# Lecture 40

ACCEPTANCE OF BIDS AND AWARD OF PROCUREMENT CONTRACTS

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# 38.       Acceptance of bids.-

The bidder with the lowest evaluated bid, if not in conflict with any other law, rules, regulations or policy of the Federal Government, shall be awarded the procurement contract, within the original or extended period of bid validity.

# 39.       Performance guarantee.-

Where needed and clearly expressed in the bidding documents, the procuring agency shall require the successful bidder to furnish a performance guarantee which shall not exceed ten per cent of the contract amount.

# 40.       Limitation on negotiations.-

Save as otherwise provided there shall be no negotiations with the bidder having submitted the lowest evaluated bid or with any other bidder:

Provided that the extent of negotiation permissible shall be subject to the regulations issued by the Authority.

# 41.       Confidentiality.-

The procuring agency shall keep all information regarding the bid evaluation confidential until the time of the announcement of the evaluation report in accordance with the requirements of rule 35.

# 42.       Alternative methods of procurements.-

A procuring agency may utilize the following alternative methods of procurement of goods, services and works, namely:-

(a)        petty purchases.-

            Procuring agencies may provide for petty purchases where the object of the procurement is below the financial limit of twenty five thousand rupees. Such procurement shall be exempt from the requirements of bidding or quotation of prices:

Provided that the procuring agencies shall ensure that procurement of petty purchases is in conformity with the principles of procurement prescribed in rule 4:

Provided further that procuring agencies convinced of the inadequacy of the financial limit prescribed for petty purchases in undertaking their respective operations may approach the Federal Government for enhancement of the same with full and proper justifications.

(b)      request for quotations.-

A procuring agency shall engage in this method of   procurement only if the following conditions exist, namely:-

(i)        the cost of object of procurement is below the prescribed limit of \*\*one hundred thousand rupees:

\*\*Provided that the respective Boards of Autonomous bodies are authorized to fix an appropriate limit for request for quotations method of procurement subject to a maximum of rupees five hundred thousand which will become financial limit under this sub-rule:

(ii)       the object of the procurement has standard specifications;

(iii)     minimum of three quotations have been obtained; and

(iv)      the object of the procurement is purchased from the supplier offering the lowest price:

Provided that procuring agencies convinced of the inadequacy of the financial limit prescribed for request for quotations in undertaking their respective operations may approach the Federal Government for enhancement of the same with full and proper justifications;

(c)        direct contracting.-  A procuring agency shall only engage in direct contracting if the following conditions exist, namely:-

(i)        the procurement concerns the acquisition of spare parts or supplementary services from original manufacturer or supplier:

Provided that the same are not available from alternative sources;

(ii)       only one manufacturer or supplier exists for the required  procurement:

Provided that the procuring agencies shall specify the appropriate fora, which may authorize procurement of proprietary object after due diligence; and

(iii)      where a change of supplier would oblige the procuring agency to acquire material having different technical specifications or characteristics and would result in incompatibility or disproportionate technical difficulties in operation and maintenance:

Provided that the contract or contracts do not exceed three years in duration;

(iv)      repeat orders not exceeding fifteen per cent of the original procurement;

(v)       in case of an emergency:

Provided that the procuring agencies shall specify appropriate fora vested with necessary authority to declare an emergency;

\*(vi)    when the price of goods, services or works is fixed by the government or

any other authority, agency or body duly authorized by the Government, on its behalf, and

\*\*(vii)  for purchase of motor \*\*\*vehicle from local original manufacturers or their authorized agents at manufacturer’s price.

(d)       negotiated tendering.-  A procuring agency may engage in negotiated tendering with one or more suppliers or contractors with or without prior publication of a procurement notification. This procedure shall only be used when,-

(i)        the supplies involved are manufactured purely for the purpose of supporting a specific piece of research or an experiment, a study or a particular development;

(ii)       for technical or artistic reasons, or for reasons connected with protection of exclusive rights or intellectual property, the supplies may be manufactured or delivered only by a particular supplier;

(iii)      for reasons of extreme urgency brought about by events unforeseeable by the procuring agency, the time limits laid down for open and limited bidding methods cannot be met. The circumstances invoked to justify extreme urgency must not be attributable to the procuring agency:

Provided that any procuring agency desirous of using negotiated tendering as a method of procurement shall record its reasons and justifications in writing for resorting to negotiated tendering and shall place the same on record.

# 43.     On account payments.-

All procuring agencies shall make prompt payments to suppliers and contractors against their invoices or running bills within the time given in the conditions of the contract, which shall not exceed thirty days.

# 44.       Entry into force of the procurement contract.-

A procurement contract shall come into force,-

(a)        where no formal signing of a contract is required, from the date the notice  of the acceptance of the bid or purchase order has been given to the bidder whose bid has been accepted. Such notice of acceptance or purchase order shall be issued within a reasonable time; or

(b)       where the procuring agency requires signing of a written contract, from the date on which the signatures of both the procuring agency and the successful bidder are affixed to the written contract. Such affixing of signatures shall take place within a reasonable time:

Provided that where the coming into force of a contract is contingent upon fulfillment of a certain condition or conditions, the contract shall take effect from the date whereon such fulfillment takes place.

# 45.       Closing of contract.-

(1)        Except for defect liability or maintenance by the supplier or contractor, as specified in the conditions of contract, performance of the contract shall be deemed close on the issue of over all delivery certificate or taking over certificate which shall be issued within thirty days of final taking over of goods or receiving the deliverables or completion of works enabling the supplier or contractor to submit final bill and the auditors to do substantial audit.

(2)        In case of defect liability or maintenance period, defect liability certificate shall be issued within thirty days of the expiry of the said period enabling the supplier or contractor to submit the final bill. Except for unsettled claims, which shall be resolved through arbitration, the bill shall be paid within the time given in the conditions of contract, which shall not exceed sixty days to close the contract for final audit.