

**AZAD GOVT OF THE STATE OF JAMMU & KASHMIR  
SERVICES & GENERAL ADMINISTRATION DEPARTMENT  
(Regulations)**

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"Muzaffarabad"

Dated: January 27, 2022

**NOTIFICATION:-**

No. S&GAD/A-4(397)2017 Part-II. In exercise of the power conferred by Section 27 of the Azad Jammu and Kashmir Public Procurement Regulatory Authority Act, 2017 (Act VIII of 2017), the Government is pleased to direct that the following amendment shall be made in Public Procurement Regulatory Authority Rules, 2017, namely:-

In the aforesaid Rules,-

(i) in Rule 2, in sub-rule (1),-

(a) after clause (b), the following new clauses (ba) and (bb), shall be inserted, namely:-

"(ba) "call off order" means an order placed by a procuring agency under general terms and pricing on a range of goods under closed framework agreement, without having to negotiate terms every time;

(bb) "closed framework agreement" means an agreement with specified terms and conditions with an agreed price;"

(b) for clause (h), the following shall be substituted, namely,-

"(h) "corrupt and fraudulent practices" in respect of procurement process, shall be either one or any combination of the practices including,-

(i). "coercive practices" which means any impairing or harming or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence the actions of a party to achieve a wrongful gain or to cause a wrongful loss to another party;

(ii). "collusive practices" which means any arrangement between two or more parties to the procurement process designed to stifle open competition for any wrongful gain, and to establish prices at artificial, non-competitive levels;

(iii). "corrupt practices" which means the offering, giving, receiving or soliciting, directly or

indirectly, of anything of value to influence the acts of another party for wrongful gain."

- (c) after clause (i), the following new clauses (ia) and (ib), shall be inserted, namely,-

**"(ia)** "e-procurement" means use of information and communication technologies or digital or electronic means for procurement process;

**(ib)** "framework agreement" means a contractual arrangement which allows a procuring agency to procure goods, services or works that are needed continuously or repeatedly at agreed terms and conditions over an agreed period of time, through placement of a number of orders;"

- (d) for clause (k), following shall be substituted, namely,-

**"(k)** "most advantageous bid" means,-

(i). a bid or proposal for goods, works or services that after meeting the eligibility or qualification criteria, is found substantially responsive to the terms and conditions as set out in the bidding or request for proposals document; and

(ii). evaluated as the highest ranked bid or proposal on the basis of cost or quality or qualification or any combination thereof, as specified in the bidding documents or request for proposal documents which shall be in conformity with the selection techniques to be issued by the Authority;"

- (e) after clause (k), substituted as aforesaid, the following new clause (ka), shall be inserted, namely:-

**"(ka)** "Open framework agreement" means an agreement with specified terms and conditions without an agreed price;"

- (f) after clause (m), the following new clause (m), shall be inserted, namely:-

**"(m)** "unsolicited project proposal" means any proposal containing a unique and innovative idea and approach, and the same is not submitted in response to any procurement request, however is aligned with the mission and objectives of the procuring agency and is subject to competitive selection process by soliciting



counter proposals challenging the initiator's proposal in all the technical and financial aspects;"

- (ii) after Rule 7, the following new rule 7A, shall be inserted, namely:-

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

- (iii) for Rule 10, the following shall be substituted, namely:-

**"10. Specifications.-** (1) The procuring agency shall allow the widest possible competition by defining such specifications that shall not favour any single contractor or supplier nor put others at a disadvantage."

(2) Any terms, specifications, standards, features, characteristics and requirements prescribing the technical or quality characteristics shall be generic in nature and shall not include reference to brand name, model number, catalogue number, name or origin of the country or similar classification.

(3) In case, the procuring agency is convinced that the use of or a reference to a brand name or a catalogue number is essential to complete, an otherwise incomplete specification, and no other sufficiently precise or understandable way of describing the characteristics of the goods, works or services to be procured is provided, the words "or equivalent" shall be used, after recording specific justifications in writing therein.

(4) The procuring agency shall be responsible to define the parameters of "equivalence" for all participants to procurement process, to ensure transparency.

(5) Solicitation documents or notices for disposal of assets by tender, and any additional information made available to a prospective participant, shall specify that the asset is to be sold on "as is where is" basis and shall disclaim liability after sale.

(6) Notwithstanding anything contained in sub-rule (4), a procuring agency shall give a full and accurate description of an asset to be disposed of."



- (iv) in Rule 12, in sub-rule (1), for the words "one hundred thousand rupees" and "two millions" the words "five hundred thousand Pakistani Rupees" and "three millions" shall be substituted, respectively.
- (v) in Rule 13, in sub-rule (2), at the end, following proviso shall added, namely:-

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

- (vi) after Rule 16, the following new rules 16A and 16B shall be inserted, namely:-

**"16A (1) Procurement of common use items, services and commodities through framework agreements.-(i) The**

Procuring Agency shall arrange the procurement through framework agreements of recurrent or common use items, services including maintenance services and those commodities, whose market prices fluctuate during the term of the agreement, for a maximum period of three years.

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

(2) Based on such estimate, procuring agency shall initiate the prequalification proceedings for selection of suppliers and service providers.

(3) Open and closed framework agreements may be made with the selected suppliers and service providers. Maximum duration of open framework agreements shall not be more than three years and the closed framework agreements shall not exceed one year.

(4) The procuring agency may on need basis pre-qualify new suppliers or service providers during continuity of framework agreements with previously pre-qualified suppliers or service providers.

(5) The Authority shall make regulations, regulatory guides, guidelines or templates for procurement through framework agreements.

**16B Price adjustment for framework agreements.-(1) The** procuring agency may, during the contract execution, accept



a request to make price adjustment under circumstance of above normal price volatility and shall make a comparison of the prices requested against the national or international price indicator guides adopted by the Authority and verify the justification for such price adjustment.

(2) The procuring agency shall determine the factor or percentage for price adjustment approved by the Principal Accounting Officer (PAO)."

(vii) for Rule 19, the following shall be substituted, namely:-

**"19 Blacklisting of suppliers and contractors.**- (1) The procuring agency shall devise a comprehensive mechanism for blacklisting and debarment of bidders for a specified time in accordance with regulations made by the Authority, and the bidder or the bidders shall be declared as

(a) blacklisted and henceforth cross debarred for participation in any public procurement or disposal proceedings for the period of not more than ten years, if corrupt and fraudulent practice as defined in these rules is established against the bidder or the bidders in pursuance of blacklisting proceedings;

(b) blacklisted and henceforth cross debarred for participation in respective category of public procurement or disposal proceedings for a period of not more than three years, if the bidder fails to perform his contractual obligations during the execution of contract or breaches the contract due to his capacity and capability to perform or otherwise. However, procuring agency shall initiate such blacklisting or debarment proceedings after exhausting the forum of arbitration, provided that such provision exists in the conditions of contract, and if such failure or breach is covered in the respective dispute settlement clauses of the contract, and

(c) blacklisted and henceforth cross debarred for participation in respective category of public procurement or disposal proceedings for a period of not more than six months, if the bidder fails to abide with a bid securing declaration, however without being indulged in any corrupt and fraudulent practice.

(2) Such blacklisting or barring action shall be communicated by the procuring agency to the Authority and



respective bidder or bidders in the form of decision containing the grounds for such action. The same shall be publicized by the Authority after examining the record whether the procedure defined in blacklisting and debarment mechanism has been adhered to by the procuring agency.

(3) The bidder may file the review petition before the Authority within thirty days of communication of such blacklisting or barring action after depositing the prescribed fee and in accordance with procedure issued by the Authority, and the Authority shall evaluate the case and decide within ninety days of filing of review petition. The decision of the Authority shall be considered as final.

(4) A bidder who has been declared blacklisted or debarred by a foreign country, international organization or other foreign institutions shall be treated as blacklisted and debarred from participating in any public procurement proceedings or entering into any public contract for such period as declared by that foreign country, international organizations or other foreign institutions: Provided that in case of public sector entities, the Board shall have the power to review and examine the case on the basis of evaluations made by the Authority, and decide the case accordingly.

(5) Notwithstanding anything contained in this rule, the blacklisted or debarred bidder shall be bound to perform its contractual obligations in such on-going public contract or contracts in which such bidder is already engaged. This shall however be at the option of respective procuring agency."

(viii) for Rule 24, the following shall be substituted, namely:-

**"24 Reservations and preference.-(1)** Procuring agencies shall allow all prospective bidders to participate in procurement or disposal proceedings without regard to nationality, except in cases in which a procuring agency decides to limit such participation to national bidders only or prohibit participation of bidders of some nationalities, in accordance with the policy of Government.

(2) The procuring agency shall, while evaluating and comparing bids, allow for preference to domestic suppliers or contractors, while competing with the international bidders in accordance with the policies of Government or regulations made by the Authority for- (i) works projects; (ii) certain



goods manufactured, mined, extracted and grown in the Islamic Republic of Pakistan or Azad Jammu and Kashmir; and (iii) disposal of certain assets having any potential impact on national security.

(3) The percentage of preference, to be accorded shall be clearly mentioned in the bidding documents under the bid evaluation criteria."

(ix) for Rule 25, the following shall be substituted, namely:-

**"25 Bid security:-** The procuring agency may require the bidders to furnish a fixed amount of bid security not exceeding five percent of the estimated value of procurement determined by the procuring agency:

Provided that in case where the procuring agency does not require the bid security, the bidder shall submit bid securing declaration on the format prescribed by the Authority in Standard Procurement Documents."

(x) for Rule 35, the following shall be substituted, namely:-

**"35 Announcement of evaluation reports.-** Based on the procedure adopted for the respective procurement, the procuring agency shall announce the result of bid evaluation, in the form of final evaluation report giving justification for acceptance or rejection of bids at least fifteen days prior to the award of procurement contract:

Provided that in case where technical proposal is to be evaluated separately, prior to opening of financial proposal, the technical evaluation report shall be announced before opening of the financial proposal."

(xi) in Rule 36b, in sub-rule (ix), for the words "**lowest evaluated bid**", the words "**most advantageous bid**", shall be substituted.

(xii) in Rule 36c, in sub-rule (vii), for the words "**lowest evaluated bid**" the words "**most advantageous bid**", shall be substituted.

(xiii) for Rule 36d, in sub-rule (ix), the following shall be substituted, namely:-

**"(ix)** the revised technical proposal and original financial proposal along with supplementary financial proposal shall be opened on respective specified time, date and venue announced in advance by the procuring agency."



(xiv) in Rule 36d, in sub-rule (x), for the words "**lowest evaluated bid**" the words "**most advantageous bid**", shall be substituted.

(xv) after Rule 37, the following new Rule 37A, shall be inserted, namely:-

**"37A Unsolicited Proposal:-** (1) An unsolicited proposal received by the procuring agency from any individual or agency, private or public, consistent with the mission of the procuring agency, shall be assessed by the assessment committee, consisting of at least three technical experts, to be notified by the procuring agency. The assessment committee shall ascertain the viability of the proposal. If the proposal is found viable, the procuring agency shall-

(a) advertise the proposal for open competition without disclosing the name of the initiator of unsolicited proposal;

(b) conduct prequalification process;

(c) exempt the initiator of the unsolicited proposal from the prequalification; and

(d) award five percent additional weightage to the project proponent in the combined evaluation of his proposal.

(2) If no other bidder in response to the advertisement submits bid, the procuring agency may award the contract to the initiator of the proposal.

(3) In case of bidding competition, if the bid of initiator does not emerge as most advantageous bid, procuring agency shall give the initiator an opportunity to make his bid at par with the most advantageous bid, however if the initiator does not want to accept the challenge to match the proposal, he shall be given right of refusal without forfeiture of bid security.

(4) The proprietary information of the initiator contained in the proposal shall remain confidential and shall not be disclosed to any interested bidder.

(5) Subject to sub-rule (4), the procuring agency shall not be responsible for any intellectual property rights accruing to the proposal of the initiator.

(6) Unless otherwise expressly stated in writing by the initiator, the procuring agency may, if it considers necessary,



disclose any information of the unsolicited proposal or the bidders as part of procurement process."

(xvi) after Rule 38, the following new Rule 38A, shall be added:-

**"38A Single responsive bid in goods, works and services.-"**

(1) The procuring agency shall consider single bid in goods, works and services if it-

- (a) meets the evaluation criteria, ensures complaints of specifications and other terms & conditions expressed in advertisement or bid solicitation documents;
- (b) is not in conflict with any provision of the Act;
- (c) conforms to the technical specifications;
- (d) has financial conformance in terms of rate reasonability:

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

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

(xvii) after Rule 39, the following new Rule 39A, shall be inserted, namely:-

**"39A Letter of credit.-** Where required the procuring agency may incorporate the provision of letter of credit (LC) and International Chamber of Commerce incoterms, in such processes where shipments and custom clearance are involved and where procuring agency's bank mitigate procurement risk in terms of quality assurance and delivery mechanism and bidder's bank in terms of its payments."

(xviii) for Rule 40, the following shall be substituted, namely:-

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

(2) Authority may determine the extent and types of negotiations on procurement by regulations."

(xix) for Rule 41, the following shall be substituted, namely:-

**"41. Confidentiality.-** The procuring agency shall keep all information regarding the technical or final evaluation



confidential, as the case may be, until the time of the announcement of the respective evaluation reports in accordance with the requirements of Rule 35."

- (xx) in Rule 42a, in sub-rule (a), for the words **"Twenty Five Thousand Rupees"** the words **"One Hundred Thousand Rupees"**, shall be substituted.
- (xxi) in Rule 42b, in sub-rule (b), in clause (i), for the words **"One Hundred Thousand Rupees"** the words **"Five Hundred Thousand Rupees"**, shall be substituted.
- (xxii) for Rule 48, the following shall be substituted, namely:-

**"48 Redressal of grievances by the procuring agency.-"**

(1) The procuring agency shall constitute a committee comprising of odd number of persons, with necessary powers and authorizations, to address the complaints of bidders that may occur prior to the entry into force of the procurement contract.

(2) Any party may file its written complaint against the eligibility parameters, evaluation criteria or any other terms and conditions prescribed in the bidding documents if found contrary to the provisions of the procurement regulatory framework, and the same shall be addressed by the grievance redressal committee (GRC) well before the proposal submission deadline.

(3) Any bidder feeling aggrieved by any act of the procuring agency after the submission of his bid may lodge a written complaint concerning his grievances within seven days of announcement of the technical evaluation report and five days after issuance of final evaluation report.

(4) In case, the complaint is filed against the technical evaluation report, the GRC shall suspend the procurement proceedings.

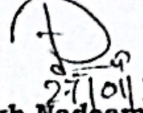
(5) In case, the complaint is filed after the issuance of the final evaluation report, the complainant cannot raise any objection on technical evaluation of the report:

Provided that the complainant may raise the objection on any part of the final evaluation report in case where single stage single envelope bidding procedure is adopted.

(6) The GRC shall investigate and decide upon the complaint within ten days of its receipt.

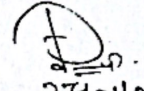


(7) Any bidder or party not satisfied with the decision of the GRC, may file an appeal before the Authority within thirty days of communication of the decision subject to depositing the prescribed fee and in accordance with the procedure issued by the Authority. The decision of the Authority shall be considered as final."

  
27/01/2022  
(Farrukh Nadeem Tammana)  
Section Officer S&GAD  
(Regulations-I)

**Copy to:-**

1. Secretary to the President, Azad Jammu & Kashmir.
2. Secretary to the Prime Minister, GoAJ&K.
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5. Additional Chief Secretary (PP&H), GoAJ&K.
6. Senior Member Board of Revenue, GoAJ&K.
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8. Secretary, S&GAD, GoAJ&K.
9. All Secretaries to the Government.
10. The Senior Additional Secretary S&GAD.
11. Chief Instructor, Kashmir Institute of Management for record and updating of Civil Service Code.
12. Accountant General, Azad Jammu & Kashmir.
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27/01/2022  
Section Officer S&GAD  
(Regulations-I)

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Pl. discuss. Ju.  
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