



**GOVERNMENT
OF
THE PEOPLE'S REPUBLIC OF BANGLADESH**

**The Public Procurement
Rules 2008**

**Central Procurement Technical Unit
Implementation Monitoring and Evaluation Division
Ministry of Planning**

April, 2008

Table of Contents

Section	Page
LIST OF ABBREVIATIONS	7
CHAPTER ONE	9
PRELIMINARY	9
1. Short Title and Commencement.....	9
2. Definitions.....	9
3. Scope and Application of the Rules.....	13
CHAPTER TWO	14
PREPARATION OF TENDER OR PROPOSAL, COMMITTEE, ETC.	14
PART – 1.....	14
PREPARATION.....	14
4. Preparation of Procurement Related Documents and their Contents.....	14
5. Provisions Relating to Determination of Tender Price.....	16
6. Maintaining Records Relating to Issue of Procurement Related Documents.....	17
PART – 2.....	17
COMMITTEES.....	17
7. Constitution of Tender or Proposal Opening Committee.....	17
8. Constitution of Evaluation Committee.....	17
9. Eligibility for Appointment of External Members.....	19
10. Chair of the Evaluation Committee.....	20
11. Approval of Tender or Proposal.....	20
12. Approval of Delegated Procurement.....	21
CHAPTER THREE	22
PRINCIPLES OF PUBLIC PROCUREMENT	22
PART – 1.....	22
GENERAL GUIDELINES.....	22
13. Public Accessibility of Procurement Act.....	22
14. Forms of Communications.....	22
15. Procurement Planning.....	22
16. Preparation of Procurement Plan, Etc.....	23
17. Splitting of an Object of Procurement.....	24
18. Competition in Procurement.....	25
PART – 2.....	25
TENDER VALIDITIES AND SECURITY DEPOSITS.....	25
19. Determination of Validities.....	25
20. Time Limit for Evaluation of Tenders.....	25
21. Extension of Validity.....	26
22. Tender Securities.....	26
23. Extension of Validity.....	27
24. Verification of the Authenticity of Tender Security.....	27
25. Forfeiture of Tender Security.....	27
26. Return of Tender Securities. -.....	27
27. Performance Security.....	28
28. Retention.....	28
PART – 3.....	29
PREPARATION OF SPECIFICATIONS AND MAINTAINING CONFIDENTIALITY.....	29
29. Procedure for Preparation of Technical Specifications.....	29
30. Procedures for preparing Terms of Reference.....	30
31. Restrictions on the Disclosure of Information Relating to the Procurement Process. -.....	30
32. Safe Custody.....	31
PART – 4.....	31
REJECTION OF TENDERS, PROPOSALS ETC.....	31

33. Rejection of all Tenders, Proposals or Quotations.....	31
34. Actions to be taken Following Rejection.....	31
35. Informing Reasons for Rejection.....	32
PART – 5	32
APPROVAL PROCEDURE, NOTIFICATION OF AWARD AND PUBLICATION.....	32
36. Procurement Approval Procedure.....	32
37. Publication of Notification of Award of Contract.....	35
PART – 6	35
CONTRACT ADMINISTRATION AND MANAGEMENT.....	35
38. Contract Administration and Management	35
39. Works Contract Administration and Management	37
40. Administration of Goods Contracts. - (1) –	39
41. Administration of	39
42. Termination of Contracts.....	40
PART 7	40
MAINTAINING RECORDS OF PROCUREMENT.....	40
43. Maintaining Records of Procurement	40
44. Making available records of Procurement Proceedings.....	41
PART- 8.....	42
PROCUREMENT POST REVIEW	42
45. Procurement Post Review.....	42
46. Procurement Post Review.....	42
PART- 9.....	43
QUALIFICATION OF PERSONS.....	43
47. Non-discrimination.....	43
48. Qualification of Persons	43
49. Qualification documents needed by the Procuring Entity. -	44
50. Amendments of Requirements for Specific Tenders.	45
51. Pre-Qualification Procedure	46
52. Maintaining Lists of Qualified Potential Suppliers or Contractors	47
53. Appointment of a Subcontractor.....	47
PART- 10.....	48
JOINT VENTURES.....	48
54. Joint Ventures	48
PART - 11	50
CONFLICTS OF INTEREST.....	50
55. Conflict of Interest. -	50
PART - 12	50
COMPLAINTS AND APPEALS.....	50
56. Right to Complain.....	50
57. Submission of Complaints.....	52
58. Formation of Review Panels	53
59. Suspension of Notification of Award. -.....	54
60. Disposal of Appeal by Review Panels	54
CHAPTER FOUR	56
METHODS OF PROCUREMENT FOR GOODS AND RELATED SERVICES, WORKS,	
PHYSICAL SERVICES AND THEIR USE.....	56
PART – 1	56
NATIONAL PROCUREMENT- OPEN TENDERING	56
61. Use of Open Tendering Method in the Procurement of Goods, Works, Etc.....	56
62. Use of Other Methods for Procurement of Goods, Works, Etc. -	56
PART – 2	57
NATIONAL PROCUREMENT - LIMITED TENDERING METHOD	57
63. Use of the Limited Tendering Method. -	57
64. Procedures for the Limited Tendering Procurement Method	57
PART – 3	58
NATIONAL PROCUREMENT- TWO-STAGE TENDERING METHOD	58

65. Conditions and Procedures for Use of Two-Stage Tendering Method. -.....	58
66. Procedures for the Two-Stage Tendering Method. -.....	58
67. Evaluation of the First Stage in the Two-Stage Tendering Method.....	58
68. The Second Stage in the Two-Stage Tendering Method.....	59
PART – 4	59
NATIONAL PROCUREMENT- REQUEST FOR QUOTATION METHOD	59
69. Conditions and Procedures for Use of Request for Quotation Method (RFQ)	59
70. Documentation Needed for the RFQ Method. -	60
71. Procedures for use of Request for Quotations Method Invitation. -	61
72. Submission of Quotations	61
73. Evaluation of Quotations	62
PART – 5	62
NATIONAL PROCUREMENT- DIRECT PROCUREMENT METHOD	62
74. Use of the Direct Procurement Method	62
75. Forms of Direct Procurement. -	63
76. Use of Direct Contracting. -	63
77. Procurement of Additional Deliveries and Repeat Orders	64
78. Issuance of Variation or Extra Work Orders	65
79. Preparation of a Variation or an Extra Work Order.....	65
80. Costing of Variation or Extra Work	66
81. Use of Direct Cash Purchase	67
82. Use of Force Account.....	67
PART – 6	67
INTERNATIONAL PROCUREMENT	67
83. Conditions and Procedures for Open Tendering with International Competition.....	67
84. Conditions for Use of Two-Stage Tendering Method. - (<i>Section 34 of the Act</i>).....	69
85. Conditions & Procedures for use of the Request for Quotation Method in International Procurement.....	69
86. Conditions and Procedures for Use of Limited Tendering Method with International Competition.....	70
87. Conditions and Procedures for Use of the Direct Procurement Method	70
88. Procurement by Embassies and in Special Cases by National Carriers. -.....	70
PART – 7	70
FRAMEWORK CONTRACTS.....	70
89. Framework Contract.....	70
CHAPTER FIVE.....	73
PROCESSING OF PROCUREMENT	73
PART – 1	73
ADVERTISEMENT	73
90. Advertisement	73
PART – 2	74
PRE-QUALIFICATION.....	74
91. Pre-Qualification for Procurement of Goods, Works, Etc.....	74
92. Opening of Pre-Qualification	75
93. Evaluation of Pre-Qualification Applications	75
PART 3	77
PROCESSING OF TENDERS.....	77
94. Issuance and Sale of Tender Document and Pre-Tender Meeting	77
95. Modifications to Tender Documents	78
96. Preparation and Submission of Tenders	78
97. Opening of Tenders	79
98. Evaluation of Tenders	80
99. No Negotiation or Tender Modification as a Pre-condition for Award	85
100. Post-Qualification.....	86
101. Approval Process.....	87
102. Notification of Award and Signing of Contract	87
CHAPTER SIX.....	89
PROCUREMENT OF INTELLECTUAL AND PROFESSIONAL SERVICES	89

PART – 1	89
METHODS AND PROCEDURES	89
103. Methods for Procurement of Intellectual and Professional Services	89
104. Other Methods for Procurement of Intellectual and Professional Services	89
105. Procedures for Selection under the Quality and Cost Based Selection (QCBS)	91
106. Procedures for Selection under a Fixed Budget	91
107. Procedures for Selection under Least Cost Selection (LCS)	92
108. Procedures for Selection of Consultants Based on Consultant's Qualifications (SBCQ)	92
109. Procedures for Selection amongst Community Service Organisations (CSOs)	92
110. Procedures for Selection under Single Source Selection (SSS)	93
111. Procedures for Selection of Consultants by a Design Contest (DC)	93
112. Selection of Individual Consultants (SIC)	94
PART -2	95
PROCESSING OF EXPRESSIONS OF INTEREST AND PROPOSALS	95
113. Submission of Expressions of Interest (EOI)	95
114. Opening of Expressions of Interest	96
115. Assessment of Expressions of Interest and Approval of Short-List, Etc	96
116. Preparation of the Terms of Reference (TOR)	97
117. Preparation and Issue of Request for Proposal (RFP) Document	97
118. Submission and Opening of Proposals	101
PART -3	102
EVALUATION OF PROPOSALS, NEGOTIATIONS AND COMPLETION OF THE PROCESS	102
119. Evaluation of Technical Proposals	102
120. Evaluation of Financial Proposals	103
121. Combined Technical and Financial Evaluation	103
122. Negotiations	104
123. Failure of Negotiations	105
124. Approval Process	105
125. Signing of Contract	106
126. Completion of the Process	106
CHAPTER SEVEN	107
PROFESSIONAL MISCONDUCT	107
127. Professional Misconduct, Offences, Etc	107
CHAPTER EIGHT	110
E-Government Procurement	110
128. E-Government Procurement	110
CHAPTER NINE	110
MISCELLANEOUS	110
129. Concession contracts – related provisions	110
130. Responsibilities of the Government Regarding Monitoring, Etc	110
SCHEDULE I	112
Times and Values	115
SCHEDULE II	134
Guidance Notes on Preparation of Procurement Plans	Error! Bookmark not defined.
A. Total Procurement Plan for Development Project / Programme	134
B. Annual Procurement Plan for Development & Revenue Budgets	Error! Bookmark not defined.
C. Annual Procurement Plan	137
D. Annual Procurement Plan	138
E. Annual Procurement Plan	139
E. Annual Procurement Plan	139
SCHEDULE III	126
CHECK-LISTS	126
A. Procurement Processing and Approval Procedure for Goods or Works	126
B. Procurement Processing and Approval Procedure for Services (Firms)	128
C. Procurement Processing and Approval Procedure for Services (Individuals)	130
D. Steps for Opening Tenders	132
SCHEDULE IV	141

A. Records of Procurement to be Maintained by a Procuring Entity	143
B. Records and Documents to be maintained.....	145
SCHEDULE V	Error! Bookmark not defined.
A. General Considerations for the Employment of Consultants	147
B. General Considerations for Employment of Bangladeshi Nationals as Individual Consultants in Aided Projects	149
C. Terms and Conditions of Employment of Government Servants and Employees of Statutory Bodies, Local Authorities, Etc.	151
D. Consultant Conflicts of Interest: Range of Possible Cases	153
SCHEDULE VI	154
A. Tender Submission Form	161
B. Tender Submission Form	164
C. Financial Proposal Submission Form	167
D. Technical Proposal Submission Form	168
SCHEDULE VII	Error! Bookmark not defined.
FORMATS FOR INVITATIONS	Error! Bookmark not defined.
A. Invitation for Enlistment	Error! Bookmark not defined.
B. Invitation for Pre-Qualification	Error! Bookmark not defined.
C. Invitation for Pre-Qualification	Error! Bookmark not defined.
D. Invitation for Tenders.....	Error! Bookmark not defined.
E. Invitation for Tenders.....	Error! Bookmark not defined.
SCHEDULE VIII	Error! Bookmark not defined.
A. Request for Expressions of Interest (Firm)	Error! Bookmark not defined.
B. Request for Expressions of Interest (Firm)	Error! Bookmark not defined.
SCHEDULE IX	Error! Bookmark not defined.
Format for Reporting Contract Award	Error! Bookmark not defined.
SCHEDULE X	Error! Bookmark not defined.
NOTIFICATION OF AWARD	Error! Bookmark not defined.
SCHEDULE XI	125
FLOW CHART	125
Procurement Processing and Approval Timetable Rule 36).....	125
SCHEDULE XII	141
The Code of Ethics for Public Procurement.....	Error! Bookmark not defined.
SCHEDULE XII	112
Standard Tender Documents, Request for Proposals and Evaluation Reports	Error! Bookmark not defined.
INDEX	Error! Bookmark not defined.

LIST OF ABBREVIATIONS

ADB	-	Asian Development Bank
ADS	-	Application Data Sheet
AO	-	Authorised Officer
APEC	-	Asia Pacific Economic Co-operation
ASEAN	-	Association of South-East Asian Nations
BSTI	-	Bangladesh Standard and Testing Institute
CCGP	-	Cabinet Committee on Government Purchase
CPTU	-	Central Procurement Technical Unit
CSOs	-	Community Service Organisations
DC	-	Design Contest
DoFP	-	Delegation of Financial Powers
DPP	-	Development Project Proforma
DTM	-	Direct Tendering Method
EOI	-	Expressions of Interest
EXW	-	Extra Work
FBCCI	-	Federation of Bangladesh Chamber of Commerce and Industry
GCC	-	General Conditions of Contract
HOPE	-	Head of the Procuring Entity
IEC	-	International Electrotechnical Committee
IFA	-	Invitations for Application
IFE	-	Invitations for Enlistment
IFPQ	-	Invitations for Pre-Qualification
IFT	-	Invitations for Tender
IMED	-	Implementation Monitoring and Evaluation Division
ISO	-	International Standard Organisation
ITA	-	Instructions to Applicants
ITC	-	Instructions to Consultants
ITT	-	Instructions to Tenderers
JVCA	-	Joint Venture, Consortium or Association
LCS	-	Least Cost Selection
LD	-	Line Director
LOI	-	Letter of Invitation
LTM	-	Limited Tendering Method

NOA	-	Notification of Award
OTM	-	Open Tendering Method
PCC	-	Particular Conditions of Contract
PD	-	Project Director
PDS	-	Proposal Data Sheet
PEC	-	Proposal Evaluation Committee
PM	-	Project Manager
POC	-	Proposal Opening Committee
QCBS	-	Quality & Cost Based Selection
RFQ	-	Request for Quotation
RHD	-	Roads and Highways Department
SBCQ	-	Selection Based on Consultant's Qualifications
SFB	-	Selection under a Fixed Budget
SIC	-	Selection of Individual Consultant
SSS	-	Single Source Selection
TAPP	-	Technical Assistance Project Proforma
TDS	-	Tender Data Sheet
TEC	-	Tender Evaluation Committee
TIN	-	Tax Identification Number
TOC	-	Tender Opening Committee
TOR	-	Terms of Reference
TOS	-	Tender Opening Sheet
TSC	-	Technical Sub-Committee
TSTM	-	Two-stage Tendering Method
WB	-	World Bank
WTO	-	World Trade Organisation

The Government of the People's Republic of Bangladesh
Ministry of Planning
Implementation Monitoring and Evaluation Division
Central Procurement Technical Unit

The Public Procurement Rules, 2008

NOTIFICATION
Dated the 24th January, 2008

S,R,O No 21-Law/2008 |— In-exercise of powers conferred under section 70 of the Public Procurement Act, 2006 (Act 24 of 2006), The Government is pleased to make the following Rules, namely -

CHAPTER ONE

PRELIMINARY

1. Short title and commencement |— (1) These Rules may be called the Public Procurement Rules, 2008.

(2) They shall be effective on the date of coming into force of the Public Procurement Act, 2006

2. Definitions |— In these Rules, unless there is anything repugnant to the subject or context—

- (1) **"Act"** means The Public Procurement Act, 2006 (Act 24 of 2006);
- (2) **"Administrative Authority"** means the concerned Procuring Entity, Head of the Procuring Entity and Secretary of the Ministry or Division respectively;
- (3) **"Advertisement"** means an advertisement published under Section 40 in newspapers, websites or any other mass media for the purposes of wide publicity;
- (4) **"Applicant"** means a Person who seeks to become enlisted under the Limited Tendering Method under Section 32 (a) of the Act or to be pre-qualified in response to an Invitation for Pre-Qualification under Part-2 of Chapter Six of the Act, or to be short-listed in response to a request for Expression of Interest under Section 54 of the Act ;
- (5) **"Approval Procedures"** means the approval procedures of a Tender or a Proposal as detailed in Rule 36;
- (6) **"Approving Authority"** means the authority which, in accordance with the Delegation of Financial Powers, approves the award of contract for the Procurement of Goods, Works or Services;
- (7) **"Code of Ethics"** means the set of conditions and provisions which a Person shall abide while participating in public Procurement;
- (8) **"Completion Date"** is the date of completion of the Works as certified by the Project Manager;

- (9) **"Conflict of Interest"** means any situation where personal or business interests of any Person in a public Procurement transaction would adversely affect the interest of a Procuring Entity in achieving economy, efficiency, transparency, fairness and equal treatment of Tenders or Proposals;
- (10) **"Consultant"** means a Person under contract with a Procuring Entity for providing intellectual and professional services;
- (11) **"Contractor"** means a Person under contract with a Procuring Entity for the execution of any Works under the Act;
- (12) **"Contract Price"** is the price stated in the Notification of Award and thereafter as adjusted in accordance with the provisions of the Contract.
- (13) **"CPTU"** means the Central Procurement Technical Unit, established by the in the Implementation Monitoring and Evaluation Division of the Ministry of Planning, for carrying out the purposes of the Act and these Rules;
- (14) **"Days"** means calendar days unless otherwise specified as working days;
- (15) **"Dayworks"** means work carried out following the instructions of the Procuring Entity or the authorised project manager and is paid for on the basis of time spent by the Contractor's workers and equipment at the rates specified in the Bill of Quantities (BOQ), in addition to payments for associated Materials and Plant;
- (16) **"Defect"** is any part of the Works not completed in accordance with the Contract;
- (17) **"Defects Correction Certificate"** is the certificate issued by Project Manager upon correction of defects by the Contractor;
- (18) **"Defects Liability Period"** is the period named in the Contract and calculated from the Completion Date;
- (19) **"Delegation of Financial Powers"** means the instructions with regard to the delegation of financial authority, issued by the from time to time, relating to the conduct of public Procurement or sub-delegation of financial powers under such delegation;
- (20) **"Delegated Procurement"** means a procurement undertaken by a specialised Procuring Entity on behalf of a Ministry, Division, Department or Directorate when the beneficiary entity delegates the task to such Procuring Entity.
- (21) **"e-GP"** means procurement by a Procuring Entity using electronic processing systems.
- (22) **"Evaluation Committee"** means a Tender or a Proposal Evaluation Committee constituted under Section 7 of the Act;
- (23) **"Evaluation Report"** means the report prepared after the evaluation of s, Tenders, Quotations, Expressions of Interest or Proposals;
- (24) **"Force Majeure"** means an event or situation beyond the control of the Contractor, a Supplier or Consultant that is not foreseeable, is unavoidable, and its origins not due to negligence or lack of care on the part of the Contractor; such events may include, but not be limited to, acts of the Government in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes;
- (25) **"Form"** or **"Format"** means a form or a format appended to these Rules and to the standard Documents issued there under;

- (26) **"Framework Contract"** means a contract, effective for a given period of time, between one or more Procuring Entities and one or more Suppliers, establishing the terms governing the Procurement of Goods and related Services, with regard to price, and, where appropriate, the quantity or quantities envisaged;
- (27) **"Goods"** means raw materials, products and equipment and objects in solid, liquid or gaseous form, electricity, and related Services if the value of such Services does not exceed that of the Goods themselves;
- (28) **"Head of the Procuring Entity"** means the Secretary of a Ministry or a Division, the Head of a Government Department or Directorate; or the Chief Executive, by whatever designation called, of a local Government agency, an autonomous or semi-autonomous body or a corporation, or a corporate body established under the Companies Act;
- (29) **"Intellectual and Professional Services"** means Services performed by Consultants with outputs of advisory, design, supervision or transfer of a know-how nature;
- (30) **"Intended Completion Date"** is the date on which it is intended that the Contractor shall complete the Works as specified in the Contract and may be revised only by the Project Manager by issuing an extension of time or an acceleration order;
- (31) **"in writing"** means communication written by hand or machine duly signed and includes properly authenticated messages by facsimile or electronic mail;
- (32) **"Multiple Dropping"** means submitting Tenders to more than one place as designated by the Procuring Entity;
- (33) **"Opening Committee"** means a Tender Opening Committee (TOC) or a Proposal Opening Committee (POC) constituted under Section 6 of the Act;
- (34) **"Person"** means and includes an individual, body of individuals, sole proprietorship, partnership, company, association or cooperative society that wishes to participate in Procurement proceedings;
- (35) **"Physical Services"** means the following services with measurable outputs, either-
- (a) linked to the supply of Goods or execution of Works such as operation and maintenance of facilities or plant, surveys, exploratory drilling, or
 - (b) stand-alone service type contracts such as security services, catering Services, geological Services or third party Services;
- (36) **"Pre-Qualification"** means a procedure for demonstrating qualifications as a pre-condition for being invited to Tender;
- (37) **"Primary place"** means the office of the Procuring Entity where all Tenders shall be received and opened;
- (38) **"Procurement"** means the purchasing or hiring of Goods, or acquisition of Goods through purchasing and hiring, and the execution of Works and performance of Services by any contractual means;
- (39) **"Procuring Entity"** means a Procuring Entity having administrative and financial powers to undertake Procurement of Goods, Works or Services using public funds;
- (40) **"Project Manager"** is the person named in the Contract or any other competent person appointed by the Procuring Entity and notified to the Contractor who is responsible for supervising the execution of the Works and administering the Contract;

- (41) **"Provisional sums"** means amounts of money specified by the Procuring Entity in the Bill of Quantities which shall be used, at its discretion, for payments to nominated Subcontractors and other purposes detailed in the Tender Documents;
- (42) **"Public funds"** means any funds allocated to a Procuring Entity under Government budget, or loan, grants and credits placed at the disposal of a Procuring Entity through the Government by the development partners or foreign states or organisations
- (43) **"Public Procurement"** means Procurement using public funds;
- (44) **"Quality"** means quality of Goods, Works or Services;
- (45) **"Quotation"** means the priced offer in writing received from Tenderers for the Procurement of readily available standardised Goods, Works or physical Services subject to the threshold value as prescribed by these Rules;
- (46) **"Related Services"** means Services linked to the supply of Goods contracts;
- (47) **"Responsive"** means qualified for consideration on the basis of evaluation criteria so declared and specified in the Tender Document or in the request for Proposal Document;
- (48) **"Review Panel"** means a panel comprised of specialists to review complaints submitted by a Person;
- (49) **"Schedule"** means a schedule appended to these Rules;
- (50) **"Secondary place"** means the other place(s), designated by the Procuring Entity in exceptional cases, where Tenders can be dropped but not opened;
- (51) **"Services"** means goods related Services, physical Services, or intellectual and professional Services;
- (52) **"Short-list"** means a list of Applicants deemed suitable to be invited to submit Proposals for intellectual and professional Services following the evaluation of Expressions of Interest;
- (53) **"Subconsultant"** means any person or entity to whom/which the Consultants subcontract any part of the Services;
- (54) **"Subcontractor"** is a person or corporate body who has a Contract with the Contractor to carry out a part of the work in the Contract, which includes work on the Site;
- (55) **"Supplier"** means a Person under contract with a Procuring Entity for the supply of Goods and related Services under the Act;
- (56) **"Tender or Proposal"**, depending on the context, means a Tender or a Proposal submitted by a Tenderer or a Consultant for delivery of Goods, Works or Services to a Procuring Entity in response to an Invitation for Tender or a Request for Proposal; and for the purposes of the Act, Tender also includes quotation;
- (57) **"Tender Document or Request for Proposal Document"**, means the Document provided by a Procuring Entity to a Tenderer or a Consultant as a basis for preparation of its Tender or Proposal;
- (58) **"Tenderer"** means a Person who submits a Tender;
- (59) **"Works"** means all Works associated with the construction, reconstruction, site preparation, demolition, repair, maintenance or renovation of railways, roads, highways or a building, an infrastructure or structure or an installation or any construction work relating to excavation, installation of equipment and materials, decoration, as well as physical Services ancillary to Works, if the value of those Services does not exceed that of the Works themselves.

3. Scope and Application of the Rules |— (1) These Rules shall apply to the following areas namely -

- (a) Procurement of Goods Works or Services by any procuring entity using public funds;
- (b) Procurement of Goods, Works or Services by any government, semi-government or any statutory body established under any law;
- (c) Procurement of Goods, Works or Services using public funds by -a company registered under the Companies Act, 1994 (Act No. 18 of 1994);
- (d) Procurement of Goods, Works or Services under a loan, credit or grant agreement or under any other agreement with a development partner or with a foreign state or an organisation, provided that if there is anything to the contrary in any such agreement entered into, the provision of that agreement shall prevail.

CHAPTER TWO

PREPARATION OF TENDER OR PROPOSAL, COMMITTEE, ETC.

PART – 1

Preparation of Tender or Proposal

4. Preparation of Procurement Related Documents and their Contents — (1)
Documents needed for Pre-Qualifications, Tenders and Proposals shall be prepared by the Procuring Entity following the Standard Documents issued by the CPTU listed in Schedule I.

(2) The Documents for Goods and related Services, Works and Physical Services shall, depending on the context, among others include—

- (a) instructions for the preparation and submission of an Application or a Tender;
- (b) information concerning the deadline and location(s) for receipt of Applications; or
- (c) information concerning the date, hour (local time) and location of the receipt and public opening of the Tender(s);
- (d) a Tender Submission Sheet and sample formats for Tender Security; Performance Security and manufacturers' authorisation, where applicable;
- (e) the number of copies to be submitted with the original Application or Tender;
- (f) Conditions of Contract, general and particular;
- (g) detailed specification of requirements of goods and works;
- (h) documentary evidence to be provided by the Tenderer to demonstrate its qualifications for purposes of post-qualification verifications to be conducted by the Tender Evaluation Committee;
- (i) the period during which the Tender must remain valid;
- (j) the qualifications and other criteria to be taken into account in the evaluation of Applications for Pre-Qualification or Tenders and the basis of its evaluation;
- (k) a requirement that a Tenderer or an Applicant must, in the form specified in the Application or Tender Document, pledge not to engage in any corrupt, fraudulent, collusive or coercive practices as specified in Section 64 of the Act;
- (l) a statement to the effect that the Procuring Entity may reject any or all Applications, Tenders or Quotations;
- (m) a provision for holding a Pre-Tender meeting with potential Tenderers, where appropriate, in order to provide clarifications about the conditions of the Tender Documents;
- (n) an indication in the Tender Data Sheet (TDS) or Application Data Sheet (ADS) as to whom a Tenderer or Applicant shall address any complaint under Rule 57;
- (o) a provision to the effect that a Tenderer shall be permitted to modify, substitute or withdraw its Tender at any time prior to the deadline for the submission of Tenders.

(3) The Procuring Entity shall set out clearly the following information and conditions in the Tender or Proposal Documents

- (a) the description of the Works and Physical Services to be carried out;
- (b) the drawings and location of the Works;
- (c) the description of the Goods and related Services to be supplied;
- (d) the location of delivery or installation;
- (e) the schedule for delivery and completion;
- (f) the minimum performance requirements;
- (g) the warranty, defects liability and maintenance requirements;
- (h) the currency(ies) the tenderers shall quote in the tenders and the applicable and the applicable date of its exchange rate;
- (i) the amount(s) and currency(ies) of Tender security and performance security;
- (j) the terms and mode of payment of the Contract price;
- (k) the presence or absence of Advance Payment, in line with the government orders and agreements with development partners;
- (l) the minimum insurance coverage; and
- (m) any other relevant terms and conditions.

(4) Tender Documents, where appropriate, shall define the tests, standards and methods that shall be used to determine the compliance of the Goods or equipment to be delivered or Works to be performed with technical specifications.

(5) Technical specifications shall be prepared in a non-restrictive manner so that a fair and open competition is possible and shall be consistent with drawings included in the Tender Documents.

(6) The Procuring Entity may, if necessary seek the assistance of external specialists from outside the Procuring Entity at the time of for preparing the Tender Document.

(7) The Documents forming the Contract shall be in the following order of precedence, namely :-

- (a) The signed Contract Agreement;
- (b) The Notification of Award;
- (c) The Tender and the appendices to the Tender;
- (d) Particular Conditions of Contract;
- (e) General Conditions of Contract;
- (f) Technical specifications;
- (g) General specifications;
- (h) Drawings;
- (i) Price Schedule and schedule of requirements for Goods or Priced Bill of Quantities for works;
- (j) Other Documents including correspondences. r.

(8) The Documentation needed for consultancy Services (i.e. Request for Proposal and Terms of Reference) shall be prepared following provisions in Chapter Six of these Rules.

(9) Where Tenders based upon alternative designs, materials, completion schedules, payment terms and other conditions are permitted, the conditions for their acceptability and the method for their evaluation shall be stated in the Tender Document.

(10) If Tenders for Goods will be invited on 'lot-by-lot' basis, each lot shall constitute a Tender and in such case the Tender Data Sheet (TDS) shall clearly indicate that, Lot not offering at least eighty percent (80%) of the total number of items required under that Lot, and representing at least 65% of the estimated lot value, shall be considered non-responsive; or if any item in a lot-Tender represents more than fifty percent (50%) of the estimated lot value, then the TDS shall specify that a lot-Tender not offering that particular item shall be considered non-responsive, even if it complies with the requirement of minimum number of items based on percentage of the total number of items specified in the TDS.

(11) If Tenders for Goods will be invited for one or more items on 'item-by-item' basis, in such case the offer for each item shall correspond to full quantity under that particular item and each such item shall constitute a Tender and the Tender Submission Sheet shall be modified by inserting a Table to allow for offering the individual item in the sheet.

(12) Notwithstanding anything contained in Sub-Rule (1), Procuring Entities may, depending on the nature of a specific Procurement requirement, make necessary adjustments in the Application Data Sheet (ADS), Tender Data Sheet (TDS), or the Particular Conditions of Contract of the Documents mentioned in that Sub-Rule,

provided that such adjustments, under no circumstances, shall contradict with any provisions of the Act and these Rules.

(13) The Central Procurement Technical Unit (CPTU) shall publish on their website the Standard Documents issued.

5. Provisions Relating to Determination of Tender Price |— (1) A Tender shall be invited on the basis of the delivered price of the Goods to the designated destination, or for the completion of Works or installation, inclusive of all associated and related Services thereof to be performed by the Tenderer

(2) Taxes, including VAT, and custom duties, payable by a Supplier if the Contract is awarded, shall be shown separately in the price schedule as provided for in the Tender Document.

(3) The Tender Document shall state that —

- (a) the Tender price shall be fixed; or
- (b) price adjustments shall be made to reflect any changes, upwards or downwards, in major cost components such as labour, equipment, material and fuel, of the Contract.

(4) Prices may be adjusted for contracts of more than eighteen (18) months following formula stated in the Tender Document.

(5) Price adjustment provisions shall not usually be necessary in simple Contracts of within eighteen (18) months or in cases where it is normal commercial practice to procure certain types of equipment at firm prices, regardless of delivery time,

provided that if considered necessary by the Procuring Entity it may, with the approval of the HOPE, use the price adjustment formula for contracts of within eighteen (18) months.

(6) The Bill of Quantities shall provide estimated quantities for the individual items of Day Works for pricing.

(7) The Procuring Entity may at its discretion, include in the Bill of Quantities the

Provisional Sums for payments to nominated Subcontractors and other purposes as detailed in the Tender Documents.

6. Maintaining Records Relating to Issue of Procurement Related Documents |— The Procuring Entity shall record the following information when issuing the Pre-Qualification, or Tender or RFP Documents to a Person, namely—

- (a) reference number relating to the issuance of a procurement related document;
- (b) name and mailing address;
- (c) telephone and facsimile numbers and electronic mail address, if applicable;
- (d) any other information that is considered necessary by the Procuring Entity.

PART – 2

COMMITTEES

7. Constitution of Tender or Proposal Opening Committee, Meetings, Etc. |—The Head of the Procuring Entity or an officer authorised by him or her or the Approving Authority, while the Approving Authority is below the level of HOPE, as the case may be, shall form a Tender or Proposal Opening Committee comprising of members as specified in Schedule II .

8. Constitution of Evaluation Committee and Evaluation Procedures |— (1) Tender Evaluation Committee (TEC) or Proposal Evaluation Committee (PEC) shall be formed comprising of members , as specified in Schedule II , prior to the invitation for Application, Tender or Proposal has been issued, but certainly must be formed before the deadline for submission of Applications, Tenders or Proposals.

(2) The Evaluation Committee formed under Sub-Rule (1) shall include external members having knowledge required for evaluation and, who shall be nominated by designation: provided that, for procurements of values within ceilings mentioned in Schedule II , Tender or Proposal Evaluation Committees shall be formed in accordance with the said Schedule II.

(3) The Approving Authority shall form the Evaluation Committee; but when the approving authority is at the level of a Board of Directors or a Ministry or if the CCGP is the recommending authority, the Evaluation Committee shall be appointed with the approval of the Chairperson of the Board or the Secretary of the Ministry or Division, as the case may be.

(4) A Procuring Entity may, with the approval of the authorities stated in Sub-Rule (3) form -

- (a) only one (1) Evaluation Committee to handle all the Procurement for that Procuring Entity, especially if that Procuring Entity handles only a limited number of Applications, Tenders or Proposals yearly or is capable of evaluating all its Procurement needs through that one (1) Evaluation Committee;
- (b) more than one (1) Evaluation Committee, if it has many Procurement activities which need to be examined and evaluated at a particular point of time;
- (c) a separate Evaluation Committee to evaluate a specific large value or complex Procurement Tender such as the supply, installation and commissioning of processing plants, or works of complex nature or communication technology;
- (d) a separate Evaluation Committee, on as required basis, for any particular

Procurement.

(5) The Evaluation Committee members may be selected from -

- (a) officers of the concerned unit of the Procuring Entity, namely Finance, Commercial and Technical Units;
- (b) officers of the controlling office of administrative ministry or division or agency thereunder from the line Ministry or Division or other Agencies under them;
- (c) officers from the end-user or beneficiary Entity; and
- (d) officers experienced in technical, commercial, financial or legal matters from other Ministries or Divisions, Agencies, or experts from Universities or reputable professional bodies or specialists from the relevant fields in the case of the external members.

(6) At the time of the constitution of the Evaluation Committee, the Approving Authority shall ensure that the members of the Evaluation Committee are qualified officers or professionals of high integrity in order to accelerate the subsequent review and approval process of the Evaluation Report in accordance with Rule 36.

(7) The Approving Authority may designate one (1) of the Evaluation Committee members as Member Secretary of the Evaluation Committee.

(8) Notice inviting meetings shall be sent to all members of the Evaluation Committee and the meeting shall be held valid only when the minimum number of members, specified in Schedule II, are present.

(9) The Evaluation Committee shall, to the extent practical and possible, work continuously once they have begun an evaluation in order to complete evaluation within the time limit prescribed under Rule 36.

(10) The Evaluation Committee members themselves on their own responsibility following the provision of the Act, these Rules and the terms and conditions of Application, Tender or Proposal Documents shall -

- (a) examine and evaluate the Applications, Tenders, Expressions of Interest or Proposals ;
- (b) prepare the Evaluation Report with recommendations; and
- (c) submit the Evaluation Report directly to the Approving Authority in a manner as prescribed under Rule 36.

(11) The members of the Evaluation committee can only be removed once it is appointed, with the approval of the authority that constituted the Committee on grounds which may include

- (a) if any member does not disclose his or her connection with an Applicant or a Tenderer, even if he continues to act in an impartial manner;
- (b) if any member remains absent in two (2) consecutive Evaluation Committee meetings;
- (c) if any member is in direct breach of Section 64 of the Act; and
- (d) in the case of transfer, death or absence of any member from the country.

(12) If Tenders are received from Tenderers with whom any member(s) of the TEC has business or other close links, such member(s) shall be replaced.

(13) The each member of the Evaluation Committee shall -

- (a) sign individually a declaration of impartiality in the following manner -

"I (name of the Evaluation Committee member & designation) do hereby declare and confirm that I have no business or other links to any of the competing Tenderers or Applicant"; and

- (b) sign collectively in the Tender or Proposal Evaluation Report, by certifying that -
- "The Evaluation Committee certifies that the examination and evaluation has followed the requirements of the Act, the Rules made there under and the terms and conditions of the prescribed Application, Tender or Proposal Document and that all facts and information have been correctly reflected in the Evaluation Report and, that no substantial or important information has been omitted".

(14) The Approving Authority may also appoint a Technical Sub-Committee (TSC) as specified in Schedule II or, subject to the number-limitation in Sub-Rule (2) may include other experts in the Evaluation Committee, if it is felt that a particular Tender or Proposal requires such technical assistance, following the timeline stipulated in Schedule III.

(15) In order to ensure smooth operation of the Evaluation Committee, a provision for an incentive, fee or honorarium, in the rate mentioned in Schedule II or as may be determined by the Government from time to time, for each Evaluation Committee member shall be made.

(16) The necessary budgetary provisions for payment of fees or honoraria under Sub-Rule (15) shall be made in Revenue or Development Budget.

(17) Checklists stated under Sub-rule (18) showing the time spent at each stage starting from invitation Application. Tender or Proposal shall be attached to the Evaluation Reports by the Evaluation Committee and forwarded to the officer next to whom the Evaluation Report is to be submitted in accordance with the approval process and who will have to similarly fill in the time spent at his stage in the checklists and forward it to the Approving Authority with the Evaluation Report and other necessary Documents.

(18) The checklists mentioned in Sub-Rule (17) shall be as Part A, Part B and Part C as applicable, of Schedule IV

9. Eligibility for Appointment of External Members on the Evaluation Committee

— (1) The external members shall not be from within the unit(s) of the same Procuring Entity, Ministry or Agency.

(2) Notwithstanding Sub-Rule (1) the Head of the Procuring Entity or an officer authorised by him or her may appoint the external members from other Procuring Entities established under the same Ministry or Division or Agency in the following cases -

- (a) for low value procurement applying Open Tendering Method, Limited Tendering Method, Direct Procurement Method and Request for Quotation Method subject to threshold in Schedule II; or
- (b) low value contract under the Least Cost Selection Method or procurement of Services below the threshold specified in Schedule II applying Single Source Selection Method, or essential services that represent a natural continuation of previous Services carried out by the consulting firm.

(3) In case of special nature of the evaluation, the experts from the Government, autonomous or semi-autonomous organisations, universities, or reputable professional bodies and eminent specialists, having qualifications stated in this rule and Rule 8, can be appointed from the relevant fields can be selected in Evaluation Committee as external members. (4) None having links as mentioned hereunder shall be appointed as members of the Evaluation Committee

- (a) a business or personal interest with any of the Persons who are likely to submit or have submitted Pre-Qualification Applications, Tenders, Expressions of

Interest or Proposals to be evaluated by the concerned Evaluation Committee, or

- (b) any other f interest that would not make possible for being neutral .

10. Chair of the Evaluation Committee |— (1) The Evaluation Committee shall be chaired by -

- (a) an officer immediate below the rank of the Approving Authority, where the Approving Authority is at the level of a Project Director, Project Manager or an authorised officer as per the Delegation of Financial Powers at the regional, sub-regional, district; or upazila level;
- (b) the Approving Authority at the upazila or other levels, where there may be no class I officer below the Approving Authority;
- (c) an officer immediate below the rank of the Head of the Procuring Entity, where the Approving Authority is at the level of a Head of a Procuring Entity, or of the Chief Executive of a corporation, autonomous body or semi-autonomous body;
- (d) the Head of the Procuring Entity or the Chief Executive where the Approving Authority is at the level of a Board of Directors or of a Ministry or the Cabinet Committee on Government Purchase (CCGP);
- (e) an officer immediate below the Head of the Procuring Entity or the Chief Executive, if for any reason they are unable to chair a particular meeting of the Evaluation Committee;
- (f) an officer immediate below the rank of a Secretary In the case of a Ministry's own Procurement where the Secretary is the Head of the Procuring Entity.

(2) In cases where the companies, registered under the Companies Act, 1994 (Act No. 18 of 1994), use public funds received through the Government Revenue or Development budget for undertaking any procurement, they shall follow their own administrative and financial delegations as applicable to them under the Companies Act with regard to chairing the meting of the Evaluation Committee.

11. Approval of Tender or Proposal |— (1) The Approving Authority shall take decisions following Section 8 of the Act and in compliance with the provisions of the Act and these Rules on the recommendations of the Evaluation Committee. .

(2) The Approving Authority, considering the overall recommendations of the Evaluation Committee , may either -

- (a) approve the recommendations; or
- (b) seek any clarification from the Committee through the Procuring Entity on any specific issues in connection with such recommendations; or
- (c) explaining the reasons -
 - (i) reject the recommendations, and request the Committee for a re-evaluation; or
 - (ii) reject the recommendations, and issue instructions to reprocess the Procurement in accordance with the provisions of the Act and these Rules.

(3) In cases where the companies, registered under the Companies Act, 1994 (Act No. 18 of 1994), use public funds received through the Government Revenue or Development budget for undertaking any procurement, they shall follow their own administrative and financial delegations as applicable to them under the Companies Act with regard to approval of the Evaluation Report and Award of contract.

12. Approval of Delegated Procurement |—(1) If a Ministry, Division, Department, or Directorate does not possess adequate technical capability for certain procurements of Goods, Works or Services, in that case it may delegate the task to a Procuring Entity, hereafter referred to as executing agency, competent for such procurement..

(2) The Head of the Procuring Entity and the Procuring Entity of the designated executing agency for such delegated procurement shall act as the Head of the Procuring Entity and the Procuring Entity respectively and shall perform as follows-

- (a) undertake the procurement in accordance with the provisions of these Rules;
- (b) give approvals as per the Delegation of Financial Powers;
- (c) administer the Contract and supervise the project implementation.

(3) The owner Ministry, Division, Department, or Directorate shall designate officers to participate in the whole procurement and implementation process including Tender Evaluation and shall arrange for monitoring the proper implementation of the procurement and take over its authority from the Executing Agency upon completion.

Example

If the Ministry of Youth and Sports or Department of Youth Development delegates implementation of any work of the project to the PWD, in that case the Head of the Procuring Entity and the Procuring Entity of the PWD will act as the Head of the Procuring Entity and the Procuring Entity respectively and shall be its implementing party. The Ministry of Youth and Sports or Department of Youth Development, being the Owner, shall take over the authority from the PWD upon completion.

Department or Directorate with regard to location of procurement, design, construction materials and other matters ancillary to such delegated work.

CHAPTER THREE

PRINCIPLES OF PUBLIC PROCUREMENT

PART – 1

GENERAL GUIDELINES

13. Public Accessibility of Procurement Act, etc. |—For the purpose of making easily available the Act and the Rules made there under, orders, instructions, guidelines or other Documents to the general public, the CPTU shall perform the following responsibilities namely -

- (a) print and publish the Bangla version and the authentic English text of the Act, and these Rules;
- (b) publish from time to time the Procurement-related Documents needed to facilitate the conduct of Procurement activities by Procuring Entities;
- (c) make the Documents under Item (a) and (b) easily available to the general public in hard copy and post them on the CPTU website; and
- (d) ensure that these Documents are properly maintained and updated.

14. Forms of Communications |— (1) All communications between Procuring Entities and other parties participating in the Procurement process (such as Applicants, Tenderers, Suppliers, Contractors or Consultants), shall be in writing to ensure that all such communications are legally binding as confirmed by the signature of the sender or an authorised officer or nominee of the sender on the communication.

(2) Communications made by fax or e-mail shall be confirmed by submission of a duly signed document by the sender or an authorised officer or nominee of the sender.

(3) For e-GP, the provisions of Chapter Eight shall be applicable.

15. Procurement Planning and Selection of Procurement methods |— (1) Prior to the preparation of a Procurement Plan in the case of splitting up a single procurement object into more than one package, the Procuring Entity shall decide on splitting the packages and the applicability of the Procurement methods considering the nature and size of the Procurement, by carefully reviewing the proposed Procurement activities and issues.

(2) The Procuring Entity shall take into account the following when determining the method of Procurement and consolidating of Goods packages:

- (a) type of goods to be procured;
- (b) estimated cost as approved by the HOPE or an officer authorised by him or her;
- (c) availability of the relevant Goods in the local market;
- (d) quality, sources and brand of the Goods available in the local market;
- (e) price levels of the designated Goods;
- (f) capacity of local Suppliers to supply the required quantities;
- (g) capacity of the national industry and quality of its products;
- (h) market conditions and expected competition;
- (i) urgency of the Procurement;

- (j) capacity of beneficiary stores and proposed terms of delivery and schedule; and,
- (k) risks related to supply in the local and international markets.

(3) The Procuring Entity may decide to use Framework Contracts following Rule 89 for repetitive supplies and may decide to go for Tenders on lot-by-lot or item-by-item basis if advantageous.

(4) The Procuring Entity shall be very cautious in preparing the packages and shall not include too many items in one package, in order to ensure that the number of potential Suppliers is not reduced.

(5) The Procuring Entity shall organize the lot by integrating only those the items that are normally supplied by the same range of Suppliers.

(6) For special type of supplies (such as Health Sector Goods) Tenders may be invited on item-by-item basis, if the participation of the Manufacturers in the Tendering process is desired to be encouraged.

(7) In the case of determining the method of Procurement for Works, the Procuring Entity shall consider the following: –

- (a) estimated cost as approved by the HOPE;
- (b) the prevalent conditions of the contracting industry;
- (c) capacity of local Contractors;
- (d) expected competition;
- (e) geographic location;
- (f) intended completion date and
- (g) other related matters.

16. Preparation of Procurement Plan, Etc. — (1) Preparation of a Procurement Plan shall be mandatory for all Procuring Entities.

(2) The Procurement Plan shall include all targeted objects or issues to be procured, irrespective of value or methods, classified by category “such as Goods and related Services, Works, Physical Services and Intellectual and Professional Services”.

(3) The Procurement Plan shall be separately prepared for Development Projects or Programme and of Revenue Budget. .

(4) The Procuring Entity shall, for Procurement under a Development Project or Programme, prepare a total Procurement Plan for the entire project period in the formats prescribed by the Government from time to time and **attach the same with the Development Project Proposal (DPP) or Technical Assistance Project Proposal (TPP).**

(5) At the beginning of each financial year a Procuring Entity shall update the total Procurement Plan and the official cost estimates for a Development Project or Programme on an annual basis and in a rational manner having regard to, among other things, the expected flow of funds.

(6) At the beginning of each financial year, a Procuring Entity shall, for Procurement under the Revenue Budget, prepare only an annual Procurement Plan.

(7) The updated annual Procurement Plan and the official cost estimates for a Development Project or Programme and Annual Procurement Plan for the Revenue Budget shall

require approval of the Head of the Procuring Entity or an officer authorised by him or her.

(8) In the case of preparation of total Procurement Plan, updated Annual Procurement Plan for Development Project or Program and Annual Procurement Plan for Revenue Budgets the formats prescribed in Part A, Part B, Part C, Part D, and Part E as applicable of Schedule V shall be followed.

(9) At the beginning of each financial year, the Procuring Entity shall arrange to publish the Total Procurement Plan and updated Annual Procurement Plan for the Development Project or Programme, and Annual Procurement Plan for Revenue Budget approved under Sub-Rule (7) on their notice boards, and where applicable in their websites and in the websites of the concerned Department or Directorate or organisations, bulletins and reports. .

(10) The Procuring Entity shall, for its own purposes, update the Procurement Plan on a quarterly basis to accommodate delays, re-tendering and other unforeseen changes or constraints.

(11) The Procuring Entity shall keep the CPTU posted online or off-line, if online is not possible, with the Total Procurement Plan and updated Procurement Plan for Development Project or Programme and Annual Procurement Plan for Revenue Budget, above the threshold specified in Schedule II , which shall be published on a regular basis in CPTU's website as well.

17. Splitting of an Object of Procurement into More Than One Package |— (1)

The Procuring Entity shall not generally split a Project or a Programme components into successive packages of lower value when preparing its Procurement Plan with the intention of avoiding either a particular Procurement method or the obligations of seeking the approval of a higher authority.

(2) The Procuring Entity shall not usually split a package as approved in the Total Procurement Plan into more than five (5) lots in order to make application of the provisions of cross-discounts simple during evaluation.

(3) The Procuring Entity shall take into account the following aspects for splitting single object of Procurement into smaller packages and packages into smaller lots -

- (a) the capacity of the local and international markets in submitting responsive Tenders for packages and lots of the size recommended;
- (b) the convenience of implementation with due regard to geographical location of sites for potential Works contracts,.

(4) The Head of the Procuring Entity or an officer authorised by him or her shall approve splitting smaller packages and lots on justifiable grounds.

(5) In the cases where a single object of Procurement is split into more than one (1) package and packages are split into more than one (1) lot under Sub- Rules (1), (2) & (3), the Tenders for each of the packages or lots shall be placed for approval before the authority competent to approve the sum total of those packages or lots, prior to the issuance of Notification of Award for any one (1) of those packages or lots.

Example 1

If Tender(s) are invited for a procurement package in four (4) lots for construction of a 50 km road-cum-embankment at a cost of Tk.800 million in such cases, the updated progress of all the four (4) Tenders shall be submitted to the CCGP prior to the issuance of Notification of Award for any one (1) of those lots.

Example 2

If an item-by-item Tender is invited for a procurement at a cost of Tk 1 billion, in such cases implementation in batches if considered justifiable in order to avoid delays, the updated progress relating to all contracts based on that Tender shall be submitted to the CCGP, prior to the issuance of Notification of Award for any one (1) of those items.

18. Competition in Procurement |— (1) The Procuring Entity shall -

- (a) provide reasonable access for visits by potential Tenderers.

to sites specified for work or project; (b) arrange a pre-Tender meeting at which potential Tenderers may meet with the Procuring Entity's representatives to ask questions and seek clarifications for Works or complex supply Contracts, particularly for those requiring refurbishing existing Works or equipment;.

- (c) provide minutes of the meeting, if one is convened under Sub-rule 18 (b), in a timely manner as specified in Schedule II, to all prospective Tenderers who have purchased the Tender Documents and to even those who did not attend the meeting.
- (d) circulate any additional information or correction of errors in the Tender Documents to all Tenderers in the form of an Addendum as specified in Rule 95.

(2) The criteria to be taken into account for assessment of Applicants', Tenderers' or a Consultants' qualifications shall be clearly mentioned in the relevant Documents and the Applicant or Tenderer shall be allowed sufficient time to respond, and such period shall be stated in the applicable Document.

PART – 2

DETERMINING TENDER OR PROPOSAL VALIDITIES AND SECURITY DEPOSITS

19. Determination of Validities |— (1) The validity period shall be determined depending on the complexity of the Tender or Proposal and the time needed for its evaluation and approval and shall be within the limits specified in Schedule II .

(2) Notwithstanding anything contained in Sub-Rule (1), shorter or longer periods may be authorised by the Head of the Procuring Entity or an officer authorised by him or her to suit the requirements of a particular Procurement activity.

20. Time Limit for Evaluation of Tenders and Proposals |— (1) A Procuring Entity shall complete evaluation of Tenders or Proposals and award of Contract within the initial period of Tender or Proposal validity determined in accordance with Rule 19.

(2) A Procuring Entity in course of determining the Tender or Proposal validity period shall take into account the time-line for the process involving examination, evaluation and approval

of the Tender or Proposal and issuance of Notification of Award, as specified in Rule 36.

21. Extension of Validity |— (1) A Procuring Entity may, if justified by exceptional circumstances, request in writing a Tenderer or an Applicant to extend the validity period of its Tender or Proposal before the expiration date :

provided that for the first extension of validity, the approval of the Head of the Procuring Entity and for second extension of such validity, the approval of the next higher level of authority shall be obtained.

(2) The request for extension of Tender or Proposal validity under Sub-Rule (1) shall state the new date for the expiry of Tenders or Proposals and all such requests for extension shall be sent to the Tenderers or Applicants within the time limit specified in Schedule II .

22. Tender Securities |— (1) To discourage the submission of Tenders with ill motive, a Procuring Entity may include in the Tender Documents a condition that Tenders must be accompanied by a security in form of, at Tenderer's option , a bank draft, pay order, or bank guarantee using the standard format attached to the Tender documents, issued by a scheduled bank of Bangladesh.

(2) In the case of international procurement , the Tender security in the form of a Bank Guarantee as specified in the Tender Document shall be and issued by an internationally reputable bank and shall require to be endorsed by its any correspondent bank located in Bangladesh, to make it enforceable.

(3) The amount of Tender security shall be determined sufficient to discourage irresponsible Tenderers and shall be expressed in the Tender Documents as a rounded fixed amount and, shall not be stated as a percentage of the estimated total Contract value and such fixed amount shall be determined in accordance with Schedule II .

(4) If Tenders for one or more items are invited on item-by-item basis or on lot-by-lot basis, one Tender security, at the percentage as specified in Schedule II, of the total value of the items or lots offered by the Tenderer , may be asked to be submitted, , provided that the Tender security is submitted in a separate envelope.

Example

If the estimated total Contract value of the Tender is Tk. 500,000 then a Tender security @ of 3% would be Tk. 15,000, @ 2% would be Tk. 10,000 and @ 1% would be Tk.5000 and the amount of Tender security should be set slightly lower r than that derived from the above percentage so that the Tenderer is unable to determine reliably the actual estimated Contract value. In this case Tk.14,000 @ 3%, Tk.9,000 @ 2% and Tk 6,000 @ 1% may be determined.t Tk. 14,000 or Tk. 9,000.

(5) If Tenders are invited on lot-by-lot basis, amount of the Tender security may be determined on the basis of different percentages for each lot but the amount in fixed amount as

specified in Schedule II, except under Sub-Rule (4), shall be stated in the Tender Document .

(6) A Tender security shall not be requested for Procurement of Goods and related Services, Works and Physical Services undertaken by Direct Procurement Method, and Request for Quotations Method.

(7) A Tender security shall remain valid for at least twenty-eight (28) days beyond the expiry date of the Tender validity in order to enable a Procuring Entity to make a claim in due course against a Tenderer in the circumstances detailed in Rule 25.

(8) The Procuring Entity shall advise the Tenderer of the date by which the Tender security extended under this rule shall be accepted.

23. Extension of Validity of Tender Security|— (1) Tenderers consenting to extend their Tender or Proposal validity periods. shall also correspondingly extend, in accordance with Sub-Rule (3), the validity of their Tender securities, where applicable.

(2) In case a Tenderer does not agree to extend its Tender validity period, its Tender will not be considered for subsequent evaluation and the Tender security shall be returned to the Tenderer as soon as possible.

(3) The Tender security shall be extended by at least twenty-eight (28) days beyond the new expiry date of the Tender validity, if the Tender validity period is extended.

24. Verification of the Authenticity of Tender Security|— (1) The authenticity of Tender security submitted by a Tenderer shall be verified by the Tender Evaluation Committee in writing from the Bank issuing the security , prior to the finalization of the Evaluation Report. , .

(2) If a Tender security is found to be not authentic, the Tender which it covers shall not considered for subsequent evaluation and in such cases the Procuring Entity shall proceed to take measures in line with Section 64 (5) of the Act.

25. Forfeiture of Tender Security|— (1) A Tender security shall be forfeited if the Tenderer-

- (a) withdraws his Tender after the opening of Tenders but within the validity of the Tender security ; or
- (b) refuses to accept a Notification of Award ; or
- (c) fails to furnish performance security, if so required; or
- (d) refuses to sign the Contract; or
- (e) does not accept the correction of the Tender amount following the correction of arithmetic errors pursuant to Rule 98 (11).

26. Return of Tender Securities |— (1) No Tender securities shall be returned to the Tenderers by the Tender Opening Committees (TEC) after the opening of Tenders.

(2) No Tender security shall be returned to the Tenderers before contract signing, except to those who are considered non-responsive.

(3) Tender securities of non-responsive Tenders shall be returned immediately after the Evaluation Report has been approved by the Procuring Entity.

(4) Tender securities of the responsive Tenderers shall be returned only after the the lowest evaluated responsive Tenderer has signed the contract and submitted the performance security, even before the expiration of the validity period.

27. Performance Security|— (1) A Performance Security shall be furnished by the successful Tenderer in the amount specified in the TDS following the threshold specified in Schedule II .

(2) The Procuring Entity may increase the amount of the Performance Security above the amounts specified in the Schedule II , if the TEC considers the Tender unbalanced as a result of front loading.

(3) The Performance Security shall be in the form of a Bank draft, pay order or a Bank Guarantee, as specified in Schedule II, issued by a bank acceptable to the Procuring Entity.

(4) In the case of international procurement , the Performance Security shall be in the form of a Bank Guarantee as specified in the Tender Document shall be issued by an internationally reputable bank and it shall have correspondent bank located in Bangladesh, to make it enforceable.

(5) A Performance Security shall be required to be valid until a date twenty-eight (28) days from the intended completion date if there is no condition for deduction of retention money .

(6) If the intended completion date is to be extended, validity of the Performance Security shall be extended for the period until twenty-eight (28) days from the new intended completion date .

(7) The Performance Security shall be replaced by a new security covering (fifty percent) 50% amount of the Performance Security to cover the defect liability period if condition for deduction of retention money has not been applied.

(8) The amount of new Security to be provided under Sub-Rule (7) shall be calculated based on the final contract value.

(9) Furnishing Performance Security shall not be mandatory in the case of Procurement of spare parts from the original manufacturer or his sole agent.

28. Retention|— (1) Retention money at a percentage as specified in Schedule II will be deductible from each bill due to a Contractor until completion of the whole Works or delivery .

(2) On completion of the whole Works, half the total amount retained shall be repaid to the Contractor and the remaining amount may also be paid to the Contractor if an unconditional Bank guarantee is furnished for that remaining amount .

(3) The remaining amount or the Bank guarantee, under Sub-Rule (2), shall be returned, within the period specified in schedule II , after issuance of all Defects Correction Certificate under Rule 39(29) by the Project Manager or any other appropriate Authority ..

(4) Deduction of retention money shall not be applied to small Works Contracts if no advance payment has been made to the Contractor and in such case the provisions of Sub-Rule (7) and (8) of Rule 27 shall be applied.

PART – 3

PREPARATION OF SPECIFICATIONS AND MAINTAINING CONFIDENTIALITY

29. Procedure for Preparation of Technical Specifications of Goods, Etc. — (1) A Procuring Entity shall at the time of describing requirements in respect of a particular object of Procurement provide, inter alia, the following information, namely -

- (a) name or description of the Goods, Works or Services to be procured;
- (b) quality of Goods, Works or Services;
- (c) required performance Standards and life span;
- (d) safety Standards and limits ;
- (e) symbols, terminology to be used in packaging, marking and labelling of the Goods to be procured;
- (f) processes and methods to be used in the production of the Goods to be procured, where applicable; and
- (g) test procedure, if any, for conformity assessment of Goods .

(2) Technical Specifications prepared by Procuring Entities shall, where appropriate, be-

- (a) expressed in terms of performance or output requirements, rather than specifications linked directly to design or descriptive characteristics which may tend to limit competition;

Example

If a generator is to be purchased, the performance requirements should ideally be expressed, for example, as follows:

- (i) *the electricity output to be generated per hour;*
- (ii) *the maximum volume of fuel to be consumed per kilowatt hour while in operation; and*
- (iii) *the maximum noise level while in operation.*

- (b) described in clear terms on the basis of international standards ,if any, or national or authorized national standards or code or generic name .

(3) There shall be no reference, in technical specification of Goods, to a particular trade mark or trade name, patent, design or type, named country of origin, producer or service Supplier

Example 1

If a Procuring Entity is purchasing a 4WD vehicle, it is not permitted to simply issue a Tender for a named vehicle, nor it is permitted to write a detailed technical specification that is so directly linked to one specific manufacturer that other vehicle manufacturers or their agents would be unable to tender because the specification

(4) Notwithstanding any thing contained in Sub-Rule (3), if a Procuring Entity does not possess adequate technical expertise for preparing generalized technical specifications to make the specifications fully understandable to Tenderers it can make a reference to a particular branded product, but in such case shall add the words "**or similar or equivalent**" to the specification.

(5) Procuring Entities shall, where possible, prepare the specifications in close co-operation with the concerned user or beneficiary of the Goods or Works or Services, and follow, among others, the Standards approved or published by -

- (a) the International Organisation for Standardisation (ISO);
- (b) the International Electrotechnical Commission (IEC); and
- (c) Standards determined by Bangladesh Standard and Testing Institute (BSTI) or any other national or international institute.

(6) Procuring Entities, in consultation with manufacturers, may standardize specifications for commonly used Goods, such as paper, office equipment and other consumables which are repetitively purchased, and publish them on their website.

30. P Developing Terms of Reference for Service— The Terms of Reference (TOR) as detailed in Rule 116 for consultancy Services shall be prepared to assist Applicants in the preparation of Proposals.

31. Restrictions on the Disclosure of Information Relating to the Procurement Process. — (1) Following the opening of Applications, Tenders, Quotations, Expression of Interests or Proposals until issuance of Notification of Award no Tenderer or Applicant shall, unless requested to provide clarification to its Application, Tender or Proposal or unless necessary for submission of a complaint, communicate with the concerned Procuring Entity. ,.

(2) Tenderers or Applicants shall not seek to influence in anyway, the examination and evaluation of the Applications, Tenders, Expressions of Interest or Proposals.

(3) Any effort by a Tenderer or an Applicant to influence a Procuring Entity in its decision concerning the evaluation of Tenders, Quotations, Applications, Expressions of Interest, Proposals or Contract awards may result in the rejection of its Tender, Application or Proposal, as well as further action in accordance with Section 64 (5) of the Act.

32. Safe Custody of Received Tenders, Etc. |— The Procuring Entity shall ensure the safe custody of the received Applications, Tenders, Quotations or Proposals until they are handed over to the Chairperson of the Evaluation Committee, within the period specified in Schedule II, who will then be responsible for their safety.

PART – 4

REJECTION OF TENDERS, PROPOSALS ETC

33. Rejection of all Tenders, Proposals or Quotations. |— (1) A Procuring Entity may, in the circumstances as described in Sub-Rule (2), reject all Tenders, Proposals or Quotations following recommendations of the Evaluation Committee only after the approval of such recommendations by the Head of the Procuring Entity.

(2) All Tenders, Proposals or Quotations can be rejected, if -

- (a) the price of the lowest evaluated Tender or Quotation exceeds the official estimate, provided the estimate is realistic; or
- (b) there is evidence of lack of effective competition; such as non-participation by a number of potential Tenderers; or
- (c) the Tenderers are unable to propose completion of the delivery or Works within the stipulated time in its offer, though the stipulated time is reasonable and realistic; or
- (d) all Tenders, Quotations or Proposals are non-responsive; or
- (e) evidence of professional misconduct, affecting seriously the Procurement process, is established as per Chapter Seven; or
- (f) negotiations as per Rule 123 fails.

(3) Notwithstanding anything contained in Sub-Rule 2(a), rejection of Tenders or Quotations shall not be mandatory if the lowest evaluated price is in conformity with the market price.

(4) The Procuring Entity shall carefully review such reasons before a decision is taken to reject all Tenders, Proposals or Quotations for reasons other than the failure of all responsive Tenderers or Applicants to post-qualify in accordance with the criteria.,.

34. Actions to be taken Following Rejection. |— (1) The Procuring Entity after rejecting all Tenders, Quotations or Proposals and before inviting new Tenders, Quotations or Proposals shall –

- (a) reassess the official estimate or budget or both, and
- (b) subsequently consider making revisions to the Conditions of Contract, design and specifications, scope of Contract or a combination of these factors.

(2) If all Tenders, Quotations or Proposals are rejected on the ground(s) stated in Sub-Rule 33 (2)(b), then while inviting fresh Tenders, Quotations, Expressions of Interest or Proposals the Procuring Entity shall ensure that –

- (a) in the case of Notice Inviting Tenders or Request for Expressions of Interest, are advertised more widely nationally and depending upon value, internationally; and
- (b) in the case of Quotations, the Request for Quotations are issued to other Persons in addition to those who were earlier invited, to submit Quotations.

(3) In case of rejection of all Tenders, Quotations or Proposals under Rule 33 (2) , fresh Tenders, Quotations, Proposals or Expressions of Interest may be invited using revised Documents, whereby those who earlier participated or were pre-qualified or short-listed may participate or be re-invited.

(4) In case professional misconduct is established under Chapter Seven, appropriate action in accordance with Rule 127(4), shall be taken.

35. Informing Reasons for Rejection. |— (1) A Procuring Entity shall notify all Applicants or Tenderers of it after the rejection of all Tenders, Proposals or Quotations within the period specified in Schedule II .

(2) A Procuring Entity shall, upon written requests from Applicants or Tenderers, inform them of the reason(s) for the rejection of their Tender, Quotation, or Proposal.

(3) A Procuring Entity may, on justifiable grounds and with the prior approval of the Head of the Procuring Entity, annul the Procurement proceedings prior to the deadline for the submission of Tenders. Quotations or Proposals and if any Procurement proceedings so rejected all Applications, Tenders, Quotations or Proposals received by the Procuring Entity shall be returned unopened to the Tenderers or Applicants.

PART – 5

APPROVAL PROCEDURE, NOTIFICATION OF AWARD AND PUBLICATION

36. Procurement Approval Procedure. |— (1) The approval procedure as laid down in this Rule, leading up to the Notification of Award (NOA) for a execution of contract under the Act shall be strictly adhered to by the Procuring Entities, Evaluation Committees and Approving Authorities.

(2) Under no circumstances shall the Chairperson of the Evaluation Committee and the Approving Authority be the same individual **except at the upazila or other levels as stated in Rule 10(1)(b).**

(3) In the case of procurement approval process t, the procedures as detailed below shall be followed -

(a) For a Ministry, Division, Department or Directorate

1. Where the Approving Authority is at the level of the Head of a Procuring Entity or Project Director (PD), Project Manager (PM), or an authorised officer (AO) as per DoFP –

- (i) the Evaluation Committee shall, having completed the evaluation in accordance with the Act and these Rules, submit the Evaluation Report, and the recommendation for award of Contract, but not the Tenders or Proposals, in a sealed envelope directly to the Head of the Procuring Entity or the Project Director, Project Manager, or the authorised officer for approval, as the case may be;
- (ii) after approval of the Evaluation Report, received under Sub-Rule 3(a)(i) . or having recorded any other decision in accordance with Rule 11, the Head of the Procuring Entity or PD, PM or AO will put his or her signature thereon and send the same to the Procuring

Entity for necessary action;

- (iii) notwithstanding anything contained in Sub Rule 3(a)(i) and (ii) , the Evaluation Committee shall, in the case of a Procuring Entity at regional, sub-regional, district or upazila level, submit the Evaluation Report along with its recommendations and other relevant papers, but not the Tenders or Proposals, in a sealed envelope directly to the Approving Authority and such authority shall return the report after having recorded its decision thereon to the Procuring Entity for necessary action.

2. Where the Approving Authority is at the level of a Ministry,

- (i) the Evaluation Committee shall prepare a concise summary called the 'Purchase Proposal' and submit it along with the Evaluation Report, and the recommendations for award of Contract, but not the Tenders or Proposals, in a sealed envelope directly to the Head of a Procuring Entity;
- (ii) the Head of a Procuring Entity will subsequently forward it to the Secretary of the concerned Ministry,
provided that where the Head of a Procuring Entity is the Chairperson of the Evaluation Committee, he or she will send the 'Purchase Proposal' stated under Sub Rule 2(i) , the Evaluation Report and the recommendation directly to the Secretary of the concerned Ministry and the Secretary will add his or her comments to the "Purchase Proposal" and submit it to the Minister for approval;
- (iii) after approval of or having recorded his or her any other decision on, in accordance with Rule 11, the "Purchase Proposal" and the Evaluation Report submitted under Sub-Rule 2(ii), the Minister will return the same to the Procuring Entity for necessary action.

3. Where the Recommending Authority is at the level of the Cabinet Committee on Government Purchase (CCGP) -

- (i) the "Purchase Proposal" along with the Evaluation Report and the recommendation shall be submitted to the Minister following the process described in Sub-Rule 3(a) (2) (i) and (ii) .;
- (ii) the Minister after reviewing the "Purchase Proposal" so submitted, add his or her own comments and return the Documents to the Secretary and the Secretary will then prepare a self-contained summary and send all the Documents to the Cabinet Division for placing the same before the CCGP;
- (iii) after approval of or having recorded any other decision on, in accordance with Rule 11 the "Purchase Proposal" submitted under Sub-Rule 3(i) and (ii) , the decision of the CCGP shall be sent to the Procuring Entity for necessary action.

4. In the case of a Ministry's own Procurement, where the Secretary is the Approving Authority for that Procurement,

- (i) the Evaluation Committee shall send the Evaluation Report, the comparative statement sheet of Tender or Proposal and the recommendation for award of Contract, but not the Tenders or Proposals, in a sealed envelope directly to the Secretary;
- (ii) the Secretary after reviewing the Evaluation Report submitted in accordance with Sub Rule 4(i) shall give his or her decision and return it to the Procuring Entity for necessary action.

(b) For a Corporation, Autonomous Body or Semi-Autonomous Body

1. Where the Approving Authority is at the level of the Head of a Procuring Entity or Chief Executive or a Project Director, Project Manager, or an Authorised Officer as per DoFP, the process described in Sub Rule 3(a) (1) (i) and (ii) shall be followed for the approval of and any other decision on, the Evaluation Report in accordance with Rule 11.
 2. Where the Approving Authority is at the level of a Board of Directors,
 - (i) the Evaluation Committee shall prepare a concise summary called the "Purchase Proposal" and submit it along with the Evaluation Report, and the recommendations for award of Contract, but not the Tender or Proposal, in a sealed envelope, directly to the Head of the Procuring Entity or the Chief Executive;
 - (ii) the Head of the Procuring Entity or the Chief Executive will forward it to the Board of Directors,
Provided that if the Head of a Procuring Entity or the Chief Executive is the Chairperson of the Evaluation Committee, he or she will send the "Purchase Proposal" with the relevant Documents stated above directly to the Board of Directors;
 - (iii) after approval of or having recorded any other decision on, in accordance with Rule 11, the "Purchase Proposal" submitted under Sub-Rule 4(ii), the Board of Directors will return the "Purchase Proposal" to the Head of the Procuring Entity or the Chief Executive for necessary further action.
 3. Where the Approving Authority is at the level of a Ministry, for approval of or having recorded any other decision on, in accordance with Rule 11, the "Purchase Proposal" the process described in Sub-Rule 3(a)(2) shall be followed.
 4. Where the Recommending Authority is at the level of the CCGP, the process described in Sub-Rule 3 (a) (3) shall be followed for placing the "Purchase Proposal" for approval of that Committee, and the decision of the CCGP shall be communicated to the Procuring Entity through the same route following which the Purchase Proposal was sent.
- (4) Upon approval of the "Purchase Proposal" under Sub-Rule 3 (a) and (b) the Procuring Entity shall take the following actions in that respect –
- (a) issue Notification of Award (NOA) within the time specified in Schedule II after receipt of approval of the "Purchase Proposal", provided that no complaint or appeal in regard to the Tender or Proposal under the Act and these Rules, is pending;
 - (b) ensure confidentiality in regard to approval of the "Purchase Proposal" by all officers and staff concerned with the Procurement process either directly or indirectly.
- (5) Procuring Entities shall, for Procurement above the threshold specified in Schedule II, shall submit to the CPTU procurement related reports on quarterly basis indicating the time taken at each stage of the Procurement process stating reasons for delays if any.
- (6) Procuring Entities, Evaluation Committees and Approving Authorities shall, for performing activities, from the time of Tender opening to the issuance of the Notification of Award following time-limits specified in Part of Schedule III.
- (7) All the Procuring Entities shall, in the case of procurement processing and approval, use the check lists in Schedule IV.

37. Publication of Notification of Award of Contract. |—(1) All Notification of Awards for procurement related Contracts above the threshold specified in Schedule II shall be notified in format as prescribed in Schedule VI to the Central Procurement Technical Unit for publication in their website, and that notice shall be kept posted for the period specified in Schedule II. (2)

Notification of Award for Contracts below the threshold specified in in Schedule II , shall be published by the Procuring Entity on its Notice Board and where applicable on the website of the Procuring Entity and that notice shall be kept posted for the period specified in Schedule II

(3) The standard format as specified in Schedule VII shall be used for issuance of Notification of Award.

(4) Debriefing of Tenderers or Applicants by a Procuring Entity shall outline the relative status and weakness only of his or her Tender or Application requesting to be informed of the grounds for not accepting the Tender or Proposal submitted by him or her, without disclosing information about any other Tenderer or Applicant.

(5) In the case of debriefing under Sub-Rule (4) confidentiality of the evaluation process shall be maintained. .

PART – 6

CONTRACT ADMINISTRATION AND MANAGEMENT

38. Contract Administration and Management|—(1) The contract administration and management shall include all administrative, financial, managerial and technical tasks to be performed by the Procuring Entity from contract award until it is successfully concluded or terminated and, payment is made and disputes or claims under it resolved.

(2) The Procurement Entity shall apply professional ethics for adopting the contract administration and management techniques to ascertain the proper implementation of the signed contracts in line with the agreed conditions covering delivery, payments, quality control, contract implementation , liquidated damages and other related issues.

(3) The Procuring Entity shall ensure that Goods, Works or Services to be procured conform to the technical requirements set forth in the procurement Contract, and for such purpose, the Procuring Entity may establish inspection and testing facilities, form inspection teams, enter into arrangements for the joint or collective use of laboratories and inspection and testing facilities, and contract with others for inspection or testing work as needed.

(4) The main elements of contract administration and management may include –

- (a) review and approval of the work plan;
- (b) monitoring periodically progress in implementation of the contract, including determination of volume of works accomplished according to the work plan, and inspection and testing of quality aspects;
- (c) management of Variation Orders, Contract suspension and termination, price revisions, Contract remedies such as **imposition of liquidated damages, delayed payments**, and disputes or claims settlement procedures;
- (d) management of financial aspects and budget of Contract implementation including payments, cost analysis and accounting ;
- (e) organisation and management of documentation related to contract implementation, and preparation of periodic reports on the implementation of Contract.

(5) Project management may require a review of the design in addition to the supervision of construction from inception to completion and handing over for the purpose of controlling time.

cost and quality as well as fulfilling contractual obligations.

(6) The Procuring Entity shall hand over the project or contract management to a capable, Project Director, Project Manager or an Authorized Officer, hereinafter referred to in this Rule as the Project Manager, to supervise implementation of Works .

(7) The Procuring Entity shall make available the logistic support and staffing necessary for effective contract administration and management which may include, but not limited to, the following –

- (a) engineering and design services where necessary, including providing design and monitoring functions for preparation and implementation of the Contract;
- (b) establishment of control on finance and payments ;
- (c) management information systems for coordinated processing and communication of and access to relevant information by all concerned involved in Contract administration and management; and
- (d) soliciting legal advice.

(8) The price of a Contract shall be calculated on the basis defined in the Information of Tenderer (ITT) which may be either a unit price applied to the goods actually delivered or works actually executed or services actually performed, or lump-sum price, applied to the entire or to a part of the contract, irrespective of the quantities of Goods actually delivered or Works actually executed or Services actually provided.

(9) The price of a contract shall usually be fixed in which case the unit prices may not be modified in response to changes in economic or commercial conditions except when a Contract for Works has a provision for price adjustment.

(10) If the Contract has a provision for price adjustment, it shall stipulate the conditions, such as increases in the cost of materials, labour, and energy, in which price adjustment would be permitted, the formulas and indices to be referred to in order to determine whether economic or commercial conditions have changed to a significant degree to justify a price adjustment and to identify the amount of increase, the frequency with which price adjustments may be implemented, and the procedures to be followed.

(11) An increase in the Schedule of Requirement for Goods, Bill of Quantities for Works and scope of work for Services exceeding the permissible percentage of the initial contract price shall require either a new Procurement proceeding or justification, if appropriate, as Direct or Single Source Procurement.

(12) The Procuring Entity, in accordance with their DoFP, shall amend the contract to reflect the changes introduced to the original terms and conditions of the contract in line with Rules 78, 79 and 80.

(13) An amendment to contract shall generally include time extension for the Intended Completion Date and any other acceptable changes as mentioned in Rule 39 (3) and (4) .

(14) The Procuring Entity shall take follow-up steps as mentioned below in regard to payment of those liabilities for which the supplier or contractor shall be liable for payment of an agreed sum as specified in the Particular Conditions of Contract , for the cause of delay in the performance due under the contract such as -

- (a) recovery of the agreed sum to be paid per time-unit of delay;
- (b) recovery of the amount due under the liquidated damages;
- (c) not relieving the supplier or contractor of its contractual obligations by virtue of payment under the liquidated damages.

(15) The Procuring Entity shall provide the Documents, Reports, and other information required by the concerned Persons for the purpose of monitoring Contract Administration and Management.

39. Works Contract Administration and Management |— (1) For the purpose of controlling time, cost and quality, the Project Manager shall follow up **the Work Programme** and ensure that within the time stated in the contract -

- (a) the Contractor submits to the Project Manager for approval of a Programme showing the general methods, arrangements, order, and timing for all the activities in the Works;
- (b) the Contractor submits to the Project Manager for approval of an updated Programme at specified intervals, being not longer than the period stated in the contract conditions; and
- (c) the Contractor provides the Project Manager with an updated cash flow forecast when updating the Programme .

(2) The Project Manager may withhold any payment certificates under the terms of the contract until the Works Programme has been submitted under Sub-Rule (1) .

(3) The Procuring Entity shall **extend the Intended Completion Date** by the percentage specified in Schedule II, if a Compensation Event occurs or a Variation Order is issued which does not make it possible to complete the Works by the Intended Completion Date without the Contractor incurring additional cost.

(4) The Procuring Entity shall decide whether and by how much to extend the Intended Completion Date, within the period specified in Schedule II .

(5) The Project Manager shall check the works executed by the Contractor and notify the Contractor of any **Work Defects** found without relieving the Contractor of his contractual obligations concerning the quality of the Works.

(6) The Project Manager may instruct the Contractor to search for a Defect or to uncover and test any work that the Project Manager considers may have a Defect.

(7) The Project Manager shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion, and is defined in the Contract; and the Defects Liability Period shall be extended for as long as Defects remain to be corrected.

(8) If the Contractor has not corrected a Defect within the time specified in the Project Manager's notice, the Project Manager shall assess the cost of having the Defect corrected, and the Contractor shall pay this amount so assessed.

(9) The Project Manager shall make **Advance Payment**, if Contract has any such provision , to the Contractor for the amounts and by the date specified, where applicable, against a Bank Guarantee in a form and by a bank acceptable to the Procuring Entity.

(10) The Contractor shall use the advance payment only to pay for Equipment, Plant, Materials and mobilization expenses required specifically for execution of the Contract and shall demonstrate that the advance payment has accordingly been used by supplying invoices or other Documents to the Project Manager.

(11) The Advance Payment shall be repaid by deducting at proportionate rate from payments due to the Contractor, based on percentages of the actually completed Works.

(12) The Guarantee for the Advance Payment shall remain effective until the advance

payment has been repaid, but the amount of the Guarantee shall be progressively reduced by the proportion of advanced amounts adjusted by the Contractor and no interest shall be charged on the advance payment.

(13) The **basis for payment** shall be the Bill of Quantities used to determine the Contract Price.

(14) The Contractor shall submit to the Project Manager monthly statements of the estimated value of the work executed less the cumulative amount certified previously.

(15) The Project Manager shall check the Contractor's monthly statement and certify the amount to be paid to the Contractor.

(16) The value of work executed shall be determined by the Project Manager and shall comprise the value of the items completed as per the rates in the Bill of Quantities.

(17) The Project Manager on the basis of information received later may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified.

(18) A **Variation Order** shall be prepared, following the provisions of Rules 78, 79 and 80, so long as the value of such additional Works does not exceed the threshold specified in Schedule II.

(19) The value of work executed shall include the valuation of approved Variations and Compensation Events.

(20) If the final quantity of the work done for any particular item increases from the quantity in the Bill of Quantities by more than twenty-five percent (25%), the Project Manager shall adjust the unit rate for that particular item to allow for the change within the context and threshold of the Variation Order, provided that the change in each case exceeds one percent (1%) of the Initial Contract Price.

(21) Necessary adjustments of payable amounts on account of advance payments and retention money, where applicable shall have to be made.

(22) The Procuring Entity shall pay the Contractor the amounts certified by the Project Manager within the period specified in Schedule II.

(23) Unless otherwise stated, all payments and deductions shall be in the proportions of currency(ies) as specified in the Contract Price.

(24) The items quantified in the BOQ for which no rates or prices have been quoted shall be deemed covered by the amounts of other rates and prices in the Contract.

(25) Advance Payment or its repayment shall not be taken into account in assessing valuations of work done, Variations, price adjustments, Compensation Events, Bonuses, or Liquidated Damages.

(26) In the case of **compensation events** the provisions detailed in the GCC and PCC shall be followed.

(27) The Contractor shall be liable to pay **liquidated damages** at the rate per day or week as specified in the contract for each day of delay from the Intended Completion Date of the original Contract or Extended Completion Date provided that -

- (a) The total amount of liquidated damages shall not exceed the amount defined in the contract.

- (b) The Procuring Entity shall deduct liquidated damages from payments due to the Contractor.

(28) Payment of liquidated damages shall not relieve the Contractor from its obligations.

(29) The Project Manager shall certify the **Final Payment** within the period specified in Schedule II, if the payable amount claimed by the Contractor is correct and the corresponding works are completed provided that,

- (a) If it is not, the Project Manager shall issue a **Defects Liability Schedule** within the period specified in Schedule II, stating the scope of the corrections or additions that are necessary;
- (b) If the corrections or additions scheduled by the Project Manager has been completed, the Project Manager shall issue a **Defects Correction Certificate**;
- (c) If the Final Account of Works is unsatisfactory even after it has been resubmitted, the Project Manager shall decide on the amount payable to the Contractor and issue a payment certificate.

(30) If “as built” Drawings or operating and maintenance manuals are required, the Contractor shall supply them by the dates specified in the contract.

(31) If the Contractor does not supply the Drawings and manuals, under Sub-Rule 30, by the dates specified in the contract, or they do not receive the Project Manager’s approval, the Project Manager shall withhold the amount stated in the contract from payments due to the Contractor.

(32) A **Certificate of Completion** of the Works shall be issued by the Project Manager and the Project Manager shall do so upon deciding that the work is completed under Sub-Rule 29.

(33) The Procuring Entity shall **take over** the Site and the Works within the period specified in schedule II.

(34) The Contractor shall submit a detailed account of the total amount that the Contractor considers payable under the Contract to the Project Manager, before the end of the Defects Liability Period.

40. Administration of Goods Contracts |— (1) The Project Manager shall check compliance with the technical specifications of Goods and arrange for inspection of its quality and quantity.

(2) The Procuring Entity may engage an external agent for the purpose of conducting pre-shipment inspection of Goods.

(3) The Project Manager shall check the compliance with delivery schedule and conditions and, arrange to settle delays.

(4) The Project Manager shall arrange timely payments following the contract terms and irrevocable letter of credits;

(5) The Project Manager shall ensure compliance of maintenance guarantee, after sales services and warranty obligations;

(6) The Project Manager shall ensure the application of the General Conditions of Contract and other terms specified in the Particular Conditions of Contract **41. Administration of Consultancy Services Contracts.** |— (1) For the purpose of controlling time, cost and quality; in the case of procurement of Services, from inception to completion of the contract administration and management, may include the following -

- (a) reviewing the quality of designs, studies and other Services provided for in the assignment;
- (b) monitoring the progress and timely completion of deliverables in the case of

lump sum contracts and, utilisation of person-months in the case of Time-based Contracts;

- (c) monitoring the Consultant's reports and the availability of the key personnel specified in the Appendices for all types of consultancy related Contracts;
- (d) providing timely comments and feedback to the Consultants reports in line with the provisions of the Contract ;
- (e) adhering to the work plan and allocation of time for assigned activity ;
- (f) providing timely assistance to the Consultant as per provision of the Contract;
- (g) paying monthly payments or payments against deliverables;
- (h) determining appropriateness of any changes to the scope of work;
- (i) monitoring delays, additional tasks and the need for extensions of Contract;
- (j) issues relating to indemnification; and
- (k) General Conditions of Contract(GCC), Particular Conditions of Contract(PCC) and other terms as specified in the Request for Proposals(RFP).

42. Termination of Contracts and Settlement of Disputes. |— (1) The Procuring Entity or the Contractor and the Consultant may terminate the Contract, in accordance with the General Conditions of Contract, if the other party causes a fundamental breach of the Contract.

(2) The Procuring Entity shall refer to grounds on which, in accordance with the provisions of GCC, a Contract is terminated, and such grounds may include, in particular -

- (a) termination by the Procuring Entity on the grounds of default of the Supplier, Contractor or Consultant in the performance of the Contract;
- (b) termination by the Procuring Entity in the public interest;
- (c) termination pursuant to the *force majeure*; and
- (d) termination for the convenience of the Procuring Entity.

(3) In the event that a Contract is terminated, the subsequent actions for concluding the contracts physically and financially shall be laid down in clear terms in the conditions of the Contract.

(4) Any disputes or claims arising out of the implementation of the Contract shall be dealt with chronologically for settlement by amicable solutions, adjudications and arbitration in accordance with such provisions laid down in the Contract.

(5) The CPTU by special order in general or as appropriate shall, outline the framework of and procedure for, amicable settlement and arbitration under Sub-Rule 4.

PART- 7

MAINTAINING RECORDS OF PROCUREMENT

43. Maintaining Records of Procurement |— (1) The Procuring Entities shall maintain records and Documents regarding their public Procurement activities for a minimum period as defined in Schedule II for assisting the CPTU in carrying out its Procurement monitoring responsibilities under section 67 of the Act, meaningful Procurement Post Reviews and, Audits to take place,.

(2) The Procurement record shall be maintained from the beginning of procurement planning up to the full completion of contractual obligations .

(3) Each Procurement record shall, as a minimum, contain the following Documents and information, -

- (a) a brief description of the Goods and related Services, Works and Physical Services or intellectual and professional Services procured and where applicable, the justification for using a method other than open Tendering;
- (b) a copy of the published advertisement as well as a copy of the invitation for Applications, Tenders, Proposals, Quotations or other solicitations ;
- (c) a copy of the original cost estimate for the Contract;
- (d) the names and addresses of Tenderers or Applicants who submitted Tenders, Proposals or Quotations; the name and address of the Tenderer or Consultant to whom the Contract was awarded as well as the Contract price;
- (e) a copy of any Pre-Qualification, Tender, Proposal or other solicitation Documents;
- (f) minutes of Tender or Proposal opening meeting;
- (g) all communications with Tenderers or Applicants;
- (h) the pre-disclosed criteria for evaluation criteria and its application, and evaluation report and comparative statement of Tenders or Proposals or Quotations received;
- (i) the record of approval of the Evaluation Report and the Contract Document;
- (j) information relating to any decision on temporary suspension or annulment of any Procurement proceedings after having been initiated;
- (k) Documentation with respect to any appeal or complaint concerning the Procurement proceedings;
- (l) delivery and acceptance reports for Goods, completion report and measurement books for Works and, completion report for Services;
- (m) copies of all Amendments made to the Contract and, those Extra Work or Variation Orders issued affecting the conditions of the Contract relating to the Contract price and the delivery or Work completion schedule; and
- (n) all records of the payment including the bills, invoices for Procurement of Goods, Works and Services.

(4) The Procuring Entity shall follow the guidance notes and check as specified in Part A and Part b of Schedule VIII in the case of maintaining records of Procurement under this Rule.

44. Making available records of Procurement Proceedings. |— (1) When a specific Procurement activity has been completed, either by signing of a Contract or termination prior to signing of a Contract , the record of that activity shall be made available to any concerned Person.

(2) Notwithstanding any thing contained under Sub-Rule 1 , a Procuring Entity shall not, unless ordered to do so by a competent court, disclose information if its disclosure -

- (a) would be contrary to the Laws of Bangladesh; or
- (b) would impede law enforcement; or
- (c) would not be in the public interest; or
- (d) would prejudice the legitimate commercial interest of the parties; or

- (e) would prevent fair competition; or
- (f) relates to the examination and evaluation of Tenders, Proposals or Quotations and the actual contents of those Documents, other than a summary of the evaluation of Tenders, Proposals or Quotation received.

PART- 8

PROCUREMENT POST REVIEW

45. Procurement Post Review. |— (1) The records of Procurement activities shall be reviewed periodically by independent Consultants and the findings provided to the Procuring Entity and CPTU so that it can properly carry out its monitoring responsibilities and inform the Government and the general public about its recommendations for remedial measures concerning adherence to the relevant Rules, contract management, delays. The Consultant shall ensure -

- (a) whether the Procurement proceedings have been conducted and implemented by the Procuring Entity following the provisions of the Act and these Rules; and
- (b) whether in implementing the objective of the Act and these Rules value-for-money has been achieved.

46. Procurement Post Review by independent Consultants. |— (1) The Head of the Procuring Entity, if the value of procurement carried out by the Procuring Entity under his or her control, within time, is as specified in Schedule II, shall arrange by independent Consultants a post review of the Procurement operations., .

(2) Appropriately qualified independent Consultants shall be appointed following the provisions of Rule 103 and 104.

(3) Such a minimum proportionate part of the total number and value of contracts awarded in a financial year shall be taken for post review so that it covers at least the minimum of the total number and value of all those contracts specified in Schedule II. .

(4) The Consultant(s) appointed to carry out the Post Reviews may select any contract for review according to the scope and the extent of work under the Contract entrusted.

(5) The Procuring Entity in the case of selection of independent Consultants and carrying out of Post Reviews shall follow the Procurement Post-Review Procedure issued by the CPTU.

(6) The Procuring Entity shall ensure that the Post Review is completed and the report is submitted to the Procuring Entity and CPTU within the period specified in Schedule

(7) The CPTU may also undertake a sample Procurement review of the past Procurement activities carried out by a Procuring Entity for monitoring compliance with the Public Procurement Act 2006 and provisions of these Rules by using CPTU's own resources, if available or by hiring independent consultants.

(8) CPTU and Procuring Entities shall include in their budget the cost required for the Procurement Post Review.

(9) CPTU will publish the findings of the Procurement Post Review and recommendations in its website.

PART- 9

QUALIFICATION OF PERSONS

47. Non-discrimination. — (1) The principle of non-discrimination shall not apply when there is a standing Government Order or an agreement signed by the Government prohibiting or limiting the participation in any of the following cases -

- (a) limiting participation of Tenderers and Applicants from only Bangladesh or the country funding in Procurements to be carried out by the funds provided by the concerned development partner under any bilateral agreement;
- (b) limiting participation of Tenderers or Applicants as defined only by the concerned development partner in Procurements to be carried out by the funds provided by a multilateral development agency;
- (c) Persons restrained or barred from participating in public Procurement on grounds of execution of defective works in the past under any Contract ;
- (d) Persons restrained or barred from participating in public Procurement on the grounds of being involved in activity relating to fraud, corruption, collusive practice or coercion; and
- (e) Tenderers or products from that country with whom the Government has decided to have no trade relations.

(2) Information and brief reasons for restraining of such Suppliers, Contractors and Consultants barred from participation in general or for a specific Tender or Proposal by the Procuring Entity shall be published in its own website and in simultaneous, shall send those information for publication in CPTU's website.

(3)

48. Qualification of Persons. — (1) Each Person participating in public Procurement, shall provide documentary evidence in regard that-

- (a) they are able to abide by the professional and ethical standards set out in the Act and these Rules; and
- (b) they are able to implement the contracts for which they are Tendering or offering Services.

(2) The mandatory requirements for qualification of each participating Person shall be detailed in the Tender Documents, based on the nature and extent of the procurement, and those may include in particular, but shall not be limited to the following -

- (a) with regard to professional and technical capacity, as applicable, the concerned Persons shall provide documentary evidence in regard that they possess -
 - (i) the professional and technical qualifications and experience to execute Works or supply Goods or provide Services proposed ;
 - (ii) suitable equipment and other physical facilities or access through contractual arrangement to hire or lease such equipment or facilities , where necessary;
 - (iii) satisfactory production or manufacturing capacity;
 - (iv) facilities for after-sales service;
 - (v) managerial capability;
 - (vi) prior experience in similar Works or Supplies or Services , where necessary, or as specified by the Procuring Entity;
 - (vii) reputation for completion of Works under a Contract by hard labour and

cautions without creating any problem ; and

- (viii) appropriate manpower in terms of numbers and skills required to perform the contract ;
 - (b) with regard to legal capacity, the concerned Persons shall ensure that they are legally entitled to enter into any contract with the Procuring Entity for completion of the proposed Procurement;
 - (c) with regard to assessment of the financial capability and status, the concerned Persons shall provide necessary data in support of satisfactory financial resources, such as balance sheets where available, annual turnover and cash flow , and ensure that they are -
 - (i) solvent, e.g. the Person is financially capable to perform the contract for the proposed Procurement ;
 - (ii) not in receivership, e.g. the Person was not in serious financial difficulties and a court had, at the request of creditors, not stopped it from managing itself and had placed an independent accountant in charge of the company's business operations;
 - (iii) not bankrupt or not in the process of bankruptcy , e.g. the Person's financial situation is not, that they have more debts than income and are not able to run the business;
 - (iv) not temporarily barred from undertaking their business for financial reasons; and
 - (v) not subject to legal proceedings for reasons stated under Sub Rule 48(2) (c) (i),(ii),(iii) and (iv) or any other reason.
 - (d) with regard to compliance with the taxation obligations, the concerned Persons shall ensure that they have fulfilled their obligations to pay taxes under the applicable law;
 - (e) with regard to compliance with the ethical standards, the concerned Persons shall ensure that they have not been debarred by any Procuring Entity pursuant to Section 64 of the Act and these Rules, or convicted of fraud, corruption, collusive practice or coercion in a court of law; and
 - (f) the debarment under Sub Rule 2(e) , shall be applicable for his or her own name or for his or her other names or also in the case of his or her Persons in different names, if any.
- (3) In consideration of the general qualification criteria as described in Sub-Rule (2) and the nature and magnitude of the object of a particular Procurement, Procuring Entities shall set out specifically the mandatory requirements qualifications of a Person in the Pre-Qualification Document, Tender Document or Request for Proposal Document.
- (4) In the case of lot-by-lot Tender, if Tenders are to be submitted for one lot or more than one lot by the Tenderers, the Procuring Entities may set out requirements for demonstration of Technical and Financial Capacity of the Tenderers for only that lot or lots for which Tenders submitted .
- (4) (5) In order to verify that a potential Person meeting the qualification requirements specified in this Rule, the Procuring Entity may issue instruction to that Person for submission of documents or other information supporting those requirements from appropriate authority or organization.

49. Mandatory documents in support of Qualification of Persons |— (1) The Procuring Entity may request the Tenderer or Applicant to submit the following Documents –

- (a) as regards professional and technical capacity -
 - (i) documentary evidence that they are enrolled in the relevant professional

or trade organizations registered in Bangladesh or in their country of origin or a declaration on oath or a certificate concerning their competency issued by a professional institution in accordance with the law of Bangladesh or of the country of their origin;

- (ii) a description of the Person's technical facilities, available equipments, measures for ensuring quality, such as ISO certification, and design, research and development facilities;
 - (iii) a list of the major deliveries on case-by-case procurement proceedings effected over a given period of time along with the sums, dates and recipients, public or private;
 - (iv) a list of Procuring Entities who may be contacted, if necessary, by the Procuring Entity;
 - (v) sample(s), description(s) or photograph(s) of the Goods to be supplied, in the case where necessary the authenticity of that Goods may be certified by a relevant professional institution; and
 - (iv) details of the numbers of technical and administrative personnel employed by the Person;
- (b) as regards financial capacity –
- (i) appropriate statements from bankers on the Person's financial capacity ;
 - (ii) the Person's balance sheets or its necessary extracts from them, where publication of a balance sheet is required under company law in the country where the Person is established; and
 - (iii) a statement of the Person's annual turnover, and turnover in respect of the Goods, Works or Services relating to the particular contract for a given period;
- (c) the legal capacity shall be confirmed by a affidavit which shall state that there are no existing orders of any judicial court that prevents either a Person or employees of a Person entering into or signing a Contract with the Procuring Entity;
- (d) for proof of fulfilment of obligations relating to the payment of taxes, a certificate issued by the competent authority of Bangladesh or in the case of foreign Tenderers a certificate issued by the competent authority in that country of which the Tenderer is citizen and such certificates shall state -
- (i) tax registration number or tax payer's identification number (TIN);
 - (ii) VAT registration number.

(2) The Procuring Entity has to be satisfied that none of the adverse circumstances detailed in Sub-Rule 48 (2) exist and the concerned Person has to prove by providing documentary evidence issued by an appropriate authority in Bangladesh or in the country of that Person that none of those circumstances apply in his or her case.

50. Amendments of Mandatory Requirements of Specific Tenders. |— (1) The Procuring Entities may expand or amend the mandatory requirements for any specific Tender , namely -

- (a) in a turnkey Contract, where a Contactor is responsible for design, construction, procurement and installation of equipment and commissioning, for additional information relating to qualification required for confirmation of a Tenderer's capacity to carry out all of these activities in an integrated fashion;
- (b) in the case of a Contract for operational Services, such as security or catering Services, for additional or different information in line with the necessity of the Procuring Entity.

(2) In the case of Procurement of Goods and Works on the basis of lots, minimum qualification requirements may be specified for each lot and for total number of lots.

51. Pre-Qualification Procedure. — (1) Applicants and Tenderers shall be informed of all the mandatory requirements for qualification if the Pre-Qualification procedure is being used in any Procurement and in such cases the mandatory requirements for qualification shall be clearly stated in the Pre-Qualification Documents.

(2) If the Open Tendering Method follows no Pre-Qualification process, the mandatory requirements for qualification shall be stated in the Tender Documents.

(3) A Procuring Entity shall evaluate the information provided by the Applicants in accordance with the evaluation criteria detailed in the Pre-Qualification or Tender Documents following the provisions of Rule 93.

(4) Applicants not meeting the minimum requirements for qualification shall be declared disqualified provided that,

- a) an Applicant may be “conditionally Pre-Qualified” if the Application has minor flaws or deficiencies in meeting one or more requirements that can be easily redressed before the deadline for submission of Tender ;
- b) in such cases the participation of the Applicant in the Tender shall be conditional on its meeting the requirements imposed on it in the “conditional Pre-Qualification”.

(5) The criteria for establishing an Applicant’s ability to perform the specific contract shall be assessed by the Procuring Entity as detailed below -

- (a) experience and past performance on similar projects or programmes in respect of-
 - (i) a minimum number of similar projects or programmes that have been completed;
 - (ii) the value of similar completed projects or programmes to be considered, both individually and collectively;
 - (iii) the countries in which the Applicant has worked in the past; and
 - (iv) performance of Goods including plant, equipment and machinery supplied to the concerned Procuring Entity or other Procuring Entity within or outside the country.
- (b) capabilities with respect to personnel, equipment and construction or manufacturing facilities -
 - (i) the professional qualifications and experience of key personnel within the Applicant’s organization;
 - (ii) the types and minimum number of equipment that an Applicant would be expected to possess in order to fulfil the contract or to demonstrate that it has obtained a “contractual arrangement” for hire or lease access to such equipment during the intended period of use to perform the contract;
 - (iii) the minimum production capacity considered necessary for the performance of any contract with the manufacturers; and
 - (iv) whether the Procuring Entity intends to inspect the equipment or facilities as part of the evaluation of the Applications.
- (c) mandatory requirements for technical, financial and legal aspects shall be similar those detailed in Rule 48(2).

(6) The Procuring Entity, for its specific requirements, may alter as necessary the documentation and typical Pre-Qualification evaluation criteria, as set out in Rules 48, 49, 50 and this Rule.

(7) If none of the Applicants meet the pre-qualifying criteria, then all Applications may be rejected with the approval of the Head of the Procuring Entity.

(8) In the case of rejection of all Applications under Sub-Rule (7), subject to the approval of a Head of a Procuring Entity or an officer authorised by him or her, the Procuring Entity shall take the following actions -

- (a) if, after review, the contents of the Invitation for Pre-Qualification are found to be satisfactory, the Procuring Entity shall re-advertise the Invitation more widely, and perhaps internationally, if the requirement is of a high value or complex nature; or
- (b) if the Invitation is considered to be in need of revision, the revised Invitation may be reissued to those Persons or firms who had earlier submitted Applications; or
- (c) if the reasons for non-submission of acceptable Applications are considered to be due to a combination of the reasons stated in Sub Rule (8)(a) and (b), a revised invitation may be issued to all previous Applicants in addition to the re-advertisement.

(9) A Procuring Entity shall disqualify any Applicant if, at any time, it finds that the information submitted for qualification was either significantly inaccurate or incomplete, and in such case the grounds for disqualification shall be clearly mentioned in the Evaluation Report.

52. Maintaining Lists of Qualified Potential Suppliers or Contractors. |— (1) A Procuring Entity may maintain list(s) of enlisted or qualified potential Tenderers for use only in the case of Procurement in accordance with the Limited Tendering Method (LTM), and in such cases the Person's qualifications shall be reviewed and updated on an annual basis.

(2) The Procuring Entity may invite potential Suppliers and Contractors to submit documents in support of their qualifications for enlistment if they wish to participate in procurement under the LTM.

(3) In the case of enlisting Suppliers or Contractors by the Procuring Entities the following procedures shall be followed -

- (a) the Procuring Entity shall maintain the list by types and categories of Supply or Works ;
- (b) the list stated under Sub Rule (3)(a) shall be prepared by a Committee formed as specified in Schedule II and approved by the Head of the Procuring Entity or an officer authorised by him or her;
- (c) the Procuring Entity shall convene meetings of that Committee once in a year to update the list with additions of new Persons or upgrading or downgrading of Persons;
- (d) the annual advertisement notice shall allow all the interested Persons the period specified in Schedule II to provide the required Qualification information.

53. Appointment of a Subcontractor or a Subconsultant. |— (1) A Procuring Entity may allow a Supplier or Contractor or Consultant to appoint a Subcontractor or a Subconsultant provided that documents supporting appropriate qualifications as specified in the STDs or RFPs is presented.

(2) A firm, proposed as a Subconsultant in any Proposal, may participate in more than one Proposal, but only in the capacity of a Subconsultant.

(3) Qualifications of Subcontractors that have been specifically mentioned in the Tender may be considered only for works assigned for that Subcontractor in the evaluation of Qualification of a Tenderer.

(4) The general experience and financial resources of Subcontractors shall not be added to those of the Tenderer.

(5) An Applicant submitting a Proposal individually, or as JVCA partner, shall not be accepted as a Subconsultant to any other Applicant in the same Procurement process.

(6) In the event that a Subcontractor or a Subconsultant is appointed, the prime Supplier, Contractor or Consultant shall still retain full responsibility for the contract and cannot pass any contractual obligations to the Subcontractor or a Subconsultant and under no circumstances shall assignment of the Contract to the Subcontractor or Subconsultant be allowed.

(7) The prime Supplier or Contractor or Consultant shall remain responsible for administering its Subcontractors or Subconsultants and the Procuring Entity's review of subcontracts shall normally be confined to evaluating the prime Supplier's, Contractor's or Consultant's management of the sub-contracts.

PART- 10

JOINT VENTURES

54. Joint Ventures. — (1) The Procuring Entity may allow Persons to participate in Procurement proceedings individually or by forming JVCA for contracts involving the Procurement of Works, Physical Services and intellectual and professional Services:

provided that only the Letter of Intents for formation of a JVCA shall not be enough to prove the existence of a JVCA .

(2) The JVCA agreement shall be executed on a non-judicial stamp of value or equivalent as specified in Schedule II and signed by all legally authorized representatives of the Persons who are parties to such agreement.

(3) As an alternative to Sub-Rule (2), a Letter of Intent to execute a Joint Venture Agreement, in the event of a successful Tender or Proposal, shall be signed by all partners and submitted with the Tender or Proposal together with a copy of the proposed agreement:

provided that the Letter of Intent signed by all partners of the JVCA is authenticated by a Notary Public.

(4) Each partner of the Joint Venture, Consortium or Association shall be jointly and severally liable for all liabilities and ethical or legal obligations under the contract.

(5) During the Procurement process and, in the event the JVCA is awarded the Contract, during contract execution the JVCA formed under Sub-Rule (2) and (3) shall nominate a representative who shall have the authority to conduct all business including the receipt of payments for and on behalf of all the partners of the JVCA. .

(6) Minimum qualification requirements, for the leading partner of the JVCA and the other partner(s) , may be specified in the Pre-qualification Document, Tender Document or the Request

(7) If there is a dispute that results in legal action being taken in court then action will be taken against all partners of the JVCA, if they are available and, if only one partner is available, then that partner alone shall answer on behalf of all partners and, if the complaint lodged is proven, the penalty shall be applicable on that lone partner as whatever penalty all the partners would have received,

provided that if the other partners of the JVCA subsequently become available before the legal action has been completed, the Procuring Entity shall have the right to take action against those other partners of the JVCA as well

(8) A JVCA comprising only national partners may be eligible for domestic preference subject to fulfilment of conditions as specified in Sub-Rules (2), (3) and (4) of Rule 83.

(9) The composition or the constitution of a Joint Venture, Consortium, or Association once formed shall not be allowed to be altered prior to execution of the Contract but alteration at a date later than execution of the Contract may be done subject to the prior approval of the Head of the Procuring Entity.

(10) Alteration of partners shall only be allowed if one of the partners is found to be incompetent or has any serious difficulties which may impact the overall implementation of the work, whereby the new partner shall require to have higher qualifications than that of the outgoing partner.

(11) If any partner of the JVCA has been debarred from participating in any Procurement activity due to corrupt, fraudulent, collusive or coercive practices in accordance with Section 64 of the Act, that JVCA shall not be considered eligible for participation in any Procurement activity and similarly if any JVCA has been debarred in accordance with the above mentioned section of the Act, that debarment shall equally be applicable in the case of each partner as well.

(12) In the cases where a JVCA partner nominated for a particular component meets the minimum qualifying requirement of that component, the past experience and other capacity of such partner shall be combined together for summation to determine the total qualifying requirements of that JVCA.

(13) Specific technical experiences of JVCA partners or its key staff may not be aggregated to fulfil minimum qualification requirements in cases identical to the examples below

Example 1

If a Tender Document specifies that the requirement of a Project Manager with five (5) years experience in Works of an equivalent nature and volume, in such case, one partner's Project Manager with three (3) years experience and other partner's with two (2) years experience will not be permitted to be combined for summation with a view to reaching the total of five (5) years as required in the Tender Document.

Example 2

If a Tender Document specifies that the Tenderer must have past experience of completing a 100 M span RCC bridge, the JVCA partners will not be allowed to combine the partners' experiences of, for example, 50 M + 30 M + 20 M = 100 M with a view to reaching the aggregate of 100 M to qualify the criterion.

Example 3

If a Tender Document specifies that the Tenderer must have five (5) years of past experience in a specific type of construction, the JVCA partners shall not be allowed to combine the partners' experiences of (3) years for one (1) firm and two (2) years for the

other, with a view to reaching the total of five (5) years to qualify the criterion.

(14) The performance security, insurance coverage, indemnity, contracting and sub-contracting shall be furnished or executed on account of the JVCA legally formed.

PART - 11

CONFLICTS OF INTEREST

55. Conflict of Interest. — (1) Applicants shall have an obligation to disclose any situation of actual or potential conflict of interest that impacts their capacity to serve the best interest of the Client or that may reasonably be perceived as having this effect and failure to disclose such situations may lead to the disqualification of the Consultant or the termination of its Contract as indicated in the cases in the Table appended with Part A (Consultants' Conflicts of Interest: Range of Possible Cases) of Schedule IX .

(2) The Consultant, including any of its affiliates or associates, in deference to the requirements that the Consultant provides professional and objective advice and at all times hold the Client's interests paramount, shall strictly avoid conflicts with other assignments or its own corporate interests, and act without any consideration for award of a future work.

(3) If any Person has earlier been engaged by a Procuring Entity to supply Goods, perform Works or provide physical Services for a project, then that Person and any of its affiliates, shall be disqualified from providing consulting Services related to those Goods, Works or Services.

(4) If any Person hired to provide consulting Services for the preparation or implementation of a project, then that Person and any of its affiliates, shall be disqualified from subsequently supplying Goods, providing consulting Services, performing physical Services or Works resulting from or directly related to the Person's earlier consulting Services.

(5) A Consultant, its Personnel and Subconsultants or any of its affiliates shall not be hired for any assignment that may be in conflict with identical assignment of the Consultant to be performed for the same or for another Procuring Entity.

(6) A Consultant, its Personnel and Subconsultant, that has a business relationship with a member of the Client's staff involved in the procurement proceedings may not be awarded a Contract, unless the conflict stemming from this relationship has been addressed adequately throughout the selection process of the Consultant.

(7) Procuring Entity officials, who have an interest, directly or indirectly, with a firm or individual that is Tendering or has Tendered for a Procurement proceedings of that Entity shall declare its relationship with that firm or individual and consequently not participate in any proceedings concerned with that specific Procurement at any stage including from when the specifications are written and qualification criteria are established up to the Supply of Goods or performance of the Works are completed and, until all contractual obligations have been fulfilled.

PART - 12

COMPLAINTS AND APPEALS

56. Right to Complain. — (1) Circumstances under which a formal complaint may be lodged against a Procuring Entity are outlined below, such as ; -

- (a) in the case of invitations for Pre-Qualification -
 - (i) Pre-Qualification Documents were not ready when the advertisement was published by the Procuring Entity or not available when requested by a potential Applicant;
 - (ii) failure to respond promptly to a request for clarification from a potential Applicant;
 - (iii) failure by the TEC to evaluate the qualifications in the light of criteria stated in the Pre-Qualification Document;
 - (iv) perceived unfair denial of Pre-Qualification; or
 - (v) apprehended possible corrupt or collusive practices.
- (b) in the case of Open Tendering Method, Limited Tendering method, Two- Stage Tendering Method and Request for Quotations Method-
 - (i) advertisement procedures not properly adhered to in accordance with Rule 90, where applicable; or
 - (ii) Tender Documents not ready when the advertisement was published by the Procuring Entity or not available when requested by a potential Person, where applicable; or
 - (iii) failure to respond promptly to a request for clarification from a potential Tenderer; or
 - (iv) framing technical specification that can be met by only one or a scanty number of manufacturers;
 - (v) failure to hold a pre-Tender meeting as per condition of the published advertisement or to timely notify the potential Persons of a change in the pre-fixed date, location, and time, that resulted in some potential Persons' failure to attend the meeting, where applicable;
 - (vi) failure to open the Tender as stated in the advertisement of Invitation for Tenders or improper conduct at the time of Tender opening; ;
 - (vii) mishandling of Tenders received from Persons resulting in the opening of one or more Tenders before the specified time that causes either a loss of confidentiality of the Tender or an actual failure to open a Tender at a public opening;
 - (viii) failure to open all Tenders which were received prior to the deadline for the submission of Tenders;
 - (ix) failure by the TEC to evaluate the Tenders in compliance with the evaluation criteria stated in the Tender Documents;
 - (x) any attempt by the Procuring Entity to 'negotiate' with the successful Tenderer;
 - (xi) apprehended possible corrupt or collusive practices
 - (xii) perceived unfair or erroneous award of Contract ; and
 - (xiii) a breaking of the condition of confidentiality by the Procuring Entity at the time of clarifications with each Person in the case of evaluation of the first-stage Tender under the Two-stage Tendering Method.
- (c) in the case of Requests for Proposals:
 - (i) failure on the part of the Procuring Entity to maintain confidentiality following the opening of the envelopes containing the technical Proposals;
 - (ii) opening of the financial Proposals at the same time as the opening of the technical Proposals;

- (iii) failure to evaluate the Proposals in accordance with the evaluation criteria set out in the RFP;
- (iv) attempt by the Procuring Entity to force an Applicant to revise fee rates during the negotiation of the Contract where price is a factor in the evaluation;
- (v) possible corrupt or collusive practices; and
- (vi) perceived unfair and not impartial award of Contract .

57. Submission of Complaints to the Administrative Authority, Disposal of Appeal, Etc. — (1) A Person shall submit his or her complaint in writing within the period specified in Schedule II .

(2) In the first instance, the Person shall submit his or her complaint in writing to the concerned officer of the Procuring Entity (such as, the Project Director (PD), Line Director (LD), Project Manager (PM), Procurement Officer, Officer assigned for Procurement who issued the Tender or Proposal Document.

(3) The officer concerned, specified in Sub-Rule (2), shall consider the subject matter of the complaint and decide whether to reject the complaint or to take any corrective action.

(4) The officer concerned shall, within the period specified in Schedule II , issue a written decision to the Person, stating either the reasons for the rejection of the complaint or advising what corrective actions have been or will be taken, such as, issue of an addendum amending unacceptable provisions in the Tender or Proposal Documents.

(5) If the Person is not satisfied with the written decision, taken under Sub-Rule (4), and wishes to pursue his or her complaint, he may address the same complaint to the Head of the Procuring Entity within the period specified in Schedule II .

(6) The Person shall submit the complaint, under Sub-Rule (5), in writing to the Head of the Procuring Entity who shall -

- (a) if he or she is a member or Chairperson of the Evaluation Committee then he or she shall forward it to the Secretary of the concerned Ministry or Division within the period specified in Schedule II , advising the Person that he or she has so forwarded the complaint; or
- (b) if he or she is in a position to accept the complaint then he or she shall decide whether to reject the complaint, or to implement any corrective actions and shall, within the period specified in Schedule II , issue a written decision to the Person stating either the reasons for the rejection of the complaint or informing of the corrective action that has been taken.

(7) If the Person is not satisfied with the decision of the Head of the Procuring Entity, he shall submit a complaint to the Secretary of the concerned Ministry or Division within the period specified in Schedule II .

(8) the Secretary of the concerned Ministry or Division shall, within the period specified in Schedule II , consider the subject matter of a complaint under Sub-Rules (6) or (7) and decide whether to reject the complaint or to make any corrective actions and shall issue a written decision to the Person stating either the reasons for the rejection of the complaint or advising on the corrective action that has been taken, copying the decision to the Procuring Entity and the CPTU.

(9) if the Person fails to receive a written decision within the time period stated at each

stage, then the Person has the right to directly submit a complaint within the period specified in Schedule II , to the next higher level stated above.

(10) if the Person is not satisfied with the written decision of the Secretary of the concerned Ministry or Division, he or she may pursue his or her appeal through the Review Panel.

(11) A Person may appeal to a Review Panel only if the Person has exhausted all his or her options of complaints to the administrative authority under this Rule.

(12) The Person may submit the complaint in a sealed envelope marked "CONFIDENTIAL" and addressed to the Chairperson, Review Panel, at CPTU' s mailing address within the period specified in Schedule II after receiving the decision of the Secretary of the concerned Ministry or Division under Sub-Rule (8) or having not received any timely decisions and shall -

- (a) enclose the complaint and all supporting Documents in a sealed envelope, which shall be opened only by the Chairperson of the Review Panel;
- (b) attach a forwarding letter with the sealed envelope marked confidential, addressed to the DG, CPTU stating its wish to appeal to the Review Panel and the nature of its complaint; and
- (c) attach with the forwarding letter the registration fee and the refundable security deposit, in the form of a Bank draft in favour of Director General, CPTU of the amount specified in Schedule II.

(13) Procuring Entities and other levels of administrative authorities, shall maintain a Complaint Register in which brief information of all complaints and the decision taken regarding such complaints shall be recorded.

58. Formation of Review Panels. — (1) The CPTU shall constitute Review Panels comprising of specialists mentioned in Sub-Rule (2) for the purpose of reviewing a appeal and giving decisions.

(2) For the purpose of forming Review Panels, the CPTU shall, under Section 30 of the Act, establish a list of well-known specialists in accordance with Schedule II and as detailed below -

- (a) the Review Panels shall be constituted by taking one (1) member from each of the following three (3) groups -
 - (i) well-reputed specialists in legal matters, experienced in Procurement related legal issues which could also include retired senior officers from, Government and semi-Government autonomous bodies or corporations;
 - (ii) well-reputed specialists having relevant technical expertise and experience in public Procurement;
 - (iii) well-reputed experts in Procurement and contract management practices having experience in complaints and disputes settlements whose names can be provided by the Federation of Bangladesh Chamber of Commerce and Industry (FBCCI),
provided that no active public servant shall be included in the Review Panel.
- (b) the specialists shall be grouped into a number of Review Panels as specified in Schedule II;
- (c) Review Panel shall have minimum of three (3) members, one of whom shall be the nominated Chairperson;
- (d) the CPTU shall, with the approval of its Minister, appoint the Review Panel

members and the Chairperson on such terms and conditions as may be deemed appropriate;

- (e) depending on the nature of the complaint, the Review Panel may request the CPTU to co-opt two (2) members on a case-by-case basis, out of the lists of specialists maintained by the CPTU.

(3) The CPTU shall maintain the list of specialists and the list of Review Panels and they shall be made available to any interested Person.

(4) In order to ensure smooth operation of the Review Panels, a provision for an incentive or honorarium, in the form as specified in Schedule II, for payment to each member of the Review Panel shall be made.

(5) The CPTU shall issue a detailed work procedure governing the functioning of the Review Panel.

(6) The CPTU shall under no circumstances be involved in the proceedings of a complaint or appeal but shall provide necessary logistic support to the Review Panel in the discharge of its responsibilities and functions.

59. Authority to Suspend Issuance of Notification of Award until resolution of Appeal. — (1) Upon receipt of an appeal with Registration Fee and Security Deposit as specified in Schedule II, the CPTU shall select, within the period specified in Schedule II, a Review Panel on a rotational basis and shall pass that appeal for disposal to that Review Panel advising at the same time the Person and the Secretary of the concerned Ministry or Division of the action it has taken thereby preventing the Procuring Entity from proceeding to award the Procurement contract under review until a decision by the panel is issued.

(2) When a complaint is being considered by the Procuring Entity or Review Panel Notification of Award shall not be issued until a final decision on the complaint or appeal has been made, but the Tender evaluation and approval process will continue.

(3) The suspension of Notification of Award (NOA), provided for by Sub-Rule (1), shall not apply if the Head of the Procuring Entity, having obtained the approval of the concerned Secretary or Minister, certifies that public interest considerations require the Procurement to proceed.

(4) The basis of considering the inevitability of carrying out the Procurement in certification issued under Sub Rule (3) shall be specifically stated in recording the Procurement proceedings and, shall be conclusive with respect to all levels of complaint except judicial review

(5) If the Security Deposit and Registration Fee are not attached as per Sub-Rule (1), the CPTU shall inform the Person that the complaint cannot be placed before the Review Panel, with a copy to the Procuring Entity.

(6) Promptly after appointment, the Chairperson of the Review Panel shall determine the working procedures to be followed in accordance with work procedure issued by the CPTU.

60. Disposal of Appeal by Review Panels. — (1) The Review Panel, upon receiving a complaint through the CPTU and having been properly provided with the Security Deposit and Registration Fee, shall advise the Procuring Entity to continue the suspension of the issuance of Notification of Award until such time as the decisions of the Review Panel have been announced.

(2) The Review Panel shall within the period specified in Schedule II, issue a written decision to the Person with a copy to the Secretary of the concerned Ministry or Division, the CPTU and the Procuring Entity.

(3) Unless it dismisses the complaint as being frivolous and as applicable, in the case of forfeiture of the Security Deposit of the Person, in the disposal of appeal the Review Panel may take, either any or in combination thereof of the following decisions, as deemed appropriate -

- (a) reject the appeal , stating its reasons and suggest that a Procuring Entity continue with Procurement proceedings; or
- (b) state the Rules or principles that govern the subject matter of the appeal and advise the parties to act accordingly for its disposal ; or
- (c) recommend remedial measures if the Procuring Entity has taken action contrary to its obligations under the Rules; or
- (d) suggest annulment in whole or in part of a non-compliant action or decision of a Procuring Entity, other than any action or decision bringing the Procurement contract into force; or
- (e) suggest the payment of compensation by a Procuring Entity for costs incurred by the Person, such as, cost of preparation of Tender Document and expenses associated with legal fees and other expenses incurred in lodging his or her complaint, including the return of the Security Deposit paid under Rule 57 (12) (c), if a Procuring Entity is in breach of its obligations under these Rules; or
- (f) recommend that the Procurement proceedings be completed.

(4) Decisions of the Review Panel shall be taken on the basis of majority opinion.

(5) The decision of the Review Panel shall be final and all concerned parties will act upon such decision.

(6) After the decision has been issued by the Review Panel, the complaint raised in the appeal and the decision shall be promptly made available for inspection to the general public, provided that no information shall be disclosed if its disclosure-

- a) would be contrary to laws of Bangladesh;
- b) would impede law enforcement;
- c) would not be in the public interest;
- d) would prejudice legitimate commercial interests of the parties; or
- e) would inhibit fair competition.

(7) Any decision by a Procuring Entity or by the Review Panel under this Rule and the grounds and circumstances thereof shall be made part of the record of the Procurement proceedings.

CHAPTER FOUR

METHODS OF PROCUREMENT FOR GOODS AND RELATED SERVICES, WORKS, PHYSICAL SERVICES AND THEIR USE

PART – 1

NATIONAL PROCUREMENT: OPEN TENDERING METHOD

61. Use of Open Tendering Method in the Procurement of Goods, Works, Etc.— (1) The open Tendering shall be the preferred method of Procurement for Goods and related Services, Works and Physical Services, unless the threshold or special circumstances relating to a specific requirement make it more appropriate for one of the other Procurement methods to be used.

(2) Tenders shall be invited from all eligible Tenderers through public advertisement under Rule 90.

(3) Government owned factories or enterprises may participate in the public Tenders if they establish that they are legally and financially autonomous.

(4) The minimum time allowed for Tenderers to prepare and submit their Tenders for Goods, Works and Physical Services shall not be less than as specified in Schedule II, provided that the Tender Documents are ready for sale and made available by the date of publication of the advertisement.

(5) In the case of an urgent national need of Procurement the Government may, if so recommended by the Cabinet Committee on Economic Affairs (CCEA), reduce the time for Procurement processing.

(6) In cases where Pre-Qualification of Applicants has been carried out pursuant to Rules 91, 92 and 93 the Procuring Entity shall restrict the issue of Tender Documents to Pre-Qualified Applicants only.

(7) In the case of Procurement of Goods and related Services and Works and physical Services under Open Tendering Method process and proceedings in flow-charts as given in Part B of Schedule III shall be followed.

62. Use of Other Methods for Procurement of Goods, Works, Etc. — (1) A Procuring Entity may use a Procurement method other than Open Tendering Method for Procurement of Goods and related Services and Works and physical Services in accordance with the requirements set out in these Rules, namely, Limited Tendering Method, Direct Procurement Method, Two-stage Tendering Method and Request for Quotations Method, provided that the selection of any Procurement method other than open Tendering, should be recorded stating the reasons or justifications for the method selected in compliance with the conditions specified in these Rules.

(2) In the case of Procurement of Goods and related Services and Works and physical Services under Limited Tendering Method, Two-stage Tendering Method, Request for Quotations Method and Direct Procurement Method, process and proceedings as specified in Part C, D, E and F of Schedule III shall be followed.

PART – 2

NATIONAL PROCUREMENT:- LIMITED TENDERING METHOD

63. Use of the Limited Tendering Method. |— (1) A Procuring Entity may undertake Procurement by means of Limited Tendering Method in the following circumstances, namely –

- (a) when Goods and related Services and Works and physical Services by reason of their specialized nature such as aircraft, locomotives, specialized medical equipment, contraceptives, telecommunication equipments , silos, ports, harbours etc., are available only from a limited number of qualified potential Suppliers or Contractors ; or
- (b) when there is an urgent need for Procurement of Goods, Works or Services and appear as such that open national or international competitive Tendering would be impractical.; or
- (c) when the circumstances giving rise to the urgency under Sub Rule (1) (b) were neither foreseeable by the Procuring Entity nor caused by delay on its part; or
- (d) when the Government establishes a policy to standardize on a certain number of brands to cut down spare parts stock requirements and maintenance costs such as computers, laboratory equipment, research equipment.

(2) The Procuring Entity may invite Tenders from enlisted Suppliers or Contractors when required time and administrative cost for going through Open Tendering would be high compared to the value of the Procurement subject to the threshold specified in Schedule II.

(3) In cases where the lowest evaluated Tender price exceeds the threshold in Sub-Rule (2), the approval for award of Contract shall be obtained from the next higher level of authority.

(4) The Limited Tendering Method shall not be used without prior approval of the Head of the Procuring Entity or an officer authorized by him or her.

(5) The submission of Tender Security shall not be mandatory under this method but the submission of Performance Security shall be required.

64. Procedures for the Limited Tendering Procurement Method. |— (1) Procuring Entities who need to purchase Goods and related Services of a specialized nature and who know the limitations on the availability of number of Suppliers may directly invite Tenders from the potential Suppliers.

(2) Procuring Entities, who maintain updated lists of enlisted potential Suppliers or Contractors under Rule 52 may, for Procurement under Rule 63 (2), invite Tenders from those enlisted Suppliers or Contractors.

(3) In addition to invitations under Sub-Rule (2), advertisement in the Procuring Entity's website, if any, and where applicable a parallel advertisement in brief in the local press is recommended to increase competition and transparency, if the objective for using this method, i.e saving time and money, is not defeated through such advertisement.

(4) Procuring Entities, who do not maintain updated lists of potential Suppliers or Contractors, may use such lists that are maintained by other key Procuring Entities or such lists posted for this purpose by the CPTU on its website.

(5) The time allowed for the submission of Tenders shall be as specified in Schedule II.

PART – 3

NATIONAL PROCUREMENT: TWO-STAGE TENDERING METHOD

65. Conditions and Procedures for Use of Two-Stage Tendering Method. - (1) A Procuring Entity may use this Method in the case turnkey Contracts or contracts for large complex facilities, such as the supply, installation and commissioning of processing plants, or works of complex nature or communication technology etc.

(2) The use of the word 'complex' in describing the nature of the items to be procured under Two-Stage Tendering Method covers Procurement requirements for which it may not be in the best interests of the Procuring Entity to prepare complete technical specifications in advance because of rapidly changing technology, and also Procurement requirements for which the Procuring Entity lacks the capability to prepare a full technical specification because alternative technical approaches may be available, but not within the knowledge of the Procuring Entity.

66. Procedures for the Two-Stage Tendering Method. |— (1) In the First-Stage, a Procuring Entity shall invite unpriced Technical proposals through advertisement on the basis of a conceptual design that provides potential Tenderers with basic technical information, such as conditions relating to expected production capacity of works, , outline of the technical specifications and visual, operational and economic details of the object of the Procurement.

(2) The advertisement under sub-Rule (1) shall state the criteria that shall be used to determine responsiveness of a Technical Proposal in which , the following issues shall also be included –

- (a) the relative managerial and technical competence of the Tenderer; and
- (b) the effectiveness and future adaptability of the Technical Proposals submitted by the Tenderer in meeting the Procurement requirements of the concerned Procuring Entity.

(3) There shall be no requirement of submitting a Tender Security by the Tenderers in the First-Stage.

(4) In response to the invitation for Technical Proposal , Tenderers shall submit its Technical Proposals describing the technical performance, quality and other characteristics of the Goods and related Services and Works and physical Services which they consider best suited to meet the Procuring Entity's needs and shall comment upon the terms and conditions suitable for managing contract performance.

(5) The time allowed for the submission of Technical Proposals shall be as specified in Schedule II.

67. Evaluation of the First Stage in the Two-Stage Tendering Method. |— (1) The Evaluation Committee shall evaluate all Technical Proposals received and in view of the complex nature of this kind of Procurement under Rule 65, it may, with the approval of the Head of a Procuring Entity or an officer authorised by him or her or an Approving Authority, seek the assistance of a Technical Sub-Committee, or external technical experts from the beneficiary entity or others with specific knowledge of the concerned object of Procurement.

(2) The Evaluation Committee shall review the Technical Proposals in order to identify those Proposals that are responsive in compliance of the terms and conditions specified in the Tender Documents, but the Proposals that are not found to be responsive shall receive no further

consideration.

(3) The Evaluation Committee may then engage in confidential and separate discussions, if necessary, with each of the responsive Tenderers concerning any aspect of their Proposals except the Tender price and each Tenderer shall maintain the confidentiality of his or her Tender and shall not reveal any confidential information or ideas to other Tenderers.

(4) At the end of the discussions under Sub-Rule (3), the Evaluation Committee shall issue Minutes of Tender Adjustments' to each responsive Tenderer that outlines the changes required in its Technical Proposal, as agreed with the Procuring Entity for incorporation in the Second-Stage Tender.

(5) The Evaluation Report, including each draft minutes of the adjustments signed by the concerned Tenderers and all members of the Evaluation Committee, shall be submitted to the Head of the Procuring Entity or the officer authorized by him or her or the Approving Authority for review, within the period specified in schedule II.

(6) In case the Approving Authority does not agree with the recommendation in the Evaluation Report, the matter shall be dealt with in accordance with the provision of Rule 11.

68. The Second Stage in the Two-Stage Tendering Method. — (1) Before launching the Second-Stage, the Procuring Entity shall revise the Tender Documents to reflect the agreed new technical scope and set out the detailed tender evaluation criteria for the Second Stage Tenders.

(2) In revising the Tender documents in the second stage the Procuring Entity shall maintain the confidentiality of the Tenderers' Technical Proposals used in the first stage, consistent with requirements of transparency and intellectual property rights.

(3) All responsive Tenderers from the First-Stage shall be invited to submit their priced 'best and final' Tenders, in accordance with the requirements of the Second-Stage Tender Document and the individual Minutes of Tender Adjustments issued to each Tenderer within the period specified in Schedule II.

(4) For the Second-Stage, the Procedures for Tender submission, opening, evaluation and award of the Contract shall follow the same procedures as for Open Tendering Method.

PART – 4

NATIONAL PROCUREMENT- REQUEST FOR QUOTATION METHOD

(Section 32 of the Act)

69. Conditions and Procedures for Use of Request for Quotation Method (RFQ). —

(1) A Procuring Entity may undertake Procurement by means of the RFQ for readily available in the market standard off-the-shelf Goods and related Services, low value simple Works and physical Services,

provided that the estimated value of such Procurement shall not exceed the threshold separately specified for revenue and development budget in Schedule II.

(2) The Head of the Procuring Entity shall strictly control the use of the RFQ Method in order to ensure that there is no abuse and that its use by Procuring Entities is restricted to the items specified in this Rule.

(3) A decision to use RFQ Method shall be approved in writing by the Head of the Procuring Entity or an officer authorised by him or her unless the RFQ method was scheduled for

the said object of Procurement in the Procurement Plan approved under Rule 16(7).

- (4) In deciding or justifying the use of the RFQ Method, the following shall be considered -
- (a) Procuring Entities shall not use the RFQ Method as means to either bypass more competitive methods of Tendering or split large potential contracts into smaller ones solely to allow the use of this method.
 - (b) the RFQ Method should not require complex Documentation or all the formalities of a full Tendering process.
- (5) Quotations for low value simple Works or physical Services may be requested in the form of -
- (a) unit rate prices, provided quantities can be estimated with a reasonable degree of accuracy; or
 - (b) "cost plus fee" arrangements, when quantities cannot be reasonably determined or estimated in advance; or
 - (c) a lump sum, if the Procuring Entity has prepared an accurate cost estimate for the Works or physical Services.
- (6) A Procuring Entity may engage in Procurement by means of RFQ Method for Procurement of Goods and related Services required for maintenance and urgent repairs to -
- (a) ; procurement by Procuring Entity of any spare parts or related Services for the maintenance or repair of any public sector utility workshops (buses, locomotives, rolling stock, ferries, power stations or installations, telecommunication installations, gas installations, water installations, etc), so long as the value does not exceed the amount specified in Schedule II ;
 - (b) procurement of Goods and related services required for the maintenance and urgent repairs of national carriers not exceeding the amount specified in Schedule II;
 - (c) procurement of any spare parts or related Services for the urgent maintenance or repair of any processing or production plant of public manufacturing industries (fertilizer, chemicals, steel & engineering, cement, petroleum, small and cottage industries, etc) if it is maintaining or repairing the equipment in its own workshops so long as value does not exceed the threshold specified in Schedule II.

70. Documentation Needed for the RFQ Method. |— (1) The Request for Quotations shall contain a clear statement concerning the Procuring Entity's requirements in respect of the Goods and related Services and low value simple Works or physical Services, such as quality, quantity or volume of Goods, scope of physical Services and their duration, terms and time of delivery or completion, and payment terms and invoicing procedures, including special requirements.

(2) Tenderers may be required to furnish documentary evidence(s) demonstrating its eligibility by providing a valid trade license, Tax Identification No. (TIN), VAT registration and Bank solvency certificate.

(3) Tenderers shall be requested to quote prices or rates in a process similar to those in Open Tendering Method.

(4) The evaluation criteria to be used shall be stated in the requests for quotations considering type and value of Goods and related Services and low value simple Works or physical Services to be procured using the RFQ Method.

- (5) Procuring Entities shall use the standard Document specified for RFQ Method.
- (6) No Tender or Performance Securities are required when the RFQ Method is used.

71. Procedures for use of Request for Quotations Method Invitation. |— (1) The Procuring Entity shall invite quotations from Suppliers by letter, fax or electronic mail, indicating the last date by which the quotations shall be submitted.

(2) Requests for Quotation do not need to be advertised in the newspaper ; but for the minimum circulation shall publish that advertisement in the Website of the Procuring Entity, if any, including its Notice Board and shall send with request for publication to the administrative wing of the another nearby Procuring Entities. .

(3) The Procuring Entity shall not charge any fees for the RFQ Document.

(4) Time for invitation shall be kept minimal but reasonable, within the threshold specified in Schedule II.

(5) The Procuring Entity shall carefully select the Tenderers to be invited to submit quotations for Procurement of Goods or Works taking into account its specific requirements as well as the reputation and capability of the Tenderers.

(6) The Procuring Entity shall request quotations from as many Tenderers as practical and shall obtain and compare at least three (3) responsive quotations to establish the competitiveness of the quoted price,

(7) The Procuring Entity should, in order to minimize the risk of not receiving satisfactory number of responsive quotations, request all potential Tenderers to confirm whether or not they will be submitting a quotation in order to invite other Tenderers to replace those who are not submitting a quotation.

(8) The Procuring Entity shall, in order to diversify the source of supply and treat all potential Tenderers equally as long as they provide good performance and economic price, ensure that the same Tenderers are not always invited to quote.

(9) The RFQ Method for national Procurement is generally limited to Persons resident and commercially registered in Bangladesh and to the supply of Goods, of both local and foreign manufacture, which are usually available from more than one source within Bangladesh at a competitive price.

72. Submission of Quotations. |— (1) The Tenderer shall have the choice to submit its offer in a sealed envelop clearly marked on the top as 'Quotation' or by fax or e-mail.

(2) The Procuring Entity shall stamp all quotations, received sealed or otherwise, indicating both the date and time of receipt and shall submit without opening to the Chairperson of the Tender Evaluation Committee for evaluation.

(3) If the Procuring Entity has not received at least three (3) responsive quotations within the given time, it shall verify with the other Tenderers to whom it sent a request for quotation whether or not they intend to submit a quotation, and if so how soon.

(4) The Procuring Entity, unless there is extreme urgency or there are already three (3) or more responsive quotations available, may give reasonable amount of additional time for other

Tenderers to submit quotations, and proceed with the evaluation of the quotations received on the expiry of the additional time.

73. Evaluation of Quotations and Issuance of Purchase or Work Order. |— (1) All quotations, whether submitted in sealed envelopes or by other means, shall be examined and evaluated by a Tender Evaluation Committee, following the procedure specified in Rule 98 on the very submission date after the deadline specified.

(2) In the case of evaluation of quotations, only the requirements specified in the Request for Quotations is to be examined, following which the lowest evaluated quotation shall be selected for award of the work order. provided that in special circumstances, the TEC may recommend an award to a Tenderer who has not submitted the lowest priced quotation when such recommendations are fully justified on technical, social or economic grounds.

(3) A slightly higher price may be justified for faster delivery or immediate availability in cases of extreme urgency or when late delivery may result in heavy consequences for the purchaser,

provided that in such cases, the intention to favour early delivery should be clearly indicated in the RFQ.

(4) The Evaluation Report must demonstrate clearly that the award is based on sound economic criteria.

(5) The winning Tenderer shall be notified immediately by sending him or her purchase order in the case of Goods or by inviting him or her to sign a standard contract in the case of Works and Physical Services.

(6) The awarded Tenderer shall confirm in writing receipt of the purchase order or work order to the Procuring Entity.

(7) If the Procuring Entity couldn't receive the minimum required number of quotations, it shall refer the matter to the HOPE recommending either to cancel the Procurement or to use other Procurement methods such as Direct Procurement.

(8) The record of Procurement as specified in Rule 43 shall include the list of Tenderers invited and the list and value of the quotations received and the Evaluation Report.

PART – 5

NATIONAL PROCUREMENT: DIRECT PROCUREMENT METHOD

74. Use of the Direct Procurement Method. |— (1) The Procuring Entity may use the Direct Procurement method for Procurement for Goods and related Services, Works and physical Services from one source without going through Tendering or other Procurement methods but shall under no circumstances be used to avoid competition or to favour a particular Person, Supplier or Contractor to discriminate among Persons, Suppliers or Contractors.2) The Head of a Procuring Entity shall strictly control the use of the Direct Procurement Method as it- does not provide the benefits of competition, lacks transparency and could encourage unacceptable and fraudulent practices.

(a) ;.

(3) The decision to use this method shall be approved by the Head of the Procuring Entity or an officer authorised by him or her in order to ensure that there is no abuse and its use is

restricted to the circumstances specified in these Rules.

(4) In exceptional cases where it is urgently necessary to complete the scope of the original contract, additional deliveries or a Variation or Extra Work Order or Repeat Order beyond the amount specified in Schedule II, shall be approved by an authority of level higher than the Approving Authority who approved the original contract.

Explanation: If the original Approving Authority was the Procuring Entity then the HOPE and if the HOPE was below the level of original Approving Authority or Secretary then the Secretary of the Ministry or Division and so forth the next higher level authority, shall approve additional deliveries or a Variation or Extra Work Order or Repeat Order beyond the amount specified in Schedule II

75. Forms of Direct Procurement. — (1) Until contrary to the context direct Procurement shall be applicable in any of the following cases- —

- (a) Direct Contracting; or
- (b) Additional deliveries and Repeat Orders; or
- (c) Variation Orders; or
- (d) Extra Work Order; or
- (e) Direct cash purchase; or
- (f) Force account.

(2) When a Procuring Entity engages in direct Procurement according to this Rule, it shall prepare a description of its needs and any special requirements concerning quality, quantity, terms and times of delivery.

(3) The Procuring Entity shall, in the first place, ask for a priced Offer from a Tenderer directly and afterwards shall be free to negotiate with the selected sole Tenderer.

(4) There shall be no requirement for direct Procurement to be advertised.

(5) There shall be no requirement for a Tender security in case of direct Procurement, but a Performance Security shall be obtained from the Supplier or Contractor. except for Procurements under Rule 27(9), Rules 81 and 82.

(6) A new contract for new Procurements or a revised contract incorporating an amendment to the existing contract in case of variations, extra works, repeat orders or additional deliveries shall be signed except for Procurement under Rule 81 and Rule 82.

76. Use of Direct Contracting. — (1) The Procuring Entity may invite only one Supplier or Contractor to submit an offer under any of the following conditions -

- (a) Procurement of Goods and related Services of proprietary nature which can be obtained only from the proprietary source, i.e. when patents, trade secrets and copyrights prohibit others from manufacturing the same item; or
- (b) where the Procurement of critical plant components from a specific manufacturer, Supplier or distributor is a condition precedent to hold such manufacturer, Supplier or distributor to guarantee its project performance in accordance with the provisions of the Contract; or
- (c) those sold by an exclusive dealer or manufacturer which does not have sub-dealers selling at lower prices and for which no suitable substitute can be obtained at more advantageous terms; or
- (d) Procurement of perishable commodities such as fresh fruit, vegetables or other

similar items on the basis of reasonable market price valid at the time of purchase; or

- (e) Procurement of Goods and related Services under exceptionally advantageous conditions, provided that those are of the latest production, unused and are covered by manufacturer's warranty; or
- (f) Procurement of agricultural products directly from the farmers when the Government determines the purchase price rate at a level in order to ensure reasonable price for the farmers and Procurement of essential Goods for which the Government determines the purchase price rate; or
- (g) Procurement of Goods and related Services, in special cases, from a Government-owned industry or factory using government own funds; or
- (h) when the Government wishes to promote small scale local industries for specialized products as per specification approved by certain Governmental agencies and statutory bodies; or
- (i) Procurement of spare parts of existing equipment where a change of Supplier would result in the Procurement of equipment, spare parts or Services which would not be interchangeable with the existing equipment, spare parts or Services, or
- (j) emergency Procurement of Goods, Works and Services arising from natural disasters within the thresholds as specified in Schedule II; or
- (k) Procurement of Goods, Works and Services of very urgent or essential nature such as catering services, ambulance services, transportation services, event management services, repair/maintenance services, plumbing services, carpentry services, masonry services, within the thresholds as specified in Schedule II.

(2) For Emergency Procurement above the thresholds as specified in Schedule II, the Government may, in accordance with Section 68 of the Act, resort to the direct procurement method for carrying out a procurement activity following the recommendation of the Cabinet Committee on Economic Affairs.

(3) The Procuring Entity may engage in direct contracting with local communities in projects with poverty alleviation objectives if it is provided for in the project Document following the Operational Manual for the project,

provided that the Project Implementation Committees shall procure the required small works, incidental materials and direct labour in a responsible and accountable manner.

(4) The Local Government institutions such as Zilla Parishad, Upa-zilla Parishad, and Union Parishad, may undertake direct Procurement of small works, goods and direct labour through Project Implementation Committees, Labour Contracting Societies, Scheme Implementation Committees or other committees, whatever name they are called, following procedures and financial limits as specified in the guidelines issued, from time to time, by the Local Government Division.

(5) Contracts for stand-alone Services such as catering Services, security Services, courier Services, and others of a similar nature, with the original Contractor may be renewed on annual or term basis, if the original contract was awarded on competitive basis, provided that the renewal will not be given more than twice.

77. Procurement of Additional Deliveries and Repeat Orders. — (1) Additional deliveries of Goods and related Services, from the original Supplier, and Repeat Orders of a similar nature from the original Supplier or Contractor shall be subject to the following conditions -

- (a) contract values must not exceed the threshold prescribed in Schedule II, provided that such prices are still the most advantageous to the Procuring Entity after price verification;
- (b) no Procurement by repeat orders shall be permissible, for the purpose of evading the necessity of the requirements for the alternative methods of Procurement and the requirements of the Act and these Rules, by any means or, splitting of Contracts or purchase orders into smaller numbers and threshold values or dividing Contract implementation into artificial phases or sub-contracts.
- (c) in the case of an extension of existing contract relating to Supplies, services or installation, provided that the original Contract was signed following a competitive Procurement process.

78. Issuance of Variation or Extra Work Orders. |— (1) The Procuring Entity may issue a Variation Order for Procurement of Works, physical Services from the original Contractor to cover any increase or decrease in quantities, including the introduction of new work items that are either due to change of plans, design or alignment to suit actual field conditions, within the general scope and physical boundaries of the contract .

(2) The Procuring Entity may issue an Extra Work Order to cover the introduction of such new works necessary for the completion, improvement or protection of the original works which were not included in the original contract, on the grounds where there are subsurface or latent physical conditions at the site differing materially from those indicated in the contract, or where there are duly unknown physical conditions at the site of an unusual nature differing materially from those usually encountered and generally recognized as inherent in the work or character provided for in the Contract.

(3) Any cumulative Variation, beyond the threshold amount specified in Schedule II, shall be subject of another contract to be tendered out if the Works are separable from the original contract.

79. Preparation of a Variation or an Extra Work Order. |— (1) In claiming for any Variation or Extra Work Order, the Contractor shall deliver a written notice within the period specified in Schedule II, giving full and detailed particulars of any extra cost in order that it may be investigated at that time, and failure to provide such notice shall constitute a waiver by the Contractor for any claim.

(2) The preparation and submission of Variation or Extra Work Order shall be as follows -

- (a) if the Project Manager deems it necessary that a Variation or Extra Work Order should be issued, he or she shall prepare the proposed order accompanied with the notices submitted by the Contractor, the necessary plans , his or her computations as to the quantities of the additional Works involved per item indicating the specific locations where such Works are needed, the date of his or her inspections and investigations thereon, and the log book thereof, and a detailed estimate of the unit cost of such items of work, together with his or her justifications for the need of such Variation or Extra Work Order, and shall submit the same to the Approving Authority.
- (b) The Approving Authority, in accordance with DoFP, shall approve the Variation or Extra Work Order, after review and satisfaction with the justification, plans, quantities, and proposed unit cost of the new items of work involved if the Variation is within the threshold specified in Schedule II, or shall arrange to obtain approval from the authority next higher than the authority who approved the original contract in line with Rule 74(4).
- (c) the time for the processing of Variation and Extra Work Orders from the

preparation up to the approval by the Approving Authority concerned shall be within the period specified in Schedule II.

80. Costing of Variation or Extra Work. |— (1) The Contractor shall be paid for additional work items as follows –

- (a) , if items of additional works are exactly the same or similar to those in the original contract, the applicable unit price of work items in the original contract shall be used for payment of those additional work items;
- (b) for new items of works that are not included in the original Contract, the unit prices of the new work items shall be based on -
 - (i) the direct unit costs used in the original Contract for other items (e.g. unit cost of cement, steel rebar, formwork, labour rate, equipment rental, etc) as indicated in the Contractor's price breakdown of the cost estimate, if available; or
 - (ii) fixed prices acceptable to both, the Procuring Entity and the Contractor, based on market prices;
 - (iii) the direct cost of the new work item based on (i) and (ii) above shall then be combined with the mark-up factor (i.e. taxes, overheads and profit) used by the Contractor in his Tender to determine the unit price of the new work item.

(2) Request for payment by the Contractor for any extra work shall be accompanied by a statement, with the approved supporting forms, giving a detailed accounting and record of amount for which it claims payment and such request for payment shall be included with the Contractor's statement for a progress payment.

(3) Under no circumstances shall a Contractor proceed to commence work under any Variation or Extra Work Order unless it has been approved by the Approving Authority.

(4) The Head of the Procuring Entity may, in exceptions to the preceding Rule and subject to the availability of funds, authorise the immediate start of work under any Variation or Extra Work Order under any or all of the following conditions -

- (a) in the event of an emergency where the carrying out of the work is required urgently to avoid causing damage to public services, or damage to life or property or to both; or
- (b) when time is of the essence provided that,
 - (i) the cumulative increase in value of work on the project which has not yet been duly approved does not exceed the percentage specified in Schedule II.
 - (ii) immediately after the start of work, the corresponding Variation Order or Extra Work Order shall be prepared and submitted for approval in accordance with Rule 36.

(5) Payments for Works satisfactorily accomplished on any Variation or Extra Work Order may be made only after approval of the same by the appropriate authority.

(6) For a Variation or Extra order involving a cumulative amount exceeding the percentage specified in Schedule II, no work thereon may be commenced unless said Variation or Extra Work Order has been approved by the appropriate authority.

81. Use of Direct Cash Purchase. |— (1) The Procuring Entity may undertake direct cash purchase of low value Goods and urgent and essential Services such as maintenance, repairs, transportation and others in the value and annual aggregate amounts specified in Schedule II.

(2) The Procuring Entity may undertake any Purchase under this rule by an officer or a purchase committee, comprising maximum three members, formed by it for this purpose, depending on the nature of the purchase.

(3) Payments for Purchase under Sub-Rule (1) may be made by cash or cheque and a purchase order or contract shall not be required.

82. Use of Force Account. |— (1) Force Account may be used for hiring of direct labour for departmental needs in the value and annual aggregate amounts specified in Schedule II.

(2) Materials, tools and rental of additional equipment required to perform departmental Works under Force Account may be procured using other procurement methods such as RFQ or Direct Contracting under Rule 76.

PART – 6

INTERNATIONAL PROCUREMENT

83. Conditions and Procedures for Open Tendering with International Competition for Procurement of Goods and Works etc. |— (1) For the purposes of fulfilling the provisions of Section 33 of the Act a Procuring Entity shall comply with the following additional requirements for International Tendering -

- (a) the time allowed for the submission of Tenders shall be sufficient to allow the invitation to reach all potential Tenderers and to enable them to prepare and submit Tenders and in the case of notice inviting re-tender shall be as specified in Schedule II.
- (b) technical specifications shall be based upon international standards or those widely used in international trade and such standards shall be compatible with those in use in Bangladesh.
- (c) where the Bangladesh standard is thought to be unique, the words “or equivalent” shall be added to allow for wider competition.
- (d) the acceptable currencies in which the Tenderers shall be permitted to express their Tenders and any Tender or performance securities to be presented by them as well the currency or currencies in which the contract price will be paid shall be stated in the Tender Document.
- (e) the Tender Document may allow for a domestic preference as defined in Schedule II. I to provide local manufacturers, Suppliers and Contractors with a price advantage over their international competitors for the purpose of promoting domestic products or industries.

(2) If a Procurement Entity decides, in the case of Procurement of Goods, that an international open Tender shall include domestic preference, Tenders will be classified in the following groups, namely -

- (a) Group A which shall comprise Tenders offering Goods manufactured in Bangladesh for which labour, raw materials and components from within Bangladesh make up more than thirty percent (30%) of the ex-Works (EXW) price of the Goods and the production facility in which they will be manufactured or assembled has been engaged in manufacturing or assembling such Goods

since, at least, the date of submission of the Tender.

- (b) Group B which shall include all Tenders for offering Goods of foreign origin to be imported by the Procuring Entity directly or through the Supplier's local representative.

(3) If a Procuring Entity decides, in case of Procurement of Works, that an International Open Tender shall include the provision for domestic preference, then in such cases domestic Tenderers shall meet the following requirements in order to qualify for domestic preference, namely -

- (a) they shall be registered within Bangladesh;
- (b) they shall have majority ownership by nationals of Bangladesh;
- (c) they shall not sub-contract more than twenty percent (20%) of the Tender price, excluding 'provisional sums', to foreign Contractors; and
- (d) they shall meet other requirements for domestic preference which have been specified in the Tender Document.

(4) Joint Ventures, Consortia or Associations of national companies formed as per Rule 54 may be qualified for domestic preference, provided that –

- (a) the individual partners are registered in Bangladesh and have a majority ownership of Bangladesh nationals;
- (b) the Joint Venture, Consortium or Association (JVCA) is registered in Bangladesh;
- (c) the JVCA shall not sub-contract more than twenty percent (20%) of the Tender price excluding provisional sums, to foreign Contractors; and
- (d) the JVCA meets any other requirements for domestic preference which have been specified in the Tender Document.

(5) A JVCA between national and foreign firms shall not be eligible for domestic preference if the local partners share is below 50%.

(6) When the Works Tenders received are under evaluation, the following procedure shall be followed -

- (a) responsive Tenders shall be classified into the following groups -
 - (i) Group A shall include all Tenders offered by Bangladesh national Tenderers and JVCA which meet the qualifications above under Sub-Rules (3) and (4); and
 - (ii) Group B shall include all other Tenders.
- (b) for the purposes of the evaluation and comparison of Tenders only, the respective evaluated Tender prices of all Tenders placed in Group B shall be increased by the percentage for domestic preference specified in Schedule II, after having adjusted arithmetical errors or other discrepancies and having excluded 'provisional sums' and provision, if any, for contingencies within the Tender price, but including Day Work, priced as specified in Rule 5(6).
- (c) the lowest evaluated priced Tenders in Groups A and B shall then be compared and that lowest evaluated Tender shall be recommended for award.

(7) Guidance Notes and instructions on Domestic Preference shall be included in the Standard Tender Documents for international competitive Tendering.

(8) If national Contractors or joint ventures including Bangladeshi partners participate in international Tenders invited by the Government of Bangladesh, they shall be able to submit their

Tender in a combination of local and foreign currencies similar to international Tenderers; whereby a price breakdown for expenditures shall be provided against the demand for foreign currency.

(9) Similarly, to encourage national industries, national Suppliers offering Goods manufactured or assembled in Bangladesh, participating in International Tenders, shall be permitted to submit their Tender in a combination of local and foreign currencies.

(10) In the case of international Procurement under Open Tendering Method process and proceedings in flow-charts as specified in Part B of Schedule III shall be followed.

84. Conditions for Use of Two-Stage Tendering Method. |—

(1) The provision of Rule 61 and 83 with regard to open Tendering with international competition shall apply to the Two-Stage Tendering Method of Procurement, whenever a Procuring Entity considers that there is a need for effective international competition.

(2) Procuring Entities shall follow the procedures set out in Rule 66 with regard to Procurement using the Two-Stage Tendering Method for aspects related to advertisement, Tender validity, technical specifications and payment currency except the provisions for domestic preference which are not applicable for methods other than open Tendering.

(3) The reasons for the selection of Procurement by the Two-Stage Tendering Method shall be documented as per Rule 43.

(4) In the case of international Procurement under Two Stage Tendering Method process and proceedings in flow-charts as specified in Part-D of Schedule III shall be followed

85. Conditions & Procedures for use of the Request for Quotation Method in International Procurement. |— (1) In the case of Procurement of divisible commodities in bulk from the international market RFQ Method following the Section 34(2), with prior approval of the Head of a Procuring Entity, shall be used.

(2) This method may be used for Procurement of commodities in bulk in the following cases, namely -

- (i) for Procurement of divisible commodities to meet an urgent need, such as food grains, sugar, fertilizer, edible oils, fuel and animal feed, where its prices fluctuate depending upon supply and demand at any particular time;
- (ii) for Procurement of commodities quoted in established commodity markets;
- (iii) for taking advantage of favourable market conditions, Procurement by multiple awards for partial quantities in each case to ensure long term security of supply.

(3) The procedures to be followed for Procurement of commodities under this Rule shall be the same as in Part 4 of Chapter Four of these Rules for national RFQ and as follows:

- (i) a list of potential Suppliers may be drawn up for a given period of time during which periodic invitations are to be issued for Procurement of any particular commodities;
- (ii) Suppliers may be invited to quote prices linked to the market price at the time of or prior to the shipments;
- (iii) a single currency in which the commodity is usually priced in the market may be used for Tendering and payment and shall be specified in the Request for Quotations;
- (iv) standard contract conditions and forms consistent with market practices shall be used.

(4) In the case of international Procurement under Request for Quotation Method

process and proceedings in flow-charts as specified in Part-E of Schedule III shall be followed

86. Conditions and Procedures for Use of Limited Tendering Method with International Competition. |— (1) A Procuring Entity may engage in Procurement of Goods, related Services, Works or physical Services by means of the Limited Tendering Method with international competition in accordance with this Rule whenever a Procuring Entity considers there is a need for effective international competition.

(2) The procedures as applicable for Limited Tendering Method in the case of national Procurement as specified in Rule 64 shall also be followed for Procurement under this method with international competition.

(3) The reasons for use of the method shall be recorded and maintained as per Rule 43.

(4) In the case of international Procurement under Limited Procurement Method process and proceedings in flow-charts as specified in Part-C of Schedule III shall be followed.

87. Conditions and Procedures for Use of the Direct Procurement Method Internationally. |— (1) A Procuring Entity may engage in Procurement by means of the Direct Procurement Method in accordance with Part 5 of this Chapter whenever a Procuring Entity considers that there is a need for international Procurement.

(2) The justification for use of this method shall be recorded and maintained as per Rule 42 and 43.

(3) The procedures as applicable for Direct Procurement Method in the case of national Procurement as specified in Part 5 of this Chapter shall also be followed for Procurement under this method with international competition

(4) In the case of international Procurement under Direct Procurement Method process and proceedings in flow-charts as specified in Part F of Schedule III shall be followed

88. Procurement by Embassies and in Special Cases by National Carriers. |— (1) A High Commissioner or an Ambassador or a Head of Bangladesh Mission overseas, may engage in Procurement by means of the RFQ Method in accordance with Rule 69 for the Procurement of readily available, standard Goods and unforeseen urgent physical Services within the threshold specified in Schedule II.

(2) National Carriers may, under Section 35 (2) of the Act, undertake Procurement of fuel, spare parts or urgent repairs outside the territory of Bangladesh subject to the threshold specified in Schedule II.

PART – 7

FRAMEWORK CONTRACTS

89. Framework Contract. |— (1) Procuring Entities may enter into a framework Contract, under Section 36 of the Act, for the supply of a quantity of similar items at specified prices during a defined period, in order to avoid repeated Tendering for the same requirement as well as obtain better prices through economics of scale.

(2) Framework Contracts may be concluded following Open or Limited Tendering with one or more Suppliers to provide a range of Goods and physical Services over a defined period of time not exceeding three (3) years.

(3) Framework Contracts shall not be used to procure items or Goods for prices higher than the market prices.

(4) Framework Contracts may take several forms, namely –

- (a) Procurement of definite quantities from a sole Supplier for successive deliveries over a defined period of time and where necessary, be combined with an option to purchase additional quantities;

Example

A Procuring Entity purchases a definite quantity of stationery and copying paper for its estimated requirements over a 12 month period.

- (b) Procurement of approximate quantities from a sole Supplier for successive deliveries over a defined period of time with or without an option for extension of period;

Example

Several Government agencies form a group to buy an indefinite quantity of office appliances, over a 12-month period, using one lead agency to manage procurement and giving all members of the group the right to place orders under the Framework Contract.

- (c) Procurement of approximate quantities from several Suppliers, on item-by-item basis, for successive deliveries within a defined period of time, with or without an option for extension of period. ;

Example

The Government decides, on an annual basis to procure furniture (chairs, tables, file cabinets etc.), office equipment (computer printers, fax machines, photocopiers etc.) and vehicles (cars, microbuses, buses etc.), through standardized specifications for all Government offices. It may delegate any Government department to procure such Goods through framework contracts, executed with different manufacturers or distributors or agents of the manufacturers of the Goods. Each Government department may issue a Purchase Order directly to manufacturers or distributors or agents of the manufacturer for supply of specific Goods at the same terms and conditions of the Framework Contract and on receipt of the same shall effect payment to the manufacturers or the distributors or

- (d) Procuring Entities may also procure approximate quantities of one (1) item or more items from a sole or a number of Suppliers for successive deliveries over a shorter period of time without an option for extension of period.

- (e) Framework Contracts may be used to procure **transportation Services** by inviting Contractors to tender on item-by-item or lot-by-lot basis within a defined period of time not exceeding two (2) years and in such case the following procedures shall be followed -

- (i) the items shall be prepared based on defined transportation "routes" specified by location, region or districts as appropriate and the unit of the item could be "per metric ton" or "per metric ton per km";
- (ii) distances shall be based on the actual distances between the dispatching and receiving centres or on defined transportation routes.
- (iii) lots may include a number of small items on district basis from the point of origin to the local depot;
- (iv) a delivery or transportation schedule shall be provided indicating the peak periods with the highest expected quantities;
- (v) the Procuring Entity shall include in the qualifying criteria of the Tenderers the minimum number of trucks or transportation capacity calculated on the

basis of the needs for the peak season and general transportation experience;

- (vi) to encourage competition on large items, Contractors shall be encouraged to form groups, Ad Hoc joint ventures or cooperatives of small number of Contractors or truck owners for the purpose of submitting Tenders;
 - (vii) Tenderers may be asked to submit two envelopes including Technical and Financial Proposals;
 - (viii) The, a detailed work programme including the Technical Proposals indicating how the transportation will be carried out and shall indicate the allocation of distances among small number of Contractors in the case of Tenders on groups, Ad Hoc joint ventures or cooperatives basis;
 - (ix) only the Technical Proposals of Tenderers shall be evaluated and only the Financial Proposals of the responsive Technical Proposals shall be opened and considered;
 - (x) the contracts shall be awarded to the Tenderers with the lowest price per item or lot as the case may be;
 - (xi) If necessary and in the case a Contractor is unable to transport the entire quantity in one item or for ensuring very urgent deliveries by avoiding bottlenecks, the Procuring Entity may sign contracts with more than one Contractor, selected in order of ranking, if they agree to the lowest price, following the provisions in Rule 99 (1) (b)(iii), subject to such a provision in the Tender Document; and
- (aa) in the case of group, the Procuring Entity may enter into contract with legally formed group(s) or with each member of the group in accordance with the distances allocated in the Technical Proposal
 - (bb) the Procuring Entity shall use the Standard Tender Document for Physical Services for this kind of Procurement.

CHAPTER FIVE

PROCESSING OF PROCUREMENT

PART – 1

ADVERTISEMENT

90. Advertisement. |— (1) A Procuring Entity shall be the authority to directly advertise all Invitations for Pre-Qualification (IFPQ), Invitations for Enlistment (IFE), Invitations for Tender (IFT) and Request for Expressions of Interest for Goods and related Services, Works and Physical Services and, intellectual and professional Services, whichever is applicable in accordance with Section 40 of the Act.

(2) The Procuring Entities shall advertise their Procurement requirements which have been included into their Annual Procurement Plan in accordance with the following procedures -

- (a) invitations shall be advertised in, at least one Bangla language national newspaper and one (1) English language national newspaper, both of which shall have a wide daily circulation within Bangladesh;
- (b) the Procuring Entity shall, in order to advertise, carefully apply sound judgement in choosing national newspapers which are commonly known and ubiquitously accepted as having wide daily circulation;
- (c) in addition to an advertisement on the national level, Procuring Entities based outside Dhaka shall consider, for certain Procurements as specified in Schedule III, advertising in a maximum of two (2) widely circulated local or regional newspapers for a maximum of two (2) days;
- (d) where more than one (1) edition of the newspaper is published on the date of publication of the advertisement, the Procuring Entity shall ensure that the advertisement will be published in each copy of every such edition;
- (e) if cost of the advertisement is a factor for wider publication, the Procuring Entity may consider reducing the size of the advertisement and advertise in a higher number of newspapers to ensure wider distribution and transparency;
- (f) Pre-Qualification, Tender or Proposal Documents should be ready for issue or sale to interested Applicants and Tenderers by the time of the appearance of the advertisement;
- (g) subsequent changes or amendments to any invitation shall also be re-advertised preferably in the same newspapers and websites where it was originally published;
- (h) all invitations shall also be advertised in the Procuring Entity's website, if any;
- (i) the Procuring Entities shall send Invitations for Procurements where potential contract values are estimated to exceed the amounts specified in Schedule III, or as decide by the Government from time to time, for publication in the CPTU's website.

(3) A Procuring Entity shall, where Procurement opportunities are open to international Applicants, Tenderers or Consultants, also cause the invitation to be published in an English language newspaper or publication of wide international circulation, or in a UN Development

Business (online) and the Development Gateway Market (dgMarket), and in foreign trade missions in Bangladesh or Bangladeshi trade missions abroad, whichever is deemed appropriate.

(4) A Procuring Entity shall, in publishing advertisements for national and international Procurement, ensure that the time frame for Invitations is in compliance with Schedule II.

(5) Advertisements for invitations to Pre-Qualification (IFPQ), Enlistment (IFE), Tenders (IFT) and Expressions of Interest (EOI) shall follow the specified formats in Part A, Part B, Part C, Part D, Part E, Part F and Part G of Schedule X.

PART – 2

PRE-QUALIFICATION

91. Pre-Qualification for Procurement of Goods, Works, Etc. — 1) A Procuring Entities may undertake Pre-Qualification for the following large and complex Procurement subject to the thresholds specified in Schedule II -

- (a) Construction Works;
- (b) Maintenance Works;
- (c) Supply and installation of plant and equipment;
- (d) Design and build infrastructure;
- (e) Custom designed equipment;
- (f) Management contractors.

(2) A Procuring Entity shall carefully consider the merits and demerits of Pre-Qualification before initiating the Pre-Qualification process for Procurement of Goods or Works and obtain the approval of the Head of the Procuring Entity or an officer authorised by him or her.

(3) A provision for participation as a JVCA under Rule 54 may be included in the Pre-Qualification Document.

(4) The time allowed for Applicants to prepare their Applications shall be as specified in Schedule II, provided that the Pre-Qualification Documents are ready by the date of the advertisement published .

(5) If due to the complexity of the Procurement requirement the Applicants request an extension to the deadline for submission of their Applications, then the Procuring Entity with prior approval of the Head of the Procuring Entity or an officer authorized by him or her may extend the submission deadline if the Applicants' requests are deemed justified.

(6) The sale of Pre-Qualification Documents shall be permitted up to the working day prior to the deadline for the submission of Applications.

(7) A Procuring Entity shall respond to any request by an Applicant for clarification on the Pre-Qualification Document that is received by the Procuring Entity within a reasonable period as specified in Schedule II.

(8) The response by the Procuring Entity to any request shall be made within the time specified in Schedule II in order to ensure that the Applicant will be able to submit the Application within the specified deadline provided that,

- (a) the Procuring Entity may, depending upon the nature and extent of the clarification, consider an extension to the deadline for the submission;

- (b) the response to a clarification request shall be copied to all Applicants who have purchased the Pre-Qualification Document, without indicating the source requesting the clarification.

(9) A Procuring Entity may, in order to clarify issues and answer to questions on any matter arising in the Pre-Qualification Document, also invite the prospective Applicants to attend a Pre-Qualification Meeting at a place, date and time duly specified in the Pre-Qualification Document.

(10) The Pre-Qualification Applications shall be received by the Procuring Entity and kept in safe custody until opening of the same by the Tender Opening Committee (TOC);

(11) Applications received after the deadline for submission of Pre-Qualification Application shall be returned unopened to the Applicant by the Procuring Entity.

(12) The format and text to be used by Procuring Entities for the Invitation for Pre-Qualification (IFPQ) is shown in Schedule X .

(13) Procuring Entities shall use the standard Pre-Qualification Document issued by the CPTU when undertaking a Procurement using the Pre-Qualification process.

(14) The Procuring Entity may permit the use the Pre-Qualification Document posted on their Website for the submission of Applications.

92. Opening of Pre-Qualification Applications. |— (1) The Tender Opening Committee (TOC) constituted under Rule 7 shall open the Applications in public after the deadline for submission date at the time and place specified in the Pre-Qualification Document.

(2) The TOC shall record the name, address and any other relevant identity of each Applicant during opening and, furnish a copy of the record of opening upon such written request to any Applicant.

(3) The Tender Opening Committee shall forward the Applications to the Procuring Entity which will then be responsible for its safe custody and further action in line with Rule 32.

93. Evaluation of Pre-Qualification Applications. |— (1) The TEC shall use the conditions, criteria, and requirements defined in the Pre-Qualification Document to evaluate the qualifications of the Applicants.

(2) The Head of the Procuring Entity may, to assist the Tender Evaluation Committee, form a Technical Sub-committee comprising of experienced persons and experts.

(3) The TEC shall evaluate the Applications received on a pass or fail basis.

(4) There shall be no upper limit for number of Pre-Qualified Applicants and all Applicants who passed the **Qualification requirements shall** be included in the list.

(5) The TEC may consider minor deviations in the qualification criteria if they do not materially affect the capability of an Applicant to perform Works under the Contract.

(6) Qualifications of Subcontractors that have been identified in the Application may be considered in the evaluation of an Applicant but only in relation to Subcontractors' specific assignment.

(7) The general experience and financial capacity of Subcontractors shall not be added to

those of the Applicant.

(8) The TEC is permitted to seek clarifications on specific matters from Applicants in order to facilitate the examination and evaluation of Applications.

(9) If the number of pre-qualified Applicants is below the minimum specified in Schedule II, "conditional Pre-Qualification" may be permitted, which shall mean that an Applicant who substantially meets the qualification criteria apart from some minor deficiencies may be considered as "conditionally pre-qualified",

provided that the "conditionally pre-qualified" Applicants must have rectified such minor deficiencies identified by the TEC prior to submission of its Tender.

(10) In case of multiple contracts, the TEC shall pre-qualify each Applicant for the maximum number of such types of contracts provided that the Applicant duly meets the requirements of those such Contracts, as specified in the Pre-Qualification Document.

(11) If the minimum number of qualified Applicants is not available, the Procuring Entity may, after a thorough review of the Pre-Qualification Document and introducing necessary amendment, re-advertise as per Rule 90 with prior concurrence of the Head of the Procuring Entity.

(12) The TEC shall prepare an Evaluation Report and submit it directly to the Head of the Procuring Entity, stating which Applicants have been found eligible for Pre-Qualification.

(13) The Head of the Procuring Entity shall consider the Evaluation Report and decide whether to accept or reject it if any aspects do not comply with the Pre-Qualification Document, in which case he or she may request a re-evaluation to be carried out by the TEC to correct any deficiencies.

(14) The Procuring Entity shall, following the approval of the Evaluation Report, publish the list of Pre-Qualified Applicants and promptly notify all Applicants whether or not they have been pre-qualified.

(15) Only Applicants who have been pre-qualified are entitled to participate further in the Procurement process.

(16) Any change in the structure or formation, after being Pre-Qualified, of an Applicant invited to tender shall not, without a written approval of the Head of Procuring Entity prior to the deadline for submission of Tenders, be permitted to submit Tender.

(17) Such approval shall be denied if as a consequence of the change the Applicant no longer substantially meets the qualification criteria set forth in the Pre-Qualification Document or if in the opinion of the HOPE, a substantial reduction in competition may result.

(18) Changes under Sub-Rule (16) shall be submitted to the Procuring Entity within the period specified in Schedule II.

(19) The Procuring Entity shall, upon receipt of a request from an unsuccessful Applicant, notify that Applicant in writing of the grounds for its exclusion, but the Procuring Entity is not bound to provide any further information or explanation of those grounds.

(20) A post-qualification of the successful Tenderer(s) will be done prior to contract award even if Pre-Qualification has been carried out.

PART 3

PROCESSING OF TENDERS

94. Issuance and Sale of Tender Document and Pre-Tender Meeting, Etc. — (1) Tender Documents shall be made available to Tenderers as soon as the relevant advertisement is published under Rule 90.

(2) All prospective Applicants or Tenderers shall be provided the same information and be assured of equal opportunities to obtain additional information promptly upon request.

(3) Tender Documents shall be posted on the Procuring Entity's website where possible.

(4) The cost of Tender Document will be determined by the Head of the Procuring Entity or an officer authorised by him or her but the price of a Document shall not exceed the cost of producing and delivering the Document to Applicants or Tenderers.

(5) A Procuring Entity shall not refuse to make Tender Documents available immediately to Persons requesting and willing to purchase at the corresponding price if the advertisement has been published in the newspaper .

(6) The Procuring Entity shall record all Persons to whom Tender Documents have been issued and such records shall have a reference number and include full contact details, such as ID or personal details, mailing address, telephone and facsimile numbers and electronic mail address, if applicable.

(7) There shall not be any pre-conditions whatsoever, for sale of Tender Document to and the sale of such Document shall be permitted up to the day prior to the deadline for the submission of Tender.

(8) Tender Documents, as well as any modification to Tender Documents under Rule 95, shall be made available to Tenderers by -

- (a) the office of the Procuring Entity;
- (b) an authorised agent of the Procuring Entity, if specified in the advertisement;
- (c) mail or courier at the request of potential Tenderers against payment by the Tenderer of the corresponding mailing charges in addition to the prices of the Documents; and
- (d) website of the Procuring Entity mentioned in the advertisement.

(9) Procuring Entities which publish Tender Documents on their website shall ensure that -

- (a) the Tender Document is not removed from the website, before the closing date for the submission of Tenders; and
- (b) all modifications and clarifications to the Tender Document ,if made and issued ,including the reference numbers and dates are also posted on the website.

(10) A Procuring Entity may, in order to explain the purpose and other requirements of a particular Procurement and respond to questions from potential Tenderers, hold a Pre-Tender meeting.

(11) All Tenderers who have purchased or wish to purchase the Tender Document shall be permitted to attend the pre-Tender meeting but the minutes shall be circulated only to those Tenderers who have purchased the Tender Documents within the period specified in Schedule II.

(12) For e-GP, the provisions of Chapter Eight will prevail.

95. Modifications to Tender Documents. |— (1) At any time prior to the deadline for the submission of Tenders, a Procuring Entity may, on its own initiative or in response to an inquiry by a Tenderer or as a result of a Pre-Tender meeting, modify the Tender Documents by issuing an addendum.

(2) The addendum issued under Sub Rule (1) shall become an integral part of the Tender Document and shall have a date and an issue number and must be circulated by fax, mail or e-mail, to Tenderers who have purchased the Tender Documents within the time specified in Schedule II, to enable Tenderers to take appropriate action.

(3) The Tenderers shall acknowledge receipt of an addendum within the time specified in Schedule II.

(4) Tenderers who have purchased the Tender Documents but have not received any addenda issued under Sub-Rule (2) shall inform the Procuring Entity of the fact by fax, mail or e-mail, within the period specified in Schedule II.

(5) Procuring Entities which have advertised Tender Documents on their website under Rule 90 shall also advertise relevant addenda including the reference number and date on their website.

(6) If an amendment is made when time remaining is less than one-third of the time allowed for the preparation of Tenders, a Procuring Entity shall extend the deadline for the submission of Tenders as specified in Schedule II, depending upon the nature of the Procurement requirement and the amendment.

96. Preparation and Submission of Tenders. |— (1) Tenders shall be prepared by the Tenderers following Section 46 of the Act, these Rules and the instructions in the Tender Document in accordance with the sample in the Schedule XI.

(2) Tenderers shall submit only one Tender, either individually or as a member of a JVCA.

(3) Tenders shall be submitted on the basis of the Tender Documents issued by the Procuring Entity.

(4) Tenders shall be delivered by hand or mail, including courier services to location designated in the Invitation for Tender except under Sub-Rule (11).

(5) Tenders shall be properly marked by Tenderers in order not be confused with other types of correspondence which may also be hand-delivered or posted by mail or courier service.

(6) The Tenderer is solely and entirely responsible for pre-disclosure of Tender information if the envelope(s) are not properly sealed and marked.

(7) All Tenders received shall be kept in a secure and safe place with the Procuring Entity as their custodian.

(8) Locked Tender boxes or cabinets may be used or when the Tenders are in large volumes or in envelopes that are large or thick, they may be directly received by an assigned officer of the Procuring Entity.

(9) When a Tenderer submits a Tender directly to the officer assigned by the Procuring

Entity, that officer on request from the Tenderer shall issue an acknowledgement of receipt stating the date and time.

(10) An acknowledgement of receipt shall also be given when a Tender is sent through either courier service or by post.

(11) Tenders shall be received and opened in one location, but in exceptional cases, a Procuring Entity may allow **'multiple dropping'** in which case the following guidelines shall apply:

- (a) 'multiple dropping' will be used only for Procurements above the threshold value specified in Schedule III;
- (b) the Secretary of the concerned Ministry or Division shall approve the use of this procedure for the concerned Procurement;
- (c) the Invitation for Tender shall state a deadline for Tender submission at the primary and secondary place(s) and tenders received at the secondary place(s) shall be reached at the primary place within the time specified in Schedule II and shall be **opened immediately** after those Tenders received at the primary place following the Rule. (d) the Procuring Entity shall ensure that each of its named secondary places is physically able to receive Tenders in accordance with the requirements of these Rules and it shall designate an officer at each nominated secondary place to receive Tenders;
- (e) the Procuring Entity shall ensure the availability at all secondary places of a lockable and secure Tender box into which Tenders can be placed by Tenderers;
- (f) an officer designated by Procuring Entity shall sign for all Tenders received from secondary places at the primary place and issue a receipt(s) to the personnel who have delivered the Tenders from the secondary places;
- (g) no information concerning Tenders shall be passed by personnel of one location to that of the another during the Tendering period;
- (h) the Procuring Entity's primary place shall have overall responsibility for the Tenders received and it shall ensure that all secondary places to which Tenders may also be delivered are made aware of any extension to the period for the submission of Tenders or of the cancellation of any Tender process;
- (i) the Procuring Entity shall ensure that the sealed Tenders at the secondary place(s) are hand-delivered before the date specified for opening of Tenders at the primary place and including its safety shall ensure opening of all Tenders at a time, immediately after the expiry of the deadline for submission of Tenders on the date, place as specified in the Tender Document ; and
- (j) copies of all receipts issued under 'multiple dropping' shall form part of the Procurement records as described in Rule 43.

(12) For e-GP, the provisions of Chapter Eight will prevail.

97. Opening of Tenders. |— (1) The Procuring Entity shall convene the meeting for the Tender opening; and Tenders shall be opened at the time and place specified in the IFT in presence of the Tenderers or his or her authorised representatives.

(2) The the place where the Tenders shall be opened should be suitably equipped and reserved in advance for the purpose of the Tender opening.

(3) The Tender Opening Committee (TOC) constituted in accordance with Rule10 shall open, all Tenders received on or before the deadline for the submission of Tenders, in public and in only one place.

- (4) The Tender Opening Committee shall ensure that -
- (a) Except in case stated in Sub Rule 96(11), **Tenders shall be opened immediately after the deadline for the submission of Tenders but no later than one hour after expiry of the submission deadline;**
 - (b) Tender Opening Sheet (TOS) is prepared containing the information relating to Tenders or Proposals announced at the opening in accordance with Sub Rule (4)(f);
 - (c) Persons not associated with the Tender are not allowed to attend the opening of Tenders;
 - (d) the Tender opening is not delayed on the plea of absence of Tenderers or his or her representatives, as the presence of Tenderers or their authorised representatives is optional;
 - (e) the Tenderers' representatives shall be duly authorised by the Tenderer;
 - (f) the following information stated therein is read out from the Tenders after Tender opening which shall be recorded on a Tender Opening Sheet duly verified by the members of the Tender Opening Committee -
 - (i) name and address of the Tenderer;
 - (ii) withdrawal, substitution or modifications, if any;
 - (iii) the Tender price;
 - (iv) discounts, if any; -and
 - (v) Tender security, if required and information relating to its amount; and
 - (g) the checklist with steps for Tender opening in Part D of Schedule IV shall be followed.
- (5) Tender modifications or discounts, which are not read out at the Tender opening or recorded on the TOS, shall not be considered in the evaluation of the concerned Tenders.
- (6) No Tender shall be rejected at Tender opening, but late Tenders or Tenders withdrawn shall be returned directly to the Tenderers unopened.
- (7) Upon completion of the Tender opening, all members of the TOC and the Tenderers or their representatives who attended the Tender opening shall sign the TOS, copies of which shall be issued to the Head of a Procuring Entity or an officer authorised by him or her and to all members of the TOC and any authorized Consultants employed in the project and to the Tenderers.
- (8) The Member-Secretary of the TOC will ensure that the procedure as per Sub-Rule (4) is carried out and will sign to certify that the Tender Documents have been sent to the Procuring Entity immediately after the Tender opening.
- (9) Upon completion of the Tender opening all Tenders and all related documents shall be kept in the safe custody of the Procuring Entity along with a copy of the TOS duly signed by all concerned.

98. Evaluation of Tenders, Etc. |— (1) The Procuring Entity shall ensure that it follows the requirements of Rules 8 and 9 and this Rule with regard to the formation of the Tender Evaluation Committee (TEC), the appointment of its Chair and members, and of Rule 36 with regard to the administrative procedures to be followed during the evaluation and approval process and matters ancillary thereto.

- (2) Tenders shall not be evaluated on any basis other than the criteria specified in the

Tender Documents.

(3) The TEC shall generally follow the procedures detailed below during examination and evaluation of Tenders -

- (a) the Tender Evaluation Report shall list, in ascending order, the evaluated cost of all responsive Tenders so that re-submission of evaluation report to the Approving Authority on the same aspects is not required, should the lowest evaluated Tenderer expresses his or her inability to execute the Contract or fails to sign the Contract or fails to provide its performance security or fails to post-qualify; ;
- (b) all members of the TEC, who participate in the evaluation, shall sign the Evaluation Report, with their names and designations clearly stated therein;
- (c) in case of any disagreement by any member of the TEC on the recommendations of the Evaluation Report, that member may provide a note of dissent, always provided that, the concerned member shall describe his or her reasons in detail for differing from the overall recommendation of the TEC;
- (d) the TEC Chairperson shall submit the Evaluation Report along with recommendations for award and the note of dissent, if any, to the Approving Authority and, the Approving Authority shall make its decision based on the information and recommendation provided in the Evaluation Report; and
- (e) in the case of note of dissent provided by a member, the Approving Authority with his or her own initiative may obtain expert opinion concerning any disputed matter in the Tender Evaluation Report.

(4) A TEC shall evaluate and compare Tenders that are responsive to the requirements of Tender Documents in order to identify the successful Tenderer.

(5) A TEC may consider a Tender as responsive in the evaluation, only if it is submitted in compliance with the mandatory requirements set out in the Tender Document, without material deviation or reservation.

(6) A material deviation or reservation is one-

- (a) which affects in any substantial way the scope, quality, or performance of the Works;
- (b) which limits in any substantial way, inconsistent with the Tender Documents, the Procuring Entity's rights or the Tenderer's obligations under the Contract; or
- (c) whose rectification would affect unfairly the competitive position of other Tenderers presenting responsive Tenders.

(7) A TEC may regard a Tender as responsive, even if it contains-

- (a) minor or insignificant deviations, which do not meaningfully alter or depart from the technical specifications, characteristics and commercial terms and conditions or other requirements set out in the Tender Document and any such deviations shall be quantified in monetary terms, as far as possible;
- (b) errors or oversights, which if corrected, would not alter the key aspects of the Tender.

(8) The Chairperson of a TEC may ask Tenderers for clarifications of their Tenders, including breakdowns of unit rates, in order to assist the examination and evaluation of the Tenders, provided that, Tender clarifications which may lead to a change in the substance of the Tender or in any of the key elements of the Tender, such as price and delivery schedule shall neither be sought nor accepted by the TEC.

(9) Requests for clarification shall be in writing and shall be signed by the Chairperson of the TEC.

(10) All clarification requests shall remind Tenderers of the need for confidentiality and that any breach of confidentiality on the part of the Tenderer may result in their Tender being disqualified.

(11) A TEC shall correct any arithmetic errors that are discovered during the examination of Tenders, and shall promptly notify the concerned Tenderer(s) of any such correction(s).

(12) The item quantified in the BOQ for which no rates or prices have been quoted shall be deemed covered by the amounts of other rates and prices in the Contract and it shall not be a reason to change the Tender price.

(13) If the TEC determines that the Tender pricing is not balanced, the TEC shall require the Tenderer to submit a detailed price breakdown, and in the case of front loading of the unit rates the TEC may recommend to increase performance security.

(14) There shall be no requirement for a minimum number of responsive Tenders i.e. an evaluation shall proceed and an award shall be made even if only a single Tender is received and found responsive, provided the Tender has been widely advertised as per requirement of Rule 90, the Tender price is reasonable compared with the market price or is within the official estimate, and the Tender meets the technical specifications and commercial terms and conditions set-out in the Tender Document.

(15) A TEC shall not continue to evaluate a Tender when:

- (a) the Tenderer has failed to demonstrate its qualifications as required under Rule 49;
- (b) the Tenderer does not accept a correction of an arithmetical error made in accordance with Sub-Rule (11); or
- (c) the Tender is not responsive, i.e. the requirements of the qualifications, technical specifications or financial and commercial terms and conditions set-out in the Tender Document.

(16) There shall be no consideration during the Tender evaluation of any information contained in a Tender submission that was not requested in the Tender Document.

(17) For calculating the lowest evaluated price, the TEC shall -

- (a) consider all evaluation criteria mentioned in the Tender Document;
- (b) ensure that the Tender prices are inclusive of applicable taxes, customs duties and VAT for national Procurement of Goods, related Services, Works and Physical Services;
- (c) exclude applicable customs duties, taxes and VAT and include inland transportation costs in the case of CIF Tenders for imported Goods under international Procurement and exclude only VAT for Goods manufactured locally;
- (d) include applicable customs duties, taxes and VAT for Works Tenders under international Procurement; and
- (e) quantify in monetary terms minor deviations from the evaluation criteria other than the price following the provisions set in the ITT.

(18) If any Tenderer offered only eighty percent (80%) of the items of a lot, for Tenders invited on lot-by-lot basis for Goods Procurement, the TEC shall determine the lot price by adding

up the average prices offered by other responsive Tenderers for the missing items to the lot value to establish the winning lot Tender.

(19) If the winning lot Tender under Sub-Rule (18) is missing some items, comprising less than twenty percent (20%), the Procuring Entity may procure the missing items from the Tenderer offering the lowest price for the remaining items.

(20) For Works Tenders invited on lot-by-lot basis, the TEC shall award the lots considering the least cost combination of the lots.

Explanation:

If one Tenderer has won two (2) or more lots and was post-qualified only for one (1) lot, then he shall be awarded the lot that would result in the least cost of the total value of contracts and not necessarily the larger lot as he may wish.

(21) For the purpose of evaluation of Tenders involving domestic preference under Rule 83(2), the procedure shall be as follows:

- (a) the price quoted for Goods in Tenders from Group A shall be ex-works with or without transportation and shall include all duties and taxes paid or payable on the basic materials or components purchased in the domestic market or imported, but exclude the sales and similar taxes on the finished product;
- (b) the price quoted for Goods in Tenders of Group B shall be on CIP or CIF, as specified in the Tender Document, which is exclusive of customs duties and other import duties already paid or to be paid;
- (c) the lowest evaluated Tender price from each group shall be compared;
- (d) if a Tender from Group A is the lowest, that Tender shall be recommended for award;
- (e) if a Tender from Group B has the lowest evaluated Tender price, then it shall be further compared with the lowest evaluated Tender price in Group A and before the final comparison is made, the lowest evaluated Tender price in Group B shall be increased by the percentage for 'domestic preference' specified in Schedule II excluding VAT; and
- (f) the lowest evaluated Tender price in Group A shall then be compared with the lowest evaluated Tender price in Group B and the lowest Tenderer shall be recommended for award.

(22) The successful Tenderer shall be the Tenderer who submitted a responsive Tender with the lowest evaluated Tender cost, calculated upon the basis of factors affecting the economic value of the Tender which have been specified in the Tender Document and to the extent practicable, these factors shall be objective and quantifiable and shall be given a relative weighting in the evaluation method or be expressed in monetary terms, wherever practicable.

Example

One of the factors affecting economic value may be the delivery schedule for Goods or completion schedule for Works. If the delivery or completion schedule for Goods or Works specified in the Tender Documents is between fifteen (15) and eighteen (18) months, and a Tenderer bases his or her Tender price on a delivery of twenty (20) months, then that Tender price may be adjusted for evaluation purpose only, if it is so specified in the Tender Document, by adding a certain percentage or a lump sum amount to the Tender price, whereby the percentage or amount for liquidated damages may be considered as a guidance, for the two (2) month delay beyond eighteen (18) months. Other factors affecting the true economic value of the Tender price may be life span costs, such as cost of spare parts, fuel, performance or productivity of the equipment, etc.

(23) If a Tenderer offers a price significantly below the official estimate then the TEC shall investigate the real reasons behind quoting such a low price and consider the Tender nonresponsive if -

- (a) it becomes very clear that this Tenderer is inexperienced and cannot price a Tender properly;
- (b) the Tenderer cannot provide any justifiable reasons in support of his or her low price

(24) If the Tenderer quotes a low price because it happens to enjoy some favourable conditions with respect to this Tender, then the Tender shall be considered as responsive and evaluated accordingly.

Example 1

A Tenderer has personnel and equipment and has just completed another contract near the proposed work site.

Example 2

A Tenderer has particular interest in keeping his or her workforce employed during a low business season.

(25) If, after completing the evaluation, it is found that the lowest evaluated Tender is significantly higher than the official estimate or available budget or both, but is within an acceptable range of the market price levels, the TEC may recommend to the Approving Authority either to accept the Tender, subject to availability of budget or to advise the Procuring Entity to reduce the scope of the requirements for the concerned Procurement or a reallocation of risks and responsibility which can be reflected in a reduction of the contract price.

(26) If the Procuring Entity decides to reduce the scope of the requirements under Sub-Rule (25) for the concerned Procurement it shall -

- (a) verify that the lowest Tenderer remains the lowest Tenderer after the scope of work has been revised by the Procuring Entity;
- (b) sign the Contract only with the initial lowest Tenderer; and
- (c) ensure that the objective of the Procurement will not be seriously affected through this reduction.

Example 1

The road authority would recommend reducing the scope of work by deleting entirely the road safety items which are the last in the BOQ. A comparison of the impact of these items examined for all responsive Tenderers may result in the 4th lowest evaluated Tenderer becoming the lowest. So, the Contract can not be awarded to any Tenderer.

Example 2

The road authority would be satisfied by cancelling one minor road or a section of the road project. The impact of this reduction shall be examined for all responsive Tenderers, and may result in the 5th Tenderer becoming the lowest. So, the Contract can not be awarded to any Tenderer.

(27) If, after completing a Tender evaluation of more than one Tender, a TEC finds there is only one (1) responsive Tender and the price is close to the official estimate and comparable with the market price, then the Evaluation Report with the Tender shall be submitted to the Approving Authority with a recommendation for award of contract following the requirements of Rule 36.

(28) In the event that the Procuring Entity decides because of a high Tender price to reduce the scope of the requirements to meet the available budget, the Tenderer is not obliged to accept the award and shall not be penalised in any way for rejecting the proposed award if the proposed reduction was not within the scope of any requirement of the Instructions to Tenderers.

(29) A Procuring Entity shall refer a single Tender to a TEC for evaluation in accordance with the provisions of this Rule, if only one (1) Tender is submitted on the due time and date, and wide advertisement has been made as per the requirements of Rule 90.

(30) If the single Tender is found in the evaluation to be fully compliant with the Tender Document and the price is close to the official estimate and comparable with the market price, then the Evaluation Report including Tender may be submitted to the Approving Authority with a recommendation for award of contract following the provisions of Rule 36, appropriately explaining in the Evaluation Report the rationale for accepting the single Tender.

(31) In the extremely unlikely event that there is a tie for the lowest evaluated price, the Tenderer with the superior past performance with the Procuring Entity shall be selected, whereby factors such as delivery period, quality of Goods or Works delivered, litigation history and performance indicators could be taken into consideration.

(32) In the event that there is a tie for the lowest evaluated price and none of the Tenderers has past performance with the Procuring Entity, then the Tenderer shall be selected after consideration of the following, subject to firm confirmation through the Post-Qualification process described in Rule 100.

(a) in the case of a Works contract, the Tenderer has demonstrated in its Tender, superior past performance with other Procuring Entities or a more efficient work programme and work methodology

(b) in the case of a Goods contract, the quality of Goods that is considered more advantageous by the end-users

(33) The successful Tenderer under Sub-Rule (31) shall not be selected by lottery under any circumstance.

(34) All Documents related to the evaluation proceedings shall be kept in safe custody in an office of the Procuring Entity that can only be accessed by members of the TEC.

99. No Negotiation or Tender Modification as a Pre-condition for Award. — (1) No negotiations shall be held during the Tender Evaluation or award with the lowest or any other Tenderer except under -

(a) the Direct Procurement Method; or

(b) in the case of a Procurement of divisible commodity in bulk such as food grains, sugar, cooking oil, fuel, animal feed, fertilizer etc., and subject to a provision in the invitation for Tender for supply of a partial quantity of any such commodity then:

(i) if the lowest responsive Tenderer does not submit a Tender for the entire quantity of commodity specified in the Tender, first of all, the lowest Tenderer may be given an offer to supply the entire quantity for which the Tender was invited at its quoted price or

(ii) in case it expresses its inability to supply the entire quantity, supply of the reduced quantity it tendered shall be obtained from it, and

(iii) offerings for Procurement of the balance quantity may be made to Tenderers in turn to the second, the third and, other next responsive Tenderers as deemed appropriate at the price quoted by the lowest responsive Tenderer, provided that under no circumstances shall negotiations be held to change the lowest responsive price and that the total quantity to be procured following the provisions of this Rule shall not exceed the quantity for which the original Tender was invited.

(c) it is found that the lowest evaluated Tender is significantly higher than the official estimate the Procuring Entity will investigate the reasons for the higher price and may negotiate with the lowest evaluated Tenderer with objective to reduce the Contract price by reducing the scope of works or a reallocation of risks and responsibility. which can be reflected in a reduction of the contract price.

(2) A contract shall be awarded on the basis of the Tender submitted by the Tenderer, including any adjustments to the original Tender arising from the Tender clarification process described in Sub-Rules (8) (9) and (10) of Rule 98, except as provided for under Sub-Rule (1).

(3) A Tender Evaluation Committee shall not, as a condition for award of contract, instruct a Tenderer to undertake obligations not stipulated in the Tender Document, nor to change its price or otherwise modify any other conditions of its Tender.

100. Post-Qualification. — (1) The TEC shall follow the Post-Qualification criteria specified in the Tender Document.

(2) The TEC should contact the references given by Tenderers about their previous working experience to verify, if necessary, statements made by them in their Tender and to obtain the most up-to-date information concerning the Tenderers.

(3) the TEC may visit the premises of the Tenderer as a part of the post-qualification process, if practical and appropriate, to verify information contained in its Tender particularly when evaluating Tenders in respect of high value or complex Works projects.

(4) The objective of any visit under Sub-Rule (3) shall be limited to a general and visual inspection of the Tenderer's facilities and its plant and equipment, and there shall be no discussion concerning the Tender or its evaluation with the Tenderer during such visit(s).

(5) In the event that the Tenderer with lowest evaluated cost fails the post-qualification, the TEC shall make a similar determination for the Tenderer offering the next lowest evaluated cost and so on from the remaining responsive Tenders, provided that,

(a) such action shall only be taken if the evaluated costs of the Tenders under consideration are acceptable to the Procuring Entity;

(b) when the point is reached whereby the evaluated costs of the remaining responsive Tenders are significantly higher than that of the official estimate, or the market price, the Procuring Entity may take action in accordance with Rule 33 and may proceed for re-Tendering, using a revised Tender Document designed to achieve a more successful result.

(6) The TEC shall submit the Evaluation Report along with the findings and award recommendations after having determined through post-qualification whether the Tenderer who submitted the lowest evaluated Tender price has the capability and resources to effectively carry out the contract as offered in its Tender.

(7) If a Pre-Qualification of Tenderers was previously carried out, the objective of the Post-Qualification shall be to determine whether the Tenderer is still capable and has the resources required.

101. Approval Process. — (1) The Evaluation Report shall be finalised in a timely fashion in order that the Notification of Award can be issued before the expiry date of the validity of Tenders, without the Procuring Entity having to seek an extension to the validity of the Tenders.

(2) Tender Evaluation Reports shall be sent to the Approving Authority in accordance with Rule 36.

(3) The Approving Authority shall review and approve the award recommendation or raise objections, if any, within the time specified in Rule 36.

(4) If objections to the content of the report are raised, they should be sent to the Chairperson of the TEC which should meet and respond to the objections within the period specified in schedule II and such proposals containing responses to those objections shall be sent back through the same route following which the request for approval was initially submitted.

(5) The Approving Authority may reject the Tender Evaluation Report and ask the TEC to re-evaluate the Tenders if there is any deviation from the requirements specified in the Tender Document within the time specified in Schedule II .

(6) If the Procuring Entity decides to complete the required Procurement after action in accordance with Rule 33, it shall then proceed to a re-tender using a revised Tender Document and, if necessary, wider advertisement may be considered.

102. Notification of Award and Signing of Contract. — (1) Prior to the expiry of the Tender validity period and within one (1) week of receipt of the approval of the award by the Approving Authority, a Procuring Entity shall issue the Notification of Award (NOA) to the successful Tenderer.

(2) The Notification of Award, attaching the contract as per the sample given in the Tender Document to be signed, shall state:

- (a) the acceptance of the Tender by the Procuring Entity;
- (b) the price at which the contract is awarded;
- (c) the amount of the Performance Security and its format;
- (d) the date and time within which the Performance Security shall be submitted; and
- (e) the date and time within which the contract shall be signed.

(3) The Notification of Award shall be accepted in writing by the successful Tenderer within the period specified in Schedule II.

(4) If the successful Tenderer does not provide his or her acceptance within the period specified in Schedule II, his or her Tender security shall be forfeited and the second successful Tenderer shall be invited.

(5) If Tenders were invited for one (1) or more items on Item-by-Item basis or on lot-by-lot basis, only one (1) Contract will be signed with each Tenderer covering all items awarded to him or her

(6) The Notification of Award establishes a Contract between the Procuring Entity and the successful Tenderer and the existence of a Contract is confirmed through the signature of the Contract Document that includes all agreements between the Procuring Entity and the successful Tenderer.

(7) The successful Tenderer shall submit a Performance Security to the Procuring Entity

within the period specified in Schedule II.

(8) The Performance Security shall be in the amount specified in the Contract conditions, issued by a bank acceptable to the Procuring Entity, and denominated in the currencies in which the Contract Price is payable.

(9) Performance Security shall be valid until a date twenty eight (28) days beyond the Intended Completion Date unless no retention money has been kept in which case the validity shall follow the provision of Rule 27(7)&(8).

(10) Before signing the Contract, the Procuring Entity may verify the authenticity of the Performance Security submitted by a Tenderer by sending a written request to the branch of the bank issuing the bank draft or irrevocable bank guarantee.

(11) The duly authorised officer of the Procuring Entity and of the successful Tenderer shall sign the Contract within the period specified in Schedule II if the Performance Security submitted by the Tenderer is found to be genuine.

(12) If a Performance Security submitted under Sub-Rule (8) is not found to be genuine, the Procuring Entity shall proceed to take measures against the Tenderer as stated under Section 64 of the Act.

(13) If the successful Tenderer fails to provide the required Performance Security as stated in Sub-Rule (7) or fails to sign the Contract as stated in this Rule, a Procuring Entity shall proceed to award the Contract to the next lowest evaluated Tenderer, and so on, by order of ranking, provided that such action shall only be taken if the evaluated cost of the Tender is acceptable to the Procuring Entity, and when the point is reached whereby all evaluated costs of the remaining responsive Tenders are significantly higher than the official estimate or budget provision or market price, the Procuring Entity may take action in accordance with Rule 33.

CHAPTER SIX
PROCUREMENT OF INTELLECTUAL AND PROFESSIONAL SERVICES
PART – 1
METHODS AND PROCEDURES

103. Methods for Procurement of Intellectual and Professional Services and their Use. |— 1) The prime consideration in the selection of the successful Consultant in the Procurement of intellectual and professional Services shall be given to the quality of a Consultant's Technical Proposal.

(2) The cost of the Services shall be considered judiciously because in the Procurement of intellectual and professional Services in general, if cost considerations predominate in the evaluation, the quality of the resulting Services often ends up being inferior which in turn places further cost burdens on the Procuring Entity due to rework being needed or less economical solutions being recommended.

(3) The Procuring Entity shall encourage the involvement of national Consultants in assignments with international competition.

(4) Depending on the nature and complexity of assignments, different methods as specified in this part of these Rules may be used, but the following two (2) methods shall be the preferred options for selection of Consultants -

- (a) **Quality & Cost Based Selection (QCBS)** is the preferred method that shall be used in most cases and shall take into account-
 - (i) the quality of the Proposal; and
 - (ii) the cost of the Services.
- (b) **Selection under a Fixed Budget (SFB)** is appropriate only when -
 - (i) the assignment is relatively simple and can be precisely defined; and
 - (ii) the budget is fixed.

(5) The Procuring Entity shall publish in its website the name of the Consultant to which the Contract was awarded, price, duration and scope of the Contract.

(6) General considerations for employment of national and international Consultants are provided for in Schedule IX .

104. Other Methods for Procurement of Intellectual and Professional Services.|— Other methods for Procurement of intellectual and professional Services may also be used under the conditions set-out in the following paragraphs and with the prior written approval of the Head of a Procuring Entity or an officer authorized by him or her:

- (a) **Least Cost Selection (LCS)**
 - (i) is appropriate for the selection of Consultants for an assignment of a standard or routine nature such as audits, architectural and engineering designs of non-complex Works, where established practices and standards exist and in which the Contract amount is small as specified in Schedule II.
 - (ii) The Procuring Entity shall use the procedures specified in Rule 107.
- (b) **Selection Based on Consultant's Qualifications (SBCQ)**

- (i) The Procuring Entity may consider using SBCQ for very small assignments, for which the cost of a full-fledged selection process would not be justified, such as -
 - a. brief evaluation studies at critical decision points of projects (review of alternative solutions with large downstream effects);
 - b. executive assessment of strategic plans;
 - c. high level, short-term legal expertise; and
 - d. participation in project review expert panels.
 - (ii) The Procuring Entity shall use the procedures specified in Rule 108.
- (c) **Selection amongst Community Service Organisations (CSOs)**
- (i) may be used by short-listing reputable Non-Governmental Organisations (NGOs), other community service organisations or voluntary non-profit organisations that are well qualified to assist in the preparation, management and implementation of community development projects or programmes because of their involvement and knowledge of local issues, community needs or participatory approaches.
 - (ii) The Procuring Entity shall use the procedures specified in Rule 109.
- (d) **Single Source Selection (SSS) of firms or individual consultants**
- (1) (SSS) may be used only in exceptional cases as specified in this Rule because it -
 - a. does not provide the benefits of competition in regard to quality and cost,
 - b. lacks transparency in selection, and
 - c. could encourage unacceptable and fraudulent practices.
 - (2) It may be appropriate only if it presents a clear advantage over competition -
 - a. where a rapid selection is essential (for example, in an emergency operation),
 - b. for very small assignments within the threshold specified in Schedule II;
 - c. when only one (1) firm or an individual Consultant is qualified or has experience of exceptional worth for the assignment; and
 - (3) It may also be appropriate for tasks that represent a natural continuation of previous work carried out by the Consultant; where an initial consultancy assignment needs to be continued and where continuity of the technical approach, experience acquired and continued professional liability of the same Consultant may make such continuation preferable to a new competition; and in such cases the initially selected Consultant may be allowed to continue with the subsequent assignment provided that -
 - a. the initial assignment was performed satisfactorily; and
 - b. the need for such downstream assignment was anticipated in the initial Request for Proposal.
 - (4) if the initial assignment was not awarded on a competitive basis or if the downstream assignment is substantially larger in value, a competitive process shall be followed and in such cases the Consultant carrying out

the initial work shall not be excluded from consideration provided it expresses interest.

- (5) the Head of the Procuring Entity, or the Approving Authority where it is a higher body than that of the Head of the Procuring Entity, may consider exceptions to Sub Rule (d) (iv) under special circumstances and only when a new competitive process is not practicable.
 - (6) United Nations agencies may be invited where they are exceptionally well-qualified to provide technical assistance and advice in the area of expertise, on a case-by-case basis.
 - (7) The Procuring Entity shall use the procedures specified in Rule 110.
 - (8) Variation Orders to consultancy contracts shall not exceed the limit specified in Schedule II, unless approved by an authority of level higher than that of the initial Approving Authority as explained in Rule 74 (4).
- (e) **Selection of Consultants by a Design Contest (DC):** The Procuring Entity shall use the procedures specified in Rule 111.
 - (f) **Selection of Individual Consultants** The Procuring Entity shall use the procedures laid down in Rule 112.

105. Procedures for Selection under the Quality and Cost Based Selection (QCBS)

Method. |— (1) The procedures of QCBS are as follows and are further detailed in Part 2 of this Chapter -

- (a) a Request for Expressions of Interest (EOI) as laid down in Rule 113 is advertised to invite interested Applicants in order to prepare a shortlist of Applicants;
- (b) a Request for Proposals (RFP) shall be prepared and sent to short-listed Consultants selected following the provisions of Rule 117;
- (c) after receiving the Proposals the PEC shall meet to evaluate the Proposals;
- (d) the evaluation of Proposals shall be carried out in two (2) stages in the following manner -
 - (i) the Technical Proposals shall be evaluated;
 - (ii) the financial Proposals of technically responsive Proposals shall be opened in the presence of the Applicants or their representatives who wish to attend;
 - (iii) a combined evaluation of Technical and Financial Proposals shall follow and the Applicant with the winning Proposal will be invited to negotiations.

(2) In the case of Procurement of intellectual and professional services under Quality and Cost Based Selection (QCBS) Method process and proceedings in flow-charts as specified in Part-G of Schedule III shall be followed.

106. Procedures for Selection under a Fixed Budget (SFB). |— (1) The Procedures to be followed for the SFB Method shall be the same as for the Quality and Cost Based Method, with the following exceptions, namely -

- (a) the RFP shall indicate the available budget excluding taxes and ask the Applicants to provide, in separate envelopes, their best Technical and Financial Proposals within the budget;
- (b) the TOR shall be as complete as possible to make sure that the budget is sufficient for the Consultants to perform the expected tasks;

- (c) the RFP shall require the Applicants to provide breakdowns of their costs for the different activities with a provision that Applicants who decline to provide the breakdown risk the rejection of their Proposals;
- (d) the RFP shall state that, following opening of Proposals, all Proposals that exceed the indicated budget shall be rejected and the Applicant who has submitted the highest ranked Technical Proposal among the rest shall be selected and invited to negotiate the Contract.

(2) In the case of Procurement of intellectual and professional services under Fixed Budget (SFB) Method process and proceedings in flow-charts as specified in Part-H of Schedule III shall be followed.

107. Procedures for Selection under Least Cost Selection (LCS). |— (1) The procedures to be followed for the LCS method shall be the same as for the QCBS Method except that -

- (a) the RFP shall state that following evaluation of Technical Proposals and opening of Financial Proposals, the Applicant offering the lowest evaluated price shall be selected for negotiations, as described in Rule 122;
- (b) under this method Proposals passing the technical score threshold shall then be treated equally and evaluated on the basis of cost only.

(2) In the case of Procurement of intellectual and professional services under Least Cost Selection (LCS) Method process and proceedings in flow-charts as specified in Part-I of Schedule III shall be followed.

108. Procedures for Selection of Consultants Based on Consultant's Qualifications (SBCQ). |— (1) The Procuring Entity shall select the Consultants with the best possible qualifications, since very small assignments may be very important and could be highly specialized advisory Services with a limited scope and duration.

(2) The Procuring Entity shall not disregard quality while aiming to reduce the cost and time needed to hire a Consultant.

(3) The Procuring Entity shall first prepare the TOR and then request the Expressions of Interest and qualification information on the Consultants' experience and competence relevant to the assignment from Consultants in the data base.

(4) The Procuring Entity shall establish a short-list and select the firm with the best qualifications and references.

(5) The procedures to be followed for the SBCQ Method shall be the same as for the QCBS Method except that only the selected firm shall be asked to submit a combined Technical and Financial Proposal and will then be invited to negotiate the Contract if the Technical Proposal proves acceptable.

109. Procedures for Selection amongst Community Service Organisations (CSOs). |— (1) Selection of CSOs can follow any of the Quality and Cost Based Selection, Least Cost Selection, Selection under a Fixed Budget (SFB) or Single Source Selection (SSS) Methods, depending on the size of the assignment and the knowledge of the inputs required.

(2) A modified version of the SFB Method may be used whereby CSOs need only to submit a technical offer since the financial part is predetermined by the Procuring Entity along with the priced activities already given in the RFP.

(3) Under this type of selection, implementation aspects of community activities and experience and local knowledge may carry more points compared to those used in normal QCBS, LCS, SFB or SSS Methods.

110. Procedures for Selection under Single Source Selection (SSS). |— (1) The justification for SSS shall be examined in the context of the overall interests of the Procuring Entity to ensure economy and efficiency and provide equal opportunity to Consultants; therefore the decision to use SSS Method shall be approved in writing by the Head of a Procuring Entity, or an officer authorised by him or her, and documented.

(2) The selected Consultant shall be issued the RFP or TOR, as the case may be, and shall be requested to submit a Technical and Financial Proposal upon the receipt of which negotiations shall be held between the Proposal Evaluation Committee and the selected Consultant and all aspects of its Proposal, whether technical or financial, shall be discussed together in order to reach an agreement.

(3) When continuity for downstream work is essential, the initial RFP shall outline this prospect.

(4) For such downstream assignments, the Procuring Entity shall ask the initially selected Consultant to prepare technical and financial Proposals on the basis of the TOR furnished by the Procuring Entity, which shall then be negotiated.

(5) In cases where an agency of the United Nations Organisation is selected as a Consultant under this method, a special form of Contract reflecting the privileges and immunities granted by the Government to UN agencies and their staff will be used.

(6) When UN agencies are engaged under this method, standard RFP may be adjusted to suit the requirement.

(7) In the case of Procurement of intellectual and professional services under Single Source Selection (SSS) Method process and proceedings in flow-charts as specified in Part-J of Schedule III shall be followed.

111. Procedures for Selection of Consultants by a Design Contest (DC). |— (1) Carrying out a Design Contest is a selection method under which short-listed firms, in general architectural firms, are invited to submit their conceptual design for a physical project, such as a monument, research centre, office headquarters or transportation terminal.

(2) The conceptual design forming the main output of the DC is expected to highlight the aesthetic aspects of the project in addition to its technical characteristics.

(3) The Procuring Entity shall either draw up a short-list of prospective Applicants on the basis of experience, capability and reputation; or if it has difficulty developing a good short-list, it may widely advertise the Design Contest and invite Expressions of Interest from firms that believe themselves qualified.

(4) The Procuring Entity shall send the short-listed Applicants a Request for Design Proposals including a letter of invitation, project information to proponents including a data sheet to address specific features and a TOR composed of the design criteria, and other data as relevant.

(5) Evaluation criteria may include innovation, aesthetic content, adequate blending with the surroundings, efficient use of the available space, attractiveness for the potential users, incorporation of energy savings and other environmentally friendly considerations, revenue generation potential, if any, and estimated construction cost.

(6) Each short-listed Applicant shall present its sealed Proposal containing the preliminary conceptual design and related cost estimate responding to the request for design Proposal Documents.

(7) The Proposal Opening Committee shall, after all Proposals have been received and opened, forward the Proposals to the Procuring Entity in a closed box for safe custody as per Rule 32.

(8) Upon receipt of the Proposals, the Proposal Evaluation Committee shall proceed with the evaluation of the proposed designs in accordance with the broad evaluation criteria spelled out in the Request for Design Proposals and submit the Evaluation Report in accordance with Rule 119.

(9) The winning conceptual design, being by its nature preliminary, shall be followed in the case the project continues, by detailed engineering design, Bill of Quantities, Technical Specifications and Tender Documents and a Contract for supervision of the construction.

(10) The winning Consultant shall be asked to submit a combined Technical and Financial Proposal and will then be invited to negotiate the Contract if the Technical Proposal proves acceptable.

(11) The Request for Design Proposal Document may provide for awarding a prize to the successful Consultant which may consist of the Contract for the subsequent design phase(s) of the project plus a pre-determined monetary award, and smaller monetary awards to the second and third evaluated Applicants to partially offset the expenditures they have incurred, if their Proposals are considered as close runners in the competition.

(12) The standard Request for Proposal Document may need to be adjusted to suit the specific requirements of the competition.

112. Selection of Individual Consultants (SIC). — (1) Individual Consultants may be employed in accordance with Section 38 of the Act for assignments for which the qualifications and experience of the individual are the overriding requirement and no team of staff and no additional professional support are required.

(2) Individual Consultants may be selected following an EOI advertisement through comparison of qualifications and experience of the candidates who have expressed interest in the assignment or have been approached directly by the Procuring Entity.

(3) Individuals shall demonstrate in their EOI that they meet the required qualifications and experiences and are fully capable of carrying out the assignment.

(4) The capability of individuals shall be judged on the basis of academic background, experience in the field of assignment, and as appropriate, knowledge of the local conditions, as well as language and culture.

(5) Following the completion of the evaluation of the Applicants' qualifications, the short-listed Applicants may be invited for interviews and the selected Applicant will then be invited to negotiate fees or remuneration, Reimbursables, the inputs available from the Procuring Entity, etc., and subsequently to sign the Contract.

(6) In order to select the most suitable candidate efficiently within a reasonable budget, the Procuring Entity may prepare a list of alternate candidates in order of priority.

(7) A large number of individuals shall not be employed to carry out a wider task if co-ordination, administration or collective responsibility becomes difficult and hiring of firm(s) would become more convenient.

(8) General considerations for appointment of Bangladeshi nationals as individual Consultants are shown in Schedule V.

(9) Terms and conditions for the employment of Government servants and employees of

autonomous and semi-autonomous bodies, corporations or other statutory bodies or local authorities as individual Consultants is provided for in Schedule V.

(10) Notwithstanding anything contained in this Rules, with prior approval of the Head of the Procuring Entity, individual Consultant may be employed without EOI advertisement in the following conditions, namely –

- (a) if the assignment is a continuation of the previous;
- (b) if the duration of the assignment is less than six (6) months;
- (c) if it becomes necessary to accomplish the assignment on urgent basis due to natural disaster;
- (d) in the case of assignment when only one (1) individual is considered as qualified consultant.

(11) In the case of Selection Individual Consultant, in accordance with the Sub-Rule-10 except Sub-Rule-10(d), the decision shall be made considering the educational qualifications and work experiences by collecting at least three CV from interested Consultants.

PART -2

PROCESSING OF EXPRESSIONS OF INTEREST AND PROPOSALS

113. Submission of Expressions of Interest (EOI). — (1) A Request for Expressions of Interest (EOI) will be issued in order to receive the background information about interested Applicants necessary to prepare a short-list of Applicants to which, at a later date, the RFP will be issued.

(2) The Request for EOI shall be advertised as described in Rule 90 and shall allow potential Applicants the period specified in Schedule I to present their Expressions of Interest.

(3) The EOI Request shall contain at least the following information -

- (a) the name and address of the Procuring Entity;
- (b) a brief description of the assignment, detailing the scope of the intellectual and professional Services required;
- (c) the requirement to provide information about experience, resources, professional staff, and delivery capacity indicating their qualification for the assignment;
- (d) the place and deadline for submission of their written EOI; and
- (e) any other details which the Procuring Entity considers to be of assistance to potential Applicants.

(4) All EOI Requests shall state only one (1) place to which the EOI shall be submitted as 'multiple dropping' is not acceptable for this purpose.

(5) A prospective Applicant shall, following the advertisement of a Request for EOI, submit an EOI by the due date and time and to the place specified in the advertisement.

(6) Whenever a Joint Venture, Consortium or Association (JVCA) arrangement between national and foreign firms would be thought to facilitate performance of high quality Services, the Request for Expressions of Interest should mention that such JVCA formed as per Rule 54 would be welcomed or encouraged by the Procuring Entity, provided that, a Procuring Entity cannot make formation of such a JVCA a mandatory requirement in the RFP.

114. Opening of Expressions of Interest. |— (1) Expressions of Interest may be submitted by courier, mail, fax or e-mail.

(2) There shall be no public opening for the Expressions of Interest.

(3) A Procuring Entity shall, immediately after the deadline specified in the advertisement for Expressions of Interest, convene a meeting of the Proposal Opening Committee (POC), constituted under Rule 7, for the purpose of opening the Expressions of Interest and recording the names of all Applicants and any other pertinent details thereof.

(4) The POC, having completed the record of opening, shall send the Expressions of Interest received and the opening record to the Proposal Evaluation Committee.

115. Assessment of Expressions of Interest and Approval of Short-List, Etc. |— (1) A Proposal Evaluation Committee (PEC) constituted under Rule 8 shall, on the basis of the information specified in the Request of Expressions of Interest, review and assess the Expressions of Interest received, in order to prepare a short-list composed of Applicants who are considered to be best qualified to undertake the assignment.

(2) The assessment of an Applicant's qualifications shall review the following information requested in the Expressions of Interest to determine appropriateness for the assignment, using a qualification scale (not marking) of Excellent, very Good, Good and poor to determine the best combination of qualified Applicants -

- (a) brochures submitted by the Applicants summarising their facilities and areas of expertise;
- (b) descriptions of similar assignments;
- (c) experience in similar operating environments and conditions;
- (d) availability of appropriate experience and professional qualifications among Applicant's staff and adequate resources to carry out the assignment; and
- (e) managerial strength and financial capacity.

(3) Following the assessment, the PEC shall prepare a short-list, composed of the number specified in Schedule II, not less than four (4) and not more than seven (7) Applicants which have met the requirements of the EOI and who in the opinion of the PEC indicate sufficient and adequate capacity to perform the assignment under consideration, and submit its report with recommendations to the Head of the Procuring Entity for approval.

(4) If it is intended by the Procuring Entity that the RFP shall be issued on an international basis, then the short-list shall include not more than two (2) firms from the same country and at least one (1) firm from a developing country.

(5) If after assessment the number of short-listed Applicants is less than four (4), the PEC shall review the assignment to verify that -

- (a) the format of the Request for Expressions of Interest was correct;
- (b) it met the requirements of the Procuring Entity; and
- (c) it was properly advertised as per Rule 90.

(6) If the process under Sub-Rule (5) was found to be in compliance with these Rules, then a short-list with less than four (4) Applicants can be recommended by the PEC for the approval of the Head of the Procuring Entity.

(7) If greater competition is sought, the Head of the Procuring Entity may give direction

to make appropriate amendments to the assignment to make it more attractive to the consulting industry and then re-advertise the Request, but ensuring a wider publicity, provided that Procuring Entities shall not resort to the practice of re-advertisement as a routine matter, but instead should always make efforts to invite Requests for Expressions of Interest that will enable them to finalise adequate short-lists in the first round of advertisement.

(8) If after re-advertising under the proviso to Sub-Rule (7) , the number of re-assessed and short-listed Applicants is still less than four (4), the short-list should be considered as final and the Request for Proposal shall be issued to the lower number of short- listed Applicants.

(9) Following the approval of the EOI Assessment Report by the Head of the Procuring Entity or an officer authorised by him or her or an Approving Authority, all Applicants participating in the EOI shall be informed whether or not they have been short-listed by the Procuring Entity.

116. Preparation of the Terms of Reference (TOR). |— (1) In preparing the TOR, the Procuring Entity shall generally provide the following information in order to assist Applicants in the preparation of their Proposals -

- (a) background information on the Procuring Entity and about the broader project environment within which the assignment will take place;
- (b) objectives and scope of the assignment;
- (c) the duration of the assignment;
- (d) services and surveys necessary to carry out the assignment and the expected outputs;
- (e) details of the number of staff to be trained, the training timetable and the topics, if already known, shall be specifically outlined where transfer of knowledge, or training is an objective to enable Applicants to estimate the required level of resources;
- (f) the facilities and support to be provided to the Consultant by the Procuring Entity or user or beneficiary entity during the assignment; and
- (g) Institutional arrangements;
- (h) details of existing relevant studies and basic data and their availability and location of the data;

(2) The TOR should not be too detailed or inflexible so that Applicants are able to propose their own methodology and staffing, and they shall be encouraged to comment on the TOR in their Proposals.

(3) The respective responsibilities of the Procuring Entity or beneficiary entity and the Consultant shall be clearly defined in the TOR.

(4) The scope of the Services described in the TOR shall be consistent with the available budget.

117. Preparation and Issue of Request for Proposal (RFP) Document.|— (1) A Procuring Entity shall prepare a Request for Proposal (RFP) Document using the applicable standard RFP Documents issued by the Government and distribute such Documents to the short-listed Applicants.

(2) The RFP shall have, as a minimum the following information -

- (a) the name and address of the Procuring Entity;

- (b) a description of the assignment required, normally by means of a "Terms of Reference" (TOR);
 - (c) a requirement in respect of QCBS, SFB and LCS Methods that Proposals be submitted in two (2) sealed inner envelopes, each appropriately marked and placed together into one (1) single outer envelope that is sealed and marked as described in the RFP; and that one (1) inner envelope shall contain the Applicant's Technical Proposal without any reference to price and the second inner envelope shall contain the Applicant's Financial Proposal;
 - (d) a clear indication in the text of the RFP that failure to follow the instructions on sealing and marking of the envelope may result in pre-disclosure of price for which the Applicant shall be solely and entirely liable and may also constitute grounds for declaring the Proposal non-responsive;
 - (e) a reminder that Consultants for current consultancy assignments, which may involve potential future conflicts of interest, shall exclude themselves from participating in the Procurement of Goods and related Services and Works and physical Services which may follow as a result of or in connection with the consultancy assignment;
 - (f) a reminder that an Applicant who has carried out an earlier related assignment, whereby a potential conflict of interest may reasonably be considered to exist, then the Applicant shall also exclude itself from participation in the subsequent assignments;
 - (g) the place and deadline for the submission of Proposals;;
 - (h) the Evaluation Criteria; and
 - (i) the Contract format to be used in which the respective obligations of both the Consultant and the Procuring Entity shall be stated.
- (3) The RFP shall consist of -
- (i) Letter of Invitation (LOI) including the short-list;
 - (ii) Instructions to Applicants or Consultants (ITA or ITC) as the case may be;
 - (iii) Proposal Data Sheet (PDS);
 - (iv) General Conditions of Contract (GCC);
 - (v) Particular Conditions of Contract (PCC);
 - (vi) Standard Contract Form;
 - (vii) Terms of Reference (TOR); and
 - (viii) Appendices.
- (4) The Procuring Entity shall use only the applicable standard RFPs most suitable for each case.
- (5) The Procuring Entity shall normally not change the standard RFP Document and any specific issues shall be addressed in the Proposal Data Sheet and in the Particular Conditions of Contract.
- (6) The LOI shall state the intention of the Procuring Entity to enter into a Contract for the provision of consulting Services, the source of funds, the details of the beneficiary entity, the list of short-listed Consultants and the date, time and address for submission of Proposals.
- (7) The Procuring Entity shall list in the LOI all the Documents to be included in the RFP.
- (8) The ITA or ITC shall contain all necessary information to help Applicants prepare

responsive Proposals and to make the selection procedure as fair and as transparent as possible by providing information on the Proposal submission process and the evaluation criteria.

(9) If a short-listed Consultant could derive a competitive advantage from having provided consulting Services related to the assignment in question, the Procuring Entity shall make available to all short-listed Consultants together with the RFP all information that would in that respect give such Consultant any competitive advantage over competing Consultants such as designs, study reports, strategy papers.

(10) The ITA or ITC shall specify the Proposal validity, within the period specified in Schedule I, depending on the complexity of the assignment,

provided that to suit the requirements of a particular Procurement transaction shorter or longer periods may be authorised by the Head of a Procuring Entity or an officer authorised by him or her.

(11) The Procuring Entity shall prepare a realistic cost estimate in order to allocate an accurate budget to the assignment.

(12) The Procuring Entity may break down the assignment into its composite tasks (activities), if applicable, with each task showing the professional fees required and corresponding Reimbursables and a contingency, if desired, to provide for both physical and financial contingencies.

(13) The cost estimate prepared by the Applicant shall be based on the Procuring Entity's assessment of the resources needed to carry out the assignment including staff-months, logistical support and physical inputs.

(14) Costs shall be generally divided into two (2) broad categories -

(a) fees or remuneration according to the type of Contract used; and

(b) **Reimbursables**, in the case of time-based contracts, which are amounts payable against Documentary evidence for expenses such as air tickets, per diems, visa costs, medical expenses, transportation costs, office rental costs, purchase of vehicles, office equipment, office furniture, etc.

(15) The cost of staff-months shall be estimated on a realistic basis in accordance with the level of expertise required and the desired proportion of international and national Consultants.

(16) The items listed in Sub-Rule (14)(b) as reimbursable expenditures are examples only and shall vary according to the TOR and, in particular, the facilities to be provided to the Consultant by a Procuring Entity or user or beneficiary entity;

Example

If a Procuring Entity or user or beneficiary entity can provide office equipment, vehicles or both then there shall be no need for an Applicant to include those items in its estimate of costs.

(17) The only actual fixed cost quoted by an Applicant in its Proposal is the fee rate or remuneration to be charged for its personnel to undertake the assignment.

(18) For certain specific Services, such as for pre-shipment inspection, Procurement Agency Services, training of students in institutes or universities, advertising activities in privatisation or twinning, the Procuring Entity may need to adjust the formats or tables in the Standard RFP Document issued by the CPTU.

(19) Applicants shall be given at least the minimum time for preparation of Proposals

specified in Schedule II.

(20) The RFP shall indicate the time periods whereby the Procuring Entity can entertain any request by an Applicant for clarification as well as the timing of the issue of the corresponding response.

(21) The Request for Proposal may be sent to the short-listed Applicants by e-mail or by courier.

(22) Considering the nature of a clarification requested it may become necessary to extend the deadline for submission of Proposals and such clarification shall also be issued to all short-listed Applicants.

(23) If a pre-Proposal meeting is intended to clarify any issues, the time and date of the pre-Proposal meeting shall be specified in the PDS.

(24) The RFP for QCBS shall consider the following when defining the evaluation criteria -

- (a) Cost, as a criterion of selection, shall be considered judiciously and shall be of lesser importance in the evaluation of Proposals than the quality of the Proposals and the qualifications of the Applicant;
- (b) the relative weight to be given to quality and cost shall be determined on a case-by-case basis depending upon the nature of the assignment and could be divided between quality and price as high as eighty percent and twenty percent (80% and 20%) respectively where, in cases like multidisciplinary, feasibility and management studies, the intellectual and professional quality of the Consultant is overriding;
- (c) the minimum point to be achieved in the Technical Proposal evaluation shall be seventy (70);
- (d) Technical Proposals not achieving the minimum technical points required shall be considered not suitable and their Financial Proposals shall be returned unopened to the Applicant;
- (e) for standard types of Services such as pre-shipment and other inspection Services, Procurement Services, training of students in universities, and the like, where adequate quality is normally guaranteed by business or regulatory standards, the weighting between quality and price could be sixty-five percent and thirty-five percent (65% and 35%), sixty percent and forty percent (60% and 40%), fifty-five percent and forty-five percent (55% and 45%) or even as low as fifty percent and fifty percent (50% and 50%), whereby the LCS Method can also be relevant; and
- (f) since cost is a criterion in the evaluation of Proposals, the RFP shall not state the budget or official estimate for the assignment that has been allocated by either the Procuring Entity or user or beneficiary entity, but it shall indicate the estimated or expected level of inputs of key professional staff, staff time being expressed in person-months or weeks or days, that is considered necessary to undertake the assignment in order to enable the Applicant to prepare its own cost estimate to carry out the assignment.

(25) The following five (5) general criteria may be used to evaluate Technical Proposals -

- (a) Specific experience of the Applicants;
- (b) Adequacy of the proposed methodology and work plan in response to the TOR;
- (c) Key staff's qualifications and competence for the assignment;
- (d) Suitability of the transfer of knowledge programme, i.e. training, where there is,

such a programme; and

- (e) National participation, i.e. the extent to which nationals have been included among key staff; where applicable.

(26) When determining the points to each criterion under Su-Rule (25), the Procuring Entity shall consider -

- (a) the points given to experience can be relatively low, since this factor has already been taken into account when short-listing the Applicant;
- (b) in the case of complex assignments, such as multidisciplinary, feasibility or management studies, more points should be given to the methodology and work plan and similarly higher points may be preferable for key staff in assignments where personnel input is of paramount importance;
- (c) transfer of knowledge may be more important in some assignments and in such cases, it should be given higher points to reflect its importance; and
- (d) when RFPs are issued on an international basis, points can be awarded for the use of national Consultants as key staff and generally the maximum number of points available shall be ten (10).

(27) Allocation of Points to Main Criteria under this Rule for different types of assignments

	SPECIFIC EXPERIENCE	ADEQUACY OF METHODOLOGY AND WORK PLAN	KEY STAFF QUALIFICATIONS	TRANSFER OF KNOWLEDGE (WHERE APPLICABLE)	NATIONAL PARTICIPATION (WHERE APPLICABLE)	TOTAL POINTS
Guidance	5–10	20–50	40–60	0–20	0–10	100
Type of assignment						
1 Technical assistance/ training	5–10	20–35	50–60	0–20	0–10	100
2 Preinvestment studies	5–10	35–50	40–50	0–10	0–10	100
3 Design	5–10	30–45	40–50	0–10	0–10	100
4 Implementation/ supervision	5–10	20–35	50–60	0–10	0–10	100

118. Submission and Opening of Proposals. — (1) The Applicants shall consider the following when submitting their Proposals -

- (a) A short-listed firm is not allowed to form a joint venture with a firm that has not been short-listed without the approval of the Procuring Entity;
- (b) A short-listed Applicant shall not participate in more than one Proposal;
- (c) It is desirable that the majority of the key professional staff proposed be permanent employees of the firm or have an extended and stable working relationship with it;
- (d) The *curricula vitae* shall be signed by the individual Consultants and dated;
- (e) It is essential to ensure accuracy in the *curricula vitae* and commitment of key staff submitted with the proposals;
- (f) A key professional shall not be proposed by more than one Firm, except for a nominated subconsultant; and
- (g) Non-compliance with these important requirements will result in rejection of the

proposal.

(2) For opening the Technical Proposals, the Procuring Entity shall convene the meeting of the Proposal Opening Committee (POC) constituted under Rule 7.

(3) The Financial Proposals shall be kept closed in the safe custody of the Head of the Procuring Entity until such time as the evaluation of technical Proposals has been completed.

(4) A POC shall send the Technical Proposals and the record of opening *in a closed box* through the Procuring Entity to the Proposal Evaluation Committee constituted under Rule 8, for evaluation.

PART-3

EVALUATION OF PROPOSALS, NEGOTIATIONS AND COMPLETION OF THE PROCESS

119. Evaluation of Technical Proposals. — (1) A Proposal Evaluation Committee (PEC) shall evaluate all Technical Proposals, in accordance with the RFP and the relevant provisions of the Act and these Rules.

(2) If Proposals are received or invited from Applicants with whom member(s) of the PEC have business or other close links, such member(s) shall be replaced, in order to avoid conflicts of interest.

(3) Under QCBS (Quality and Cost Based Selection), SFB (Selection under Fixed Budget); LCS (Least Cost Selection), the First Stage of the evaluation shall involve only an examination and evaluation of the Technical Proposals and such evaluation shall be carried out by the PEC as specified in the RFP.

(4) The PEC members themselves shall evaluate each Proposal on the basis of its responsiveness to the TOR, and a Proposal shall be considered unsuitable or non-responsive and it shall be rejected if it does not respond to important aspects of the TOR or if it fails to achieve the minimum technical point specified in the RFP.

(5) Once technical proposals are received and opened, consultants shall not be required nor permitted to change the substance of the Proposal, the key staff, and so forth.

(6) In the event that only one (1) Proposal achieves the minimum technical point, then with the approval of the Head of the Procuring Entity, or an officer authorised by him or her or an Approving Authority (if the Approving Authority is below the level of the Head of the Procuring Entity), the Financial Proposal will be opened and examined.

(7) A Procuring Entity shall forward a single Proposal to the PEC for evaluation if only one (1) is submitted on the due date and time, provided that all short-listed Applicants have been requested to submit Proposals allowing the time specified in the RFP.

(8) Each member of the PEC shall evaluate separately each Proposal, and then the point for each Proposal will be calculated as the average of the points given by all members of the PEC for the respective Proposal.

(9) In the case of major differences in the points assigned by an individual evaluator, the Chairperson shall look into the differences and ask the concerned individual evaluator to explain and justify his points provided that,

(a) if his justification has no convincing grounds, his evaluation shall be discarded;

- (b) if his justification has convincing grounds and the evaluator turns out to be the only one mastering the subject, a new PEC shall be assembled in which the individual evaluator will be a member.

(10) A Proposal Evaluation Report shall be prepared clearly indicating the technical points attributed to each Proposal, in order to identify Applicants who have achieved the required minimum technical points and who shall be considered in the combined technical and financial evaluation.

(11) The Technical Evaluation Report shall be submitted to the Head of the Procuring Entity, an officer authorised by him or her or an Approving Authority (if the Approving Authority is below the level of the Head of the Procuring Entity) in the same manner as under Rule 36.

120. Evaluation of Financial Proposals. |— (1) Upon approval of the technical Evaluation Report by the Head of the Procuring Entity, or an officer authorised by him or her or an Approving Authority (if the Approving Authority is below the level of the Head of the Procuring Entity), the Applicants who attained at least the minimum technical points specified in the RFP shall be invited to a public opening of their Financial Proposals.

(2) At the public opening, the PEC shall announce the technical points for each Proposal which has achieved the minimum technical points, together with its respective price.

(3) The financial Proposal shall be checked to verify that it is arithmetically correct and any errors in calculation shall be notified to the Applicant.

(4) If pricing of activities was required, activities and items described in the Technical Proposal but not priced shall be assumed to be included in the prices of other activities or items.

(5) Where an activity or line item is quantified in the Financial Proposal differently from the Technical Proposal, the Evaluation Committee shall correct the quantification indicated in the Financial Proposal so as to make it consistent with that indicated in the Technical Proposal.

Example

*if a Technical Proposal indicates the presence of the team leader at the assignment site for **twelve (12)** months and the **Financial Proposal** indicates only **eight (8)** months,, an adjustment should be calculated by adding the corresponding amount of staff remuneration to the proposed amount.*

(6) Reimbursable items priced by the Applicants shall be reviewed both for arithmetical errors and content and if it is determined that an item has been included that is not required by the Consultant, it shall be omitted from the Proposal and not considered in the financial evaluation.

Example

The Consultant has priced office rent while the RFP indicates that the Procuring Entity or the beneficiary entity will provide it.

(7) In the case of Lump-Sum Form of Contract, no corrections shall be applied to the Financial Proposal.

121. Combined Technical and Financial Evaluation for QCBS. |— (1) The technical score shall be calculated in the combined **T**echnical and **F**inancial **E**valuation as shown in the following example:

Example

If a Technical Proposal achieved ninety (90) points and the weighting applied to this was eighty percent (80%), then by applying this weighting the technical score of the proposal would be ninety times eighty percent equals seventy-two ($90 \times 80\% = 72$).

(2) The financial score of each Proposal shall be determined in a manner so as to ensure that the Financial Proposal with the lowest evaluated cost is given one hundred (100) points and other Proposals pro-rata points, reduced by the same percentage that the cost of their Proposal is higher than that of the lowest cost Proposal.

Example

If the lowest cost Financial Proposal is say Tk. one (1.0) million, then the financial points awarded to it would be one hundred (100) (the maximum) and the resulting financial scores would then be:

Proposals	Cost	Points	Weight	Score
<i>Lowest Financial Proposal</i>	<i>Tk. 1.0 million</i>	<i>100</i>	<i>20%</i>	<i>20</i>
<i>Next highest Financial Proposal</i>	<i>Tk. 1.2 million</i>	<i>83.3</i>	<i>20%</i>	<i>16.66</i>
<i>Next higher Financial Proposal</i>	<i>Tk. 1.5 million</i>	<i>66.6</i>	<i>20%</i>	<i>13.32</i>

(3) The technical score plus the financial score gives the combined score and the Consultant with the highest combined score shall be invited for Contract negotiations.

122. Negotiations. |— (1) Upon completion of the Evaluation of the Proposals, a PEC shall -

- (a) in the case of Quality and Cost Based Selection (QCBS) Method, review the combined Technical and Financial Evaluation Report and invite the Consultant that scored the highest in the combined Technical and Financial Evaluations for negotiations;
- (b) in the case of Fixed Budget Selection (FBS) Method, invite the Consultant that submitted the highest ranked Technical Proposal within the budget for negotiations;
- (c) in the case of the Least Cost Selection (LCS) Method, invite the Consultant that quoted the lowest price among those who passed the minimum technical points for negotiations.

(2) The Procuring Entity shall notify the successful Consultant that its Proposal has been accepted and shall set a date for the commencement of Contract negotiations so that the Contract can come into force before the prescribed Proposal validity date expires.

(3) A Proposal Evaluation Committee shall, in order to conclude a Contract, negotiate with the successful Consultant only on the following components of its Proposal:

- (a) Methodology;
- (b) Work plan and activity schedule;
- (c) Organisation and staffing;
- (d) Deliverables;
- (e) Training inputs, if training is a major component;
- (f) Client or Procuring Entity's inputs;
- (g) Reimbursables, in the case of time-based Contracts; and

(h) Proposed Contract price.

(4) A PEC shall neither seek nor permit changes in the rates quoted for staff remuneration proposed by an Applicant in selection methods where the Applicant's price is used as a factor in the evaluation.

(5) The PEC may require the consultant to substitute a key staff, if it was found during Evaluation that he is not fit enough for the proposed assignment.

(6) If an extension of validity of proposals was the reason that key staff were not available for a Firm, a change of key staff with equivalent or better qualification may be permitted.

(7) During negotiations special attention shall be paid to defining clearly the inputs and facilities offered by the Procuring Entity.

(8) Negotiations shall include discussions about the TOR but shall not significantly alter the original TOR so that the integrity of the negotiations and the content and findings of the technical Evaluation Report cannot be called into question.

(9) Major reductions in work inputs shall not be made solely to meet the budget.

123. Failure of Negotiations and Rejection of All Proposals. |— (1) If negotiations fail and all Proposals are found to be non-responsive and unsuitable, the Procuring Entity may, with the approval of the Head of the Procuring Entity, reject them under the following grounds -

- (a) The Proposals present major deficiencies in responding to the RFP.
- (b) The Cost Proposals are substantially higher than the estimated budget and could not be bridged during negotiations.

Example 1

The Procuring Entity and Consultants disagree on which contractual party should be responsible for executing specific assignment activities, or on the exact content of the assignment or feasibility of specific deadlines affecting the implementation schedule of the project.

Example 2

Consultants may find the estimated man-months and the distribution of risks unacceptable. The Consultants may then present cost Proposals that are substantially higher than the available budget. The Procuring Entity may be unaware of the actual remuneration levels of the Consultants for the type of Services being considered, the Consultants may misinterpret the TOR, or the Procuring Entity's plans may be too ambitious for the available budget.

(2) feasibility of the assignment and the distribution of risks may be unacceptable. The Consultants may then present cost Proposals that are substantially higher than the available budget. The Procuring Entity may be unaware of the actual remuneration levels of the Consultants for the type of Services being considered, the Consultants may misinterpret the TOR, or the Procuring Entity's plans may be too ambitious for the available budget.

(3) If the Head of the Procuring Entity decides finally to reject all Proposals, the Procuring Entity shall reassess the proposed TOR and budget and undertake an accurate review of the RFP (including the short-list) to reduce the risks of non-responsive Proposals.

124. Approval Process. |— (1) The Evaluation Report along with its recommendations and minutes of the completed negotiations shall be submitted to the Approving Authority in the manner as prescribed under Rule 36.

(2) The Approving Authority, as described in the Delegation of Financial Powers issued by the Government from time to time, shall consider the Evaluation Report and the recommendations as submitted by the PEC and take a decision in accordance with Rule 11.

(3) The Approving Authority shall communicate its decision to the Head of the Procuring Entity and others concerned.

125. Signing of Contract. |— (1) The PEC and the successful Consultant shall, in order to conclude the negotiations, sign the agreed minutes of negotiations and initial the proposed draft Contract agreement.

(2) A Procuring Entity shall upon receipt of the approval for the signing of the Contract, and provided that no complaint has been lodged or is still under consideration under Rules 57, 59 and 60, invite the successful Consultant to sign the Contract.

(3) The type of Contract shall be as specified in the RFP, i.e. Time-based or Lump Sum Contract.

(4) The Consultant receiving an award of Contract shall not be required to submit any performance security.

(5) The Procuring Entity shall assure that a necessary provision have been included in the RFP to the effect that the Consultant shall be contractually obligated, in the event their performance of the Services does not meet the standards and requirements set in the Contract, to re-perform the Services at their own expense or to indemnify the Procuring Entity for losses that it may suffer.

126. Completion of the Process. |— (1) A Procuring Entity shall, following the signing of the Contract with the successful Consultant, inform all the other Consultants whose Proposal was technically responsive that they have been unsuccessful.

(2) The Procuring Entity shall publish in its website, where applicable, the name of the Consultant to which the Contract was awarded as specified in Schedule II.

(3) Information about award of Contracts exceeding the amount specified in Schedule II shall be posted on the CPTU's website.

CHAPTER SEVEN

PROFESSIONAL MISCONDUCT

127. Professional Misconduct, Offences, Etc. |— (1) Procuring Entities and Persons shall, during Procurement proceedings and execution of Contracts, ensure –

- (a) strict compliance with the provisions of Section 64 of the Act;
- (b) abiding by the code of ethics as detailed in Schedule XII of these Rules;
- (c) that neither it nor any other member of its staff or any other agents or intermediaries working on its behalf engages in any practice as detailed in Sub-Rule (2) below.

(2) For the purpose of Sub-Rule (1) the terms -

- (a) **corrupt practice** means offering, giving or promising to give, receiving, or soliciting, either directly or indirectly, to any officer or employee of a Procuring Entity or other public or private authority or individual, a gratuity in any form; employment or any other thing or service of value as an inducement with respect to an act or decision or method followed by a Procuring Entity in connection with a Procurement proceeding or contract execution;
- (b) **fraudulent practice** means the misrepresentation or omission of facts in order to influence a decision to be taken in a Procurement proceeding or Contract execution;
- (c) **collusive practice** means a scheme or arrangement between two (2) or more Persons, with or without the knowledge of the Procuring Entity, that is designed to arbitrarily reduce the number of Tenders submitted or fix Tender prices at artificial, noncompetitive levels, thereby denying a Procuring Entity the benefits of competitive price arising from genuine and open competition; or
- (d) **coercive practice** means harming or threatening to harm, directly or indirectly, Persons or their property to influence a decision to be taken in a Procurement proceeding or the execution of a Contract, and this will include creating obstructions in the normal submission process used for Tenders, Applications, Proposals or Quotations.

(3) If corrupt, fraudulent, collusive or coercive practices of any kind come to the knowledge of the Procuring Entity concerned, the Entity shall call for a written explanation from the Person or firm alleged to have carried out such practices.

(4) Unless a satisfactory explanation is given by the concerned Person or firm that is acceptable to the Head of the Procuring Entity, the Procuring Entity shall -

- (a) exclude the concerned Person from further participation in the particular Procurement proceeding; or
- (b) reject any recommendation for award that had been proposed for that concerned Person or;
- (c) declare, at its discretion, the concerned Person to be ineligible to participate in further Procurement proceedings, either indefinitely or for a specific period of time.

(5) In order to implement the actions as described in Sub-Rule (4), the following procedures shall apply -

- (a) if the explanation from the concerned Person was found unsatisfactory, the Procuring Entity shall present a report to the Head of the Procuring Entity with all the relevant information of the case for his or her consideration;

- (b) upon receipt of the report under Sub Rule 5(a) , the Head of the Procuring Entity may decide on the issue or appoint a committee, within the period specified in Schedule II, chaired by him or her or an officer appointed by him or her, that shall include representatives of the Procuring Entity, other than the Procurement officer that first became aware of the event in question;
 - (c) The Committee formed under Sub Rule (5)(b) , if any, shall review the recommendations of the Procuring Entity and make its own recommendation to the Head of the Procuring Entity within the period specified in Schedule I;
 - (d) The Head of the Procuring Entity shall, having considered the recommendation of the Committee under Sub Rule (5) (c) , make an appropriate decision and if a decision is taken to debar the concerned Person or firm, the Procuring Entity shall issue a letter debarring the concerned Person or firm and that letter shall be addressed to the concerned Person with a copy to the CPTU for inclusion in the list of debarred persons or firms and published on the CPTU website.
- (6) Any action arising from the implementation of the procedures described in Sub-Rule (4), and (5) shall be reported by a Procuring Entity to the CPTU.
- (7) The reasons for any exclusion under Sub-Rule (4) and (5) (d) shall be duly recorded in the record of Procurement proceedings and preserved.
- (8) A Person, or an officer or staff member of the Procuring Entity to whom the Act and these Rules apply, committing an offence related to professional misconduct, shall be dealt with as described in the Act in Section 64 (3) and (4) and *Anti-corruption Commission Act 2004*.

Example 1

If a Person or any member of staff or any other intermediaries working on his or her behalf give or promise to give, either directly or indirectly, to any officer or member of staff of a Procuring Entity or other public or private authority or individual a gratification in any form, employment or any other thing or service of value as an inducement with respect to an act or decision or method followed by a Procuring Entity in connection with a Procurement proceeding or Contract execution, such person and the concerned officer(s) shall be deemed to have engaged in corrupt practice and will be punishable under any of the relevant sections of the Penal Code (Sections 161 to 171) or under the relevant Section of the Prevention of Corruption Act, 1947 and Anti-corruption Commission Act 2004

Example 2

If an officer or a member of staff or a Person fraudulently or dishonestly makes, signs, seals or executes a Document or a part of a Document, or fraudulently or dishonestly uses any Document which he or she knows or has reason to believe to be a forged Document, or makes a false statement, or uses a false trademark with intent to influence a decision to be taken in a Procurement proceeding or Contract execution, such officer or member of staff or Person will be deemed to have committed an offence and be punishable under the relevant sections of the Penal Code (Sections 465 to 489).

Example 3

when two (2) or more Persons engage in a scheme or arrangement, with or without the knowledge of the Procuring Entity, that is designed to arbitrarily reduce the number of Tenders submitted or fix Tender price, thereby denying a Procuring Entity the benefits of competitive price arising from genuine and open competition, such Person(s) will be deemed to have engaged in collusive practice and it will amount to an offence within the meaning of Section 120 A and will be punishable under Section 120 B (2) of the Penal Code.

Example 4

Harming or threatening to harm, directly or indirectly, Persons or their property with intent to cause alarm to that Person, or to cause that Person to perform any act which he is not legally bound to perform or to omit to perform any act which he is legally entitled to perform, or creating obstructions in the normal submission process of an Application, a Tender or a Proposal, will constitute an offence within the meaning of Section 503 and will be punishable under Section 506 the Penal Code.

CHAPTER EIGHT

E-Government Procurement

128. E-Government Procurement. |— (1) For carrying out the purposes of the Act, any or all government procurement may be undertaken using electronic processing systems following the principles governing e-GP as prescribed by the Government.

(2) In case of procurement following e-GP, should there be any conflict between the provisions of the e-GP rules and the provisions of these rules, then e-GP shall prevail.

CHAPTER NINE

MISCELLANEOUS

129. Concession contracts – related provisions |— (1) Notwithstanding anything contained in these Rules, the Government may, in accordance with Guidelines and model contract documents issued by it, enter into a concession contract with a Person for the provision and operation of public utilities and services incidental thereto through a Build Own Operate (BOO), Build Operate Transfer (BOT), Build Own Operate Transfer (BOOT) agreement or similar type of agreement with joint public and private financing or with entirely private financing .

(2) The concessionaire or entrepreneur under the BOO/BOT/ BOOT or similar type of Contract shall normally be selected under Open Tendering, which may include several stages in order to arrive at the optimal combination of evaluation criteria, such as the cost and magnitude of the financing offered, the performance specifications of the facilities offered, the cost charged to the user or purchaser, other income generated by the facility, and the period of the facility's depreciation.

130. Responsibilities of the Government Regarding Monitoring, Etc. |— (1) The Central Procurement Technical Unit (CPTU) of IMED shall, in addition to the responsibility described in Section 67 (a) of the Act, perform the following responsibility under Section 67 (b) and (c), namely -

- (a) propose any Amendment to the Act, Rules or other Documents which appears necessary in the light of international practices and experience gained in the course of the Public Procurement process in Bangladesh.
- (b) issue guidance and instructions regarding the interpretation and implementation of these Rules and other Documents issued by it and give, upon request from the concerned Procuring Entity or Tenderer , advice and assistance to Procuring Entities without, however, diminishing the responsibility of a Procuring Entity.
- (c) prepare and distribute standard Documents to be used in connection with public Procurement.
- (d) prepare and submit to the Government an Annual Report of the previous financial year regarding the overall functioning of the public Procurement system, including recommendations on measures to be taken by the Government to revise and improve Procurement practices and other measures to enhance the quality of Procurement work.
- (e) deliver the Annual Report within the period specified in Schedule I from the beginning of the current financial year, which shall contain -
 - (i) statistics on Procurement undertaken during the year reporting the number

and value of Contracts awarded, the methods of Procurement used and for each method, the type of Procurement undertaken (i.e. Goods, Works, or Services), and the nationality of the successful Supplier, Contractor or Consultant (i.e. Bangladesh or foreign national);

- (ii) a summary of Procurement Post Reviews carried out during the previous financial year by Procuring Entities and by the CPTU in accordance with Section 24 of the Act and Rule 45;
 - (iii) statistics on training and other capacity development activities;
 - (iv) summary of complaints filed and sent to the Review Panel and status of complaints; and
 - (v) other activities of the CPTU.
- (f) for completion of each part of the Annual Report, it shall comply with the following durations -
- (i) three (3) months for the completion of the statistical report;
 - (ii) five (5) months for the completion of the summary on Procurement Post Reviews;
 - (iii) three (3) months for processing statistics on staffing and training and professional development of officials and Persons engaged in Public Procurement; and
 - (iv) three (3) months for producing data on other CPTU activities.
- (g) request, receive and evaluate other information or records from Procuring Entities to the extent appropriate to its information needs;
- (h) develop a public Procurement website which shall be structured as follows -
- (i) useful Documents which will provide the text of the Act, the Rules, procedures, the user guides and any new Document or instructions issued by the Government concerning public Procurement, and links to relevant international Treaties/Agreements/Regulations involving e.g. the World Trade Organisation (WTO), World Bank (WB), Asian Development Bank (ADB), Asia Pacific Economic Co-operation (APEC) and Association of South-East Asian Nations (ASEAN);
 - (ii) Public Procurement opportunities to which users should be able to gain easy access, advertisements of Annual Procurement Plans, Tender or Proposal notices and Contract award notices exceeding a threshold value determined by the Government for national and international Procurement opportunities; and
 - (iii) The CPTU Website shall maintain information as follows -
 - a. statistics, including the statistical report on Procurement conducted in Bangladesh; and
 - b. technical standards, providing a list of technical standards for reference by Procuring Entities to help them define the product/Works/Services they intend to procure.

(2) The CPTU shall publish concise bulletin relating to advertisements of Tenders or Proposals of values above the thresholds determined by the government on daily basis and bulletin relating to information on Procurement on quarterly basis.

(3) Unless otherwise directed by its controlling authority, the CPTU shall not provide an opinion on any specific Procurement or Contract or get involved in any specific Procurement.

(4) The CPTU's management information system shall track information on procurement

performance and post it on the website.

SCHEDULE I

[See Rule 4(1)]

PG1	National/International Procurement	Standard Request for Quotations Document for Procurement of Goods under Request for Quotation Method (SRFQ) (for values up to Tk. 0.5 million)
PG2	National Procurement	Standard Tender Documents for Procurement of Goods under Limited Tendering method (STD) (for values up to Tk. 2.5 million)
PG3	National Procurement	Standard Tender Documents for Procurement of Goods under Open Tendering Method (STD)(for values above Tk. 2.5 million)
PG4	International Procurement	Standard Tender Documents for Procurement of under Open Tendering Method (STD) (for any value)
PG5	National/International	Standard Tender Documents for Supply & Installation of Plant &

	Procurement	Equipment (STD) [Applicable for Single Stage and Two Stage Tendering method Procurement under “Turnkey Contract”]
PG6	International Procurement	Standard Request for Quotations Document for Procurement of divisible commodities in bulk under Request for Quotation Method (SRFQ) (for any value)
PQG	National/International Procurement	Standard Pre qualification Document for Supply & Installation of Plant& Equipment (PQG) (for values above Tk. 150 million)
PW1	National/International Procurement	Standard Request for Quotation Document for Procurement of Works under Request for Quotation Method (SRFQ) (for values up to Tk 0.5 million)
PW2	National Procurement	Standard Tender Document for Procurement of Works under Limited Tendering Method (STD) (for values up to Tk 10 million)
PW3	National Procurement	Standard Tender Document for Procurement of Works under Open Tendering Method without Pre qualification (STD) (for values up to Tk 350 million)
PW4	National Procurement	Standard Tender Document for Procurement of Works or Design Build Infrastructure under Open Tendering Method (STD) (for values above Tk 350 million)
PQW4	National Procurement	Standard Prequalification Document for Works (SPD) (for values above Tk 350 million)
PW5	International Procurement	Standard Tender Document for large and complex Works (STD) (for values above Tk 350 million)
PQW5	International Procurement	Standard Prequalification Document for Works (STD) – (for values above Tk 350 million)

Intellectual and Professional Service

PS1	National	Standard Request for Proposal Document for Selection amongst Community Services Organizations.(SRFP)
PS2	National	Standard Request for Proposal Document for for Selection amongst NGO's (SRFP)
PS3 & PS4	National	Standard Request for Application Document for selection of Individual Consultants on Lump-sum or Time-based Contracts

		(SRFA) (
PS5	National	Standard Request for Proposal Document for selection of Consulting Firms (SRFP)(for Simple Lump-Sum Contract up to Tk. 10 million).
PS6	National	Standard Request for Proposal Document for selection of Consulting Firms (SRFP) (for Simple Time-based Contract up to Tk. 10 million).
PS7	National	Standard Request for Proposal Document for selection of Consulting Firms (SRFP) (for Complex Lump-Sum Contract above Tk. 10 million).
PS8	National	Standard Request for Proposal Document for selection of Consulting Firms (SRFP) (for Complex Time-based Contract above Tk. 10 million).
PS9 &10	International	Standard Request for Application Document for selection of Individual Consultants on Lump-sum or Time-based Contracts (SRFA)
PS11	International	Standard Request for Proposal Document for selection of Consulting Firms (SRFP) (for Lump-Sum Contract –any value)
PS12	International	Standard Request for Proposal Document for selection of Consulting Firms (SRFP) (for Time-based Contract –any value)
PS N	National	Standard Request for Proposal Document for selection of Non-Consulting Services (SRFP) (any value)

Evaluation

EVWG		Guidance notes and formats for preparation of Evaluation report and Tender Opening for Procurement of Goods and Works
EVS		Guidance notes and formats for preparation of Evaluation report and Proposal Opening for Procurement of Services
PAP		Guidance notes and formats for preparation of Summary captioned “Purchase Proposal” by the Evaluation Committee for Approving authority

RPP	Procedures for Procurement Post Review
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SCHEDULE II

Rule #	<u>Times, Values, etc</u>
7	<p><u>Constitution of Tender or Proposal Opening Committee</u></p> <p>1(one) member from the TEC or PEC and 2(two) other members from the concerned Procuring Entity and other agencies as below -</p> <ul style="list-style-type: none"> (a) Chairperson; (b) Member; (c) Member-Secretary.
8(1), (2) & (8)	<p><u>Tender or Proposal Evaluation Committee</u></p> <ul style="list-style-type: none"> • Minimum five (5) and normally not exceed seven (7) members • Two (2) of whom at least shall be from outside the Ministry or Division or agencies under it, • At last five (5) members including two (2) outside members shall attend the Evaluation and sign the Evaluation Report <p><u>Tender or Proposal Evaluation Committee for low value Procurement</u></p> <ul style="list-style-type: none"> • Minimum three (3) members of whom one (1) member may be selected from another agency or another Procuring Entity • At last three (3) members shall attend the Evaluation and sign the Evaluation Report <p><u>Value of Contracts when number of the Evaluation Committee members may be reduced:</u></p> <ul style="list-style-type: none"> • Tk. 1.5 (one and a half) million or below for Procurement of Goods and related Services • Tk 3 (three)million or below for procurement of Works and Physical Services • Up to Tk. 500,000 (five hundred thousand) for intellectual and professional Services
8(14)	<p><u>Composition of the Technical Sub-Committee</u></p> <ul style="list-style-type: none"> • Maximum 3 members
8(15)	<p><u>Fee or Honorarium per Evaluation Committee Member</u></p> <ul style="list-style-type: none"> • Maximum Tk. 1,000 (one thousand) per member per meeting for Procurements above Tk.100 (one Hundred) million. • Maximum Tk. 600 (six hundred) per member per meeting for Procurements above Tk. 10 (ten) million up to Tk.100 (One Hundred) million • Maximum Tk. 300 (three hundred) per member per meeting for Procurements between Tk. 1 (one) million and Tk. 10 (ten) million. The inviting Procuring Entity shall pay the Honorarium to all members
	<u>Value of Contracts when external Members of Evaluation Committee may be from other Procuring Entities established under the same Ministry or Division</u>

9(2)(a)	<p><u>or Agency:</u></p> <p><u>Goods and related services</u></p> <ul style="list-style-type: none"> Up to Tk. 1.5 (one and a half) million for Procurement under Open Tendering and Limited Tendering Methods Up to Tk. 500,000 (five hundred thousand) for Procurement under Direct Procurement Method Up to Tk. 500,000 (five hundred thousand) for Procurement under Request for Quotation Method <p><u>Works and physical Services</u></p> <ul style="list-style-type: none"> Up to Tk. 3 (three) million for Procurement under Open Tendering and Limited Tendering Methods Up to Tk. 1 (one) million for Procurement under Direct Procurement Methods Up to Tk. 500,000 (five hundred thousand) for Procurement under Request for Quotation Method
9(2)(b)	<p><u>Services</u></p> <ul style="list-style-type: none"> Up to Tk. 5 (five) million for Procurement of intellectual and professional Services under Least Cost Selection Method Up to Tk. 500,000 (five hundred thousand) for procurement of intellectual and professional Services under Single Source Selection Method Up to Tk. 200,000 (two hundred thousand) for Procurement of unforeseen urgent Services under Request for Quotation Method
16(11)	<p><u>Posting Procurement Plan on CPTU's website</u></p> <ul style="list-style-type: none"> For Tk 10 (ten) million and above for Works, Goods and related Services For Tk. 5 (five) million and above for physical Services; and For Tk. 5 (five) million and above for intellectual and professional Services
18(1) (c)	<p><u>Time to provide minutes of the pre-Tender meeting</u></p> <ul style="list-style-type: none"> Maximum one (1) week
19(1) 117(10)	<p><u>Tender or Proposal Validity Period</u></p> <ul style="list-style-type: none"> Normally between sixty (60) and one hundred twenty (120) days
21(2)	<p><u>Time for Requesting Extension of Tender or Proposal Validity</u></p> <ul style="list-style-type: none"> Not later than 10 (ten) days before the expiry date of the Tender or Proposal Validity
22(3) & (5)	<p><u>Amount of Tender Security</u></p> <ul style="list-style-type: none"> Not exceeding three percent (3%) of the official estimated cost but as a fixed amount, in all cases, except for Item-by-Item Tenders or Lot-by-Lot Tenders containing lots with less than five (5) items in a lot.
22 (4)	<p><u>Tender Security for Item-by-Item Tenders or Lot-by-Lot Tenders</u></p> <ul style="list-style-type: none"> Two percent (2%) of the total value of the items or lots offered in one (1) Tender Security in the case of Item-by-Item Tenders or Lot-by-Lot Tenders containing lots with less than five (5) items in a lot.
27(1)	<p><u>Amount of Performance Security</u></p> <ul style="list-style-type: none"> Five percent (5%) of the Contract price for divisible commodities Ten percent (10%) of the Contract price for Goods and related Services Ten percent (10%) of the Contract price for Works if provision for advance

	<p>payment exists .</p> <ul style="list-style-type: none"> Five percent (5%) to ten percent (10%) if provision advance payment does not exist. Five percent (5%) to ten percent (10%) of the Contract price for physical Services
27(2)	<p><u>Amount of Performance Security in case of front loading,</u></p> <ul style="list-style-type: none"> Maximum twenty percent (20%) of the total Contract value
28(1)	<p><u>Percentage of Retention under Contracts for Works and physical Services</u></p> <ul style="list-style-type: none"> Not necessary if no advance payment has been effected and Performance Security of ten percent (10%) is submitted, The total percentage of Retention and Performance Security may not exceed ten percent (10%) if no advance payment has been made , except in the case under Sub-Rule 27(2)
28(3)	<p><u>Time for return of the remaining amount of Retention money or the Bank Guarantee</u></p> <ul style="list-style-type: none"> Within twenty-eight (28) days after the issue of the Certificate of Completion of Defect Liabilities
32	<p><u>Time Limit for Safe Custody of received Tenders, Applications and Proposals</u></p> <ul style="list-style-type: none"> Maximum two (2) working days
35(1)	<p><u>Time for notification to all Tenderers and Applicants by the Procuring Entity about rejection of all Tenders or proposals</u></p> <ul style="list-style-type: none"> Within seven (7) days of decision taken by the Head of the Procuring Entity
36(4)(a)	<p><u>Time for Issuance of Notification of Award</u></p> <ul style="list-style-type: none"> Within seven (7) working days of receipt of the approval but before expiry of the tender or proposal validity date
36(5)	<p><u>Quarterly Reports for Procurement proceeding</u></p> <ul style="list-style-type: none"> Tk.10 (ten) million and above for Goods and related Services and, Works and Physical Services Tk. 5 (five) million and above for intellectual and professional Services
37(1)	<p><u>Posting of Contract Awards in CPTU's website</u></p> <ul style="list-style-type: none"> Tk 10 (ten) million and above for Goods and related Services and Works and physical Services
126(3)	<ul style="list-style-type: none"> Tk. 5 (five) million and above for intellectual and professional Services
37(2) & 126 (3)	<p><u>Publication of Contract Awards in Procuring Entity's notice boards and posting in its websites</u></p> <ul style="list-style-type: none"> Below Tk.10 (ten) million for Goods and related Services and Works and physical Services Below Tk. 5 (five) million for intellectual and professional Services
37(1&2)	<p><u>Time for posting Contract Awards in CPTU's website</u></p> <ul style="list-style-type: none"> Within seven (7) of issuance of the NOA for <u>not less</u> than a month
39(3)	<p><u>Extensions of Intended Completion Date</u></p> <ul style="list-style-type: none"> Up to twenty percent (20%) of the original Contract time Above twenty percent (20%) of the original contract approval of HOPE shall be required

39(4)	<u>Time for decision by the Procuring Entity to extend the Intended Completion Date</u> <ul style="list-style-type: none"> within twenty-one (21) days of the Contractor asking the Project Manager for an extension
39(18)	<u>Amendment to the Contract by the Approving Authority</u> <ul style="list-style-type: none"> When increase on account of approved variations is within fifteen percent (15%) of the original Contract price but not exceeding Tk. 10 (ten) million
39(22)	<u>Time for payment to the Contractor</u> <ul style="list-style-type: none"> Within twenty-eight (28) days of the date of each certificate
39(29)	<u>Certification of the Final Payment due to the Contractor</u> <ul style="list-style-type: none"> Within fifty-six (56) days of receiving the Contractor's account if it is correct and complete
39(29)(a)	<u>Time Limit to issue Defects Liability Schedule</u> <ul style="list-style-type: none"> Within fifty-six (56) days from the Contractor's request for Final Payment.
39(33)	<u>Time Limit for the Procuring Entity to take over the Site and the Works</u> <ul style="list-style-type: none"> Within seven (7) days of the Project Manager's issuing a certificate of Completion.
43(1)	<u>Records of Procurement to be Maintained by a Procuring Entity</u> <ul style="list-style-type: none"> For a minimum period of five (5) years Longer than five (5) years in special cases with the approval of the Head of Procuring Entity or an authorized officer
46 (1)	<u>Procurement Post Review</u> <ul style="list-style-type: none"> When volume of Procurement of a Procuring Entity in one particular financial year is more than Tk.100 (one hundred) million
46 (1)& (6)	<u>Time for Procurement Post Review</u> <ul style="list-style-type: none"> Within nine (9) months of the end of each financial year
46 (3)	<u>Minimum Number & Percentage of Contracts for Procurement Post Review</u> <ul style="list-style-type: none"> Not less than fifteen percent (15%) of the number of contracts awarded in that year to be selected by the independent Consultant in such a manner as to cover at least thirty percent (30%) of the total contracts' value.
52(3) (b)	<u>Formation of the Enlistment Committee</u> <p>Minimum of three (3) members, of which</p> <ul style="list-style-type: none"> One (1) member may represent the financial unit, One (1) member may represent the technical units of the concerned Procuring Entity and One (1) member may be from outside the Procuring Entity.
52(3) (d)	<u>Updating the Enlistment- Time by which the Procuring Entity shall notify Suppliers and Contractors of the annual meeting</u> <ul style="list-style-type: none"> at least seven (7) days in advance of the meeting through advertisement
54(2)	<u>Value of non Judicial stamp for execution of contracts relating to JVCA</u> <ul style="list-style-type: none"> Tk. 300 (three hundred) or as required by the Government

57 (1)	<u>Time for Administrative Review of Complaints</u> <ul style="list-style-type: none"> Within seven (7) calendar days of becoming aware of the circumstances giving rise to the complaint.
57 (4)	<ul style="list-style-type: none"> Within five (5) working days of receipt of the complaint
57 (5)	<ul style="list-style-type: none"> Within three (3) working days after expiry of the fifth day of submission of complaint
57 (6)(a)	<ul style="list-style-type: none"> Within three (3) working days
57 (6) (b)	<ul style="list-style-type: none"> Within five (5) working days of receipt of the complaint
57 (7)	<ul style="list-style-type: none"> Within seven (7) working days of receipt of the complaint
57 (8)	<ul style="list-style-type: none"> Within five (5) working days of receipt of the complaint
57(9)	<ul style="list-style-type: none"> Within three (3) working days from the date of receipt of written decision
57(12)	<ul style="list-style-type: none"> Within seven (7) working days of receipt of the written decision
57(12) (c)	<u>Registration Fee and Security Deposit for Complaint to Review Panel</u> <u>For potential estimated Contract price or Tender price</u> <ul style="list-style-type: none"> Less than Tk. 10 (ten) million, the Registration Fee shall be Tk. 10,000 (ten thousand) and the Security Deposit shall be Tk. 50,000 (fifty thousand) Between Tk. 10 (ten) million and 50 (fifty) million, the Registration Fee shall be Tk. 15,000 (fifteen thousand) and the Security Deposit shall be Tk. 100,000 (one hundred thousand) Above Tk. 50 (fifty) million and up to 100 (one hundred) million, the Registration Fee shall be Tk. 20,000 (twenty thousand) and the Security Deposit shall be Tk. 200,000 (two hundred thousand) Above Tk. 100 (one hundred) million, the Registration Fee shall be Tk. 25,000 (twenty-five thousand) and the Security Deposit shall be Tk. 500,000 (five hundred thousand) For complaints concerning issues prior to Tender opening, the Registration Fee shall be Tk. 10,000 (ten thousand) and the Security Deposit shall be Tk. 50,000 (fifty thousand).
58(2)	<u>Number of well-reputed Specialists selected for Review Panels</u> <ul style="list-style-type: none"> Maximum of ten (10) legal experts Maximum of ten (10) technical experts of Public Procurement Maximum of ten (10) specialists on Contract management
58(2)(b)	<u>Number of Review Panels</u> <ul style="list-style-type: none"> There shall be three to five (3 to5) Review Panels
58(4)	<u>Incentive or Honorarium per Review Panel Member</u> <ul style="list-style-type: none"> Maximum Tk. 2,500 (two thousand five hundred) per meeting but not exceeding five (5) meetings in total for review of one (1) complaint
59(1)	<u>Time for Selection of Review Panel</u> <ul style="list-style-type: none"> Within five (5) working days
60 (2)	<u>Time for disposal of complaints by Review Panel</u> <ul style="list-style-type: none"> Within a maximum of twelve (12) working days from the date of receipt of the complaint, the Review Panel shall issue its written decision

61(4)	<p><u>Time for preparation and submission of Tenders for National Procurement of Goods, Works and Physical Services under the Open Tendering Method from the date of advertisement -</u></p> <ul style="list-style-type: none"> • Not less than fourteen (14) days for Procurement up to Tk. 3 million • Not less than twenty-one (21) days for contacts above Tk 3 million and up to Tk. 50 (fifty) million, • Not less than twenty-eight (28) days for contacts above Tk. 50 (fifty) million, • Not less than fourteen (14) days for emergency Procurement following a catastrophe, • Not less than fourteen (14) days for re-Tendering
63 (2)	<p><u>Financial limit for use of Limited Tendering Method under Enlistment</u></p> <ul style="list-style-type: none"> • Maximum Tk. 1.5 (one and a half) million in the case of Goods and related Services and “stand alone Services” • Maximum Tk. 3 (three) million in the case of Works and physical Services
64(5)	<p><u>Time for preparation and submission of Tenders from the date of publication of advertisement in the newspaper under Limited Tendering Method</u></p> <ul style="list-style-type: none"> • Not less than fourteen (14) days • Time for re-Tendering can be reduced to seven (7) days • Seven (7) days for Procurement under Rule 63 (b) and (c) • Below seven (7) days in the case of national disasters with the approval of Head of Procuring Entity
66(5)	<p><u>Time for submission of Technical Proposal in the 1st stage of Two-stage Tendering</u></p> <ul style="list-style-type: none"> • Forty-two (42) days from the date of publication of advertisement in the newspaper
67(5)	<p><u>Time for submission of the Tender Evaluation Report of the 1st stage</u></p> <ul style="list-style-type: none"> • Seven (7) days
68(3)	<p><u>The Minimum Time for Preparation for the 2nd stage in Two-stage Tendering</u></p> <ul style="list-style-type: none"> • twenty-one (21) days
69 (1) & 69(6) (a)&(c)	<p><u>Financial limit for RFQ of Goods and related Services and, Works and Physical Services</u> <u>Revenue Budget</u></p> <ul style="list-style-type: none"> • Maximum Tk. 100,000 (one hundred thousand) in each Procurement up to annual aggregate amount of Tk. 300,000 (three hundred thousand) for Goods and related Services • Maximum Tk. 200,000 (two hundred thousand) in each Procurement up to annual aggregate amount of Tk. 500,000 (five hundred thousand) for Works and physical Services <p><u>Development Budget</u></p> <ul style="list-style-type: none"> • Maximum Tk. 200,000 (two hundred thousand) in each Procurement up to annual aggregate amount of Tk. 500,000 (five hundred thousand) for Goods and related Services • Maximum Tk. 300,000 (three hundred thousand) in each Procurement up to annual aggregate amount of Tk. 1,000,000 (one million) for Works and physical Services
69(6)(b)	<p><u>Procurement for national Carriers</u></p> <ul style="list-style-type: none"> • Maximum Tk. 500,000 (five hundred thousand) in each case

71(4)	<u>Time limit for invitation under the RFQ Method</u> <ul style="list-style-type: none"> Less than ten (10) days from the date of invitation for quotations
74(4)	<u>Variation Order Limit</u> <ul style="list-style-type: none"> Fifteen percent (15%) of the original Contract price
76(1)(J)	<u>Value of Direct contracting of goods, works, services of very urgent or essential nature</u> <ul style="list-style-type: none"> Maximum Tk.2,000,000 (two million) in each Procurement up to annual aggregate amount of Tk. 3,000,000 (three million)
76(1)(K)	<ul style="list-style-type: none"> Maximum Tk.50,000 (fifty thousand) in each Procurement up to annual aggregate amount of Tk.100,000 (One hundred thousand) with the approval of the HOPE
77(a)	<u>Limit for Additional Deliveries of Goods and Repeat Orders</u> <ul style="list-style-type: none"> Fifteen percent (15%) of the original Contract price
78(3)	<u>Limit for Variation and Extra Work Orders for Works and physical services</u> <ul style="list-style-type: none"> Fifteen percent (15%) of the original contract price
79(1)	<u>Time for claiming for Variation Order</u> <ul style="list-style-type: none"> Within seven (7) calendar days of being aware of the need for the Variation Order.
79(2)(c)	<u>Timeframe for Processing of Variation Orders</u> <ul style="list-style-type: none"> Not exceeding thirty (30) days from its preparation to approval
80(4) (b)(i)	<u>Cumulative increase in value of Works on the project</u> <ul style="list-style-type: none"> Does not exceed ten percent (10%) of the adjusted original Contract price
81	<u>Annual Aggregate Amount for Direct Cash Purchase</u> <ul style="list-style-type: none"> Maximum Tk. 200,000 (two hundred thousand) but not exceeding Tk. 15,000 (fifteen thousand) in a single Procurement
82	<u>Annual Aggregate Amount for Procurement under Force Account</u> <ul style="list-style-type: none"> Maximum Tk. 200,000 (two hundred thousand) in each case
83(1)(a)	<u>Time for preparation and submission of Tenders for International Procurement of Goods and related Services and Works and physical Services</u> <ul style="list-style-type: none"> Not less than forty-two (42) days from the date of publication of advertisement in the newspaper in case of Open Tendering Method Not less than twenty-eight (28) days from the date of publication of advertisement in the newspaper in case of re-Tendering Not less than forty-two (42) days from the date of publication of advertisement in the newspaper in 1st stage and not less than twenty-one (21) days for preparation in 2nd stage in case of Two-Stage Tendering Method
83(1) (e) & 98(21)(e)	<u>Domestic preference for national Suppliers and Contractors</u> <ul style="list-style-type: none"> Maximum 15% (fifteen percent) of the delivered price for Goods Maximum 7.5% (seven and a half percent) of the contract price for Works
88(1)	<u>Procurement by Embassies and national carriers</u> <ul style="list-style-type: none"> Maximum Tk. 500,000 (five hundred thousand) in each case
88(2)	<ul style="list-style-type: none"> Maximum Tk 1 (one) million in each case.

90 (2)(c)	<u>Advertisement in Local and Regional Daily Newspapers</u> <ul style="list-style-type: none"> When the official estimated cost is Tk. 500,000 (five hundred thousand) or below
90(2)(i)	<u>Posting of Procurement related notices in CPTU's Website</u> <ul style="list-style-type: none"> When the official estimated cost of Procurement is Tk. 10 (ten) million and above for Goods and related Services and Works and physical Services When the official estimated cost of Procurement is Tk. 5 (five) million and above for intellectual and professional Services Advertisement shall be sent to the CPTU and the newspapers simultaneously.
91 (1)	<u>Pre-Qualification Thresholds</u> <ul style="list-style-type: none"> Construction Works above Tk. 350 (three hundred fifty) million Maintenance Works above Tk. 35 (thirty five) million; Supply and installation of plant and equipment above Tk. 150 (one hundred fifty) million; Design and build infrastructure above Tk. 350 (three hundred fifty) million; Custom designed equipment above Tk. 35 (thirty five) million; Management contracts above Tk. 350 (three hundred fifty) million
91(4)	<u>Time allowed for Applicants to prepare their Applications for Pre-Qualification</u> <ul style="list-style-type: none"> Minimum twenty-one (21) days
91(7)	<u>Time before which Requests for Clarification on Pre-Qualification Document from Applicants shall be Received by the Procuring Entity</u> <ul style="list-style-type: none"> Seven (7) working days prior to the deadline for submission of Applications
91(8)	<u>Time by which Response to Clarifications on Pre-Qualification Document received from Applicants</u> <ul style="list-style-type: none"> Within five (5) working days
93(9)	<u>Number of Pre-Qualified Applicants</u> <ul style="list-style-type: none"> Minimum three (3) Applicants
93(18)	<u>Time Limit for Pre-Qualified Applicants to advise of change in its structure or formation</u> <ul style="list-style-type: none"> No later than fourteen (14) days after the date of the Invitation for Tenders.
94(11)	<u>Distribution of Minutes of Pre-Tender Meeting by the Procuring Entity</u> <ul style="list-style-type: none"> Within five (5) working days after holding the meeting
95(2) & 117(19)	<u>Time by which the Procuring Entity responds to clarifications on Tender or Proposal Document and issues an Addendum</u> <ul style="list-style-type: none"> Within five (5) working days of receipt of request for clarification
95(3)	<u>Time by which Tenderers shall acknowledge receipt of Amendment or Addenda</u> <ul style="list-style-type: none"> Within three (3) working days
95(4)	<u>Time by which Tenderers shall inform the Procuring Entity about the Absence of Addenda or amendment or response for Clarification</u> <ul style="list-style-type: none"> Before two-third of the time allowed for the submission of Tenders has

	elapsed.
95(6)	<u>Time Extension in case of Modification of Tender Document</u> <ul style="list-style-type: none"> If an amendment is made when less than one-third of the time allowed for the preparation of Tenders remains Minimum Time for extension is three (3) days
96(11)(a)	<u>Multiple dropping of Tenders for Goods and related Services and Works and Physical Services</u> <ul style="list-style-type: none"> When the official estimated cost of the Procurement is Tk. 3 (three) million and above Must be delivered to the primary place within three (3) hours of the deadline for submission.
101(4)	<u>Time for Response by TEC to Objections received from the Approving Authority</u> <ul style="list-style-type: none"> Within three (5) working days from the date of receipt
102 (3) & (4)	<u>Time for written acceptance of NOA by the successful Tenderer</u> <ul style="list-style-type: none"> Within seven (7) days from the date of issuance of NOA
102(7)	<u>Time for submission of Performance Security by successful Tenderer</u> <ul style="list-style-type: none"> Within fourteen (14) days from the date of acceptance of NOA but not later than the date specified in the NOA for national Tenders. Within twenty-eight (28) days from issue of the NOA for international Tenders.
102(11)	<u>Time for signing of Contract by the successful Tenderer</u> <ul style="list-style-type: none"> Within twenty-eight (28) days of the issuance of NOA. Within twenty-eight (28) days of the issuance of NOA for international Procurement.
104(a)	<u>Least Cost Selection of Consultant</u> <ul style="list-style-type: none"> Maximum Tk. 5 (five) million
104(d)(ii)(b)	<u>Single Source Selection of Consultant</u> <ul style="list-style-type: none"> Maximum Tk. 1,000,000 (one million) for consulting firms Maximum Tk. 500,000 (five hundred thousand) for individual consultants
104 (d) (viii)	<u>Value of Variation Order for Intellectual and Professional Services</u> <ul style="list-style-type: none"> Maximum fifteen percent (15%) of the original Contract price
113(2)	<u>Time for preparation and submission of Expression of Interest for Procurement of intellectual and professional Services</u> <ul style="list-style-type: none"> Minimum fourteen (14) days for national Procurement Minimum twenty-one (21) days for international Procurement
115(3)	<u>Number of Consultants in a short-list</u> <ul style="list-style-type: none"> not less than four (4) and not more than seven (7) Applicants preferably six (6)
	<u>Time for preparation and submission of Proposal for intellectual and professional Services</u> <ul style="list-style-type: none"> Minimum twenty-eight (28) days for national Procurement

117(19)	<ul style="list-style-type: none"> Minimum forty two (42) days for international Procurement
127(5)(b)	<p><u>Time by which the Head of the Procuring Entity decides or forms committee on professional misconduct, offences etc.</u></p> <ul style="list-style-type: none"> Within (five) 5 working days from the date of receipt of the relevant report
127(5) (c)	<p><u>Time by which the Committee submits its report and recommendation to the HOPE.</u></p> <ul style="list-style-type: none"> Within (five) 5 working days from the date of receipt of the relevant report
130(e)	<p><u>Delivery of Annual Report by CPTU to the Government</u></p> <ul style="list-style-type: none"> Within seven (7) months from the beginning of the current Fiscal Year

Preliminary Working Draft

SCHEDULE- III

Part-A : [Rule 8(14)]

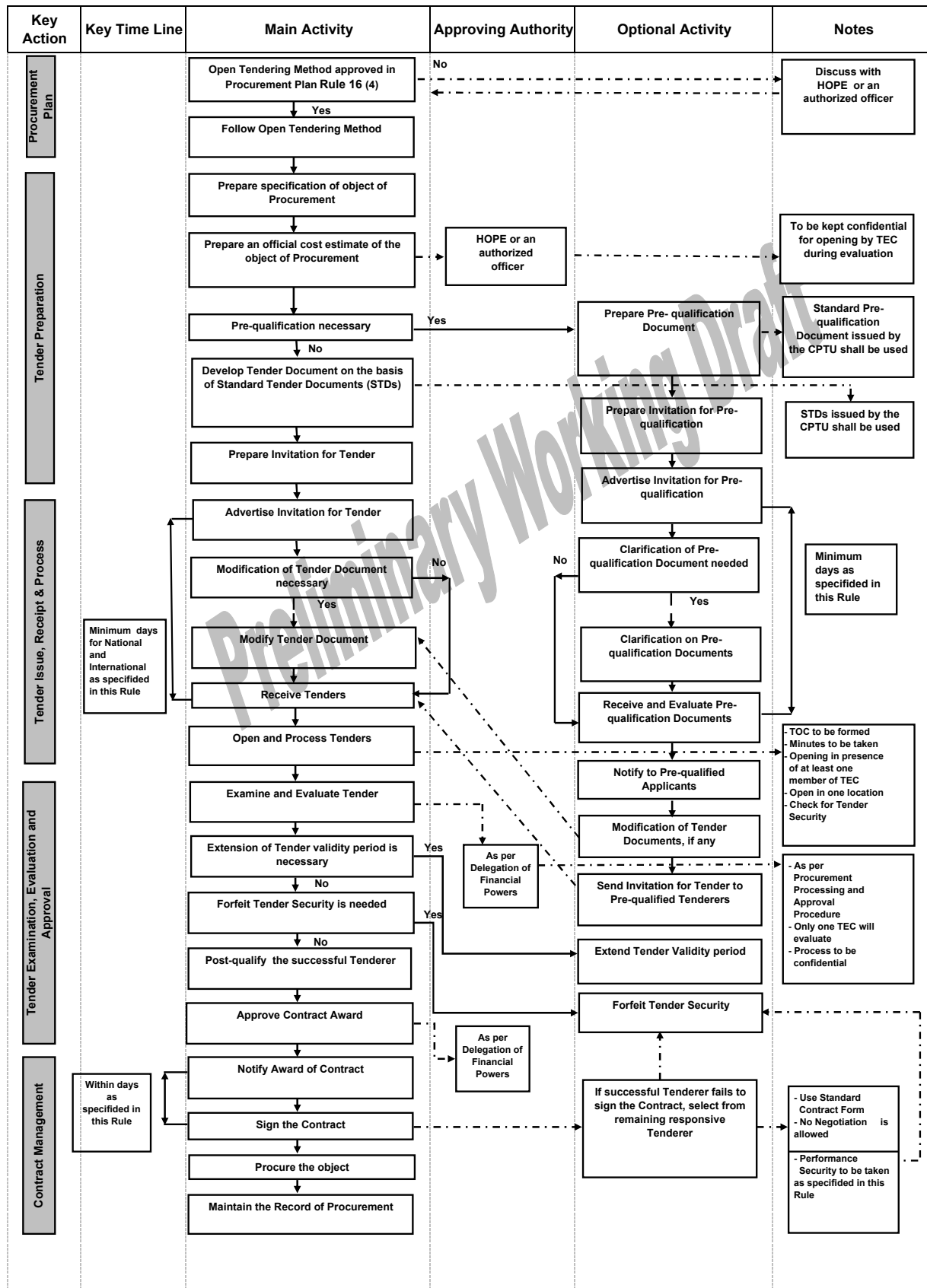
Procurement Processing and Approval Timetable)

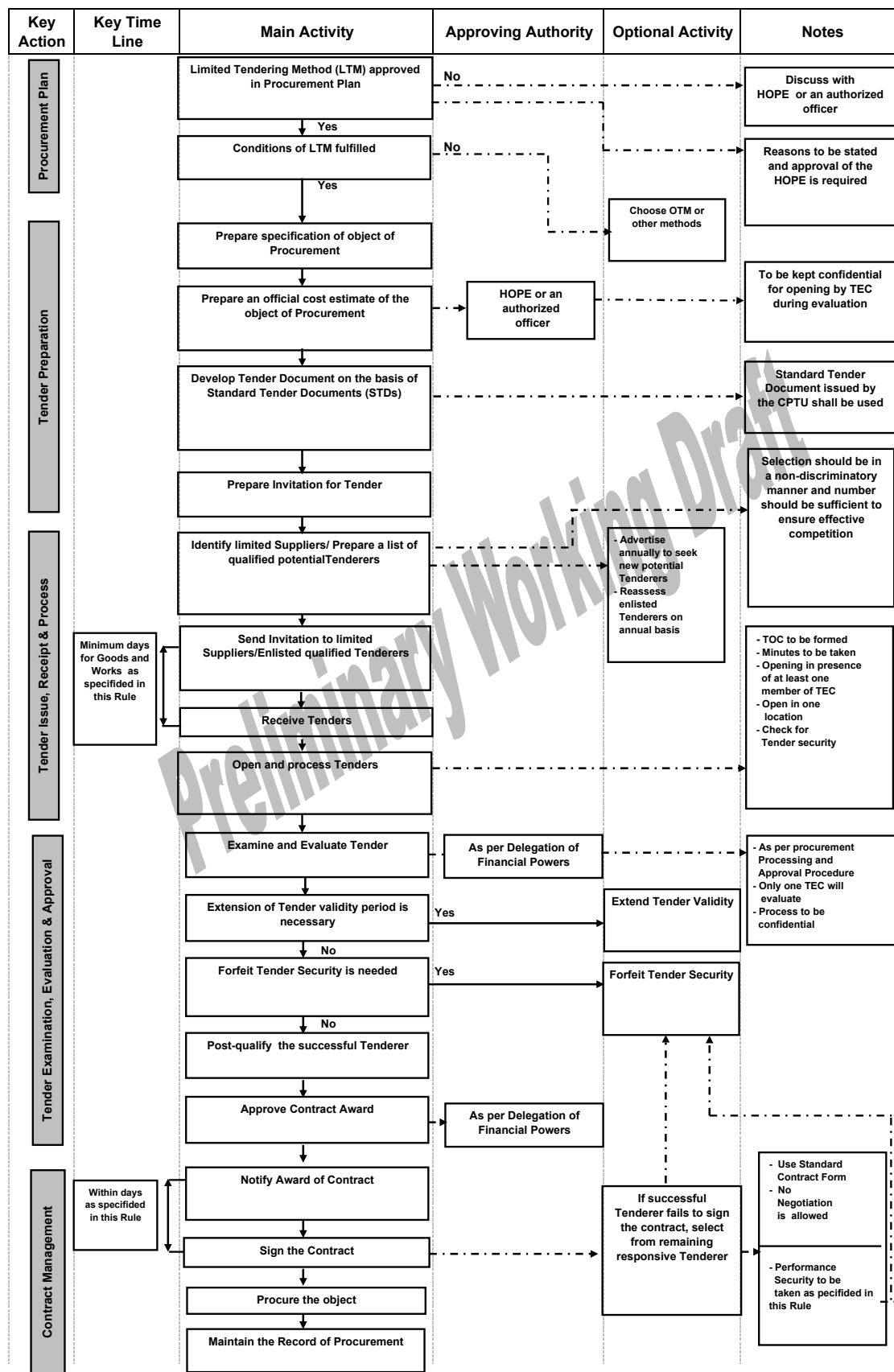
Approval Approving Authority	Technical Sub-committee (TSC) [If required]	Tender Evaluation Committee (TEC)/ Proposal Evaluation Committee (PEC)*	Project Director/Project Manager/Authorized Officer/ Head of Procuring Entity (HOPE)	Board of Directors	Ministry Minister/ Secretary	Cabinet Committee on Government Purchase (CCGP)	Total Period when Technical Sub-Committee is	
							Not Required	Required
Project Director (PD), or Project Manager (PM), Authorized Officer (AO)	2 weeks	2 weeks	1 week Approval ↓ & 1 week issue of NOA	NA	NA	NA	4 weeks	6 weeks
Head of Procuring Entity (HOPE)	2 weeks	3 weeks	2 week Approval ↓ & 1 week issue of NOA	NA	NA	NA	6 weeks	8 weeks
Board of Directors	3 weeks	3 weeks	2 weeks CE Scrutiny & observation ↓ & 1 week issue of NOA	2 weeks Approval by Board	NA	NA	8 weeks	11 weeks
Ministry/Minister	3 weeks	3 weeks	2 weeks HOPE/ Scrutiny & observation ↓ & 1 week issue of NOA		2 week Secretary Recommendation ↑↓ 1 week Minister Approval	NA	9 weeks	12 weeks
Cabinet Committee on Government Purchase (CCGP)			2 weeks HOPE Scrutiny & observation ↓ & 1 week issue of NOA		3 weeks Secretary Scrutiny & observation ↓ 1 week Minister Recommendation	As required if expeditious decision before expiry of tender validity period	10+ weeks	13+ weeks
A. simple Cases	3 weeks	3 weeks						
B. Complex Cases	4 weeks	4 weeks	2 weeks HOPE Scrutiny & observation ↓ & 1 week issue of NOA		3 weeks Secretary Scrutiny & observation ↓ 1 week Minister Recommendation	As required if expeditious decision before expiry of tender validity period	11+ weeks	15+ weeks

Note : 1. For aided project/programme where prior review of a development partner is required at any stage of Procurement processing and approval the time required for such review shall be added to the above time table.
2. For all cases of evaluation of consultancy proposals one week's time in addition to above time table shall be allowed to the PEC for evaluation/negotiation etc.

Part-B : [See Rule 61 (7)]

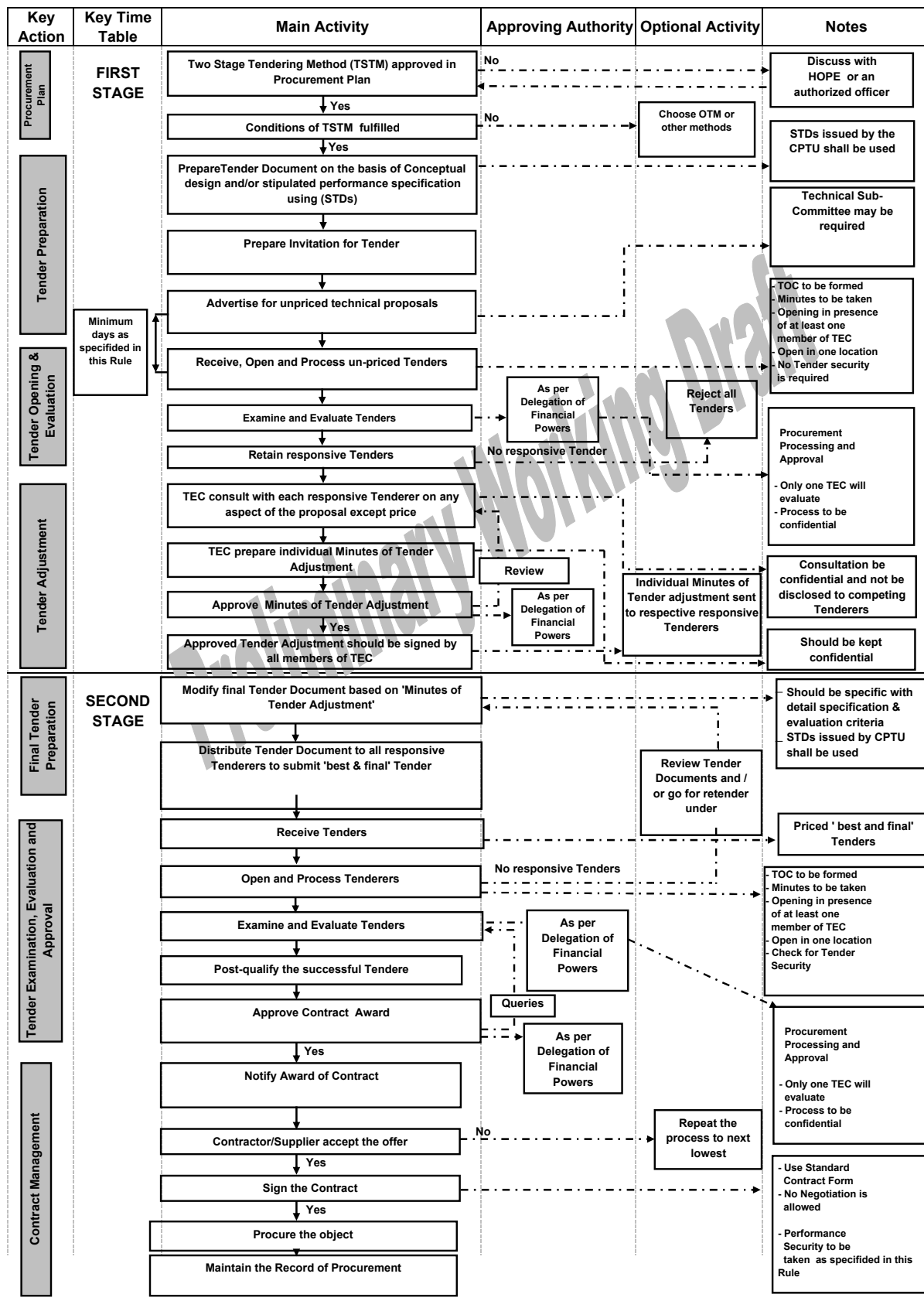
OPEN TENDERING METHOD



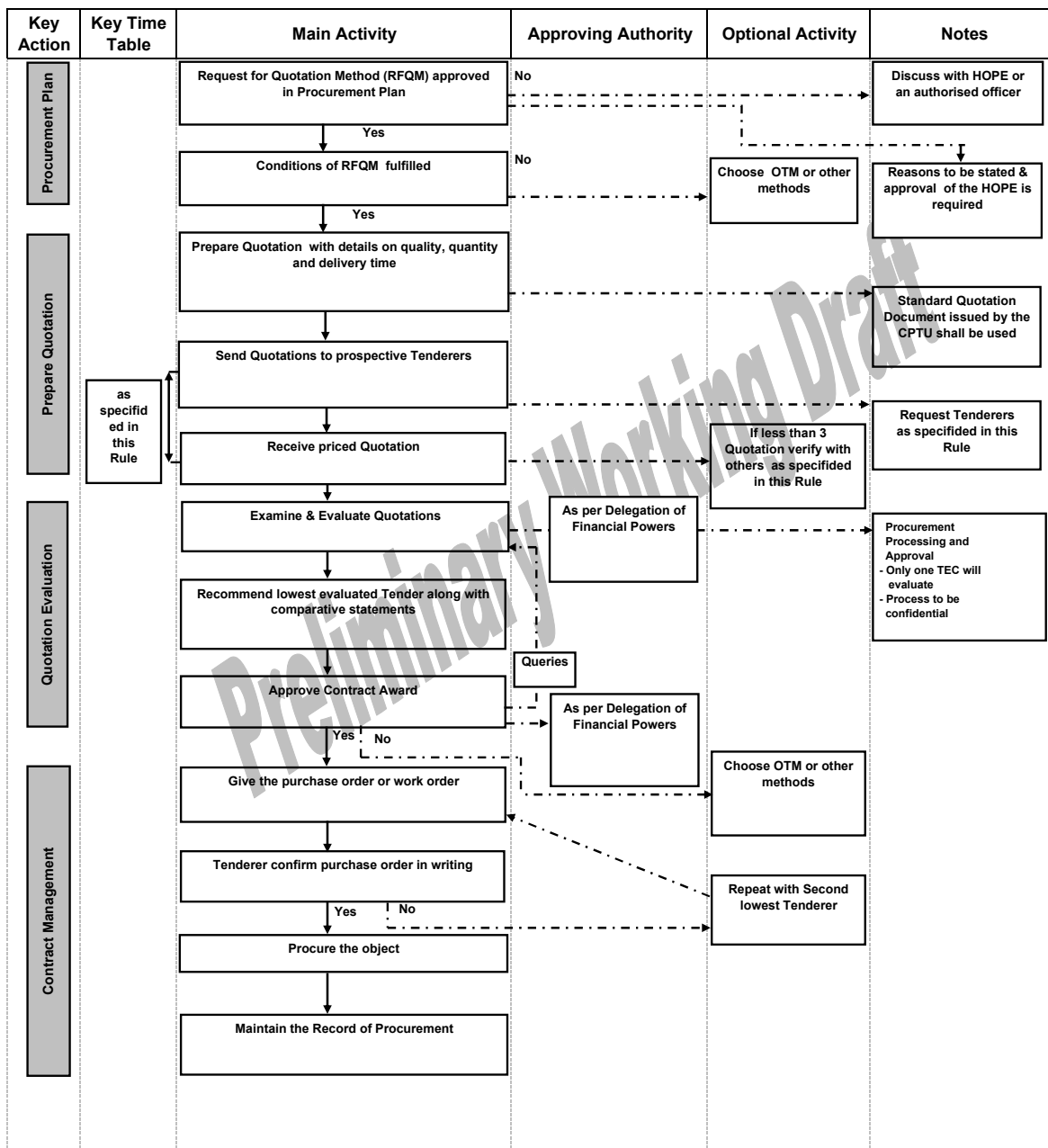
Part-C : [See Rule 62 (2)]**LIMITED TENDERING METHOD**

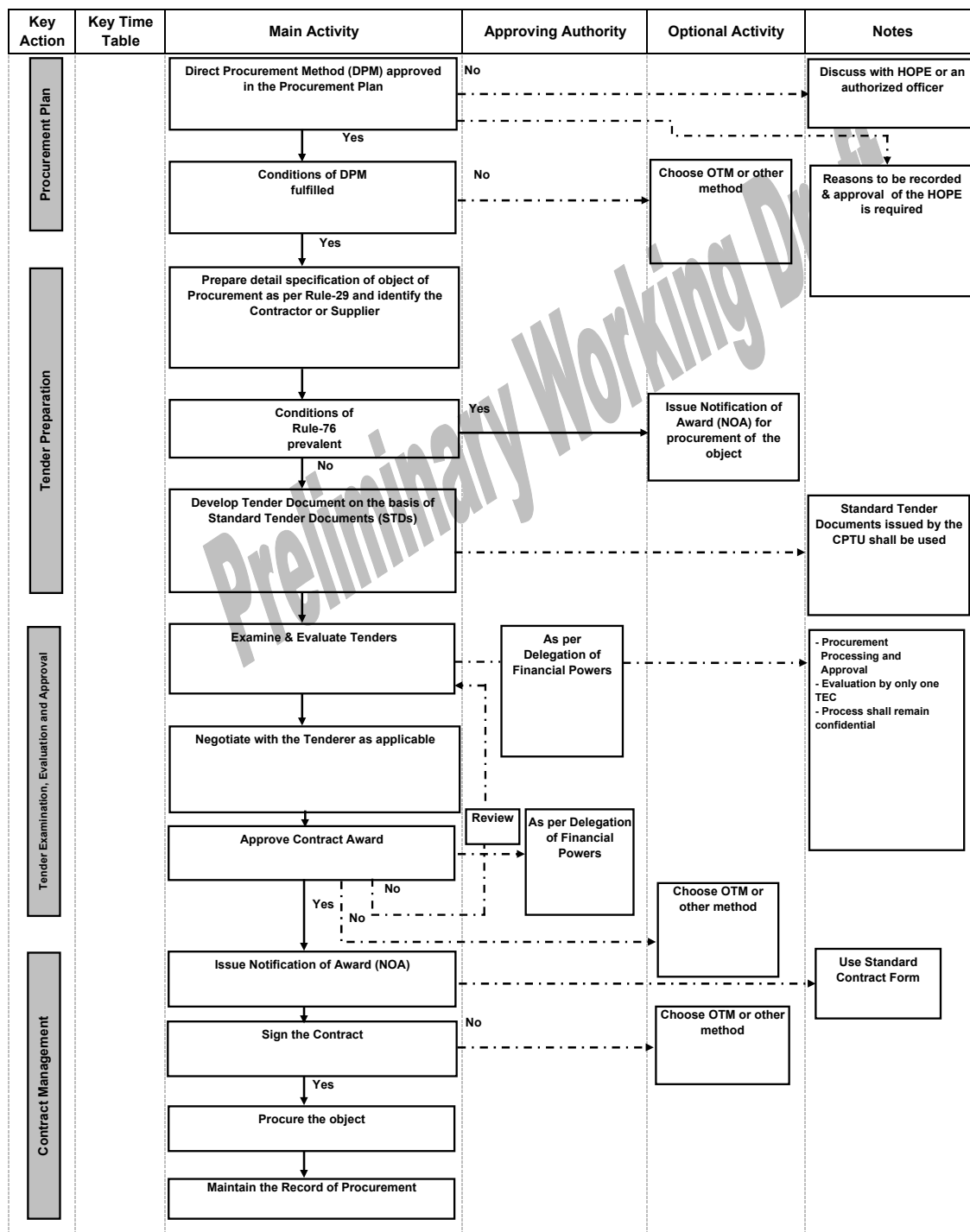
Part-D : [See Rule 62 (2)]

TWO STAGE TENDERING METHOD



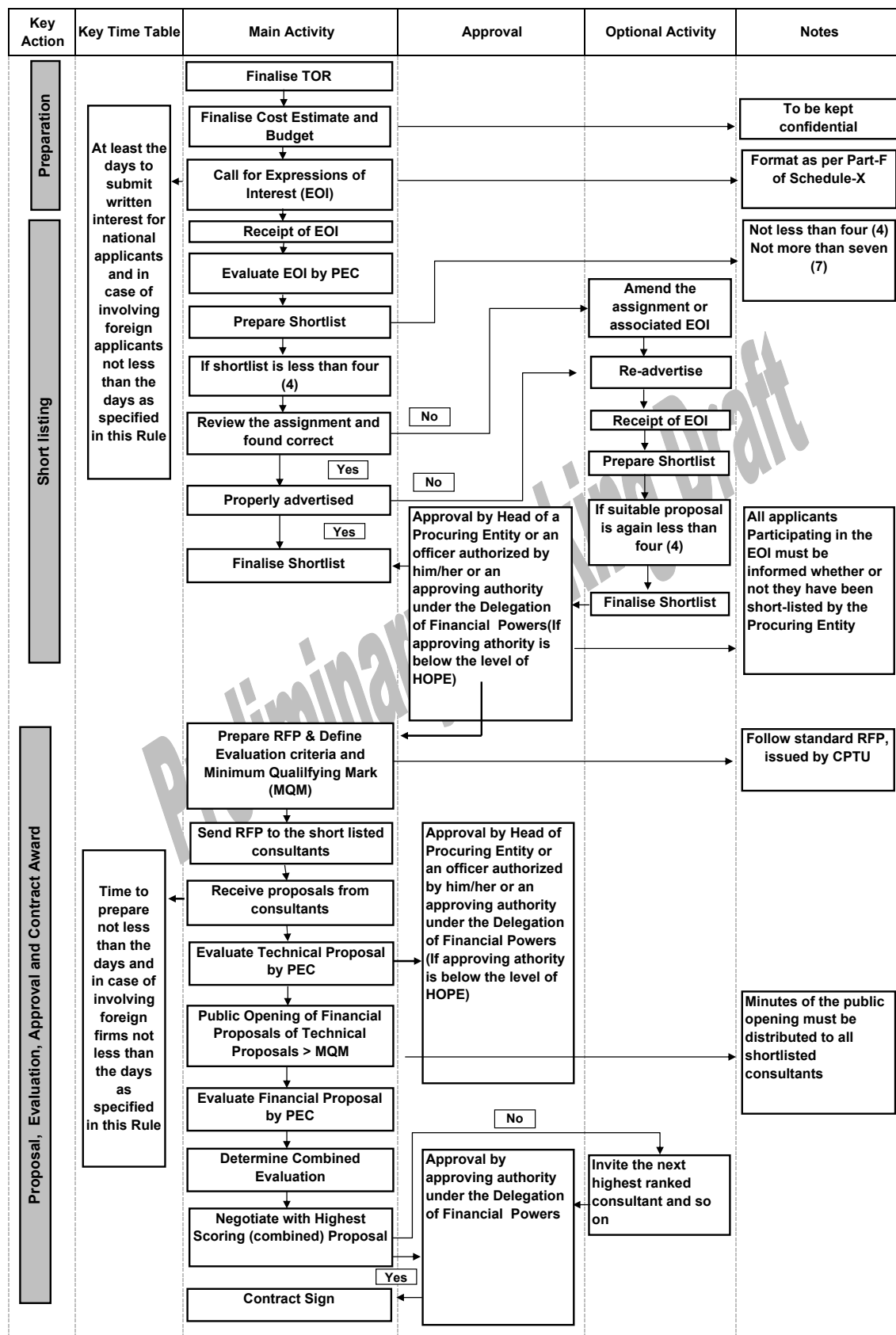
Part-E : [See Rule 62 (2)]
REQUEST FOR QUOTATION METHOD



Part-F : [See Rule 62 (2)]**DIRECT PROCUREMENT METHOD**

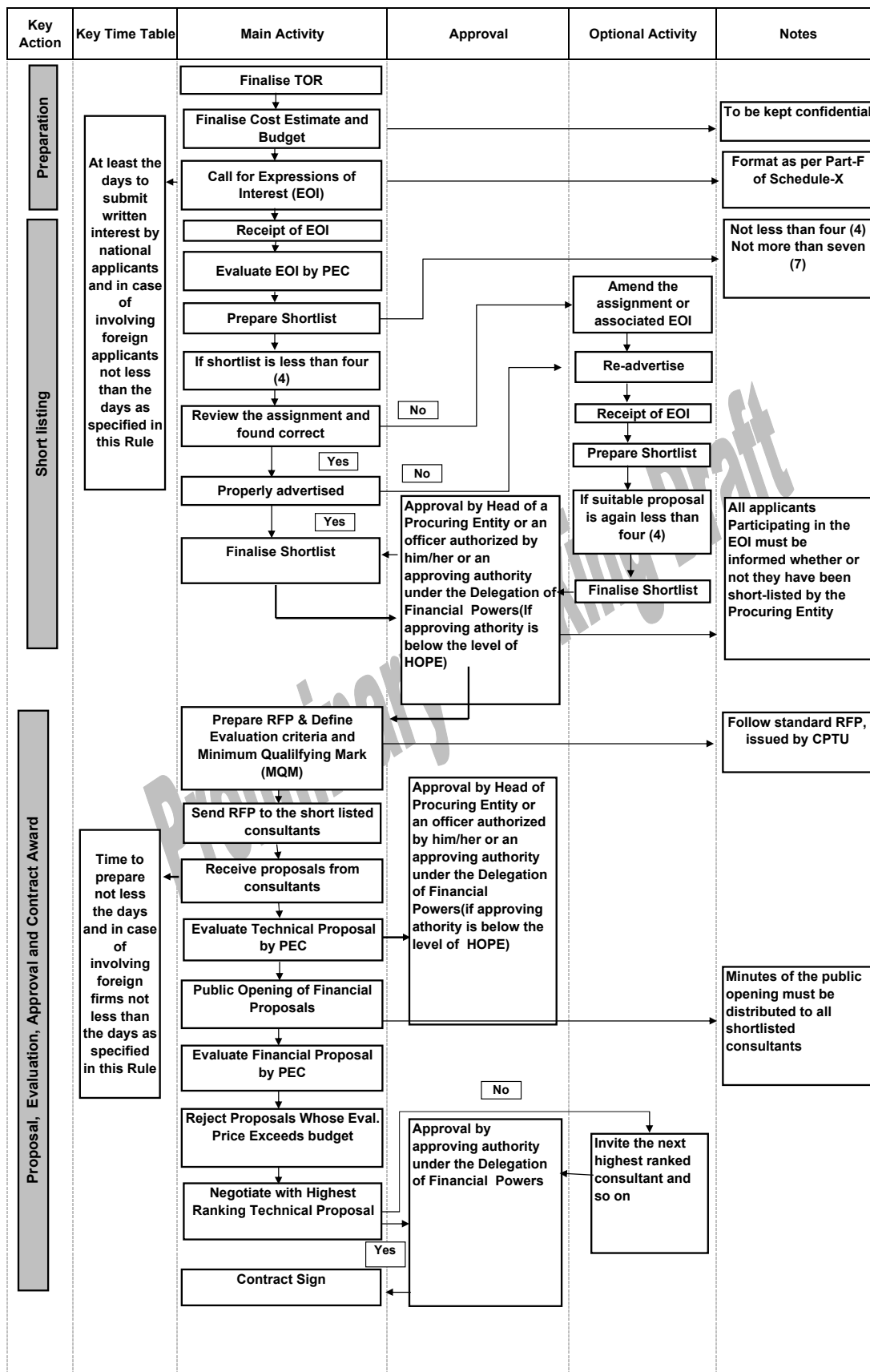
Part-G: [See Rule 105 (2)]

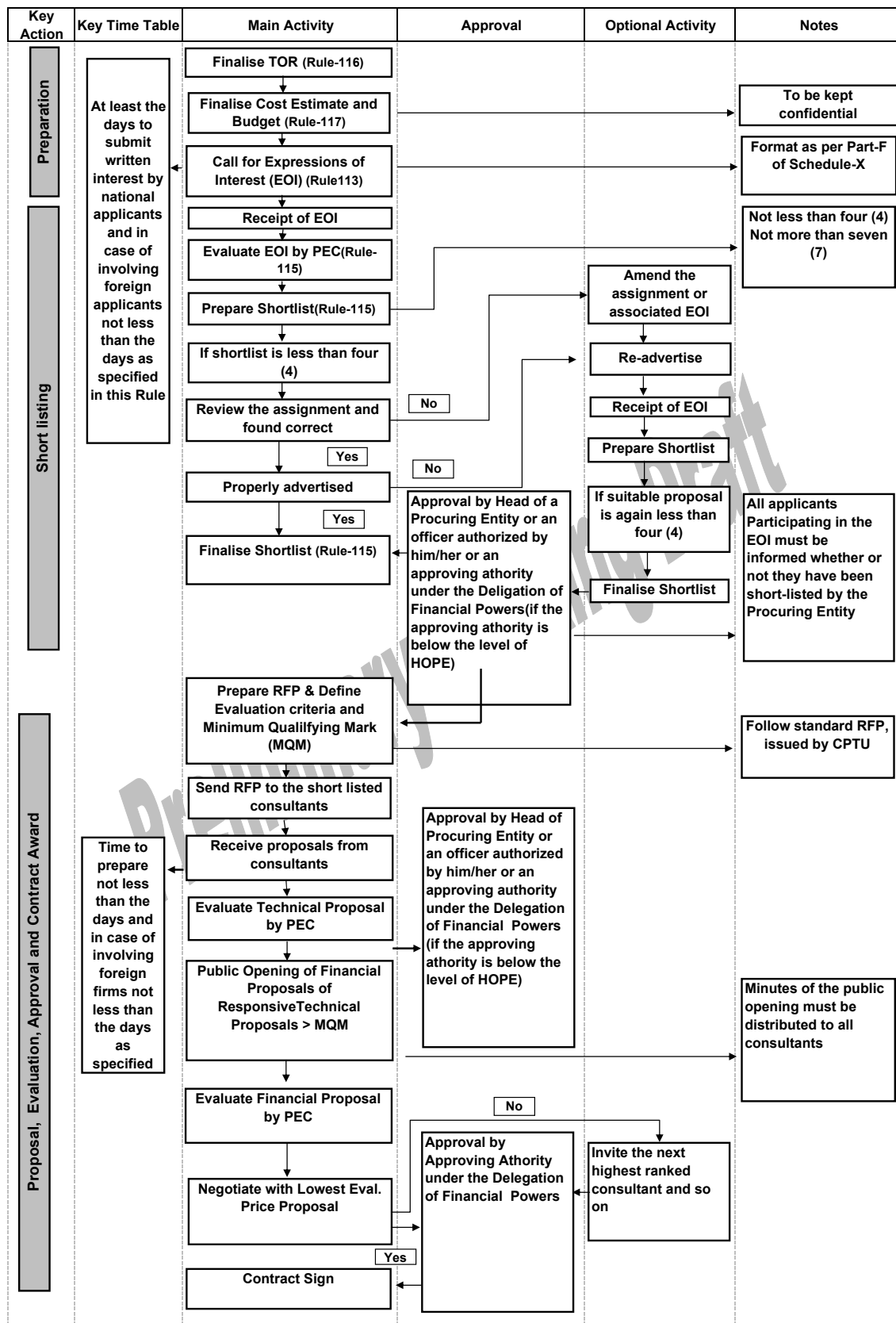
PROCUREMENT OF SERVICES BY QCBS METHOD



Part-H: [See Rule 106 (2)]

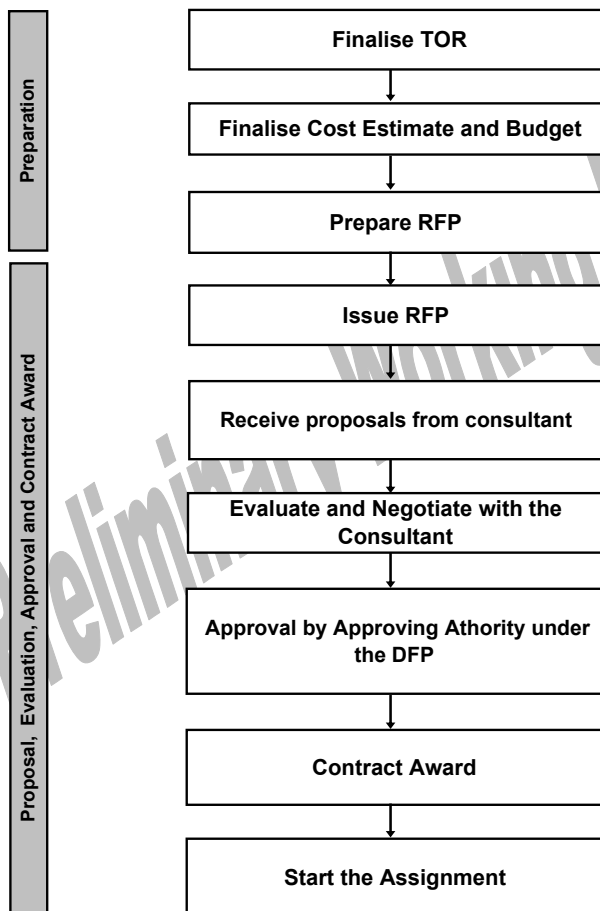
PROCUREMENT OF SERVICES BY SFB METHOD



Part-I: [See Rule 106 (2)]**PROCUREMENT OF SERVICES BY LCS METHOD**

Part-J: [See Rule 110 (7)]

PROCUREMENT OF SERVICES BY SSS METHOD



SCHEDULE IV

Part-A : [See Rule 16]

Procurement Processing and Approval Procedure for Goods or Works

PROCURING ENTITY AND DESCRIPTION OF PROCUREMENT				
Ministry / Division				
Agency				
Procuring Entity				
Name of the Project (if applicable)				
Source of Funds (tick relevant boxes)	Government	<input type="checkbox"/>	Development	<input type="checkbox"/>
	Project Aid	<input type="checkbox"/>	Revenue	<input type="checkbox"/>
	Own Funds	<input type="checkbox"/>		
Brief Description of Goods or Works				
PROCUREMENT METHOD				
SCHEDULE OF ACTIVITIES				
Sl No	Activity (if not applicable indicate N/A)	Planned Date (as per flow chart)	Actual Date	If any Delay Indicate No. of days
A	PRE-QUALIFICATION			
A1	Date of Advertisement of Invitation			
A2	Date of Submission of Applications			
A3	Date of Pre-Qualification meeting (if any)			
A4	Date of Submission of Evaluation Report with Recommended List			
A5	Date of Approval of List			
B	TENDER FOR GOODS OR WORKS			
B1	Date of Advertisement of Invitation for Tenders			
B2	Date of Issue of Tender Document (if different from B1 above)			
B3	Date of Pre-Tender meeting			
B4	Date of submission of Tenders			
B5	Date of Opening of Tenders (if different from B4)			
B5	Date of Submission of Technical Sub-Committee Report, where applicable			

B6	Date of Submission of Evaluation Report			
B7	Date of Approval for Award of Contract			
SCHEDULE OF ACTIVITIES IN PPPAP PROCESS				
Date of submission of Tender Evaluation Report to the approving authority		Planned Date (as per flow chart)		Actual Date
Project Director Project Manager Authorised Officer		Received		
		Approved/ Reviewed		
		Forwarded		
Head of Department / Directorate Head / Chief Executive of a - Corporation - Autonomous Body - Semi-Autonomous Body		Received		
		Approved/ Reviewed		
		Forwarded		
Board of Directors		Received		
		Approved/ Reviewed		
		Forwarded		
Ministry / Division		Received		
		Approved/ Reviewed		
		Forwarded		
CCGP		Received		
		Approved/ Reviewed		
		Forwarded		
Date of Issue of the Notification of Award (NOA) for Goods or Works				
Signature of Chairperson of Tender Evaluation Committee (TEC)				
Name and Designation of Chairperson of Tender Evaluation Committee (TEC)				

Part-B : [See Rule 8(18)]

Procurement Processing and Approval Procedure for Services (Firms)

PROCURING ENTITY AND DESCRIPTION OF PROCUREMENT							
Ministry / Division							
Agency							
Procuring Entity							
Name of the Project (if applicable)							
Source of Funds (tick relevant boxes)		Government	<input type="checkbox"/>	Development	<input type="checkbox"/>	Revenue	<input type="checkbox"/>
		Project Aid	<input type="checkbox"/>				
		Own Funds	<input type="checkbox"/>				
Brief Description of Services							
PROCUREMENT METHOD							
SCHEDULE OF ACTIVITIES							
Sl No	Activity (if not applicable indicate N/A)	Planned Date (as per flow chart)	Actual Date	If any Delay Indicate No. of days			
C	EXPRESSION OF INTEREST (FIRMS)						
C1	Date of Advertisement of request for EOI						
C2	Date of Receipt of EOIs						
C3	Date of Submission of Recommended Short-listed Firms						
C4	Date of Approval of Recommended Short-listed Firms						
C5	Date of Issue of (RFP)						
C6	Date of Submission of Proposals						
C7	Date of Submission of Evaluation Report for Technical Proposals						
C8	Date of Approval of Evaluation of Technical Proposals						
C9	Date of Opening of Financial Proposals						
C10	Date of Completion of Combined Evaluation						
C11	Date of Submission of combined Evaluation Report						

C12	Date of completion of Negotiations			
C13	Date of Approval for Award of Contract			
SCHEDULE OF ACTIVITIES IN PPPAP PROCESS				
	Date of submission of Proposal Evaluation Report to the approving authority	Planned Date (as per flow chart)	Actual Date	Delay (in days)
	Project Director	Received		
	Project Manager	Approved/ Reviewed		
	Authorised Officer	Forwarded		
	Head of Department / Directorate	Received		
	Head / Chief Executive of a	Approved/ Reviewed		
	- Corporation	Forwarded		
	- Autonomous Body			
	- Semi-Autonomous Body			
	Board of Directors	Received		
		Approved/ Reviewed		
		Forwarded		
	Ministry / Division	Received		
		Approved/ Reviewed		
		Forwarded		
	CCGP	Received		
		Approved/ Reviewed		
		Forwarded		
	Date of Issue of the Notification of Award (NOA)			
	Signature of Chairperson of Tender Evaluation Committee			
	Name and Designation of Chairperson of Tender Evaluation Committee			

Part-C : [See Rule 8(18)]

Procurement Processing and Approval Procedure for Services (Individuals)

PROCURING ENTITY AND DESCRIPTION OF PROCUREMENT				
Ministry / Division				
Agency				
Procuring Entity				
Name of the Project (if applicable)				
Source of Funds (tick relevant boxes)	Government	<input type="checkbox"/>	Development	<input type="checkbox"/>
	Project Aid	<input type="checkbox"/>	Revenue	<input type="checkbox"/>
	Own Funds	<input type="checkbox"/>		
Brief Description of Services				
PROCUREMENT METHOD				
SCHEDULE OF ACTIVITIES				
Sl No	Activity (if not applicable indicate N/A)	Planned Date (as per flow chart)	Actual Date	If any Delay Indicate No. of days
D	EXPRESSION OF INTEREST (INDIVIDUAL)			
D1	Date of Advertisement of request for EOI			
D2	Date of Receipt of EOI			
D3	Date of Evaluation of EOI			
D4	Date of Interview of Selected Individuals			
D5	Date of Evaluation of Final Selection List			
D6	Date of Submission of Evaluation Report			
D7	Date of Approval of Consultants			

SCHEDULE OF ACTIVITIES IN PPPAP PROCESS				
Date of submission of Proposal Evaluation Report to the approving authority	Planned Date (as per flow chart)		Actual Date	Delay (in days)
Project Director Project Manager Authorised Officer	Received			
	Approved/ Reviewed			
	Forwarded			
Head of Department / Directorate Head / Chief Executive of a - Corporation - Autonomous Body - Semi-Autonomous Body	Received			
	Approved/ Reviewed			
	Forwarded			
Board of Directors	Received			
	Approved/ Reviewed			
	Forwarded			
Ministry / Division	Received			
	Approved/ Reviewed			
	Forwarded			
CCGP	Received			
	Approved/ Reviewed			
	Forwarded			
Date of Issue of the Notification of Award (NOA)				
Signature of Chairperson of Tender Evaluation Committee				
Name and Designation of Chairperson of Tender Evaluation Committee				

Steps for Opening Tenders

- (1) Check and confirm the deadline for submission and opening of Tenders;
- (2) Collect all Tenders received in accordance with the procedures set in the Invitation for Tender (IFT);
- (3) Make sure that Tender Opening Committee (TOC) members are present;
- (4) Check presence of intending participating Tenderers or their authorized representatives;
- (5) Open the Tender box/sealed containers whatsoever on the date and time declared in the IFT;
- (6) Sort-out the Tenders in accordance with the IFT and Group/Package;
- (7) Enter the names of Tenderers (Tender-wise and Group/Package-wise) in the Tender Opening Sheet (TOS) maintained by the office opening the Tenders;
- (8) During the process under Step (7) above mark Tender Serial Numbers (TSN) and encircle TSN with red-ink on the sealed cover of the Tender;
- (9) Open envelopes marked "WITHDRAWAL" and read out and the corresponding tender shall not be opened, but returned to Tenderer. If the withdrawal envelope does not contain a copy of the power of attorney or a letter of authorised confirming the signature of the person duly authorised to sign on behalf of the Tenderer, the corresponding tender will be opened;
- (10) Information relevant to withdrawals or modifications by the Tenderers may be clearly noted under 'Remarks' of the TOS;
- (11) Next open envelopes marked "SUBSTITUTION" and read out the letter and exchange the substituted tender with the corresponding tender being substituted. The substituted tender shall not be opened, but returned to Tenderer. No Tender substitution shall be permitted unless the corresponding substitution notice contains a valid authorisation to request the substitution and is read out at Tender opening.
- (12) Open Envelopes marked "MODIFICATION" and read out the letter. No Tender modification shall be permitted unless it contains a valid authorisation;
- (13) Tear-open the sealed Tenders one by one (tender-wise and Group/ Package-wise) and again mark and encircle TSN with red-ink on the Tender (original and copies) with full dated signature of the Chairperson and other members of the Tender Opening Committee;
- (14) Immediately after tear-opening the Tenders, put TSN chronologically on the document duly encircled by red-ink as earlier done in Step (8) above;
- (15) Read-aloud the tender prices quoted by the Tenderer;
- (16) Discounts offered by any tenderer in accordance with the Tender Document shall be read out and recorded under 'Remarks' of the TOS;
- (17) Check the requisite documents, requirements etc., and the Tender Security, in particular. Write the amount of Tender Security in column-3 of the Tender Opening Sheet (TOS);
- (18) Put the TSN on the Tender Security (Bank Guarantee/Pay Order/Bank Draft) with red-ink duly encircled and initialled by the Chairperson of the Tender Opening Committee (TOC);

- (19) Record the missing documents or any incompleteness and major or minor deviations in the appropriate location/pages of the Tender Document as a whole;
- (20) If there is no correction in a particular page, write comment at the bottom of that page that "no correction in this page" or so, as appropriate;
- (21) If there is any correction or overwriting in a particular page and duly initialled by the tenderer, encircle and initial that particular correction with red-ink. If there is more than one such correction and initial by the tenderer, repeat the procedures. And at the bottom of that particular page write comment that "one correction in this page with initial", "two corrections in this page with initials" and so on, as appropriate;
- (22) If there is correction in a particular page but not duly initialled by the tenderer, encircle and initial that particular correction with red-ink. And at the bottom of that particular page write comment that "one correction in this page without initial" "two corrections in this page without initial" and so on, as appropriate;
- (23) All red-ink encircled figures and words of the corresponding items and rates must be initialled by the Chairperson and other members of the TOC;
- (24) If there is any item in the Bill of Quantities against which the tenderer has not quoted any rate and/or amount i.e. kept blank, put question mark in that blank space and at the bottom of the page write comment that "No rate and/or amount quoted for item no in this page";
- (25) Obtain signature of the Tenderers and/or their authorized representatives in the TOS;
- (26) Make sure after opening of the Tenders that all the members and the Chairperson of the TOC including the Tenderers or their authorized representatives who attended the Tender Opening have signed the TOS;
- (27) TOS must be faxed or mailed or sent out to the appropriate authority immediately upon completion of Tender Opening.

SCHEDULE V

Part-A : [See Rule 16(8)]

Total Procurement Plan for Development Project / Programme

This part identifies the packages for Goods, Works and Services that are required under the development project/programme. It identifies each Procurement package, giving it a unique code and considers the expected cost of the package (as per the DPP/TPP), as well as the anticipated dates when the Procurement package will be supplied.

A separate Schedule, completed as shown below, should be provided for Goods, Works and Services.

Col No	Activity	Note
1	Package Number	In ascending numerical order. (e.g. GD1, GD2, GD3; WD1, WD2, WD3; or SD1, SD2, SD3 etc)
2	Description of Procurement Package	Brief description of the Procurement package, expressed in quantifiable terms. (as per DPP/TPP)
3/4	Unit/ Quantity	The unit of supply. (e.g. 1, set, sqm, lump sum) The quantity of the unit required (e.g. 1,2,3 etc; or 1,500 etc)
5	Procurement Method & Type	Procurement Method (e.g. OTM (NCT); LTM (NCT), DP, etc.)
6	Contract Approving Authority	State here the approving authority that gave approval to the Tender / Proposal Evaluation Report.
7	Source of Funds	Source of Funds (GoB or Own) or Development Partners (IDA, ADB, EU etc)
8	Estimated cost in Tk million	Express the anticipated cost in Taka million as per the DPP/TPP. e.g. 50 Lakh would be 5 million, 1 Crore 50 Lakh 10 thousand would be 150 million 10 thousand
	Indicative Dates	These are the three key dates of any Procurement activity, the date at which the Procuring Entity invites Tenders, the date at which a Contract is expected to be signed and the expected date of completion of the Contract.
9	Pre-Qualification / Expression of Interest	Not generally used in Goods, so this shaded column is left blank Pre-Qualification (if applicable) may be used in Works. EOI is used in Services
10	Invitation for Tender / Proposal	State the anticipated date when the Advertisement will be placed and when the Tender Document will be ready for issue. For Services this is the issue date of the RFP
11	Signing of Contract	State the anticipated date when the Contract will be signed.
12	Completion of Contract	State the anticipated date when the Contract will be completed, excluding any warranty period or defects liability period.

Part-B

Annual Procurement Plan for Development & Revenue Budgets

Time bound Procurement assists a Procuring Entity to effectively plan its Procurement requirements and is an important and useful tool used to monitor the progress of Procurement (a) to ensure that it does not go astray; (b) to ensure that early problems with slippage can be dealt with promptly; and (c) can form a useful Annual Plan for Procurement.

A separate Schedule, completed as follows, should be provided for Goods, Works and Services. Also a separate schedule should be used for Development or Revenue Budget.

Col No	Activity	Note
1	Package Number)
2	Description of Procurement Item) To be copied from the Total Procurement Plan for Development
3 /4	Unit & Quantity) Project / Programme for those packages required in this financial year.
5	Procurement Method & Type)
6	Contract Approving Authority) In the case of Procurement using funds from the Revenue Budget the
7	Source of Funds)columns shall be completed based upon information in the Revenue Budget.
8	Estimated Cost In Tk million)
9	Time Code for Process	In the first row on each form examples have been given to assist the Procuring Entity in completion of the Forms
10	Not Used (Goods)	Column 10 does not apply for Goods Procurement
10	Pre-Qualification (Works)	If Pre-Qualification is used then enter the anticipated process time in the "Planned Days" column 11. Include time for Advertising, Responding to Advert, Evaluation and Approval (this may be as high as 80-90 days in some cases).
10	Advertise EOI	Determine the time it will take from issue of EOI, receiving responses, evaluation and approval to Issue of RFP date and enter the number of days in the "Planned Days" box in column 11.

11	Advertising Tender	Always show "0" in the "Planned Days" box in column 11.
11	Advertising Tender	Always show "0" in the "Planned Days" box in column 11.
11	Issue RFP	Always show "0" in the "Planned Days" box in column 10.
12	Opening of Tender / Proposal	
13	Evaluation of Tender / Proposal	The date for each activity will automatically be calculated and appear in the "Planned Dates" box
14	Approval of Award	
15	Notification of Award	
16	Signing of Contract	Now determine the number of days it is expected that each activity will take place and enter the time for that activity in the relevant "Planned Days" box.
17	Completion of Contract	<u>Planned Dates & Planned Days</u> For each Procurement package, consider the Date on which the Goods, Works or Services are required to be completed and enter the date in Planned Dates (Column 17). Then show the expected duration of the Contract (in Days) in Planned Days immediately under the above Date (Column 17).
18	Total Time (in Days)	This is automatically calculated by adding together all the predetermined number of "Planned Days", it will change if any of the Planned Days are changed.

ANNUAL PROCUREMENT PLAN

Budget: Development

Ministry / Division
Agency
Procuring Entity Name & Code
Project / Programme Name & Code

[illegible]

ANNUAL PROCUREMENT PLAN

Budget: Revenue

Ministry / Division
Agency
Procuring Entity Name & Code[illegible]

Part D

Budget: Development

Ministry / Division
Agency
Procuring Entity Name & Code
Project / Programme Name & Code

[illegible]

ANNUAL PROCUREMENT PLAN

Budget:	Revenue

Ministry / Division
Agency
Procuring Entity Name & Code[illegible]

ANNUAL PROCUREMENT PLAN

Ministry / Division
Agency
Procuring Entity Name & Code
Project / Programme Name & Code

[illegible]

Budget:	Revenue
---------	---------

Ministry / Division
Agency
Procuring Entity Name & Code

[illegible]

SCHEDULE VI

[See Rule 37(1) and 126(3)]

Format for Reporting Contract Award

(for Tk 10 million and above for Goods & Works Contracts)
(for Tk 5 million and above for Service Contracts)

*[This is the website format which requests only the data needed to complete
The Contract Award Notification Sheet]*

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH			
1	Ministry/Division	< select >	V
2	Agency	< select >	V
3	Procuring Entity Name	< type in name >	
4	Procuring Entity Code	Not used at present	
5	Procuring Entity District	< select >	V
6	Contract Award for	< select >	V
7	Invitation / Proposal Ref. No		
KEY INFORMATION			
9	Procurement Method	< select >	V
FUNDING INFORMATION			
10	Budget and Source of Funds	< select >	V
11	Development Partners (if applicable)	< type in name >	
PARTICULAR INFORMATION			
12	Project / Programme Code (if applicable)	< use MOF code >	
13	Project / Programme Name (if applicable)	< use MOF name >	
14	Tender / Proposal Package No.	< type in name >	
15	Tender / Proposal Package Name	< type in name >	
16		Date	
17	Date of Advertisement	< select >	V
18	Date of Notification of Award	< select >	V
19	Date of Contract Signing	< select >	V
20	Proposed Date of Contract Completion	< select >	V
21	No. of Tenders / Proposals Sold	< type in Number >	
22	No. of Tenders / Proposals Received	< type in Number >	
23	No. of Responsive Tenders / Proposals	< type in Number >	
			Add reasons for non-responsiveness
INFORMATION ON AWARD			
24	Brief Description of Contract	< type in details >	
25	Contract Price	< type in details >	
26	Name of Supplier / Contractor / Consultant	< type in details >	
27	Location of Supplier / Contractor / Consultant	< type in details >	
28	Location of Delivery / Works / Consultancy	< type in details >	
29	Is the Contract awarded to the Person with the lowest priced Tender ?	< select >	
30	If no, state brief reasons	< type in details >	
31	Was the Performance Security provided in due time?	< select >	
32	If no, state reasons		
33	Was the Contract signed in due time?	< select >	
34	If no, state reasons	< type in details >	
PROCURING ENTITY DETAILS			
35	Name of Authorised Officer	< type in name >	
36	Designation of Authorised Officer	< type in name >	

< select > These fields in the website are “pop-up” fields and the procuring entity will only have to select the correct name, address or date in order to complete the form.

< type in name / details > These fields are to be completed by typing in the relevant data.

SCHEDULE VII

[See Rule 37(3)]

NOTIFICATION OF AWARD

(Goods or Works)

Contract No:

Date:

To:

[Name of Contractor]

This is to notify you that your Tender dated [insert date] for the execution of the Works/ for the supply of Goods and related Services [delete as appropriate] for [name of project / Contract] for the Contract Price of Tk [state amount in figures and in words] as corrected and modified in accordance with the Instructions to Tenderers, has been approved by [name of Procuring Entity].

You are thus requested to take following actions:

- i. accept in writing the Notification of Award within seven (7) days of its issuance pursuant to ITT Sub-Clause XX
- ii. furnish a Performance Security in the specified format and in the amount of Tk [state amount in figures and words], within fourteen (14) days of issuance of this letter but not later than (specify date), in accordance with ITT Clause XX
- iii. sign the Contract within twenty eight (28) days of issuance of this letter but not later than (specify date), in accordance with ITT Clause XX.

You may proceed with the execution of the Works/ supply of Goods and related Services [delete as appropriate] only upon completion of the above tasks. You may also please note that this Notification of Award shall constitute the formation of this Contract which shall become binding upon you.

We attach the draft Contract and all other documents for your perusal and signature.

Signed

Duly authorised to sign for and on behalf of [name of Procuring Entity]

Date:

NOTE: Tender Validity Date is critical to Notification of Award and fulfilment of subsequent obligations

SCHEDULE VIII

Part-A : [See Rule 43(4)]

Records of Procurement to be Maintained by a Procuring Entity

- (1) The records of Procurement of Goods, Works and Services made through each contract shall be maintained separately.
- (2) In case of more than one contract falling under a particular package, the files or records shall be systematically maintained on each contract basis and arranged or grouped together on the basis of each package. For example, if one package of goods consists of 3 lots and for each lot a separate contract has been concluded, then there should be three files for 3 contracts and papers relating to each contract shall be maintained in the relevant contract files. All the three contract files relating to the particular package shall be maintained together as a group or package. If in a goods package, say package no G1 there are 3 contracts then the contract files shall indicate as G1: Contract - 1 (3), G1: Contract 2 (3), G1: Contract 3 (3). All the 3 contracts shall be serially maintained under one package. The file number may include ---/---/Procurement/ G1: Cont-1 (3)/2004-06. The indicated years are the file opening and closing years.
- (3) The file should be opened indicating the year when it is opened and the year when it should be closed. In other words it should include year of commencement and year of completion of contractual obligations.
- (4) A particular Contract file may have more than one part file. Part file shall be indicated in the file number as part-1, part-2 say for example: ----/-----/G1: Cont.1 (3) part-1/2004 -06.
- (5) The checklist of records format shall be placed at the top of every file whether it is a part file or not. The format of the checklist should be filled in stating the records maintained in a particular file. Where part file is opened, some of the columns of the checklist of records will remain blank concerning the records not maintained in a particular part file.
- (6) The concerned officer of the Procuring Entity should indicate in writing in the format in which part file or main file the records appearing blank are available.
- (7) If relevant papers relating to a particular Procurement are maintained by more than one branch of the Procuring Entity, the relevant branch shall transfer the records to the main Procurement file.
- (8) If it is not possible to transfer the records and documents, the concerned department(s) shall maintain the documents/records relating to the Procurement for the period stated in the Regulations and the Procedures. The concerned Procurement Officer shall ensure the relevant branch is complying with the requirement and the Procedures of the Regulation 9. This situation may arise in case of documents/records maintained by the Accounts Branch who may retain the original documents for audit or other purposes.
- (9) The pages of the file shall be numbered serially. The entire file should be preserved in a manner so that no page should miss. The pages in the file should be bounded if possible.
- (10) The attached format and the records mentioned therein shall be placed as part of the records on top of the papers of each file.
- (11) The file shall be given a number and maintained systematically so that it can be located immediately whenever required
- (12) The file shall have a title page. The title shall mention the project name object of Procurement package number etc. An example of a title page of a file is attached.

File no :/...../ G1: Cont. 1(3) Part 1/2004-6

Date of opening : 2004

Date of closing : 2006

Subject : Procurement of Goods under Public Procurement Reform Project

Package no : G1

Contract no : G1: Cont.(1)(3)

Advertisement No date.....

Specify object of Procurement and quantity

Part-B
Records and Documents to be maintained

Description (object
of Procurement) :
Package No. :
Contract No. :

SI No.	Minimum Records and documents to be maintained	State briefly where appropriate or state yes or no Refer: col-2.	Reference of file page no/part file no Refer; Col-3
1	2	3	4
01	Brief description of Goods and related Services/ Works and physical Services, intellectual and professional Services.		
02	Method of Procurement used (State if Open Tendering Method, Limited Tendering Method, Direct Procurement Method, Two Stage Tendering Method, Request for Quotations Method etc)		
03	Justification for choosing a method other than open tendering with the level of approval obtained (State method adopted/authority approving the method or sub-method)		
04	An invitation for pre-qualification, if any		
05	Copies of the published advertisements for pre-qualification, if any		
06	A copy of pre-qualification document or request for EOI or other solicitation documents		
07	Records of selection of pre-qualified persons/ firms, if any or short listed Applicants.		
08	Invitation for Tender/Letter of Invitation with copy of Advertisement notice in newspapers, if any		
09	Documents regarding sale of tender		
10	Clarification issued, if any, and to whom addressed		
11	Addendum issued		
12	Names and addresses of the Tenderers/ Consultants that submitted Tenders/ quotations/proposals		
13	List of persons present during tender opening, date and place of opening		
14	Minutes of the tender opening		
15	Tender, Quotation or Proposal/ documents submitted by each Tenderer/Consultant		
16	Evaluation criteria stipulated and applied		
17	Report on Tender, Proposal or Quotation evaluation including comparison sheet		
18	Records of approval of the TEC/PEC recommendations.		
19	Name and address of the Tenderer to whom the contract was awarded		
20	Notification of Award		
21	The amount of contract price		
22	Contract documents		
23	Copy of performance guarantee document with		

SI No.	Minimum Records and documents to be maintained	State briefly where appropriate or state yes or no Refer: col-2.	Reference of file page no/part file no Refer; Col-3
	date and no.		
24	Delivery/acceptance documents/reports for goods		
25	Completion report of Works and Services Number of lots delivered/ assignments completed		
26	Location of delivery of goods/completion of Works		
27	Information on any decision to suspend or cancel proceedings after initiation		
28	Documents in respect of any complaints to administrative authority with decision of the appropriate authority/Secretary		
29	<u>Appeal to Review Panel</u> Appeal petition to Review Panel		
30	Payment of registration fee for appeal.		
31	Constitution of Review Panel by the CPTU		
32	Decision of the Review Panel with report		
33	Compliance of the decision of the Review Panel, if any		
34	Records of payment against bills/invoices		
35	Bill of quantities for Works/measurement book submitted		
36	Bill passing orders		
37	Bill payment records		
38	Mode of payment : cheque, cash etc.		
39	Acknowledgement of receipt of payment by Tenderer/Consultant		
40	All correspondences with Tenderers (Important correspondences)		

General Considerations for the Employment of Consultants

- (1) Appointment of Consultants, local or international, at times is a crucial element in the project cycle. Depending on the nature of a project, combination of both local and international Consultants in implementing any project or activity can be more useful and effective. A project may not be ready for financing without Consultant's Services. An aid agreement may not be effective till a Consultant is in place. A tender document may not be issued or even prepared without a Consultant. A system may not be introduced or reformed without the Services of Consultant. At the conceptual or project preparation stage it is to be thoroughly scrutinized to identify the areas where the Services of the Consultant is necessary if the technology involved is complex and not locally available and the concerned agency has no experience. Therefore, where it is considered expedient that the service of a Consultant is required, appointment of local or international Consultants should be considered. However, the Procuring Entities should be selective in appointment of Consultants. International Consultants may be appointed when local expertise is not available. While using international Consultants arrangements should be made to ensure a mechanism for transfer of technology or expertise. Human resources development should form an integral part of any technical assistance programme.
- (2) Consultants are generally appointed for the following purposes:
 - (a) Pre-investment Studies: These comprise the investigations that normally precede decisions to go forward with specific projects. These studies determine the investment needs and the type of interventions needed to attain the desired goal. These include identification of priority area of investment, need for policy adjustment, feasibility studies for project or programme, improvement of existing management practices etc.
 - (b) Preparation Services: These comprise the technical, economic or other assignment required to fully define a project and prepare it for implementation. These Services normally include the preparation of a project, collection of relevant Documents, information and data, setting objectives, identifying activities for attaining objectives, requirement of physical and financial resources, preparation of Procurement Documents.
 - (c) Implementation Services: These relate to actual implementation of the activities using resources already identified during preparation phase. Implementation shall follow the **time chart** already worked out and revised from time to time. Implementation may be of the nature of construction of a complex road, building or a bridge, Procurement and installation of goods and equipment. It may be of the nature of reforming a system in order to improve efficiency and ensure better performance. This involves supervision, management, inspection and providing necessary technical Services.
 - (d) Technical Assistance: These comprise a wide range of intellectual and professional Services along with other support service, such as development and sector planning and institution building, including organization and management (O&M) studies, staffing requirement and training needs and assistance in the implementation of study recommendations.
- (3) Technical Assistance Projects have a clearly stated policy to build local capacity in course of execution of the projects. The objective is to facilitate transfer of knowledge and technology through the interaction between international and local Consultants during the implementation of the project.
- (4) For each position created in consulting service appropriate attention should be made to compatible international/ local positions. International Consultants can be of any

national of eligible countries including Bangladesh.

a. Association of Consultants with International & Local Consulting Firms:

- (1) For development projects implemented in Bangladesh by the GOB with the support of development partners, may require the engagement of international consulting firms. Each international consulting firm is encouraged to seek participation and obtain full range of expertise by associating with local consulting firm(s) or entities in a joint venture or sub-consultancy, as appropriate.
- (2) International consulting firms may include national Consultants in their payroll and are entitled to apply their Fees/Charges for the local Consultants provided they are recruited as their team.
- (3) The local consulting firms will have local Consultants in their payroll and are entitled to apply their Fees/Charges on the local Consultants working for them.
- (4) If a Bangladeshi firm is short-listed to compete with international firms, it may use the Services of both international and local Consultants and is entitled to apply Fees/Charges for both categories of Consultants.
- (5) In a joint participation of international and local consulting firms member firms will mutually decide the payroll arrangements.

b. Billing Rates and Modus Operandi:

- (1) Billing rates shall be calculated on staff-month basis. The billing rates of consulting firms usually consist of staff remuneration, social charges, overhead charges, and the Consultant's fee.
- (2) The billing rate will vary depending on the nature of the consulting firm. As guidance, an example of typical billing rate calculation is provided below:

Item	Component	International/ National Firm
1	Staff Remuneration	
2	Social Charges	40% of Remuneration
3	Overhead	60-100% of Remuneration
4	Consultant's Fee	10-15% of (1+2+3)

General Considerations for Employment of Bangladeshi Nationals as Individual Consultants in Aided Projects

1. Employment of Bangladeshi nationals as Consultants in foreign aided projects: All Ministries, Divisions and Government agencies including local authorities shall, subject to agreement with the development partners employ qualified Bangladeshi nationals as Consultants, if available, in foreign aided projects under their execution.
2. Eligibility for applying for the posts of Consultants:
 - (a) Any Bangladeshi national including persons in the service of the Republic or the local authorities/corporations (see Schedule M) may, if he/she is qualified for any post of Consultant, apply for the post
 - (b) No person who has been convicted by any Court of Law or dismissed from Services for misconduct shall be eligible for consideration for appointment to a post.
3. Educational qualifications and experience:
 - (a) Broadly, the Bangladeshi Consultants shall be divided into three main groups, namely:
 - (i) Junior Consultant
 - (ii) Consultant
 - (iii) Senior Consultant.
 - (b) A guideline for educational qualifications and experiences of the local Consultants is provided below, however, educational qualifications and experience will vary according to the nature and scope of assignment and a Procuring Entity, taking this into account, will specify the requirements. Preference should be given to a person with intellectual and professional knowledge and skill for the required service:
 - (i) Junior Consultant: (i) Bachelor/ Masters degree or an equivalent (mention one depending on the type of assignment) for the following fields- medical/ engineering/ agriculture; and (ii) Masters degree or equivalent for other fields, with at least five (5) years of professional experience in the relevant field of assignment.
 - (ii) Consultant: (i) Bachelor/ Masters degree or an equivalent (mention one depending on the type of assignment) for the following fields: medical / engineering / agriculture; and (ii) Masters degree or equivalent for other fields, with at least ten (10) years experience in the relevant field of assignment with comprehensive intellectual and professional knowledge and skill.
 - (iii) Senior Consultant: (i) Bachelor/ Masters degree or an equivalent (mention one depending on the type of assignment) for the following fields- medical/ engineering/ agriculture; and (ii) Masters degree or equivalent for other fields, with at least fifteen (15) years experience in the relevant field of assignment with high level of intellectual and professional knowledge and skill Experience may be relaxed in the case of highly qualified person depending on the field of assignment.

4. Fee:

For an assignment, the local Consultants' payments will be in commensurate with the qualification and expertise depending on the field of assignment. Guidance for fees is provided below at the current market price, which may require updating from time to time depending on the type of expertise required and competitors in the labour market:

Grade/ Group	Monthly- Minimum Entry Fee (Tk.)	Monthly- Maximum Entry Fee (Tk.)
Junior Consultant	60,000	75,000
Consultant	75,000	150,000
Senior Consultant	120,000	400,000

5. Advertisement procedure:

- (a) Advertisement shall be made in accordance with Rule 90 of the Public Procurement Regulations 2003 stating clearly the name of the post, brief job description, tenure of employment, required educational qualifications, experience, age limit (or relaxation, if any) and time for receiving Applications. However, for hiring individual local Consultant the time for the submission of Applications may be reduced to two weeks.
- (b) Persons who are already in employment shall send Application through proper channel, otherwise they shall not be considered for appointment.

Terms and Conditions of Employment of Government Servants and Employees of Statutory Bodies, Local Authorities, Etc.

- (1) The following terms and conditions of employment as local Consultants shall apply to Government officials and civil servants including persons of autonomous bodies or corporations, namely;
- (a) The person (i) will be on leave of absence without pay; (ii) is not being hired by the agency if he/she was working for immediately before going on leave; and (iii) his/her employment will not give rise to any conflict of interest.
 - (b) On completion of his/her service on lien he/she shall be allowed seven day's time to join the post from which he/she was sent on lien and for these seven days, he/she shall be allowed his/her usual salaries and allowances of the post he/she joins. After assuming duties of the post of a Consultant, he/she shall inform in writing his/her parent Ministry, Division, or Government agency.
 - (c) All expenses in connection with his/her joining as Consultant to any organization / project and his/her return to join his/her parent department / organisation on completion of his/her lien period shall be borne by the Procuring Entity (organization using the Services as Consultant).
 - (d) During the period of this deputation the Consultant:
 - (i) shall be entitled to get his/her fees and allowance, leave, medical benefits, etc. from the Procuring Entity that employs him/her as local Consultant as per its terms and conditions of employment;
 - (ii) shall not be entitled to any salary, leave salary, special pay, technical pay or any other allowances from his/her original Procuring Entity (Government of Bangladesh parent organization)
 - (iii) shall be liable to pay to his/her original Procuring Entity (Government of Bangladesh parent organization) in time all his/her debts and dues, such as, subscription or contributions to provident and pension funds, house building advances, car advances, subscription to benevolent fund and group insurance;
 - (iv) shall not be entitled to any medical allowance or other facilities for any member of his/her family from his/her original Procuring Entity ;
 - (v) shall be allowed to reside in the Government accommodation, if allotted to him/her for a period not exceeding one year and, for that period, he/she shall be liable to pay standard rent fixed by original Procuring Entity and pay all utility and other charges in accordance with standing rules, orders and instructions of the original Procuring Entity.
 - (vi) provided that, he/she resides in a Government accommodation, he/she may reside there for such further period as the Government may allow and he/she shall be liable to pay besides the standard rent all other dues in accordance with the rules of the Government;
 - (vii) shall bear subject to Government rules all charges in connection with the telephone, if any provided to him/her by his/her original Procuring Entity;
 - (viii) shall not be entitled to any transport facility, if any, provided to him/her by his/her original Procuring Entity;
 - (ix) shall obtain prior approval with respect to any change in the terms and conditions of his/her service which effect any provisions of this

paragraph from the Ministry of Establishment and the concerned Ministry, Division or Government agency from where he/she went on lien.

- (x) shall not join in any other project other than the one to which he/she has been sent on lien without the prior permission of his/her head of the organisation.
 - (xi) shall be liable to pay the amount of VAT deducted at source for consultancy service as per VAT Act and Rules.
 - (e) The period of lien if necessary, may be extended with the permission of the appropriate authority following standing rules and orders Government/ other organisation.
- (2) The conditions mentioned in sub paragraph (1) shall apply mutatis mutandis to an employee of a local authority.
- (3) Permission:
- (a) Subject to standing rules and orders concerned Ministry, Division or Government Agency may accord permission to an employee if the period of lien does not exceed three months provided that the concerned Ministry, Division or Government Agency shall intimate the fact of lien to the Ministry of Establishment, and if the officer belongs to a service to the Ministry or Division which is responsible for administration of the his/her service.
 - (b) If the period of lien exceeds three months, permission of the Ministry of Establishment and, in case the employee concerned belongs to a service, permission to the Ministry or Division concerned shall be obtained.
 - (c) Any employee of a local authority shall obtain permission for joining as local Consultant from the head of the concerned local authority.

SCHEDULE IX

Part-A : [See Rule 55 (1)]

(Consultant Conflicts of Interest: Range of Possible Cases)

Category of Consultant Conflicts	Example	Is the Consultant allowed to take part	Risk for Client: Consultant may	Mitigation of Risk
Supply of goods and works whose specifications were prepared by the consultants	Equipment, computers	No	Favor its associates	Disqualification of consultant and affiliates
Continuation assignments	Detailed design after feasibility study	Yes	Influence TOR, bias feasibility- study recommendations	TOR of continuation drafted by third party who validates feasibility
Conflicting assignments	Environmental audit of consultants' project design by the same consultants	No	Apply partiality in assessing its own designs	Disqualify the consultant
Related assignment other than continuation	Restructured study of a public asset after preparing privatization plan	Yes (permissible upon conditions)	Unduly influence TOR of related assignment	Have third party draft TOR, or disqualify the consultant
Related assignment for competing clients	Study of a project competing- with another client's project	No (permissible upon conditions)	Advice to client(s) may be biased	Disqualify the consultant, or both clients agree on scope of work
Related unnecessary assignments	Study of superfluous alternatives	No	"Featherbedding" *	Disqualify the consultant
Unrelated useful assignments	Study of future projects	Yes	n.a	n.a.
Conflicting relationships	A consultant's staff has a family relationship with a client's staff involved in the selection process	No (permissible upon conditions)	Be unduly favored in the proposal evaluation process	Exclude the client's staff from the selection process, or disqualify the consultant
Conflicting relationships	The consultant includes a client employee in its technical proposal	No (permissible upon conditions)	Be unduly favored in the proposal evaluation process	The consultant shall attach to its proposal a client's certification stating that the involved client's employee is on leave without pay

* **Featherbedding** is the practice of requiring an employer to hire more workers than needed to handle a job

SCHEDULE X

Part-A : [See Rule 90 (5)]

Invitation for Enlistment

*This is the website format and as used for published advertisement.
It is included in this document for information only]*

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH			
1	Ministry/Division	< select >	V
2	Agency	< select >	V
3	Procuring Entity Name	< type in name >	
4	Procuring Entity Code	Not used at present	
5	Procuring Entity District	< select >	V
6	Invitation for	Enlistment <input checked="" type="checkbox"/> < select >	V < select > <input checked="" type="checkbox"/>
7	Invitation Ref No	< type in name >	
8	Date	< select >	V
KEY INFORMATION			
9	Procurement Method	Limited Tendering Method	V < select > <input checked="" type="checkbox"/>
FUNDING INFORMATION			
10	Budget and Source of Funds	< select >	V
11	Development Partners (if applicable)	< type in name >	
PARTICULAR INFORMATION			
12	Project / Programme Code (if applicable)	< use MOF code >	
13	Project / Programme Name (if applicable)	< use MOF name >	
		Date	Time
18	Application Closing Date and Time	< select > <input checked="" type="checkbox"/>	< select > <input checked="" type="checkbox"/>
19	Name & Address of the office(s)	Address	
	- Application Form Availability (Principal)	< type in name >	
	- Application Form Availability (Others)	< type in name >	
	- Receiving Application Form	< type in name >	
			V
INFORMATION FOR Applicant			
21	Eligibility of Applicant	< type in name >	
22	Brief Description of Goods or Works	< type in name >	
23	Brief Description of Related or Physical Services	< type in name >	
24	Price of Application Form (Tk)	< type in price >	
PROCURING ENTITY DETAILS			
29	Name of Official Inviting Application	< type in name >	
30	Designation of Official Inviting Application	< type in name >	
31	Address of Official Inviting Application	< type in name >	
32	Contact details of Official Inviting Application	< Tel. No. >	< Fax No. > < e-mail >
33	The procuring entity reserves the right to reject all Applications		

<select> : these fields are "pop-up" fields and the procuring entity will only have to select the correct name, address or date in order to complete the form.<type in name> : these fields are to be completed by typing in the relevant data.

Invitation for Pre-Qualification

*[for use when there is a SINGLE lot in a package
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GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH				
1	Ministry/Division	< select >		V
2	Agency	< select >		V
3	Procuring Entity Name	< type in name >		
4	Procuring Entity Code	Not used at present		
5	Procuring Entity District	< select >	V	
6	Invitation for	< select >	V	< select > V
7	Invitation Ref No	< type in name >		
8	Date	< select >	V	
KEY INFORMATION				
9	Procurement Method	< select >	V	< select > V
FUNDING INFORMATION				
10	Budget and Source of Funds	< select >	V	
11	Development Partners (if applicable)	< type in name >		
PARTICULAR INFORMATION				
12	Project / Programme Code (if applicable)	< use MOF code >		
13	Project / Programme Name (if applicable)	< use MOF name >		
14	Proposed Tender Package No.	< type in name >		
15	Proposed Tender Package Name	< type in name >		
18	Pre-Qualification submission Date and Time	Date < select >	V	Time < select > V
19	Name & Address of the office(s) - Selling Pre-Qual. Document (Principal) - Selling Pre-Qual. Document (Others) - Receiving Pre-Qual. Document	Address < type in name >		
20	Place / Date / Time of Pre-Qualification Meeting (Optional)	Date < select >	V	Time < select > V
INFORMATION FOR Applicant				
21	Eligibility of Applicant	< type in name >		
22	Brief Description of Goods or Works	< type in name >		
23	Brief Description of Related Services	< type in name >		
24	Price of Pre-Qual. Document (Tk)	< type in price >		
	Lot No	Identification of Lot	Location	Completion Time in Weeks / months
25	1	< type in name >	< type in name >	<type in>
PROCURING ENTITY DETAILS				
29	Name of Official Inviting Pre-Qualification	< type in name >		
30	Designation of Official Inviting Pre-Qual.	< type in name >		
31	Address of Official Inviting Pre-Qual.	< type in name >		
32	Contact details of Official Inviting Pre-Qual.	< Tel. No. >	< Fax No. >	< e-mail >
33	The procuring entity reserves the right to --- deleted--- reject all Pre-Qualifications			

<select> : these fields are "pop-up" fields and the procuring entity will only have to select the correct name, address or date in order to complete the form.

<type in name> : these fields are to be completed by typing in the relevant data

Invitation for Pre-Qualification

[for use when there are MULTIPLE lots in a package

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GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH				
1	Ministry/Division	< select >		V
2	Agency	< select >		V
3	Procuring Entity Name	< type in name >		
4	Procuring Entity Code	Not used at present		
5	Procuring Entity District	< select >	V	
6	Invitation for	< select >	V	< select > V
7	Invitation Ref No	< type in name >		
8	Date	< select >	V	
KEY INFORMATION				
9	Procurement Method	< select >	V	< select > V
FUNDING INFORMATION				
10	Budget and Source of Funds	< select >	V	
11	Development Partners (if applicable)	< type in name >		
PARTICULAR INFORMATION				
12	Project / Programme Code (if applicable)	< use MOF code >		
13	Project / Programme Name (if applicable)	< use MOF name >		
14	Proposed Tender Package No.	< type in name >		
15	Proposed Tender Package Name	< type in name >		
		Date	Time	
18	Pre-qualification Closing Date and Time	< select >	V	< select > V
19	Name & Address of the office(s)	Address		
	- Selling Pre-Qual. Document (Principal)	< type in name >		
	- Selling Pre-Qual. Document (Others)	< type in name >		
	- Receiving Pre-Qual. Document	< type in name >		
20	Place / Date / Time of Pre-Qualification Meeting (Optional)	< type in name >		
		Date	Time	
		< select >	V	< select > V
INFORMATION FOR APPLICANT				
21	Eligibility of Applicant	< type in name >		
22	Brief Description of Goods or Works	< type in name >		
23	Brief Description of Related Services	< type in name >		
24	Price of Pre-Qual. Document (Tk)	< type in price >		
	Lot No	Identification of Lot	Location	Completion Time in Weeks /months
25	1	< type in name >	< type in name >	<type in>
26	2	< type in name >	< type in name >	<type in>
27	3	< type in name >	< type in name >	<type in>
28	4	< type in name >	< type in name >	<type in>
POCURING ENTITY DETAILS				
29	Name of Official Inviting Pre-Qualification	< type in name >		
30	Designation of Official Inviting Pre-Qualification	< type in name >		
31	Address of Official Inviting Pre-Qualification	< type in name >		
32	Contact details of Official Inviting Pre-Qual.	< Tel. No. >	< Fax No. >	< e-mail >
33	The procuring entity reserves the right to --- deleted-- reject all Pre-Qualifications			

<select> : these fields in the website are "pop-up" fields and the procuring entity will only have to select the correct name, address or date in order to complete the form.

<type in name> : these fields are to be completed by typing in the relevant data.

Invitation for Tenders*[For use when there is a SINGLE lot in a package]*

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH					
1	Ministry/Division	< select >			V
2	Agency	< select >			V
3	Procuring Entity Name	< type in name >			
4	Procuring Entity Code	Not used at present			
5	Procuring Entity District	< select >	V		
6	Invitation for	< select >	V	< select >	V
7	Invitation Ref No	< type in name >			
8	Date	< select >	V		
KEY INFORMATION					
9	Procurement Method	< select >	V	< select >	V
FUNDING INFORMATION					
10	Budget and Source of Funds	< select >	V		
11	Development Partners (if applicable)	< type in name >			
PARTICULAR INFORMATION					
12	Project / Programme Code (if applicable)	< use MOF code >			
13	Project / Programme Name (if applicable)	< use MOF name >			
14	Tender Package No.	< type in name >			
15	Tender Package Name	< type in name >			
		Date			
16	Tender Publication Date	< select >	V		
17	Tender Last Selling Date	< select >	V		
		Date			
18	Tender Submission Date and Time	< select >	V	< select >	V
19	Tender Opening Date and Time (if different from 18)	< select >	V	< select >	V
		Time			
20	Name & Address of the office(s)	Address			
		< type in name >			
		< type in name >			
		< type in name >			
		< type in name >			
21	Place / Date / Time of Pre-Tender Meeting (Optional)	< type in name >			
		Date			
		< select >	V	< select >	V
		Time			
		< select >	V	< select >	V
INFORMATION FOR Tenderer					
22	Eligibility of Tenderer	< type in name >			
23	Brief Description of Goods or Works	< type in name >			
24	Brief Description of Related Services	< type in name >			
25	Price of Tender Document (Tk)	< type in price >			
	Lot No	Identification of Lot	Location	Tender Security Amount (Tk)	Completion Time in Weeks / Months
26	1	< type in name >	< type in name >	<type in>	<type in>
PROCURING ENTITY DETAILS					
30	Name of Official Inviting Tender	< type in name >			
31	Designation of Official Inviting Tender	< type in name >			
32	Address of Official Inviting Tender	< type in name >			
33	Contact details of Official Inviting Tender	< Tel. No.>	<Fax No.>	<e-mail>	
34	The procuring entity reserves the right to --- deleted-- reject all Tenders				

<select> : these fields are "pop-up" fields and the procuring entity will only have to select the correct name, address or date in order to complete the form.

<type in name> : these fields are to be completed by typing in the relevant data.

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Invitation for Tenders

*[for use when there are MULTIPLE lots in a package
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GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH					
1	Ministry/Division	< select >			V
2	Agency	< select >			V
3	Procuring Entity Name	< type in name >			
4	Procuring Entity Code	Not used at present			
5	Procuring Entity District	< select >	V		
6	Invitation for	< select >	V	< select >	V
7	Invitation Ref No	< type in name >			
8	Date	< select >	V		
KEY INFORMATION					
9	Procurement Method	< select >	V	< select >	V
FUNDING INFORMATION					
10	Budget and Source of Funds	< select >	V		
11	Development Partners (if applicable)	< type in name >			
PARTICULAR INFORMATION					
12	Project / Programme Code (if applicable)	< use MOF code >			
13	Project / Programme Name (if applicable)	< use MOF name >			
14	Tender Package No.	< type in name >			
15	Tender Package Name	< type in name >			
		Date			
16	Tender Publication Date	< select >	V		
17	Tender Last Selling Date	< select >	V		
		Date		Time	
18	Tender submission Date and Time	< select >	V	< select >	V
19	Tender Opening Date and Time (if different from 18)	< select >	V	< select >	V
20	Name & Address of the office(s) - Selling Tender Document (Principal) - Selling Tender Document (Others) - Receiving Tender Document - Opening Tender Document	Address			
		< type in name >			
		< type in name >			
		< type in name >			
		< type in name >			
21	Place / Date / Time of Pre-Tender Meeting (Optional)	< type in name >			
		Date		Time	
		< select >	V	< select >	V
INFORMATION FOR TENDERER					
22	Eligibility of Tenderer	< type in name >			
23	Brief Description of Goods or Works	< type in name >			
24	Brief Description of Related Services	< type in name >			
25	Price of Tender Document (Tk)	< type in price >			
	Lot No	Identification of Lot	Location	Tender Security Amount (Tk)	Completion Time in Weeks / Months
26	1	< type in name >	< type in name >	<type in>	<type in>
27	2	< type in name >	< type in name >	<type in>	<type in>
28	3	< type in name >	< type in name >	<type in>	<type in>
29	4	< type in name >	< type in name >	<type in>	<type in>
30	Name of Official Inviting Tender	< type in name >			
31	Designation of Official Inviting Tender	< type in name >			
32	Address of Official Inviting Tender	< type in name >			
33	Contact details of Official Inviting Tender	< Tel. No. >	< Fax No. >	< e-mail >	
34	The procuring entity reserves the right to --- deleted-- reject all Tenders				

<select> : these fields are "pop-up" fields and the procuring entity will only have to select the correct name, address or date in order to complete the form.

<type in name> : these fields are to be completed by typing in the relevant data.

Part-F : [See Rule 90(5)]

Request for Expressions of Interest (Firm)

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GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH					
1	Ministry/Division	< select >			V
2	Agency	< select >			V
3	Procuring Entity Name	< type in name >			
4	Procuring Entity Code	Not used at present			
5	Procuring Entity District	< select >	V		
6	Expression of Interest for Selection of	< type in name >			
7	EOI Ref No	< type in name >			
8	Date	< select >	V		
KEY INFORMATION					
9	Procurement Method	< select >	V		
FUNDING INFORMATION					
10	Budget and Source of Funds	< select >	V		
11	Development Partners (if applicable)	< type in name >			
PARTICULAR INFORMATION					
12	Project / Programme Code (if applicable)	< use MOF code >			
13	Project / Programme Name (if applicable)	< use MOF name >			
14	EOI Closing Date and Time	Date	Time		
		< select >	V	< select >	V
INFORMATION FOR APPLICANT					
16	Brief Description of Assignment	< type in details >			
17	Experience, Resources and Delivery Capacity Req'd	< type in details >			
18	Other Details (if applicable)	< type in details >			
19	Association with foreign firms is	< select >			
	Ref No	Phasing of Services	Location	Indicative Start Date	Indicative Completion Date
20	S1	< type in name >	< type in name >	< type in >	< type in >
	S2	< complete as required >	< type in name >	< type in >	< type in >
	S3	< complete as required >	< type in name >	< type in >	< type in >
	S4	< complete as required >	< type in name >	< type in >	< type in >
PROCURING ENTITY DETAILS					
21	Name of Official Inviting Expressions of Interest	< type in name >			
22	Designation of Official Inviting Expressions of Interest	< type in name >			
23	Address of Official Inviting Expressions of Interest	< type in name >			
24	Contact details of Official Inviting Expressions of Interest	, Tel. No. >	< Fax No. >	< e-mail >	
25	The procuring entity reserves the right to –deleted- reject all EOI's				

< select > : these fields are “pop-up” fields and the procuring entity will only have to select the correct name, address or date in order to complete the form.

< type in name > : these fields are to be completed by typing in the relevant data.

Request for Expressions of Interest (Firm)

This letter will be self generated from the webpage Advertisement

1
2
3
5

**Request for Expression of Interest (Firm)
For Selection of [6]**

EOI Ref No: [7]

Date: [8]

The [3] has been allocated public funds from the Government of the Peoples Republic of Bangladesh (GoB) toward the cost of the [13] and it intends to apply part of the proceeds of these funds to payments under the contract for the provision of consultancy Services for the project by a Consulting Firm (National).

The Services include [16]

The Experience, Resources and Delivery Capacity required are [17].

The [3] now invites eligible Applicants to indicate their interest in providing the Services. Interested Consultants are invited to provide information indicating that they are qualified to perform the Services (brochures, description of similar assignments, experience in similar operating conditions, availability of appropriate professional qualification and experience among staff, etc.).

An Applicant may associate with other Consultant(s) to enhance their qualifications. Association with foreign firms is [19], however this is not mandatory.

A Consultant will be selected using the selection sub-method in accordance with the Public Procurement Regulations 2003 and Public Procurement Procedures issued by the GoB. It is expected that the Services will be commenced on [20 (3)] at [20 (2)] and shall be completed on [20 (4)] at [21 (2)].

Interested Applicants may obtain further information by applying to the address below during normal office hours.

Expressions of Interest shall be submitted by [14(2)] on [14(1)], in sealed envelope delivered to [21], and be clearly marked "Request for Expressions of Interest for Selection of [6].

[25]

[21]

[22]

[23]

[24]

SCHEDULE XI

Part-A : [See Rule 96]

Tender Submission Form

(this form shall be completed and signed by the Authorised Signatory preferably on the Letter-Head pad of the Tenderer).

Date:

To:

[Contact Person]

[Name of Purchaser]

[Address of Purchaser]

Invitation for Tender No:

[indicate IFT No]

Tender Package No:

[indicate Package No]

Lot No:

[indicate number of Lots]

We, the undersigned, offer to supply in conformity with the Tender Document the following Goods and related Services:

In accordance with ITT Clauses XX, the following prices and discounts apply to our Tender:

The Tender Price is: *[indicate currency and state amount in figures and in words]*
(ITT Sub-Clause XX)

The unconditional discount for being awarded more than one lot in this package is: *[indicate currency and state amount in figures and in words]*
(ITT Sub-Clause XX)

The methodology for Application of the discount is: *[state the methodology]*

The advance payment is: *[state the amount based on percentage of the Tender Price]*
(GCC Sub-Clause XX)

and we shall accordingly submit an Advance Payment Guarantee in the format shown in Form XX.

In signing this letter, and in submitting our Tender, we also confirm that:

- (a) our Tender shall be valid for the period stated in the Tender Data Sheet (ITT Sub-Clause XX) and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (b) a Tender Security is attached in the form of a *[pay order / bank draft / bank guarantee]* in the amount stated in the Tender Data Sheet (ITT Sub-Clause XX) and valid for a period of 28 days beyond the Tender validity date;
- (c) if our Tender is accepted, we commit to furnishing a Performance Security in the amount stated in the Tender Data Sheet (ITT Sub-Clause XX) in the format shown in

Form XX) and valid for a period of 28 days beyond the date of completion of our performance obligations;

- (d) we have examined and have no reservations to the Tender Document, issued by you on *[insert date]*;

including Amendment(s) No(s) *[state numbers]* ,issued in accordance with the Instructions to Tenderers (ITT Clause XX). *[insert the number and issuing date of each amendment; or delete this sentence if no Amendments have been issued]*;

- (e) we, including as applicable, any JVCA partner or specialist subcontractor for any part of the contract resulting from this Tender process, have nationalities from eligible countries, in accordance with ITT Sub-Clause XX;

- (f) we are submitting this Tender as a sole Tenderer
or
we are submitting this Tender as the partner-in-charge of a JVCA, comprising the following other partners, in accordance with ITT Sub-Clause XX;

(delete one of the above as appropriate)

Name of Partner	Address of Partner
1	
2	
3	
4	

- (g) we are not a Government owned entity as defined in ITT Sub-Clause XX
or
we are a Government owned entity, and we meet the requirements of ITT Sub-Clause XX];
(delete one of the above as appropriate)

- (h) we, including as applicable any JVCA partner, declare that we are not associated, nor have been associated in the past, directly or indirectly, with a consultant or any other entity that has prepared the design, specifications and other documents, in accordance with ITT Sub-Clause XX;

- (i) we, including as applicable any JVCA partner or specialist subcontractor for any part of the contract resulting from this Tender process, have not been declared ineligible by the Government of Bangladesh on charges of engaging in corrupt, fraudulent, collusive or coercive practices, in accordance with ITT Sub-Clause XX;

- (j) furthermore, we are aware of ITT Clause X concerning such practices and pledge not to indulge in such practices in competing for or in executing the Contract;

- (k) we intend to subcontract an activity or part of the Works, in accordance with ITT Sub-Clause XX to the following Specialist Subcontractor(s);

Nature of the Supply or related service	Name and address of Specialist Subcontractor
---	--

-
- (l) We, including as applicable any JVCA partner, confirm that we do not have a record of poor performance, such as abandoning the Works, not properly completing contracts, inordinate delays, or financial failure as stated in ITT Sub-Clause XX, and that we do not have, or have had, any litigation against us, other than that stated in the Tenderer Information (Form XX);
- (m) We are not participating as Tenderers in more than one Tender in this Tendering process. We understand that your written Notification of Award shall become a binding Contract between us, until a formal Contract is prepared and executed;
- (n) we understand that you reserve the right to accept or reject any Tender, to cancel the Tender proceedings, or to reject all Tenders, without incurring any liability to Tenderers, in accordance with ITT Clause XX.

Signature:

<i>[insert signature of authorised representative of the Tenderer]</i>
--

Name:

<i>[insert full name of signatory]</i>
--

In the capacity of:

<i>[insert designation of signatory]</i>
--

Duly authorised to sign the Tender for and on behalf of the Tenderer

[If there is more than one (1) signatory add other boxes and sign accordingly].

Attachment 1: Written confirmation authorising the above signatory(ies) to commit the Tenderer, in accordance with ITT Sub-Clause XX;

Attachment 2: Copy of the JVCA Agreement, in accordance with ITA Sub-Clause XX *[if applicable]*.

Part -B : [See Rule 96]

Tender Submission Form

[This letter should be completed and signed by the Authorised Signatory preferably on the Letter-Head pad of the Tenderer].

Date:

To:

[Contact Person]

Name of Procuring Entity]

[Address of Procuring Entity]

Invitation for Tender No:

[indicate IFT No]

Tender Package No:

[indicate Package No]

This Package is divided into the following Number of Lots

[indicate number of Lots]

We, the undersigned, offer to execute in conformity with the Conditions of Contract and associated Contract documents, the following Works and Related Services:

In accordance with ITT Clauses XX and XX , the following prices and discounts apply to our Tender:

The Tender Price is:

(ITT Sub-Clause XX)

*[indicate currency and state amount
in figures and in words]*

The unconditional discount for being
awarded more than one lot in this
package is:

(ITT Sub-Clause XX)

*[indicate currency and state amount
in figures and in words]*

The methodology for Application of
the discount is:

[state the methodology].

The advance payment is:

(GCC Sub-Clause XX)

*[state the amount based on
percentage of the Tender Price].*

and we shall accordingly submit an Advance Payment Guarantee in the
format shown in Form PW3A–XX.

In signing this letter, and in submitting our Tender, we also confirm that:

- (o) our Tender shall be valid for the period stated in the Tender Data Sheet (ITT Sub-Clause XX) and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (p) a Tender Security is attached in the form of a *[pay order / bank draft / bank guarantee]* in the amount stated in the Tender Data Sheet (ITT Sub-Clause XX) and valid for a period of 28 days beyond the Tender validity date;

- (q) if our Tender is accepted, we commit to furnishing a Performance Security in the amount stated in the Tender Data Sheet (ITT Sub-Clause XX) in the format shown in Form (PW3A-XX) and valid for a period of 28 days beyond the date of issue of the Certificate of Completion of the Works;
- (r) we have examined and have no reservations to the Tender Document, issued by you on *[insert date]*;
including Amendment(s) No(s) *[state numbers]* , issued in accordance with the Instructions to Tenderers (ITT Clause XX). *[insert the number and issuing date of each amendment; or delete this sentence if no Amendments have been issued]*;
- (s) we, including as applicable, any JVCA partner or specialist subcontractor for any part of the contract resulting from this Tender process, have nationalities from eligible countries, in accordance with ITT Sub-Clause XX;
- (t) *we are submitting this Tender as a sole Tenderer*
or
“we are submitting this Tender as the partner-in-charge of a JVCA, comprising the following other partners, in accordance with ITT Sub-Clause XX;
(delete one of the above as appropriate)

	Name of Partner	Address of Partner
1		
2		
3		
4		

- (u) *we are not a Government owned entity as defined in ITT Sub-Clause XX*
or
we are a Government owned entity, and we meet the requirements of ITA Sub- Clause XX;
(delete one of the above as appropriate)
- (v) we, including as applicable any JVCA partner, declare that we are not associated, nor have been associated in the past, directly or indirectly, with a consultant or any other entity that has prepared the design, specifications and other documents, in accordance with ITT Sub-Clause XX;
- (w) we, including as applicable any JVCA partner or specialist subcontractor for any part of the contract resulting from this Tender process, have not been declared ineligible by the Government of Bangladesh on charges of engaging in corrupt, fraudulent, collusive or coercive practices, in accordance with ITT Sub-Clause XX;
- (x) furthermore, we are aware of ITT Clause XX concerning such practices and pledge not to indulge in such practices in competing for or in executing the Contract;
- (y) we intend to subcontract an activity or part of the Works, in accordance with ITT Sub-Clause XX, to the following Specialist Subcontractor(s);

Activity or part of the Works	Name and address of Specialist Subcontractor
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-
- (z) We, including as applicable any JVCA partner, confirm that we do not have a record of poor performance, such as abandoning the Works, not properly completing contracts, inordinate delays, or financial failure as stated in ITT Sub-Clause XX, and that we do not have, or have had, any litigation against us, other than that stated in the Tenderer Information (Form PW3A-XX);
- (aa) We are not participating as Tenderers in more than one Tender in this Tendering process. We understand that your written Notification of Award shall become a binding Contract between us, until a formal Contract is prepared and executed;
- (bb) we understand that you reserve the right to accept or reject any Tender, to cancel the Tender proceedings, or to reject all Tenders, without incurring any liability to Tenderers, in accordance with ITA Clause XX.

Signature:

<i>[insert signature of authorised representative of the Tenderer]</i>
--

Name:

<i>[insert full name of signatory]</i>
--

In the capacity of:

<i>[insert designation of signatory]</i>
--

Duly authorised to sign the Tender for and on behalf of the Tenderer

[If there is more than one (1) signatory add other boxes and sign accordingly].

Attachment 1: Written confirmation authorising the above signatory(ies) to commit the Tenderer, in accordance with ITT Sub-Clause XX;

Attachment 2: Copy of the JVCA Agreement in accordance with ITA Sub-Clause XX (*if applicable*)

Part -C : [See Rule 96]

Financial Proposal Submission Form

[Location, Date]

To: [Name and address of Client]

Dear Sirs:

We, the undersigned, offer to provide the consulting Services for [Insert title of assignment] in accordance with your Request for Proposal dated [insert date] and our Technical Proposal. Our attached Financial Proposal is for the sum of [insert amount in words and figures]. This amount is exclusive of local taxes, which we have estimated at [insert amount in words and figures].

Our Financial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, up to expiration of the validity period of the Proposal, i.e. before the date indicated in Clause XX of the Proposal Data Sheet.

Commissions and gratuities, if any, paid or to be paid by us to agents relating to this Proposal and Contract execution, if we are awarded the Contract, are listed as follows:

Name and Address of Agents	Amount	Purpose of commission or gratuity
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We also declare that the Government of Bangladesh has not declared us or any Subconsultants for any part of the Contract, ineligible on charges of engaging in corrupt, fraudulent, collusive, or coercive practices. We furthermore, pledge not to indulge in such practices in competing for or in executing the Contract, and are aware of the relevant provisions of the Proposal Document (ITC Clause XX).

We understand you are not bound to accept any Proposal you receive.

Signed
In the capacity of:
Duly authorised to sign the proposal on behalf of the Applicant.
Date:

Part -D : [See Rule 96]

Technical Proposal Submission Form

[Location, Date]

To: [Name and address of Client]

Dear Sirs:

We, the undersigned, offer to provide the consulting Services for [insert title of assignment] in accordance with your Request for Proposal dated [insert date] and our Proposal. We are hereby submitting our Proposal, which includes the Technical Proposal, and the Financial Proposal sealed in two separate envelopes.

We are submitting our Proposal in association with: [insert a list with full name and address of each associated Consultant, also specify, whether they are in joint venture or as sub consultants].

If negotiations are held during the period of validity of the Proposal, i.e., before the date indicated in Clause XX of the Proposal Data Sheet, we undertake to negotiate on the basis of the proposed staff. Our Proposal is binding upon us and subject to the modifications resulting from Contract negotiations.

We undertake, if our Proposal is accepted, to initiate the consulting services related to the assignment not later than the date indicated in Clause XX of the Proposal Data Sheet.

We also confirm that the Government of Bangladesh has not declared us, or any sub consultants for any part of the Contract, ineligible on charges of engaging in corrupt, fraudulent, collusive or coercive practices. We furthermore, pledge not to indulge in such practices in competing for or in executing the Contract, and we are aware of the relevant provisions of the Proposal Document (ITC Clause XX).

We understand you are not bound to accept any Proposal you receive.

We remain,

Yours sincerely,

Authorised Signature <i>[in full and initials]</i>	
Name and designation of Signatory	
Name of Firm	
Address	

SCHEDULE XII

The Code of Ethics for Public Procurement

1. **Short title and commencement.** —This code may be called the Code of Ethics for Public Procurement, 2007.
2. **Application.** — (1) This Code shall apply to all Persons, whether they are directly or indirectly involved in public procurement activities.

(2) This Code shall be considered as the basis for best practices of ethical behaviour for Persons engaged in public procurement within Bangladesh.
3. **Definitions.** — In this Code, unless there is anything repugnant in the subject or context-
 - (a) “Competent Authority” means the Government or other authority to whom the relevany powers may be delegated by the Government;
 - (b) “public servant” means a public servant as defined in Section 21 of the Penal Code, 1860 (Act XLV of 1860), and includes officers and staff of all Procuring Entities;
4. **General explanation.** — (1) Where the public servant is a female, reference to “he”, “him”, “his”, “himself” in this Code shall be construed as reference to “she”, “her” or “herself”.

(2) Where a Person is an individual then the references shown in (1) above shall apply to that Person. Where a Person is a body of individuals, a firm or a company, an association or an organisation whether incorporated or not, reference to “he”, “him”, “his” or “himself” shall be construed as reference to “it”, “its” or “itself” as the case may be.
5. **General principles.** — (1) A Person shall always act professionally and selflessly, seeking to assist in enhancing efficiency, competition, transparency and accountability in public procurement in Bangladesh by—
 - (a) complying with —
 - (i) the Act, Rules, guidelines, orders or other documents concerning public procurement in Bangladesh; and
 - (ii) any contractual obligations established between the Procuring Entity and a Person;
 - (b) maintaining the highest possible standard of integrity in all their dealings with public servants both within and outside the Procuring Entity;
 - (c) encouraging and developing the highest possible standards of professional competence amongst Persons, and those who work under their supervision and for whom they are responsible;
 - (d) enhancing the proficiency and reputation of public procurement by acquiring and maintaining current technical knowledge, following best procurement practices and establishing the highest standard of ethical behaviour;
 - (e) optimising the use of resources under their control and supervision to provide the maximum benefit to the Procuring Entity and the nation.

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- (2) A Person shall not allow himself to be deflected from the principles mentioned in this Code.
6. **Gifts.**— (1) Save as otherwise provided in this Code, no Person shall offer to any public servant, or any member of his family, any gift the receipt of which will place him under any form of official obligation to the donor of the gift.
- (2). A Person may give to a public servant a gift of small intrinsic value such as business diaries, calendars, key rings or a ballpoint with the Person's company symbol provided that the value of such individual item does not exceed Tk. 500/-.
7. **Hospitality.** — (1) A Person shall not influence or put a public servant under any obligation by offering hospitality to influence the making of a procurement decision by that public servant as a consequence of accepting hospitality from a Person or any other private individual.
- (2) A Person shall not encourage any meetings or entertainment to be held, the main purpose of which shall be to honour or praise a public servant.
8. **Unacceptable activities.** – (1) The following activities shall be considered unacceptable activities under this Code:
- (2) A Person shall not offer to or secure for, or promise to secure for a public servant any foreign award, title or decoration.
- (3) A Person shall not approach any public servant to secure for that public servant an invitation to visit a foreign country or for training abroad, unless such training has been formally approved in any procurement document or aid agreement.
- (4) A Person shall not lend money to, or borrow money from, or place himself under any pecuniary obligations to any public servant with whom he has any procurement dealings.
- (5) A Person shall not encourage a public servant to construct a building whether intended to be used for residential or commercial purpose, nor encourage a public servant in the buying or selling of valuable property, moveable and immovable, nor encourage a public servant to speculate in investments.
- (6) A Person shall not encourage a public servant, or a member of his family, to engage in any trade in the area over which such public servant has jurisdiction, nor to undertake any employment of work, other than his official duties.
9. **Communication of official documents or information.** — (1) Save as provided otherwise in this Code, a Person shall not disclose directly or indirectly to any other Person, or any public servant, or a private individual, or to the press, other than those to whom he is authorised to communicate it, the contents of any document or information which has been entrusted in confidence to him by a public servant, or to which he had access owing to his involvement in the procurement proceedings or the content of the document.
- (2) A Person shall disclose the contents of any official document or communicate any information which has come into his possession to another official only if so provided for, or as may be reasonably expected, during the performance of the procurement proceedings or contract in force at that time.
10. **Conflict of Interest.** - A Person finding a personal interest arising such that it may affect his impartiality in any matter relevant to his obligations at the point in time should consider this as a conflict of interest and shall therefore declare this personal interest immediately upon being aware
-

of such interest to the public servant with whom he is dealing at that time.

(2) A conflict of interest may also be considered to exist if a Person is in any way closely related to, either as a friend or a relation or has a financial investment in a business with any public servant with whom he is dealing at that time.

11. **Obligations of a Person.** — A Person has an obligation to a Procuring Entity that in performing his obligations under any procurement activity or contract, he will comply with the Act, Rules, or other documents published by the Competent Authority.

(2) No Person shall indulge in corrupt, fraudulent, collusive or coercive practices, the nature of which is defined in Rule 127.

12. **Contravention of this Code.** — Contravention of this Code shall be construed as misconduct and may result in that Person being debarred from partaking in any future public procurement either indefinitely or for any period of time as determined by a Procuring Entity.

13. **Decisions and advice.** — Should a Person be unclear as to what is and what is not acceptable he should seek advice from the Head of the Procuring Entity, or as appropriate, the Competent Authority.

14. **This Code not to be in derogation of any law etc.** — Nothing in this Code shall derogate from the provisions of any law, or of any order of any competent authority, for the time being in force, relating to the conduct of a Person.

By order of the President

Sk A K Motahar Hossain
Secretary
