

# **Public Procurement RULE**

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**Assam Administrative Staff College**

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# Fundamental Principles of Public Procurement

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- ❑ Procure the stores of required quantity and specified quality
- ❑ Procure on competitive basis from eligible source at right price
- ❑ Procure stores within required time frame;
- ❑ To afford fair and equal treatment to all suppliers

'Five Rights' should be kept in view that is procuring stores of **Right Price, Right Quality, Right Quantity** from **Right Suppliers** at the **Right Time**

**RIGHT P2QST.**

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# Standards of Financial Propriety to be followed in Procurement

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- ❑ Every Head of Offices incurring expenditure from public moneys is to be guided by high standards of financial propriety as :
- ❑ Expenditure should not be prima facie more than the occasion demands
- ❑ Procurement should be for the interest public interest not for malafide interest of procuring authority with motive of earning money
- ❑ Ring should not be formed in office to handle the process influenced by outside person/contractor through bribery
- ❑ Absolute confidentiality should be maintained to avoid leakage of information of procurement process

# Fundamental Principles of Public Procurement

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Assam Public Procurement Act. lists out the following basic principles of best procurement practice

- Economy-value for money through open and fair competition
- Transparency-at all stages of the process
- Accountability-those involved are accountable for their actions
- Equity-fair competition through application of uniform policies and procedures
- Efficiency: minimizing delays through consistent application of procedures and ethical standards

# 8 Steps for purchase process

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- ❑ Demands for purchase
- ❑ Budget Provision/Allocation
- ❑ Administrative Approval
- ❑ Issue of Tender & Receipt of Tender
- ❑ Tender opening with Minutes signed
- ❑ Comparative Statement(CS)
- ❑ Tender evaluation with Minute
- ❑ Tender acceptance & Contract agreement/Issue of supply/work order

# Procurement Cycle

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Purchase cycle consists of the following:

- Procurement planning
  - Mode of Purchase
  - Tender opening
  - Evaluation of tenders decision making
  - Contract award
  - Contract execution & monitoring
  - Contract closing
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# Terminology Defined

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- ❑ NIB/NIT/NIQ: Notice inviting bid/tender/quotation
- ❑ Bid Security:
- ❑ Performance Security
- ❑ Construction Committee: Committee formed by procuring authority
- ❑ NCB//ICB: National/International competitive bidding
- ~~❑ Procurement Plan~~
- ❑ SPPP: State Public Procurement Portal

# Procurement Plan: Contents

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- Nature of procurement
- Purpose/Objective of procurement
- Specification: Quantity & Quality, Type, Configuration
- Estimated value
- Source of fund & budget provision
- Procurement method
- If not open competitive/limited specific reason
- Time frame for bid process



# Procurement Committees

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- Preparation of bid
  - Opening of bid
  - evaluation of technical and financial bid
  - Monitoring of contract
  - Spot purchase
  - Competitive negotiation
  - 3 or more members with financial & technical expertise and one from higher authority
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# Mode of purchase

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- ❑ The standard modes of purchase adopted for procuring stores, other than those financed by World Bank or ADB etc. are as under:
  - Local purchase
  - Single Tender Enquiry: In case of material where there is one supplier, single tender enquiry is issued
  - Advertised Tender Enquiry-to be published in Trade Journal and Daily News Paper.
  - Limited Tender Enquiry
  - Global Tender Enquiry

# Tendering at economy cost

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- CVC recommends that for publishing tenders website should be used  
In Internet buyer can reach suppliers at click of a mouse as news paper is very expensive
- CVC recommends that size of advertisement in newspaper should be minimum and all details to be accessed on website along with Tender documents to be downloaded at free of cost

# Single Bid System

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- ❑ For material is well defined with clearly set qualitative standard
- ❑ Lowest responsive bid price meeting the eligibility criteria as well as technical & commercial requirement
- ❑ At least 3 bids are to be obtained

# Two Bid System

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- For purchasing high value plant, machinery etc. of a complex and technical nature, bids are invited in two parts
- These are: (i) Technical bid along with commercial terms and conditions and (ii) Financial bid indicating item wise price for the items mentioned in technical bid

# Contd...

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- Technical and financial bids should be sealed by the bidder in separate covers duly super scribed and both sealed covers should be put in a bigger cover which should also be sealed and duly super scribed
  - Technical bids are opened first and evaluated by a competent committee
  - At the second stage financial bids of only the technical acceptable bids should be opened for further evaluation and ranking before awarding contract
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# Contd...

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- ❑ After technical evaluation, the firms who qualify technically are invited to attend tender opening of financial bids on a particular date
- ❑ Tenders not technically qualified are rejected and their financial bids are not opened
- ❑ Bids received after the specified date and time for receipt of bids should not be considered
- ❑ Tenders should be opened in the presence of authorised representative at specified time and place

# Evaluation of Tenders

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Offers received are categorized in to:

- Responsive
- Unresponsive
- Technically acceptable
- Technically unacceptable

Bids which are responsive and technically acceptable are considered keeping in view various factors like their status, past performance etc



# Decision Making

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After negotiations, decision to place order on one or more bidders is taken depending on the following:

- Delivery requirement of user
  - Manufacturing capacity of bidder
  - Financial strength of bidder
  - Delivery committed by bidder
  - Present load and performance of bidder
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# Bid Security and Performance Security

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- ❑ Bid security, also known as earnest money, should be obtained from the bidders along with their bids
- ❑ Amount of bid security should be determined in accordance with existing rules
- ❑ Form of bid security should be indicated in the bidding document
- ❑ Bid securities of unsuccessful bidders should be returned after expiry of final bid validity
- ❑ Performance security from the successful bidder should be obtained and should remain valid for a period of 60 days beyond date of completion of all contractual obligations of the supplier

# Money to be deposited by Bidder

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- Documentation Fee
- Earnest Money Deposit (EMD)
- Security Deposit (SD)
- Bank Guarantee (BG)
- Collateral Guarantee (something pledged) in place of BG

# Contract Award

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- ❑ Contracts should be awarded within the validity of offers
- ❑ Contract should clearly stipulate the description of the item, price, delivery and emphasizing that time is the essence of the contract
- ❑ In case of high value transactions, acceptance of suppliers should be obtained there itself
- ❑ To ensure that contract is satisfactorily drawn and legally binding on both parties, to be valid and enforceable

# Outsourcing of Services

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Deptt. may outsource certain services in the interest of economy and efficiency. Following basic guidelines should be followed:

- Identification of likely contractors
- Preparation of Tender Enquiry
- Invitation of bids
  
- Evaluation of bids received
- Outsourcing by Choice
- Monitoring the contract

# Registers to be maintained

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- Indented Subject matters
- Contractors/vendors
- Purchase order guard file
- Purchase process progress
- Stock
- Asset
- liability

# Procurement Rule 2020: Some important provisions

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- ❑ Notice Inviting Bids: Procuring entity shall invite bids in open competitive bidding and two stage bidding by issuing notice ( NIB) to be published in the SPPP
- ❑ If NIB is not published on SPPP an abridged notice shall be published in two news papers one each in Vernacular and English paper for collecting it from office
- ❑ Purchase preference applicable if any

# Procurement Committee: Function & Bid Documents (Rule 23)

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- a. Preparation of Bid document
- b. Opening Bid
- c. Evaluation of Bid
- d. Monitoring of Contract
- e. Spot Purchase
- f. Competitive negotiation with bidder
- g. Scrutiny of DPR or engage consultant for complex work for it with approval



# Procedure relating to Bidding

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- ❑ The bidder shall submit one typed original set clearly marking "Original" with all pages signed by the bidder or authorised person along with additional copies thereof as specifying in bid as "Copy"
- ❑ Details of documents attached
- ❑ Any correction/interpolation in bid shall be initialled by the bidder

# Sealing Marking & Submission

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- ❑ Submit bid by Post/hand/drop in locked box or Electronically if so specified and provided in SPPP and e-Procurement Portal
- ❑ Bid shall be submitted in one single sealed envelope containing both the original and copy document as marked
- ❑ Validity Period: As specified not more than 180 days ie.6 months

# Receipt & Custody of Bid

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- ❑ By authorised person receive the posted bid issuing receipt specifying time, date and place and record in bid receipt register up to the last day
- ❑ Bid should be kept under safe custody under lock
- ❑ Record of bids received late through post shall be marked as late with time on the envelop & register and return if requested

# Opening of Bids

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- ❑ Bid box opened by Committee at place, time & date specified in presence of bidders for watch proceedings
- ❑ Bid envelope signed with date time by members numbering serial number of each bid envelope specifying total no.
- ❑ Prepare list of bidders with signature of bidders and signed by members
- ❑ Bidder shall be enabled to witness bid opening on SPPP

# Contd.

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- ❑ Read out the name of bidder, bid price, bid security deposited
- ❑ All bids opened to be signed on first page by members and pages of price schedule with keyprice
- ❑ No bid rejected except late bid and bid not paying cost of bid document & processing fee, bid security
- ❑ Shall prepare proceedings signed by members

# Contd. Two envelope bids

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- ❑ Open outer envelop and envelope of technical bid only and keep financial bid envelope intact
- ❑ Open financial bid of only qualified bidder in technical bid
- ❑ To examine bid sealed, complete & signed, Valid for the period specified, Bid security (Rule 10)

# Scrutiny of Financial Bid : Comparative Statement (CS)

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- ❑ Rate per unit per item & Total of each
- ❑ GST & Other Tax duties inclusive in rate
- ❑ Packing, forwarding charge, freight, insurance etc if any should be separately shown
- ❑ Total Cost per unit per item including all above & Discount if any delivery period, mode of payment
- ❑ Rate as L1,L2,L3 L1 is the lowest offer to be accepted if quality criteria score evaluated is highest

# Two stage bidding for complex item Act. sec 32

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- ❑ Invite proposal for Expression of Interest from bidders with professional & technical qualification without bid price
- ❑ First stage eligible Bids shall be short listed according to score assigned
- ❑ Discuss all shortlisted bidders & evolve more acceptable technical solution, quality, warranty etc as agreed by bidders
- ❑ Then go for second stage bidding amongst them ~~as per procedure for two bid system~~



# Request for quotation :RFQ

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- ❑ Procurement of small store value < 1 L/5 L yrly
- ❑ Select authorised dealers or whole sellers with market inquiry
- ❑ Keep records different dealers/vendors with price offered
- ❑ Ask for sealed quotation
- ❑ Accept L 1 out of 3 Quotations as per CS & procedure as laid down here

# Spot purchase

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- Spot purchase committee with at least 3 members formed
- Committee shall physically survey market wrt whole sale market price & quality of item and identify the appropriate supplier
- Record certificate to this effect signed by all members with designation

# Government E-Market (GeM)

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- ❑ Utilise gem facility for material essential common use at rate of items offered by suppliers in gem subject to rate not higher than prevailing wholesale market and sanction of concerned authority
- ❑ Submit demand of annual requirement on GeM within 30 days of budget
- ❑ Support of facilitation centre of GeM

# Framework Agreement Method

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- ❑ For over a year procurement of service/material
- ❑ Make framework agreement with suppliers/contrators/vendors for long term with predefined terms and conditions for for 3 years extendable for period < 1 yr.
- ❑ For repair, maintenance, catering, management, small work on emergency and Expert hiring

# Swiss Challenge Method

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- ❑ For high value public asset well defined with DPR & Feasibility report for interest of public service as approved by state level empowered committee (SLEC) chaired by chief secretary with sr. most secy of T&D as member convenor, Secy of concerned Deptt and Head of Finance as member
- ❑ Not applicable for projects contravene provision of Law & Acts, PPP
- ❑ Cost of DPR 5% of total cost of project reimbursable from successful bidder
- ❑ EoI/RFP on DPR with bid parameter & bid value
- ❑ ~~Same bidding process for lowest cost & advantageous bid~~ Rule 24 (M)

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- Sample, trial done with result
- Guarantee/warranty if asked in NIT
- Combined evaluation of both technical and financial bid
- Document of small industry registration with authority for price preference if claimed
- Mandatory information if any
- ~~Specification of items as required~~

# Information of NIB on SPPP

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- ❑ Name & Add of Procuring entity with e-mail add. For availing/downloading
- ❑ Summary of terms & conditions
- ❑ Criteria/procedure adopted for bid
- ❑ Price of bidding documents
- ❑ Manner, place, deadline for bid submission
- ❑ Right of authority to cancel/reject the bid
- ❑ Date, time, place of opening bid
- ❑ Items that are specified as reserved

# e-PROCUREMENT: Automation of manual procurement- Different Kinds

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- ❑ **e-Tendering:** On line publish NIT, Inform Bidders, Upload Documents, Conduct Pre Bid meeting, Submit bid till last second with full security, Pre Qualify Bidders, Generate CS & Award Tender. No price bid can be viewed by anybody before Tender opening. Manage Time, Efforts & Money
- ❑ **Request for Quote (RFQ):** Get online quotes for Low Priced Items in real time, Identify current Price of a given product/service which can be set as the starting price



# Process Scope of GeM

- State Nodal Officer nomination for State GeM Pool Account (SGPA) opening & authorisation
- Opening SGPA in listed Banks
- Registration of Procuring entity, TO with IDs
- Integration with State FMIS with GeM
- Transfer of Funds in SGPA by procuring DDO/TO
- Demand generation & placing of order on GeM platform
- Acceptance of order and payment to supplier from SGPA
- Refund/cancellation/rejection

# Asset, Work, Service Project of special nature

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- ❑ **Team Buying:** Networking & Clubbing requirement with other buyers of similar product/service in real time to discover best possible price with less effort & money
- ❑ **e-Sourcing:** Automat Rate Contract Procurement Management of recurring items like raw materials, IT hardware, stationery & service as per organization work flow accessed from procurement Portal of suppliers the catalogue with special rate/discount/volume discount

# CONTD.

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- **Turn Key Project:** Bidder to provide all requirements of Buyer like Buy Land, Build Complex, Buy & Install Machinery, Test Run machinery, Train people in case of a Power Plant and just on switch of a button the plant goes alive. Idea is to walk into a fully furnished/decorated house and unlock the door – turn key

# CONTD.

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- **SITC**-Supply, Installation, Testing & Commissioning: Bidder is to Supply, Install, Test run machinery and Commission for Buyer. Exam: Gen Set
- **BOOT**-Build, Own, Operate & Transfer: Bidder invests to build, own, operate with collection of user charge/toll fees till recovery of the investment cost and then to Transfer to authority. Exam: Express High Way

# CONTD.

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- **PPP**-Public Private Partnership: Tender executed under Partnership Model between Government and Bidder for a project where it is built by bidder but income generated is collected by Govt. & given to bidder on pre defined ratio. Exam: Power Plant
- **EPC**-Engineering, Procurement & Construction: Bidder is responsible for engineering work, procurement of goods & machinery, construction. Exam: Power Plant

# CENTRAL VIGILANCE COMMISSION (CVC)-NODAL AGENCY FOR PROCUREMENT CHECK.

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□ CVC mandates Tendering Process in Govt. & Govt. agency & mandates how tendering should be done such that transparency is maintained.

□ CVC Guidelines:

***“Tendering Process or Public Auction is a basic requirements for the award of contract by any Govt. Agency as any other method, especially award of contract on nomination basis, would amount to a beach of article 14 of the constitution guaranteeing right to equality , which implies right to equality to all interested parties.”***

# CVC GUIDELINES

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- Time Bound Processing: Ensure Tender Open, Evaluate & Award on time to avoid price escalation***
- Integrity Pact within Govt: Enhance transparency in procurement in Govt. & PSU observing the 5 Rights (P2QST).***
- Acceptance of Bank Guarantee: Accept original Bank Guarantee to check fake Bank Guarantee***
- Negotiation with L1: Disallows negotiation with L1***

**ENDS HERE**

**THANKS**

