. This claim for payment shall be made available to the DDO on GeM Portal and the requisite data will also be pushed online to the PFMS. DDO will log in to PFMS and generate the Bill against the said claims and forward the same to the PAO/Paying Authority for payment, after deducting any statutory deductions including TDS as applicable.

xiii) It is mandatory to make payments without any delay for purchases made on GeM. In no case should it take longer than the prescribed timelines. The timelines after Consignee Receipt and Acceptance Certificate (CRAC) issues online and digitally signed by consignee, will be two (2) working days for Buyer, one (1) working day for concerned DDO and two (2) working days for concerned PAO for triggering payment through PFMS for crediting to the supplier’s account. In case of return of Bills by PAO/Paying authority, the discrepancies should be addressed by concerned Buyer/DDO within one working day and thereafter on re-submission of Bill the PAO should also not take more than one (1) working day for triggering payment to the Seller Service provider. Any matter needing a resolution will be escalated to the next higher level in each agency (Buyer, DDO and PAO) where the matter should be resolved within 24 hours. In the entire process, time taken for payment should not exceed ten (10) days including holidays.

xiv) After online pre-check of all relevant documents, PAO/Paying Authority shall debit the Government account, releasing the corresponding payment through PFMS and to be credited into the bank account of the Seller Service Provider. The payment so released shall be credited to the Seller Service Provider account within 24 hours (excluding public holidays) by the Bank. SMS alerts shall be sent to the Seller Service Provider and Buyer after the payment is authorized by PAO, and also after the confirmation of the payment by the Bank. The payment authorization as well as payment confirmation details shall be shared by PFMS on the GeM portal. The PAO/Paying Authority and DDO shall comply with the provisions of General Financial Rules for budget implementation.

xv) In case of return of Bill, if necessary by PAO/Paying Authority, it should be made online with all queries/discrepancies/reasons for rejections indicated in one go with the approval of competent authority, to the DDO/Buyer for the necessary corrections at their end.
xvi) The DDO shall also be responsible for issuing TDS certificate as per Income Tax Act, 1961, amended from time to time, to the Seller after release of the payment to the Seller/Supplier. The DDO shall also be responsible for deduction of TDS as per GST provisions and to deposit the same with the Govt. as per GST rules and issue Form GSTR 7A to the person whose TDS has been deducted.

xvii) GeM System/Portal would also have on-line provisions for generating supplementary invoice(s) for claim/refund of statutory changes in Duties and taxes, if any, as above. A provision for all types of refunds/claims should be available on-line through PFMS.

xviii) In terms of the provisions of the Information Technology Act 2000 as amended from time to time, digitally-signed online documents generated on GeM shall be treated at par with ink-signed documents for release of payment to the Seller/Service Provider and no ink signed paper/documents shall be demanded/insisted.

xix) The multi-year liabilities as created as referred to in Para 7(i) (h) above shall be reviewed regularly by the Programme Division/Administrative unit in consultation with the Financial Adviser. The consolidated information on the total committed liabilities, year-wise, shall be submitted by the Financial Adviser to the Budget Division, Department of Economic Affairs, Ministry of Finance for suitably reflecting in the Budget Estimates for the relevant financial year and in the Medium Term Expenditure Framework (MTEF).

xx) For all contracts placed through GeM, the payment through PFMS to all Sellers/Service Providers must be released only against electronic bill generated on GeM. No offline payment should be made in such cases to avoid double payment. Only in exceptional cases such as non-availability of the GeM platform or long shutdown of Internet services at Buyer location or similar force majeure conditions, such off-line payments can be resorted to subject to the condition that immediately after resolution of the problem, necessary entries would be made online in GeM portal to obviate the possibility of double payment.

B. Payments for Non-PFMS Agencies/Entities (NPAEs):

i) Non-PFMS Agency/Entity (NPAE) is a Government of India (GoI) not using PFMS for its payments of transactions and having their own payment system for making payments against contracts placed for goods/services placed by the NPAE on GeM. All NPAE shall open & operate a special purpose account namely GeM Pool Account for the purpose of ensuring prompt payment to Seller/Service Provider of GeM who supply Goods/Services to the NPAE through GeM.

ii) Accordingly, all the Organisations/Departments including CPUs, Municipalities, Educational Institutions, Autonomous bodies, Societies, etc., not operating through PFMS shall be covered under these instructions. These organisations are hereby directed to open, operationalise and operate a GeM Pool Account (GPA) for all procurement. GPA is a special purpose bank account (interest...
(ii) The following are the key elements of GPA that should be incorporated during the opening and operations / procurement stages:

a) The NP&E will open the GPA (as a savings or current account) which will be utilized by buyer through online integration of Bank with the platform owned and maintained by GeM SPV as per Service Level Agreement (SLA), and solely for procurement of goods and services on GeM.

b) The terms and conditions of procurement on GeM will be part of the operations agreement between the bank and the NP&E.

c) The role of the bank will be limited to ensuring operations of the account on the instruction of the NP&E through the authorized NP&E nodal officer for GeM buyer.

d) Real time details of all operations of the account will be shared by the bank, in a mutually accepted format (to be amended from time to time) with the NP&E, only through the GeM Platform.

e) Once a sub-account/transaction specific account is credited with an amount, the NP&E cannot withdraw this amount, apart from transfer to the designated Seller/Service Provider, till such a time that the transaction is live.

f) Any withdrawal/transfer by the NP&E from this account, except for payment to the Seller / Service Provider, would be permitted in the following conditions:

- Order cancellation
- Order rejection
- Refund

All the above situations would first be required to be enabled/flagged on the GeM Platform for the NP&E to be able to act accordingly.

(iv) While procuring goods & services through GeM, the NP&Es should credit 100% of the projected Contract Value in case of Goods Contract in their GeM Pool Account before award of contract. In cases of Services, amount should be credited for one payment cycle as defined in the contract and before releasing payment for any cycle, the funds required for the next payment cycle should be credited so as to ensure availability of payable funds for the next payment cycle. Payment so credited will not be withdrawn for any other purpose other than the one for which the amount is credited into GeM Pool Account.

(v) After placement of contract on GeM, the process for PRC and CRAC will be same for NP&E category also as indicated in Para 7 (A) (x) above regarding
vi) After issue of CRAC NPAE Node Officer shall issue an advice without delay in the bank to release actual amount payable to Seller / Service Provider as per terms of contract from the GeM Pool Account. On authorization, the bank should transfer the prescribed amount to the Seller/Service Provider supplier mapped in the transaction.

vii) In case of a Service level agreement (SLA) breach on the part of the NPAE in terms of payments to the Seller/Service Provider, GeM will intimate the buyer and bank of the same. Post such intimation, and non-action on the part of the NPAE with respect to payment transfer, bank will release payments for the delivery of goods at consignee destination / milestone achievement (such as completion of installation / commissioning or training etc. as defined in the contract) / service delivery as notified in the terms and conditions of procurement on GeM to the Seller/Service Provider mapped in the transaction. Such a provision is required to be incorporated in GPA and should be considered as a standing instruction from the NPAE to the bank. The residual amount cannot be withdrawn/ transferred by the NPAE, in such cases.

viii) In case, even after 10 days of issue of consignee receipt and acceptance certificate (CRAC) / auto generated CRAC, the buyer has not initiated the payment process through the GeM platform, a payment trigger will be automatically generated for payment equivalent to 80% of the corresponding quantity/milestone achievement/ service delivery deducted by the system as per CRAC. Simultaneously intimation will be sent to the HoD, buyer and NPAE nodal officer for GeM, regarding the release of payment, at their risk and cost in line with the terms and conditions (T&C) and SLA of procurement on GeM. The residual payment of 20% is to be processed by the buyer within 35 days after referring for any statutory deduction and damages, failing which after 35 days, the same will be released to the Seller/Service Provider automatically through an alert to the bank by the GeM Platform, after statutory deductions and any system know deductions.

(ix) Unutilized funds after closure of the Contract and interest accrued on the credited amount will be at the disposal of nominated NPAE Nodal officer, who may advise bankers for further action as deemed fit.

(x) The Steering Committee on GeM of each Ministry should monitor the implementation of these instructions regarding operationalization of GeM Pool Account.

xi) Ministries/ Departments of Government of India are accordingly requested to issue necessary instructions to all Non-PFMS Agencies/ Entities under their control.

8. In case any Non PFMS Agency / Entity decides with the approval of their Competent Authority to have integration of their on-line payment Systems with functionality for Blocking of Funds etc. as per PFMS system of payments, the Payment procedures outlined for PFMS in Para 7 (A) shall be mutatis mutandis applicable to them.
Currently, for unlocking of funds, especially during the last end of the financial year, buyers need to send emails etc to GeM. Thereafter, GeM manually unlocks the payments. GeM will automate this whole process.

10. The above procedures and time lines shall be strictly adhered to by the Ministries/Departments with effect from 01.07.2020.

11. This issues with the approval of Secretary (Expenditure).

(Kotturu Narayana Reddy)
Deputy Secretary to the Govt. of India
Tellax.-24621305
Email:- kn.reddy@gov.in

To,
All the Secretaries and Financial Advisers to Government of India

Copy to:
1. CGA, CGDA, FC/Railway Board - For information and necessary action.
2. Secretary, Department of Public Enterprises with a request to issue appropriate instructions to Public Sector Undertakings in this regard.
No F (6/18/2019-PPD
Government of India
Ministry of Finance
Department of Expenditure
Procurement Policy Division

512, Lok Nayak Bhawan,

OFFICE MEMORANDUM

Subject: Procurement of Goods / Services through Government e-Marketplace (GeM).

Rule 149 of GFR states that procurement of common use goods and services by Ministries or Departments will be mandatory for Goods or Services available on GeM. Further amendment dated 02.04.2019 of GFR Rule 150 provides that for goods and services not available on GeM, Head of Ministry/Department may also register suppliers of Goods and Services. Such registered suppliers should be boarded on GeM as and when the item or service gets listed on GeM.

2. As per the instructions contained in OM No. F.18/3/2017-PPD dated 25.07.2017 by Department of Expenditure, it has been clearly stipulated that while publishing any Bid for procurement through Central Public Procurement Portal (CPPP), procuring entities are required to give an undertaking that category of goods/services being tendered/procured is not available on GeM and they have no objection in providing this information for making available such products/services in GeM.

3. In view of the above provisions of GFR, the procurement of common use goods and services by Ministries or Departments through GeM is mandatory for Goods or Services for which product/service categories are available on GeM.

4. In order to effectively implement the above provisions, a functionality for generating “GeM Availability Report & Past Transaction Summary” is being made available on GeM. This would greatly help and benefit the Buyers and Competent Authorities in taking informed procurement decisions in respect of availability of a product/service on GeM along with necessary details relating to past transaction summary.

5. With effect from 01.07.2020, when the above functionality will be deployed on GeM, it will be mandatory for a buyer to generate a “GeM Availability Report and Past Transaction Summary” (GeMAR&PTS) with a unique ID on GeM portal using his login credentials on GeM for procurement outside GeM. The Past Transaction Summary will be provided, wherever available. “GeMAR&PTS” shall be a prerequisite for arriving at a decision by the competent authority for procurement of required goods and services by floating a bid outside GeM and its unique ID would be required to be furnished on the publishing portal along with the tender proposed to be published.
6. However, in case it is not possible to extract GeM & PTS report due to urgency and non-functional of GeM at that time or due to non-availability of internet connection, screenshots in such cases shall be placed in procurement files, along with details of reasons/circumstances. Further, in these circumstances, furnishing of unique ID-OT publishing portal will not be insisted.

7. This issues with the approval of Secretary (Expenditure).

(Kolluru Narayana Reddy)
Deputy Secretary to the Govt. of India
Tel: 24621305
Email: kn.reddy@gov.in

To,
All the Secretaries and Financial Advisers to Government of India

Copy to:
1. CCA, CGDA, Go/Railway Board - For information and necessary action.
2. Secretary, Department of Public Enterprises with a request to issue appropriate instructions to Public Sector Undertakings in this regard.
OFFICE MEMORANDUM

Subject: Procedures for payments for Goods / Services to Sellers / Service Providers in Government e- Marketplace (GeM) through PFMS and by non-PFMS Agencies/ Entities (NPAE)-- reg.


In supersession of the above referred OM dated 20.09.2016 and OM No.F.13/4/2017-PPD (Pt.) dated 14.08.2018 and pursuant to Rule No. 149 of GFR 2017, the following procedures are prescribed for making payments to the Sellers /Service Providers in GeM which shall be complied and adhered to by all concerned for different type of contracts such as

a) Supply of Goods & Services
b) Supply, Installation, Testing and Commissioning of Goods
c) Supply, Installation, Testing, Commissioning of Goods and Training of operators and providing Statutory Clearances required (if any)

2. In respect of contracts for Supply of Goods, 100% payment including GST should be made after receipt and acceptance of Goods and generation of “Goods CRAC” (Consignee Receipt and Acceptance Certificate) subject to recoveries, if any, either on account of short supply and Liquidated Damages etc. for delay in supply.

3. In respect of contracts for Services, payment should be made as per periodicity defined in the contract i.e. Monthly, Quarterly or any other pre-defined payment periodicity. 100% payment including GST for the particular payment cycle should be made after receipt and acceptance of the Services and generation of “Service CRAC” (Consignee Receipt and Acceptance Certificate) subject to recoveries, if any, either on account of short supply, SLA (Service Level Agreement) deviations and Liquidated Damages for delay in supply etc.

4. In respect of contracts for Supply, Installation, Testing, Commissioning of Goods and Training of operators etc. the complete cost break-up indicating Basic price, GST, Installation and commissioning charges, Incidental Services, training etc. is to be indicated separately in the bid. In order to cater to installation intensive products, the different configurable payment terms will have to be incorporated in GeM functionalities (depending upon the quantum of installation and turnkey work required).
(a) First Milestone - On delivery of goods: 80 to 90% payment (lower initial payment if installation scope is very extensive) of the basic price of Goods along with 100% GST on the Goods Price but excluding installation, testing and commissioning and other charges should be paid after receipt Goods and generation of “Delivery CRAC for initial payment”. This will be issued after physical verification of quantity only but without commitment about quality or functionalities etc. which would be verified after installation / commissioning etc. While creating the bid, Buyer shall have functionality to define the percentage of payment linked with delivery of Goods.

(b) Second Milestone - On Acceptance after installation, testing and commissioning: Balance 10% to 20% payment of the basic price of Goods and 100% charges for installation, testing and commissioning and other charges along with GST on these charges should be paid after installation and final Acceptance of Goods and generation of “Installation CRAC” to be issued by the End User / Consignee. Recoveries, if any, either on account of short supply and Liquidated Damages etc. for delay in supply and / or installation etc. shall be made from the payment due under this milestone. While creating the bid, Buyer shall have functionality to define the deliverables in this milestone and the percentage of payment linked with this milestone.

(c) Third (and subsequent) milestones - Payment of Incidental Costs: 100% Payment related to incidental costs at consignee site towards Incidental Services (such as providing training, or other work / service as per scope defined in the contract), to be paid on submission of “Final CRAC” by the End User / Consignee. While creating the bid, Buyer shall have functionality to define the deliverables in this milestone. In exceptional cases, Buyer may choose to split this milestone as required.

5. In case of contracts for Supply, Installation, Testing, Commissioning of Goods bundled with one or more Services such as Comprehensive Maintenance, Human Resource hiring for pre-defined time periods etc., the payments for Goods shall be governed by Para 4 above while payment for Services shall be Governed as per Para 3 above.

6. In case of Milestone Based Payments, separate timelines / delivery periods for each milestone will be provided. In case of supply and installation contracts, the delivery period may be specified by filling up the blanks as under:

a) First Milestone - For delivery of goods at site: ----- days/ months from date of issue of contract with provision for staggered / multiple delivery period for same consignee.
b) Second milestone - Installation, Testing and Commissioning etc. of goods: ---- days / months from the date of handing over of site complete in all respect as per contract.

c) Third (and subsequent) milestones - Incidental Services etc.; ---- days after installation and commissioning.

7. The payments on GeM are primarily categorized under two heads i.e. through PFMS or GeM Pool Account. The detailed instructions for both type of payment system are as under:

A. Payments through PFMS:

i) The Central Government Buyer i.e. the concerned Programme Division or Administrative Unit in a Ministry/Department will place the Contract online after taking prior approval of the Competent Authority for procuring a particular Good or Service. Inter-alia, the Contract form will also contain the following fields including fields required for payment related processes:

   a). Administrative approval of the Competent Authority indicating the designation of the approving authority,
   b). Approval of Competent Financial Authority indicating designation of the officer;
   c). Whether IFD concurrence required? (Yes/No)
   d). If yes, then IFD Diary No. & Date
   e). Budget Head of Account and Year, Major/Minor/Sub-head/Detailed Head/Object Head as in Detailed Demands for Grants.
   f). Budget availability as on date (Yes/No)
   g). Amount (Contract Value) Rs..... (Budget to be blocked)
   h). If expenditure is committed for more than a year, the year-wise details
      (portal should generate a Liability Register for recording multi-year payment commitments, the format for which is prescribed in Rule 53 of the GFR)

ii) When these fields are duly captured, the Buyer will be in a position to place the Contract online. The GeM portal will generate a Sanction Order and the Contract which will be digitally/le-sign by the Buyer. These documents duly digitally/le-signed by the Buyer will be made available online to the concerned DDO and PAO or Paying Authority as defined in the contract and Seller/Service Provider. The DDO and PAO/Paying Authority shall have access to the Contract online in order to ensure that the Bill is generated at the stage of payment in accordance with the contractual provisions.

iii) The GeM portal will send the Sanction Order details to PFMS.

iv) On issue of Sanction order and placing the Contract for goods, the full amount required from the relevant Budget Head should be blocked in the PFMS. In cases of Services, amount should be blocked for one payment cycle as defined in the contract. Before releasing payment for any cycle, the funds required for the next
payment cycle should be blocked so as to ensure availability of payable funds for the next payment cycle. Blocked fund will be treated as accrued expenditure by PFMS for the financial year in question and it will not be withdrawn for any other purpose other than the one for which the amount is Blocked.

v). Should it be necessary to amend the Contract, such Amendment in the Contract with due approval of the Competent Authority and acceptance of the Seller/Service Provider (wherever required) shall be made available to the Seller / Service Provider/DDO/PAO/Paying Authority on the GeM portal.

vii). Similarly, in the event of complete / partial cancellation of the Contract the information would be made available to the Seller/Service Provider, DDO and PAO on the GeM portal. In that event, funds so blocked earlier would be released to the extent of cancelled amount.

viii). The Programme Division/Administrative Unit in the Ministries/Departments shall periodically review the blocked budget to ensure that funds are utilized within the same financial year.

ix). The Performance Security (if any) would be obtained from the Seller/Service Provider as per Contract, and their details would be reflected on the GeM portal by the Buyer.

x). **Provisional Receipt of Stores on GeM:**

    a) On dispatch of Goods, the Seller would enter the Dispatch Details and date of Dispatch and will upload documentary evidence of Dispatch against each consignment on GeM Portal. All these documents and details shall be shown to the Consignee on his dashboard and shall also be notified to the consignee on his e-mail and on his registered mobile number.

    b) The Seller shall prepare an electronic Invoice, digitally/e-signed, on GeM portal and shall submit the same on-line to the Buyer. GeM portal will send an SMS/ email alert to the Buyer, on submission of Invoice. This Invoice will contain mode of dispatch of goods, dispatched/delivered quantity with date and all inclusive price claimed based on digitally/e-signed Contract. In case Services are procured, the required data as per Contract may be incorporated in the invoice.

    c) After actual delivery of goods at consignee destination / milestone achievement (such as completion of installation / commissioning or training etc. as defined in the contract)/ service delivery, Seller would enter the actual date of delivery / milestone achievement / Service Log-sheet (as applicable) and will upload documentary evidence for the same duly digitally signed / e-signed. All these documents and details shall be shown to the Consignee on his dashboard and shall also be notified to the consignee on his e-mail and on his registered mobile number. In case of Services Contracts, the Service Provider
will fill up the required data as per the contract (such as log sheets and/or invoice etc duly digitally signed / e-signed).

d) Immediately upon above entry by Seller / Service Provider regarding delivery of goods/ milestone achievement/ service delivery, an alert will be flashed on the Dashboard of the consignee and an email and an SMS Alert will be sent to Consignee informing that consignee has to mandatorily acknowledge receipt of stores / milestone achievement / service delivery through generation of PRC on GeM. The Buyer/Consignee should receive the Goods/Services and issues an online Provisional Receipt Certificate (PRC), within 48 hours, on ‘said to contain basis’ on the GeM portal with his/her digital signature / e-sign, mentioning the date of Receipt. (From this date of receipt mentioned in PRC, the period of ten (10) days for consignee's/buyer's right of rejection and return policy would be applicable unless otherwise specified in a particular contract).

e) In case the consignee does not issue PRC within 48 hrs from entry of delivery of goods/ milestone achievement/ service delivery by Seller/ Service Provider, an alert will be flashed on the dashboard of the consignee and an email and an SMS Alert will be sent to Consignee and Buyer informing that consignee has to mandatorily acknowledge receipt of stores/ milestone achievement / service delivery through generation of PRC on GeM.

f) After expiry of 72 hrs. from the first alert, another alert will be flashed on the dashboard of the Consignee, Buyer including HoD and an email along with an SMS Alert to Consignee, Buyer, HoD informing that consignee has to mandatorily acknowledge receipt of stores/ milestone achievement / service delivery through generation of PRC on GeM and if the time limit of 96 hrs expires from the date of delivery of goods/ milestone achievement/ service delivery as per entry made by Seller/ Service provider and if the consignee does not acknowledge receipt of stores/ milestone achievement / service delivery by generating PRC or disputes the same by rejecting receipt, it would be presumed that goods have been delivered/ milestone achievement / service delivery has been made to consignee and PRC will be auto generated by the system (Deemed PRC).

f) However, if the consignee does not issue PRC within 96 hrs from delivery of goods/ milestone achievement/ service delivery as per entry made by Seller/ Service provider, GeM System/Portal would auto generate unsigned PRC considering the date of delivery of goods/ milestone achievement / service delivery as indicated by the seller as deemed date of receipt for issuance of PRC. GeM portal shall also send periodic notifications every 24 hrs. to the Consignee, Buyer and the HoD about issuance of auto generated Deemed PRC for next 48 hrs.
h) In case the PRC is auto-generated, the consignee shall have the provision on GeM to respond back within 48 hrs, if the goods have not been received or short received recommending to cancel or amend/correct the date of receipt / quantity in the auto-generated Deemed PRC. In case nothing is reported / corrected by consignee on the system, it will be presumed that the consignee has nothing to say and the auto-generated Deemed PRC will be considered as final for all purposes.

i) If it is found at any stage that seller/ service provider has sent/uploaded wrong information on GeM, based on which PRC has been wrongly auto generated, the seller/service provider will be dealt severely and should be debarred by GeM for three years.

xi) Consignee Receipt and Acceptance of Stores on GeM:

After issue of PRC/ Deemed PRC, the system will start sending an alert on the Dashboard of the consignee and an email and an SMS Alert will be sent as per escalation matrix specified below to issue the CRAC within 10 days:

a) Level 1 - Upto 3 days – Consignee
b) Level 2 - 4 and 5th day - Consignee and Buyer
c) Level 3 - 6 to 10th day - Consignee, Buyer, HOD

After verification including assessment of quality and quantity of goods/verification of completion of all deliverables defined in the milestone/completion of service for the defined period, the Consignee(s) will issue an on-line digitally/signed Consignee’s Receipt & Acceptance Certificate (CRAC) (Goods CRAC/Service CRAC /Delivery CRAC /Installation CRAC /Final CRAC as the case may be) (within 10 days (unless otherwise specified in a particular contract) of date of receipt indicated in PRC / deemed date of receipt as indicated in Deemed PRC. The CRAC would clearly indicate the Order quantity/milestone achievement/service delivery, rejected quantity/unacceptable milestone achievement/unacceptable service delivery (if any, with reasons for rejection including shortages/damaged/unaccepted quality), quantity /milestone achievement/service delivery accepted and cleared for payment. However, if the consignee does not issue CRAC within 10 days (unless some other time line is specified in a particular contract for issue of CRAC), on 11th day from the date of receipt/deemed date of receipt of quantity/milestone achievement/service delivery as indicated in PRC, GeM System/Portal would auto generate unsigned CRAC which, backed with digitally/signed PRC or deemed PRC based on Seller Evidence for the corresponding quantity/milestone achievement/service delivery shall be taken as deemed acceptance for payments in lieu of the requirement of digitally/signed CRAC. This will be made available on GeM to the Buyer/Seller and also the concerned DDO (if applicable) and PAO/Paying Authority. The GeM portal would generate a unique serial number for CRAC relating to concerned DDO (if applicable) & PAO/Paying Authority, so that the payments are made seriatim.
In case the CRAC is auto-generated, the consignee shall have the provision on GeM to cancel or amend the auto-generated CRAC within 72 hrs, if the goods have not been accepted or found defective / short received. In case nothing is corrected by consignee on the system, it will be presumed that the consignee has nothing to say and the auto-generated CRAC will be considered as final for all purposes including payments.

xii) After generation of CRAC, the Buyer shall prepare 'Payment advice' on GeM Portal, indicating any contractual deductions such as penalties for violation of Service Level Agreement (as applicable)/Liquidated Damages for delayed supplies/ milestone achievement/ service delivery etc. which will be used by GeM portal to compute the net amount payable for the accepted quantity/ milestone achievement/ service delivery after factoring in the contractual deduction(s) and generate claims for payments digitally/e-signed by the Buyer. This claim for payment shall be made available to the DDO on GeM Portal and the requisite data will also be pushed online in the PFMS. DDO will log into PFMS and generate the Bill against the said claims and forward the same to the PAO/Paying Authority for payment, after deducting any statutory deductions including TDS as applicable.

xiii) It is obligatory to make payments without any delay for purchases made on GeM. In no case should it take longer than the prescribed timelines. The timelines after Consignee Receipt and Acceptance Certificate (CRAC) issued on-line and digitally/e-signed by consignee, will be two (2) working days for Buyer, one (1) working day for concerned DDO and two (2) working days for concerned PAO for triggering payment through PFMS for crediting to the supplier’s account. In case of return of Bills by PAO/Paying authority, the discrepancies should be addressed by concerned Buyer/DDO within one working day and thereafter on re-submission of Bill the PAO should also not take more than one (1) working day for triggering payment to the Seller/ service provider Any matter needing a resolution will be escalated to the next higher level in each agency (Buyer, DDO and PAO) where the matter should be resolved within 24 hours. In the entire process, time taken for payment should not exceed ten (10) days including holidays.

xiv) After online pre-check of all relevant documents, PAO/Paying Authority shall debit the Government account, releasing the corresponding payment through PFMS / to be credited into the bank account of the Seller/service Provider. The payment so released shall be credited to the Seller/Service Provider account within 24 hours (excluding public holidays), by the Bank. SMS alerts shall be sent to the Seller/Service Provider and Buyer after the payment is authorized by PAO and also after the confirmation of the payment by the Bank. The payment authorization as well as payment confirmation details shall be shared by PFMS on the GeM portal. The PAO/Paying Authority and DDO shall comply with the provisions of General Financial Rules for budget implementation.

xv) In case of return of Bill, if necessary by PAO/Paying Authority, it should be made online with all queries/discrepancies/reasons for rejections indicated in one go with the approval of competent authority, to the DDO/Buyer for the needful corrections at their end.
xvi) The DDO shall also be responsible for issuing TDS certificate (as per Income Tax Act, 1961 amended from time to time) to the Seller after release of the payment to the Seller/Supplier. The DDO shall also be responsible for deduction of TDS on GST as per GST provisions and to deposit the same with the Govt. as per GST rules and issue Form GSTR 7A to the person whose TDS has been deducted.

xvii) GeM System/Portal would also have on-line provisions for generating supplementary invoice(s) for claim/refund of statutory changes in Duties and taxes, if any, as above. A provision for all types of refunds/claims should be available on-line through PFMS.

xviii) In terms of the provisions of the Information Technology Act 2000 as amended from time to time, digitally/e-signed online documents generated on GeM shall be treated at par with ink-signed documents for release of payment to the Seller/Service Provider and no ink signed paper/documents shall be demanded/insisted.

xix) The multi-year liabilities so created as referred to in Para 7(i) (h) above shall be reviewed regularly by the Programme Division/Administrative unit in consultation with the Financial Adviser. The consolidated information on the total committed liabilities, year-wise, shall be submitted by the Financial Adviser to the Budget Division, Department of Economic Affairs, Ministry of Finance for suitably reflecting in the Budget Estimates for the relevant financial year and in the Medium Term Expenditure Framework (MTEF).

xx) For all contracts placed through GeM, the payment through PFMS to all Sellers/Service Providers must be released online only against electronic bill generated on GeM. No offline payment should be made in such cases to avoid double payment. Only in exceptional cases such as non-availability of the GeM platform or long shutdown of internet services at Buyer location or similar force majeure conditions, such off-line payments can be resorted to subject to the condition that immediately after resolution of the problem, necessary entries would be made on-line in GeM portal to obviate the possibility of double payment.

B. Payments for Non-PFMS Agencies/Entities (NPAE):

i) Non-PFMS Agency/Entity (NPAE) is a Government of India (GoI) not using PFMS for its payments of transactions and having their own payment system for making payments against contracts placed for goods/services placed by the NPAE on GeM. All NPAE shall open & operate a special purpose account namely GeM Pool Account for the purpose of ensuring prompt payment to Seller/Service Provider of GeM who supply Goods/Services to the NPAE through GeM.

ii) Accordingly, all the Organisations/Departments including CPSUs, Municipalities, Educational Institutions, Autonomous bodies, Societies, etc. not operating through PFMS shall be covered under these instructions. These organisations are hereby directed to open, operationalize and operate a GeM Pool Account (GPA) for all procurement. GPA is a special purpose bank account (interest
iii) The following are the core elements of GPA that should be incorporated during the opening and operations / procurement stages:

a) The NPAE will open the GPA (as a savings or current account) which will be utilized by the buyer through the online integration of Bank with the platform owned and maintained by GeM SPV, as per Service Level Agreement (SLA), and solely for procurement of goods and services on GeM.

b) The terms and conditions of procurement on GeM will be part of the operations agreement between the bank and the NPAE.

c) The role of the bank will be limited to ensuring operations of the account on the instruction of the NPAE through the authorized NPAE nodal officer for GeM/buyer.

d) Real time details of all operations of the account will be shared by the bank, in a mutually accepted format (to be amended from time to time) with the NPAE, only through the GeM Platform.

e) Once a sub-account/ transaction specific account is credited with an amount, the NPAE cannot withdraw this amount, apart from transfer to the designated Seller/Service Provider, till such a time that the transaction is live.

f) Any withdrawal/transfer by the NPAE from this account, except for payment to the Seller/Service Provider, would be permitted in the following conditions.
   - Order cancellation
   - Order rejection
   - Refund

   All the above situations would first be required to be enabled/ flagged on the GeM Platform for the NPAE to be able to act accordingly.

iv) While procuring goods & services through GeM, the NPAEs should credit 100% of the projected Contract Value in case of Goods Contract in their GeM Pool Account before award of contract. In cases of Services, amount should be credited for one payment cycle as defined in the contract and before releasing payment for any cycle, the funds required for the next payment cycle should be credited so as to ensure availability of payable funds for the next payment cycle. Payment so credited will not be withdrawn for any other purpose other than the one for which the amount is credited into GeM Pool Account.

v) After placement of contract on GeM, the process for PRC and CRAC will be same for NPAE category also as indicated in Para 7 (A) (x) above regarding
Provisional Receipt of Stores on GeM and Para 7 (A) (xi) Consignee Receipt and Acceptance of Stores on GeM for PFMS Buyers.

vi) After issue of CRAC, NPAE Nodal Officer shall issue an advice without delay to the bank to release actual amount payable to Seller / Service Provider as per terms of contract from the GeM Pool Account. On authorization, the bank should transfer the prescribed amount to the Seller/Service Provider supplier mapped in the transaction.

vii) In case of a Service level agreement (SLA) breach on the part of the NPAE in terms of payments to the Seller/Service Provider, GeM will intimate the buyer and bank of the same. Post such intimation, and non-action on the part of the NPAE with respect to payment transfer, bank will release payments for the delivery of goods at consignee destination / milestone achievement (such as completion of installation / commissioning or training etc. as defined in the contract) / service delivery as notified in the terms and conditions of procurement on GeM to the Seller/Service Provider mapped in the transaction. Such a provision is required to be incorporated in GPA and should be considered as a standing instruction from the NPAE to the bank. The residual amount cannot be withdrawn/ transferred by the NPAE, in such cases.

viii) In case, even after 10 days of issue of Consignee receipt and acceptance certificate (CRAC) / auto generated CRAC, the buyer has not initiated the payment process through the GeM platform, a payment trigger will be automatically generated for payment equivalent to 80% of the corresponding quantity / milestone achievement / service delivery deduced by the system as per CRAC. Simultaneously intimation will be sent to the HoD, buyer and NPAE Nodal officer for GeM, regarding the release of payment, at their risk and cost in line with the terms and condition (T&C) and SLA of procurement on GeM. The residual payment of 20% is to be processed by the buyer within 35 days after adjusting for any statutory deduction and damages, failing which after 35 days, the same will be released to the Seller/Service Provider automatically through an alert to the bank by the GeM Platform, after statutory deductions and any system know deductions.

ix) Unutilized funds after closure of the Contract and interest accrued on the credited amount will be at the disposal of nominated NPAE Nodal officer, who may advise banker for further action as deemed fit.

x) The Steering Committee on GeM of each Ministry should monitor the implementation of these instructions regarding operationalization of GeM Pool Account.

xi) Ministries/ Departments of Government of India are accordingly requested to issue necessary instructions to all Non-PFMS Agencies/ Entities under their control.

8. In case any Non PFMS Agency / Entity decides with the approval of their Competent Authority to have integration of their on-line payment Systems with functionality for Blocking of Funds etc. as per PFMS system of payments, the Payment procedures outlined for PFMS in Para 7 (A) shall be mutatis mutandis applicable to them.
9. Currently, for unlocking of funds, especially during the final end of the financial year, buyers need to send emails etc. to GeM. Thereafter, GeM manually unlocks the payments. GeM will automate this whole process.

10. The above procedures and timelines shall be strictly adhered to by the Ministries/Departments with effect from 01.07.2020.

11. This issues with the approval of Secretary (Expenditure).

(Kotluru Narayana Reddy)
Deputy Secretary to the Govt. of India
Telfax: 24621305
Email: kn.reddy@gov.in

To,
All the Secretaries and Financial Advisers to Government of India

Copy to:
1. CGA, CGDA, FC/Railway Board - For information and necessary action.
2. Secretary, Department of Public Enterprises with a request to issue appropriate instructions to Public Sector Undertakings in this regard.
No. F.12/17/2019-PPD
Government of India
Ministry of Finance
Department of Expenditure
Procurement Policy Division
*****

168c North Block, New Delhi,

Subject: Global Tender Enquiry (GTE).

Attention is invited to this office OM No. F.12/17/2019-PPD dated 15.05.2020 amending Rule 161(iv) of General Financial Rules (GFRs), 2017 and specifying that no GTE shall be invited for tenders up to Rs.200 crore. It was further stipulated that for tenders below 200 crore, where Ministry or Department feels that there are special reasons for GTE, it may record its detailed justification and seek prior approval for relaxation from the competent authority to be specified by Department of Expenditure (DoE).

2. The Secretary (Coordination), Cabinet Secretariat shall be the competent authority under Rule 161 (iv) (b) of GFR. Ministries/Departments are advised to send only well reasoned proposals to Secretary (Coordination). Secretary (Coordination), if required, may consult Department of Expenditure, Administrative Ministry and any other Ministry/Department as he deemed fit.

Sanjay Aggarwal
Director (PPD)
sanjay.aggarwal66@nic.in
011-23094961

To,
Secretaries of all Central Government Ministries/Departments
Circular No.09/07/18

Subject: Transparency in Works/Purchases/Consultancy contracts awarded on nomination basis – reg.

Reference: (i) Commission’s Circular No.15/5/06 dated 09.05.2006
(ii) Commission’s Office Order No.23/7/07 dated 05.07.2007
(iii) Commission’s Office Order No.19/05/10 dated 19.05.2010

Reference is invited to Commission’s Circulars cited above wherein the need for award of contracts in a transparent and open manner has been emphasized. The Commission is still receiving representations reporting instances of award of contracts and procurements in a non-transparent manner on nomination basis by several Departments/CPSUs.

2. The award of contracts/procurements/projects on nomination basis without adequate justification amounts to a restrictive practice eliminating competition, fairness and equity. The Commission would reiterate its earlier instructions, that award of contracts on nomination basis can be resorted to only in exceptional circumstances as laid down in Commission’s Office Order No.23/7/07 dated 05.07.2007.

3. All Ministries/Departments/CPSUs are therefore advised to apprise the aforesaid guidelines to the concerned officers for strict compliance.

(J. Vinod Kumar)
Director

To:
(i) The Secretaries of all Ministries/Departments of Govt
(ii) All Chief Executives of CPSUs
(iii) All CFOs of Ministries/Depts/CPSUs
No: P-45021/2/2017-B.E.-II
Government of India
Ministry of Commerce and Industry
Department of Industrial Policy and Promotion

Dated 15th June, 2017
Udyog Bhawan, New Delhi

To:
All Central Ministries/Departments/CPSUs/All concerned

ORDER

Subject: Public Procurement (Preference to Make in India), Order 2017

Whereas it is the policy of the Government of India to encourage ‘Make in India’ and promote manufacturing and production of goods and services in India with a view to enhancing income and employment, and

Whereas procurement by the Government is substantial in amount and can contribute towards this policy objective, and

Whereas local content can be increased through partnerships, cooperation with local companies, establishing production units in India or Joint Ventures (JV) with Indian suppliers, increasing the participation of local employees in services and training them.

Now therefore the following Order is issued:

1. This Order is issued pursuant to Rule 153 (iii) of the General Financial Rules 2017.

2. Definitions: For the purposes of this Order:
   - ‘Local content’ means the amount of value added in India which shall, unless otherwise prescribed by the Nodal Ministry, be the total value of the item procured (excluding net domestic indirect taxes) minus the value of imported content in the item (including all customs duties) as a proportion of the total value, in percent.
   - ‘Local supplier’ means a supplier or service provider whose product or service offered for procurement meets the minimum local content as prescribed under this Order or by the competent Ministries / Departments in pursuance of this order.
   - ‘L1’ means the lowest tender or lowest bid or the lowest quotation received in a tender, bidding process or other procurement solicitation as adjudged in the evaluation process as per the tender or other procurement solicitation.
   - ‘Margin of purchase preference’ means the maximum extent to which the price quoted by a local supplier may be above the L1 for the purpose of purchase preference.
   - ‘Nodal Ministry’ means the Ministry or Department identified pursuant to this order in respect of a particular item of goods or services.
"Procuring entity" means a Ministry or department or attached or subordinate office of, or autonomous body controlled by, the Government of India and includes Government companies as defined in the Companies Act.

3. Requirement of Purchase Preference: Subject to the provisions of this Order and to any specific instructions issued by the Nodal Ministry or in pursuance of this Order, purchase preference shall be given to local suppliers in all procurements undertaken by procuring entities in the manner specified hereunder:

a. In procurement of goods in respect of which the Nodal Ministry has communicated that there is sufficient local capacity and local competition, and where the estimated value of procurement is Rs. 50 lakhs or less, only local suppliers shall be eligible. If the estimated value of procurement of such goods is more than Rs. 50 lakhs, the provisions of sub-paragraph b or c, as the case may be, shall apply.

b. In the procurements of goods which are not covered by paragraph 3a and which are divisible in nature, the following procedure shall be followed:

i. Among all qualified bids, the lowest bid will be termed as L1. If L1 is from a local supplier, the contract for full quantity will be awarded to L1.

ii. If L1 bid is not from a local supplier, 50% of the order quantity shall be awarded to L1. Thereafter, the lowest bidder among the local suppliers, will be invited to match the L1 price for the remaining 50% quantity subject to the local supplier’s quoted price falling within the margin of purchase preference, and contract for that quantity shall be awarded to such local supplier subject to matching the L1 price. In case such lowest eligible local supplier fails to match the L1 price or accepts less than the offered quantity, the next higher local supplier within the margin of purchase preference shall be invited to match the L1 price for remaining quantity and so on, and contract shall be awarded accordingly. In case some quantity is still left uncovered on local suppliers, then such balance quantity may also be ordered on the L1 bidder.

c. In procurements of goods not covered by sub-paragraph 3a and which are not divisible, and in procurement of services where the bid is evaluated on price alone, the following procedure shall be followed:

i. Among all qualified bids, the lowest bid will be termed as L1. If L1 is from a local supplier, the contract will be awarded to L1.

ii. If L1 is not from a local supplier, the lowest bidder among the local suppliers, will be invited to match the L1 price subject to local supplier’s quoted price falling within the margin of purchase preference, and the contract shall be awarded to such local supplier subject to matching the L1 price.

iii. In case such lowest eligible local supplier fails to match the L1 price, the local supplier with the next highest bid within the margin of purchase preference shall be invited to match the L1 price and so on and contract shall be awarded accordingly. In case none of the local suppliers within the margin of purchase preference matches the L1 price, then the contract may be awarded to the L1 bidder.
4. Exemption of small purchases: Notwithstanding anything contained in paragraph 3, procurements where the estimated value to be procured is less than Rs. 5 lakhs shall be exempt from this Order. However, it shall be ensured by procuring entities that procurement is not split for the purpose of avoiding the provisions of this Order.

5. Minimum local content: The minimum local content shall ordinarily be 50%. The Nodal Ministry may prescribe a higher or lower percentage in respect of any particular item and may also prescribe the manner of calculation of local content.

6. Margin of Purchase Preference: The margin of purchase preference shall be 20%.

7. Requirement for specification in advance: The minimum local content, the margin of purchase preference and the procedure for preference to Make in India shall be specified in the notice inviting tenders or other form of procurement solicitation and shall not be varied during a particular procurement transaction.

8. Government E-marketplace: In respect of procurement through the Government E-marketplace (GeM) shall, as far as possible, specifically mark the items which meet the minimum local content while registering the item for display, and shall, wherever feasible, make provision for automated comparison with purchase preference and without purchase preference and for obtaining consent of the local supplier in those cases where purchase preference is to be exercised.

9. Verification of local content:
   a. The local supplier at the time of tender, bidding or solicitation shall be required to provide self-certification that the item offered meets the minimum local content and shall give details of the location(s) at which the local value addition is made.
   b. In cases of procurement for a value in excess of Rs. 10 crores, the local supplier shall be required to provide a certificate from the statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of local content.
   c. Decisions on complaints relating to implementation of this Order shall be taken by the competent authority which is empowered to look into procurement-related complaints relating to the procuring entity.
   d. Nodal Ministries may constitute committees with internal and external experts for independent verification of self-declarations and auditor’s/ accountant’s certificates on random basis and in the case of complaints.
   e. Nodal Ministries and procuring entities may prescribe fees for such complaints.
   f. False declarations will be in breach of the Code of Integrity under Rule 175(1)(i)(h) of the General Financial Rules for which a bidder or its successors can be debarred for up to two years as per Rule 151 (iii) of the General Financial Rules along with such other actions as may be permissible under law.
   g. A supplier who has been debarred by any procuring entity for violation of this Order shall not be eligible for preference under this Order for procurement by any other procuring entity for the
duration of the debarment. The debarment for such other procuring entities shall take effect prospectively from the date on which it comes to the notice of other procurement entities, in the manner prescribed under paragraph 9h below.

h. The Department of Expenditure shall issue suitable instructions for the effective and smooth operation of this process, so that:

i. The fact and duration of debarment for violation of this Order by any procuring entity are promptly brought to the notice of the Member-Convenor of the Standing Committee and the Department of Expenditure through the concerned Ministry/Department or in some other manner;

ii. on a periodical basis such cases are consolidated and a centralized list or decentralized lists of such suppliers with the period of debarment is maintained and displayed on website(s);

iii. in respect of procuring entities other than the one which has carried out the debarment, the debarment takes effect prospectively from the date of uploading on the website(s) in the such a manner that ongoing procurements are not disrupted.

10. Specifications in Tenders and other procurement solicitations:

a. Every procuring entity shall ensure that the eligibility conditions in respect of previous experience fixed in any tender or solicitation do not require proof of supply in other countries or proof of exports.

b. Procuring entities shall endeavour to see that eligibility conditions, including on matters like turnover, production capability and financial strength do not result in unreasonable exclusion of local suppliers who would otherwise be eligible, beyond what is essential for ensuring quality or creditworthiness of the supplier.

c. Procuring entities shall, within 2 months of the issue of this Order review all existing eligibility norms and conditions with reference to sub-paragraphs ‘a’ and ‘b’ above.

d. If a Nodal Ministry is satisfied that Indian suppliers of an item are not allowed to participate and/or compete in procurement by any foreign government, it may, if it deems appropriate, restrict or exclude bidders from that country from eligibility for procurement of that item and/or other items relating to that Nodal Ministry. A copy of every instruction or decision taken in this regard shall be sent to the Chairman of the Standing Committee.

e. For the purpose of sub-paragraph 10 d above, a supplier or bidder shall be considered to be from a country if (i) the entity is incorporated in that country, or ii) a majority of its shareholding or effective control of the entity is exercised from that country; or (iii) more that 50% of the value of the item being supplied has been added in that country. Indian suppliers shall mean those entities which meet any of these tests with respect to India.
11. **Assessment of supply base by Nodal Ministries**: The Nodal Ministry shall keep in view the domestic manufacturing/supply base and assess the available capacity and the extent of local competition while identifying items and prescribing minimum local content or the manner of its calculation, with a view to avoiding cost increase from the operation of this Order.

12. **Increase in minimum local content**: The Nodal Ministry may annually review the local content requirements with a view to increasing them, subject to availability of sufficient local competition with adequate quality.

13. **Manufacture under license/technology collaboration agreements with phased indigenization**: While notifying the minimum local content, Nodal Ministries may make special provisions for exempting suppliers from meeting the stipulated local content if the product is being manufactured in India under a license from a foreign manufacturer who holds intellectual property rights and where there is a technology collaboration agreement/transfer of technology agreement for indigenous manufacture of a product developed abroad with clear phasing of increase in local content.

14. **Powers to grant exemption and to reduce minimum local content**: Ministries/Departments of Government of India and the Boards of Directors of Government companies or autonomous bodies may, by written order,
   a. reduce the minimum local content below the prescribed level;
   b. reduce the margin of purchase preference below 20%.
   c. exempt any particular item or procuring or supplying entities or class or classes of items or procuring or supplying entities from the operation of this Order or any part of the Order.

A copy of every such order shall be marked to the Member-Convenor of the Standing Committee constituted under this Order.

15. **Directions to Government companies**: In respect of Government companies and other procuring entities not governed by the General Financial Rules, the administrative Ministry or Department shall issue policy directions requiring compliance with this Order.

16. **Standing Committee**: A standing committee is hereby constituted with the following membership:

   Secretary, Department of Industrial Policy and Promotion—Chairman
   Secretary, Commerce—Member
   Secretary, Ministry of Electronics and Information Technology—Member
   Joint Secretary (Public Procurement), Department of Expenditure—Member
   Joint Secretary (DIPP)—Member-Convenor

   The Secretary of the Department concerned with a particular item shall be a member in respect of issues relating to such item. The Chairman of the Committee may co-opt technical experts as relevant to any issue or class of issues under its consideration.

Contd. p. 6/
17. Functions of the Standing Committee: The Standing Committee shall meet as often as necessary but not less than once in six months. The Committee
   a. shall oversee the implementation of this order and issues arising therefrom, and make recommendations to Nodal Ministries and procuring entities.
   b. shall annually assess and periodically monitor compliance with this Order
   c. shall identify Nodal Ministries and the allocation of items among them for issue of notifications on minimum local content
   d. may require furnishing of details or returns regarding compliance with this Order and related matters
   e. may, during the annual review or otherwise, assess issues, if any, where it is felt that the manner of implementation of the order results in any restrictive practices, cartelization or increase in public expenditure and suggest remedial measures
   f. may examine cases covered by paragraph 13 above relating to manufacture under license/technology transfer agreements with a view to satisfying itself that adequate mechanisms exist for enforcement of such agreements and for attaining the underlying objective of progressive indigenization
   g. may consider any other issue relating to this Order which may arise.

18. Removal of difficulties: Ministries /Departments and the Boards of Directors of Government companies may issue such clarifications and instructions as may be necessary for the removal of any difficulties arising in the implementation of this Order.

19. Ministries having existing policies: Where any Ministry or Department has its own policy for preference to local content approved by the Cabinet after 1st January 2015, such policies will prevail over the provisions of this Order. All other existing orders on preference to local content shall be reviewed by the Nodal Ministries and revised as needed to conform to this Order, within two months of the issue of this Order.

20. Transitional provision: This Order shall not apply to any tender or procurement for which notice inviting tender or other form of procurement solicitation has been issued before the issue of this Order.

Under Secretary to Government of India
Ph. 23061257.
No. C-30013/2/2017-Ad.IVA
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs

5th floor, HUDCO Vishala Building,
Bhikaji Cama Place, New Delhi
Dated, the 10 March, 2017

To
All Pr. Chief Commissioners/Chief Commissioners/All
Commissioners/Directors General under CBEC.


Sir/Madam,

I am directed to forward herewith a copy of letter No.011/VGL/063-/334701
(Circular No.01/01/17) dated 23.01.2017 received from Central Vigilance
Commission, New Delhi, on the subject mentioned above for information and
necessary action.

Yours faithfully,

Encl As above.

(B. Ginkhan Mang)
Under Secretary to the Govt. of India

Copy to:
The DG (Systems & Data Management), New Delhi with the request to kindly
upload this circular on the Website of CBEC.

(B. Ginkhan Mang)
Under Secretary to the Govt. of India
Circular No. 01/01/117

Subject: Systemic Improvement Guidelines - Engagement of Consultants - regarding.

Attention is invited to Commission’s Circular No.08/05/11 dated 24th June, 2011 (copy enclosed) regarding selection and employment of consultants. The Commission, taking into account the practices and procedures, being followed by various organisations, would advise following measures while finalising the contracts for engaging consultants:

(a) Framework of Instructions of GOI / Guidelines of CVC / others: Departments / Organisations (employer / client), engaging a consultant, should draw attention of the consultant to the relevant and extant instructions of Government of India, GFR issued by Ministry of Finance, guidelines of CVC and provisions of the Procurement Manual / relevant instructions of the respective organisation, as applicable to the subject matter of the advice / service to be rendered by the consultant and required to be complied with.

(b) Accountability of the employer / client and the consultant: A consultant engaged by the employer has to have a certain degree of accountability, on its part, for any advice and / or for any service rendered to the employer, keeping in view norms of ethical business, professionalism and the fact that such advice / service is being rendered for a consideration, as per the terms of the contract. At the same time, the employer also has to have its share of accountability, for accepting the advice and services, provided by the consultant.

To ensure adequate accountability, suitable tender terms and conditions for apportioning accountability, between the employer and the consultant, need to be incorporated. Also, there should be suitable provisions to enforce such accountability, in case of improper discharge of contractual obligations / deviant conduct by / of any of the parties to the contract.
(c) Conflict of Interest: The consultant shall avoid any conflict of interest while discharging contractual obligations and bring, before-hand, any possible instance of conflict of interest to the knowledge of the employer/client, while rendering any advice or service.

The consultant must act, at all times, in the interest of the employer/client and render any advice/service with professional integrity. A consultant is expected to undertake an assignment/project, only in areas of its expertise and where it has capability to deliver efficient and effective advice/services to the employer.

(d) Maximum Possible Use of In-house Expertise: Before arriving at a decision to engage consultant and in matters of accepting advice/service rendered by the consultant, all organisations should, in the first instance, explore the possibility of using in-house expertise. Proof checking/peer review, in case of advice rendered by a consultant, especially in high value projects, may be advantageous.

2. Apart from above, following few measures may be considered for better and efficient execution of consultancy contracts:

(a) Suitably incorporating Integrity Pact in the consultancy contracts.

(b) An advisory to the consultant, in suitable format, to keep in view transparency, competitiveness, economy, efficiency and equal opportunity to all prospective tenderers/bidders, while rendering any advice/service to the employer/client, in regard with matters related to selection of technology and determination of design and specifications of the subject matter, bid eligibility criteria and bid evaluation criteria, mode of tendering, tender notification, etc.

(c) Normally, pre-bid conference and timely addressing of objections/queries, in appropriate manner, from prospective tenderers/bidders should be in place.

(d) Suitably incorporating a provision making the consultant to cooperate fully with any legitimately provided/constituted investigative body, conducting inquiry into processing or execution of the consultancy contract/any other matter related with discharge of contractual obligations by the consultant.

3. The Commission desires that the above guidelines be brought into the notice of all concerned.

(J. Vinod Kumar)
Director

To
(i) The Secretaries of all Ministries/Departments of GOI
(ii) All Chief Executives of CPSUs/Public Sector Banks/Public Sector Insurance Companies/Autonomous Bodies etc.
(iii) All CVOs of Ministries/Departments of GOI/CPSUs/Public Sector Banks/Public Sector Insurance Companies/Autonomous Bodies etc.
(iv) Website of CVC
Circular No. 05/06/11

Subject: Selection and employment of Consultants.

The issue of role and professional liability of consultants in government contracts has been under consideration in the Commission for quite some time. The Commission has decided that following guidelines, be kept in view while finalising the contracts for engaging consultants.

I. Conflict of Interest. The consultant shall not receive any remuneration in connection with the assignment except as provided in the contract. The consultant and its affiliates shall not engage in consulting or other activities that conflict with the interest of the employer under the contract.

The contract shall include provisions limiting future engagement of the consultant for other services resulting from or directly related to the firm’s consulting services in accordance with following requirements:-

(a) The consultants shall provide professional, objective, and impartial advice and at all times hold the employer’s interests paramount, without any consideration for future work, and that in providing advice they avoid conflicts with other assignments and their own interests. Consultants shall not be hired for any assignment that would be in conflict with their prior or current obligations to other employers, or that may place them in a position of being unable to carry out the assignment in the best interest of the employer. Without limitation on the generality of the foregoing, consultants shall not be hired under the circumstances set forth below:

(i) Conflict between consulting activities and procurement of goods, works or non-consulting services (i.e., services other than consulting services covered by these Guidelines) – A firm that has been engaged by the employer to provide goods, works, or non-consulting services for a project, or any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm, shall be disqualified from providing consulting services resulting from or directly related to those goods, works, or non-consulting services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, or any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm, shall be disqualified from subsequently providing goods, works, or services (other than consulting services covered by these Guidelines) resulting from or directly related to the consulting services for such preparation or implementation. This provision does not apply to the various firms (consultants, contractors, or suppliers) which together are performing the Contractor’s obligations under a turnkey or design and build contract.

(ii) Conflict among consulting assignments – Neither consultants (including their personnel and sub-consultants), nor any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm, shall be hired for any assignment that, by its nature, may be in conflict with another assignment of
the consultants. As an example, consultants assisting a employer in the privatization of public assets shall neither purchase, nor advise purchasers of, such assets. Similarly, consultants hired to prepare Terms of Reference (TOR) for an assignment shall not be hired for the assignment in question.

(iii) Relationship with Employer’s staff – Consultants (including their experts and other personnel, and sub-consultants) that have a close business or family relationship with a professional staff of the Employer (or of the project implementing agency) who are directly or indirectly involved in any part of: (i) the preparation of the TOR for the assignment, (ii) the selection process for the contract, or (iii) the supervision of such contract may not be awarded a contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the Employer throughout the selection process and the execution of the contract.

(iv) A consultant shall submit only one proposal, either individually or as a joint venture partner in another proposal. If a consultant, including a joint venture partner, submits or participates in more than one proposal, all such proposals shall be disqualified. This does not, however, preclude a consulting firm to participate as a sub-consultant, or an individual to participate as a team member, in more than one proposal when circumstances justify and if permitted by the RFP.

(b) Unfair Competitive Advantage - Fairness and transparency in the selection process require that consultants or their affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to the assignment in question. To that end, the Employer shall make available to all the shortlisted consultants, together with the request for proposals, all information that would in that respect give a consultant a competitive advantage.

2. Professional Liability - The consultant is expected to carry out its assignment with due diligence and in accordance with prevailing standards of the profession. As the consultant’s liability to the Employer will be governed by the applicable law, the contract need not deal with this matter. The client (purchaser) may, however, prescribe other liabilities depending on the requirement in each case without any restriction on the Consultant’s liability as per the applicable law.

The Commission desires that the above guidelines be brought into the notice of all concerned.

(J Vinod Kumar)
Officer on Special Duty

To

1. All Chief Vigilance Officers of Ministries / Departments / PSUs / Banks / Insurance Companies
   Autonomous Organizations / Societies / UTs.
2. All Secretaries to the Government of India.
3. All CEOs / Heads of Organizations of PSUs / Banks / Insurance Companies etc.
Circular No. 08/06/11

Subject: Selection and employment of Consultants.

The issue of role and professional liability of consultants in government contracts has been under consideration in the Commission for quite some time. The Commission has decided that following guidelines, be kept in view while finalising the contracts for engaging consultants.

1. Conflict of Interest. The consultant shall not receive any remuneration in connection with the assignment except as provided in the contract. The consultant and its affiliates shall not engage in consulting or other activities that conflict with the interest of the employer under the contract.

The contract shall include provisions limiting future engagement of the consultant for other services resulting from or directly related to the firm’s consulting services in accordance with following requirements:

(a) The consultants shall provide professional, objective, and impartial advice and at all times hold the employer’s interests paramount, without any consideration for future work, and that in providing advice they avoid conflicts with other assignments and their own interests. Consultants shall not be hired for any assignment that would be in conflict with their prior or current obligations to other employers, or that may place them in a position of being unable to carry out the assignment in the best interest of the employer. Without limitation on the generality of the foregoing, consultants shall not be hired under the circumstances set forth below:

(i) Conflict between consulting activities and procurement of goods, works or non-consulting services (i.e., services other than consulting services covered by these Guidelines) — A firm that has been engaged by the employer to provide goods, works, or non-consulting services for a project, or any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm, shall be disqualified from providing consulting services resulting from or directly related to those goods, works, or non-consulting services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, or any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm, shall be disqualified from subsequently providing goods, works, or services (other than consulting services covered by these Guidelines) resulting from or directly related to the consulting services for such preparation or implementation. This provision does not apply in the various firms (consultants, contractors, or suppliers) which together are performing the Contractor’s obligations under a lump sum design and build contract.

(ii) Conflict among consulting assignments — Neither consultants (including their personnel and sub-consultants), nor any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm, shall be hired for any assignment that, by its nature, may be in conflict with another assignment of
the consultants. As an example, consultants assisting a employer in the privatization of public assets shall neither purchase, nor advise purchasers of, such assets. Similarly, consultants hired to prepare Terms of Reference (TOR) for an assignment shall not be hired for the assignment in question.

(iii) Relationship with Employer’s staff – Consultants (including their experts and other personnel, and sub consultants) that have a close business or family relationship with a professional staff of the Employer (or of the project implementing agency) who are directly or indirectly involved in any part of: (i) the preparation of the TOR for the assignment, (ii) the selection process for the contract, or (iii) the supervision of such contract may not be awarded a contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the Employer throughout the selection process and the execution of the contract.

(iv) A consultant shall submit only one proposal, either individually or as a joint venture partner in another proposal. If a consultant, including a joint venture partner, submits or participates in more than one proposal, all such proposals shall be disqualified. This does not, however, preclude a consulting firm to participate as a subconsultant, or an individual to participate as a team member, in more than one proposal when circumstances justify and if permitted by the RFP.

(b) Unfair Competitive Advantage – Fairness and transparency in the selection process require that consultants or their affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to the assignment in question. To that end, the Employer shall make available to all the shortlisted consultants, together with the request for proposals, all information that would in that respect give a consultant a competitive advantage.

2. Professional Liability – The consultant is expected to carry out its assignment with due diligence and in accordance with prevailing standards of the profession. As the consultant’s liability to the Employer will be governed by the applicable law, the contract need not deal with this matter. The client (purchaser) may, however, prescribe other liabilities depending on the requirement in each case without any restriction on the Consultant’s liability as per the applicable law.

The Commission desires that the above guidelines be brought to the notice of all concerned.

(J vinod kumar)
Officer on Special Duty

To

1. All Chief Vigilance Officers of Ministries / Departments / PSUs / Banks / Insurance Companies.
2. All Secretaries to the Government of India.
3. All CEOs / Heads of Organizations of PSUs / Banks / Insurance Companies etc.
Office Order No.75/12/04

Sub: Participation of consultants in tender – guidelines regarding.

Consultants are appointed by the organisation for preparation of project report. These appointments are made for any new projects, expansions, modernization/modification of the existing projects etc. The selection is made with maximum attention to the suitability, competence and proven track record.

2. Further, during the CVO’s Conference convened by the Commission in Sept.1997, the Central Vigilance Commissioner had constituted a Committee of CVOs to go into the system of contracts prevalent in PSUs and to suggest, wherever required, methods of streamlining the contracting provisions. The Committee after going through the contract system of various organisations had made recommendations on consultants as under:

Consultants - A firm which has been engaged by the PSU to provide goods or works for a project and any of its affiliates will be disqualified from providing consulting services for the same project. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, and any of its affiliates, will be disqualified from subsequently providing goods or works or services related to the initial assignment for the same project.

Consultants or any of their affiliates will not be hired for any assignment, which by its nature, may be in conflict with another assignment of the consultants.

3. It has come to the notice of the Commission that in a tendering process of a PSU, the consultant was also permitted to quote for work for which they had themselves estimated the rates and the consultant quoted 20% above their own estimated rates as against the awarded rates which were 20% below the estimated cost. Such over dependence on the consultant can lead to wasteful and infructuous expenditure which the organisation regrets in the long run. Meticulous and intelligent examination of the consultants’ proposal is therefore essential for successful and viable completion of the project.

4. The Commission reiterates the recommendations made by the Committee that the consultants/firm hired to provide consulting services for the preparation or implementation of a project, and any of its affiliates, will be disqualified from subsequently providing goods or works or services related to the initial assignment for the same project.

Sd/-
(Anjana Dube)
Deputy Secretary

To
All Chief Vigilance Officers
Circular No. 04/03/2016

OFFICE MEMORANDUM


Reference is invited to the Commission’s Circular No. 01/01/08 dated 31.12.2007 (issued vide OM No. 02-07-1-CTE-30 dated 09.05.2006), wherein necessity for ensuring verification of genuineness of Bank Guarantee prior to its acceptance was emphasized and steps were suggested.

2. It is, however, observed that the practice of paper based verification of BGs followed by the organizations is not only time consuming causing delay in acceptance/award of works or advance related payments but also its trustworthiness cannot always be ensured due to human intervention in it.

3. In this background, organizations are advised to follow IT enabled confirmation system which is swift and secured in addition to their existing paper based confirmation system. The following methods for verification may be considered by the organizations:

   a) Getting confirmation through digitally signed secured e-mails from issuing Banks;
   b) Online verification of Company portal with user ID and password followed by 2nd stage authentication system generated One Time Password (OTP) on portal for reconfirmation;
   c) E-mail confirmation followed by 2nd stage authentication by system generated SMS through registered mobile and reconfirmation through SMS to the verifying officer.

4. Keeping above in view, organizations may evolve their own procedure adopting any one or more of the above methods for ensuring genuineness of BGs, which is compatible with the guidelines of Banks/Reserve Bank of India.

   **(Ramesh Chandra)**

   Chief Technical Examiner

   4-2-10

   All Chief Vigilance Officers
Circular No. 01/04/14

Sub: Short-comings in bid documents

Ref: Commission’s circular No. 33/7/03 dated 9th July, 2003

The Commission has been impressing upon all Organisations to ensure transparency and fairplay in all procurements/contracts. One of the concern relates to the short-comings in framing of NITs and bid documents which results in ambiguity and scope for interpretation differently during processing and award of contracts by the organisations.

2. The Commission had vide its Office Order No. 33/7/03 dated 9th July, 2003, advised that whatever pre-qualification, evaluation/exclusion criteria, etc. which the organization wants to adopt should be made explicit at the time of inviting tenders so that basic concept of transparency and interests of equity and fairness are satisfied. The acceptance/rejection of any bid should not be arbitrary but on justified grounds as per the laid down specifications, evaluation/exclusion criteria leaving no room for complaints as after all, the bidders spend a lot of time and energy besides financial cost initially in preparing the bids and, thereafter, in following up with the organizations for submitting various clarifications and presentations.

3. The above instructions are reiterated for compliance by all Ministries/Departments/Organisations,

(J Vinod Kumar)
Officer on Special Duty

To
All Chief Vigilance Officers.
No. DPE-GM-12/0003/2016-GM-FTS-5670
Government of India
Ministry of Heavy Industries & Public Enterprises
Department of Public Enterprises

PUBLIC ENTERPRISES BHAWAN
Block No. 14, C.G.O. Complex
Lodhi Road, New Delhi-110003
Dated: 15th November, 2016

OFFICE MEMORANDUM

Subject: Procedures for Payments to Sellers / Suppliers in Government e-Marketplace (GeM) - reg.

The undersigned is directed to refer to Rule 141-A inserted in GFR 2005 pursuant to Government e-Marketplace (GeM) by Directorate of General Supplies & Disposal (DGS&D), Department of Commerce, Ministry of Commerce & Industry and to say that in pursuant to the above Rule 141-A, DGS&D will host an online GeM for common use Goods & Services which would be dynamic, self sustaining & user friendly. DGS&D will ensure adequate publicity periodically about the items to be procured through GeM for the prospective suppliers. The procuring authorities have to satisfy themselves that the price of the selected offer is reasonable. The GeM may be utilised by Government buyers (at their option) for direct online purchases as under:

(a) Upto Rs. 50,000/- through any of the available suppliers on the GeM, meeting the requisite quality, specification and delivery period.

(b) Above Rs. 50,000/- through the suppliers having lowest price amongst the available suppliers on the GeM, meeting the requisite quality, specification and delivery period. GeM will also provide tools for online bidding and online reverse auction which can be used by the Purchaser.

The above monetary ceiling is applicable only for purchases made through GeM. For all other purchases GFR rule 145, 146, 150 & 151 will apply.

2. Department of Expenditure vide its OM No. F. 26/4/2016.PPD dated 20-09-2016 has issued procedures for payments in GeM by Ministry / Department / other Government Bodies including PSUs etc. in terms of Rule 141-A of GFR. In case, Central Public Sector Enterprises (CPSEs) choose the option for online procurement made through GeM, the procedure prescribed in the OM dated 20-09-2016 of Department of Expenditure for making payments shall be complied and adhered to by the concerned CPSEs.

3. In view of above the administrative Ministries/Departments concerned with the CPSEs are advised to instruct CPSEs under their control for compliance of the above instructions.

(J. N. Prasad)
Director

To,

All Administrative Ministries / Departments concerned with CPSEs

Copy to:
(i) Chief Executive of all CPSEs as per list.
(iii) Guard File.
NOTICE

Subject:- Appointment of Independent External Monitors (IEMs) in Ministries/Departments/Organisations.

The Commission, in the year 2007, recommended implementation of a concept called ‘Integrity Pact’ (IP) in respect of all major procurements and in May, 2009 formulated a Standard Operating Procedure (SOP) outlining the essential ingredients of IP. The SOP has since been modified vide Circular No. 02/01/2017 dated 13.01.2017. IP is to be implemented through Independent External Monitors (IEMs) who are eminent personalities of high integrity and reputation. The Commission proposes to maintain a panel of names for appointment as IEMs in Ministries/Departments/Organisations.

Persons fulfilling the eligibility conditions and willing to be empanelled by the Commission for being considered for appointment as IEMs as per the terms & conditions laid down in the ‘Scheme’ may submit their applications in the prescribed proforma to the Secretary, Central Vigilance Commission, Satarkta Bhawan, Block-A, GPO Complex, INA, New Delhi – 110023.
Proforma for sending particulars for empanelment as IEMs in Ministries/Departments/Organisations

1. Name of the person (in full)
2. Father’s Name
3. Date of Birth
4. Date of Retirement
5. Date of Entry into service
6. Service to which the officer belonged including batch / year cadre etc.
7. Post held at the time of retirement (whether it is Secretary/AS rank)
8. Pay scale at the time of retirement
9. Educational Qualifications
10. Present Address
11. Contact No.
   a) Telephone (along with STD code)
   b) Mobile
   c) Fax
   d) E-mail Address
12. Positions held (during the ten preceding years of superannuation)

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Organisation</th>
<th>Designation &amp; Place of Posting</th>
<th>Administrative / nodal Ministry / Deptt. concerned (in case of officers of PSUs etc.)</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
</table>
13.     |Brief details of work experience
14.     |Experience in handling procurement / tenders
15.     |Brief details of any other domain experience
16.     |Present assignments, if any.
17.     |Whether already an IEM? If so, name of organization(s).
18.     |Desired place of appointment (Please indicate city)
19.     |Please indicate list of PSUs in which your appointment as IEM may have potential conflict of interest

Name & Signature
Subject:- Scheme for empanelment of persons for appointment as Independent External Monitors (IEMs).

In the year 2007, the Commission vide office order No.41/12/07 dt.4.12.2007 recommended implementation of a concept called ‘Integrity Pact’ (IP) in respect of all major procurements. The IP essentially envisages an agreement between the prospective vendors/bidders and the buyer committing the persons/officials of both the parties not to exercise any corrupt influence on any aspect of the contract. The Integrity Pact, in respect of a particular contract, shall be operative from the date IP is signed by both the parties till the final completion of the contract. Further, in May 2009, vide circular No.10/5/09 dated 18.5.2009, the Commission formulated a Standard Operative Procedure (SOP) outlining the essential ingredients of IP (All the above quoted orders are available on the Commission’s website http://cvc.nic.in.

2. The main role and responsibility of IEM is to resolve issues raised by an intending bidder regarding any aspect of the tender which allegedly restricts competition or indicates bias towards some bidders. IEMs are expected to examine process integrity and not expected to concern themselves with fixing of responsibility on officers.

2. The SOP has since been reviewed by the Commission and a modified SOP has been issued by the Commission vide Circular No. 02/01/2017 dated 13.01.2017.

2. IP is to be implemented through Independent External Monitors (IEMs) appointed by the organization. IEMs would review independently and objectively whether and to what extent parties have complied with their obligations under the pact. The IEMs would have access to all information relating to procurements/contracts covered under IP and would examine all complaints received by them and give their recommendations/views to the CEO of the organisation (and to the CVO in case of suspicion of serious irregularities). The recommendations of IEMs are advisory in nature and not legally binding. The role of IEMs and CVO are separate and would remain unaffected by each other.

3. Now, the Commission proposes to empanel names for appointment as IEMs as per the following scheme:-
Eligibility:-

- The choice of IEM should be restricted to officials from the government and public sector undertakings who have retired from very senior positions. The very senior positions shall mean level of Additional Secretary to the Government of India and above or equivalent pay scale. For Public Sector Undertakings, top positions shall mean Board level in Schedule A companies, Public Sector Banks/Insurance Companies/Financial Institutions. Officers of the Armed Forces who have retired from the rank equivalent of Lt. General and above may also be considered for appointment.
- Age should not be more than 70 years at the time of appointment/extension of tenure.

Selection method:-

- A Notice inviting applications from eligible persons will be published on the Commission’s website.
- After due scrutiny and verification of the applications and documents by the Commission, the applicants will be shortlisted for empanelment by the Commission.

Terms & conditions:-

- A person cannot be appointed as IEM in more than three organizations at a time.
- A maximum of three IEMs would be appointed in any organization.
- IEMs would be appointed for an initial period of three years, which is extendable by another two years with the approval of the Commission.
- A person who is either serving or has retired from the same organization cannot be appointed as IEM in that organization.
- Remuneration payable to the IEMs by the organization concerned would be equivalent to that admissible to an Independent Director in the organization and in any case would not exceed Rs. 20,000/- per sitting.

Procedure:-

- The Commission would maintain a panel of names for appointment as IEMs, which can be accessed by all the organizations.
- On receipt of request from organization concerned for appointment as IEMs, the Commission would approve two/three names as the case may be from the panel of names.
- For extension of tenures, the organization concerned would send a request to the Commission at least one month before the expiry of initial three year tenure.
OFFICE MEMORANDUM

Subject: Compliance of the provisions of the carriage by Road Act, 2007 and rules made hereunder

The undersigned is directed to enclose herewith a copy of DO Letter No. RT-11023/1/2012-T dated 11.12.2013 received from Ministry of Road Transport & Highways on the above subject (original copy enclosed).

2. Concerned Administrative Ministries / Departments are advised to direct CPSEs under their administrative control to comply with the instructions,

3. This issues with the approval of Secretary, PE

Encl.: As above

1. All Secretaries of Administrative Ministries/Departments
2. Chief Executive of CPSEs
   (copy to: Shri Vijay Chhibber, Secretary, Ministry of Road Transport & Highways, Transport Bhawan, 1- Parliament Street w.r.t. DO No. RT-11023/1/2012-T dated 11.12.2013)
With a view to streamline the process of transportation trade by road to meet the modern day requirements, the Carriage by Road Act 2007 was enacted on 01.01.2007 which came into effect on 01.03.2011. For smooth compliance of the provisions of the Carriage by Road Act 2007 viz., registration of common carriers, the manner of reporting data on carriage of goods, quantum of liability of the common carrier, format for various forms relevant for administration of Act/Rules, Carriage by Road Rules 2011 were notified on 28.02.2011. The Act / Rules are available on our website www.morth.nic.in.

2. As per Section 3 of the Act, no person can engage in the business of a common carrier unless he has been granted a certificate of registration to do so and any transportation of goods through unregistered common carriers is illegal.

Recently, the Committee on Subordinate Legislation took a very serious view of the slow implementation of the Carriage by Road Act and the Rules framed thereunder by the States. It is our joint responsibility to ensure enforcement of any Central Act/Rules. Accordingly, you are requested to issue necessary instructions to all authorities (including PSUs) under your control, to direct them to transport goods through registered common carriers only. Similar directions may also be given in respect of all procurements made and a specific provision should be made in respect of each supply contract which makes it incumbent on the supplier to transport the contracted material / supplies only through registered common carriers.

4. I shall be grateful if a copy of instructions issued by you is sent to us.

Kind Regard,

Yours sincerely,

(Vijay Chhibber)

Shri O.P. Rawat
Secretary
Department of Public Enterprise
Udyog Bhawan
New Delhi
OFFICE MEMORANDUM

Subject: Effective implementation of Public Procurement Policy for Micro & Small Enterprises (MSEs) Order, 2012.

The undersigned is directed to refer to DPE O.M. of even number dated 6th December 2012 on the above subject.

2. In order to ensure effective implementation of the above policy, it has been decided to award appropriate weightage in MOU of CPSEs for the year 2014-15 for implementation of the Public Procurement Policy for Micro & Small Enterprises (MSEs) Order, 2012.

3. It is also decided to publish information regarding implementation of this policy by CPSEs in the Annual Public Enterprises Survey from 2012-13 onwards. Therefore, all CPSEs are required to submit the information for inclusion in the Annual Public Enterprises Survey.

4. "Administrative Ministries/Departments are requested to ensure that suitable directions are issued to all CPSEs under their administrative control for effective implementation of this policy and an appropriate monitoring mechanism is set up to review its implementation. A confirmation on the action taken in this regard may also be sent to this Department.

(V.K. JINDAL)
DIRECTOR
Tel: 24362770
Fax: 24365842

To
All Secretaries of Administrative Ministries/Departments.

Copy to:
Ministry of Micro, Small & Medium Enterprises (Kind Attention: Shri Madhav Lal, Secretary), Udyog Bhawan, New Delhi.

Copy, along with a copy of D.O. letter dated April 25, 2012 received from Secretary (MSME) with the request to take necessary action, to:

1. Joint Adviser, Survey Division – Action on para 3 referred above.
2. Director, MOU Division – Action on para 2 referred above.
OFFICE MEMORANDUM

Subject:- Effective Implementation of Public Procurement Policy for Micro & Small Enterprises (MSEs) Order, 2012

The undersigned is directed to enclose herewith a copy of the D. O Letter No. 21(1)/2011-M.A dated April, 2012 of the Ministry of Micro, Small & Medium Enterprises, on the above subject. All the Administrative Ministries / Departments are advised to direct all the CPSEs under their administrative control to take necessary steps for the implementation of the policy referred herein.

V. K. Jindal
Director
Ph. 24362770

Encl: As above

1. All Secretaries of Administrative Ministries/Departments,

Copy to: Ministry of Micro, Small & Medium Enterprises (Kind Attention: Shri R. K. Mathur, Secretary) w.r. to D.O No. 21(1)/2011-M.A. dated 25th April, 2012
Dear Sir,

In exercise of the powers conferred in section 11 of the Micro, Small and Medium Enterprises Development (MSMED) Act 2006, the Government has notified a new Public Procurement Policy for Micro & Small Enterprises (MSEs) (copy enclosed) effective from 1st April, 2012. The Policy mandates that 20% of procurement of annual requirement of goods and services by all Central Ministries/Public Sector Undertakings will be from the micro and small enterprises. Government has also earmarked a sub-target of 4% procurement of goods & services, out of the 20%, from MSEs owned by SC/ST Entrepreneurs. The policy has a time frame of three years beginning 2012-13 for implementation after which it will become mandatory. It is expected that the policy will help to promote MSEs by improving their market access and competitiveness through increased participation by MSEs in Government purchases and encouraging linkages between MSEs and large enterprises.

In brief the Policy entails:

i) With effect from 2012-13 every Central Ministries/Departments/PSUs shall set an annual goal for procurement from the MSE sector at the beginning of the year, with the objective of achieving an overall procurement goal of minimum 20 per cent of the total annual purchases of the products or services produced or rendered by MSEs from the latter in a period of three years.

ii) Out of 20% target of annual procurement from MSEs, a sub-target of 4% (i.e., 20% out of 20%) will be earmarked for procurement from MSEs owned by SC/ST entrepreneurs. However, in the event of failure of such MSEs to participate in the tender process or meet the tender requirements and the L1 price, the 4% sub-target for procurement earmarked for MSEs owned by SC/ST entrepreneurs will be met from other MSEs.

iii) At the end of 3 years, (i.e. from 2015-16) the overall procurement goal of minimum 20% will be made mandatory. Non-conforming Departments will be required to provide reasons for the same to the Review Committee set up under the Policy.
iv) The participating MSEs in a tender, quoting price within the band of L1+15% may also be allowed to supply a portion of the requirement by bringing down their price to the L1 price, in a situation where L1 price is from someone other than an MSE. Such MSEs may be allowed to supply up to 20% of the total tendered value. In case of more than one such eligible MSE, the supply will be shared equally.

v) With effect from 2012-13, every Central Government Ministries/Departments/PSUs will report the goals set with respect to procurement to be met from MSEs and the achievement made thereto in their respective Annual Reports.

vi) The Central Ministries/Departments/Public Sector Undertakings will continue to procure 358 items from MSEs, which have been reserved for exclusive purchase from them (Details at Appendix of the Policy).

vii) For enhancing the participation of SCs/STs in the Government procurement, the Central Government Ministries/Departments/PSUs will take necessary steps including organizing special Vendor Development Programmes, Buyer-Seller Meets etc.

(viii) To reduce transaction cost of doing business, Micro and Small Enterprises shall be facilitated by providing them tender sets free of cost, exempting Micro and Small Enterprises from payment of earnest money, adopting e-procurement to bring in transparency in tendering process and setting up a Grievance Cell in the Ministry of Micro, Small and Medium Enterprises.

ix) A ‘Grievance Cell’ would be set up in the Ministry of MSME for redressing the grievances of MSEs in Government procurement. In addition, a Review Committee under my Chairmanship shall periodically review implementation of this policy.

3. I would request you to kindly issue necessary instructions to your departments / statutory bodies / PSUs for taking necessary steps to implement this policy. In particular, following may be considered:

(a) Preparation of an Annual Procurement Plan 2012-13 for purchases and uploading the same on official website, so that Micro and Small Enterprises may get advance information about requirement of procurement agencies.
D.O. 21(1)/2011-M.A.  
April 25, 2012

(b) Appointment of a nodal officer not below the rank of Joint Secretary for implementation of the Policy and for redressing grievances.

4. I look forward to your help and cooperation in effective implementation of the policy.

Encl: As above

Yours sincerely,

(R.K. Mathur)

Shri O.P. Rawat,  
Secretary,  
Department of Public Enterprises,  
Room No. 305, 3rd Floor,  
CGO Complex, Block No.14,  
Lodi Road,  
New Delhi
No.005/CRD/19(part)
Government of India
Central Vigilance Commission
*****
Satarkata Bhawan, GPO Complex,
INA, New Delhi,
Dated 19th May, 2010

OFFICE ORDER No.19/05/10

Sub: Transparency in Works/Purchase/Consultancy contracts awarded on Nomination basis.

Commission vide Circular No.15/5/06 dated 09/05/2006 had prescribed certain measures to be followed on works/purchase/consultancy contracts awarded on nomination basis by PSUs. These instructions have since been reviewed in the Commission and the Commission is of the view that the Board of the PSU is not required to scrutinize or post facto vet the actions of the operational managers and their decisions to award work on nomination basis.

2. Therefore, the following amendment is being made in sub-para (i) of Para 2 of Commission’s above circular:

“All works awarded on nomination basis should be brought to the notice of the Board of the respective PSUs for scrutiny and vetting post facto”

Read as

“All works awarded on nomination basis should be brought to the notice of the Board of the respective PSUs for information”.

All Chief Vigilance Officers of CPSUs.

Copy to:

(i) All Secretaries of Govt. of India
(ii) All CEOs/Heads of Organizations

(Vineet Mathur)
Director
Circular No.01/02/11

Sub: Transparency in Tendering System

There have been instances where the equipment/plant to be procured is of complex nature and the procuring organization may not possess the full knowledge of the various technical solutions available in the market to meet the desired objectives of a transparent procurement that ensures value for money spent simultaneously ensuring upgradation of technology & capacity building.

2. The Commission advises that in such procurement cases where technical specifications need to be iterated more than once, it would be prudent to invite expression of interest and proceed to finalise specifications based on technical discussions/presentations with the experienced manufacturers/suppliers in a transparent manner. In such cases, two stage tendering process may be useful and be preferred. During the first stage of tendering, acceptable technical solutions can be evaluated after calling for the Expression of Interest (EOI) from the leading experienced and knowledgeable manufacturers/suppliers in the field of the proposed procurement. The broad objectives, constraints etc. could be published while calling for EOI. On receipt of the Expressions of Interest, technical discussions/presentations may be held with the short-listed manufacturers/suppliers, who are prima facie considered technically and financially capable of supplying the material or executing the proposed work. During these technical discussions stage the procurement agency may also add those other stake holders in the discussions who could add value to the decision making on the various technical aspects and evaluation criteria. Based on the discussions/presentations so held, one or more acceptable technical solutions could be decided upon laying down detailed technical specifications for each acceptable technical solution; quality bench marks, warranty requirements, delivery milestones etc.; in a manner that is consistent with the objectives of the transparent procurement. At the same time care should be taken to make the specifications generic in nature so as to provide equitable opportunities to the prospective bidders. Proper record of discussions/presentations and the process of decision making should be kept.
3. Once the technical specifications and evaluation criteria are finalized, the second stage of tendering could consist of calling for techno commercial bids as per the usual tendering system under single bid or two bid system, as per the requirement of each case. Final selection at this stage would depend upon the quoted financial bids and the evaluation matrix decided upon.

4. Commission desires that organizations formulate specific guidelines and circulate the same to all concerned before going ahead with such procurements.

(Anil Singhal)
Chief Technical Examiner

To

All Secretaries of Ministries/Departments
All CEOs/Heads of Organisations
All Chief Vigilance Officers
Circular No. 18/12/12

Subject: Transparency in Works/Purchase/Consultancy contracts awarded on nomination basis – reg.

The Commission has been emphasising on the need for observing integrity, transparency, fairness and equity in all aspects of decision making including in tendering and award of contracts. However, the Commission is still receiving complaints regarding adoption of non-transparent methods in tendering and award of contracts. A number of such complaints pertain to award on nomination (single source procurement) basis instead of following a process of open competitive bidding. The Commission in their earlier office order No. 23/7/07 dated 05.07.2007 (copy enclosed) had laid down the exceptional circumstances where ‘single source procurement’ can be resorted to. These guidelines were consequent to the Supreme Court’s judgement in case of Nagar Nigam, Meerut v/s A1 Faheem Meat Export Pvt. Ltd. [SLP (Civil) No 1074 of 2000].

2. In view of the complaints being received regarding award of contracts on nomination basis without adequate justification, the Commission has decided to reiterate their earlier instructions for strict implementation. The Commission has also observed that there have been instances where government organisations/PSUs obtain contract from other government organisations/PSUs and further award the same to private entities on ‘back to back tie up’ basis without competitive tendering mechanism and without any significant value addition by the procuring government organisation/PSU. This practice subverts the Commission’s emphasis on integrity, transparency, fairness and equity in decision making. It is therefore, necessary to curb this practice. Further, the Commission directs that details of all tenders awarded on nomination basis shall be posted on website in public domain as per Commission’s office order of 5th July 2007 along with brief reasons for doing so.

3. Kindly acknowledge the receipt and circulate to all concerned in your organization.

(J. Vinod Kumar)
Officer on Special Duty

To:
(i) The CMDs of all CPSUs/Public Sector Banks/Insurance Companies/FIs.
(ii) The CVOs of all the Ministries/Departments/Public Sector Undertakings/Public Sector Banks/Insurance Companies/Societies and other Local Authorities.
Office Order No.23/7/07

Subject:- Transparency in Works/Purchase/Consultancy contracts awarded on nomination basis.

Reference is invited to the Commission’s circular No.15/5/06 (issued vide letter No.005/CRD/19 dated 9.5.2006), wherein the need for award of contracts in a transparent and open manner has been emphasized.

2. A perusal of the queries and references pertaining to this circular, received from various organizations, indicates that several of them believe that mere post-facto approval of the Board is sufficient to award a contract on nomination basis rather than the inevitability of the situation, as emphasized in the circular.

3. It is needless to state that tendering process or public auction is a basic requirement for the award of contract by any Government agency as any other method, especially award of contract on nomination basis, would amount to a breach of Article 14 of the Constitution guaranteeing right to equality, which implies right to equality to all interested parties.

4. A relevant extract from the recent Supreme Court of India judgement in the case of Nagar Nigam, Meerut Vs A1 Faheem Meat Export Pvt. Ltd. [arising out of SLP(civil) No.10174 of 2006] is reproduced below to reinforce this point.

“The law is well-settled that contracts by the State, its corporations, instrumentalities and agencies must be normally granted through public auction/public tender by inviting tenders from eligible persons and the notifications of the public-auction or inviting tenders should be advertised in well known dailies having wide circulation in the locality with all relevant details such as date, time and place of auction, subject matter of auction, technical specifications, estimated cost, earnest money deposit, etc. The award of Government contracts through public-auction/public tender is to ensure transparency in the public procurement, to maximize economy and efficiency in Government procurement, to promote healthy competition among the tenderers, to provide for fair and equitable treatment of all tenderers, and to eliminate irregularities, interference and corrupt practices by the authorities concerned. This is required by Article 14 of the Constitution. However, in rare and exceptional cases, for instance, during natural
5. The Commission advises all CVOs to formally apprise their respective Boards/managements of the above observations as well as the full judgement of the Hon’ble Supreme Court for necessary observance. A confirmation of the action taken in this regard may be reflected in the CVO’s monthly report.

6. Further, all nomination/single tender contracts be posted on the website ex post-facto.

(Rajiv Verma)
Under Secretary

To

All Chief Vigilance Officers
CIRCULAR No:15/5/06

Subject:- Transparence in Works/Purchase/Consultancy contracts awarded on nomination basis.

The Commission had, in its OM No. 06-03-02-CTE-34 dated 20.10.2003 on back to back tie up by PSUs, desired that the practice of award of works to PSUs on nomination basis by Govt. of India/PSUs needed to be reviewed forthwith. It is observed that in a number of cases, Works/Purchase/Consultancy contracts are awarded on nomination basis. There is a need to bring greater transparency and accountability in award of such contracts. While open tendering is the most preferred mode of tendering, even in the case of limited tendering, the Commission has been insisting upon transparence in the preparation of panel.

2. In the circumstances, if sometimes award of contract on nomination basis by the PSUs become inevitable, the Commission strongly feels that the following points should be strictly observed.

(i) All works awarded on nomination basis should be brought to the notice of the Board of the respective PSUs for scrutiny and vetting post facto.

(ii) The reports relating to such awards will be submitted to the Board every quarter.

(iii) The audit committee may be required to check at least 10% of such cases.

3. This may be noted for strict compliance.

(V. Kannan)
Director

All Chief Vigilance Officers

Copy to:

(i) All Secretaries of Govt. of India
(ii) All CEOs/Head of the organisation
OFFICE MEMORANDUM

Subject: Prequalification criteria (PQ).

The Commission has received complaints regarding discriminatory prequalification criteria incorporated in the tender documents by various Deptts./Organisations. It has also been observed during intensive examination of various works/contracts by CTEO that the prequalification criteria is either not clearly specified or made very stringent/very lax to restrict/facilitate the entry of bidders.

2. The prequalification criteria is a yardstick to allow or disallow the firms to participate in the bids. A vaguely defined PQ criteria results in stalling the process of finalizing the contract or award of the contract in a non-transparent manner. It has been noticed that organizations, at times pick up the PQ criteria from some similar work executed in the past, without appropriately amending the different parameters according to the requirements of the present work. Very often it is seen that only contractors known to the officials of the organization and to the Architects are placed on the select list. This system gives considerable scope for malpractices, favouritism and corruption. It is, therefore, necessary to fix in advance the minimum qualification, experience and number of similar works of a minimum magnitude satisfactorily executed in terms of quality and period of execution.

3. Some of the common irregularities/lapses observed in this regard are highlighted as under:

   i) For a work with an estimated cost of Rs.15 crores to be completed in two years, the criteria for average turnover in the last 5 years was kept as Rs.15 crores although the amount of work to be executed in one year was only Rs.7.5 crores. The above resulted in prequalification of a single firm.

   ii) One organization for purchase of Computer hardware kept the criteria for financial annual turnover of Rs.100 crores although the value of purchase was less than Rs.10 crores, resulting in disqualification of reputed computer firms.
iii) In one case of purchase of Computer hardware, the prequalification criteria stipulated was that the firms should have made profit in the last two years and should possess ISO Certification. It resulted in disqualification of reputed vendors including a PSU.

iv) In a work for supply and installation of A.C. Plant, retendering was resorted to with diluted prequalification criteria without adequate justification, to favour selection of a particular firm.

v) An organization invited tenders for hiring of D.G. Sets with eligibility of having 3 years experience in supplying D.G. Sets. The cut off dates regarding work experience were not clearly indicated. The above resulted in qualification of firms which had conducted such business for 3 years, some 20 years back. On account of this vague condition, some firms that were currently not even in the business were also qualified.

vi) In many cases, “Similar works” is not clearly defined in the tender documents. In one such case, the supply and installation of A.C. ducting and the work of installation of false ceiling were combined together. Such works are normally not executed together as A.C. ducting work is normally executed as a part of A.C. work while false ceiling work is a part of civil construction or interior design works. Therefore, no firm can possibly qualify for such work with experience of similar work. The above resulted in qualification of A.C. Contractors without having any experience of false ceiling work although the major portion of the work constituted false ceiling work.

4. The above list is illustrative and not exhaustive. While framing the prequalification criteria, the end purpose of doing so should be kept in view. The purpose of any selection procedure is to attract the participation of reputed and capable firms with proper track records. The PQ conditions should be exhaustive, yet specific. The factors that may be kept in view while framing the PQ Criteria includes the scope and nature of work, experience of firms in the same field and financial soundness of firms.

5. The following points must be kept in view while fixing the eligibility criteria:-
A)  For Civil/Electrical Works

i)  Average Annual financial turnover during the last 3 years, ending 31st March of the previous financial year, should be at least 30% of the estimated cost.

ii) Experience of having successfully completed similar works during last 7 years ending last day of month previous to the one in which applications are invited should be either of the following:

a. Three similar completed works costing not less than the amount equal to 40% of the estimated cost.

   or

b. Two similar completed works costing not less than the amount equal to 50% of the estimated cost.

   or

c. One similar completed work costing not less than the amount equal to 80% of the estimated cost.

iii) Definition of “similar work” should be clearly defined.

In addition to above, the criteria regarding satisfactory performance of works, personnel, establishment, plant, equipment etc. may be incorporated according to the requirement of the Project.

B)  For Store/Purchase Contracts

Prequalification/Post Qualification shall be based entirely upon the capability and resources of prospective bidders to perform the particular contract satisfactorily, taking into account their (i) experience and past performance on similar contracts for last 2 years (ii) capabilities with respect to personnel, equipment and manufacturing facilities (iii) financial standing through latest I.T.C.C., Annual report (balance sheet and Profit & Loss Account) of last 3 years. The quantity, delivery and value requirement shall be kept in view, while fixing the PQ criteria. No bidder should be denied prequalification/post qualification for reasons unrelated to its capability and resources to successfully perform the contract.
6. It is suggested that these instructions may be circulated amongst the concerned officials of your organization for guidance in fixing prequalification criteria. These instructions are also available on CVC’s website, http://cvc.nic.in.

(M.P. Juneja)
Chief Technical Examiner

To

All CVOs of Ministries/Departments/PSUs/Banks/Insurance Companies/Autonomous Organisations/Societies/UTs.