PROCUREMENT OF GOODS AND SERVICES

PROCUREMENT OF GOODS

Rule 142 This chapter contains the general rules applicable to all Ministries or Departments, regarding procurement of goods required for use in the public service. Detailed instructions relating to procurement of goods may be issued by the procuring departments broadly in conformity with the general rules contained in this Chapter.

Rule 143 **Definition of Goods.** The term 'goods' used in this chapter includes all articles, material, commodity, livestock, furniture, fixtures, raw material, spares, instruments, machinery, equipment, industrial plant, vehicles, aircraft, ships, medicines, railway rolling stock, assemblies, sub-assemblies, accessories, a group of machineries comprising of an integrated production process or such other category of goods or intangible products like software, technology transfer, licenses, patents or other intellectual properties purchased or otherwise acquired for the use of Government but excludes books, publications, periodicals, etc. for a library.

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

Rule 144 **Fundamental principles of public buying (for all procurements including procurement of works).** Every authority delegated with the financial powers of procuring goods in public interest shall have the responsibility and accountability to bring efficiency, economy, and transparency in matters relating to public procurement and for fair and equitable treatment of suppliers and promotion of competition in public procurement.

The procedure to be followed in making public procurement must conform to the following yardsticks :-

(i) The description of the subject matter of procurement to the extent practicable should -

a) be objective, functional, generic and measurable and specify technical, qualitative and performance characteristics.

b) not indicate a requirement for a particular trade mark, trade name or brand.

(ii) the specifications in terms of quality, type etc., as also quantity of goods to be procured, should be clearly spelt out keeping in view the specific needs of the procuring organisations. The specifications so worked out should meet the basic needs of the organisation without including superfluous and non-essential features, which may result in unwarranted expenditure.

(iii) Where applicable, the technical specifications shall, to the extent practicable, be based on the national technical regulations or recognized national standards or building codes, wherever such standards exist, and in their absence, be based on the relevant international standards. In case of Government of India funded projects abroad, the technical specifications may be framed based on requirements and standards of the host beneficiary Government, where such standards exist.

Provided that a procuring entity may, for reasons to be recorded in writing, adopt any other technical specification.

(iv) Care should also be taken to avoid purchasing quantities in excess of requirement to avoid inventory carrying costs.

(v) offers should be invited following a fair, transparent and reasonable procedure.

(vi) the procuring authority should be satisfied that the selected offer adequately meets the requirement in all respects.

(vii) the procuring authority should satisfy itself that the price of the selected offer is reasonable and consistent with the quality required.

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

(ix) a complete schedule of procurement

cycle from date of issuing the tender to date of issuing the contract should be published when the tender is issued.

(x) All Ministries/Departments shall prepare Annual Procurement Plan before the commencement of the year and the same should also be placed on their website.

Rule 145 **Authorities competent to purchase goods.** An authority which is competent to incur expenditure may sanction the purchase of goods required for use in public service in accordance with provisions in the Delegation of Financial Powers Rules, following the general procedure contained in the following rules.

Rule 146 **Procurement of goods required on mobilisation** Procurement of goods required on mobilisation and/ or during the continuance of Military operations shall be regulated by special rules and orders issued by the Government on this behalf from time to time.

Rule 147 **Powers for procurement of goods.** The Ministries or Departments have been delegated full powers to make their own arrangements for procurement of goods. In case, however, a Ministry or Department does not have the required expertise, it may project its indent to the Central Purchase Organisation (e.g. DGS&D) with the approval of competent authority. The indent form to be utilised for this purpose will be as per the standard form evolved by the Central Purchase Organisation

Rule 148 **Rate Contract.** DGS&D shall conclude rate contracts with the registered suppliers for such goods, which are not available on GeM, and are identified as common use items and are needed on recurring basis by various Central Government Ministries or Departments. DGS&D will furnish and update all the relevant details of the rate contracts on its website. The Ministries or Departments shall follow those rate contracts to the maximum extent possible.

Rule 149. **Government e-Market place (GeM).** DGS&D or any other agency authorized by the Government will host an online Government e-Marketplace (GeM) for common use Goods and Services. DGS&D will ensure adequate publicity including periodic advertisement of the items to be procured through GeM for the prospective suppliers. The Procurement of Goods and Services by Ministries or Departments will be mandatory for Goods or Services available on GeM. The credentials of suppliers on GeM shall be certified by DGS&D. The procuring authorities will certify the reasonability of rates. The GeM portal shall be utilized by the Government buyers for direct on-line purchases as under :-

(i) Up to Rs.50,000/- through any of the available suppliers on the GeM, meeting the requisite quality, specification and delivery period.

(ii) Above Rs.50,000/- and up to Rs.30,00,000/- through the GeM Seller having lowest price amongst the available sellers, of at least three different manufacturers, on GeM, meeting the requisite quality, specification and delivery period. The tools for online bidding and online reverse auction available on GeM can be used by the Buyer if decided by the competent authority.

(iii) Above Rs.30,00,000/- through the supplier having lowest price meeting the requisite quality, specification and delivery period after mandatorily obtaining bids, using online bidding or reverse auction tool provided on GeM.

(iv) The invitation for the online e-bidding/reverse auction will be available to all the existing Sellers or other Sellers registered on the portal and who have offered their goods/services under the particular product/service category, as per terms and conditions of GeM.

(v) The above mentioned monetary ceiling is applicable only for purchases made through GeM. For purchases, if any, outside GeM, relevant GFR Rules shall apply.

(vi) The Ministries/Departments shall work out their procurement requirements of Goods and Services on either "OPEX" model or "CAPEX" model as per their requirement/ suitability at the time of preparation of Budget Estimates (BE) and shall project their Annual Procurement Plan of goods and

services on GeM portal within 30 days of Budget approval.

(vii) The Government Buyers may ascertain the reasonableness of prices before placement of order using the Business Analytics (BA) tools available on GeM including the Last Purchase Price on GeM, Department's own Last Purchase Price etc.

(viii) A demand for goods shall not be divided into small quantities to make piecemeal purchases to avoid procurement through L-1 Buying / bidding / reverse auction on GeM or the necessity of obtaining the sanction of higher authorities required with reference to the estimated value of the total demand.

Rule 150 Registration of Suppliers

(i) With a view to establishing reliable sources for procurement of goods commonly required for Government use, the Central Purchase Organisation (e.g. DGS&D) will prepare and maintain item-wise lists of eligible and capable suppliers. Such approved suppliers will be known as "Registered Suppliers". All Ministries or Departments may utilise these lists as and when necessary. Such registered suppliers are prima facie eligible for consideration for procurement of goods through Limited Tender Enquiry. They are also ordinarily exempted from furnishing bid security along with their bids. A Head of Department may also register suppliers of goods which are specifically required by that Department or Office, periodically. Registration of the supplier should be done following a fair, transparent and reasonable procedure and after giving due publicity.

(ii) Credentials, manufacturing capability, quality control systems, past performance, after-sales service, financial background etc. of the supplier(s) should be carefully verified before registration.

(iii) The supplier(s) will be registered for a fixed period (between 1 to 3 years) depending on the nature of the goods. At the end of this period, the registered supplier(s) willing to continue with registration are to apply afresh for renewal of registration. New supplier(s) may also be considered for registration at any time, provided they fulfil all the required conditions.

(iv) Performance and conduct of every registered supplier is to be watched by the concerned Ministry or Department. The registered supplier(s) are liable to be removed from the list of approved suppliers if they fail to abide by the terms and conditions of the registration or fail to supply the goods on time or supply substandard goods or make any false declaration to any Government agency or for any ground which, in the opinion of the Government, is not in public interest.

(v) The list of registered suppliers for the subject matter of procurement be exhibited on the Central Public Procurement Portal and websites of the Procuring Entity/ e-Procurement/ portals.

Rule 151 Debarment from bidding.

(i) A bidder shall be debarred if he has been convicted of an offence—

(a) under the Prevention of Corruption Act, 1988; or

(b) the Indian Penal Code or any other law for the time being in force, for causing any loss of life or property or causing a threat to public health as part of execution of a public procurement contract.

(ii) A bidder debarred under sub-section (i) or any successor of the bidder shall not be eligible to participate in a procurement process of any procuring entity for a period not exceeding three years commencing from the date of debarment. Department of Commerce (DGS&D) will maintain such list which will also be displayed on the website of DGS&D as well as Central Public Procurement Portal.

(iii) A procuring entity may debar a bidder or any of its successors, from participating in any procurement process undertaken by it, for a period not exceeding two years, if it determines that the bidder has breached the code of integrity. The

Ministry/Department will maintain such list which will also be displayed on their website.

(iv) The bidder shall not be debarred unless such bidder has been given a reasonable opportunity to represent against such debarment

Rule 152 **Enlistment of Indian Agents.** As per the Compulsory Enlistment Scheme of the Department of Expenditure, Ministry of Finance, it is compulsory for Indian agents, who desire to quote directly on behalf of their foreign principals, to get themselves enlisted with the Central Purchase Organisation (eg. DGS&D). However, such enlistment is not equivalent to registration of suppliers as mentioned under Rule 150.

Rule 153 **Reserved Items and other Purchase/Price Preference Policy.**

(i) The Central Government, through administrative instructions, has reserved all items of hand spun and hand-woven textiles (khadi goods) for exclusive purchase from Khadi Village Industries Commission (KVIC). It has also reserved all items of handloom textiles required by Central Government departments for exclusive purchase from KVIC and/or the notified handloom units of Association of Corporations and Apex Societies of Handlooms (ACASH).

(ii) Ministry of Micro, Small and Medium Enterprises (MSME) have notified procurement policy under section 11 of the Micro, Small and Medium Enterprises Development Act, 2006.

(iii) The Central Government may, by notification, provide for mandatory procurement of any goods or services from any category of bidders, or provide for preference to bidders on the grounds of promotion of locally manufactured goods or locally provided services.

Rule 154 **Purchase of goods without quotation**

Purchase of goods upto the value of Rs. 25,000 (Rupees twenty five thousand) only on each occasion may be made without inviting quotations or bids on the basis of a certificate to be recorded by the competent authority in the following format.

"I,, am personally satisfied that these goods purchased are of the requisite quality and specification and have been purchased from a reliable supplier at a reasonable price."

Rule 155 **Purchase of goods by Purchase Committee.** Purchase of goods costing above Rs. 25,000 (Rupees twenty five thousand only) and upto Rs.2,50,000/- (Rupees two lakh and fifty thousand only) on each occasion may be made on the recommendations of a duly constituted Local Purchase Committee consisting of three members of an appropriate level as decided by the Head of the Department. The committee will survey the market to ascertain the reasonableness of rate, quality and specifications and identify the appropriate supplier. Before recommending placement of the purchase order, the members of the committee will jointly record a certificate as under.

"Certified that we, members of the purchase committee are jointly and individually satisfied that the goods recommended for purchase are of the requisite specification and quality, priced at the prevailing market rate and the supplier recommended is reliable and competent to supply the goods in question, and it is not debarred by Department of Commerce or Ministry/ Department concerned."

Rule 156 **(1) Purchase of goods directly under Rate Contract.** In case a Ministry or Department directly procures Central Purchase Organisation (e.g. DGS&D) rate contracted goods from suppliers, the prices to be paid for such goods shall not exceed those stipulated in the rate contract and the other salient terms and conditions of the purchase should be in line with those specified in the Rate Contract. The Ministry or Department shall make its own arrangement for inspection and testing of such goods where ever required.

Rule 156 **(2)** The Central Purchase Organisation (e.g. DGS&D) should host the specifications, prices and other salient details of different rate contracted items, appropriately updated, on the web site for use by the procuring Ministry or Department.

Rule 157 A demand for goods should not be divided

into small quantities to make piecemeal purchases to avoid the necessity of obtaining the sanction of higher authority required with reference to the estimated value of the total demand.

Rule 158 Purchase of goods by obtaining bids. Except in cases covered under Rule 154,155, and 156(1), Ministries or Departments shall procure goods under the powers referred to in Rule 147 above by following the standard method of obtaining bids in :

(i) Advertised Tender Enquiry
(ii) Limited Tender Enquiry
(iii) Two-Stage Bidding
(iv) Single Tender Enquiry
(v) Electronic Reverse Auctions

Rule 159 E-Publishing

(i) It is mandatory for all Ministries/ Departments of the Central Government, their attached and Subordinate Offices and Autonomous /Statutory Bodies to publish their tender enquiries, corrigenda thereon and details of bid awards on the Central Public Procurement Portal (CPPP).

(ii) Individual cases where confidentiality is required, for reasons of national security, would be exempted from the mandatory e-publishing requirement. The decision to exempt any case on the said grounds should be approved by the Secretary of the Ministry/ Department with the concurrence of the concerned Financial Advisor. In the case of Autonomous Bodies and Statutory Bodies' approval of the Head of the Body with the concurrence of the Head of the Finance should be obtained in each such case. Statistical information on the number of cases in which exemption was granted and the value of the concerned contract should be intimated on a Quarterly basis to the Ministry of Finance, Department of Expenditure.

(iii) The above instructions apply to all Tender Enquiries, Requests for Proposals, Requests for Expressions of Interest, Notice for pre Qualification/ Registration or any other notice inviting bids or proposals in any form whether they are advertised, issued to limited number of parties or to a single party.

(iv) In the case of procurements made though DGS&D Rate Contracts or through any other Central Procurement Organizations (CPOs) only award details need to be published.

(v) These instructions would not apply to procurements made in terms of provisions of Rules 154 (Purchase of goods without quotations) or 155 (Purchase of goods by purchase committee) of General Financial Rules.

Rule 160 E-Procurement

(i) It is mandatory for Ministries/ Departments to receive all bids through e-procurement portals in respect of all procurements.

(ii) Ministries/ Departments which do not have a large volume of procurement or carry out procurements required only for day-to-day running of offices and also have not initiated e-procurement through any other solution provided so far, may use e-procurement solution developed by NIC. Other Ministries/ Departments may either use e-procurement solution developed by NIC or engage any other service provider following due process.

(iii) These instructions will not apply to procurements made by Ministries / Departments through DGS&D Rate Contracts.

(iv) In individual case where national security and strategic considerations demands confidentiality, Ministries/ Departments may exempt such cases from e-procurement after seeking approval of concerned Secretary and with concurrence of Financial Advisers.

(v) In case of tenders floated by Indian Missions Abroad, Competent Authority to decide the tender, may exempt such case from e-procurement.

Rule 161 Advertised Tender Enquiry

(I) Subject to exceptions incorporated

under Rule154, 155,162 and166,invitation to tenders by advertisement should be used for procurement of goods of estimated value of Rs. 25 lakhs (Rupees Twenty Five Lakh)and above. Advertisement in such cases should be given on Central Public Procurement Portal (CPPP) at www.eprocure.gov.in and on GeM. An organisation having its own website should also publish all its advertised tender enquiries on the website.

(ii) The organisation should also post the complete bidding document in its website and on CPPP to enable prospective bidders to make use of the document by downloading from the web site.

(iii) The advertisements for invitation of tenders should give the complete web address from where the bidding documents can be downloaded.

(iv) In order to promote wider participation and ease of bidding, no cost of tender document may be charged for the tender documents downloaded by the bidders.

(iv) Where the Ministry or Department feels that the goods of the required quality, specifications etc., may not be available in the country and it is necessary to also look for suitable competitive offers from abroad, the Ministry or Department may send copies of the tender notice to the Indian Embassies abroad as well as to the foreign Embassies in India. The selection of the embassies will depend on the possibility of availability of the required goods in such countries. In such cases e-procurement as per Rule 160 may not be insisted.

(v) Ordinarily, the minimum time to be allowed for submission of bids should be three weeks from the date of publication of the tender notice or availability of the bidding document for sale, whichever is later. Where the Department also contemplates obtaining bids from abroad, the minimum period should be kept as four weeks for both domestic and foreign bidders.

Rule 162 Limited Tender Enquiry

(i) This method may be adopted when estimated value of the goods to be procured is up to Rupees Twenty five Lakhs. Copies of the bidding document should be sent directly by speed post/registered post/courier/ e-mail to firms which are borne on the list of registered suppliers for the goods in question as referred under Rule 150 above. The number of supplier firms in Limited Tender Enquiry should be more than three. Efforts should be made to identify a higher number of approved suppliers to obtain more responsive bids on competitive basis.

Further, an organisation should publish its limited tender enquiries on Central Public Procurement Portal (CPPP) as per Rule 159. Apart from CPPP, the organisations should publish the tender enquiries on the Department's or Ministry's web site.

(ii) The unsolicited bids should not be accepted. However Ministries/ Departments should evolve a system by which interested firms can register and bid in next round of tendering.

(iii) Purchase through Limited Tender Enquiry may be adopted even where the estimated value of the procurement is more than Rupees twenty-five Lakhs, in the following circumstances.

(a) The competent authority in the Ministry or Department certifies that the demand is urgent and any additional expenditure involved by not procuring through advertised tender enquiry is justified in view of urgency. The Ministry or Department should also put on record the nature of the urgency and reasons why the procurement could not be anticipated.

(b) There are sufficient reasons, to be recorded in writing by the competent authority, indicating that it will not be in public interest to procure the goods through advertised tender enquiry.

(c) The sources of supply are definitely known and possibility of

fresh source(s) beyond those being tapped is remote.

(iv) Sufficient time should be allowed for submission of bids in Limited Tender Enquiry cases.

Rule 163 **Two bid system (simultaneous receipt of separate technical and financial bids) :** For purchasing high value plant, machinery etc. of a complex and technical nature, bids may be obtained in two parts as under :

(i) Technical bid consisting of all technical details along with commercial terms and conditions; and

(ii) Financial bid indicating item-wise price for the items mentioned in the technical bid.

The technical bid and the financial bid should be sealed by the bidder in separate covers duly super-scribed and both these sealed covers are to be put in a bigger cover which should also be sealed and duly super-scribed. The technical bids are to be opened by the purchasing Ministry or Department at the first instance and evaluated by a competent committee or authority. At the second stage financial bids of only these technically acceptable offers should be opened after intimating them the date and time of opening the financial bid for further evaluation and ranking before awarding the contract.

Rule 164 **Two-Stage Bidding** (Obtain bids in two stages with receipt of financial bids after receipt and evaluation of technical bids)

(i) Ministry/Department may procure the subject matter of procurement by the method of two-stage bidding, if

(a) it is not feasible to formulate detailed specifications or identify specific characteristics for the subject matter of procurement, without receiving inputs regarding its technical aspects from bidders; or

(b) the character of the subject matter of procurement is subject to rapid technological advances or market fluctuations or both; or

(c) Ministry/Department seeks to enter into a contract for the purpose of research, experiment, study or development, except where the contract includes the production of items in quantities sufficient to establish their commercial viability or to recover research and development costs; or

(d) The bidder is expected to carry out a detailed survey or investigation and undertake a comprehensive assessment of risks, costs and obligations associated with the particular procurement.

(ii) The procedure for two stage bidding shall include the following, namely:—

(a) in the first stage of the bidding process, the Ministry/Department shall invite bids through advertised tender containing the technical aspects and contractual terms and conditions of the proposed procurement without a bid price;

(b) all first stage bids, which are otherwise eligible, shall be evaluated through an appropriate committee constituted by the Ministry/ Department;

(c) the committee may hold discussions with the bidders and if any such discussion is held, equal opportunity shall be given to all bidders to participate in the discussions;

(d) in revising the relevant terms and conditions of the procurement, the procuring entity shall not modify the fundamental nature of the procurement itself, but may add, amend or omit any specification of the subject matter of procurement or criterion for evaluation;

(e) in the second stage of the bidding process, the procuring entity shall invite bids from all those bidders whose bids at the first stage were not rejected, to present final bid with bid prices in response to a revised set of terms and conditions of the procurement;

(f) any bidder, invited to bid but not in a position to supply the subject

matter of procurement due to modification in the specifications or terms and conditions, may withdraw from the bidding proceedings without forfeiting any bid security that he may have been required to provide or being penalised in any way, by declaring his intention to withdraw from the procurement proceedings with adequate justification.

Rule 165 **Late Bids.** In the case of advertised tender enquiry or limited tender enquiry, late bids (i.e. bids received after the specified date and time for receipt of bids) should not be considered.

Rule 166 **Single Tender Enquiry.** Procurement from a single source may be resorted to in the following circumstances :

(i) It is in the knowledge of the user department that only a particular firm is the manufacturer of the required goods

(ii) In a case of emergency, the required goods are necessarily to be purchased from a particular source and the reason for such decision is to be recorded and approval of competent authority obtained.

(iii) For standardisation of machinery or spare parts to be compatible to the existing sets of equipment (on the advice of a competent technical expert and approved by the competent authority), the required item is to be purchased only from a selected firm

Note : Proprietary Article Certificate in the following form is to be provided by the Ministry/Department before procuring the goods from a single source under the provision of sub Rule 166 (i) and 166 (iii) as applicable.

(i) The indented goods are manufactured by M/s.....

(ii) No other make or model is acceptable for the following reasons : .....

(iii) Concurrence of finance wing to the proposal vide: .....

(iv) Approval of the competent authority vide:

(Signature with date and designation of the indenting officer)

Rule 167 **Electronic Reverse Auction**

(i) Electronic Reverse Auction means an online real-time purchasing technique utilised by the procuring entity to select the successful bid, which involves presentation by bidders of successively more favourable bids during a scheduled period of time and automatic evaluation of bids;

(ii) A procuring entity may choose to procure a subject matter of procurement by the electronic reverse auction method, if:

(a) It is feasible for the procuring entity to formulate a detailed description of the subject matter of the procurement;

(b) There is a competitive market of bidders anticipated to be qualified to participate in the electronic reverse auction, so that effective competition is ensured;

(c) The criteria to be used by the procuring entity in determining the successful bid are quantifiable and can be expressed in monetary terms; and

(iii) The procedure for electronic reverse auction shall include the following, namely:

(a) The procuring entity shall solicit bids through an invitation to the electronic reverse auction to be published or communicated in accordance with the provisions similar to e-procurement; and

(b) The invitation shall, in addition to the information as specified in e-procurement, include details relating to access to and registration for the auction, opening and closing of the auction and Norms for conduct of the auction.

Rule 168 **Contents of Bidding Document**

All the terms, conditions, stipulations and information to be incorporated in the bidding document are to be shown in the appropriate chapters as below :-

Chapter – 1: Instructions to Bidders.

Chapter – 2: Conditions of Contract.
Chapter – 3: Schedule of Requirements.
Chapter – 4: Specifications and allied Technical Details.
Chapter – 5: Price Schedule (to be utilised by the bidders for quoting their prices).
Chapter – 6: Contract Form.
Chapter – 7: Other Standard Forms, if any, to be utilised by the purchaser and the bidders.

Rule 169 **Maintenance Contract.** Depending on the cost and nature of the goods to be purchased, it may also be necessary to enter into maintenance contract(s) of suitable period either with the supplier of the goods or with any other competent firm, not necessarily the supplier of the subject goods. Such maintenance contracts are especially needed for sophisticated and costly equipment and machinery. It may, however, be kept in mind that the equipment or machinery is maintained free of charge by the supplier during its warranty period or such other extended periods as the contract terms may provide and the paid maintenance should commence only thereafter.

Rule 170 **Bid Security**

(i) To safeguard against a bidder's withdrawing or altering its bid during the bid validity period in the case of advertised or limited tender enquiry, Bid Security (also known as Earnest Money) is to be obtained from the bidders except Micro and Small Enterprises (MSEs) as defined in MSE Procurement Policy issued by Department of Micro, Small and Medium Enterprises (MSME) or are registered with the Central Purchase Organisation or the concerned Ministry or Department. The bidders should be asked to furnish bid security along with their bids. Amount of bid security should ordinarily range between two percent to five percent of the estimated value of the goods to be procured. The amount of bid security should be determined accordingly by the Ministry or Department and indicated in the bidding documents. The bid security may be accepted in the form of Account Payee Demand Draft, Fixed Deposit Receipt, Banker's Cheque or Bank Guarantee from any of the Commercial Banks or payment online in an acceptable form, safeguarding the purchaser's interest in all respects. The bid security is normally to remain valid for a period of forty-five days beyond the final bid validity period.

(ii) Bid securities of the unsuccessful bidders should be returned to them at the earliest after expiry of the final bid validity and latest on or before the 30th day after the award of the contract.

(iii) In place of a Bid security, the Ministries/ Departments may require Bidders to sign a Bid securing declaration accepting that if they withdraw or modify their Bids during the period of validity, or if they are awarded the contract and they fail to sign the contract, or to submit a performance security before the deadline defined in the request for bids document, they will be suspended for the period of time specified in the request for bids document from being eligible to submit Bids for contracts with the entity that invited the Bids.

Rule 171 **Performance Security**

(i) To ensure due performance of the contract, Performance Security is to be obtained from the successful bidder awarded the contract. Unlike contracts of Works and Plants, in case of contracts for goods, the need for the Performance Security depends on the market conditions and commercial practice for the particular kind of goods. Performance Security should be for an amount of five to ten per cent. of the value of the contract as specified in the bid documents. Performance Security may be furnished in the form of an Account Payee Demand Draft, Fixed Deposit Receipt from a Commercial bank, Bank Guarantee from a Commercial bank or online payment in an acceptable form safeguarding the purchaser's interest in all respects.

(ii) Performance Security should remain valid for a period of sixty days beyond the date of completion of all

contractual obligations of the supplier including warranty obligations.

(iii) Bid security should be refunded to the successful bidder on receipt of Performance Security.

Rule 172 (1) Advance payment to supplier

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

(i) Advance payment demanded by firms holding maintenance contracts for servicing of Air-conditioners, computers, other costly equipment, etc.

(ii) Advance payment demanded by firms against fabrication contracts, turn-key contracts etc.

Such advance payments should not exceed the following limits :

(a) Thirty per cent. of the contract value to private firms;

(b) Forty per cent. of the contract value to a State or Central Government agency or a Public Sector Undertaking; or

(c) in case of maintenance contract, the amount should not exceed the amount payable for six months under the contract.

Ministries or Departments of the Central Government may relax, in consultation with their Financial Advisers concerned, the ceilings (including percentage laid down for advance payment for private firms) mentioned above. While making any advance payment as above, adequate safeguards in the form of bank guarantee etc. should be obtained from the firm.

Rule 172 (2) Part payment to suppliers: Depending on the terms of delivery incorporated in a contract, part payment to the supplier may be released after it dispatches the goods from its premises in terms of the contract.

Rule 173 Transparency, competition, fairness and elimination of arbitrariness in the procurement process All government purchases should be made in a transparent, competitive and fair manner, to secure best value for money. This will also enable the prospective bidders to formulate and send their competitive bids with confidence. Some of the measures for ensuring the above are as follows:-

(i) the text of the bidding document should be self-contained and comprehensive without any ambiguities. All essential information, which a bidder needs for sending responsive bid, should be clearly spelt out in the bidding document in simple language. The condition of prior turnover and prior experience may be relaxed for Startups (as defined by Department of Industrial Policy and Promotion) subject to meeting of quality & technical specifications and making suitable provisions in the bidding document. The bidding document should contain, inter alia.

(a) Description and Specifications of goods including the nature, quantity, time and place or places of delivery.

(b) the criteria for eligibility and qualifications to be met by the bidders such as minimum level of experience, past performance, technical capability, manufacturing facilities and financial position etc or limitation for participation of the bidders, if any.

(c) eligibility criteria for goods indicating any legal restrictions or conditions about the origin of goods etc which may required to be met by the successful bidder.

(d) the procedure as well as date, time and place for sending the bids.

(e) date, time and place of opening of the bid.

(e) Criteria for evaluation of bids

(f) special terms affecting performance, if any.

(g) Essential terms of the procurement contract

(h) Bidding Documents should include a clause that "if a firm quotes NIL charges/ consideration, the bid shall be treated as unresponsive and will not be considered".

(ii) Any other information which the procuring entity considers necessary for the bidders to submit their bids.

(iii) Modification to bidding document:

(a) In case any modification is made to the bidding document or any clarification is issued which materially affects the terms contained in the bidding document, the procuring entity shall publish or communicate such modification or clarification in the same manner as the publication or communication of the initial bidding document was made.

(b) In case a clarification or modification is issued to the bidding document, the procuring entity shall, before the last date for submission of bids, extend such time limit, if, in its opinion more time is required by bidders to take into account the clarification or modification, as the case may be, while submitting their bids.

(c) Any bidder who has submitted his bid in response to the original invitation shall have the opportunity to modify or re-submit it, as the case may be, or withdraw such bid in case the modification to bidding document materially affect the essential terms of the procurement, within the period initially allotted or such extended time as may be allowed for submission of bids, after the modifications are made to the bidding document by the procuring entity:

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

(iv) Suitable provision should be kept in the bidding document to enable a bidder to question the bidding conditions, bidding process and/ or rejection of its bid. The reasons for rejecting a tender or non-issuing a tender document to a prospective bidder must be disclosed where enquiries are made by the bidder.

(v) Suitable provision for settlement of disputes, if any, emanating from the resultant contract, should be kept in the bidding document.

(vi) The bidding document should indicate clearly that the resultant contract will be interpreted under Indian Laws.

(vii) The bidders should be given reasonable time to prepare and send their bids.

(viii) The bids should be opened in public and authorised representatives of the bidders should be permitted to attend the bid opening.

(ix) The specifications of the required goods should be clearly stated without any ambiguity so that the prospective bidders can send meaningful bids. In order to attract sufficient number of bidders, the specification should be broad based to the extent feasible

(x) Pre-bid conference: In case of turn-key contract(s) or contract(s) of special nature for procurement of sophisticated and costly equipment or wherever felt necessary, a suitable provision is to be kept in the bidding documents for one or more rounds of pre-bid conference for clarifying issues and clearing doubts, if any, about the specifications and other allied technical details of the plant, equipment and machinery etc. projected in the bidding document. The date, time and place of pre-bid conference should be indicated in the bidding document. This date should be sufficiently ahead of bid opening date. The records of such conference shall be intimated to all bidders and, shall also be exhibited on the website(s) where tender was published.

(xi) Criteria for determining

responsiveness are to be taken into account for evaluating the bids such as:

(a) time of delivery.

(b) Performance/ efficiency/ environmental characteristics.

(c) the terms of payment and of guarantees in respect of the subject matter of procurement

(d) price.

(e) cost of operating, maintaining and repairing etc.

(xii) Bids received should be evaluated in terms of the conditions already incorporated in the bidding documents; No new condition which was not incorporated in the bidding documents should be brought in for evaluation of the bids. Determination of a bid's responsiveness should be based on the contents of the bid itself without recourse to extrinsic evidence.

(xiii) Bidders should not be permitted to alter or modify their bids after expiry of the deadline for receipt of bids.

(xiv) Negotiation with bidders after bid opening must be severely discouraged. However, in exceptional circumstances where price negotiation against an ad-hoc procurement is necessary due to some unavoidable circumstances, the same may be resorted to only with the lowest evaluated responsive bidder.

(xv) In the Rate Contract system, where a number of firms are brought on Rate Contract for the same item, negotiation as well as counter offering of rates are permitted to the bidders and for this purpose special permission has been given to the Directorate General of Supplies and Disposals (DGS&D).

(xvi) Contract should ordinarily be awarded to the lowest evaluated bidder whose bid has been found to be responsive and who is eligible and qualified to perform the contract satisfactorily as per the terms and conditions incorporated in the corresponding bidding document. However, where the lowest acceptable bidder against ad-hoc requirement is not in a position to supply the full quantity required, the remaining quantity, as far as possible, be ordered from the next higher responsive bidder at the rates offered by the lowest responsive bidder.

(xvii) Procurement of Energy Efficient Electrical Appliances: Ministries/ Departments while procuring electrical appliances notified by Department of Expenditure shall ensure that they carry the notified threshold or higher Star Rating of Bureau of Energy Efficiency (BEE).

(xviii) The name of the successful bidder awarded the contract should be mentioned in the CPPP, Ministries or Departments website and their notice board or bulletin.

(xix) Rejection of all Bids is justified when

a. effective competition is lacking.

b. all Bids and Proposals are not substantially responsive to the requirements of the Procurement Documents.

c. the Bids'/Proposals' prices are substantially higher that the updated cost estimate or available budget; or

d. none of the technical Proposals meets the minimum technical qualifying score.

(xx) Lack of competition in rule 173(xix) shall not be determined solely on the basis of the number of Bidders. Even when only one Bid is submitted, the process may be considered valid provided following conditions are satisfied:

a. the procurement was satisfactorily advertised and sufficient time was given for submission of bids.

b. the qualification criteria were not unduly restrictive; and

c. prices are reasonable in comparison to market values

(xxi) When a limited or open tender results in only one effective offer, it shall be treated as a single tender contract.

(xxii) In case a purchase Committee is constituted to purchase or recommend the procurement, no member of the purchase Committee should be reporting directly to any other member of such Committee in case estimated value of procurement exceeds Rs. 25 lakhs.

Rule 174 **Efficiency, Economy and Accountability in Public Procurement System**. Public procurement procedure should ensure efficiency, economy and accountability in the system. To achieve the same, the following keys areas should be addressed :

(i) To reduce delay, appropriate time frame for each stage of procurement should be prescribed by the Ministry or Department.

(ii) To minimise the time needed for decision making and placement of contract, every Ministry/Department, with the approval of the competent authority, may delegate, wherever necessary, appropriate purchasing powers to the lower functionaries.

(iii) The Ministries or Departments should ensure placement of contract within the original validity of the bids. Extension of bid validity must be discouraged and resorted to only in exceptional circumstances.

(iv) The Central Purchase Organisation (e.g. DGS&D) should bring into the Rate Contract system more and more common user items which are frequently needed in bulk by various Central Government Departments. The Central Purchase Organisation (e.g. DGS&D) should also ensure that the Rate Contracts remain available without any break.

Rule 175 **(1) Code of Integrity**

No official of a procuring entity or a bidder shall act in contravention of the codes which includes

(i) prohibition of

(a) making offer, solicitation or acceptance of bribe, reward or gift or any material benefit, either directly or indirectly, in exchange for an unfair advantage in the procurement process or to otherwise influence the procurement process.

(b) any omission, or misrepresentation that may mislead or attempt to mislead so that financial or other benefit may be obtained or an obligation avoided.

(c) any collusion, bid rigging or anti-competitive behavior that may impair the transparency, fairness and the progress of the procurement process.

(d) improper use of information provided by the procuring entity to the bidder with an intent to gain unfair advantage in the procurement process or for personal gain.

(e) any financial or business transactions between the bidder and any official of the procuring entity related to tender or execution process of contract; which can affect the decision of the procuring entity directly or indirectly.

(f) any coercion or any threat to impair or harm, directly or indirectly, any party or its property to influence the procurement process.

(g) obstruction of any investigation or auditing of a procurement process.

(h) making false declaration or providing false information for participation in a tender process or to secure a contract;

(ii) disclosure of conflict of interest.

(iii) Disclosure by the bidder of any previous transgressions made in respect of the provisions of sub-clause (i) with any entity in any country during the last three years or of being debarred by any other procuring entity.

Rule 175 **(2)** The procuring entity, after giving a reasonable opportunity of being heard, comes to the conclusion that a bidder or prospective bidder, as the case may be, has contravened the code of integrity, may take appropriate measures.

Rule 176 **Buy-Back Offer**

When it is decided with the approval of the competent authority to replace an existing old item(s) with a new and better version, the department may trade the existing old item while purchasing the new one. For this purpose, a suitable clause is to be incorporated in the bidding document so that the prospective and interested bidders formulate their bids accordingly. Depending on the value and condition of the old item to be traded, the time as well as the mode of handing over the old item to the successful bidder should be decided and relevant details in this regard suitably incorporated in the bidding document. Further, suitable provision should also be kept in the bidding document to enable the purchaser either to trade or not to trade the item while purchasing the new one.

PROCUREMENT OF SERVICES

A. CONSULTING SERVICES

Rule 177 **"Consulting Service"** means any subject matter of procurement (which as distinguished from 'Non- Consultancy Services' involves primarily non-physical project-specific, intellectual and procedural processes where outcomes/ deliverables would vary from one consultant to another), other than goods or works, except those incidental or consequential to the service, and includes professional, intellectual, training and advisory services or any other service classified or declared as such by a procuring entity but does not include direct engagement of a retired Government servant.

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

Rule 178 The Ministries or Departments may hire external professionals, consultancy firms or consultants (referred to as consultant hereinafter) for a specific job, which is well defined in terms of content and time frame for its completion.

Rule 179 This chapter contains the fundamental principles applicable to all Ministries or Departments regarding engagement of consultant(s). Detailed instructions to this effect may be issued by the concerned Ministries or Departments. However, the Ministries or Departments shall ensure that they do not contravene the basic rules contained in this chapter.

Rule 180 **Identification of Services required to be performed by Consultants:** Engagement of consultants may be resorted to in situations requiring high quality services for which the concerned Ministry/ Department does not have requisite expertise. Approval of the competent authority should be obtained before engaging consultant(s).

Rule 181 **Preparation of scope of the required Consultant(s):** The Ministries/ Departments should prepare in simple and concise language the requirement, objectives and the scope of the assignment. The eligibility and prequalification criteria to be met by the consultants should also be clearly identified at this stage.

Rule 182 **Estimating reasonable expenditure:** Ministry or Department proposing to engage consultant(s) should estimate reasonable expenditure for the same by ascertaining the prevalent market conditions and consulting other organisations engaged in similar activities.

Rule 183 **Identification of likely sources.**

(i) Where the estimated cost of the consulting service is up to Rupees twenty-five lakhs, preparation of a long list of potential consultants may be done on the basis of formal or informal enquiries from other Ministries or Departments or Organisations involved in similar activities, Chambers of Commerce & Industry, Association of consultancy firms etc.

(ii) Where the estimated cost of the consulting services is above Rupees twenty-five lakhs, in addition to(i) above, an enquiry for seeking 'Expression of Interest' from consultants should be published on Central Public Procurement Portal (CPPP) at www.eprocure.gov.in and on

GeM. An organisation having its own website should also publish all its advertised tender enquiries on the website. Enquiry for seeking Expression of Interest should include in brief, the broad scope of work or service, inputs to be provided by the Ministry or Department, eligibility and the pre-qualification criteria to bemet by the consultant(s) and consultant's past experience in similar work or service. The consultants may also be asked to send their comments on the objectives and scope of the work or service projected in the enquiry. Adequate time should be allowed for getting responses from interested consultants.

Rule 184 **Short listing of consultants.** On the basis of responses received from the interested parties as per Rule 183 above, consultants meeting the requirements should be short listed for further consideration. The number of short listed consultants should not be less than three.

Rule 185 **Preparation of Terms of Reference (TOR)**.

The TOR should include

(i) Precise statement of objectives.

(ii) Outline of the tasks to be carried out.

(iii) Schedule for completion of tasks.

(iv) The support or inputs to be provided by the Ministry or Department to facilitate the consultancy.

(v) The final outputs that will be required of the Consultant.

Rule 186 **Preparation and Issue of Request for Proposal (RFP).** RFP is the document to be used by the Ministry/Department for obtaining offers from the consultants for the required service. The RFP should be issued to the shortlisted consultants to seek their technical and financial proposals. The RFP should contain :

(i) A letter of Invitation

(ii) Information to Consultants regarding the procedure for submission of proposal.

(iii) Terms of Reference (TOR).

(iv) Eligibility and pre-qualification criteria in case the same has not been ascertained through Enquiry for Expression of Interest.

(v) List of key position whose CV and experience would be evaluated.

(vi) Bid evaluation criteria and selection procedure.

(vii) Standard formats for technical and financial proposal.

(viii) Proposed contract terms.

(ix) Procedure proposed to be followed for midterm review of the progress of the work and review of the final draft report.

Rule 187 **Receipt and opening of proposals** Proposals should ordinarily be asked for from consultants in 'Two bid' system with technical and financial bids sealed separately. The bidder should put these two sealed envelopes in a bigger envelop duly sealed and submit the same to the Ministry or Department by the specified date and time at the specified place. On receipt, the technical proposals should be opened first by the Ministry or Department at the specified date, time and place.

Rule 188 **Late Bids.** Late bids i.e. bids received after the specified date and time of receipt should not be considered.

Rule 189 **Evaluation of Technical Bids:** Technical bids should be analysed and evaluated by a Consultancy Evaluation Committee (CEC) constituted by the Ministry or Department. The CEC shall record in detail the reasons for acceptance or rejection of the technical proposals analysed and evaluated by it.

Rule 190 **Evaluation of Financial Bids of the technically qualified bidders:** The Ministry or Department shall open the financial bids of only those bidders who have been declared technically qualified by the Consultancy Evaluation Committee as per Rule 189 above for further analysis or evaluation and ranking and selecting the successful bidder for placement of the consultancy contract.

Rule 191 **Methods of Selection/ Evaluation of Consultancy Proposals**

The basis of selection of the consultant shall follow any of the methods given in Rule 192 to 194 as appropriate for the circumstances in each case.

Rule 192. **Quality and Cost Based Selection (QCBS):**QCBS may be used for Procurement of consultancy services,

where quality of consultancy is of prime concern.

(i) In QCBS initially the quality of technical proposals is scored as per criteria announced in the RFP. Only those responsive proposals that have achieved at least minimum specified qualifying score in quality of technical proposal are considered further.

(ii) After opening and scoring, the Financial proposals of responsive technically qualified bidders, a final combined score is arrived at by giving predefined relative weight ages for the score of quality of the technical proposal and the score of financial proposal.

(iii) The RFP shall specify the minimum qualifying score for the quality of technical proposal and also the relative weight ages to be given to the quality and cost (determined for each case depending on the relative importance of quality vis-a-vis cost aspects in the assignment, e.g. 70:30, 60:40, 50:50 etc). The proposal with the highest weighted combined score (quality and cost) shall be selected.

(iv) The weight age of the technical parameters i.e. non- financial parameters in no case should exceed 80 percent.

Rule 193 **Least Cost System (LCS).** LCS is appropriate for assignments of a standard or routine nature (such as audits and engineering design of non-complex works) where well established methodologies, practices and standards exist. Unlike QCBS, there is no weight age for Technical score in the final evaluation and the responsive technically qualified proposal with the lowest evaluated cost shall be selected.

Rule 194 **Single Source Selection/Consultancy by nomination.** The selection by direct negotiation/nomination, on the lines of Single Tender mode of procurement of goods, is considered appropriate only under exceptional circumstance such as:

(i) tasks that represent a natural continuation of previous work carried out by the firm;

(ii) in case of an emergency situation, situations arising after natural disasters, situations where timely completion of the assignment is of utmost importance; and

(iii) situations where execution of the assignment may involve use of proprietary techniques or only one consultant has requisite expertise.

(iv) Under some special circumstances, it may become necessary to select a particular consultant where adequate justification is available for such single-source selection in the context of the overall interest of the Ministry or Department. Full justification for single source selection should be recorded in the file and approval of the competent authority obtained before resorting to such single-source selection.

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

Rule 195 **Monitoring the Contract.** The Ministry/Department should be involved throughout in the conduct of consultancy, preferably by taking a task force approach and continuously monitoring the performance of the consultant(s) so that the output of the consultancy is in line with the Ministry /Department's objectives.

Rule 196 **Public competition for Design of symbols/logos.** Design competition should be conducted in a transparent, fair and objective manner. Wide publicity should be given to the competition so as to ensure that the information is accessible to all possible participants in the competition. This should include publication on the website of Ministry/Department concerned, as also the Central Public Procurement Portal. If the selection has been by a jury of experts nominated for the purpose, the composition of the jury may also be notified.

B. OUTSOURCING OF SERVICES

Rule 197 **"Non-Consulting Service"** means any subject matter of procurement (which as distinguished from 'Consultancy

Services'), involve physical, measurable deliverables/ outcomes, where performance standards can be clearly identified and consistently applied, other than goods or works, except those incidental or consequential to the service, and includes maintenance, hiring of vehicle, outsourcing of building facilities management, security, photocopier service, janitor, office errand services, drilling, aerial photography, satellite imagery, mapping etc.

Rule 198 Procurement of Non-consulting Services.

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

Rule 199 Identification of likely contractors.

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

Rule 200 Preparation of Tender enquiry.

Ministry or Department should prepare a tender enquiry containing, inter alia :

(i) The details of the work or service to be performed by the contractor;

(ii) The facilities and the inputs which will be provided to the contractor by the Ministry or Department;

(iii) Eligibility and qualification criteria to be met by the contractor for performing the required work/service; and

(iv) The statutory and contractual obligations to be complied with by the contractor.

Rule 201 Invitation of Bids.

(i) For estimated value of the non-consulting service up to Rupees ten lakhs or less: The Ministry or Department should scrutinise the preliminary list of likely contractors as identified as per Rule 199 above, decide the prima facie Eligible and capable contractors and issue limited tender enquiry to them asking for their offers by a specified date and time etc. as per standard practice. The number of the contractors so identified for issuing limited tender enquiry should be more than three.

(ii) For estimated value of the non-consulting service above Rs.10 lakhs: The Ministry or Department should issue advertisement in such case should be given on Central Public Procurement Portal(CPPP)at www.eprocure.gov.in and on GeM. An organisation having its own website should also publish all its advertised tender enquiries on the website. The advertisements for invitation of tenders should give the complete web address from where the bidding documents can be downloaded.

Rule 202 Late Bids. Late bids i.e. bids received after the specified date and time of receipt should not be considered.

Rule 203 Evaluation of Bids Received.

The Ministry or Department should evaluate, segregate, rank the responsive bids and select the successful bidder for placement of the contract.

Rule 204 Procurement of Non-consulting services by nomination. Should it become necessary, in an exceptional situation to procure a non-consulting service from a specifically chosen contractor, the Competent Authority in the Ministry or Department may do so in consultation with the Financial Adviser. In such cases the detailed justification, the circumstances leading to such procurement by choice and the special interest or purpose it shall serve, shall form an integral part of the proposal.

Rule 205 Monitoring the Contract. The Ministry or Department should be involved throughout in the conduct of the contract and continuously monitor the performance of the contractor.

Rule 206 Any circumstances which are not covered in Rule 198 to Rule 205 for procurement of non-consulting services, the procuring entity may refer Rule 135 to Rule 176 pertaining to procurement of goods and not to the procurement of consulting services.