

**THE MIZORAM PUBLIC  
PROCUREMENT RULES, 2020  
(Procurement of Goods, Works and Services)**

**FINANCE DEPARTMENT  
GOVERNMENT OF MIZORAM**



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## Abbreviations and acronyms

BEC	-	Bids Evaluation Committee
BOQ	-	Bill of Quantities
DPAB	-	Departmental Purchase Advisory Board
DWAB	-	Departmental Works Advisory Board
EoI	-	Expression of Interest
GCC	-	General Conditions of Contract
GeM	-	Government e-Market Place
GFR	-	General Financial Rules
GoM	-	Government of Mizoram
ISO	-	International Organization for Standardization
ITB	-	Instruction to Bidders
JV	-	Joint Venture
LPAB	-	Local Purchase Advisory Board
LCS	-	Least Cost Selection
LTE	-	Limited Tender Enquiry
MIS	-	Management Information System
MoU	-	Memorandum of Understanding
NGO	-	Non-Governmental Organization
NIB	-	Notice Inviting Bids / Tenders
PPP	-	Public Private Partnership
PR	-	Procurement Register
PWD	-	Public Works Department
QCBS	-	Quality and Cost Based Selection
RFP	-	Request for Proposal
SBD	-	Standard Bidding Documents
SCC	-	Special Conditions of Contract
SPAB	-	State Purchase Advisory Board
SSI	-	Small Scale Industry
ToR	-	Terms of Reference
UTN	-	Unique Tender Number





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#### NOTIFICATION

**No.A.47011/1/2014-F.Est, the 10<sup>th</sup> February, 2020:** In exercise of the powers conferred by section 25 of Mizoram Transparency in Public Procurement Act, 2008, the Government of Mizoram hereby makes the following rules, namely :-

#### CHAPTER- I

#### INTRODUCTORY

**1. Short Title and commencement :-**

- (1) These rules may be called the Mizoram Public Procurement Rules, 2020.
- (2) These rules shall come into force from the date of their publication in the Official Gazette.

**2. Applicability :-**

Subject to the provisions contained in the Act, these rules shall apply to the public procurement of goods, works and services by the procuring authorities of all the departments of the State Government or their attached or subordinate offices. The Procuring authorities under a State Government Undertaking, Local Authority or Board/Council, Body of Corporation may adopt these rules or may continue to follow their rules, orders, codes, manual, bye-laws, official memoranda or circulars relating to procurement of goods, works or services which, however, shall conform to the principles of these rules.

**3. Definitions**

In these rules, unless the context otherwise requires, -

- (i) “Act” means the Mizoram Transparency in Public Procurement Act, 2008.
- (ii) “Advisory Board” means either the Purchase Advisory Board or the Works Advisory Board constituted under rule 11 and 12 of these rules.
- (iii) “bid” means a formal offer made in pursuance of an invitation by a Procuring Authority and includes any tender, proposal or quotation.
- (iv) “bidder” means any person participating in a procurement process with a Procuring Authority.

- (v) **“bidding documents”** means documents issued by the Procuring Authority, including any amendments thereto, that set out the terms and conditions of the given procurement and includes the invitation for bid.
- (vi) **“bid security”** means a security provided to the Procuring Authority by a bidder for securing the fulfillment of any obligation in terms of the provisions of the bidding documents.
- (vii) **“Consulting Service”** means any subject matter of procurement (which as distinguished from ‘Non-Consultancy Services’ involves primarily non-physical project-specific, intellectual and procedural processes where outcomes/deliverables would vary from one consultant to another), other than goods or works, except those incidental or consequential to the service, and includes professional, intellectual, training and advisory services or any other service classified or declared as such by a procuring authority but does not include direct engagement of a retired Government servant.

*Note: These Services typically involve providing expert or strategic advice e.g., management consultants, policy consultants, communications consultants, Advisory and project related Consulting Services which include, feasibility studies, project management, engineering services, finance, accounting and taxation services, training and development etc.*

- (viii) **“goods”** means machinery, vehicles, equipment, furniture, articles of stationery, material, commodity, livestock, fixtures, raw material, spares, instruments, medicines, industrial plant, scientific and laboratory instruments, chemicals, oil and oil seeds or other agriculture and horticulture inputs for consumption, use or by a procurement authority in discharge of its public duties, assemblies, sub-assemblies, accessories, a group of machineries comprising of an integrated production process or such other category of goods or intangible products like software, technology transfer, licenses, patents or other intellectual properties purchased or otherwise acquired for the use of Government but excludes books, publications, periodicals etc for a library.

The term ‘goods’ also includes works and services which are incidental or consequential to the supply of such goods, such as, transportation, insurance, installation, commissioning, training and maintenance.

- (ix) **“invitation for bid”** means a document published by the Procuring Authority inviting bids relating to the subject matter of procurement and any amendment thereto and includes notice inviting tender and request for proposal.
- (x) **“Minor works”** mean works which add capital value to existing assets but do not create new assets.

- (xi) **"Non-Consulting Service"** means any subject matter of procurement (which as distinguished from 'Consultancy Services'), involving physical, measurable deliverables/outcomes, where performance standards can be clearly identified and consistently applied, other than goods or works, except those incidental or consequential to the service, and includes maintenance, hiring of vehicle, outsourcing of building facilities management, security, photocopier service, janitor, office errand services, drilling, aerial photography, satellite imagery, mapping etc.
- (xii) **"notification"** means a notification published in the Official Gazette.
- (xiii) **"Original works"** means all new constructions, site preparation, additions and alterations to existing works, special repairs to newly purchased or previously abandoned buildings or structures, including remodelling or replacement.
- (xiv) **"prescribed"** means prescribed by these rules.
- (xv) **"pre-qualification"** means the procedure set out to identify, prior to inviting bids, the bidders that are qualified.
- (xvi) **"pre-qualification documents"** means the documents issued by a Procuring Authority, including any amendments thereto, that set out the terms and conditions of the pre-qualification proceedings and includes the invitation to pre-qualify.
- (xvii) **"procurement"** or **"public procurement"** means purchase, lease, license or otherwise of works, goods or services by a Procuring Authority whether directly or through an agency with which a contract for procurement services is entered into, but does not include any acquisition without consideration, and "procure" or "procured" shall be construed accordingly.
- (xviii) **"procurement contract"** means a contract entered into between the Procuring Authority and a successful bidder concerning the subject matter of procurement.
- (xix) **"procurement process"** means the process of procurement extending from the issue of invitation to pre-qualify or to bid till the award of the procurement contract or cancellation of the procurement process, as the case may be.
- (xx) **"rate contract"** means an agreement between the Procuring Authority and the bidder or service provider for supply of goods or execution of a work or rendering specified services at specified price and terms and conditions (as incorporated in the agreement) during the period covered by the rate contract. A rate contract is in the nature of standing offer from the bidder or service provider.
- (xxi) **"Repair works"** means works undertaken to maintain building and fixtures. Works will also include services or goods incidental or consequential to the original or repair works.

- (xxii) **“subject matter of procurement”** means any item of procurement whether in the form of goods, services or works.
- (xxiii) **“works”** means and includes all works referred to in clause (a) of Section 2 of the Act. Such as putting up, demolishing, repairs or renovation of buildings, roads, bridges or other structures including fabrication of steel structures and all other civil works including designing, turn-key works, operation and maintenance.
- (xxiv) Words and expressions used herein and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

## **CHAPTER- II**

### **ORGANIZATIONAL STRUCTURE FOR PROCUREMENT**

#### **4. Procurement overview :-**

Procurement is a process, for the acquisition of property, plant and/or equipment, goods, works or services through purchase, hire, lease, license, rental, exchange or otherwise from any source at the right time, price, quality, quantity and place. Actions undertaken to carry out procurement are procurement process, which include all actions from planning and forecasting, identification of needs, sourcing and solicitation of offers, evaluation of offers, review and award of contracts.

#### **5. Fundamental Principles of Public Procurement :-**

- (1) The State Government considers it necessary that every Procuring Authority shall have responsibility and accountability to ensure efficiency, economy and transparency in matters relating to procurement and for fair and equitable treatment to bidders, promotion of competition in public procurement and mechanisms to prevent corrupt practices.
- (2) The Procuring Authority shall strive to get best value for money and maintain the standards of financial propriety for procurement.
- (3) Care should also be taken to avoid purchasing quantities in excess of requirement to avoid inventory carrying costs.
- (4) offers should be invited through open tender following a fair, transparent and reasonable procedure.

#### **6. Restriction on splitting :-**

A Procuring Authority shall neither divide its procurement nor use a particular valuation method for estimating the value of procurement so as to avoid its obligations to obtain sanction of a higher authority or to limit competition among bidders or otherwise avoid its obligations under the Act or these rules.

Provided that in the interest of efficiency, economy and timely completion or supply, a Procuring Authority may, for reasons to be recorded in writing, divide its procurement into appropriate packages provided further that such packages should clearly be specified in the Tender Documents.

#### **7. Procuring Authority :-**

- (1) Procuring Authority means any Government Department or their attached or subordinate offices in line with the financial powers re-delegated to Officers under Govt. of Mizoram under Delegation of Financial Powers Rules 1978, a State Government Undertaking, Local Authority or Board, Body of Corporation established by or under any law and owned or controlled by the Government, and as may be specified by it. Beyond the delegated powers, the procurement shall be taken up by the heads of departments with prior approval of the concerned Administrative Departments or by the Administrative Department itself.

- (2) The Procuring Authority shall, after following such procedure as may be prescribed by the Competent Authority, pass order accepting the tender and shall communicate the information relating to acceptance of tender together with a comparative analysis and reasons for accepting of tender to all concerned and cause the same to be displayed in the Office Notice Board and Website.

**8. Tender Bulletin Officers :-**

- 1) Director, I&PR shall be the State Tender Bulletin Officer and DIPRO shall be the District Tender Bulletin Officer.

- 2) Functions of Tender Bulletin Officers:

The State Bulletin Officer/District Bulletin Officer on receipt of intimation relating to notice of invitation of tender from tender inviting authority shall cause it to be published in the national/state/district level newspaper and Government or Department website as the case may be.

**9. Tender Inviting Authority :-**

Subject to the provisions of section 9 of the Act, the Procuring Authority shall act as Tender Inviting Authority in absence of specific Tender Inviting Authority for any specified area, specified procurement or specified class of goods or services.

**10. Tender Accepting Authority :-**

The Procuring Authority shall be the Tender Accepting Authority for any goods, works and services within his delegated financial power. Beyond the delegated powers, the Administrative Department concerned shall be the Tender Accepting Authority.

**11. Purchase Advisory Board :-**

There shall be three tiers of Purchase Advisory Board to recommend purchase of goods namely:

**(1) State Purchase Advisory Board (SPAB)**

Bids responses evaluated by Bid Evaluation Committee constituted under rule 13 of these rules for purchase of Goods involving more than ₹ 1,00,00,000/- (Rupees One Crore) shall be considered by State Purchase Advisory Board consisting of the following members :

- |     |   |   |                  |
|-----|---|---|------------------|
| (a) | Chief Secretary   | - | Chairman         |
| (b) | Secretary of the Department concerned   | - | Member Secretary |
| (c) | Secretary, Finance Department or<br>authorized representative not below<br>the rank of Joint Secretary  | - | Member           |
| (d) | Secretary, Law & Judicial Dept or<br>authorized representative not below<br>the rank of Joint Secretary | - | Member           |
| (e) | Head of Department concerned  | - | Member           |
| (f) | Joint Director of Accounts/Deputy<br>Director of Accounts of the Department                             | - | Member           |



**(2) Departmental Purchase Advisory Board (DPAB)**

Bids responses evaluated by Bid Evaluation Committee for purchase of Goods involving upto ₹ 1,00,00,000/- (Rupees One Crore) shall be considered by Departmental Purchase Advisory Board consisting of the following members:

- |     |   |   |                  |
|-----|---|---|------------------|
| (a) | Commissioner/Secretary of the Department concerned  | - | Chairman         |
| (b) | Head of Department (or authorized representative not below the rank of Joint Director                     | - | Member Secretary |
| (c) | Secretary, Finance Department (or authorized representative not below the rank of Under Secretary)        | - | Member           |
| (d) | Secretary, Law & Judicial Department (or authorized representative not below the rank of Under Secretary) | - | Member           |
| (e) | Deputy Director of Accounts/FAO of the Department concerned   | - | Member           |

**(3) Local Purchase Advisory Board (LPAB)**

Local Purchase Advisory Board (LPAB) constituted by Procuring Authority consisting of three members of an appropriate level headed by a responsible officer as it may deem fit, shall be responsible for purchase of goods costing upto ₹ 2,50,000 (Rupees Two Lakh Fifty Thousand) on each occasion with an annual ceiling of ₹ 7,50,000 (Rupees Seven Lakh Fifty Thousand).

**12. Works Advisory Board :-**

There shall be two tiers of Works Advisory Board to recommend procurement of works and services namely –

**(1) State Works Advisory Board**

Bids responses received and evaluated by the Bid Evaluation Committee constituted under rule 13 of these rules for tendered works and services having an estimated value of more than ₹ 1,00,00,000 shall be considered by State Works Advisory Board (SWAB) consisting of the following members :

- |     |  |   |                  |
|-----|--|---|------------------|
| (a) | Chief Secretary  | - | Chairman         |
| (b) | Secretary of the concerned department  | - | Member Secretary |
| (c) | Secretary, Finance Dept or his representative not below the rank of Joint Secretary        | - | Member           |
| (d) | Secretary, Law & Judicial Dept or his representative not below the rank of Joint Secretary | - | Member           |
| (e) | Head of Department concerned   | - | Member           |
| (f) | Joint Director of Accounts/Deputy Director of Accounts of the Department                   | - | Member           |
| (f) | Engineer-in-Chief, PWD or his representative not below the rank of Superintending Engineer | - | Member           |

*(Note: In respect of Procurement of works and services under PHE and P&E departments, the concerned E-in-C shall be the member of the Board in place of E-in-C, PWD. In case of works under Minor Irrigation department, the concerned Chief Engineer shall be the member of the Board in place of E-in-C, PWD).*

## **(2) Departmental Works Advisory Board**

Bids responses received and evaluated by the Bid Evaluation Committee for tendered works and services having an estimated value up to and including ₹ 1 crore shall be placed before Departmental Works Advisory Board for their consideration.

The DWAB shall consist of the following members:

- |  |   |                  |
|--|---|------------------|
| (a) Secretary of the concerned Department  | - | Chairman         |
| (b) Head of the concerned department   | - | Member Secretary |
| (c) Secretary, Finance Dept or his representative not below the rank of Under Secretary        | - | Member           |
| (d) Secretary, Law & Judicial Dept or his representative not below the rank of Under Secretary | - | Member           |
| (e) Deputy Director of Accounts/FAO of the Department concerned                                | - | Member           |
| (f) Technical Officer not below the rank of JE of the concerned department                     | - | Member           |

## **13. Bid Evaluation Committee/Bid Scrutiny Committee :-**

The Bid Evaluation Committee constituted by the Procuring Authority consisting of two or more officials headed by a responsible officer as it may deem fit, is responsible to analyze and scrutinize bids according to the evaluation criteria already incorporated in the bidding documents. The Bid Evaluation Committee will scrutinize and evaluate the technical and financial bids responses for procurement of goods or works or services.

The Bid Evaluation Committee shall provide the complete and detail observations and findings to the concerned Committee or Board like SPAB, DPAB etc.

## CHAPTER III

### MODES AND PROCEDURES OF PROCUREMENT

#### 14. Methods of Procurement :-

Subject to the provisions of the Act and these rules, a Procuring Authority may procure a subject matter of procurement by means of any of the following methods, namely:

- (1) Open Competitive Bidding (Advertised Tender Enquiry); or
- (2) Limited Tender Enquiry (Limited Bidding); or
- (3) Single Source Procurement; or
- (4) Two-stage Bidding; or
- (5) Reverse Auction; or
- (6) Rate Contract; or
- (7) Government-e-Marketplace; or
- (8) Public Private Partnership;
- (9) Swiss Challenge
- (10) any other method of procurement as may be notified by the Finance Department, Government of Mizoram satisfying the principles of procurement contained in the Act and which the Government considers necessary in public interest.

#### 15. Open Competitive Bidding (Advertised Tender Enquiry)

##### (1) Conditions for adopting the method of Advertised Tender Enquiry:

- (a) Subject to provisions laid down under rule 16, 17, 21, 26, 28 & 29 of these rules, every Procuring Authority shall invite bids through Open Competitive Bidding;
- (b) Where the Procuring Authority adopt a method of procurement other than the Open Competitive Bidding, it shall record the reasons and circumstances thereof;
- (c) Open competitive bidding may also be followed in case of two stage bidding in terms of rule 18 and rate contract in terms of rule 20;
- (d) The Procuring Authority may follow the pre-qualification procedure followed as norms by the Government or as it deems most fitting depending on the nature of goods/works/services to be acquired keeping in mind that there should be fair competition;

##### (2) Procedure for Open Competitive Bidding :

- (a) The detailed general process of procurement of goods, works and services described in chapter IV, chapter V and chapter VI of these rules shall be followed in Open Competitive Bidding;
- (b) the Procuring Authority shall invite bids by publishing an invitation for bid as prescribed under rule 33 of these rules;

- (c) the complete bidding document should be posted in the State Procurement Portal or Central Public Procurement Portal and department's website/State's common website to enable prospective bidders to make use of the document by downloading from the website;
- (d) the advertisements for invitation of tenders should give the complete web address from where the bidding documents can be downloaded, last date for downloading, last date for submission of the bid and basic information such as the nature of works and the estimated value of the contract;
- (e) ordinarily, the minimum time to be allowed for submission of bids should be three weeks from the date of publication of the tender notice or availability of the bidding document for sale, whichever is later. Where the Department also contemplated obtaining bids from abroad, the minimum period should be kept as 45 days for both domestic and foreign bidders.

**16. Limited Tender Enquiry (Limited Bidding) :-**

**(1) Condition for adopting the method of Limited Tender Enquiry :**

Subject to the limit of re-delegation of financial powers, a Procuring Authority may choose to procure the subject matter of procurement by the method of limited bidding when estimated value of goods to be procured is upto ₹ 25,00,000 (Rupees Twenty Five Lakhs) and if -

- (a) The subject matter of procurement can be supplied only by a limited number of bidders; or
- (b) owing to an urgency brought about by unforeseen events, the Procuring Authority is of the opinion that the subject matter of procurement cannot be usefully obtained by adopting the method of Open Competitive Bidding.

**(2) Procedure of limited bidding :**

The procedure of limited bidding/tendering shall include the following :

- (a) the Procuring Authority shall obtain the approval of the next higher authority in the hierarchy for conducting Limited Tender Enquiry and on the list of restricted firms to be invited before issue of invitation to the firms;
- (b) the Procuring Authority shall issue an invitation for bid by writing, and on the same day, to the firms who can supply the subject matter of procurement. Copies of the bidding document should be sent directly by speed post/registered/post/courier/e-mail to firms. There should be document(s) to prove that the bidding document is delivered/sent to the invited firms;
- (c) The Limited/Restricted Quotation should be invited from more than three firms capable of supplying the required materials. Efforts should be made to identify a higher number of suppliers to obtain more responsive bids on competitive basis. However, if there is/are

less than 4 (four) quotations, the decision to consider such quotation(s) shall be at the discretion of the Purchase Advisory Board provided that the bidding document is actually delivered to the invited firms;

- (g) A minimum period of 7 days shall be given to the firms to offer their bids;
- (h) When Limited Tender Enquiry (LTE) is followed, Notice Inviting Bids (NIB) shall be sent to all relevant empanelled firms;
- (f) the procedure of bidding and the terms and conditions of the RFP/contract including provision for bid security, performance security, liquidated damages, procurement of undelivered quantities of the subject matter of procurement, etc. shall be similar to those prescribed for procurement through open competitive bidding;
- (g) The unsolicited bids should not be accepted;
- (h) Notice Inviting Bids (NIB) and bidding documents shall be prepared as per the Standard Bidding Document.

**17. Single Source Procurement (Single Tender Enquiry) :-**

**(1) Conditions for adopting the method of Single Source Procurement :**

A Procuring Authority may choose to procure the subject matter of procurement by the method of Single Source Procurement (Single Tender Enquiry) if -

- (a) the subject matter of procurement is available only from a particular prospective bidder, or a particular prospective bidder has exclusive rights in respect of the subject matter of procurement, such that no reasonable alternative or substitute source exists, and the use of any other procurement method would therefore not be possible in terms of clause (b) of section 4 of the Act; or
- (b) owing to a sudden unforeseen event, there is an extremely urgent need for the subject matter of procurement, and engaging in any other method of procurement would be impractical in terms of clause (a) of section 4 of the Act ;or
- (c) For standardisation of machinery or spare parts to be compatible to the existing sets of equipment (on the advice of a competent technical expert and approved by the competent Purchase Advisory Board), the required item is to be purchased only from a selected firm; or
- (d) the Procuring Authority determines that the use of any other method of procurement is not appropriate for the protection of national security interests; or
- (e) subject matter of procurement is of artistic or of proprietary nature up to the limit of delegation of financial power; or
- (f) subject matter of procurement is of such nature as requires the Procuring Authority to maintain confidentiality, like printing of examination papers; or

- (g) (i) a team/firm - where multidimensional knowledge is required; or
- (ii) an individual – where outside support is not required and experience of the individual is the paramount requirement; or
- (iii) price of subject matter of procurement is administered by the State or Central Government.

**(2) Procedure of Single Source Procurement (Single Tender Enquiry)**

The procedure for Single Source Procurement shall include the following, namely:-

- (a) the Procuring Authority shall solicit a bid from the single prospective bidder;
- (b) the Procuring Authority may engage in negotiations in good faith with the bidder;
- (c) bid security / earnest money shall not be obtained in case of Single Tender Inquiry.

- (3) For allotting by single source selection, works of emergent nature arising out of floods and other natural calamities without issuing an NIB, a committee comprising of following officers shall be constituted. The committee shall decide the ceiling rates for each work on the basis of rates received during the last 6 months or the prevailing market rates analysis. The committee constitution will be as follows:

- |     |   |   |                  |
|-----|---|---|------------------|
| (a) | Deputy Commissioner                                 | - | Chairman         |
| (b) | Superintending Engineer of the concerned department | - | Member           |
| (c) | Treasury Officer                                    | - | Member           |
| (d) | Executive Engineer of the concerned department.     | - | Member Secretary |

**18. Two Stage Bidding :-**

**(1) Conditions for adopting the method of two stage bidding -**

Subject to the limit of financial powers re-delegated to Officers under Govt of Mizoram, a Procuring Authority may choose to procure the subject matter of procurement by the method of two stage bidding if -

- (a) it is not feasible for the Procuring Authority to formulate detailed specifications or identify specific characteristics for the subject matter of procurement, without receiving inputs regarding its technical aspects from bidders; or
- (b) the character of the subject matter of procurement is subject to such rapid technological advances and market fluctuations to make open competitive bidding unfeasible; or
- (c) the Procuring Authority seeks to enter into a contract for the purpose of research, experiment, study or development, except where the contract includes the production of items in quantities sufficient to establish their commercial viability or to recover research and development costs; or

- (d) 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.

**(2) Procedure of two stage bidding -**

The procedure for two stage bidding shall include the following namely:-

- (a) in the first stage of the bidding process, the Procuring Authority shall invite bids through advertised tender containing the professional and technical competence and qualifications of bidders regarding the subject matter of procurement and contractual terms and conditions of the proposed procurement without a bid price;
- (b) all first stage bids, which are otherwise eligible, shall be evaluated, by Bid Evaluation Committee (BEC) constituted by the Procuring Authority, in accordance with the procedure laid down in rule 47 and the BEC shall shortlist not less than three (3) bidders amongst the qualified bidders with proper record of evaluation done;
- (c) the Bid Evaluation Committee (BEC) may hold discussions with the bidders and if any such discussion is held, equal opportunity shall be given to all bidders to participate in the discussions;
- (d) in revising the technical design and stipulations and relevant terms and conditions of the procurement, the Procuring Authority shall not modify the fundamental nature of the procurement itself, but may add, amend or delete any specification of the subject matter of procurement or criterion for evaluation;
- (e) In the second stage of the bidding process, the Procuring Authority shall invite bids from all those bidders whose bids at the first stage were not rejected, to present final bid with bid prices and detailed technical bid in response to a revised set of terms and conditions of the procurement;
- (f) any bidder, invited to bid but not in a position to supply the subject matter of procurement 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, by declaring his intention to withdraw from the procurement proceedings with adequate justification.

**19. Reverse Auction :-**

- (1) A reverse auction is a type of auction in which the roles of buyer and seller are reversed. In an ordinary auction (also known as a forward auction), buyers compete to obtain goods or services by offering increasingly higher prices. In a reverse auction, the sellers compete to obtain business from the buyer and prices will typically decrease as the sellers underbid each other. A reverse auction is similar to a unique bid auction as the basic principle remains the same; however, a unique bid auction follows the traditional auction format more closely as each bid is kept confidential and one clear winner is defined after the auction finishes.

- (2) A Procuring Authority may choose to procure a subject matter of procurement by the electronic reverse auction method if:
  - (a) It is feasible for the Procuring Authority to formulate a detailed description of the subject matter of procurement;
  - (b) There is a competitive market of bidders anticipated to be qualified to participate in the electronic reverse auction, so that effective competition is ensured;
  - (c) The criteria to be used by the Procuring Authority in determining the successful bid are quantifiable and can be expressed in monetary terms.
- (3) Participants shall be empanelled or approved firms, which means that the Reverse Auction is a Limited Tender System.
- (4) This system can be adopted in case the items proposed to be procured are not available with many firms but with some approved firms only.
- (5) It may be adopted where Open Tender is not efficiently practicable and when the items to be procured is less than ₹ 100.00 lakh.
- (6) It is an online process where the interested sellers will have a permit to access the portal with a password and for a specified period.
- (7) Specific Software is required. The software shall be designed in such a way that the buyer (i.e. the Procuring Authority) can see all the quoted rates of the interested bidders whereas the seller can see his individual rates and the lowest quoted rate only.
- (8) The approved firms which are invited to participate in the Reverse Auction should be sent invitation individually through registered post and/or e-mail in such a way that the individual firm do not have the knowledge about the list of firms invited. Acknowledgement of receipt of the invitation should be insisted from the invited firms. The invitation letter should include detailed specification of the items to be procured, the terms and conditions etc.
- (9) No Bid Security should be insisted but it should be made clear in the Terms and Conditions that the approved supplier, if failed to supply at the quoted price, should be black listed and shall be barred from participation in Reverse Auction for at least three years.
- (10) All the process of Reverse Auction should be recorded (which may be inbuilt in the software).
- (11) The lowest bidder shall be declared the Provisional Winner at the end of the auction and the recorded process and the Provisional Winner should be tabled before DPAB for its recommendation. The DPAB is generally to declare the Provisional Winner as the Winner and recommend the Winner to supply the items unless something wrong is detected in the process.
- (12) Performance Security may be deposited by the selected firm as done in other process.



**20. Rate Contract :-**

**(1)** The period of rate contract will be generally one year, preferably a financial year to match with budget provisions and levy of taxes. It may be a shorter period, if variations in market prices are expected to be significant. It may also be a longer period up to three years if the variations in market prices are not expected to be significant. The reasons for selecting the period for rate contract shall be recorded.

**(2) Conditions for adopting the method of rate contract -**

- (a) A Procuring Authority may choose to engage in a rate contract procedure in accordance with these rules, where it determines that-
- (i) the need for the subject matter of procurement is expected to arise on an indefinite or repeated basis during a given period of time;
  - (ii) by virtue of the nature of the subject matter of procurement, the need for that subject matter may arise on an urgent basis during a given period of time.

**(3) Procedure of entering into a rate contract -**

- (a) A Procuring Authority may award a rate contract on the basis of open competitive bidding. If it is not possible to adopt the method of open competitive bidding, by means of other procurement methods in accordance with the provisions of these rules. An approximate quantity of required goods, works or service during the period will be indicated in the Notice Inviting Bids (NIB), but no minimum quantity is guaranteed.
- (b) The procedure for entering into a rate contracts and award of work order fall in two stages and shall include the following, namely:-
- (i) in the first stage single part or two part bids shall be invited;
  - (ii) a rate contract will be entered for price without a commitment for quantity, place and timing of placing supply or work order with the bidder of lowest priced bid or most advantageous bid;
  - (iii) in the second stage supply or work order will be placed at the contracted price for supply or execution of the required quantity of the subject matter of procurement, as and when needed;
  - (iv) rate contracts may be concluded with more than one bidder as parallel rate contracts provided there is such provision in the bidding documents, in the order of their standing in final evaluation, by giving them counter offer of prices of the lowest bidder. This may be done in order to secure prompt delivery or execution of goods, works or service, if the quantity of the subject matter of procurement required is beyond the capacity of the lowest bidder;

- (v) the terms and conditions of the rate contract including provision for liquidated damages, shall be similar to those prescribed for procurement by open competitive bidding;
- (vi) the prices under a rate contract shall be subject to price fall clause to be incorporated in the terms and conditions of rate contract. Price fall clause is a price safety mechanism in rate contracts and it provides that if the rate contract holder quotes/ reduces its price to render similar goods, works or services at a price lower than the rate contract price to anyone in the State at any time during the currency of the rate contract, the rate contract price shall be automatically reduced with effect from the date of quoting lower price for all delivery of goods and services under that rate contract and the rate contract shall be amended accordingly. The firms holding parallel rate contracts shall also be given opportunity to reduce their price by notifying them the reduced price giving them 15 days time to intimate their agreement to the revised price. If a parallel rate contract holding firm does not agree to the reduced price, further transaction with it shall not be conducted;

Similarly, if a parallel rate contract holding firm reduces its price under the price fall clause during currency of the rate contract, its reduced price shall be conveyed to other parallel RC holding firms and the original rate contract holding firm for corresponding reduction in their prices. Care should be taken to ensure that declaring reduction in prices does not become a guise to unethical means of securing more orders;

- (vii) it should be ensured that new rate contracts are made operative right after the expiry of the existing rate contracts without any gap. In case it is not possible to conclude the new rate contracts due to unavoidable reasons, the existing rate contracts may be extended on same price, terms and conditions for a period not exceeding 3 months. In such cases it shall be ensured that market prices have not fallen down during the period for the subject matter of procurement or its constituents, to be procured under the rate contract.

## **21. Local Purchase :-**

Purchase of goods costing upto ₹ 2,50,000 (Rupees Two Lakh Fifty Thousand) on each occasion with an annual ceiling of ₹ 7,50,000 (Rupees Seven Lakh Fifty Thousand) may be made on the recommendations of a Local Purchase Advisory Board constituted by the Procuring Authority. The members of the Board will survey the market to ascertain the reasonableness of rate, quality and specifications and identify the appropriate supplier and made a recommendation for purchase based on their findings. They should also ascertain that the supplier recommended is reliable and competent to supply the goods in question, and it is not debarred in accordance with rule 65.

**22. Single part bid :-**

The Procuring Authority may choose to call for bids in which the technical, quality and performance aspects, commercial terms and conditions and the financial aspects including the price are submitted together in a single part bid (single envelope) when -

- (1) qualitative requirements and technical specifications are clear.
- (2) capability of source of supply isn't critical.
- (3) value of procurement is low or moderate.

**23. Two part bids (two envelopes) :-**

If the Procuring Authority is of the opinion that it is essential to evaluate the technical aspects of a bid before considering its financial aspect, it may call for bids in two parts(two envelopes) system as under:-

- (1) Technical bid containing the technical, quality and performance aspects, commercial terms and conditions; and financial bid indicating item-wise price for the items mentioned in the technical bid.
- (2) The technical bid and financial bid shall be sealed in separate envelopes duly marking as "Technical bid" and "Financial bid" and put in a bigger sealed single envelope.
- (3) the technical bid shall be opened first by the Bid Opening Committee and evaluated by the competent Bid Evaluation Committee (See para 1.8 of Appendage) and the financial bid of only those bids which have been found technically acceptable, shall be opened at the notified time, date and place for further scrutiny, evaluation, ranking and placement of contract (See para 1.9 of Appendage).

**24. E- Publishing :-**

- (1) All Procuring Authorities shall publish their tender enquiries, corrigenda thereon and details of bid awards on State Public Procurement Portal and Department's website if the estimated value of the subject matter of procurement is Rupees Five Lakh or more.
- (2) Individual cases where confidentiality is required, for reasons of national security, would be exempted from the e-publishing requirement. The decision to exempt any case on the said grounds should be approved by the Secretary of the concerned Department and Finance Department.
- (3) The above instructions apply to all Tender Enquiries, Request for Proposals, Requests for Expressions of Interest, Notice for pre-qualification or any other notice inviting bids or proposal in any form whether they are advertised, issued to limited number of parties or to a single party.

**25. E-Procurement :-**

- (1) All Procuring Authorities shall receive all bids through e-procurement portals in respect of all procurements having purchase/contract value of ₹ 1.00 crore and above.
- (2) In individual case where national security and strategic considerations demands confidentiality, it may be exempted with the approval of the Secretary of the concerned Department and Finance Department.

- (3) In case of non-applicability of e-procurement system due to a particular reason, the concerned Department shall request for exemption from Finance Department through the concerned Administrative Department.

**26 Government –e- Marketplace :-**

For procurement under GeM, the Guidelines issued by Department of Commerce, Ministry of Commerce & Industries, Government of India shall be followed subject to Memorandum of Understanding signed between Department of Commerce, Ministry of Commerce & Industries, Government of India and Government of Mizoram.

**27. Procurement through Public Private Partnership :-**

For procurement under PPP mode, the Guidelines issued by Department of Economic Affairs, Ministry of Finance, Government of India shall be followed subject to certain modifications issued by Finance Department, Government of Mizoram.

**28. Swiss Challenge :-**

Swiss Challenge is a procurement method used to simplify the tendering process, with protection of public interest. Under Swiss Challenge, the firm/developer which prepares the DPR for a particular project may be allowed to execute the project provided that opportunity is given to other firms to bid execution of the project with certain conditions :

- 1) Swiss Challenge process shall be followed whenever a firm is intending to execute the project for which it has prepared the DPR.
- 2) Swiss Challenge should be an open bid process.
- 3) The bidders should be the firms other than the one which prepared the DPR.
- 4) There should be a ceiling between 5% to 10% of the project to be fixed by the Administrative Head of the Department below which the bidder should do financial bid i.e. Bid amount should be less than 90% - 95% (as fixed by the authority).
- 5) The firm/developer should be given an opportunity to match the lowest bidder for awarding the execution work of the project. If not matched, the lowest bidder will generally be awarded the work provided it fulfills other conditions
- 6) If there is no bidder which bid below the ceiling fixed, the firm/developer which prepared the DPR would execute the works provided it fulfills other conditions.

**29. Direct procurement from notified agencies :-**

In order to promote its socio- economic policy, the Government may notify agencies and organizations from whom direct procurement of certain subject matter may be made without inviting bids upto the monetary limit and on conditions specified in the notification.

**30. Purchase and price preference and other concessions in procurement :-**

The Government, by notification, may declare purchase and price preference and conditions of their application in procurement from cottage or small scale industries and industries situated in Mizoram.

## CHAPTER- IV

### GENERAL PROCESS OF PROCUREMENT

#### 31. Procurement plan :-

- (1) A procurement plan is to be prepared by every Procuring Authority for each of the item of goods, works or services to be procured during the year, based on the sanctions and allocation of budget. This is to ensure timely execution and monitoring of bid processes.
- (2) The Procurement plan shall specify the following:
  - (a) Nature of Procurement – Goods / Works / Services;
  - (b) Major Specifications – Scope/Quantity / Type / Quality;
  - (c) Estimated Value;
  - (d) Source of Funds;
  - (e) Budget Code – under which funds have been allocated;
  - (f) Procurement Method likely to be followed with justification thereof;
  - (g) need for pre-qualification, if any;
  - (h) Timeframe for Bid Process;
  - (i) Timeframe for Delivery or Execution of Contract (this shall help the Procuring Authority identify the extent to which funds required to finance the resultant contract need to be earmarked in the next fiscal year or subsequent fiscal years).

#### 32. Description of subject matter of procurement :-

- (1) The description of the subject matter of procurement shall be set out in the pre-qualification documents and the bidding documents and to the extent practicable shall -
  - (a) be such as to meet the essential needs of the Procuring Authority;
  - (b) be objective, functional, generic and measurable;
  - (c) not indicate a requirement for or reference to a particular trademark or trade name, brand, patent, design or type, specific origin or producer unless there is no sufficiently precise or intelligible way of describing the characteristics of the subject matter of the procurement and provided that words such as “or equivalent” are included.
- (2) It may include technical specifications, qualitative, performance characteristics plans, drawings, designs, requirements, testing and test methods, packaging, marking or labeling or conformity certification, and symbols and terminology.
- (3) Where applicable, the Technical specifications shall, to the extent practicable, be based on the national technical regulations or recognized national standards or building codes, wherever such standards exist or in their absence, relevant International Standards may be used.
- (4) the quantity of the goods, any incidental services to be performed, the location where the goods are to be delivered, the work is to be executed or the services are to be provided and the required time, if any.

- (5) at each stage of procurement the concerned procuring authority must place on record, in precise terms, the considerations which weighed with it while taking the procurement decision.

**33. Contents and publicity of Notice Inviting Bids (NIB) :-**

- (1) A Notice inviting bids to be published shall contain, at least, the following information, namely:-
- (a) the name and address of the Procuring Authority;
  - (b) a summary of the principal required terms and conditions of the procurement contract or rate contract to be entered into as a result of the procurement proceedings, including the nature, quantity and place of delivery of the goods to be supplied, the nature and location of the works to be effected, or the nature of the services and the location where they are to be provided, as well as the required time for the supply of the goods or for the completion of the works, or the timetable for the provision of the services;
  - (c) whether the bid procedure will be conducted in a single stage or two stages and whether it is to be presented simultaneously in two envelopes: one envelope containing the technical, quality and performance characteristics of the bid, and the other envelope containing the financial aspects of the bid;
  - (d) the criteria and procedures to be used for evaluating the qualifications of suppliers or contractors;
  - (e) the means of obtaining the solicitation documents and the place from which they may be obtained;
  - (f) the price, if any, charged by the Procuring Authority and the means of payment for the solicitation documents and the amount of bid security and its form; and
  - (g) the manner, place and deadline for the submission of bids;
  - (h) the criteria and procedures to be used for evaluating the qualifications of suppliers or contractors;
  - (i) right of the Procuring Authority to cancel the bid process and reject any and all of the bids;
  - (j) In case the Invitation for bid consists of more than one item, it should be clearly stated whether evaluation and award of contract shall be for each item separately or as a package of all items together. The Bid Security /Earnest Money Deposit should also be indicated accordingly. This cannot be changed later on. Once it is decided that the contract is for a package, the Earnest Money for that package is to be indicated and the same cannot be changed according to each item;
  - (k) any other important information.
- (2) An invitation to prequalify to be published shall contain, at least, the following information, namely:-
- (a) the name and address of the Procuring Authority;

- (b) a summary of the principal required terms and conditions, to the extent known at the time of invitation to pre-qualify, of the procurement contract or rate contract to be entered into or the empanelment to be done as a result of the procurement proceedings, including the nature, quantity and place of delivery of the goods to be supplied, the nature and location of the works to be effected, or the nature of the services and the location where they are to be provided, as well as, the required time for the supply of the goods or for the completion of the works, or the timetable for the provision of the services;
  - (c) the criteria and procedures to be followed for evaluating the qualifications of bidders;
  - (d) the means of obtaining the pre-qualification documents and the place from which they may be obtained;
  - (e) the price, if any, charged by the Procuring Authority and the means of payment for the pre-qualification documents and subsequent to pre-qualification, for the bidding documents; and
  - (f) the manner, place and deadline for presenting applications to pre-qualify and if already known, the manner, place and deadline for presenting submissions.
- (3) The NIB to be published in the newspapers must be brief. Bids for more than one lot of goods, works or services to be procured must be included in one NIB.
- (4) Publicity in newspapers and notice boards to NIB for goods will be given as per the table given below:-

(a) Modes of Publicity for Procurement of Goods

Sl. No.	Estimated Value of procurement	Mode of publication
(i)	Upto ₹ 5.00 lakh	(i) Notice Board of the Procuring Authority and office of the concerned head of department; (ii) Publication in 2 (two) local newspapers. (iii) Concerned Department's or State's website.
(ii)	Above ₹ 5.00 lakh to ₹ 25.00 lakh	(i) Notice Board of the Procuring Authority and office of the concerned head of department; (ii) Publication in 2 (two) local newspapers; (iii) Publication in 1 (one) State Level leading daily newspaper; (iv) State Public Procurement Portal; (v) Concerned Department's website.
(iii)	Above ₹ 25.00 lakh to ₹ 1.00 crore	(i) Notice Board of the Procuring Authority and office of the concerned head of department; (ii) Publication in 1 (one) local newspapers; (iii) Publication in 2 (two) State Level leading daily newspaper; (iv) State Public Procurement Portal; (v) Concerned Department's website.

(iv)	Above ₹ 1.00 crore	(i) Notice Board of the Procuring Authority and office of the concerned head of department; (ii) Publication in 2(two) State level leading daily newspaper; (iii) One National level English daily newspaper/any well-known trade journal with wide circulation; (iv) National Level e-procurement portal/State Public Procurement Portal. (v) Department's website
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## (b) Modes of Publicity for Procurement of Works and Services

S. No	Estimated Value of work to be procured	Mode of Publication
(i)	Upto ₹ 1.00 lakh	Notice Board of the Procuring Authority
(ii)	Above ₹ 1.00 lakh to ₹ 5.00 lakh	(i) Notice Board of the Procuring Authority and office of the concerned head of department if the procuring authority is not the head of department; (ii) Publication in 2 (two) local Newspapers; (iii) concerned Department's website;
(iii)	Above ₹ 5.00 lakh to ₹ 25.00 lakh	(i) Notice Board of the Procuring Authority and office of the concerned head of department if the procuring authority is not the head of department; (ii) Publication in 2(two) local newspapers; (iii) Publication in 1 (one) state level leading daily newspaper. (iv) State Public Procurement Portal; (v) Concerned Department's website.
(iv)	Above ₹ 25.00 lakh to ₹ 1.00 crore	(i) Notice Board of the Procuring Authority and office of the concerned head of department if the procuring authority is not the head of department; (ii) Publication in 1(one) local newspaper; (iii) Publication in 2(two) state level leading daily newspapers; (iv) State Public Procurement Portal; (v) concerned Department's website.
(v)	Above ₹ 1.00 crore	(i) Notice Board of the Procuring Authority and office of the concerned head of department; (ii) Publication in 2 (two) state level leading daily newspapers (iii) one National level English newspaper or any well-known trade Journal with wide circulation; (iv) National Level e-procurement portal and/State Procurement Portal; (v) concerned Department's website



- (5) In case of International Competitive Bidding in which the bid notice is to be addressed to international bidders, the NIB shall additionally be publicized using suitable mediums that attract international responses. This may include circulation of NIB to the Indian embassies abroad, foreign embassies in India, international trade journals, etc. The period of publicity in such cases should also be of minimum 45 days.
- (6) The advertisement in newspapers shall be made through the State Tender Bulletin Officer/District Tender Bulletin Officer as the case may be.
- (7) Right of the Procuring Authority to annul the bid process and reject any and all of the bids.
- (8) Any other important information.

**34. Administrative Approval and expenditure sanction for works or services :-**

- (1) For all works and services other than normal repairs and maintenance works, the concurrence of Finance Department (Expenditure Control Branch) shall be obtained before according Administrative Approval and expenditure sanction.
- (2) In respect of works or services under Non-Works Departments which are contemplated to execute through Works Department, the Administrative Approval shall be obtained from Finance Department (Expenditure Control) by the concerned department requisitioning the work and expenditure sanction shall be obtained by the executing department and shall then execute the work entrusted to it in accordance with the rules and procedures prescribed in that department.
- (3) In respect of works or services contemplated to be executed departmentally by Non Works Departments having technical personnel or through empanelled executing firms, the Administrative Approval and Expenditure Sanction shall be obtained from Finance Department by the concerned departments and initiate the works in accordance with these rules.
- (4) The amount of Administrative Approval accorded, in all cases, shall include Agency charges, wherever it is leviable.
- (5) For the purpose of approval and sanctions, a group of works which forms one project, shall be considered as one work. The necessity for obtaining approval or sanction of higher authority to a project which consists of such a group of work should not be avoided because of the fact that the cost of each particular work in the project is within the powers of such approval or sanction of a lower authority. This provision, however, shall not apply in case of works of similar nature which are independent of each other.

**35. Administrative Approval and expenditure sanction for purchase of goods :-**

- (1) Procurement of goods shall be made by each Procuring Authority within their respective limits in the re-delegation of financial powers to Officers under Govt. of Mizoram under Delegation of Financial Powers Rules, 1978.
- (2) If the amount involved for procurement of any good is beyond the financial power of the Head of Department, the Procuring authority (Head of

Department) shall obtain the approval of the concerned Administrative Department before initiating the procurement process.

- (3) A Procuring Authority shall neither split its procurement nor use a particular valuation method for estimating the value of procurement so as to avoid its obligations under the Act and rules.
- (4) Expenditure sanction may be accorded by each Procuring Authority within their respective limit in the re-delegation of financial powers. Concurrence of Finance Department (Expenditure Control Branch) shall be obtained for expenditure sanction involving beyond the delegated powers.

### **36. Preparation of bidding documents :-**

- (1) Before issuing a notice inviting bids the Procuring Authority shall ensure that the bidding documents are ready for sale. If required, a committee may be constituted by the Procuring Authority for preparation of bidding documents.
- (2) The bidding documents shall comprise, at a minimum, the following information, namely -
  - (a) instructions for preparing bids;
  - (b) a detailed description of the subject matter of the procurement;
  - (c) the criteria for eligibility and qualifications to be met by the bidders such as minimum level of experience, past performance, technical capability, manufacturing facilities and financial position etc or limitation for participation of the bidders, if any;
  - (d) the detailed procedure for presentation, opening, examination and evaluation of bids;
  - (e) the terms and conditions of the procurement contract or the rate contract;
  - (f) the contract or agreement form, if any, to be signed by the parties;
  - (g) if alternatives to the characteristics of the goods, works or services, contractual terms and conditions or other requirements set forth in the bidding documents are permitted, a statement to that effect, and a description of the manner in which alternative bids are to be evaluated and compared;
  - (h) if bidders are permitted to submit bids for only a portion of the goods, works or services to be procured, a description of the portion or portions for which bids may be submitted;
  - (i) the manner in which the bid price is to be formulated and expressed, including a statement as to whether the price is to cover elements other than the cost of the goods, works or services themselves, such as any applicable transportation and insurance charges, customs duties and taxes;
  - (j) any requirements of the Procuring Authority with respect to the issuer and the nature, form, amount and other terms and conditions of any bid security to be provided by bidder submitting bid, and any such

requirements for performance security of the procurement contract to be provided by the successful bidder, including securities such as labour and materials bonds;

- (k) the manner, place and deadline for submission of bid;
  - (l) date, time and place of pre-bid conference, if it is to be held;
  - (m) the means by which, bidders may seek clarifications of the bidding documents;
  - (n) the period of time during which bids shall remain valid;
  - (o) the place, date and time for the opening of bids;
  - (p) references to the Act, these rules and other laws and regulations directly pertinent to the procurement proceedings, provided, however, that the omission of any such reference shall not constitute grounds for appeal or give rise to liability on the part of the Procuring Authority;
  - (q) the name, functional title and address of one or more officers or employees of the procuring organization who are authorized to communicate directly with and to receive communications directly from bidders in connection with the procurement proceedings, without the intervention of an intermediary;
  - (r) any commitments to be made by the bidder outside of the procurement contract, such as commitments relating to the transfer of Technology;
  - (s) notice of the right provided to seek appeal of an unlawful act or decision of, or procedure followed by the Procuring Authority in relation to the procurement proceedings;
  - (t) if the Procuring Authority reserves the right to cancel bid proceedings and reject all bids, a statement to that effect;
  - (u) the criteria to be used by the Procuring Authority in evaluation of bids and determining the successful bid, including any margin of preference and any criteria other than price to be used and the relative weight of such criteria;
  - (v) any formalities that will be required once a bid has been accepted for a procurement contract or rate contract to enter into force, including, where applicable, the execution of a written procurement contract and approval by a higher authority or the State Government;
  - (w) any other requirements laid down by the Procuring Authority in conformity with the Act and these rules relating to the preparation and submission of bids and to other aspects of the procurement proceedings.
- (3) If pre-qualification proceedings have been engaged in, the Procuring Authority shall provide a set of bidding documents to each bidder that has been pre-qualified and pays the price, if any, charged for that document.
- (4) For further details and instruction, the Standard Bidding Documents issued by the State Government are to be referred to.

**37. Contents of Bidding Documents :-**

(1) All the terms, conditions, stipulations and information to be incorporated in the bidding document for procurement of goods are to be shown in the appropriate sections as below:-

- (a) Invitation for Bid
- (b) Section - 1 : Instructions to Bidders (ITB);
- (c) Section - 2 : Qualification Information;
- (d) Section - 3 : General Condition of Contract(GCC);
- (e) Section - 4 : Special Condition of Contract(SCC);
- (f) Section - 5 : Schedule of Requirements;
- (g) Section - 6 : Specifications and allied Technical Details;
- (h) Section - 7 : Bid Form and Price Schedule;
- (i) Section - 8 : Form of Securities;
- (j) Section - 9 : Manufacturer's Authorization Form;
- (k) Section - 10 : Contract Form;
- (l) Section - 11 : Other Forms, if any, to be utilised by the purchaser and the bidders.

(2) The bidding documents for procurement of works and services shall contain the following sections:-

- (a) Invitation for Bid;
- (b) Section - 1 : Instructions to Bidders (ITB);
- (c) Section - 2 : Qualification Information;
- (d) Section - 3 : General Conditions of Contract (GCC);
- (e) Section - 4 : Special Conditions of Contract (SCC);
- (f) Section - 5 : Technical Specifications and Performance Requirements;
- (g) Section - 6 : Forms of Bids;
- (h) Section - 7 : Forms of Securities;
- (i) Section - 8 : Drawings
- (j) Section - 9 : Bill of Quantities/Price Schedule;
- (k) Section - 10 : Form of Acceptance, Agreement etc

**38. Prequalification proceedings :-**

- (1) A Procuring Authority may engage in a pre-qualification process, with a view to identifying, prior to inviting bids, the bidders that are qualified for any specified period of time.
- (2) For the purpose of sub rule (1), a Procuring Authority may invite offers from prospective bidders by giving wide publicity to the invitation to pre-qualify as elucidate in rule 33(2).
- (3) The Procuring Authority shall take a decision with respect to the qualifications of each bidder presenting an application to pre-qualify. In reaching that decision, the Procuring Authority shall apply only the criteria

and procedures set out in the invitation to pre-qualify and in the pre-qualification documents.

- (4) The Procuring Authority shall promptly notify each bidder presenting an application to pre-qualify whether or not it has been pre-qualified and also publish the result of prequalification proceedings on the State Public Procurement Portal and Department's website if any.
- (5) The Procuring Authority shall promptly communicate to each bidder that has not been pre-qualified with the reasons thereof.
- (6) Where a Procuring Authority has undertaken a pre-qualification process in respect of any procurement, only such pre-qualified bidders shall be entitled to continue in the procurement proceedings.

**39. Buy-Back Offer :-**

When it is decided with the approval of the Administrative Department to replace an existing old item(s) with a new and better version, the Procuring Authority may trade the existing old item while purchasing the new one. For this purpose, a suitable clause is to be incorporated in the bidding document so that the prospective and interested bidders formulate their bids accordingly. Depending on the value and condition of the old item to be traded, the time as well as the mode of handing over the old item to the successful bidder should be decided and relevant details in this regard suitably incorporated in the bidding document. Further, suitable 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.

**40. Sale of bidding documents :-**

- (1) The sale of bidding documents shall be commenced with the issue of bid inquiry and shall be stopped one day prior to the date of opening of bids.
- (2) The bidding documents or pre-qualification documents shall be made available to any bidder who pays the price for it in cash or by bank demand draft, unless the procurement is reserved for specific category of bidders;  
Provided that in case pre-qualification proceedings were held for a bidding process including registration or empanelment proceedings, the bidding documents shall be made available to only those bidders who have been prequalified.
- (3) A detailed account of tenders sold shall be kept. It shall also incorporate the details of the bidding documents downloaded from the website, when their price is paid at the time of submission of bid.
- (4) For bidding documents downloaded from the website, a demand draft for the cost of the bidding documents shall be placed in a separate cover, marked "cost of bidding document downloaded from the internet" which shall be put inside that sealed envelope containing the bidding documents.
- (5) Bidding documents purchased by Principals of any concern may be used by its authorized sole selling agents/marketing agents/distributors/sub-distributors and authorized dealers or vice versa.

**41. Pre-bid conference :-**

In case of turnkey contract(s) or contract(s) of special nature for procurement of sophisticated and costly works or equipment or wherever felt necessary, a suitable provision is to be kept in the bidding documents for one or more rounds of pre-bid conference for clarifying issues and clearing doubts, if any, about the specifications and other allied technical details of the work, plant, equipment and machinery etc. projected in the bidding document, and

- (1) the date, time and place of pre-bid conference should be indicated in the bidding document. This date should be sufficiently ahead of bid opening date;
- (2) all Bidders or their representatives may be invited to attend the conference;
- (3) the purpose of the conference is to clarify issues and to answer questions on any matter that may be raised at that stage;
- (4) all bidders may be requested to submit questions in writing, if any, so as to reach the Procuring Authority not later than one week before the conference;
- (5) the records of such conference shall be intimated to all bidders and, shall also be exhibited on the website(s) where tender was published;
- (6) non-attendance of the Pre-bid conference will not be a cause for disqualification of a bidder.

**42. Bid security and Bid Securing Declaration :-**

- (1) Bid security will not be taken in case of –
  - (a) petty procurement valuing upto Rupees Twenty Five Thousand;
  - (b) procurement by Limited Tender Enquiry valuing upto Rupees One Lakh;
  - (c) Single Source Procurement.
- (2) In case of Open Competitive Bidding, Limited Tender Enquiry valuing above Rupees One Lakh, Two Stage Bidding and Rate Contract, bid security would be 2% to 5% (in case of Small Scale Industries of Mizoram it will be 0.5% to 1%) of the estimated value of subject matter of procurement put to bid. Every bidder, if not exempted, participating in the bid process shall be required to furnish the bid security specified in the notice inviting bids (NIB).
- (3) Bid security will not be required to be taken from Undertakings, Corporations, Autonomous bodies, Registered Societies, Cooperative Societies which are controlled/managed by Government, Government Undertakings and Companies of Union Government and Government of Mizoram. However, a Bid Securing Declaration will be taken from them.
- (4) Receipt of the bid security deposited or a Bid Securing Declaration shall necessarily accompany the sealed bid.
- (5) Bid security of a bidder lying with the Procuring Authority in respect of other bids awaiting decision will not be adjusted towards bid security for the fresh bids. The bid security originally deposited, however, should be taken into consideration in case bids are re-invited.

- (6) **Form of bid security :** The bid security may be accepted in the form of Account Payee Demand Draft, Fixed Deposit Receipt, Banker's Cheque or Bank Guarantee from any of the Commercial Banks or payment online in an acceptable form, safeguarding the purchaser's interest in all respects. The bid security is normally to remain valid for a period of forty five days beyond the final bid validity period.
- (7) The bidding documents may stipulate that the issuer of the bid security as well as the form and terms of the bid security, which must be acceptable to the Procuring Authority.
- (8) Prior to presenting a submission, a bidder may request the Procuring Authority to confirm the acceptability of a proposed issuer of a bid security or of a proposed confirmer, if required; the Procuring Authority shall respond promptly to such a request.
- (9) The bank guarantee presented as bid security shall be got confirmed from the concerned issuing bank. However, the confirmation of the acceptability of a proposed issuer or of any proposed confirmer does not preclude the Procuring Authority from rejecting the bid security on the ground that the issuer or the confirmer, as the case may be, has become insolvent or has otherwise ceased to be creditworthy.
- (10) The bid security of unsuccessful bidders shall be returned soon after final acceptance of bid and signing of contract.
- (11) **Forfeiture of Bid security:** The Bid security taken from a bidder shall be forfeited in the following cases, namely:-
  - (a) when the bidder withdraws or modifies his bid after opening of bids;
  - (b) when the successful bidder fails to deposit the Performance Security after fifteen days of the issue of offer of contract;
  - (c) when the successful bidder fails to sign the Contract in accordance with Bidding Document;
  - (d) to adjust any dues against the bidder from any other contract with the Procuring Authority;
  - (e) if the bidder breaches any provision of code of integrity prescribed for bidders in rule 64.
- (12) In case of the successful bidder, the amount of bid security may be adjusted in arriving at the amount of the Performance Security Deposit.

#### **43. Confidentiality :-**

- (1) Subject to the provisions of any other law for the time being in force providing for disclosure of information, a Procuring Authority shall not disclose any information if such disclosure, in its opinion, is likely to –
  - (a) impede enforcement of any law;
  - (b) affect the security or strategic interests of India;
  - (c) affect the intellectual property rights or legitimate commercial interests of bidders;

- (d) affect the legitimate commercial interests of the Procuring Authority in situations that may include when the procurement relates to a project in which the Procuring Authority is to make a competitive bid, or the intellectual property rights of the Procuring Authority.
- (2) Except as otherwise provided in the Act, a Procuring Authority shall treat all communications with bidders related to the procurement process in such manner as to avoid their disclosure to competing bidders or to any other person not authorized to have access to such information.
- (3) The Procuring Authority may impose on bidders and sub-contractors, if there are any, for fulfilling the terms of the procurement contract, conditions aimed at protecting information, the disclosure of which violates sub-rule (1) above.

**44. Modification to the bidding documents :-**

- (1) At any time prior to the deadline for presenting submissions, the Procuring Authority may for any reason, whether on its own initiative or as a result of a request for clarification by a bidder, modify the bidding documents by issuing an addendum. The addendum shall be published in the same manner as the publication of the initial bidding documents and shall be communicated promptly to all bidders to which the Procuring Authority has provided the bidding documents and shall be binding on those bidders.
- (2) In case a clarification or modification is issued to the bidding documents, the Procuring Authority may, prior to the last date for submission of bids, extend such time limit, if, in its opinion more time is required by bidders to take into account the clarification or modification, as the case may be, while submitting their bids.
- (3) Any bidder who has submitted his bid in response to the original invitation shall have the opportunity to modify or re-submit it, as the case may be, or withdraw such bid in case the modification to bidding document materially affect the essential terms of the procurement, within the period initially allotted or such extended time as may be allowed for submission of bids, after the modifications are made to the bidding documents by the Procuring Authority.

Provided that the bid last submitted or the bid as modified by the bidder shall be considered for evaluation.

**45. Alternative Proposals by Bidders :-**

- (1) Alternatives Proposals shall not be allowed as a rule except when there is complexity in the design of works and configuration of items. If so allowed, it shall be specifically indicated in the Bidding Document.
- (2) Alternative bids shall provide all information necessary for a complete evaluation of the alternative by the Procuring Authority, including design calculations, technical specifications, breakdown of prices, and other relevant details.



**46. Late bids :-**

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

**47. Lack of competition :-**

(1) A situation may arise where, after evaluation of bids, the Bid Evaluation Committee may end-up with one responsive bid only. The process may be considered valid provided following conditions are satisfied :

- (a) the procurement was satisfactorily advertised and sufficient time was given for submission of bids;
- (b) the qualification criteria were not unduly restrictive;
- (c) the bid is technically qualified;
- (d) the price quoted by the bidder is assessed to be reasonable in comparison to market value;
- (e) the bid is unconditional and complete in all respects;
- (f) there are no obvious indicators of cartelization amongst bidders.

(2) Otherwise the bid inquiry should be refloated after rectifying deficiencies.

**48. Criteria For Evaluation Of Bids :-**

(1) The criteria for evaluation of bids shall be contained in the bidding documents.

(2) No criteria or procedure, other than those mentioned in the bidding documents shall be used by the Procuring Authority in evaluating bids, nor shall the criteria mentioned in the bidding documents be relaxed.

(3) In case of two part bid system, the technical bid shall be opened first and evaluated by the Bid Evaluation Committee and the financial bids of the bidders who qualified in technical evaluation only shall be evaluated as laid down in rule 23.

(4) The number of firms qualified in technical evaluation should not generally be less than three. If the number is less than three and it is considered necessary by the Procuring Authority to continue with the bid process, reasons shall be recorded in writing and included in the record of the procurement proceedings.

(5) The bidders which qualified in the technical evaluation shall be informed in writing about the date, time and place of opening of their financial bids. This date should generally be not later than 15 days from the date of issue of letter.

**49. Procuring Authority's right to accept or reject any or all bids :-**

The Procuring Authority reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to obtaining the recommendation of concerned Advisory Board, without thereby incurring any liability to the bidders. Reasons for doing so shall be recorded in writing.

(1) Rejection of all Bids is justified when -

- (a) effective competition is lacking;
- (b) all Bids and proposals are not substantially responsive to the requirement of the Procurement Documents;
- (c) the Bids'/Proposals' prices are substantially higher than the updated cost estimate or available budget; or
- (d) none of the technical proposals meets the minimum technical qualifying score.

**50. Restriction on negotiations :-**

- (1) To the extent possible, no negotiations shall be conducted after the pre-bid stage. All clarifications needed to be sought shall be sought in the pre-bid itself.
- (2) Negotiations may, however, be undertaken only with the lowest bidding tenderer under the following circumstances:-
  - (a) When ring prices have been quoted by the bidders for the subject matter of procurement;
  - (b) When the rates tendered vary considerably and considered much higher than the prevailing market rates.
- (3) The concerned Advisory Board shall have full powers to direct negotiations. Detailed reasons and results of negotiations shall be recorded in the proceedings.
- (4) Negotiation will be conducted with the lowest bidder only. The lowest bidder shall be informed in writing. A minimum period of 7 days shall be given prior to negotiations. In case of urgency the Advisory Board may reduce this period provided the lowest bidder has received the intimation and consented to regarding holding of negotiations. Reasons in such cases will be recorded.
- (5) Negotiations will not make the original offer made by the bidder inoperative. The Advisory Board will have option to consider the original offer in case the bidder decides to increase rates originally tendered or imposes new terms and conditions.
- (6) **Counter Offer** : In case of non-satisfactory achievement of rates from lowest bidder, the Advisory Board may choose to make a written counter offer to the lowest bidder and if this is not accepted by him, the board may decide to reject and re-invite bids or to make the same counter-offer first to the second lowest bidder, then to the third lowest bidder and so on in the order of initial bidding, and work/supply order be awarded to the bidder who accepts the counter-offer. This procedure should be used in exceptional cases only.
- (7) In case the rates even after the negotiations are very high, the concerned Advisory Board may decide whether to invite fresh bids or otherwise.

**51. Recommendation of Advisory Board :-**

- (1) The Procuring Authority shall place the evaluation report made by the Bid Evaluation Committee before the competent Advisory Board.
- (2) Meeting notice of the Advisory Board shall be issued at least 3(three) days in advance along with Agenda papers comprising of –
  - (a) Agenda note;
  - (b) Duly signed evaluation report of the BEC;
  - (c) comparative statement;
  - (d) quantity of proposed items;
  - (e) up-to-date availability of fund.
- (3) The Advisory Board, after due consideration of the evaluation report of the Bid Evaluation Committee, shall make recommendation regarding acceptance, rejection and final award of contract keeping in mind optimum utilization of public money.
- (4) The Advisory Board shall ensure that the bid recommended for procurement is justifiable looking to the prevailing market rates of the goods, works or service required to be procured.
- (5) In case a rate contract is being entered, more than one firms at the same lowest rate may be recommended to ensure uninterrupted service delivery but for this purpose, counter offer of lowest rate will be given for acceptance to the bidders quoting higher rates in the order of ascending value.
- (6) In case of Directorate General of Supplies & Disposals (DGS&D) rate contract and proprietary items, the Department will first collect quotation supported by valid documents from the firms to be placed before Advisory Board for consideration.
- (7) In case of dissent by representative of Finance Department or Law & Judicial Department in the meeting of the Advisory Board, bids shall be re-invited.
- (8) The recommendation of the Advisory Board will be effective from the date it is approved by the Government and it will be valid for a period of 1(one) year for implementation. Under exceptional circumstances, the period of validity may be extended by another 6(six) months with the approval of concerned Administrative Department.
- (9) Rates of goods and firms approved by the competent authority for a particular Department may be adopted by other Departments with the recommendation of Advisory Board without inviting fresh quotations. In such cases, the period of validity of rates and firms would, however, be identical with the approved minutes so adopted.

**52. Acceptance of the successful bid and notification of award :-**

- (1) Within 30 days on receipt of the recommendation of Advisory Board, the Procuring Authority shall take action for its acceptance by the competent authority i.e. the Administrative Department with the approval of concerned Minister. In exceptional circumstances, Government may relax the limit of time period prescribed with proper justification recorded in writing.

- (2) If the decision on acceptance or rejection of a bid cannot be taken within the original bid validity period due to unavoidable circumstances, all the bidders shall be requested to extend validity period of their bids up to a specified date. Reasons for not taking the decision within original validity period shall be recorded in writing.
- (3) As soon as the recommendation of the Advisory Board is accepted by the competent authority, a Letter of Acceptance should be sent to the successful bidder.
- (4) In the Letter of Acceptance, the successful bidder may be asked to execute an agreement in the format given in the bidding document on a non judicial stamp of requisite value and deposit prescribed performance security within 21 days from the date of issue of Letter of Acceptance.
- (5) Formal award of contract is to be issued only after receipt of the prescribed Performance Security.
- (6) If the successful bidder fails to sign Agreement/contract or submit Performance Security within the prescribed time period, the Procuring Authority may extend the time period by 15 days for which formal notice shall be issued. If response is not received within the period, the Procuring Authority may go for counter offer as stipulated under sub-rule (6) of rule 50 or sub-rule 5 of rule 56.
- (7) As soon as the Procuring Authority, obtain the approval of the competent authority, it shall display successful bidder in the notice board/website where NIB was displayed.

**53. Cancellation of procurement process :-**

- (1) A Procuring Authority may, for reasons to be recorded in writing, cancel the process of procurement initiated by it -
  - (a) at any time prior to the acceptance of the successful bid by the competent authority;
  - (b) after the successful bid is accepted; in accordance with sub-rules (2) and (3).
- (2) If the bidder whose bid has been accepted as successful fails to sign any written procurement contract as required, or fails to provide any required security for the performance of the contract, the Procuring Authority may cancel the procurement process.
- (3) If a bidder is convicted of any offence under the Act, the Procuring Authority may-
  - (a) cancel the relevant procurement process if the bid of the convicted bidder has been declared as successful but no procurement contract has been entered into;
  - (b) rescind the relevant contract or forfeit the payment of all or a part of the contract value if the procurement contract has been entered into between the Procuring Authority and the convicted bidder.

- (4) The decision of the Procuring Authority to cancel the process of procurement and reasons for such decision shall be immediately communicated to all bidders that participated in the procurement process.
- (5) A procurement process, once cancelled, shall not be reopened. However, this shall not prevent a Procuring Authority from initiating a new procurement process for the same procurement, if required.

**54. Right to vary quantity at the time of placing supply/work order :-**

- (1) At the time the contract is awarded, the quantity of goods, works or services originally specified in the bidding documents may be increased or decreased upto twenty percent without any change in the unit price or other terms and conditions of the bid and the bidding documents.
- (2) Repeat orders for extra items or additional quantities may be placed, if provided in the bidding document, on the rates and conditions given in the bid, provided the original order was given after inviting open competitive bids. Delivery / completion period may also be proportionately increased. The limits of repeat order shall be as follows –
  - (a) 50% of the quantity of the individual items subject to 20% of the value of originally tendered and finalized contract in case of works;
  - (b) 25% of the value of goods and services originally tendered and finalized contract.
- (3) If the Procuring Authority does not procure any of the tendered quantities of subject matter of procurement or procures less than the quantity indicated in the bid documents due to changed circumstances, the bidder shall not be entitled to any claim/compensation.

**55. Dividing quantities among more than one bidder at the time of award :-**

As a general rule all the quantities of the subject matter of procurement required to be procured through a bid inquiry shall be procured from the lowest responsive bidder. However, when it is considered that the quantity of the subject matter of procurement to be procured is very large and it may not be in the capacity of the lowest bidder to deliver the entire quantity or when it is considered that the subject matter of procurement to be procured is of critical and vital nature, then in such cases, the quantity may be divided between the lowest and the second lowest bidders or even more bidders in that order, in a fair, transparent and equitable manner at the rates of the lowest bidder after negotiations, provided that such condition already exists in the bidding documents.

**56. Signing of contract agreement and entry into force of procurement contract :-**

- (1) Unless a written procurement is required, a procurement contract in accordance with the terms and conditions of the successful submission enters into force when the letter of acceptance is dispatched to the bidder concerned.
- (2) The Procuring Authority and the bidder concerned shall sign the procurement contract within a reasonable period of time, normally 21 days, after the letter of acceptance is dispatched to the bidder concerned.

- (3) The procurement contract enters into force when the contract is signed by the bidder concerned and by the Procuring Authority.
- (4) Where the bidding documents stipulate that the procurement contract is subject to approval by another authority, the procurement contract shall not enter into force before the approval is given. The solicitation documents shall specify the estimated period of time following dispatch of the letter of acceptance that will be required to obtain the approval.
- (5) If the bidder whose bid has been accepted fails to sign any written procurement contract as required or fails to provide any required security for the performance of the contract, the Procuring Authority may either cancel the procurement or decide to select the next successful submission from among those remaining in effect, in accordance with the criteria and procedures set out in the bidding documents. In the latter case, the provisions of this rule shall apply mutatis mutandis to such submission.

#### **57. Performance security :-**

Performance security acts as a safeguard against unsatisfactory performance or violation of contract agreement by the supplier/contractor of the contract.

- (1) Performance security shall be solicited from successful bidder except undertakings, corporations, autonomous bodies, registered societies, cooperative societies which are controlled/managed by Government, Government undertakings and companies of Union Government and Government of Mizoram. However, a Bid Performance Security Declaration will be taken from them.
- (2) The amount of performance security shall be five percent of the amount of supply order in case of procurement of goods and services and ten percent of the amount of work order in case of procurement of works.
- (3) For contracts valuing below rupees one lakh, performance security shall not be necessary.
- (4) Performance security should be deposited within 21 days from the date of issue of Letter of Acceptance.
- (5) Performance security shall be furnished in the following forms:
  - (a) Banker's Cheque of a scheduled bank;
  - (b) National Savings Certificates and any other script/instrument under National Savings Schemes for promotion of small savings issued by a Post Office in Mizoram, if the same can be pledged under the relevant rules. They shall be accepted at their surrender value at the time of bid and formally transferred in the name of Procuring Authority with the approval of Head Post Master;
  - (c) Bank guarantee. It shall be immediately got verified from the issuing bank. Other conditions regarding bank guarantee shall be same as mentioned in the rule for bid security;
  - (d) Fixed Deposit Receipt of a Scheduled Bank. The Procuring Authority shall ensure before accepting the Fixed Deposit Receipt that the bidder furnishes an undertaking from the bank or Post Office/NSC to make payment / premature payment of the security to the Procuring

Authority on demand without requirement of consent of the bidder concerned. In the event of forfeiture of the FDR or NSC, the FDR will be forfeited along with interest earned.

- (6) Performance security shall remain valid for a period of 60 days beyond the date of completion of all contractual obligations of the supplier/contractor, including warranty obligations – maintenance period/defect liability period.

**58. Execution of contract agreement :-**

The following general principles should be observed while entering into contracts:—

- (1) The terms of contract must be precise, definite and without any ambiguities. The terms should not involve an uncertain or indefinite liability, except in the case of a cost plus contract or where there is a price variation clause in the contract.
- (2) Standard forms of contracts should be adopted wherever possible, with such modifications as are considered necessary in respect of individual contracts. The modifications should be carried out only after obtaining financial and legal advice.
- (3) In cases where standard forms of contracts are not used, legal and financial advice should be taken in drafting the clauses in the contract.
- (4)
  - (a) A Department may, on the recommendation of appropriate Advisory/Purchase Board/Committee, make purchases of value up to Rupees two lakh and fifty thousand by issuing purchase orders containing basic terms and conditions;
  - (b) In respect of Works Contracts, or Contracts for purchases valued between Rupees one lakh to Rupees ten lakhs, where tender documents include the General Conditions of Contract (GCC), Special Conditions of Contract (SCC) and scope of work, the letter of acceptance will result in a binding contract;
  - (c) In respect of contracts for works with estimated value of Rupees ten lakhs or above or for purchase above Rupees ten lakhs, a Contract document should be executed, with all necessary clauses to make it a self contained contract. If however, these are preceded by Invitation to Tender, accompanied by GCC and SCC, with full details of scope and specifications, a simple one page contract can be entered into by attaching copies of the GCC and SCC, and details of scope and specifications, Offer of the Tenderer and letter of Acceptance;
  - (d) Contract document should be invariably executed in cases of turnkey works or agreements for maintenance of equipment, provision of services etc.
- (5) Contract document, where necessary, should be executed within 21 days of the issue of letter of acceptance on a non-judicial stamp paper of prescribed value at his cost. Non fulfilment of this condition of executing a contract by the Contractor or Supplier would constitute sufficient ground for annulment of the award and forfeiture of Earnest Money Deposit.

- (6) Cost plus contracts should ordinarily be avoided. Where such contracts become unavoidable, full justification should be recorded before entering into the contract. If it is entered into, procedure laid down in GFR 2017 shall be followed.
- (7) If any provision is made for price variation in the contract, the procedures laid down in rule 225 (viii) of GFR 2017 shall be followed.
- (8) Contracts should include provision for payment of all applicable taxes by the contractor or supplier.
- (9)
  - (a) In contracts where government property is entrusted to a contractor either for use on payment of hire charges or for doing further work on such property, specific provision for safeguarding government property (including insurance cover) and for recovery of hire charges regularly, should be included in the contracts;
  - (b) Provision should be made in the contract for periodical physical verification of the number and the physical condition of the items at the contractor's premises. Results of such verification should be recorded and appropriate penal action taken where necessary.
- (10)
  - (a) The terms of a contract, including the scope and specification once entered into, should not be materially varied;
  - (b) Wherever material variation in any of the terms or conditions in a contract becomes unavoidable, the financial and other effects involved should be examined and recorded and specific approval of the authority competent to approve the revised financial and other commitments obtained, before varying the conditions;
  - (c) All such changes should be in the form of an amendment to the contract duly signed by all parties to the contract.
- (11) Normally no extensions of the scheduled delivery or completion dates should be granted except where events constituting force majeure, as provided in the contract, have occurred or the terms and conditions include such a provision for other reasons. Extensions as provided in the contract may be allowed through formal amendments to the contract duly signed by parties to the contract.
- (12) All contracts shall contain a provision for recovery of liquidated damages for defaults on the part of the contractor. Only in exceptional circumstances to be justified by procuring entity in writing, an exemption from such provision can be made.
- (13) Contracts may, as the case may be, contain a provision for recovery of liquidated damages for defaults on the part of the contractor.
- (14) A warranty clause should be incorporated in every contract, requiring the supplier to, without charge, repair or rectify defective goods or to replace such goods with similar goods free from defect. Any goods repaired or replaced by the supplier shall be delivered at the buyers premises without costs to the buyer.



(15) All contracts for supply of goods should reserve the right of Government to reject goods which do not conform to the specifications.

(16) No claim for the payment from contractor shall be entertained after the lapse of three years of arising of the claim.

**59. Maintenance Contract :-**

Depending on the cost and nature of the goods to be purchased, it may also be necessary to enter into maintenance contract(s) of suitable period either with the supplier of the goods or with any other competent firm, not necessarily the supplier of the subject goods. Such maintenance contracts are especially needed for sophisticated and costly equipment and machinery. It may, however, be kept in mind that the equipment or machinery is maintained free of charge by the supplier during its warranty period or such other may provide and the paid maintenance should commence only thereafter.

**60. Advance payment to supplier :-**

Ordinarily, payments for services rendered or supplies made should be released only after the services have been rendered or supplies made. However, it may become necessary to make advance payments for example in the following types of cases :-

- (1) Advance payment demanded by firms holding maintenance contracts for servicing of Air- conditioners, computers, other costly equipment, etc.
- (2) Advance payment demanded by firms against fabrication contracts, turn-key contracts etc.

Such advance payments should not exceed the following limits:

- (a) Thirty per cent. of the contract value to private firms;
- (b) Forty per cent. of the contract value to a State or Central Government agency or a Public Sector Undertaking; or
- (c) in case of maintenance contract, the amount should not exceed the amount payable for six months under the contract.

**61. Part payment to suppliers :-**

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

**62. Mobilization Advance in respect of works :-**

- (1) Advances to contractors are, as a rule, prohibited and payments to contractors should not be made until detailed measurements of the work have been taken and recorded. CPWD Works Manual also lays down provision of mobilization advance in respect of certain specialized and capital-intensive works with estimated cost of ₹ 2.00 crore and above put to tender, which is limited to 10% of tendered amount at 10% simple interest per annum.

- (2) Departments should use their discretion carefully in deciding whether any particular work shall be considered as specialized or capital intensive one. If the departments considered the works to be specialized and capital-intensive requiring mobilization advance, prior concurrence of Finance Department (Expenditure Control) will have to be taken before making any mobilization advance to the contractors.

**63. Secured advances in respect of work**

- (1) Secured Advances on the security of materials brought to the construction site may be made to the contractors for items which are to be used on work.
- (2) The Procuring Authority can sanction the secured advance up to an amount not exceeding 90% of the value of the materials as assessed by the Engineer-in-charge, or an amount not exceeding 90% of the material element cost in the tendered rate of the finished item of work, whichever is lower.
- (3) A formal agreement should be drawn up with the contractor under which Government secures a lien on the materials and is safeguarded against losses due to the contractor postponing the execution of the work or due to shortage or misuse of the materials, and against the expense entailed for their proper watch and safe custody.
- (4) Payment of such advances should be made only on the certificate of an officer not below the rank of Sub-Divisional Officer that:
  - (a) The quantities of materials for which the advances are made have actually been brought to site;
  - (b) Full quantities of the materials, for which advance is to be made, are required by the contractor for use on items of work for which rates for finished work have been agreed upon;
  - (c) The quality of materials is as per the specifications.
- (5) Recoveries of advances so made should not be postponed until the whole of the work entrusted to the contractor is completed. They should be made from his bills for work done as the materials are used, the necessary deductions being made whenever the items of work in which they are used are billed for.
  - (a) Secured advance shall be granted only for non-perishable items. The Officer in charge shall identify whether an item is perishable or not;
  - (b) Where stage payments are stipulated in certain contracts, like for Electrical and Mechanical (E&M) and other specialized works, such payments shall not be treated as secured advance.

**64. Code of integrity for procuring authorities and bidders :-**

- (1) No official of a Procuring entity or a bidder shall act in contravention of the codes of integrity.
- (2) The codes of integrity referred to sub-rule (1) includes:-
  - (a) Prohibition of -
    - (i) making offer, solicitation or acceptance of any bribe, reward or gift or any material benefit, either directly or indirectly, in

- exchange for an unfair advantage in the procurement process or to otherwise influence the procurement process;
- (ii) any omission, including a misrepresentation that misleads or attempts to mislead so as to obtain a financial or other benefit or avoid an obligation;
  - (iii) any collusion, bid rigging or anti-competitive behaviour that may impair the transparency, fairness and progress of the procurement process;
  - (iv) improper use of information provided by the Procuring entity to the bidders with an intent to gain unfair advantage in the procurement process or for personal gain;
  - (v) any financial or business transactions between the bidder and any officer or employee of the Procuring Authority which can affect the decision of the Procuring Authority directly or indirectly;
  - (vi) any coercion including impairing or harming or threatening to do the same, directly or indirectly, to any party or to its property to influence the procurement process;
  - (vii) any obstruction of any investigation or audit of a procurement process;
  - (viii) making false declaration or providing false information for participation in a tender process or to secure a contract;
- (b) the Procuring Authority or bidders shall disclose conflicts of interest, if there are any;
  - (c) the bidder shall disclose any previous transgressions with any Authority in India or any other country during the last three years or of any debarment by any other Procuring Authority.

**65. Debarment from bidding :-**

- (1) A bidder shall be debarred by the State Government if he has been convicted of any offence by a court:
  - (a) under the Prevention of Corruption Act, 1988; or
  - (b) under the Indian Penal Code or any other law for the time being in force for causing any loss of life or property or causing a threat to public health or to any other legal liability to a Procuring entity as part of execution of a public procurement contract.
- (2) A bidder debarred under sub-rule (1) or any successor of the bidder shall not be eligible to participate in a procurement process of any Procuring Authority for a period not exceeding three years commencing from the date on which he was debarred.
- (3) If a Procuring Authority finds that a bidder has breached the code of integrity, it may debar the bidder for a period not exceeding three years in any procurement process undertaken by the same Procuring Authority.

- (4) Where the entire bid security or the entire performance security or any substitute thereof, as the case may be, of a bidder has been forfeited in respect of any procurement process or procurement contract undertaken by a Procuring Authority, the bidder may be debarred from participating in any procurement process undertaken by the same Procuring Authority for a period not exceeding three years.
- (5) The State Government or a Procuring Authority, as the case may be, shall not debar a bidder under this rule unless such bidder has been given a reasonable opportunity of being heard.

**66. Action to be taken in case of breach of code of integrity :-**

Without prejudice to the provisions of Chapter II of the Act, in case of any breach of the code of integrity by a bidder or prospective bidder, as the case may be, the Procuring Authority may take appropriate measures including-

- (1) exclusion of the bidder from the procurement process.
- (2) calling off of pre-contract negotiations and forfeiture or encashment of bid security or any other security or bond relating to the procurement.
- (3) recovery of payments made by the Procuring Authority along with interest thereon at bank rate.
- (4) cancellation of the relevant contract and recovery of compensation for loss incurred by the Procuring Authority.
- (5) debarment of the bidder from participation in future procurements of the Procuring Authority for a period not exceeding three years, if punished under section 23 of the Act.

## CHAPTER- V

### PROCUREMENT OF SERVICES

#### A. CONSULTING SERVICES

**67. Utilization of Consulting Services :-**

- (1) The Departments may hire external professionals, consultancy firms or consultants (referred to as consultant hereinafter) for a specific job, which is well defined in terms of content and time frame for its completion.
- (2) Engagement of consultants may be resorted to in situations requiring high quality services for which the concerned Department does not have requisite expertise. Administrative Approval and Expenditure Sanction should be obtained from Finance Department through the Administrative Department for engaging consultant(s).

**68. Preparation of scope of the required Consultant(s) :-**

The Departments should prepare in simple and concise language the requirement, objectives and the scope of the assignment. The eligibility and prequalification criteria to be met by the consultants should also be clearly identified at this stage.

**69. Estimating reasonable expenditure :-**

Department proposing to engage consultant(s) should estimate reasonable expenditure for the same by ascertaining the prevalent market conditions and consulting other organisations engaged in similar activities.

**70. Identification of likely sources :-**

- (1) Where the estimated cost of the consulting service is up to Rupees twenty-five lakh, preparation of a long list of potential consultants may be done on the basis of formal or informal enquiries from the Ministries or Departments or Organisations involved in similar activities, Chambers of Commerce & Industry, Association of consultancy firms or from the list of empanelled firms under Government of Mizoram.
- (2) Where the estimated cost of the consulting services is above Rupees twenty-five lakhs, in addition to (i) above, an enquiry for seeking 'Expression of Interest' from consultants should be published on Central Public Procurement Portal (CPPP) at [www.eprocure.gov.in](http://www.eprocure.gov.in) or State Public Procurement Portal at [www.mizoramtenders.gov.in](http://www.mizoramtenders.gov.in) and or GeM. An organisation having its own website should also publish all its advertised tender enquiries on the website. Enquiry for seeking Expression of Interest should include in brief, the broad scope of work or service, inputs to be provided by the Department, eligibility and the pre-qualification criteria to be met by the consultant(s) and consultant's past experience in similar work or service. The consultants may also be asked to send their comments on the objectives and scope of the work or service projected in the enquiry.

Adequate time should be allowed for getting responses from interested consultants.

- (3) (i) On the basis of responses received from the interested parties as per sub- rule (1) and (2) above, consultants meeting the requirements should be short listed for further consideration. The number of short listed consultancy firms should not be less than three.
- (ii) When EoI is responded by 10 or more firms, the following criteria with their respective weightage should mainly be followed for short listing of consultancy firms. Benchmark should be a score of 50%.

Sl. No.	Criteria	Weightage
1	<b>Experience of the firm</b>	<b>60%</b>
	Number of years experience	20%
	Experience of studies of similar nature	50%
	Experience in carrying out studies in related sector	20%
	Studies carried out in India	10%
2	<b>Experience of Key Personnel</b>	<b>25%</b>
	Qualifications	30%
	Relevant experience	70%
3	<b>Financial strength of the Consultant</b>	<b>15%</b>
	Turnover figure for last three years	50%
	Net profit figure for last three years	50%

#### 71. Preparation and Issue of Request for Proposal (RFP) :-

The Request for Proposal (RFP) should be issued to the shortlisted consultants to seek their technical and financial proposals. The RFP should contain :

- (1) A letter of Invitation.
- (2) Information to Consultants regarding the procedure for submission of proposal.
- (3) Terms of Reference (ToR).
- (4) Eligibility and pre-qualification criteria in case the same has not been ascertained through Enquiry for Expression of Interest.
- (5) List of key position whose CV and experience would be evaluated.
- (6) Bid evaluation criteria and selection procedure.
- (7) Standard formats for technical and financial proposal.
- (8) Proposed contract terms.
- (9) Procedure proposed to be followed for midterm review of the progress of the work and review of the final draft report.

#### 72. Preparation of Terms of Reference (ToR) :-

The ToR should include :-

- (1) Precise statement of objectives.
- (2) Outline of the tasks to be carried out.
- (3) Schedule for completion of tasks.
- (4) The support or inputs to be provided by the Department to facilitate the consultancy.
- (5) The final outputs that will be required of the Consultant.

**73. Receipt and opening of proposals :-**

Proposals should ordinarily be asked for from consultants in 'Two bid' system with technical and financial bids sealed separately. The bidder should put these two sealed envelopes in a bigger envelop duly sealed and submit the same to the Department by the specified date and time at the specified place. On receipt, the technical proposals should be opened first by the Bid Opening Committee at the specified date, time and place.

**74. Late Bids :-**

Late bids i.e. bids received after the specified date and time of receipt should not be considered.

**75. Evaluation of Technical Bids :-**

- (i) Technical bids should be analysed and evaluated by a Bid Evaluation Committee (BEC) constituted by the Department. If any technical proposal is rejected, the BEC shall record in detail the reasons for such rejection. The Procuring Authority, on the recommendation of BEC, shall declare the list of technically qualified firms.
- (ii) For evaluation of technical proposal, BEC shall take into account criteria as prescribed in the RFP. The criteria and their respective weightage would depend on the requirements of each case and may be fixed objectively. A model scheme of maximum marks is proposed as under :-

<u>Details</u>	<u>Max. marks</u>
(1) Experience of the firm	20
(2) Methodology, work plan and understanding of TOR	25
(3) Suitability of the Key personnel for the assignment	45
(4) Capability of Transfer of Knowledge/training	<u>10</u>
<b>TOTAL</b>	<b>100</b>

**76. Evaluation of Financial Bids of the technically qualified bidders :-**

- (1) The Bid Evaluation Committee shall open the financial bids of only those bidders who have been declared technically qualified as per rule 75 above for further analysis or evaluation.
- (2) The Bid Evaluation Committee shall prepare the score sheet of financial bids of the technically qualified bidders. (See para 1.9 of Appendage 1).
- (3) The Bid Evaluation Committee shall, therefore, prepare a combine score sheet of technical bid and financial bid of the qualified bidders to be placed before the concerned Work Advisory Board. The weightage to be given for technical score may be 80, 70, 60 or 50 out of 100, as the case may be.

**77. Methods of Selection/ Evaluation of Consultancy Proposals :-**

The Work Advisory Board shall select the Consultancy Firm following any of the methods given in rule 78 to 80 as appropriate and should be based on the evaluation of the Bid Evaluation Committee.

**78. Quality and Cost Based Selection (QCBS) :-**

QCBS may be used for Procurement of consultancy services, where quality of consultancy is of prime concern.

- (1) In QCBS initially the quality of technical proposals is scored as per criteria announced in the RFP. Only those responsive proposals that have achieved at least minimum specified qualifying score in quality of technical proposal are considered further.
- (2) After opening and scoring, the Financial proposals of responsive technically qualified bidders, a final combined score is arrived at by giving predefined relative weight ages for the score of quality of the technical proposal and the score of financial proposal.
- (3) The RFP shall specify the minimum qualifying score for the quality of technical proposal and also the relative weight ages to be given to the quality and cost (determined for each case depending on the relative importance of quality vis-a-vis cost aspects in the assignment, e.g. 80:20, 70:30, 60:40, 50:50). The proposal with the highest weighted combined score (quality and cost) shall be selected.
- (4) The weight age of the technical parameters i.e. non- financial parameters in no case should exceed 80 percent.

**79. Least Cost System (LCS) :-**

LCS is appropriate for assignments of a standard or routine nature (such as audits and engineering design of non-complex works) where well established methodologies, practices and standards exist. Unlike QCBS, there is no weightage for Technical score in the final evaluation and the responsive technically qualified proposal with the lowest evaluated cost shall be selected.

**80. Single Source Selection/Consultancy by nomination :-**

The selection by direct negotiation/nomination, on the lines of Single Tender mode of procurement of goods, is considered appropriate only under exceptional circumstance such as:

- (1) tasks that represent a natural continuation of previous work carried out by the firm.
- (2) in case of an emergency situation, situations arising after natural disasters, situations where timely completion of the assignment is of utmost importance.
- (3) situations where execution of the assignment may involve use of proprietary techniques or only one consultant has requisite expertise.
- (4) Under some special circumstances, it may become necessary to select a particular consultant where adequate justification is available for such single-source selection in the context of the overall interest of the Department.
- (5) Full justification for all single source selection should be recorded in the file and recommendation of the Works Advisory Board (WAB) and approval of the concerned Minister, Finance Minister and Chief Minister should be obtained before resorting to such single-source selection.



- (6) It shall ensure fairness and equity, and shall have a procedure in place to ensure that the prices are reasonable and consistent with market rates for tasks of a similar nature; and the required consultancy services are not split into smaller sized procurement.

**81. Monitoring the Contract :-**

The Department should be involved throughout in the conduct of consultancy, preferably by taking a task force approach and continuously monitoring the performance of the consultant(s) so that the output of the consultancy is in line with the Department's objectives.

**82. Public competition for Design of symbols/logos :-**

Design competition should be conducted in a transparent, fair and objective manner. Wide publicity should be given to the competition so as to ensure that the information is accessible to all possible participants in the competition. This should include publication on the website of Department concerned, as also the Central Public Procurement Portal and/or State Public Procurement Portal. If a selection is to be made by a jury of experts nominated for the purpose, the composition of the jury may also be notified.

**83. Consultancy Firm not to be used for execution of works :-**

The firm engaged for consultancy should not be used for execution of the works unless the funding agency of the project/work insists on the project / work being undertaken on Turnkey / Design-Build-Construct basis.

## **B. OUTSOURCING OF SERVICES**

### **84. Procurement of Non-consulting Services :-**

A Department may procure certain non-consulting services in the interest of economy and efficiency and it may prescribe detailed instructions and procedures for this purpose without, however, contravening the basic guidelines in the succeeding provisions.

### **85. Identification of likely contractors :-**

The Department should prepare a list of likely and potential contractors on the basis of formal or informal enquiries from other Departments and Organisations involved in similar activities, scrutiny of 'Yellow pages', and trade journals, if available, web site etc.

### **86. Preparation of Tender enquiry :-**

Department should prepare a tender enquiry containing, inter alia :

- (1) The details of the work or service to be performed by the contractor.
- (2) The facilities and the inputs which will be provided to the contractor by the Department.
- (3) Eligibility and qualification criteria to be met by the contractor for performing the required work/service.
- (4) The statutory and contractual obligations to be complied with by the contractor.

### **87. Invitation of Bids :-**

- (1) For estimated value of the non-consulting service up to Rupees ten lakh or less, the Department should scrutinise the preliminary list of likely contractors as identified as per Rule 86 above, decide the prima facie eligible and capable contractors and issue limited tender enquiry to them asking for their offers by a specified date and time etc. as per standard practice. The number of the contractors so identified for issuing limited tender enquiry should be more than three.
- (2) For estimated value of the non-consulting service above Rs.10 lakh, the Department should issue open advertisement in such case should be given on State Public Procurement Portal/ Central Public Procurement Portal(CPPP) at [www.eprocure.gov.in](http://www.eprocure.gov.in) or on GeM. A Department having its own website should also publish all its advertised tender enquiries on the website. The advertisements for invitation of tenders should give the complete web address from where the bidding documents can be downloaded.

### **88. Late Bids :-**

Bids received after the specified date and time of receipt should not be considered.

**89. Evaluation of Bids Received :-**

The Bid Evaluation Committee constituted by the Department should evaluate, segregate, rank the responsive bids and the concerned Work Advisory Board should select the successful bidder for placement of the contract.

**90. Procurement of Non-consulting services by nomination :-**

Should it become necessary, in an exceptional situation to procure a non-consulting service from a specifically chosen contractor, the Department may do so after obtaining concurrence of Finance Department. In such cases the detailed justification, the circumstances leading to such procurement by choice and the special interest or purpose it shall serve, shall form an integral part of the proposal. The cost of such service in no case should exceed Rupees 10 lakh per annum and should not be engaged for more than two continuous years.

**91. Monitoring the Contract :-**

The Department should be involved throughout the conduct of the contract and continuously monitor the performance of the contractor.

## CHAPTER VI

### WORKS

#### 92. Powers to execute works :-

The powers delegated to various authorities to accord administrative approval, expenditure sanction and re-appropriate funds for works are regulated by the re-delegation of financial powers under Delegation of Financial Powers Rules 1978 and other orders issued by Finance Department from time to time.

- (1) Non-Works Department/Office at its discretion may execute repair works/petty works upto the delegated powers and annual ceiling fixed in the re-delegation of financial powers after following due procedures indicated below:
  - (a) Fund is available under appropriate head of account;
  - (b) A detailed design with estimates prepared by PWD/qualified Engineer is available.
- (2) Non-works Departments having technical personnel with supporting technical staff will execute works upto their executive powers delegated by Finance Department from time to time. They should follow the provisions under rule 95, 97, 98 and 99 for tendering, evaluation and award of the works.
- (3) Non-Works Department may, at its discretion, assign original works and also repair works/minor works estimated to cost above their delegated powers, to State Public Works Department.
- (4) As an alternative to sub rule (3) above, Non-Works Department may award original works and also repair works/petty works estimated to cost above financial powers delegated to the procuring authority to the firms empanelled by Finance Department for the appropriate works. For awarding works to empanelled firms, the department will follow rule 95, 96, 98 and 99.

#### 93. Execution of works by PSU :-

As an alternative to sub-rule (3) and (4) of rule 92, a Department may award repair works and original works of any value to :

- (1) any Public Sector Undertaking set up by the Central or State Government to carry out civil or electrical works or
- (2) to any other Central / State Government organisation /PSU which may be notified by Govt of India or Govt. of Mizoram for such purpose after evaluating their financial strength and technical competence.
- (3) For awarding work under sub-rule (1) and (2) above, rule 95, 98 and 99 should be followed.

**94. Work under Works Departments :-**

Works not specifically allotted to any Department shall be included in the Grants for Civil Works to be administered by Public Works Department. No such work may be financed partly from funds provided in departmental budget and partly from the budget for Civil works as mentioned above.

**95. General Rules :-**

Subject to the observation of these general rules, rule 5 may also be observed while initiating, authorizing and executing works.

- (1) No works shall be commenced or liability incurred in connection with it until:
  - (a) administrative approval has been obtained from the appropriate authority in each case as laid down in rule 34 or 35.
  - (b) sanction to incur expenditure has been obtained from the competent authority as laid down in rule 34 or 35.
  - (c) a properly detailed design has been sanctioned;
  - (d) estimates containing the detailed specifications and quantities of various items have been prepared on the basis of the Schedule of Rates maintained by Mizoram PWD;
  - (e) funds to cover the charge during the year have been provided;
  - (f) tenders invited and processed in accordance with rules.
  - (g) a Work Order is issued.
- (2) On grounds of urgency or otherwise, if it becomes necessary to carry out a work or incur a liability under circumstances when the provisions set out under sub rule 1 of rule 100 cannot be complied with, the concerned Procuring Authority may do so on his own judgment and responsibility.

Simultaneously, he should initiate action to obtain ex-post facto approval from the competent authority within 7 (seven) days from the date of commencement of such work.
- (3) Any addition of work which is not contingent on the execution of work as first sanctioned, but considered necessary while a work is in progress, shall have to be covered by a supplementary estimate and fresh Administrative approval shall have to be obtained.
- (4) Any anticipated or actual savings from a sanctioned estimate for a definite project, shall not, without special authority, be applied to carry out additional work not contemplated in the original project.
- (5) Works under Public Work Department shall be regulated in accordance of CPWD Accounts Codes and Works Manual.
- (6) Department shall put in place, as far as possible, empowered project teams for all large value projects and these teams should be tasked only with project execution and not given other operational duties.

**96. Execution of works through Empanelled Firms :-**

- (1) As permissible under sub-rule (4) of rule 92, Non-Works Department may award original works and also repair works/petty works estimated to cost above financial powers delegated to the procuring authority to the firms empanelled by Finance Department for the appropriate works. For awarding works to empanelled firms, the department will follow rule 95 and also rule 67 to rule 83 for procurement of Consultancy Services.
- (2) Where the estimated cost of the work is up to Rupees Twenty-Five Lakh, preparation of a list of at least three potential firms may be done on the basis of formal or informal enquiries from the Ministries or other State Governments or Organizations involved in similar activities or from the firms empanelled by Govt. of Mizoram, Finance Department for the appropriate works.
- (3) Where the estimated cost of the work is above Rupees twenty-five lakhs, in addition to sub-rule (2) above, an enquiry for seeking 'Expression of Interest' from firms should be published on Central Public Procurement Portal (CPPP) at [www.eprocure.gov.in](http://www.eprocure.gov.in) or State Public Procurement Portal at [www.mizoramtenders.gov.in](http://www.mizoramtenders.gov.in) and or GeM. An organisation having its own website should also publish all its advertised tender enquiries on the website. Enquiry for seeking Expression of Interest should include in brief, the broad scope of work or service, inputs to be provided by the Department, eligibility and the pre-qualification criteria to be met by the firms and the firm's past experience in similar work or service. The firms may also be asked to send their comments on the objectives and scope of the work or service projected in the enquiry. Adequate time should be allowed for getting responses from interested firms.
- (4) On the basis of responses received from the interested parties as per sub-rule (2) and (3) above, firms meeting the requirements should be short listed for further consideration. The number of short listed firms should not be less than three.
- (5) Request for Proposal (RFP) should be issued to the shortlisted consultants to seek their technical and financial proposals. The RFP should contain:
  - (a) A letter of Invitation;
  - (b) Procedure for submission of proposal.
  - (c) Terms of Reference (TOR).
  - (d) List of key position whose CV and experience would be evaluated.
  - (e) Bid evaluation criteria and selection procedure.
  - (f) Standard formats for technical and financial proposal.
  - (g) Proposed contract terms.
- (6) Proposals should ordinarily be asked for from firms in 'Two bid' system with technical and financial bids sealed separately. On receipt, the technical proposals should be opened first by the Bid Opening Committee at the specified date, time and place.

- (7) The TOR should include –
- (a) Precise statement of objectives;
  - (b) Scope/Outline of the tasks to be carried out;
  - (c) Schedule for completion of tasks;
  - (d) The support or inputs to be provided by the Department to facilitate the construction;
  - (e) The final outputs that will be required of the Firm.

**97. Procedure for Execution of Works by Non-Works Department having technical personnel :-**

The broad procedure to be followed by a Non-Works Department having technical personnel for execution of works under its own arrangements shall be as under :-

- (1) preparation of detailed design and estimates shall precede any sanction for works;
- (2) no work shall be undertaken before Issue of Administrative Approval by the competent Authority on the basis of estimates framed;
- (3) Open tenders (Open Competitive Bidding) will be called for works costing Rupees Five Lakh and above in accordance with rule 15;
- (4) Limited Tenders will be called for works costing less than Rupees Five Lakh following the procedures prescribed in rule 16;
- (5) The Procuring Authority shall obtain approval of next higher authority in the hieratical, on the list of restricted firms before issue of invitation to the firms;
- (6) execution of Contract Agreement or Award of work should be done before commencement of the work;
- (7) final payment for work shall be made only on the Personal Certificate of the Officer-in-charge of execution of the work in the format given below:

“I ..... (Name of the Executing Officer with designation) of ..... (Name of the Work), am personally satisfied that the work has been executed as per the specifications laid down in the Contract Agreement and the workmanship is up to the prescribed standards.”

**98. Evaluation :-**

- (1) The Bid Evaluation Committee will evaluate the bids in accordance with the evaluation criteria already incorporated in the bidding documents.
- (2) Bids responses received and evaluated by the Bid Evaluation Committee for tendered works and services shall be placed before concerned Works Advisory Board for their consideration.
- (3) On receiving the recommendation of the Work Advisory Board, the Procuring Authority shall obtain acceptance of the Administrative Department with the approval of concerned Minister.

**99. Review of Projects :-**

After a project costing ₹ 100 crore or above is approved, the Administrative Department will set up a Review Committee consisting of a Representative each from the Administrative Department, Finance Department and the Executing Agency to review the progress of the work. The Review Committee shall have the powers to accept variation within 10% of the approved estimates. For works costing less than ₹ 100 crore, it will be at the discretion of the Administrative Department to set up a suitable mechanism for review and acceptance of variation within 10% of the approved estimates.



## **CHAPTER VII**

### **INVENTORY MANAGEMENT**

#### **100. Basic Rule :-**

This chapter contains the basic rules applicable to all Departments regarding inventory management. Detailed instructions and procedures relating to inventory management may be prescribed by various Departments broadly in conformity with the basic rules contained in this chapter.

#### **101. Receipt of goods and materials from private suppliers :-**

- (1) All Departments or Offices should identify one responsible officer within the office as officer-in-charge of stores in order to maintain transparency and accountability.
- (2) While receiving goods and materials from a supplier, the officer-in-charge of stores should refer to the relevant contract terms and follow the prescribed procedure for receiving the materials.
- (3) All materials shall be examined, counted, measured or weighed and subjected to visual inspection at the time of receipt to ensure that the quantities are correct, the quality is according to the required specifications and there is no damage or deficiency in the materials under the supervision of the officer-in-charge of stores. Technical inspection where required should be carried out at this stage by Technical personnel or Agency approved for the purpose. An appropriate receipt, in terms of the relevant contract provisions may also be given to the supplier on receiving the materials.
- (4) Details of the material so received should thereafter be entered in the appropriate stock register, preferably in an IT-based system. The officer-in-charge of stores should certify that he has actually received the material and recorded it in the appropriate stock registers.

#### **102. Receipt/issue of goods and materials from internal divisions of the same organisation :-**

- (1) The indenting officer requiring goods and materials from internal division(s) of the same organisation should project an indent in the prescribed form for this purpose. While receiving the supply against the indent, the indenting officer shall examine, count, measure or weigh the materials as the case may be, to ensure that the quantities are correct, the quality is in line with the required specifications and there is no damage or deficiency in the materials. An appropriate receipt shall also be given to this effect by the indenting officer to the division sending the materials.
- (2) In the case of issue of materials from stock for departmental use, manufacture, sale, etc., the Officer-in charge of the stores shall see that an appropriate indent, in the prescribed form has been projected by the indenting officer. A written/online acknowledgement of receipt of material issued shall be obtained from the indenting officer or his authorised representative at the time of issue of materials.

- (3) In case of materials issued to a contractor, the cost of which is recoverable from the contractor, all relevant particulars, including the recovery rates and the total value chargeable to the contractor should be got acknowledged from the contractor duly signed and dated.
- (4) If the Officer-in-charge of the stores is unable to comply with the indent in full, he should make the supply to the extent available and make suitable entry to this effect in the indentor's copy of the indent. In case alternative materials are available in lieu of the indented materials, a suitable indication to this effect may be made in the document.

### **103. Custody of goods and materials :-**

The officer-in-charge of stores having custody of goods and materials, especially valuable and/or combustible articles, shall take appropriate steps for arranging their safe custody, proper storage accommodation, including arrangements for maintaining required temperature, dust free environment etc.

### **104. Lists and Accounts :-**

- (1) The Officer-in-charge of stores shall maintain suitable item-wise lists and accounts and prepare accurate returns in respect of the goods and materials in his charge making it possible at any point of time to check the actual balances with the book balances.

The form of the stock accounts mentioned above shall be determined with reference to the nature of the goods and materials, the frequency of the transactions and the special requirements of the concerned Departments.

- (2) Separate accounts shall be kept for –
  - (a) Fixed Assets such as plant, machinery, equipment, furniture, fixtures etc. in the Form GFR-22;
  - (b) Consumables such as office stationery, chemicals, maintenance spare parts etc. in the Form GFR-23;
  - (c) Library books in the Form GFR 18;
  - (d) Assets of historical/artistic value held by museum/government departments in the Form GFR-24.

*Note: These forms can be supplemented with additional details by Departments as required.*

### **105. Hiring out of Fixed Assets :-**

When a fixed asset is hired to local bodies, contractors or others, proper record should be kept of the assets and the hire and other charges as determined under rules prescribed by the competent authority, should be recovered regularly. Calculation of the charges to be recovered from the local bodies, contractors and others as above should be based on the historical cost.

**106. Verification of Fixed Assets :-**

**(1) Physical verification of Fixed Assets**

The inventory for fixed assets shall ordinarily be maintained at site. Fixed assets should be verified at least once in a year and the outcome of the verification recorded in the corresponding register. Discrepancies, if any, shall be promptly investigated and brought to account.

**(2) Verification of Consumables**

A physical verification of all the consumable goods and materials should be undertaken at least once in a year and discrepancies, if any, should be recorded in the stock register for appropriate action by the competent authority.

**(3) Procedure for verification**

- (a) Verification shall always be made in the presence of the officer, responsible for the custody of the inventory being verified.
- (b) A certificate of verification along with the findings shall be recorded in the stock register.
- (c) Discrepancies, including shortages, damages and unserviceable goods, if any, identified during verification, shall immediately be brought to the notice of the competent authority for taking appropriate action in accordance with provision given in rule 33 to 38 of General Financial Rules, 2017.

**107. Buffer Stock :-**

Depending on the frequency of requirement and quantity thereof as well as the pattern of supply of a consumable material, optimum buffer stock should be determined by the Head of Administrative Department.

*Note: As the inventory carrying cost is an expenditure that does not add value to the material being stocked, a material remaining in stock for over a year shall generally be considered surplus, unless adequate reasons to treat it otherwise exist. The items so declared surplus may be dealt as per the procedure laid down under rule 217 of General Financial Rules, 2017.*

**108. Physical verification of Library books :-**

- (1) Complete physical verification of books should be done every year in case of libraries having not more than twenty thousand volumes. For libraries having more than twenty thousand volumes and up to fifty thousand volumes, such verification should be done at least once in three years. Sample physical verification at intervals of not more than three years should be done in case of libraries having more than fifty thousand volumes. In case such verification reveals unusual or unreasonable shortages, complete verification shall be done.

- (2) Loss of five volumes per one thousand volumes of books issued/consulted in a year may be taken as reasonable provided such losses are not attributable to dishonesty or negligence. However, loss of a book of a value exceeding ₹ 1,000/- (Rupees One Thousand only) and rare books irrespective of value shall invariably be investigated and appropriate action taken.

**109. Transfer of charge of goods, materials etc :-**

In case of transfer of Officer-in-charge of the goods, materials etc., the transferred officer shall see that the goods or material are made over correctly to his successor. A statement giving all relevant details of the goods, materials etc., in question shall be prepared and signed with date by the relieving officer and the relieved officer. Each of these officers will retain a copy of the signed statement.

**110. Disposal of Goods :-**

- (1) An item may be declared surplus or obsolete or unserviceable if the same is of no use to the Department/Office. The reasons for declaring the item surplus or obsolete or unserviceable should be recorded by the authority competent to purchase the item.
- (2) The authority competent to purchase items may, at his discretion, constitute a committee at appropriate level to declare item(s) as surplus or obsolete or unserviceable.
- (3) The book value, guiding price and reserved price, which will be required while disposing of the surplus goods, should also be worked out. In case where it is not possible to work out the book value, the original purchase price of the goods in question may be utilised. A report of stores for disposal shall be prepared in Form GFR - 10.
- (4) In case an items becomes unserviceable due to negligence, fraud or mischief on the part of a Government servant, responsibility for the same should be fixed.
- (5) Sale of Hazardous waste/Scrap Batteries/Electronic waste: Scrap lots comprising of hazardous waste, batteries etc. shall be sold keeping in view of the guidelines/procedures prescribed by Government of Mizoram from time to time.

**111. Modes of Disposal :-**

- (1) Surplus or obsolete or unserviceable goods should be disposed of by :
  - (a) obtaining bids through advertised tender or
  - (b) public auction.
- (2) The mode of disposal will be determined by the authority competent to purchase goods under consideration for disposal, keeping in view the necessity to avoid accumulation of such goods and consequential blockage of space and, also, deterioration in value of goods to be disposed of. Departments should, as far as possible prepare a list of such goods.

- (3) Certain surplus or obsolete or unserviceable goods such as expired medicines, food grain, ammunition etc., which are hazardous or unfit for human consumption, should be disposed of or destroyed immediately by adopting suitable mode so as to avoid any health hazard and/or environmental pollution and also the possibility of misuse of such goods.
- (4) Surplus or obsolete or unserviceable goods, equipment and documents, which involve security concerns (e.g. currency, negotiable instruments, receipt books, stamps, security press etc.) should be disposed of/ destroyed in an appropriate manner to ensure compliance with rules relating to official secrets as well as financial prudence.

**112. Disposal through Advertised Tender :-**

- (1) The broad steps to be adopted for this purpose are as follows :

- (a) Preparation of bidding documents;
- (b) Invitation of tender for the surplus goods to be sold;
- (c) Opening of bids;
- (d) Analysis and evaluation of bids received;
- (e) Selection of highest responsive bidder;
- (f) Collection of sale value from the selected bidder;
- (g) Issue of sale release order to the selected bidder;
- (h) Release of the sold surplus goods to the selected bidder;
- (i) Return of bid security to the unsuccessful bidders.

- (2) The important aspects to be kept in view while disposing the goods through advertised tender are as under:-

- (a) The basic principle for sale of such goods through advertised tender is ensuring transparency, competition, fairness and elimination of discretion. Wide publicity should be ensured of the sale plan and the goods to be sold. All the required terms and conditions of sale are to be incorporated in the bidding documents comprehensively in plain and simple language. Applicability of taxes, as relevant, should be clearly stated in the document;
- (b) The bidding document should also indicate the location and present condition of the goods to be sold so that the bidders can inspect the goods before bidding;
- (c) The bidders should be asked to furnish bid security along with their bids. The amount of bid security should ordinarily be ten per cent. of the assessed or reserved price of the goods. The exact bid security amount should be indicated in the bidding document;
- (d) The bid of the highest acceptable responsive bidder should normally be accepted. However, if the price offered by that bidder is not acceptable, negotiation may be held only with that bidder. In case such negotiation does not provide the desired result, the reasonable or acceptable price may be counter offered to the next highest responsive bidder(s);

- (e) In case the total quantity to be disposed of cannot be taken up by the highest acceptable bidder, the remaining quantity may be offered to the next higher bidder(s) at the price offered by the highest acceptable bidder;
  - (f) Full payment, i.e. the residual amount after adjusting the bid security should be obtained from the successful bidder before releasing the goods;
  - (g) In case the selected bidder does not show interest in lifting the goods, the bid security should be forfeited and other actions initiated including re-sale of the goods in question at the risk and cost of the defaulter, after obtaining legal advice.
- (3) Late bids i.e. bids received after the specified date and time of receipt should not to be considered.

### **113. Disposal through Auction :-**

- (1) A Department or an office may undertake auction of goods to be disposed of either directly or through approved auctioneers.
- (2) The basic principles to be followed here are similar to those applicable for disposal through advertised tender so as to ensure transparency, competition, fairness and elimination of discretion. The auction plan including details of the goods to be auctioned and their location, applicable terms and conditions of the sale etc. should be given wide publicity in the same manner as is done in case of advertised tender.
- (3) The amount of bid security (earnest money) should not be less than twenty-five per cent. of the bid value. The exact percentage of bid security should be indicated in the bidding document.
- (4) While starting the auction process, the condition and location of the goods to be auctioned, applicable terms and conditions of sale etc., (as already indicated earlier while giving wide publicity for the same), should be announced again for the benefit of the assembled bidders.
- (5) During the auction process, acceptance or rejection of a bid should be announced immediately on the stroke of the hammer. If a bid is accepted, bid security should immediately be taken on the spot from the successful bidder either in cash or in the form of Deposit-at-Call-Receipt (DACR), drawn in favour of the Department or Office selling the goods. The goods should be handed over to the successful bidder only after receiving the whole price.
- (6) The composition of the auction team will be decided by the authority selling the goods. It should be headed by one responsible officer of the office.

**114. Disposal at scrap value or by other modes :-**

If a Department or an office is unable to sell any surplus or obsolete or unserviceable item in spite of its attempts through advertised tender or auction, it may dispose of the same at its scrap value with the approval of the Administrative Department in consultation with Finance Department. In case the Department or Office is unable to sell the item even at its scrap value, it may adopt any other mode of disposal as it considers suitable including destruction of the item in an eco-friendly manner.

**115. Sale Account :-**

A sale account should be prepared for goods disposed of in Form GFR 11 duly signed by the officer who supervised the sale or auction.

## CHAPTER VIII

### GRIEVANCE REDRESSAL

#### 116. Appeals :-

- (1) Subject to rule 119, if any bidder or prospective bidder is aggrieved that any decision, action or omission of the Procuring Authority is in contravention to the provisions of the Act and these rules or regulations/instruction made thereunder, he may file an appeal to the Appellate Authority within a period of 30 (thirty) days or further time not exceeding 30 (thirty) days if deemed justifiable by the Appellate Authority, bidder registration documents or bidding documents, as the case may be, from the publication of the result of the bidding clearly giving the specific ground or grounds on which he feels aggrieved:

Provided that after the declaration of a bidder as successful in terms of section 13 of the Act, the appeal may be filed only by a bidder who has participated in procurement proceedings:

Provided further that in case a Procuring Authority evaluates the technical bid before the opening of the financial bid, an appeal related to the matter of financial bid may be filed only by a bidder whose technical bid is found to be acceptable.

- (2) The Appellate Authority may pass an order after hearing both parties as it deem fit which shall be final.

#### 117. Appellate Authority :-

For any procurement made by a Procuring Authority not requiring recommendation of DPAB/DWAB, the DPAB/DWAB will be the Appellate Authority. For procurement made on recommendation of DPAB/DWAB, the SPAB/SWAB will be the Appellate Authority. For procurement made on the recommendation of SPAB/SWAB, the Appellate Authority will be the Apex Body comprising of the following officers:

- |   |   |                  |
|---|---|------------------|
| 1. Chief Secretary                      | - | Chairman         |
| 2. Secretary, Finance Department        | - | Member           |
| 3. Secretary, Law & Judicial Department | - | Member           |
| 4. Secretary of concerned Department.   | - | Member Secretary |

#### 118. Grounds of appeals :-

A bidder or a prospective bidder may file an appeal on any grounds including the following, except those mentioned in rule 119:

- (1) In the event that the bidder is not satisfied with the decision of the Procuring Authority or that authority fails to give a decision in due time.
- (2) Deficiency / deviation in the procurement process.
- (3) Non-payment or delay in return of bid security to unsuccessful bidders.
- (4) Any procurement in contravention of provisions of the Act or these Rules.



- (5) Procuring Authority or any of its officials receiving directly or indirectly improper inducement.
- (6) Procuring Authority or any of its officials engaging in corrupt or fraudulent practice or involving in such act.
- (7) Intervening in the participation by competing bidders or proponents to be involved in any way in the proceedings relating to the bid or proposal.
- (8) Any threat directly or indirectly to cause harm to the bidder, person or property of any person to be involved in the procurement proceedings or coercive act.
- (9) Collusion or involving in groupism prior to or after submission of bid or proposal with the objective of allocating procurement contract among the bidders or proponents or fixing the price of bid or proposal artificially or non-competitively or otherwise forbidding the Procuring Authority of the benefit of open and free competition.
- (10) An irregularity in the confidentiality clause wherein a bidder has been found contacting the Procuring Authority from the time of the opening of bid or proposal until the notice of acceptance of bid or proposal is given with the objective of causing interference upon bid or proposal or committing an act of interference in the examination or evaluation of bid or in the evaluation of proposal.

**119. Appeals not to lie in certain cases :-**

No appeal shall lie against any decision of the Procuring Authority relating to the following matters, namely:-

- (1) determination of need of procurement in terms of rule 32;
- (2) provisions limiting participation of bidders in the bid process in terms of the provisions of rule 16 and 17.
- (3) cancellation of a procurement process in terms of rule 53;
- (4) applicability of the provisions of confidentiality under rule 43;

**120. Fee for filing appeals :-**

- (1) An appeal must accompany a non refundable fee of ₹ 2,500/- (Rupees Two Thousand Five Hundred) without which the appeal shall not be entertained.
- (2) The fee shall be deposited by the Appellate Authority through Treasury Challan under the appropriate head of Revenue Receipt of the Department.

**121. Stay of procurement proceeding :-**

While hearing of an appeal, the officer or authority hearing the appeal may, on an application made in this behalf and after affording a reasonable opportunity of hearing to the parties concerned, stay the procurement proceedings pending disposal of the appeal, if he, or it, is satisfied that failure to do so is likely to lead to miscarriage of justice.

**122. Procedure of filing and disposal of appeals :-****(1) Procedure for filling memorandum of appeal**

- (a) A memorandum of appeal to the Appellate Authority may be presented by the appellant or his authorised representative or an Advocate in person to the concerned Appellate Authority during office hours or may be sent by the appellant by registered post to the office of the concerned Appellate Authority.
- (b) A memorandum of appeal sent by post under sub-rule (a) shall be deemed to have been presented to the Appellate Authority on the date of its receipt in his office.

**(2) Date of representation of Appeal**

The Appellate Authority shall endorse on every memorandum of appeal the date on which it has been presented or is deemed to have been presented and shall sign the endorsement.

**(3) Receipt Slip**

The appellant may attach to and present with his appeal a receipt slip which shall be signed by a person nominated by the Appellate Authority in acknowledgement of the receipt of the appeal.

**(4) Contents of memorandum of appeal**

Every memorandum of appeal shall be in the Form No.1 and shall :-

- (a) state the name and address of the appellant;
- (b) state the name and address (to the extent known) of the necessary respondents; and
- (c) set out concisely and under distinct heads the grounds of appeal without any argument or narrative.

**(5) Signing of memorandum of appeal**

The appellant himself shall sign or put his-thumb impression on the memorandum of appeal.

**(6) Copies of memorandum of appeal**

The appellant shall submit the following number of copies of the memorandum of appeal to the Appellate Authority –

- (a) 2 copies for the Appellate Authority; and
- (b) as many copies as there are respondents in the case.

**(7) Documents to accompany memorandum of appeal**

Every memorandum of appeal shall be accompanied by:-

- (a) a certified or a photo-stat copy of the order appealed against of the Procuring Authority or a statement of a decision, action or omission of the Procuring Authority in contravention to the provisions of the Act by which the appellant is aggrieved;

- (b) where the appellant, for reasons beyond his control, is not in a position to furnish a duly certified copy or photo-stat copy of the order stated above or where the appeal is based on a statement of a decision, action or omission of the Procuring Authority, the appeal shall be accompanied by an affidavit of the appellant to that effect;
- (c) copy or copies of the documents, photo-stat or otherwise on which he wishes to rely along with a list of documents; and
- (d) proof of having deposited the required fee for filing appeal.

**(8) Filing of affidavits**

Where a fact as alleged in the appeal or reply thereof cannot be borne out by, or is contrary to the records, it shall be stated clearly and concisely and supported by a duly stamped and attested affidavit.

**(9) Scrutiny**

On presentation of memorandum of appeal and before initiating any action on it, the Appellate Authority shall have the scrutiny made on the following points:-

- (a) whether it is within the jurisdiction of the Appellate Authority;
- (b) whether the appeal is within the period of limitation or whether the appellant has given sufficient cause for not preferring appeal within the limitation period;
- (c) whether the memorandum is in the prescribed form;
- (d) whether it bears the signatures or thumb impression of the appellant;
- (e) whether it is accompanied by a certified or a photo-stat copy of the order against which the appeal has been filed along with the requisite number of copies or an affidavit under item (b) of Appendage 4.2(7);
- (f) whether affidavits duly sworn, in case a fact cannot be borne out by, or is contrary to the records, accompany the appeal;
- (g) whether it contains the grounds of appeal and that the any of the grounds contained therein is not one on which an appeal cannot lie as per rule 89;
- (h) whether the necessary parties have been impleaded;
- (i) whether the proof of depositing requisite fee has been enclosed;
- (j) any other relevant point affecting the admissibility of appeal.

**(10) Admissibility of the appeal**

On the basis of the scrutiny referred to in Appendage 4.2(9), the Appellate Authority shall:-

- (a) admit the appeal against the necessary parties; or
- (b) permit the appellant to amend the memorandum of appeal or produce necessary document and there after admit the appeal against the necessary parties; or
- (c) reject the appeal.

**(11) Hearing in case of rejection**

The Appellate Authority shall hear the appellant or his representative or advocate in case it is proposed not to admit his appeal.

**(12) Summoning of Respondent and production of record**

On the admission of an appeal, the Appellate Authority shall order the:-

- (a) issue of summons in Form No.2 to the respondents considered as necessary parties by him;

Explanation: In case any order passed by the Government has been challenged, the summons shall be issued to the Secretary to the Government in the department concerned.

- (b) production within the period laid down by him, of the record considered necessary by the bench for the hearing and disposal of the appeal.

**(13) Documents to accompany the summons to respondents**

Along with the copy of the summons to the respondents, the following documents shall be sent to the respondents:-

- (a) copy of memorandum of appeal;
- (b) copy of the order appealed against which shall be supplied by the appellant.

**(14) Service of summons**

Every summon shall be served:-

- (a) by tendering or delivering a copy of it to –
- (i) the person summoned; or
  - (ii) his duly authorized representative or advocate; or
  - (iii) in his absence any adult male member of his family usually residing with him; or
- (b) in case the person summoned cannot be found or refuses to sign the acknowledgment, by affixing a copy thereof to some conspicuous part of his usual or last known place of his residence or publication of the summons in the newspapers, at the cost of the appellant; provided that in any appeal the Appellate Authority may in its discretion send the summons to the respondent by registered post in addition to or in alternative to the mode of service laid down in this rule. An acknowledgement purporting to be signed by the respondent or an endorsement by postal servant that the respondent refused to take the delivery may be deemed by the Appellate Authority to be prima facie proof of service.

**(15) Reply of respondent**

- (a) In the summons issued to the respondent the time allowed for reply shall be stated and the reply shall have to be filed within the prescribed time, unless reasons for not doing so are accepted by the Appellate Authority, or when the respondent expresses his intention in writing to submit the reply orally at the time of arguments.
- (b) The respondent shall submit 2 copies of the written reply for the Appellate Authority and one copy for the appellant.

**(16) Inspection of documents and records**

On application of a party, the Appellate Authority may permit the inspection of records and the document relevant to the case and in the possession of the Appellate Authority.

**(17) Discovery and production of documents**

On the request of the party the Appellate Authority may require the discovery or production of any document provided it is relevant to the hearing and disposal of the Appeal.

**(18) Dismissal on non-appearance of appellant**

On the non-appearance of the appellant or his duly authorised representative or advocate, the Appellate Authority may dismiss the appeal or may pass and other orders as it thinks fit.

**(19) Restoration of appeal**

On sufficient grounds the Appellate Authority may restore an appeal dismissed under Appendage 4.2(18) even without hearing the respondent, provided application for restoration is made within 30 days of the order passed under Appendage 4.2(18). The Appellate Authority may impose such cost, as it thinks fit.

**(20) ex-parte proceedings against respondent**

If the respondent does not submit the reply within time mentioned in the summons or extended by the Appellate Authority or does not express his intention in writing to argue his case orally at the time of arguments or the respondent or his authorised representative or Advocate does not appear on the day of hearing, the Appellate Authority may proceed ex-parte against him.

**(21) Review of ex-parte order**

On sufficient grounds the Appellate Authority even without hearing the appellant may rescind its ex-parte order.

**(22) Summoning of witnesses and payment of their expenses**

- (a) At any stage, on the request of a party, or on its own motion, the Appellate Authority may order summoning of witnesses.
- (b) Where, the witness is a person in the service of the Government of Mizoram, Central Government or other State Governments, he shall be given a certificate of attendance enabling him to draw travelling allowance as on tour in accordance with the rules applicable to such government servants.
- (c) (i) In case of an M.P. or M.L.A. he shall be entitled to draw travelling and daily allowance as per rules admissible to him for attending meetings of the committees constituted by the Government.
- (ii) In case of other non-official witness not covered by Appendage 4.2(22)(b) and (c)(i) above including retired officials, they shall be entitled to travelling allowance of actual cost of travelling expenses on production of relevant documents and

daily allowance of ₹ 250/- per day or as provided in Mizoram Travelling Allowance Rules whichever is more;

- (iii) Where a local witness is summoned by the Appellate Authority, he shall be paid ₹ 250/- per day or as provided in Mizoram Travelling Allowance Rules whichever is more;
- (d) Where the Appellate Authority orders the payment of expenses under Appendage 4.2(22)(c), it shall also pass an order as to whether the expenses are to be borne by the State Government or by any party to the proceedings.
- (e) The summon to witness shall be issued in Form No.3.

**(23) Adjournment**

Except for the reasons to be recorded in writing, the Appellate Authority shall hear an appeal on day to day basis. On sufficient cause being shown it may grant adjournment subject to such costs or other conditions as are considered appropriate by the Appellate Authority.

**(24) Appearance before Appellate Authority**

A party may appear before Appellate Authority either personally or through his representative or advocate duly authorised in Form No.4.

**(25) Arguments**

The parties may, either personally or through their authorised representative or advocates submit orally or in writing or in both, their arguments before the Appellate Authority. The appellant shall not except by leave of the Appellate Authority, urge or be heard in support of any ground not set forth in the memorandum of appeal.

**(26) Order**

The order of the Appellate Authority shall be in writing and shall state the points of determination, its findings thereon and the reasons for these findings in a concise manner. One copy of the order shall be provided free of cost to the appellant.

**(27) Copies**

On the application of parties, certified copies of the documents or orders shall be supplied to the parties by the Appellate Authority on payment of fees as prescribed in Schedule A. No such fee shall be charged from the Government.

**(28) Continuation of proceedings after the death of a party**

An appeal shall abate, unless on the death of appellant his legal representative applies for its continuance to the Appellate Authority within a period of thirty days from the date of the death of the appellant. In the event of the death of any respondent, his legal representative, if he so desires, may apply for being impleaded as a party within a period of thirty days for the date of the death of the respondent.

**(29) Procedure regarding matters not covered by rules**

The Appellate Authority shall follow such procedure as it may think fit on the matters not provided by and not inconsistent with the Act and these rules.

**(30) Caveat**

Any Procuring Authority or the State Government may file a caveat with the Appellate Authority in respect of any matter which such party consider likely to be raised before the Appellate Authority and where such a caveat is filed the Appellate Authority shall, before passing any interlocutory order, give an opportunity of being heard to the party which has filed the caveat.

**Sd/- VANLAL CHHUANGA**  
**Commissioner & Secretary to the Govt. of Mizoram,**  
**Finance Department.**

**Memo No. G. 47011/1/2014-F.Est : Aizawl, the 10<sup>th</sup> February, 2020.**  
**Copy to :**

1. Secretary to Governor, Mizoram.
2. P.S. to Chief Minister, Mizoram.
3. P.S. to Dy. Chief Minister, Mizoram.
4. P.S. to Speaker/ Ministers /Dy. Speaker/Ministers of State, Mizoram.
5. P.S. to Vice Chairman, State Planning Board, Mizoram.
6. P.S to Government Deputy Chief Whip, Mizoram.
7. P.P.S to Chief Secretary, Government of Mizoram.
8. All Administrative Departments, Government of Mizoram.
9. Secretary, Mizoram Legislative Assembly.
10. Secretary, MPSC/MSIC/MSEC, Mizoram.
11. All Heads of Departments, Government of Mizoram.
12. Principal Resident Commissioner, Joint Resident Commissioner, Dy. Resident Commissioners, New Delhi/ Kolkata/ Mumbai/ Guwahati/ Shillong/ Silchar/ Bangalore.
13. Chief Controller of Accounts, Accounts & Treasuries, Aizawl.
14. Controller of Printing & Stationeries, Mizoram with 6 (six) spare copies for publication in Mizoram Gazette. She is requested to print 300 copies of the Gazette and send it to Finance Department. The bill for printing the Gazette may be sent to SAD (A).
15. All Jt. Director of Accounts/Dy. Director of Accounts/FAO.
16. All Treasury Officers in Mizoram.
17. Guard File.

**(MELODY NGURTHANTLUANGI)**  
**Under Secretary to the Govt. of Mizoram,**  
**Finance Department (E).**

**Form-A****QUALIFICATION INFORMATION**

(See Rule 37(1)(c))

This Section contains all the criteria that the Employer shall use to evaluate Bids and qualify Bidders.

The information to be filled in by the Bidder in the following pages will be used for purposes of Qualification. This information will not be incorporated in the contract.

**1. Qualification Information of the Bidder:**

- a. Constitution or Legal status of Bidder :  
[Attach copy]  
Place of Registration :  
Principal place of business :  
Power of attorney of signatory of Bid :  
[Attach copy]

**1.2 Total value of Works performed in the last five year (immediately preceding the financial year in which bids are received):**

Year	Description of work	Nodal Officer	Value (₹ in lakh)
20__ to 20__			
20__ to 20__			
20__ to 20__			
20__ to 20__			
20__ to 20__			

**1.3 Experience in works of similar nature Work performed as prime contractor; work performed in the past as a nominated sub-contractor will also be considered provided the Sub-Contract involved execution of all main items of work described in the Bid Document, provided further that all other qualification criteria are satisfied (in the same name) on works of similar nature over the last five years (immediately preceding the financial year in which Bids are received).**

Project name	Name of Employer*	Description of work	Contract No	Value of Contract (Rs in Lakh)	Date of issue of work order	Stipulated period of completion	Actual date of completion*	Remarks explaining reasons for delay & work completed

\* Attach certificates from the Engineer-in-Charge



1.4 Information on Bid Capacity (works for which Bids have been submitted and works which are yet to be completed) as on date of Bid

A) Existing commitments and on-going works:

Description of work	Place & State	Contract No	Name & address of employer	Value of contract (₹ in lakh)	Stipulated period of completion	Value of remaining works to be completed	Anticipated date of completion

B) Works for which bids already submitted.

Description of work	Place & State	Name & address of employer	Estimated Value of work (₹ in lakh)	Stipulated period of completion	Date when decision is expected	Remarks

1.5 Availability of key Contractor's Equipment essential for carrying out the works. The Bidder should list all the information requested below.

Item of Equipment	Requirement		Availability proposal			Remarks (From whom to be leased/purchased)
	No	Capacity	Owned/leased to be procured	Nos./ Capacity	Age/ Condition	

1.6 Qualifications and experience of key personnel for administration and execution of the contract.

Position	Name	Qualification	Year of experience (General)	Year of experience in proposed position

## 1.7 Proposed Sub-Contracts and Firms involved.

Sanctions of the work	Value of Sub-Contract	Sub-Contractor (Name & Address)	Experience in similar works

Note: Attach copies of Certificates on possession of valid license for executing Electrical works.

- a. **Financial reports for the last five years:** balance sheets, profit and loss statements, auditors Reports, etc. List them below and attach copies

Financial Information	Historical information for the last 5 years from to						
	Yr1	Yr2	Yr3	Yr4	Yr5	Avg	Avg.ratio
<b>Information from Balance sheet</b>							
Total assets							
Total liabilities							
Net worth							
Current asset							
Current liabilities							
<b>Information from income statement</b>							
Total revenue							
Profit before taxes							

- 1.9 **Evidence of access to financial resources to meet the qualification requirements:** cash in hand lines of credit, etc. List them below and attach copies of support documents

SI. No	Source of Funding	Amount	Remarks
1			
2			
3			
Total			

- 1.10 Name, address and telephone, telex and fax numbers of the Bidders' bankers who may references if contacted by the Employer.

SI. No	Name of Bank	Address	Contact Phones/Telex/fax	Remarks

1.11 Information on litigation history in which the Bidder is involved

Other Parties	Employer	Cause of dispute	Amount involved	Remarks (present status)

1.12 Statement of compliance to be undertaken.

(Name of Consultant engaged for Project preparation is \_\_\_\_\_)

I, the undersigned, do hereby certify and declare that our Firm, \_\_\_\_\_ or any of our employees is neither associated, nor has been associated, directly or indirectly, with the Consultant or any other entity that has prepared the design, specifications, and other documents for the Project or being proposed as Project Manager for the Contract.

(Signature of authorised Signatory of the Firm) \_\_\_\_\_

Name of the signatory \_\_\_\_\_

Title of the signatory \_\_\_\_\_

Date \_\_\_\_\_

1.13 Proposed work method and schedule. The Bidder should attach descriptions, drawings and charts as necessary to comply with the requirements of Bidding Documents.

- i. Site Organisation
- ii. Method Statement
- iii. Mobilisation Schedule
- iv. Construction Schedule
- v. Contractor's Equipment
- vi. Personnel
- vii. Others

**2. Additional Requirements**

Bidders should provide any additional information required to fulfill the requirement of ITB, if applicable

- i) Affidavit as per Form – E
- ii) Certificate of Understanding as per Form – H.

**Form-B**

**FORM OF TECHNICAL BID**

Name of Work: \_\_\_\_\_

Bid No: \_\_\_\_\_

To

\_\_\_\_\_ [Employer]  
\_\_\_\_\_ [ A d d r e s s ]

Sir,

We, the undersigned, declare that:

1. We have examined and have no reservations to the Bidding Document, including Addenda.
2. We offer to execute the Works described above and remedy any defects therein in conformity with the Conditions of Contract including Special Conditions, Specifications, Drawings, Bill of Quantities.
3. We undertake, if our Bid is accepted, to commence the work as stipulated in this Contract, and to complete the whole work comprised in the Contract within the time stated in the Contract Document.
4. We agree to abide by this Bid for the period of \_\_\_\_ days from the date fixed for receiving the same, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
5. We undertake that unless and until a formal Agreement is prepared and executed, this Bid, together with your written notification of Letter of Acceptance shall constitute a binding contract between us.
6. We understand that you are not bound to accept the lowest or any tender you may receive.
7. I/We do hereby submit our Technical Bid, complete with all the required information as stipulated in your Bidding Documents.

Signature of authorized signatory.....

Name.....

Title .....

Date .....

**Form-C**

**FORM OF FINANCIAL BID**

Name of Work: \_\_\_\_\_

Bid No: \_\_\_\_\_

To

\_\_\_\_\_ [Employer]  
\_\_\_\_\_ [Address]

Sir,

We, the undersigned, declare that:

1. We have examined and have no reservations to the Bidding Document including Addenda.
2. We offer to execute the Works described above and remedy any defects therein in conformity with the Conditions of Contract including Additional Conditions and Special Conditions, Specifications, Drawings, Bill of Quantities accompanying this Bid for a sum of ₹ \_\_\_\_\_ (Rupees \_\_\_\_\_) only.
3. We undertake to abide by the Final Sum coming out of the correction of arithmetical errors as indicated in the General Conditions of Contract.
4. We also undertake, if our Bid is accepted, to commence the work within the period as indicated in the Contract Document and to complete the whole work comprised in the Contract within the time stated in the Contract Document.
5. We agree to abide by this Bid for the period of \_\_\_\_ days from the date fixed for receiving the same, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
6. We undertake that unless and until a formal Agreement is prepared and executed, this Bid, together with your written notification of Letter of Acceptance shall constitute a binding contract between us.
7. We understand that you are not bound to accept the lowest or any tender you may receive.
8. I/We do hereby submit our Financial Bid, complete with all the required information as stipulated in your Bidding Documents.

Signature of authorized signatory.....

Name.....

Title.....

Date.....

**Form-D**

**Power of Attorney for signing of BID**

Know all men by these presents, We..... (name of the Bidder/Firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorize Mr./Ms (name),.....son/daughter/wife of.....and presently residing at....., who is presently employed with us as our true and lawful attorney (hereinafter referred to as the "Attorney") to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our BID(s) for the.....[name of Work] proposed by the.....(name of Department) including but not limited to signing and submission of all BIDs, and other documents and writings, participate in conferences/meetings and providing information/responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts and undertakings consequent to acceptance of our bid[s], and generally dealing with the Authority in all matters in connection with or relating to or arising out of our bid for the said Work[s] and/or upon award thereof to us and/or till the entering into of the contract with the Authority.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

In witness whereof we,....., the above named principal have executed this power of attorney on this.....day of....., 2

For  
(Signature)  
(Name, Title and Address)

Witnesses:  
1. Accepted  
2. Accepted

.....  
(Signature)  
(Name, Title and Address of the Attorney)

(Notarised)  
Person identified by me/ personally appeared before me/  
signed before me/Attested/Authenticated\*

(\*Notary to specify as applicable)  
(Signature, Name and Address of the Notary)

Seal of the Notary  
Registration Number of the Notary  
Date:\_\_\_\_\_

- Notes: **1.** The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
- 2.** Also, wherever required, the BIDDER should submit for verification the extract of the charter documents and documents such as a resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the BIDDER.

**Form - E**

**AFFIDAVIT**

1. I, the undersigned, do hereby certify that all the statements made in the required attachments are true and correct.
2. The undersigned also hereby certify that neither our firm M/S \_\_\_\_\_ has abandoned any works in India nor any contract awarded to us have been rescinded during the last five years prior to the date of this Bid.
3. The undersigned hereby authorize and request any Bank, person, firm or corporation to furnish pertinent information deemed necessary and required by the Department to verify this statement or regarding my (our) competence and general reputation.
4. The undersigned understand and agree that further information may be requested and agrees to furnish any such information at the request of the Department

(Signature of Authorised Signatory of the Firm)\_\_\_\_\_

Name of the signatory\_\_\_\_\_

Title of the signatory\_\_\_\_\_

Date\_\_\_\_\_



**Form - F**

**UNDERTAKING**

I, the undersigned do hereby undertake that our Firm M/S\_\_\_\_\_would invest a minimum cash up to 25% of the value of the Work during implementation of the Contract.

Signed by an Authorized Signatory of the firm: \_\_\_\_\_  
Title of the Signatory \_\_\_\_\_  
Name of Firm \_\_\_\_\_  
Date \_\_\_\_\_

**Form - G**

**BID VALIDITY FORM**

I, the undersigned do hereby undertake that the Bid submitted by our Firm M/S\_\_\_\_\_ [name and address of Bidder] is valid for a period of \_\_\_\_\_ days and valid till \_\_\_\_\_

Signed by an Authorized Signatory of the firm: \_\_\_\_\_  
Title of the Signatory \_\_\_\_\_  
Name of Firm \_\_\_\_\_  
Date \_\_\_\_\_

**Form – H**

(To be written in the Company’s Letterhead)

**Certificate of Understanding**

Bid No.: .....

Name of work: .....

To:

.....(Employer)

.....(Address)

Dear Sir,

We, *<Name of manufacturer>*, are official manufacturer/dealer of *<Name of Product>* having factories at .....The machinery tendered by *<name of Bidder>* is manufactured by us and is within our range of production.

We further affirm that we are willing to sell our product to *<name of bidder>* and shall extend support in Installation, Testing and commissioning at site including supports in after sales services as deemed necessary.

Signed.....

Name.....

Designation.....

Seal.....

## APPENDAGES

### 1. GENERAL

#### 1.1. Time frame for procurement process

- (1) Every Procuring Authority shall pre-determine a reasonable time frame for completion of various stages of the process of procurement and indicate the same in the pre-qualification documents or bidding documents, as the case may be.
- (2) The Procuring Authority shall endeavour to adhere to the time frame indicated under sub-rule (1) and in case of failure to do so extend such time frame for reasons to be recorded in writing.
- (3) An outer time frame between publication of NIB and major milestones for the bid cycle for procurement by National Competitive Bidding is given below:-

<b>Subject</b>		<b>Open Competitive Bidding</b>	<b>Limited Bidding</b>
Publication of NIB and launch of Bidding documents		Day 0	Issue of Bidding documents - Day 0
Submission of Bids	Below ₹ 5.00 lakhs	10 days from issue of Bidding documents	07 days from issue of Bidding documents / date of issue of clarification/ addendum
	₹ 5.00 lakh to ₹ 100 lakh	21 days from issue of Bidding documents	
	Above ₹ 100 lakh	30 days from issue of Bidding documents	
Technical Bid Opening		On the last day of submission of bids	On the last day of submission of bids
Financial Bid Opening		Within 15 days of declaration of result of Technical Bid or within 30 days of opening of Technical bid whichever is earlier	
Issue of Letter of acceptance		Within 3 days of approval of award	Within 3 days of approval of award
Contract Signing		Within 21 days of Issue of Letter of Acceptance	Within 21 days of Issue of Letter of Acceptance
Declaration of the Bid results on State Public Procurement Portal and Departmental website		Within 3 days of issue of letter of acceptance.	Within 3 days of issue of letter of acceptance.

## 1.2. Receipt & Custody of Bids

- (1) Every Procuring Authority shall have a duly locked bid box of suitable size for receiving the bid and all bidders must place their bids in the box. Bid received by courier or by post shall be put in the box by the official authorized by the Procuring Authority.
- (2) The official authorized to receive the bids shall provide a receipt signed by him with date and time to the bearer of the bid.
- (3) All bids received in torn/damaged condition through post or by personal delivery shall be so marked on the cover by the authority receiving the same and get signed on it by the person delivering it, put in a fresh cover and reseal if so warranted. All such entries shall be attested by that authority.
- (4) For bulky/oversized bids not convenient to be placed in bid box may be kept in safe custody in lock and key till opening of bid, by official authorized to receive such bids by the Procuring Authority. He will also sign on the cover, duly indicating the date and time of receipt of the bid(s)
- (5) The location of bid box shall be such as to facilitate easy access to bidders. The bid box shall have two sealed locks. The key to one of the lock shall be with the head of office where bids are to be received, while the key for the other lock shall be with the official authorized to receive the bids.
- (6) Record of all bids received including bids received late by post may be kept in bid register.

## 1.3. Numbering convention

Each procurement process undertaken by any Procuring Authority shall have a Unique Tender Number (UTN) which shall be used for tracking purpose during and after the bid process. The UTN shall be designed like a code to reflect department / Procuring Authority, type of procurement, threshold value of procurement and method, year and serial number of bid in that particular year.

## 1.4. Cost (fee) of bidding documents or pre-qualification documents

The price for the bidding documents should take care of its preparation and delivering costs. A fee may be charged for sale of bidding documents depending upon its volume and other specific information and drawings attached to it.

- (1) The cost of Bidding documents should normally be charged as below:

Estimated value of tender	Tender Document Cost
Upto ₹ 25 lakh	₹ 500
Above ₹ 25 lakh to ₹ 2 crore	₹ 1,500
Above ₹ 2 crore to ₹ 25 crore	₹ 2,500
Above ₹ 25 crore to ₹ 50 crore	₹ 5,000
Above ₹ 50 crore	To be decided on case to case

- (2) Firms that are eligible for exemption from the tender document fee have to submit/upload scanned copy of documents in support of this exemption;
- (3) The Procuring Authority may waive the bidding document cost.

### **1.5. Procurement Register**

Each Procuring Authority shall be responsible for the maintenance and ensuring the safe custody of the Procurement Register (PR). The PR shall be stored safely and securely at the premises of the office undertaking the procurement process at all times. The official entrusted to maintain the PR shall ensure that all documents are filed centrally in a sequential order.

### **1.6. Tabulation of bids**

The bids opened shall be tabulated for evaluation in a form which may include the following details, namely:-

- (1) Specifications of subject matter of procurement with quantity;
- (2) Names of bidders;
- (3) Quantity and specifications offered;
- (4) Rates quoted per unit;
- (5) Taxes, Mizoram VAT, CenVAT, separately;
- (6) Packing and forwarding, freight, insurance, etc.;
- (7) Delivery/completion period;
- (8) Mode of payment;
- (9) Rebate or discount;
- (10) Previous supply/performances of the bidders with name of the departments;
- (11) Validity period of bid ;
- (12) Proof of payment of bid security or exemption;
- (13) Price preference, if any;
- (14) VAT clearance certificate;
- (15) Capacity to perform the contract;
- (16) Sample(s) offered or report on the sample(s) offered;
- (17) Guarantee / Warranty period / information / conditions if any.

### **1.7. Criteria For Evaluation Of Bids**

- (1) The evaluation criteria shall relate to the subject matter of procurement and may include-
  - (a) the price;
  - (b) the cost of operating, maintaining and repairing goods or works, the time for delivery of goods, completion of works or provision of services, the characteristics of the subject matter of procurement, such as the functional characteristics of goods or works and the environmental characteristics of the subject matter, the terms of payment and of guarantees in respect of the subject matter of procurement;

- (c) where relevant, the experience, reliability and professional and technical competence of the bidder and of the personnel to be involved in providing the subject matter of procurement.
  - (d) where relevant, the discounted cash flow techniques may be included.
- (2) Where considered necessary, the Procuring Authority may also specify trials, sample testing and other additional methods of technical evaluation of a bid: Provided that the requirement of such trials, sample testing or additional methods of evaluation shall be indicated in the bidding documents and a record of such trials and testing shall be maintained.
  - (3) To the extent practicable, all non-price evaluation criteria shall be objective and quantifiable;
  - (4) The criteria for evaluation of bids shall be contained in the bidding documents;
  - (5) Where applicable, the relative weights to be attached to each criterion shall be specified in the bidding documents;
  - (6) No criteria or procedure, other than those mentioned in the bidding documents shall be used by the Procuring Authority in evaluating bids, nor shall the criteria mentioned in the bidding documents be relaxed.

### **1.8. Evaluation of Technical bids in case of two part bids**

- (1) The criteria fixed for evaluation of Technical bids shall be clearly mentioned in the bidding documents so as to keep transparency in selection process. The criteria once fixed for evaluation of technical bids shall not be changed or relaxed.
- (2) Technical qualifications of the bidders shall be evaluated on the basis of the weightages of marks assigned or minimum achievements fixed in the bidding documents for various criteria of qualifications in the area of professional, technical, financial, managerial competence, etc. like number of years of experience of the bidder in the subject matter of procurement, satisfactorily completion of similar contracts in past certain years, each valuing not less than prescribed percentage of the value of subject matter of procurement, financial turnover of the bidder in past certain years in relation to the value of subject matter of procurement, the value of works in hand of the bidder at the time of submitting the bid relative to the value of subject matter of procurement, etc.
- (3) Bidders securing prescribed minimum percent of marks or have fulfilled minimum achievement norms may be considered to have technically qualified.
- (4) The number of firms qualified in technical evaluation should not generally be less than three. If the number is less than three and it is considered necessary by the Procuring Authority to continue with the bid process, reasons shall be recorded in writing and included in the record of the procurement proceedings.

- (5) The bidders which qualified in the technical evaluation shall be informed in writing about the date, time and place of opening of their financial bids. This date should generally be not later than 15 days from the date of issue of letter.

### **1.9. Evaluation of financial bids**

- (1) The Bid Evaluation Committee shall evaluate and compare only the bids determined to be substantially responsive in accordance with ITB.
- (2) Conditional bids are liable to be rejected.
- (3) The evaluation shall include all costs and all taxes and duties applicable to the bidder as per law of the Central/ State Government/ Local Authorities.
- (4) The offers shall be evaluated and marked L1, L2, L3 etc. L1 being lowest offer and then others in ascending order. H1, H2, H3 etc. in descending order in case quality is also a criteria.
- (5) The following formula may be adopted for evaluating the Bids
  - (a) Marks scored by L1 = 100
  - (b) Marks scored by L2 =  $100 \times \frac{\text{Rate quoted by L1}}{\text{Rate quoted by L2}}$
  - (c) Marks scored by L3 =  $100 \times \frac{\text{Rate quoted by L1}}{\text{Rate quoted by L3}}$
- (6) The Bid Evaluation Committee shall prepare its report on evaluation of financial bids and place for consideration of the appropriate Advisory Board. If it proposes acceptance of an offer other than the lowest one, detailed reasons and justification shall be recorded in writing.
- (7) In case the method of selection is Combined Quality cum Cost Based, the bids shall be ranked B1, B2, B3 and so on as per the combined technical and financial evaluation criteria mentioned in the bidding documents; B1 being the best bid as per the evaluation criteria.
- (8) In case of two part bid system, the financial bids of the bidders who qualified in technical evaluation only shall be evaluated.
- (9) Price and/or purchase preference notified by the state government and as mentioned in the bidding documents shall be considered in the evaluation of financial bids.

## **2. DOCUMENTARY RECORD OF PROCUREMENT PROCESS**

### **2.1. Requirement of maintenance of record related to procurement**

- (1) For reasons of transparency and accountability, the procuring authorities shall maintain a record of all the procurement proceedings containing, at least, the following information, namely:-
  - (a) a brief description of the subject matter of the procurement, including the assessment of need for procurement;
  - (b) the names and addresses of bidders who presented submissions, the name and address of the bidder from whom the procurement is made and the agreed price, and in case of rate contract procedure, the names and addresses of the bidders with which the rate contract is concluded;
  - (c) a summary of any requests for clarification of the pre-qualification or solicitation documents, the responses thereto, as well as, a summary of any modification of that documents;
  - (d) information related to the qualifications, or lack thereof, of bidders that made submissions including reasons for not qualifying or disqualifying any bidder;
  - (e) the contract price and terms and conditions of the procurement contract and where a written procurement contract has been concluded, a copy thereof;
  - (f) in the case of a rate contract procedure, the terms and conditions of the rate contract or a copy of the rate contract that was concluded;
  - (g) in the case of an empanelment procedure, the terms and conditions of the empanelment or a copy of the agreement, if any, that was concluded;
  - (h) a summary of the evaluation and comparison of bids, including the application of any margin of preference and reasons for rejection or non-consideration of a bid, if any;
  - (i) if the procurement is cancelled, a statement to that effect and the grounds therefore;
  - (j) in procurement proceedings involving the use of a procurement method other than open tendering, the grounds and circumstances on which the Procuring Authority relied to justify the selection of the method of procurement used;
  - (k) in the case of proceedings relating to appeals, copies of appeals made and all decisions in reference to them;
- (2) The Procuring Authority shall not be liable to bidders for damages owing solely to a failure to maintain a record of the procurement proceedings in accordance with this rule.



- (3) Any document, notification, decision or other information generated in the course of a procurement, including in connection with appeals under Section 16 of the Act or in the course of a meeting, or forming part of the record of the procurement process, shall be in a form that provides a record of the content of the information and is accessible so as to be usable for subsequent reference.
- (4) Subject to the provisions of the Right to Information Act, 2005 or of any other law for the time being in force relating to retention of records, the Procuring Authority shall retain the documentary record indicated in sub-Sections (1) above, for a period prescribed in Appendage 2.2 after the expiry of the procurement process or procurement contract, as the case may be, so as to enable audit or such other review.

## **2.2. Period of maintenance of record**

All records/files pertaining to procurement shall be retained:

- (1) 5 years after the audit by statutory Auditors and/ or Accountant General but in case of audit objections the record shall be kept till settlement of audit objections or review by Public Accounts Committee.
- (2) In case of any enquiry or examination, etc. by any Government Authority or matter pending before a court of law, the record shall be maintained till final outcome.
- (3) Specific files will be maintained for each large scale procurement process which is initiated by Procuring Authority.
- (4) If a record is maintained for a very long period say more than 20 years without any auditing done by auditing authorities, the record may be destroyed after obtaining approval from the Govt. of Mizoram with the concurrence of Finance Department and Law & Judicial Department.

## **3. CODE OF INTEGRITY FOR PROCURING AUTHORITIES & BIDDERS**

### **3.1. Code of integrity for procuring authorities and bidders**

- (1) No official of a Procuring entity or a bidder shall act in contravention of the codes of integrity as stipulated in Rule 63.
- (2) **The detailed Code of Integrity** - The detailed Code of Integrity for personnel involved in procurement and for bidders is given below:-
  - (a) All procurement personnel shall maintain an unimpeachable standard of integrity in all business relationships, both inside and outside their offices. Ethical conduct shall apply in all dealings with bidders or prospective bidders. Procurement personnel shall never use their authority or office for personal gain and will seek to uphold and enhance the standing of their department/organisation.

- (b) All individuals are responsible for the regularity of actions taken by them in the course of their official duties, and any staff member that takes action contrary to the Act, Rules and other relevant rules/regulations may be held personally responsible and financially liable for the consequences of such action.
- (c) The standard of conduct for all personnel of the Procuring Authority involved in procurement actions includes, but is not limited to:
  - (i) Personnel shall not allow any bidders to have access to information on a particular acquisition, before such information is available to the public at large,
  - (ii) Personnel shall not intentionally use unnecessarily restrictive or “tailored” specifications, terms of reference or statements of work that can discourage competition,
  - (iii) Personnel shall not solicit or accept, directly or indirectly any promise of future employment from anyone who has sought or is seeking to obtain business from the Procuring Authority,
  - (iv) Personnel shall not have a financial interest in any bidder(s) responding to a Procuring Authority’s bidding exercise and are prohibited from any involvement in the procurement action,
  - (v) Personnel shall not disclose proprietary and source selection information, directly or indirectly, to any person other than a person authorized to receive such information.
  - (vi) Procuring Authority’s personnel shall seek to treat all bidders in a fair and equitable manner in line with the principle of fairness, integrity and transparency in the procurement process.
  - (vii) During the solicitation phase, all bidders must receive identical information. Any clarifications to the solicitation documents must be provided at approximately the same time, in writing, to all bidders;
  - (viii) Specifications should be linked to function and to performance as much as possible. They must not be limited competition nor be unnecessarily restrictive;
  - (ix) In cases where the personal interest of the procurement official is in conflict with the interest of the organization, such cases shall be immediately reported by the concerned official to appropriate authority.
  - (x) The procurement officials shall not entertain any favour, recreation, presents, services, etc. by the potential bidders.

- (xi) The interest of the Procuring Authority shall be protected under all circumstances while dealing with information and information sources by the procurement officials.
- (xii) It shall be ensured by procurement officials that all suppliers and service providers get the same correct information.
- (xiii) Any information about competitors shall not be solicited by suppliers and service providers.
- (xiv) All bids shall be handled confidentially by procurement officials.
- (xv) It shall be ensured that selection of suppliers is done according to predetermined objective basis and is not influenced by personal reasons attributable to concerned officials in any manner.

### **3.2. Conflict of interest**

A conflict of interest is considered to be a situation in which a party has interests that could improperly influence that party's performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations.

- (1) The situations in which a Procuring Authority's personnel may considered to be in conflict of interest includes, but not limited to, the following:-
  - (a) A conflict of interest occurs when Procuring Authority's personnel's private interests, such as outside professional or other relationships or personal financial assets, interfere or appear to interfere with the proper performance of his professional functions or obligations as a procurement official.
  - (b) Within the procurement environment, a conflict of interest may arise in connection with such private interests as personal investments and assets, political or other outside activities and affiliations while in the service of the Procuring Authority, employment after retirement from the Procuring Authority's service or the receipt of a gift that may place the Procuring Authority's personnel in a position of obligation.
  - (c) A conflict of interest also includes the use of Procuring Authority's assets, including human, financial and material assets, or the use of Procuring Authority's office or knowledge gained from official functions for private gain or to prejudice the position of someone Procuring Authority's personnel does not favour.
  - (d) A conflict of interest may also arise in situations where Procuring Authority's personnel is seen to be benefited, directly or indirectly, or allow a third party, including family, friends or someone they favour, to benefit from Procuring Authority's personnel's actions or decisions.

- (e) If any Procuring Authority's personnel believe that he may have a conflict of interest, he shall promptly and fully disclose the conflict to the Procuring Authority and shall refrain from participating in any way in the matter to which the potential conflict relates, until the conflict has been resolved satisfactorily.
- (2) A Bidder may be considered to be in conflict of interest with one or more parties in a bidding process, but not limited to, if :-
- (a) They have controlling partners 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 the bid; or
  - (d) They have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the bid of another bidder; or
  - (e) A bidder participates in more than one bid in the same bidding process. However, this does not limit the inclusion of the same sub-contractor, not otherwise participating as a bidder, in more than one bid; or
  - (f) in cases of agents quoting in offshore procurements, on behalf of their principal manufacturers, one agent cannot represent two manufacturers or quote on their behalf in a particular tender enquiry. One manufacturer can also authorise only one agent/dealer. There can be only one bid from the following:
    - (i) The principal manufacturer directly or through one Indian agent on his behalf; and
    - (ii) Indian/foreign agent on behalf of only one principal.
  - (g) 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.
  - (h) (i) A bidder or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the subject matter of procurement of the bidding process.  
  
(ii) All bidders shall provide in Qualification Criteria and Bid Forms, a statement that the bidder is neither associated nor has been associated directly or indirectly, with the consultant or any other Authority that has prepared the design, specifications and other documents for the project or being proposed as Project Manager for the contract.

### **3.3. Unethical behaviour of the bidders**

The extreme case of unethical behavior is when bidders engage in corrupt practices. The list of definitions set forth below indicates the most common types of corrupt practices among bidders:

- (1) "Corrupt Practice" means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the action of another party;
- (2) "Coercive Practice" means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or property of the party to influence improperly the actions of a party;
- (3) "Fraudulent Practice" means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
- (4) "Collusive Practice" means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party to defeat competition and artificially raise prices in a collusive bidding scheme.

**FORM No. 1  
(See Rule 122 (4))**

**Memorandum of Appeal**

Appeal No .....

of ..... Before..... (Appellate Authority)

Appeal under the Mizoram Transparency in Public Procurement Act, 2008

1. (1) Name and father's name of the appellant  
  
(2) Official address  
  
(3) Residential address
2. Name and address of the respondent(s)
3. Number and date of the order appealed against and name and designation of the officer/authority who passed the order, or a statement of a decision, action or omission of the Procuring Authority in contravention to the provisions of the Act by which the appellant is aggrieved
4. If the Appellant proposes to be represented by a representative / or advocate their names and postal addresses.
5. Number and nature of affidavits furnished along with this appeal
6. Grounds of appeal :-
7. Prayer

Place .....

Date .....

Appellant's Signature

**FORM No.2**

**Summons to Respondents  
(See Rule 122 (12))**

Office of.....

(Appellate Authority under Mizoram Transparency in Public Procurement Act, 2008)

Appeal No..... of ..... 20.....

To

..... (Name, description and  
..... Place of office / residence). .....

Whereas (name of appellant)..... has filed an appeal against the order dated ..... passed by ..... (copy of memorandum of appeal and order enclosed); you are hereby summoned to appear in this office, in person or by a representative or Advocate duly instructed and authorised and able to answer all material questions relating to the appeal on the ..... Day of ..... 20.....

You may file your reply and produce all the documents upon which you intend to rely in support of your case within 15 days from the service of the summons.

In default of filing of reply and your appearance on the day before mentioned, the appeal shall be heard and determined in your absence.

Given under my hand and the seal of the Appellate Authority, on this... .. day of the month of ..... of 20.....

Seal

Appellate Authority

**FORM No. 3**

**Summons to Witnesses  
[See Rule 122 (22)]**

Office of.....

(Authority under Mizoram Transparency in Public Procurement Act, 2008)

Appeal No..... of ..... 20.....

To

..... (Name, description  
..... and Place).

Title .....

Whereas your attention is required on behalf of the .....

In the above case, you are hereby required (personally) to appear before this Appellate Authority on the ..... day of ..... 20..... at..... AM/PM and to bring with you all documents relevant to the case.

Given under my hand and seal of the Appellate Authority on this ..... day of the month of ..... 19.....

Seal

Appellate Authority



**FORM No. 4**

**Letter of Authorisation  
[See Rule 122 (24)]**

Before.....( Appellate Authority)

Appeal No. .... Date .....

Title .....

Appellant .....

Respondent/s .....

I have appointed Shri ..... as my representative /advocate in the above appeal. I hereby authorised the said Shri ..... to appear on my behalf and represent me in the proceedings before the Appellate Authority. He shall have all power to file appeal, reply, application, inspect record, obtain copies and to do all other acts necessary in connection with the proceedings.

Signature of Appellant / Respondent.

Signature of the Advocate / Representative

**SCHEDULE- A**

**Fees of supplying copies of documents**

**(See Rule 122 (27))**

Fees shall be charged for copies according to the following scale :-

- 1 (a) For a foolscap sheet in double space or any portion thereof ₹ 5/- per sheet.
- (b) For urgent copies double fee shall be charged.
- (c) For map or other tabular work the fee shall be fixed by the officer granting copy with reference to the quality, difficulty and intricacy of the work to be done.
- (d) In case in which the applicant desires to take more than one copy of a document and typed copies are given each copy after the first shall be supplied at half the rate prescribed above.
  
2. In case the applicant is unable to give exact particulars of the file and the same is to be traced additional charges shall be made as below:-
  - (a) Index for a year - ₹ 10/-; and
  - (b) Specified document at ₹ 10/- each.
  
3. Application for urgent copies shall receive preference over other ordinary applications and shall ordinarily be supplied within 24 hours provided the record becomes available.