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Capacity Development and Training on Contract Management

Course material for National TB
Elimination Programme/National
Health Mission



Capacity Development and Training on Contract Management

**Course material for
National TB Elimination Programme/
National Health Mission Officials**

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Acknowledgement

The Project team of HS4TB would like to express its sincere gratitude to Dr Alok Mathur, Addl. DDG, Central TB Division (CTD) for his leadership in developing and promoting contract management capacity throughout the National TB Elimination Program, with the support and facilitation of Health Systems for Tuberculosis (HS4TB) India Project Management Unit under the able leadership of Ms. Neelam Makhijani, Country Director, MSH India.

The smooth implementation of the project activity would not have been possible without the guidance and timely support from Dr Bhavin Vadera, Project Management Specialist (Health), US Agency for International Development (USAID).

We express our heartfelt gratitude to Prof. A Venkat Raman, Dean, Faculty of Management Studies, Delhi University and Advisor, HS4TB India for his valuable advice in developing the course material and delivering effective training to the participants.

We would also like to extend thanks to state PIU team leads for their wholehearted participation in delivering the training programmes in all the 5 states of the country.

Preface

Eliminating TB is a high priority for the government of India. India has shown considerable progress in terms of providing standard TB care in the last decade but, as per the Global TB report 2023, India accounts for 27% of the global burden of active TB. Empirical evidence indicates that a high proportion of patients seek TB care from private healthcare providers.

To help eliminate TB, the Government of India is extending high quality to those treated in the private sector. In addition, via government-funded contracts, the National TB Elimination Programme (NTEP) is leveraging the contributions of private sector organizations in a wide variety of TB programmatic areas – including, but not limited to, the engagement of private healthcare providers. This has been a major change in programmatic approach and, with this change, there is a strong need for increased and ongoing capacity development related to contract management.

The USAID funded Health Systems for Tuberculosis (HS4TB) project, led by Management Sciences for Health (MSH), has been working towards improving TB outcomes by identifying health system constraints and applying innovative health financing solutions to these problems.

In India, HS4TB's organizational objective is to improve the efficacy of the implementation of the TB program through stronger relationships and management of contracting processes with private sector service providers. It focuses on improving the program's capacity to sustain continuity and quality in contract management. Success in this work requires establishing critical competencies at the state and district level through a comprehensive capacity building program.

Based on these objectives, the All India Management Association has worked with the HS4TB, NTEP and USAID to develop an effective capacity building programme which includes comprehensive study material and a 3-day training to offer focused learning to the government employees and officers engaged in the National TB Elimination Programme and National Health Mission in India.

The curriculum of the study material is designed to convey the necessary knowledge and skills related to public procurement and contract management, with a focus on the engagement of the government sector with the private sector to implement the respective national program.

The curriculum of the program was divided into 8 different modules, based on an understanding of the skill gaps in the knowledge of the officials working in the area of public procurement and contract management. These modules cover the pre-contract, contracting, and post-contracting phases, and establish the foundation for more timely, efficient, and responsive contracting by NTEP and NHM officials.

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Abbreviations

| | |
|--------|---|
| ABC | Activity based Costing |
| ACB | Anti-Corruption Bureau |
| ADR | Alternative Dispute Resolution |
| AIIMS | All India Institute Of Medical Sciences |
| AIMA | All India Management Association |
| AMC | Annual Maintenance Contract |
| AR | Accounts Rules |
| ATC | Additional Terms And Conditions |
| BDS | Bid Data Sheet |
| BEC | Bid Evaluation Committee |
| BG | Bank Guarantee |
| BOQ | Bill of Quantities |
| CA | Competent Authority |
| CAG | Comptroller and Auditor General |
| CBNAAT | Cartridge Based Nucleic Acid Amplification Test |
| CEO | Chief Executive Officer |
| CHC | Community Healthcare Center |
| CIPP | Code of Integrity for Public Procurement |
| CPPP | Central Public Procurement Portal |
| CPSE | Central Public Sector Enterprises |
| CPWD | Central Public Works Department |
| CTD | Central TB Division |
| CVC | Central Vigilance Commission |
| DBT | Direct Benefit Transfer |
| DDO | Drawing and Disbursement Office |
| DEA | Department of Economic Affairs |
| DH | District Hospital |
| DM | Diabetes Mellitus |
| DOTS | Directly Observed Treatment, short-course |
| DR | Drug Resistant |
| DSC | Digital Signature Certificate |
| DST | Drug susceptibility testing |

| | |
|------|---|
| EC | Evaluation Committee |
| ECS | Electronic Clearing Service |
| EMD | Earnest money deposit |
| EoDB | Ease of Doing Business |
| EPC | Engineering, Procurement and Construction |
| EPF | Employee Provident Fund |
| ESI | Employee state insurance |
| FBS | Fixed Budget Based Selection |
| FDC | Fixed-dose combination |
| FEMA | Foreign Exchange Management Act |
| FY | Financial Year |
| GCC | General Conditions of Contract |
| GDP | Gross Domestic Product |
| GEM | Government e Marketplace |
| GFR | General Finance Rules |
| GO | Government Orders |
| GOI | Government of India |
| HIV | Human Immunodeficiency Virus |
| HMIS | Health Management Information Systems |
| HWC | Health and Wellness Center |
| ICB | International Competitive Bidding |
| ICU | Intensive Care Unit |
| IP | Intellectual Property |
| IPR | Intellectual Property Rights |
| ISO | International Standards Organization |
| IT | Information Technology |
| ITB | Instruction to Bidders |
| ITC | Instructions to Consultants |
| IVRS | Interactive voice response |
| KPCL | Karnataka Power Corporation Ltd. |
| KPI | Key Performance Indicators |
| KVIC | Khadi Village Industries commission |
| L1 | Lowest |
| LCB | Limited Competitive Bidding |
| LCC | Life-Cycle Cost |
| LCS | Least Cost System |

| | |
|-------|---|
| LLP | Limited Liability Partnership |
| LOI | Letter of Invitation |
| LPA | Line Probe Assays |
| LTBI | Latent TB infection test |
| LWF | Labor Welfare Fund |
| MSE | Micro and Small Enterprises |
| MSME | Micro, Small and Medium Enterprises Development |
| NAAT | Nucleic Acid Amplification Test |
| NCB | National Competitive Bidding |
| NGO | Non-governmental Organization |
| NHM | National Rural Health Mission |
| NHSRC | National Health Systems Resource Center |
| NIB | Notice Inviting Bids |
| NIC | National Informatics Centre |
| NIT | National Institute of Technology |
| NPY | Ni-kshay Poshan Yojana |
| NSP | National Strategic Plan |
| NTEP | National Tuberculosis Elimination Programme |
| NTSU | National Technical Support Unit |
| OCB | Open Competitive Bidding |
| OEM | Original Equipment Manufacturer |
| OOPE | Out of the Pocket Expenses |
| ePBG | Electronic Performance Bank Guarantee |
| PE | Procurement Entity |
| PF | Provident Fund |
| PFM | Public Finance Management |
| PHC | Primary Health Centres |
| PIL | Public Interest Litigation |
| PIP | Program Implementation Plan |
| PMJAY | Pradhan Mantri Jan Arogya Yojana |
| PPE | Personal Protective Equipment |
| PPM | Public-private mix |
| PPP | Public Private Partnership |
| PPSA | Patient Provider Support Agency |
| PSU | Public Sector Undertakings |
| PWF | Public Works Financial |

| | |
|----------|--|
| PWO | Public Works Organisation |
| QCBS | Quality cum Cost Based Selection |
| QOP | Quality Oriented Procurement |
| RA | Reverse Auction |
| RFP | Request for Proposal |
| RNTCP | Revised National Tuberculosis Control Programme |
| RTI | Right to Information |
| SCC | Special Conditions of Contract |
| SCM | Supply Chain Management |
| SLA | Service Level Agreement |
| SoPP | Schedule of Procurement Powers |
| SOR | Schedule of Rates |
| SOW | Scope of Work |
| SRM | Supplier Relationship Management |
| SSS | Single Source Selection |
| STCI | Standards of TB Care in India |
| STE | Single Tender Enquiry |
| STSU | State Technical Support Unit |
| TAT | Turnaround Time |
| TB | Tuberculosis |
| TCO | Total Cost of Ownership |
| TDS | Tax Deducted at Source |
| TEC | Technical Evaluation Committee |
| TOR | Terms of Reference |
| TSGENCO | Telangana State Power Generation Corporation Limited |
| TU | TB Units |
| UNCITRAL | United Nations Commission on International Trade Law |
| VFM | Value for Money |
| WOL | Whole-of-Life |

Background

A. Overview of NTEP

B. Involvement of the Private Sector in Ending TB

C. Modes of Engagement of Private Sectors

D. Beyond private sector engagement: the diversity of partnership options

E. Identified challenges faced by officials based on need assessment survey

Background



A. Overview of NTEP

India has a little less than 20 percent of the world's population but accounts for more than 25 percent of the total global burden of active tuberculosis (TB). More than two million people are diagnosed with the disease in India every year. TB kills more adults in India than any other infectious disease. The World Health Organization (WHO) End TB Strategy was endorsed by the World Health Assembly in May 2014, and has the ambitious goal of ending the global TB epidemic by 2030. In tandem with the WHO goals, India has set an aggressive target of eliminating TB by 2025.

The National Tuberculosis Elimination Programme (NTEP) is the public health initiative of the Government of India (GOI) that organizes the country's TB elimination efforts. The vision of the NTEP is to have a TB free India by the year 2025. As part of this ambitious vision, the NTEP has prioritized engagement between the public and private sectors. This has two major themes:

1. Engagement of private healthcare providers to assist them in providing quality TB care, including the appropriate public health inputs; and
2. Government-funded contracting of private sector organizations to deliver TB-related services; e.g., an NGO or private for-profit organization may be contracted by the government to deliver a specified package or quantity of efficient laboratory services, or supply chain services, or, indeed, private provider engagement services.

In the sections immediately below, we discuss the first of these two themes in more depth. However, the majority of this course is related to the second theme, in which any number of different TB-related services (including private provider engagement) can be contracted to non-government organizations.

B. Involvement of the Private Sector in Ending TB

- i. The National Strategic Plan (NSP) 2017-2025 for TB Elimination in India is a comprehensive roadmap developed by the GoI to combat TB and work towards its elimination. The NSP suggests the following guiding principles for reaching out to patients in the private sector:

- a) The government will be an enabler and not see itself as the sole provider of TB care.
 - b) “Go where the patients go”. Currently, up to 80% of people with TB go to the private sector. This should be reflected in the level of investments to address this fact.
 - c) The cost of involving the private sector is not high. It is almost the same or only marginally higher than the cost in the public sector.
 - d) Investments involving the private sector yield significant returns in case detection, with doubling or even tripling of the case notification rates.
- ii. The NSP 2017-25 acknowledged that involvement of the private sector is crucial if the goal of ending TB in India by 2025 is to be achieved. Two distinct reasons can be summarized as follows:
- a) Well over half of the people with TB (irrespective of their financial capacity) seek care from the private sector. There is evidence that a significant proportion of these people seeking TB services from the private sector have less-than-desirable experiences, including high out-of-pocket expenditure (OOPE). Treating such patients becomes very complicated with a wide range of unwanted components including multiple visits to different care providers, delayed (or missed) diagnosis, no systems in place to ensure the completion of treatment, and variable treatment courses that are not in line with approved guidelines.
 - b) It has been recognized that there are some programmatic gaps in services for people seeking care under the public sector also. To address these gaps, private sector capacity (including, but not limited to, diagnostic capacity, clinical expertise, human resources (HR), logistic capacity, and supply chain management expertise) can be effectively leveraged.
- iii. To guide quality of care expectations in both the public and private sectors, the Government of India has also prepared the “Standards for TB care in India (STCI)”. This standard has been prepared after extensive consultation amongst stakeholders. In preparing these standards appropriate answers to following questions have been considered:
- What should be the standard tools and strategies for early and complete TB detection?
 - What should be the standards of TB treatment in terms of drugs and regimens for the best patient outcomes?
 - What should be the TB public health standards including regulations, strategies and systems for public health impact?
 - What should be standards for TB patient support systems, both in public and private sectors and for community engagement for social inclusion?
- iv. Early efforts in private sector engagement (PSE), which were implemented between 1995 and 2011, took the form of government schemes that were rolled out with non-governmental organizations (NGOs), medical colleges, quasi-government organizations (like the Indian Medical Association [IMA], Indian Pharmaceutical Association, and the Indian Academy of Pediatrics), and some for-profit providers. The Central TB Division (CTD), under the guidance of the Ministry of Health and Family Welfare (MoHFW), developed guidelines on partnerships for the engagement of NGOs and private providers in 2001 and 2002, respectively. The guidelines were subsequently revised in 2008, 2014, and 2019.
- v. The early schemes were characterized by a centralized approach with fixed models and templates for

contracts. The mode of financing was primarily a grant-in-aid model, with emphasis on input/process indicators rather than on output/performance.

- vi. Primarily, in these interventions, a large scale, sustainable engagement of the ‘for-profit’ private health sector remained missing. Evidence from the recent large-scale pilots, such as the Patient Provider Support Agency (PPSA) have shown how newer approaches to private provider engagement can produce high-impact results. In 2019 there was a major shift in NTEP’s approach to private provider partnerships, culminating in publication of, the ‘Guidance Document on Partnerships 2019’. This Guidance document emphasized on following:
 - a) Movement away from the ‘Public Private Mix (PPM) scheme approach’ to a need-based, patient-centric ‘partnerships approach’.
 - b) Transition from grant-in-aid mechanisms to output and performance-based mechanisms.
 - c) Guidance on the utilization of market-based principles.

C. Modes of Engagement of Private Providers in TB Care

Under the NTEP, both direct and indirect modes of engagement can be employed to effectively involve private providers in TB care.

- i. Direct Engagement between the NTEP and private providers may consist of the following modes:
 - a) Partnership Agreements: Establish formal partnerships and agreements directly between the NTEP and private providers, including primary care providers, hospitals, and specialists. These agreements can outline the roles, responsibilities, and expectations of private providers in TB care, such as notification of cases, provision of free or subsidized drugs, and adherence to treatment guidelines.
 - b) Capacity Building and Training: Provide targeted capacity-building initiatives and training programs to private providers. This can include sessions on TB diagnosis, case management, infection control, and reporting requirements. Training modalities should be designed to accommodate the specific needs and preferences of private providers, such as convenient schedules and distance learning options.
 - c) Data Sharing and Reporting: Developing systems and mechanisms for private providers to report TB cases, treatment outcomes, and other relevant data to the NTEP is crucial for effective monitoring and evaluation. Simplified and adapted reporting forms should be provided to private facilities and field workers can be deployed to assist with recording and reporting if needed.
- ii. Indirect Engagement may consist of the following modes:
 - a) Intermediary agencies: NTEP can engage an intermediary agency that specializes in engaging with private providers and can facilitate indirect engagement. These intermediaries can facilitate support to private providers in adhering to TB care guidelines, provide technical assistance, conduct training, and assist with data management and reporting.
 - b) Professional Associations and Networks: The NTEP can partner with professional associations

and networks of private healthcare providers allows for indirect engagement. These associations can help disseminate TB care guidelines, promote best practices, and facilitate communication and collaboration among private providers. They can also serve as platforms for sharing experiences and addressing challenges.

Both direct and indirect engagement approaches utilize the strengths of both public and private sectors to achieve common objectives. Some examples of both approaches are provided in the text boxes below. As it can be seen from these examples, direct engagement puts more responsibility on the NTEP to implement itself. By contrast, in indirect engagement, non-NTEP organizations facilitate healthcare access between patients and healthcare providers. These are organizations (such as Patient -Provider Interface Agencies (PPIAs) and PPSAs) that are contracted to work as intermediaries and facilitate the linkage of patients with healthcare providers. They play a crucial role in patient navigation, ensuring timely access to health care services and also service delivery.

“

System for TB Elimination in Private Sector (STEPS) in Kerala

STEPS is based on the social responsibility of the private sector blended with profitable customer care services. It is a patient-centric approach leaving care seeking choices to patients and simultaneously making the private sector accountable to ensure standards of TB care.

Establishing STEPS centers at all private and Cooperative hospitals is the heart of private sector engagement in Kerala. STEPS centers are single window mechanisms at private hospitals to help doctors and to ensure that all people with TB diagnosed in that particular hospital receive high standards of TB care. The STEPS center will coordinate notification and follow up with patients until the end of treatment, ensure all public health actions are completed and link patients to social welfare measures. Patients will be followed up through an ‘after sales service model’ which is based upon a blend of self-initiated business promotion and customer loyalty blended with the social responsibility of the private sector.

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Patient Provider Incentive Scheme (PPIS)

The Rajasthan NTEP directly engages with private providers without intermediaries, incentivizing them to improve TB service delivery and health outcomes. Private providers are eligible for incentives based on their contribution to parameters at every step of the TB care cascade. They are paid for completing six tasks: notifying patients (Rs. 200); seeding their bank account (Rs. 300); universal drug sensitivity testing (Rs. 400); co-morbidity screening (Rs. 400); distributing government fixed dose combinations (Rs. 300); and reporting treatment outcomes (Rs. 400). In addition to PPIS incentives (Rs. 2000 per patient), private providers receive NTEP incentives of Rs 500 for case notification and Rs 500 for reporting successful treatment outcomes.

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The Patient-Provider Interface Agency (PPIA) established proof of concept for an intermediary agency-based model to engage effectively with the private sector. The PPIA focused on mobilization of and engagement with all key private sector stakeholders, including physicians, pharmacists, and laboratories; notification of TB cases by the private sector; verification of adherence to the Standards of TB Care in India regimens; and deployment of digital technologies to manage treatment adherence. Key elements of the model included:

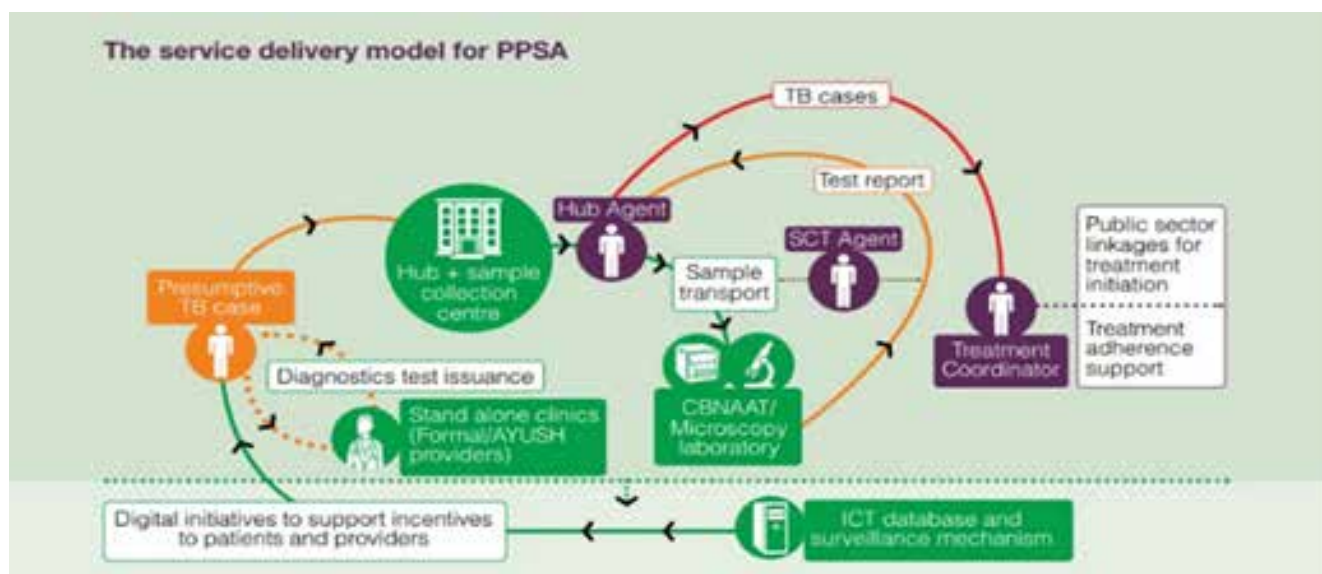
- Adherence to the Standards of TB Care in India
- Leveraging engagement through Field Officers (particularly individual with a pharmaceutical sales background)
- Use of digital technology + vouchers

”

“

Patient Provider Support Agency (PPSA) Model: The PPIA models were scaled up via the PPSA approach, which focuses on end-to-end service delivery viz. provider engagement, notification support, linkages to free drugs and diagnostics, sample collection and transportation and treatment adherence support for the private sector patients.

”



<https://ntep.in/node/1604/CP-joint-effort-elimination-tuberculosis-jeet-model-patient-provider-support-agency-pps-a>

“

Domestic PPSA: The domestic PPSA model involves a contractual agreement between the NTEP and an agency. The agency acts as an intermediary, ensuring that patients in the private sector receive standardized, quality care for TB diagnosis and treatment. The PPSA model helps address challenges related to the provision of free diagnosis and treatment services.

”

D. Beyond private sector engagement: the diversity of partnership options

As noted at the start of this module, the approach to private sector engagement by the NTEP goes well beyond the engagement of private healthcare providers. In the “Guidance Document on Partnership 2019” , the technical areas that can be taken on by contracted organizations, under so called partnership options, range across the following categories:

- (i) Patient Provider Support Agency (PPSA)
- (ii) Public health action
- (iii) Specimen management
- (iv) Diagnostic
- (v) Treatment Services
- (vi) Drug access and delivery services
- (vii) Active TB cases finding and prevention

(viii) Advocacy, communication and community empowerment

Ideally, these partnerships should be collaborations with shared decision-making, cooperation, complementary roles for public and private entities, constructive dialogue, and contracts that outline a well-defined package of services**.

The modules discussed in this course should be used to create partnerships that achieve a service level that is more efficient or effective than independent action by individual organizations.

E. Identified challenges faced by officials based on Competency based assessment survey

As involvement of private sector in ending TB is essential, it is necessary that officials who are entrusted with this task in their states should be able to face the challenges associated with engagement of private sector engagement, particularly related to contracting. A competency assessment for these officials was carried out by HS4TB to examine knowledge gap in the following three areas:

- i. Knowledge and awareness.
- ii. Behavior and Soft Skills.
- iii. Technical aspects of contracting.

Based on the competency assessment, it came out clearly that there is a lack of capacity and a need to provide training in the following aspects:

- i. Pre-contract planning especially needs assessments, costing of services, RFP development and contract design. In this document and training, Module 3 -Planning for Procurement and Module 5 - Preparation of Request for Proposal/Bidding document and Tendering Process will deal with these aspects.
- ii. Contract procurement and management. Module 4- Methods of Procurement and Module 7- Contract Management and Dispute Resolution will cover this topic in detail.
- iii. Procurement of output based services. This issue cuts across all modules of the training.
- iv. Approaches to improve the turn around time for contracting by improving RFP preparation (e.g., by avoiding ambiguous terms and conditions), and improving finalization of clauses related to payment terms, penalty provisions, advances etc. Module 3- Planning for Procurement, Module 5 - Preparation of RFP/Bidding Document and Tendering Process and Module 6- Evaluation of Proposals/ Bids will help address these issues.
- v. Approaches to improve the timelines and quality of invoice submission, verification and validation and payment process. Module 7- Contract Management and Dispute Resolution will deal with these payments related issues.

KEY TAKEAWAYS

- i. The target for the elimination of TB in India is the year 2025.
- ii. To achieve its objectives, the NTEP prioritizes the engagement of private healthcare providers, and the engagement of private organizations that can fulfil a wide range of TB related functions. Contracting is an important skillset for both of these efforts.
- iii. Modes of private provider engagement by the NTEP include both direct and indirect engagement. Contracting is particularly important for indirect engagement.
- iv. When undertaking such contracting work, program officials face many challenges in public procurement in terms of technical knowledge, and practical skillsets.

** Source: *Public - Private Partnerships in Health Care in India (Lessons for developing countries)* by A. Venkat Raman and James Warner Björkman, page 17, 18.

Module 1: Public Procurement

1.1 Procurement

1.2 Objectives of Public Procurement

1.3 Fundamental Principles of Public Procurement

1.4 Categories of Public Procurement

1.5 Public Procurement operations

1.6 Procurement in NTEP

1.7 Limitation in Public Procurement

Module I

Public Procurement



1.1 Procurement

It is safe to say everyone is a buyer! In private life, we make a range of purchases starting from daily needs to electronics to a house; and in professional life as a buyer in an organization- small or large - we buy everything that is needed to meet the business objectives.

Every organization, regardless of its sector—be it private or public—relies on external resources to fulfill its objectives. These resources encompass a wide array of elements, including materials, machinery, services, or processes. The process of acquiring these resources efficiently and cost-effectively is managed by the procurement function through contractual arrangements. Procurement encompasses various activities such as resource identification, sourcing, acquiring services, access management, risk mitigation and regulatory compliance.

In this chapter we shall get acquainted with the following topics:

Public Procurement



Private Procurement



Public Vs. Private Procurement



Fundamental Principles of Public Procurement




Categories of Procurement



For organizations to operate smoothly, it is essential to have a well-functioning procurement system in place, as it involves identifying the resources required for the organization's operations. This initial step entails assessing the organization's needs, determining the services requirement, and establishing the desired timeframe for procurement.

Once the required resources have been identified, the next phase involves sourcing. This includes conducting market research to identify potential service providers who can meet the organization's needs. Key considerations during sourcing include soliciting bids or proposals, evaluating potential service providers based on factors such as price, quality, reliability, and past performance, and ultimately selecting the most suitable service providers.


Following the sourcing phase, the selected service providers enter into contractual arrangements with the organization. These contracts outline the terms and conditions of the procurement, including pricing, delivery schedules, quality standards, and any other relevant factors. By establishing clear contractual agreements, both parties can operate within a structured framework, ensuring that expectations are met, and legal protections are in place.



Procurement encompasses acquisition of external resources to meet the organization's objectives, including materials, machinery, services, or processes.

Once the contractual arrangements are finalized, the procurement function focuses on service providers. This entails overseeing the delivery of services as per agreed parameters.

Managing risk is another critical aspect of procurement. To mitigate these risks, procurement professionals identify potential risks, assess their potential impact, and develop contingency plans to minimize any adverse effects on the organization's operations.



“During the Covid-19 pandemic, the global shortage of Personal Protective Equipment (PPE) emerged as a significant procurement challenge. Initially, China experienced a scarcity, which quickly spread worldwide. Panic buying ensued, causing prices to skyrocket, exacerbating the situation. This highlighted the criticality of efficient procurement processes in ensuring adequate supplies during emergencies.”

Regulatory compliance is a significant consideration in the procurement process. Organizations must adhere to applicable laws, regulations, and industry standards when procuring products and services. This encompasses compliance with labor laws, environmental regulations, ethical sourcing practices, data protection regulations, and other relevant requirements. Procurement professionals play a crucial role in ensuring that the organization's procurement activities align with these regulations, minimizing the risk of legal and reputational issues.

As products reach the end of their lifecycle or are no longer needed by the organization, or services are concluded, the procurement function oversees their disposal or cessation. This may involve managing the return of leased equipment, coordinating the sale or transfer of assets, or arranging for seamless transition of essential services to another contract and/or another service provider.

While the function is commonly referred to as procurement, it is also known by various other names, reflecting the different perspectives and emphases within the field. These alternative terms include purchasing,

supply management, logistics planning & coordination, and supply chain management. While there may be subtle differences in scope and focus, they all revolve around the central objective of acquiring and effectively managing external resources. As described below, those external resources may be goods (e.g., healthcare commodities such as drugs), works (e.g., infrastructure such as a hospital building) or services (e.g., processing a certain number of diagnostic tests). In the current training, the procurement of services is the primary focus.

In conclusion, procurement is a critical function that enables organizations to acquire the products and services necessary to achieve their objectives. Through effective resource identification, sourcing, supply and access management, risk mitigation, regulatory compliance, and resource disposal, procurement ensures that organizations have the inputs required for success. The diverse terminology and professional bodies associated with procurement reflect the multidimensional nature of the field and the range of perspectives within it. By continuously adapting to evolving business landscapes, procurement professionals contribute to the growth and sustainability of organizations across industries.

1.2 Objectives of Public Procurement

Governments, being the largest purchasers in a nation, can greatly benefit the general public through even small enhancements in the Public Procurement process. In India, Public Procurement plays a crucial role within the broader framework of the Public Finance Management (PFM) system, impacting the efficient allocation of resources for public projects.



The fundamental objectives of procurement, in public (or private) sectors, revolve around achieving a well-balanced approach known as the Five R's of procurement. The Manual for Procurement of Goods, Govt. of India, Para 1.5, entails finding the optimal equilibrium between costs and requirements across five key parameters:

- 1. Right Quality:** Procurement aims to acquire the appropriate quality that precisely meets the needs, avoiding excess or insufficiency. This involves specifying clear requirements, understanding functional value and cost, and assessing the bidder's quality system and awareness. Technical specifications play a

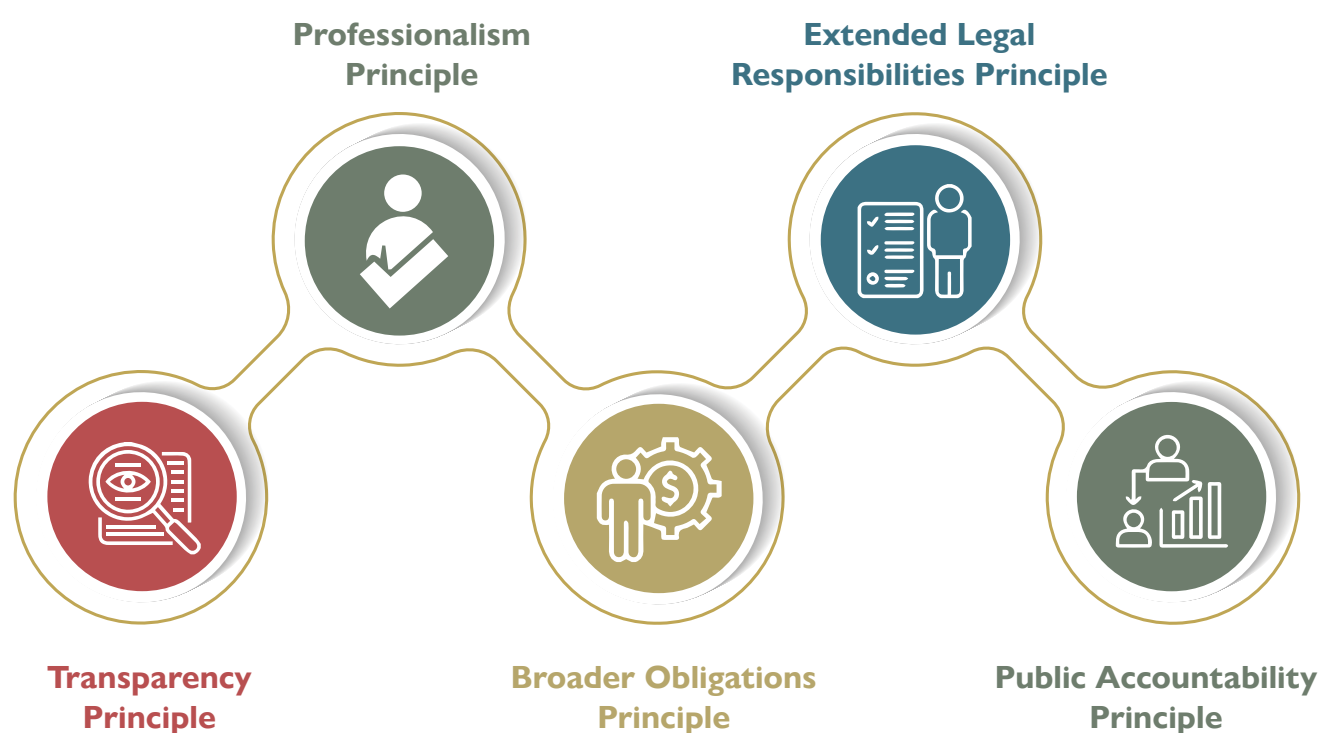
crucial role, and value for money should be considered in Public Procurement.

2. **Right Quantity:** Procuring the requirements in excessively small or large quantities incurs additional costs and systemic overheads. Therefore, the right quantity should be procured, striking a balance between the associated costs of larger and smaller quantities through appropriate contract sizes.
3. **Right Price:** Seeking the cheapest materials/facilities/services available is not the ideal approach. The price should be suitable for the quality, quantity, and other factors involved, preventing abnormally low prices that may lead to non-performance or contract failure. Price considerations should extend beyond the initial payment, encompassing maintenance, operational, and disposal costs (life cycle costing).
4. **Right Time and Place:** Timely procurement is crucial to avoid costly delays or premature purchases. Additionally, considering the logistics involved in delivering materials/ facilities/ services to the appropriate location helps minimize delays and expenditure. An unrealistic timeline for facility completion can lead to disputes and claims.
5. **Right Source:** Selecting the appropriate source for delivering services, goods or works requires assessing the supplier's financial capacity and technical capability, demonstrated through satisfactory past performance. Directly purchasing small quantities from a large manufacturer might not be the optimal strategy, while relying on low cost but inexperienced service providers may also be inadequate.

To conclude, the aim of procurement, whether public or private, is to strike the right balance between costs and requirements across the Five R's i.e. Right Quality, Right Quantity, Right Price, Right Time and Place, and Right Source.

1.3 Fundamental Principles of Public Procurement:

In India, the General Financial Rules 2017 (GFR 2017) lays down the Fundamental Principles of Public Procurement. These principles and other additional obligations of procuring authorities can be organized into five fundamental principles, which all procuring authorities must abide by and be accountable for:



- 1. Transparency Principle:** Procuring authorities have the responsibility and accountability to ensure transparency, fairness, equality, competition, and appeal rights. This entails providing all potential bidders with simultaneous, symmetrical, and unrestricted access to information necessary for them to understand the bidding opportunities, as well as the procedure, and timelines for bidder registration, bidding, evaluation, grievance resolution, contract award, and contract management. These officers must ensure consistency (absence of subjectivity), predictability (absence of arbitrariness), clarity, openness (absence of secretiveness), and equal opportunities (absence of discrimination) in processes. The Transparency Principle obliges procuring authorities to adhere to their pre-declared intentions as outlined in the published documents and avoid any actions that deviate from these declarations. As part of this principle, all procuring entities should follow a fair and transparent procedure when inviting offers and ensure the publication of all relevant information on the Central Public Procurement Portal (CPPP).
- 2. Professionalism Principle:** Under the Professionalism Principle, procuring authorities are entrusted with the responsibility and accountability to ensure professionalism, economy, efficiency, effectiveness, and integrity throughout the procurement process. They should avoid wasteful, dilatory, and improper practices that violate the Code of Integrity for Public Procurement (outlined in Chapter 3 of the Manual for Procurement of Goods 2017). Simultaneously, the procurement methodology should be not only reasonable and appropriate for the cost and complexity but also effectively achieve the intended procurement objectives. As part of this principle, the government may prescribe professional standards and specify suitable training and certification requirements for officials involved in procurement.

In relation to the Transparency and Professionalism Principles mentioned above, it is relevant to refer to certain provisions in the GFR 2017:

Rule 144 emphasizes the fundamental principles of Public Procurement, stating that authorities delegated with financial powers for Public Procurement have the responsibility and accountability to ensure efficiency, economy, transparency, fair treatment of suppliers, and promotion of competition. The procedure followed for Public Procurement must adhere to the following criteria:

- a. The description of the procurement subject matter should align to the following:
 - i. be objective, functional, generic, and measurable, specifying technical, qualitative, and performance characteristics.
 - ii. The description should not indicate a requirement for a specific trademark, trade name, or brand.
- b. Specifications regarding quality, type, and quantity of goods should be clearly defined based on the specific needs of the procuring organizations, avoiding unnecessary and non-essential features that may lead to unwarranted expenditure.
- c. When applicable, technical specifications should be based on national technical regulations, recognized national standards, or building codes. In the absence of such standards, relevant international standards can be considered. For government-funded projects abroad, technical specifications may be aligned with the requirements and standards of the host beneficiary government, if applicable.
- d. Avoid purchasing quantities exceeding the actual requirement to prevent inventory carrying costs.
- e. Invitations for offers should follow fair, transparent, and reasonable procedures.
- f. The procuring authority should ensure that the selected offer adequately meets all requirements.
- g. The price of the selected offer should be reasonable and aligned with the expected quality.

- h. The considerations leading to the procurement decision should be clearly documented at each stage of the procurement process.
- i. A comprehensive procurement schedule should be published when issuing the tender, including the timeline from tender issuance to contract issuance.
- j. All Ministries/Departments should prepare an Annual Procurement Plan before the start of the year and make it available on their respective websites.

3. Broader Obligations Principle: In addition to transparency and professionalism, procuring authorities hold the responsibility and accountability to conduct Public Procurement in a manner that supports the broader objectives of the government as stated in Para 1.7 (iii) of the Manual of Public Procurement - Goods and as specifically outlined in the 'Procurement Guidelines.' These objectives may include:

- a. Preferential procurement from backward regions, weaker sections, Micro and Small Enterprises (MSEs), and locally manufactured goods or services, as stated in the 'Procurement Guidelines.'
- b. Reservation of procurement for specified categories of goods from designated Central Public Sector Enterprises or government organizations, as mentioned in the 'Procurement Guidelines.'
- c. Supporting broader social policy and program objectives of the government, such as economic growth, promoting local industries (Make in India initiative), facilitating ease of doing business, job creation, and employment generation, among others, as explicitly stated in the 'Procurement Guidelines.'
- d. Contributing to the administrative goals of other government departments, such as ensuring tax or environmental compliance by participants, promoting energy conservation, and enhancing accessibility for people with disabilities. These considerations should align with the provisions specifically included in the 'Procurement Guidelines.'
- e. Procurement policies and procedures should adhere to accessibility criteria mandated by the government from time to time.

Procuring authorities should integrate these broader obligations into their procurement practices, in line with the specific guidelines provided.

4. Extended Legal Responsibilities Principle: In Public Procurement, procuring authorities are obligated to fulfill legal responsibilities that go beyond compliance with mercantile / commercial laws (which are applicable to private sector procurement as well). The Constitution of India includes provisions related to fundamental rights and Public Procurement. Over time, courts have interpreted Public Procurement as a function of the state, expanding the responsibility and accountability of Public Procurement authorities. Consequently, courts exercise additional judicial review, beyond contractual matters, to ensure adherence to fundamental rights, fair play, and legality in Public Procurement decisions. Similarly, procuring authorities are also responsible and accountable for complying with governance related laws, such as the Right to Information (RTI) Act and the Prevention of Corruption Act. Other applicable laws may include, but are not limited to, the following in different circumstances as stated in appendix 2 of Manual of Public Procurement - Goods.

- 1. The Constitution of India
- 2. Indian Contracts Act, 1872
- 3. Sale of Goods Act, 1930

4. Arbitration and Conciliation Act, 1996 read with the Arbitration and Conciliation (Amendment) Act, 2015
5. Competition Act, 2002 as amended with Competition (Amendment) Act, 2007
6. Micro, Small and Medium Enterprises Development (MSME Development) Act, 2006
7. Information Technology Act, 2000 (IT Act, regarding e-Procurement and e-auction, popularly called the Cyber Law)
8. Right to Information (RTI) Act 2005
9. Central Vigilance Commission Act, 2003
10. Delhi Special Police Establishment Act, 1946 (basis of the Central Bureau of Investigation)
11. Prevention of Corruption Act, 1988
12. The Foreign Trade (Development and Regulation) Act, 1992 and the Foreign Trade Policy (EXIM Policy), 2015; Foreign Exchange Management Act (FEMA), 1999 and FEMA (Current Account Transactions) Rules, 2000.

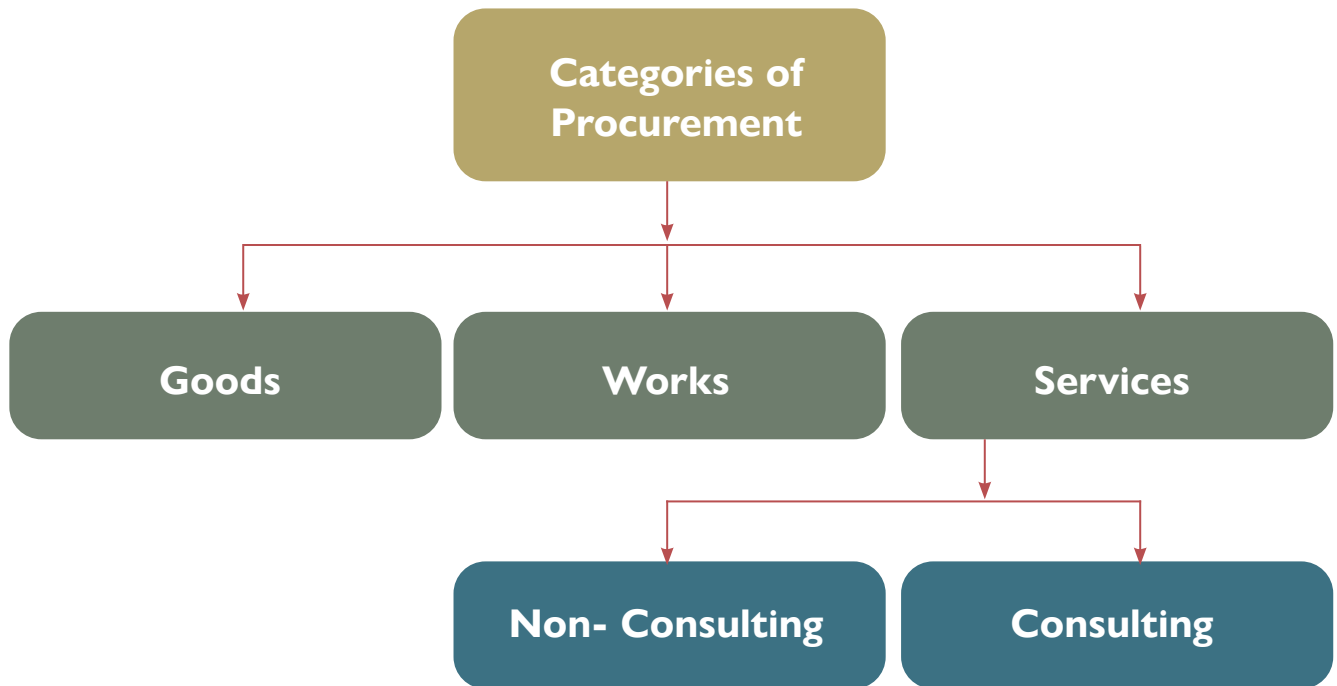
5. Public Accountability Principle: As stated in Para 1.7 (v) of the Manual of Public Procurement - Goods, procuring authorities bear accountability for adhering to the aforementioned principles and are answerable to various statutory and official bodies in the country. These bodies include the Legislature and its Committees, the Central Vigilance Commission (CVC), the Comptroller and Auditor General (CAG) of India, the Central Bureau of Investigation, among others, in addition to administrative accountability. Consequently, each Public Procurement transaction is subject to independent scrutiny, assessing its compliance with rules and procedures, as well as evaluating the overall outcome of the procurement process over time.

Procuring authorities are responsible for ensuring compliance with rules and procedures at every stage of procurement, from need assessment to fulfillment. They must accurately document the considerations that influenced their procurement decisions. These records should be diligently maintained, easily accessible, and made available to oversight agencies. The Procuring Entity should establish and retain audit trails, records, and documents generated or received during the procurement proceedings in chronological order. Files should be stored in a designated location for efficient retrieval whenever required, eliminating unnecessary delays. The documents and records to be maintained include:

- a. Documents related to determining the need for procurement.
- b. Description of the subject matter of procurement.
- c. Justification for selecting a procurement method other than open competitive bidding, if applicable.
- d. Documents pertaining to pre-qualification and registration of bidders, if applicable.
- e. Details of bid issuance, receipt, and opening, including the participating bidders at each stage.
- f. Requests for clarifications and corresponding responses, including those provided during pre-bid conferences.
- g. Evaluated bids and related documents.
- h. Contracts and contract amendments.
- i. Complaint handling records and correspondences with clients, consultants, and banks.
- j. By meticulously maintaining these documents and records, procuring authorities demonstrate their commitment to public accountability and facilitate effective scrutiny when necessary.

1.4 Categories of Public Procurement:

In **Public Procurement**, “categories of procurement” refer to the different types (classification) of procurement to meet the user needs. These categories help in organizing and managing the procurement process efficiently and also in preparing Guidelines & Standard Procurement Documents, which cater to distinctive contractual conditions. Here are the categories of procurement:



1. Goods:

Goods procurement involves the acquisition of tangible products or materials. Examples of goods procurement include:

- Office supplies like stationery, furniture, and computers.
- Construction materials such as cement, steel, and bricks.
- Medical equipment and supplies for healthcare facilities.
- Vehicles for government departments or agencies.
- Food supplies for public institutions like schools or hospitals.

What sets Procurement of Goods apart from Services and Works is its distinctive feature of being able to accurately specify the technical requirements of the product.

2. Works:

Works procurement focuses on the construction, renovation, or maintenance of physical infrastructure. Examples of works procurement include:

- Building construction, including government offices, schools, hospitals, or roads.
- Civil engineering projects like bridges, dams, or irrigation systems.
- Renovation or restoration of historical or cultural sites.

- Installation or upgrading of utilities such as water supply, electricity, or sewage systems.
- Landscaping and beautification projects.

The provision of certain materials or specific services may be incidental or consequential to and integral parts of such works.

3. **Services:**

Services procurement involves the acquisition of professional or specialized services. Examples of services procurement include:

- Consulting services for policy development, feasibility studies, or project management.
- Legal services for contractual matters or litigation support.
- IT services, including software development, system integration, or maintenance.
- Training and capacity-building programs.
- Maintenance and repair services for equipment or facilities.

Typically, there are two types of services procurement:

1. Non-Consultancy Services
2. Consultancy Services

Non-consultancy services involve routine, repetitive intellectual and procedural processes using established technologies and methodologies. The outcomes of these services are also primarily intangible but tend to be more standardized across service providers. Although skilled personnel may be required for non-consultancy services, they are typically not named resources.

In contrast, consultancy services are unique, as they involve one-off projects that require specialized intellectual and procedural processes utilizing established technologies and methodologies. The outcomes of these services are primarily intangible and can vary between different consultants. Procuring consultancy services can be more challenging compared to goods or works procurement, as it is difficult to define them within strict specifications. Contracting authorities should focus on defining tangible deliverables such as reports or trainings. The quality of consultancy services is heavily dependent on the skills and expertise of the personnel involved, so it is essential for contracting authorities to set minimum requirements for personnel qualifications.

It is important to note that both non-consultancy and consultancy services may include the provision of goods or small-scale works that are incidental or consequential to the services.

When faced with doubts, unclear boundaries or ambiguous situations, a simplified procurement procedure should be adopted. In instance of uncertainty between:



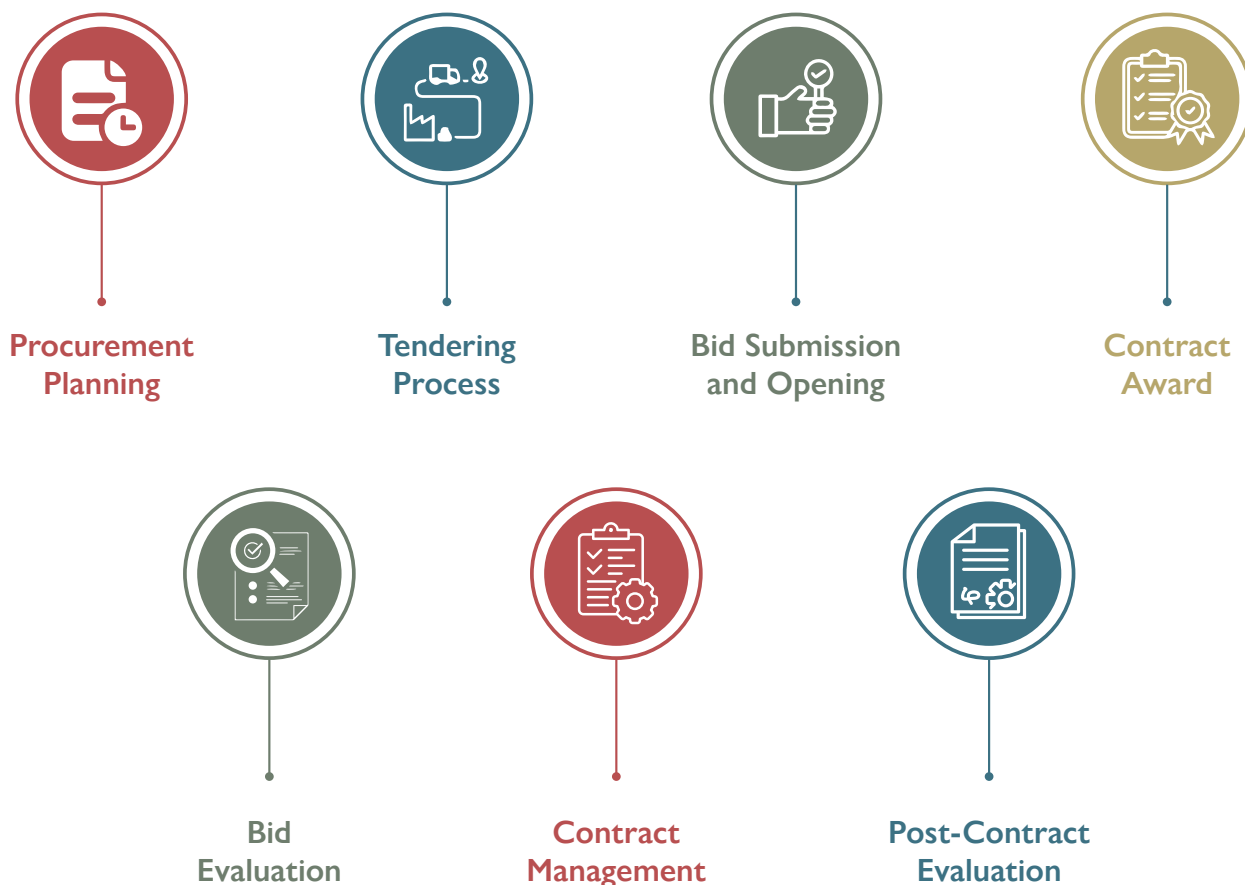
- a. Goods vs Services/Consultancy: the procurement should be treated as the procurement of Goods, if the value of goods in a procurement is more than 50% of the total value of the procurement.
- b. Works vs Service/Consultancy: the procurement should be treated as the procurement of Works if the value of works in a procurement is more than 50% of the total value of the procurement.
- c. Goods vs Works, the procurement should be treated as the procurement of Goods if the value of goods in a procurement is more than 50% of the total value of the procurement.
- d. Consultancy vs Non-Consultancy Services, the procurement should be treated as the procurement of Non-Consultancy Services.

For the contracts of primary concern under NTEP (i.e., contracts on topics covered by the Guidance Document on Partnerships 2019, such as private provider engagement, delivery of diagnostic services, or active case finding activities), the majority should be considered as contracts for non-consultancy services. Although some aspects of these services require specialized procedures, they also make extensive use of established technologies and methodologies, and are thus considered non-consultancy services.

1.5 Public Procurement Operations

The public procurement operations in India, based on the General Financial Rules (GFR) 2017, the Manual for Goods Procurement 2017, and the Manual for Services Procurement 2017 (rev.2022), generally involve the following steps:

7 steps of Public Procurement Operations



1.6 Procurement in NTEP

The NTEP within the National Health Mission (NHM) has witnessed successful implementation of Public Procurement strategies to support its objectives. Some examples of goods are:

- **Procurement of Laboratory Supplies:** Adequate laboratory supplies are essential for conducting accurate TB tests and monitoring treatment outcomes. The NTEP has focused on procuring laboratory supplies, including culture media, staining reagents, and microscopy

equipment. Well-planned procurement strategies have facilitated the timely availability of these supplies, supporting diagnostic and monitoring processes.

- **Procurement of Mobile X-ray Units:** Mobile X-ray units deployed in vans enhance the accessibility of TB diagnostic services, especially in remote and underserved areas. The NTEP has successfully procured and deployed mobile X-ray units across various states, ensuring diagnostic facilities reach the community's doorstep.

These examples illustrate the effective utilization of Public Procurement strategies to support the implementation of the NTEP. The procurement processes have focused on quality, cost-effectiveness, transparency, and timely delivery, contributing to the program's success in combating TB in India.

Let us also consider some examples from services, as under:

- **Laboratory Services:** NTEP relies on laboratory services for accurate TB diagnosis, drug susceptibility testing (DST), and monitoring of treatment outcomes. Procurement of laboratory services involves engaging qualified and accredited laboratories to perform these critical tests. The services may include sputum smear microscopy, culture and drug sensitivity testing, and molecular diagnostics like GeneXpert testing. These laboratory services are procured to ensure reliable and timely diagnosis, which is essential for effective TB care and prevention.
- **Radiology Services:** Radiology services are essential for diagnosing and monitoring TB patients, particularly in situations where chest X-rays (CXR) are required. NTEP may procure radiology services through partnerships with healthcare facilities or mobile radiology vans equipped with X-ray machines. These services enable efficient and accessible radiological examinations people with TB symptoms, facilitating prompt diagnosis and monitoring of post treatment sequelae.
- **Treatment Support Services:** NTEP recognizes the importance of comprehensive support services to enhance treatment adherence and favourable treatment outcomes. Procurement of treatment support services may involve engaging healthcare providers, community health workers, and counselors who can provide patient education, counseling, and treatment adherence support. These services help ensure that people with TB adhere to their medication regimen and complete the full course of treatment, minimizing the risk of drug resistance and relapse.

Additionally, there could be non-core but important services that may be procured as per the needs of the business. Examples of such services are travel related - hotels, tickets, airport / railway station transfers, inter/ intra-city travel, event management, audit, courier, facility management, repair & maintenance, legal, accounting etc. These auxiliary services are important for any organization to run smoothly.

It is important to note that the specific services procured may vary across states and regions based on local needs and program implementation strategies. The examples provided above highlight some common types of services procurement that support the effective implementation of the NTEP.

Public vs Private Procurement:

Public Procurement serves the public good by acquiring services, goods or works by government agencies or public sector organizations to meet societal needs by using public funds allocated through the budgetary process . Public Procurement is governed by specific laws, regulations, and guidelines to ensure transparency, fairness, and accountability in the expenditure of public funds. The procurement process typically involves various stages such as planning, solicitation, evaluation, awarding, and contract management.

The primary purpose of **Private Procurement** is to enhance the organization's profitability and contribute to its bottom line within legal frameworks defined by the governing laws. **Private Procurement** refers to the process of acquiring services, goods or works by private sector organizations or individuals for commercial purposes or to meet the needs of private organizations and is guided by specific requirements, market dynamics, competitive forces and preferences of private buyers. The process may vary depending on the organization's procurement policies, practices, and industry norms.

1.7 Limitation related to Public Procurement:

The Public Procurement framework has certain limitations that need to be considered within the regulatory context:

- a. The complexity of the framework may lead to elements that are contradictory or difficult to interpret.
- b. The extensive nature of the framework can attract lawyers, arbitrators, and intermediaries, potentially complicating the process.
- c. The focus on compliance in Public Procurement may overshadow the desired outcomes.
- d. Due to the limited flexibility for Public Procurement officials to deviate from contract terms, disputes often end up in resolution forums.
- e. Building long-term strategic relationships with suppliers is challenging in Public Procurement, despite the importance of such relationships for sectors like infrastructure or industrial development. This contrasts with the private sector's trend towards integrated Supply Chain Management (SCM) and Supplier Relationship Management (SRM), which can enhance value for money. Strategic procurement models adopted by developed nations like the USA and European countries show potential for innovation in long-term government-supplier relationships.

KEY TAKEAWAYS

- i. Categories of Public Procurement are Services (Consultancy and Non - Consultancy services), Goods and Works. Procurement under NTEP mainly involves procurement of non-consultancy services.
- ii. Objective of public procurement are 5 R's i.e., right quality, right price, right quantity, right source, right time and place.
- iii. Fundamental Principles of Public Procurement are transparency, professionalism, broader obligations, extended legal responsibilities and public accountability.
- iv. Limitations in public procurement are complexity of public service delivery, emphasis on compliance with public procurement requirements, lack of flexibility, lack of long-term relationships etc.

Module 2: Procurement Framework in India

2.1 Introduction

2.2 Administrative guidelines

2.2.1 General Financial Rules 2017

2.2.1.1 Procurement of Works

2.2.1.2 Procurement of Goods and services

2.2.1.3 Consultancy & Non- Consultancy Services

2.2.1.4 Contract Management

2.3 State Legislatures

2.4 Oversight Agencies

2.5 Guidance Document on Partnership RNTCP 2019

Module 2

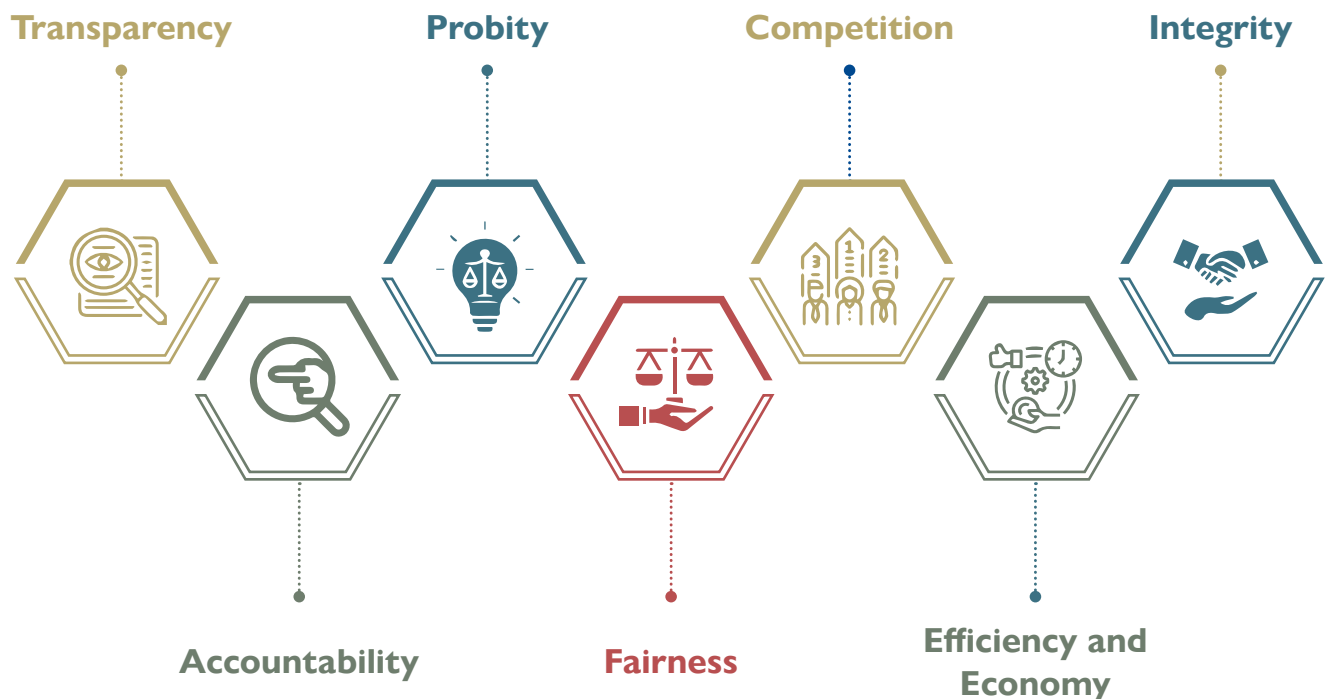
Public Procurement Framework in India



2.1 Introduction

Governments have to buy goods, services and works for their operational needs. Public procurement in India is estimated to be nearly 20% of India's GDP.

Public Procurement is done in the public interest and the authority entrusted with the responsibility of public procurement shall be responsible and accountable to bring efficiency, economy, transparency, ensuring fair and equitable treatment of suppliers and promotion of competition in public procurement.



It is necessary that public procurement should be carried out under a regulatory framework consisting of legislations, rules, manuals and guidelines. This is to bring about uniformity in public procurement practices to minimize the use of discretion and to avoid the consequent possibility of corruption. In India public procurement is governed by legal and regulatory framework. These includes:

- a) Constitutional provisions
- b) Administrative guidelines
- c) Legislative provisions at the Central or State level
- d) Oversight agencies

Although there is no procurement act for the Gol, however some states have promulgated procurement act under legislative provisions. These states are Tamil Nadu, Karnataka, Rajasthan, Assam and Punjab. Gol procurement is governed by administrative guidelines issued by the Department of Expenditure, Ministry of Finance. State Governments other than those states where procurement acts exist are also governed by the administrative guidelines issued by their Department of Finance.

It is, therefore, important to know how procurement is governed. Constitutional or legislative provisions cannot be violated even for minor issues. However, in administrative guidelines there may be provisions for exemption on minor issues, which could be allowed at appropriate level as mentioned in guidelines.

2.2 Administrative Guidelines

The General Financial Rules (GFRs) are the general rules of the GOI which are applicable to all Government Ministries/Departments. Exceptions are provided in the Rules. These rules are applicable in matters relating to Public Finance, that is, matters relating to Revenue and Expenditure of Government. These rules were first introduced in 1947 and modified thereafter in 1963, 2005 and 2017.

With a view to increase transparency in decision making and reducing the scope for subjectivity, the department of expenditure has also issued manuals for procurement of services, goods and works. All the procurement related instructions issued by the Central Vigilance Commission (CVC) have been subsumed into the manual in consultation with the Commission. These manuals are generic guidelines which can be supplemented to suit local/specialized requirements. The Department of Expenditure released manuals in July 2022, that are updated with respect to instructions/modifications issued in the GFR of 2017. These are:



Each state may have their own General Financial Rules which deal with basic principles to be observed and the procedure to be followed by various authorities when dealing with funds received by them in their public capacity.

Generally, these General Financial Rules are applicable for procurement of services and goods. For procurement of works States have separate Rules called Public Works Financial and Accounts Rules which deal with procedure to be followed by various public works departments in executing the works, maintaining the accounts and other allied matters.



2.2.1 General Financial Rules 2017

General Finance Rules GFR, 2017 (GFR) are broad procurement Rules and are executive instructions which are applicable to all Government Ministries/Departments. Exceptions are provided in the Rules. The provisions contained in GFRs are deemed to be applicable to Autonomous Bodies except to the extent the byelaws of an Autonomous Body provide for separate Financial Rules which have been approved by the Government.

GFR does not exclusively deal with public procurement and there are only three chapters i.e., 5, 6 and 8 which exclusively deals with procurement or contract management. Moreover, the contents are general and does not offer any practical use for complex procurement. Rule 142 allows procuring department to issue detailed instructions broadly in conformity to the general rules. Under enabling provision of Rule 142, Ministry of Finance has issued revised manual for procurement in July 22 of goods, services and works which are utilized by Central Government officials in arranging procurement.

2.2.1.1 Procurement of works

Procurement of Works: instructions are for department or ministries which normally enters in works contract. It specifies following:

- (i) Rule 133 and 134 specifies that a ministry or department can execute work up to Rs 30 Lakh and above Rs 30 Lakh the work has to be executed by Public Works Organization (PWO).
- (ii) Ministry or department undertaking works procurement shall have to adhere to the Rule 139 which specifies preparation of detailed instruction based on Central Public Works Department procedure duly vetted by their accounts, prepare detailed design and estimate etc.
- (iii) Rule 139 (iv) and (v) specifies that open tenders will be called for works costing Rs. 5 lakh to Rs. 30 lakh and limited tenders will be called for works costing less than Rs 5 lakh.
- (iv) Tender enquiries, corrigenda thereon and details of bid awards on the CPPP as per Rule 159.
- (v) All bids through e-procurement portals in respect of all procurements as per Rule 160.

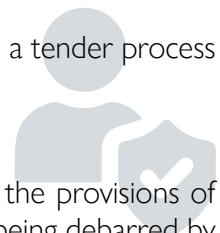
2.2.1.2 Procurement of Goods and Services

1. **Code of Integrity has been added in Rule 175.** Rule 151 (iii) specifies that breach of Code of Integrity may lead to debarment for bidder or its successor for a period up to two years.

Code of Integrity

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

- a. prohibition of
 - i. 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.
 - ii. any omission, or misrepresentation that may mislead or attempt to mislead so that financial or other benefit may be obtained, or an obligation avoided.
 - iii. any collusion, bid rigging or anticompetitive behavior that may impair the transparency, fairness and the progress of the procurement process.
 - iv. 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.
 - v. 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.
 - vi. any coercion or any threat to impair or harm, directly or indirectly, any party or its property to influence the procurement process.
 - vii. obstruction of any investigation or auditing of a procurement process.
 - viii. making false declaration or providing false information for participation in a tender process or to secure a contract;
- b. Disclosure of conflict of interest.
- c. 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.



- 2. **Rule 151** deals with debarment wherein the Bidder or any successor of the bidder can be debarred for 3 years if convicted under:
 - (a) 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.
- 3. **Rule 153** is for reserved items and other purchase/price preference policy. GOI has issued instructions regarding mandatory procurement of certain items from Khadi Village Industries commission (KVIC), purchase preference to MSME units under Section 11 of the Micro, Small and Medium Enterprises Development Act, 2006 and purchase preference for Make in India in year 2017.
- 4. **Rule 158** specifies standard method of obtaining bids which are:
 - (i) Advertised Tender Enquiry
 - (ii) Limited Tender Enquiry
 - (iii) Two-Stage Bidding

(iv) Single Tender Enquiry

(v) Electronic Reverse Auctions

5. **Rule 159** specifies mandatory publish their tender enquiries, corrigenda thereon and details of bid awards on the Central Public Procurement Portal (CPPP).
6. **Rule 160** specifies mandatory for Ministries/ Departments to receive all bids through e-procurement portals in respect of all procurements.
7. **Rule 161** specifies mandatory advertised tender for estimated value of procurement above Rs 25 lakhs. Global tender enquiry not permitted for purchase up to Rs 200 crores except with approval of competent authority. 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.
8. **Rule 170** regarding bid security specifies following:
 - (i) should be in range of 2% to 5% of the estimated bid value. It should be obtained from all bidders except MSME and Startups. E-bank guarantee is allowed.
 - (ii) Bid securities of the unsuccessful bidders should be returned on or before 30 days.
 - (iii) In place of a Bid security, the Ministries/ Departments may require Bidders to sign a Bid securing declaration.
9. **Rule 171** regarding performance security specifies following:
 - (i) Performance Security should be for an amount of 3 to 10 per cent. of the value of the contract as specified in the bid documents.
 - (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.
10. **Rule 173** specifies about Transparency, competition, fairness and elimination of arbitrariness in the procurement process and states following important points:
 - (i) If there is change in Bid document bidder should be allowed to change his submitted bid
 - (ii) In complex procurement there should be provision of pre-bid conference.
 - (iii) Suitable provision for settlement of disputes, if any, emanating from the resultant contract, should be kept in the bidding document.

2.2.1.3 Consultancy and Non-Consultancy Services

1. **Rule 183** in case of procurement of services specifies Identification of likely sources should be done as follows:
 - (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 Organizations 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 the Government e Marketplace (GeM) or the CPPP at www.eprocure.gov.in.
2. **Rule 184** states the shortlisting of consultant should not be less than three.

3. Rule 185 states that Term of Reference should include following:

- 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.

4. Rule 186: 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.

5. Rule 191 specifies three methods of procurement for consulting services viz., Quality cum Cost Based Selection (QCBS), Least Cost Selection (LCS) and Single Source Selection/Consultancy by nomination.

6. Rule 192: QCBS may be used for Procurement of consultancy services, where quality of consultancy is of prime concern. Following are the important points:

- (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 weightages 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 weightages 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 weightage of the technical parameters i.e., non- financial parameters in no case should exceed 80 percent.

- 7. Rule 193:** Least Cost System (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 weightage for technical score in the final evaluation and the responsive technically qualified proposal with the lowest evaluated cost shall be selected.
- 8. 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 emergency like natural disaster;
 - (iii) In case work involve proprietary technique;

No splitting should be resorted, and price paid should be consistent with market condition.

- 9. 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 organizations involved in similar activities, scrutiny of 'Yellow pages', and trade journals, if available, web site etc.
- 10. 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.
- 11. Rule 201** Invitation of Bids:
- (i) For estimated value of the non-consulting service up to Rupees ten lakhs or less: Limited tender enquiry can be issued to identified consultant. 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 the GeM or the CPPP at www.eprocure.gov.in.

- 12. 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.

- 13. Rule 204 Procurement of Non-consulting services by nomination:** 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.

2.2.1.4 Contract Management

1. Rule 224 (1) All contracts shall be made by an authority empowered to do so by or under the orders of the President in terms of Article 299 (1) of the Constitution of India.

(2) All the contracts and assurances of property made in the exercise of the executive power of the Union shall be executed on behalf of the President. The words “for and on behalf of the President of India” should follow the designation appended below the signature of the officer authorized in this behalf.

2. Rule 225 General Principles of Contract - Following are the important points:

- (i) As far as possible standard forms of contracts should be adopted.
- (ii) Contracts for works with estimated value of Rupees ten lakhs or above or for purchase above Rupees ten lakhs, a Contract document should be executed.
- (iii) Contract document, where necessary, should be executed within 21 days of the issue of letter of acceptance.
- (iv) Price Variation Clause can be provided only in long-term contracts, where the delivery period extends beyond 18 months.
- (v) All contracts shall contain a provision for recovery of liquidated damages for defaults on the part of the contractor.
- (vi) No claim for the payment from contractor shall be entertained after the lapse of three years of arising of the claim.

3. Rule 227 Legal advice - Wherever disputes arise during implementation of a contract, legal advice should be sought before initiating action.

Rule 227 An Arbitration Award - In cases where the ministry/department has challenged an arbitral award and, as a result, the amount of the arbitral award has not been paid, 75% of the arbitral award (which may include interest up to date of the award) shall be paid by the Ministry/ Department to the contractor/ concessionaire against a Bank Guarantee.

2.3 State Legislatures

Although Gol has not promulgated any Procurement Law, however, few states in India have adopted Procurement Law. Gol had issued a draft Procurement Law bill in 2011 which was referred to standing committee, but it had lapsed. Prior to 2011 only two states had procurement law. These are:

- i. Tamil Nadu Transparency in Tenders Act, 1998
- ii. Karnataka Transparency in Public Procurement Act, 1999

Based on the draft law bill of 2011 introduced by Gol, the states which have procurement law in their states are as under:

- i. Rajasthan Transparency in Public Procurement Act, 2012
- ii. Assam Public Procurement Act, 2017
- iii. Punjab Transparency in Public Procurement Act, 2019

Besides above each State has their own Stamp Act. The basic purpose of the Act is to raise revenue for the Government. Stamp Act prescribes rates of stamp duty with respect to bills of exchange, cheque, promissory notes, bill of lading, letters of Credit, policies of insurance, transfer of shares, debentures, proxies, and receipts. The stamp duty shall be paid as indicated on the instrument / stamp issued by the Government.

The payment of proper stamp duty on instruments has legality associated with them. Such instruments get evidentiary value whenever produced in courts of law. The stamp duty at the rate/amount as applicable for the procurement contract is payable by the contractors.

The Indian Stamp Act of 1899 is an Act of the GoI for the charging of stamp duty on instruments recording transactions. This was last amended in through Finance Act 2019. Various states of India either have adopted the Indian Stamp Act, 1899 with Amendment specific to the state or have issued a separate Act. Some of these Acts/Amendments are as under:

- i. Delhi, Orissa, Telangana, Andhra Pradesh and other States are governed by Indian Stamp Act, 1899 with Amendments.
- ii. Gujarat is governed by Bombay Stamp Act, 1958 with Amendments

Example

The Supreme Court ruled that a court must consider all relevant factors before admitting a contract into evidence or acting on it. The contract must be examined to see if it has been properly stamped. As a result of Section 35 of the Stamp Act, if the contract is discovered to be not duly stamped, the court will be unable to act on the contract that has been submitted. The court can only recognize the contract as validly stamped if the deficit stamp duty and penalty are paid, either before the court or before the Collector, according to the method given down under Section 35 or 40 of the Stamp Act, and the deficiency with regard to the deficit stamp is corrected.

2.4 Oversight Agencies

Oversight agencies of Government are as follows:

1. **Comptroller and Auditor General of India:** The CAG of India which is highest body for undertaking Audit of public expenditure in India. CAG have been mandated by Constitution of India and CAG's mission is to promote accountability, transparency and good governance through high quality auditing and accounting and provide independent and timely assurance to the Legislature, the Public and the Executive, that public funds are being collected and used effectively and efficiently.

In States, CAG is headed by Accountant General is responsible for the compilation of monthly accounts based on vouchers and challans received from the treasuries and advice received from the Reserve Bank of India. C&AG reports provide detailed insights and observations relating to award and execution of the contract and suggestions to improve systems and practices.

Example

Court has maintained that the scope, extent and timing of audit fall within the jurisdiction of CAG and the Public Interest Litigation (PIL) praying for directions to CAG to take up a certain audit was dismissed. In another PIL the court requested the CAG to audit cyclone Amphan related relief in Bengal.

In another case Court had decided that the report of the CAG cannot be the sole basis for any liability being caused or for prosecution to be launched. High Court of Karnataka termed as illegal the action of the State-owned Karnataka Power Corporation Ltd. (KPCL) in recovering Rs. 52.37 crore from two private mining companies based on a CAG report.

- 2 **Central Vigilance Commission:** The CVC is governed by the CVC Act, 2003 and it empowers CVC to inquire or cause inquiries to be conducted into offences alleged to have been committed under the Prevention of Corruption Act, 1988 by certain categories of public servants of the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government and for matters connected therewith or incidental thereto.

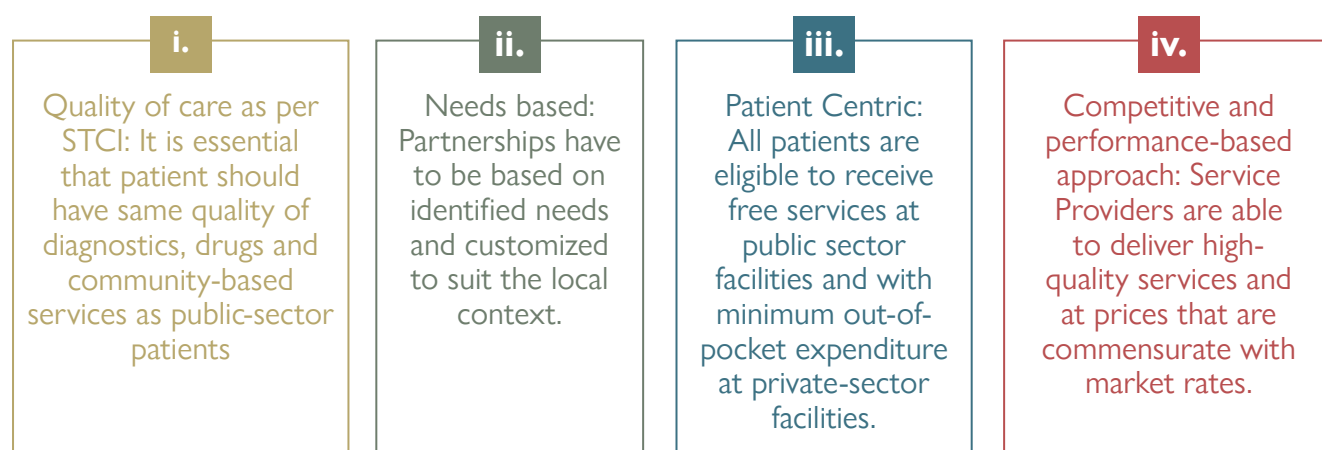
The Anti-Corruption Bureau in states is primarily responsible for the detection, investigation, and prosecution of cases of corruption among public servants and facilitating government departments to provide an honest, transparent, and clean administration.



2.5 Guidance Document on Partnership RNTCP 2019

1. To help eliminate TB, the GoI is implementing the National Strategic Plan (NSP) for 2017 to 2025 to introduce interventions to expand and improve diagnosis, treatment and care for patients with TB. It intends to extend the umbrella of high-quality TB care and control to include those treated in the private sector. Although in past Revised National TB Control Programme (RNTCP) has engaged with medical colleges and NGO in large scale with moderate success, however, sustainable engagement of the 'for-profit' private health sector has remained missing.
2. Recent large scale pilot project carried out by engaging 'for-profit' private health sector as Patient Provider Support Agency (PPSA) can produce high-impact results. RNTCP approach has now shifted from grant-in-aid mechanism to public-private partnership wherein instead of input-based financing focus has been shifted to output and result based framework. The added advantage of this approach is to discover market rate instead of prescriptive cost i.e., determining the cost through internal analysis. This approach is also called "performance-based matrix" which keeps the output and results at the core of the program.

3. **Key features of Partnership Options** - There are four elements as follows:



4. **Steps to engage a service provider** - Following steps are recommended:



5. **Undertaking Needs Assessment:** Need assessment is crucial to identify specific gaps and challenges that could be addressed either through various health systems strengthening exercises or partnering with appropriate service providers. It is recommended in the document that this exercise should be done every year. Gaps found in TB care and recommended services to fill these gaps are mentioned and can be considered as good starting point. These services are:

- (i) Community mobilization:
- (ii) Specimen management
- (iii) Diagnosis
- (iv) Treatment
- (v) Treatment completion
- (vi) Screening

- (vii) Diagnostic steps
 - (viii) Pre-treatment test
 - (ix) Public health action
6. **Partnership option** have been identified however this is to be decided based on need assessment. The types of partnership option are as under:
- (i) Patient Provider Support Agency (PPSA)
 - (ii) Public Health Action
 - (iii) Specimen Management
 - (iv) Diagnostic
 - (v) Treatment Services
 - (vi) Drug access and delivery services
 - (vii) Active TB cases finding and prevention
 - (viii) Advocacy, Communication and Community Empowerment

Innovative Model of Partnership: (Guidance Document for Partnership RNTCP 2019)

- Cartridge Sharing Model: District A has only two Cartridge Based Nucleic Acid Amplification Test (CBNAAT) machines and cannot cater to the increased demands of the district. They have a sufficient and steady supply of CBNAAT cartridges and have also a few selected private-sector laboratories that have CBNAAT machines. The RNTCP may consider a cartridge sharing model, under which, the RNTCP provides the cartridges to the private labs to run tests on its behalf. The purchase agreement will be per test basis to cover the overheads and maintenance charges at the labs. This may be a more cost-effective model, especially if cartridge stocks are not a challenge.
- Reagent Rental Model: In districts that would like to provide newer molecular diagnostics to patients but do not want to incur any additional capital costs, RNTCP may consider the Rental Model. Here, RNTCP can engage with manufacturer (who may also present as a Service Provider) to establish a purchase arrangement. A Service Provider will provide equipment, reagents on rent to a public-sector health facility and ensure the maintenance of the equipment as well. RNTCP will provide space, electricity, and a laboratory technician to run the instrument. The purchase arrangement will be per test basis to cover their overheads and maintenance charges. An agreed amount will be paid based on minimum guarantee of workload.
- Mobile TB Diagnostic Van: State A is considering how to make NAAT test available at the periphery. With this intention, the state proposes for an innovation – a combined X-ray unit and NAAT in a mobile van. Here the state will look to outsource the entire operations of managing the mobile testing unit to the service provider. These operations will include management of the vehicle and personnel for a defined time period in an assigned geography.
- Outsourced Laboratory Operations: In district A, the Program Manager has an established lab in a public-sector facility to run services but does not have the required human resources to run the same. In this scenario, the program proposes that the lab is outsourced to a private agency. The costing may be proposed on a per test basis or on a consolidated monthly basis and must

include various aspects like HR, reagents, overheads, consumables. The Service Provider will be responsible for undertaking a wide range of services - provision of skill personnel, cleaning, doing testing and providing result, data entry in Ni-Kshay as per guidelines etc. This option may be used to run DMC and / or C-DST Laboratory.

7. It is recommended that instead of entering into contract for each type of services, there should be bundling of services as it has its own advantage like increase in coverage, fewer contract to process, opportunity for collaboration and reduces verification cost. Bundling can be done in various ways as follows:
 - (i) During need assessment it may be felt that out of 9 services the region requires only 8 services and further it may be felt that instead of entering into 8 service contracts, it better to enter in one contract by bundling the services based on the capacity available with potential service provider in the region.
 - (ii) It is possible that one service may be bundled together along various regions/districts to avail benefit of scale.
 - (iii) Similar types of services can be bundled in a region.
8. For each type of partnership, the document provides for following types of suggestive criteria:
 - (i) Eligibility Criteria
 - (ii) Role of service provider
 - (iii) Role of RNTCP
 - (iv) Performance indicators and its linkage to payment
 - (v) Verification mechanism
9. Three main types of contracting are described. These are:
 - (i) Input based contracting
 - (ii) Fee-for-service contracts or Purchasing of Services contract
 - (iii) Output based contracting

For each type of contracting, it has been explained how planning is to be done, its advantages and type of service which is most suited for such type of contract.

Steps involved for entering into a contract has been explained as per GFR 2017.

10. How to estimate budget for the partnership option has been explained in detail with examples. The steps mentioned are as follows:
 - (i) Market scan
 - (ii) Activity based costing
 - (iii) Use of Prevailing unit price as used in other government programs /similar settings

Besides above how to formulate a payment mechanism including performance-based matrix has been explained in detail. Verification and validation have also been explained beside providing examples of how to levy penalty on service provider in case on shortcoming in performance matrix has also been explained through example.

Framework of monitoring and evaluation matrix has also been suggested.

KEY TAKEAWAYS

- i. Constitutional Provisions, Administrative Guidelines Centre and State, Legislative provisions Centre and State.
- ii. Important rules of General Financial Rules 2017, Department of Expenditure, Gol.
- iii. Important points of Guidance document on Partnership RNTCP 2019 i.e., partnership options, need assessment.
- iv. Oversight agencies CAG, CVC and their roles.

Module 3: Planning for Procurement

3.1 Planning for Procurement

3.2 Need Assessment

- 3.2.1 Importance of Need Assessment
- 3.2.2 Issues during Need Assessment
- 3.2.3 Key Issues Identified in Implementation of National Strategic Plan (NSP)
- 3.2.4 Key principles for Need Assessment under NTEP
- 3.2.5 Recommended process for need Assessment under NTEP
- 3.2.6 Bundling
- 3.2.7 Identifying the Partnership Model
- 3.2.8 Key Principles for Partnership model
- 3.2.9 Challenges in designing Partnerships and Bundling

3.3 Developing Scope of Work/Terms of Reference/Specifications

- 3.3.1 Scope of Work/Terms of Reference in Service Procurement
- 3.3.2 Different Aspects of Designing Scope of Work/Terms of Reference in service procurement
- 3.3.3 Best Practices for designing Scope of Work/Terms of Reference in Services Procurement

3.4 Developing Procurement Plans

3.5 Cost Estimation and Budgeting

3.6 Program Implementation Plan (PIP) Processes – Concept and Format

3.7 Case Scenarios

Module 3

Planning for Procurement



3.1 Planning for Procurement

Planning in Public Procurement is as crucial as mapping out a route before embarking on a long road trip. Without a plan, one may encounter detours, delays, and confusion along the way.

Similarly, without proper planning, the procurement can face inefficiencies, risks, and compromised outcomes. In other words, the planning provides a solid base for successful procurement operations.

By devoting adequate time and effort to the planning stage, organizations can streamline and increase the chances of a successful procurement endeavor. The planning process encompasses several essential steps, such as:

Key Steps for Planning for Procurement



Need Assessment



Developing Procurement Plans

3.2 Need Assessment

3.2.1 Importance of Need Assessment

Need Assessment is the process of identifying gaps in the existing infrastructure or provision of services so as to determine resources needed by the Department on short-term to long-term basis for achieving larger objective for betterment of the society. As a result of need assessment, organizations prepare list of resources to be procured to fulfil the need. The outcome of need assessment exercise is the input for determination of the requirement of services, goods and works to be procured.

Need assessment is a critical stage in the public procurement process, as it lays the foundation for successful and effective procurement operations. It involves a thorough evaluation of the requirements and objectives of the procurement to ensure that the services, goods or works being procured align with the specific needs of the procuring entity. Proper need assessment is essential for several reasons:

- a) **Aligning Procurement with Objectives:** Need assessment helps in clearly defining the objectives and purposes of the procurement. It ensures that the procurement process is closely aligned with the strategic goals and mission of the procuring entity. By understanding the specific needs, procurement can focus on acquiring items/services that add value and contribute to the organization's overall mission.
- b) **Optimizing Resource Allocation:** Effective need assessment enables prudent resource allocation and identifying the gaps. By identifying the essential requirements and avoiding unnecessary expenditures, public procurement entities can optimize their budgets and allocate resources more efficiently. This, in turn, ensures value for money and maximizes the benefits obtained from the procurement process.
- c) **Reducing Procurement Risks:** Need assessment helps in identifying potential risks associated with the procurement process. By analyzing the requirements and understanding the challenges involved, procurement entities can develop risk mitigation strategies and contingency plans to address unforeseen issues and ensure the smooth execution of the procurement.
- d) **Enhancing Transparency and Accountability:** Proper need assessment contributes to a transparent and accountable procurement process. Documenting the requirements and decisions made during the assessment phase provides a clear record of the rationale behind the procurement. This documentation helps in addressing any questions or concerns from stakeholders and ensures fairness and integrity in the procurement process.
- e) **Minimizing Scope Creep:** Need assessment sets the scope and boundaries of the procurement. By clearly defining the requirements, it helps prevent scope creep, where the procurement expands beyond the intended objectives, leading to potential delays and cost overruns.
- f) **Encouraging Competition:** Need assessment facilitates the development of clear and concise specifications for the services, goods or works being procured. Clear specifications/requirement for services promote fair competition among potential suppliers, enabling a broader pool of qualified bidders and fostering a competitive bidding environment.

3.2.2 Issues during Need Assessment

While well-defined needs are essential for ensuring effective procurement, certain challenges and issues can arise during this phase. These include:

- a) **Unclear Requirements:** Vague or ambiguous requirements can lead to misunderstandings and misinterpretations by potential suppliers. Unclear requirements may result in bids that do not fully meet the procuring entity's needs or may lead to disputes during contract execution.
- b) **Inadequate Stakeholder Engagement:** Insufficient involvement of relevant stakeholders, including end-users and technical experts, can result in overlooking critical requirements. Engaging stakeholders from the beginning ensures that all perspectives and needs are considered during the need assessment.
- c) **Budget Constraints:** Limited budgets may pose challenges in meeting the identified need/requirements. Need assessment must carefully balance the desired outcomes with the available budget to ensure cost-effectiveness and optimal results.

- d) **Time Constraints:** Inadequate time for need assessment can lead to rushed decisions and incomplete understanding of the need/requirements. Sufficient time should be allocated for a comprehensive assessment to avoid overlooking essential aspects.
- e) **Lack of Technical Expertise:** Procurement officials without adequate technical expertise may face challenges in understanding complex technical requirements. In such cases, collaboration with subject matter experts becomes crucial to ensure accurate and relevant need assessment. The subject matter expert could be identified within the organization or a consultant is hired for laying down the need/requirement in a professional manner.
- f) **Changing Requirements:** Changing needs and objectives during the procurement process can lead to modifications in the assessment phase. While some adjustments may be necessary, frequent changes can impact the overall procurement timeline and may require additional resources.

Addressing these issues requires careful planning and coordination during the need assessment phase. Procuring entities should prioritize clear communication, stakeholder engagement, and technical expertise to ensure a clear, comprehensive and effective need assessment.

3.2.3 Key Issues Identified in Implementation of National Strategic Plan (NSP 2017-25) for TB

3.2.3.1 To help eliminate TB, the GoI is implementing the National Strategic Plan (NSP) for 2017 to 2025 by way of introducing interventions to expand and improve diagnosis, treatment, and care for patients with TB.

There are two distinct issues identified with respect to implementation of NSP:

- a) Half of the people with TB (irrespective of their financial capacity) seek care from the private sector. There is evidence that a significant proportion of these people seeking TB services from the private sector have less-than-desirable experiences, including high out-of-pocket payments. Patient pathways for these people can become very complicated with a wide range of unwanted components including multiple visits to different care providers, delayed (or missed) diagnosis, and variable treatment courses that are not in line with approved guidelines and that lead to significant out-of-pocket expenditure (OOPE). Therefore, it is essential that the public and private health care sectors work together to ensure that all patients accessing care in the private sector receive services in line with NTEP guidelines for diagnosis and treatment.
- b) There are some programmatic gaps in services for people seeking care in the public sector also. To address these gaps, private sector capacity (including, but not limited to, diagnostic capacity, clinical expertise, human resources (HR), logistic capacity, and supply chain management expertise) can be effectively leveraged. This can ensure that people seeking care from NTEP receive uninterrupted, high-quality services at locations that are convenient for them.

3.2.3.2 As per Guidance document on Partnership 2019, Government is moving away from public-private mix (PPM) schemes, where private sector engagements were based on centrally prescribed, discrete projects at fixed rates. The current focus is on the 'partnerships approach', where the private sector is engaged with innovative and ambitious collaborations aimed at responding to programmatic gaps and providing high-quality patient-centric services to all people with TB, regardless of where they seek care. To implement this strategy one of the important issues that needs to be addressed is:

- a) “How to identify (and quantify) the needs or service gaps which are yet to be fulfilled?”
- b) “How to build a service delivery plan that comprehensively fulfils such needs?”

Answers to these questions based on the data analysis will lead procuring entity to make proper assessment of the need for the services to be procured for meeting the program objectives .

3.2.4 Key Principles for Need Assessment under NTEP*

The following Principles, which can markedly increase the effectiveness of the need assessment, must form the basis of the process:

- a) Need assessment outputs dynamically updated and readily available for decision making:
 - i. Frequent and dynamic updates to service delivery planning are useful not only for early course corrections but also to ensure that inputs into the next round to Program Implementation Plan (PIP) and supplementary PIP.
 - ii. Factsheets emerging from the need assessments and Program Implementation Planning (PIP) should be made publicly available for example, published on state NHM website or the National Health Systems Resource Center (NHSRC) website so that they can be easily accessed.
- b) Combine bottom-up and top-down approaches and build capacity for bottom-up assessments:
 - i. A good top-down/bottom-up mix would start with state-level big-picture assessments and target setting, which then get fine-tuned based on granular data (data in small pieces) from the districts.
 - ii. Top-down flow of information: State-level inputs can include state-level epidemiological analysis to estimate number of missing cases, annual targets, boundaries of resource allocation, approvals for private sector engagement and policy-related decisions.
 - iii. Bottom-up flow of information: Estimation of needs should start from the ground up—from subcenters, Health and Wellness Centers (HWCs), TB Units (TUs), or wards. Similarly, resource mapping should include granular (data in small pieces) information on available services. Such granular data can increase the robustness of the partnership design process because they can be used during tendering to mark clusters, that is, a tender can combine two clusters that have markedly different coverages of private sector services. Examples of bottom-up flow of information:
 - Previous year’s patient records at local facility level should inform the assessment of sample collection needs at the level of subcenter.
 - Records of people with drug resistant TB (DR TB) or people with diabetes at Primary Healthcare Centers (PHCs) or Community Healthcare Centers (CHCs) should be used for calculating diagnostic requirements.
 - Resource mapping should include mapping of Xpert machines in both the public and the private sectors: number, location, capacity, current utilization, and willingness to engage with NTEP.
 - iv. Capacity building: There is a tendency for states to conduct gap analysis and resource mapping at the state level rather than in a decentralized manner. This is due to limited capacity at the level of districts and wards to articulate gaps in an objective manner. Absence of local need assessment is a major lost opportunity to build contextually responsive robust partnerships. States/districts can work with the National Technical Support Unit (NTSU), State Technical Support Unit (STSU), and consultant networks in developing appropriate gap analysis tools.
- c) **Intensify collaboration with other departments:** State and district TB offices often miss

Source: Operations Manual for Partnership under NTEP Para 2.2 page 23

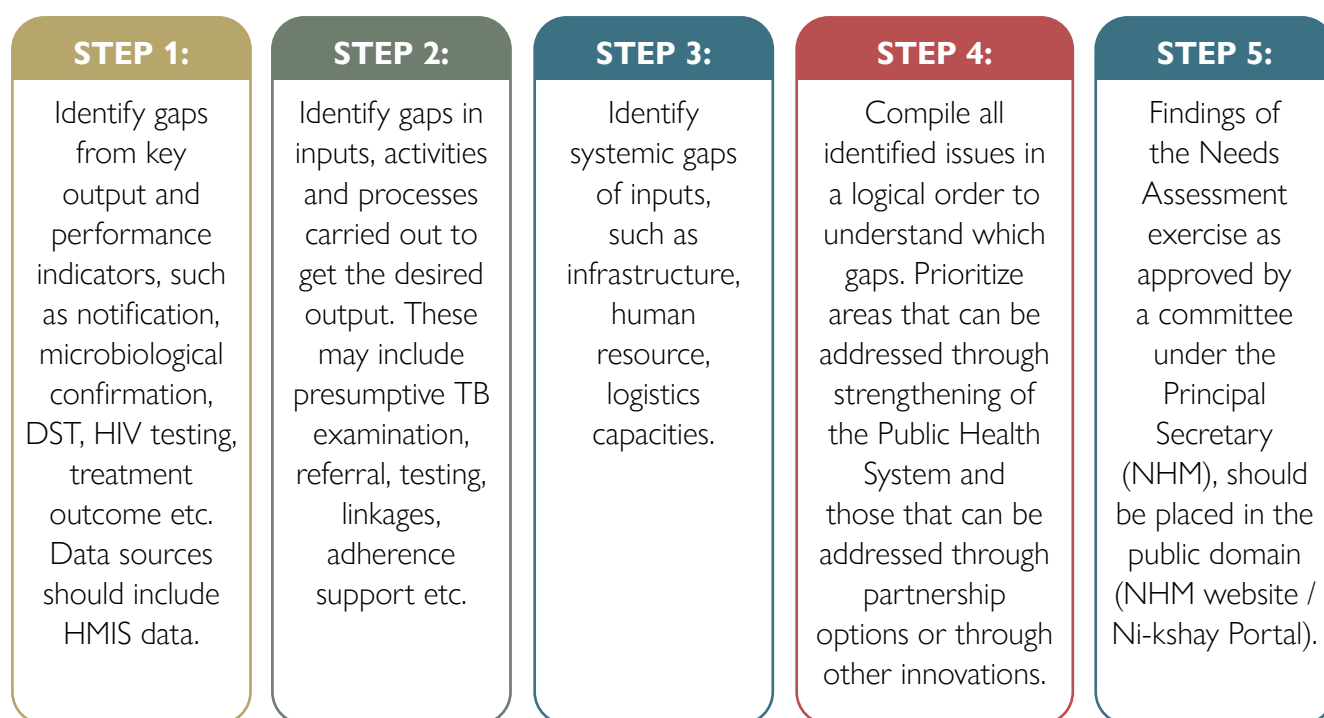
opportunities to collaborate with other health departments (especially the NHM) to share information and resources (including HR). For example, there may be skilled lab technicians or diagnostic capacity in other departments that can be leveraged, which when considered in resource mapping can lead to smarter access plans. Collaborations should be wider in scope to include non-health departments (for example, railways and armed forces).

- d) **Build comprehensive need assessments:** It is often seen that need assessment covers only five or six indicators rather than the entire care cascade of patient needs. This can lead to a limited understanding of a state's programmatic gaps, which in turn can lead to less-than-effective partnerships. It is suggested that the diagnosis and treatment algorithm be used, as described above, to build a robust need assessment picture.

3.2.5 Recommended Process for Need Assessment under NTEP:

3.2.5.1 As per Guidance Document on Partnership 2019, Program Managers should undertake the 'needs assessment' exercise in consultation of all stakeholders, such as state-level authorities, development partners, patients' groups, community-based organizations, professional associations, academic experts. They may also include third party measurements as a "checks and balances" mechanism for the assessment of the services. While conducting the needs assessment, all Program Managers need to consider how this process will be used to strengthen the existing health systems. Due consideration needs to be given to understanding how to increase and expand the capacity of the health system in terms of capacity, skills or by investment in human resources.

The purpose of needs assessment is to build a clear strategy on how to optimally utilize public sector resources, where to seek support from the private sector to bridge the gap, and, most importantly, how to ensure a seamless continuum of services to the patients rather than making them seek one set of services from one place and another set of services from another source. The various steps in need assessment can be summarized as under **:



**Source: Guidance Document to Implement Partnerships, Revised National Tuberculosis Control Programme, Ch no: 2, page no:6

3.2.5.2 As per Operations Manual for Partnership under NTEP, the recommended process for need assessment are as follows:

- a) Building a service delivery plan. Access planning along the patient care according to guidelines.
- b) Capacity analysis. Mapping of existing resources and current capacity.
- c) Gap analysis. Assessment of the gap between service delivery plan and current capacity.



The data for the above is obtained by conducting surveys. The team working for assessing the need should work on the following:

- a) TB services that need to be provided to people in the state (or district), and how will they be provided?
- b) Clearly articulate about the existing health care system resources (public and private) in the State (and in the various Districts)?
- c) What is the state's (or the district's) total needs compared to current capacity in TB service delivery? In other words, what do the demand and the service delivery gaps look like?

a) Building a Service Delivery Plan:

'Service Delivery Plan', in the context of NTEP is a detailed plan on how the required services will be made accessible to everyone who needs them, regardless of whether they are seeking care in the public or private sector.

Service delivery planning can be carried out through several approaches. One approach is the target-based approach, which starts with states and districts building their vision and targets for each step in the patient care. This can be done using multiple sources of information: state-level demographic data, state-level epidemiology, state-specific strategic plans, and the National Strategic Plan for TB Elimination 2020–2025 (NSP). Targets-based approach is primarily a top-down approach because it uses center or state-level inputs to build targets.

In addition to establishing targets, states should examine service delivery planning through a service delivery lens. The targets-based approach consists of asking the 'what', i.e. what are the services that need to be provided (to all people, regardless of where they seek care). The patient-centric approach asks the 'how', that is,

- i. How are these services going to be provided to patients? What is the most optimum, most ideal way to deliver services?

- ii. What level of decentralization is the state aspiring for? For example, a district can aspire to provide TB diagnosis and treatment initiation services at the level of a subcenter or a Health and Wellness Center (HWC) or choose to centralize the diagnostics and treatment services and provide them at the level of a Community Healthcare Center (CHC) or a District Hospital (DH). The National Strategic Plan (NSP) is the best source to provide data on 'how' questions. It recommends high-quality, patient-centric care with minimal Out of the Pocket Expenses (OOPE) for all patients, regardless of where they seek care, and has specific recommendations for all steps in patient care.

Screening delivery planning for district: Assumptions

- a) District population: 5,43,210
- b) Current presumptive TB examination rate: 800 per 100,000 population
- c) Screening carried out in public vs private sector:
 - i. 70% in public
 - ii. 30% in private sector
- d) All people undergoing screening will all receive a CXR examination i
- e) Upfront NAAT availability for:
 - i. 25% of people seeking care in public sector (70% on Xpert, 30% on Truenat)
 - ii. 50% people seeking care in private sector (50% on Xpert, 50% on Truenat)
- f) Remaining screening to be carried out via microscopy: 75% of people seeking care in public sector, 50% people seeking care in private sector

Diagnostic and Notification

- a) Estimated case positivity rate on NAAT - 15%
- b) Estimated case positivity rate on microscopy - 10%
- c) People with TB identified via clinical diagnosis - estimated at 20% of microbiologically confirmed

NAAT

NAAT will be made available to all who did not get upfront NAAT, i.e., those diagnosed clinically or via microscopy:

- a) public sector: 70% on Xpert, 30% on Truenat
- b) private sector: 50% on Xpert, 50% on Truenat

Service Requirement:

1. CXRs = 4,346 (3,042 in public, 1,304 in private)
2. Microscopy examinations = 2,933 (2,281 in public, 652 in private)
3. Upfront NAAT tests
 - a) Xpert tests = 858 (532 in public, 326 in private)
 - b) Truenat tests = 554 (228 for public, 326 in private)

Notification Requirement

No. of people with TB to be notified = 606 (411 in public, 196 in private)

NAAT Requirement

1. Xpert = 257 (208 in public, 49 for private)
2. Truenat = 138 (89 in public, 49 in private)

b) Capacity Analysis

After service delivery planning, the next step is the resource mapping, that is, a comprehensive assessment of the healthcare resources that are currently available to provide the services described in the service delivery plan. This step can also be seen as the 'supply side assessment'. First, resources in the public sector must be examined and an understanding built around their capacity. Then, capacity in the private sector should be examined with a view to understand how much of such capacity exists in the private sector and what is the gap that needs to be bridged through partnerships. A wide net must be cast to include all private service providers and their facilities. There are two points to consider during resource mapping:

- i. It is possible that there is existing public sector capacity for some services, but provision of those services is not in an ideal/patient-centric manner, and therefore, outsourcing those services may be necessary. The resource mapping should not simply focus on quantitative targets but should also focus on indicators related to quality of care such as turnaround times (TATs). In other words, there should be a 'capability assessment' of health facilities and it should consist of gathering information around the services available. This is in line with the NSP's recommendation that "states should make an effort to reduce patient visits to health care facilities and to offer all services under one roof/single window."
- ii. Given that an important objective of this exercise is to establish an accurate idea of the size of health care services available both in the public and private sectors, it is essential that the mapping covers all types of health care providers (including informal providers) and all types of health care facilities, including those run by NGOs and public sector undertakings (PSUs). As mentioned before, the goal of resource mapping is to build a clear picture of how much utilizable capacity exists (in public and private sectors) and can be utilized by NTEP to provide seamless services to all patients.



Resource Mapping:

Health facilities mapping in district X.

Primary health centers: 16, Community health centers: 3, District hospital: 1, Medical college: 1, Private diagnostic centers: 1, Private clinics: 126, Private hospitals: 8

Microscopy capacity

Two (out of 16) PHCs and all three CHCs have microscope testing capacity. However, one of the CHCs (with a capacity for ~1,500 microscopy tests) will not be included in the resource mapping because it is not well connected by public transport, and therefore has a low patient preference.

PHC 1 = 1,320, PHC 2 = 1,584, CHC 1 = 1,584, CHC 2 = 1,584, District hospital = 1,848, Medical college = 2,376

Total annual microscopy capacity in the district = 10,296

Nucleic Acid Amplification Test (NAAT) capacity

The district hospital has one Trunat machine, functioning at 70-% capacity; the medical college has a 2-module Xpert functioning at 50% capacity; nine (out of 10) private Dx centers have Xpert machines.

District hospital = 1,472, Medical college = 1,056, 9 private sector labs, each with an average capacity of 1,300 Xpert tests per year

Annual NAAT capacity (public sector): 2,528

Annual NAAT capacity (private sector): 11,700

CXR capacity

One (out of 16) PHCs and all three CHCs have CXR capacity. However, one of the CHCs (with a capacity for 500 CXRs) will not be included in the resource mapping because it is not well-connected by public transport, and therefore has a low patient preference. The CXR machine at the district hospital has been decommissioned, and a new one is budgeted for in 2024.

PHC 1 = 1,320, CHC 1 = 1,320, CHC 2 = 1,320, Medical college = 1,848, 6 private sector labs, each with an average underutilized capacity of 1,800 CXRs tests per year

Total annual CXR capacity (public sector) = 5,808

Total excess annual CXR capacity (private sector) = 10,800

How to calculate annual capacity?

1. Estimate total number of tests carried out/possible to carry out in one day
2. Estimate number of working days in a year
3. Annual capacity = no. of tests/day \times no. of working days per year

c) Gap Analysis

The final step is to utilize the information and data generated from first two steps, i.e., service delivery planning and resource mapping to work out the gaps for which private sector service provider is required. The outcome of this exercise can be a final list of target services for the district/state which can serve various functions:

- i. comparing with past performance,
- ii. tracking future performance, and
- iii. building a service delivery plan for the district which, in turn, forms the basis of partnership designing.

| Gap analysis | | | | | |
|---|---------------|-------------|-----------|------------------------|---------------------------------------|
| Service needs | Previous Year | | Next Year | | |
| | Target | Performance | Target | Public Sector Capacity | Gap (target - public sector capacity) |
| No. of CXRs | 4346 | 3300 | 9778 | 5808 | 3970 |
| No. of microscopy test | 2933 | 2622 | 6600 | 10296 | Surplus |
| Total no. NAAT Test | 1807 | 1403 | 4065 | 2528 | 1537 |
| (a) No. of up-front NAATs | 1412 | 1202 | 3178 | | |
| (b) No. of NAAT tests for people who did not get upfront NAAT | 395 | 201 | 887 | | |
| No. of notifications | 606 | 402 | 1364 | 924 | 440 |
| No. of HIV and diabetes mellitus tests | 606 | 589 | 1364 | 924 | 440 |
| As per gap analysis, there is a gap of 3,970 CXRs, 1537 Nos. of NAAT Test, 440 Nos. of Notifications and 440 Nos. of HIV and diabetes mellitus tests will be required to be procured from private diagnostic centers via a private sector engagement. | | | | | |

These specific gaps and challenges that are identified are required to be addressed either through various health systems strengthening exercises or partnering with appropriate service providers. Recommended cascade of services already identified are a good starting point in identifying the gaps. The following graphic provides **‘Cascade of recommended services provided to people with TB’**

Source: Guidance Document to Implement Partnerships, Revised National Tuberculosis Control Programme, Ch no: 2, page no:5



Community Mobilization

- Community Empowerment
- Communication
- Advocacy



Specimen Management

- Specimen Transport
- Specimen Collection



Diagnosis

- Notification



Treatment

- Treatment Centre
- DR-TB Treatment Centre



Treatment Completion

- Treatment Outcome Reporting



Screening

- Vulnerability Mapping
- Active Case Finding
- X-Ray



Diagnostic Test

- Latent TB Infection
- Molecular Test
- Microscopy



Associated or Pre-Treatment Test

- Drug Suceptibility Testing
- Diabetes Testing
- HIV Testing



Public Health Actions

- Chemoprophylaxis
- Adherence Support & Follow Up
- Ni-kshay Poshan Yojana

3.2.6 Bundling

The bundling would form an important area at the time of completion of need identification and finalizing various packages of services for inclusion in procurement Plan. The service packages included in the Procurement Plan would form the basis for initiating procurement and entering into contract with the service partners.

The partnership options can be implemented as independent, discrete projects, or they can be combined to make one larger project; this combination is also called 'packaging of services' or 'service bundling'. An example of optimal bundling is when all interconnected services are possibly delivered under one partner and one contract rather than multiple partners and multiple contracts. Implementation experiences have demonstrated how many states have realized cost efficiencies with service bundling through lower overhead costs. There are two types of bundles i.e., vertical and horizontal. Vertical bundle (or service bundle) is a partner that provides multiple services along the continuum of care; the 'one-stop shop'. A horizontal bundle (or geographical bundle) is a single service provided by a partner across a wide geographical area (like a cluster of wards/districts). Both models have been implemented by states over the past three years. (Patient Provider Support Agency) PPSA is by definition a vertical bundle because it includes multiple types of services (for example, notification, seeding of bank account, and treatment support services), and if a PPSA operates at a geographical cluster of 10 districts, it is also a horizontal bundle.

3.2.7 Identifying the Partnership Model*

When the need assessment process described in the previous section has been completed, the result should be a detailed service delivery plan i.e., a clear understanding of what services can and cannot be provided by existing public sector capacity (or provided optimally, as shown by capability assessments) and what services should be considered for outsourcing or procurement through private sector partnerships.

As a next step, the program team (at the central, state, or district level) should address responses to two questions:

- a) Which services do we need to prioritize for outsourcing (based on the needs assessment and service delivery planning)?
- b) Which partnership option is the right fit for the prioritized needs, and how can we best package or bundle the services that we need to procure?

The responses to these two questions form the basis of partnership design. Some of the issues which needs consideration are as follows:

- a) **Prioritizing services for outsourcing:** Using the needs assessment plan a list of services should be prepared that are priority needs for the state (or district) that could be delivered through private sector engagement. At this juncture, an important point to consider is the 'buy versus build' question. In other words, if existing public sector capacity is not sufficient for the service needs, district or state NTEPs need to decide whether they should **build new capacity or procure services** from the private sector. The decision will be based on the urgency of needs and estimates around time and resources required to build capacity. Sometimes, the decision could be to procure services from the private sector as a short-term strategy (for example, 1–3 years) while starting the process of building (or augmenting) public sector capacity.
- b) **Selecting appropriate partnership option:** Once service needs have been prioritized, appropriate partnership option can be selected. A partnership option refers to engaging with a private-sector partner to improve the availability and quality of service delivery for people with TB. The Guidance Document describes a total of eight types of partnerships (described as partnership options) through which private sector capacity can be leveraged to fulfill programmatic needs. The partnership options stated above are those which are currently identified and recommended. It is not an exhaustive list.**

*Operations Manual for Partnership under NTEP Para 3.1 page 27

| PARTNERSHIP OPTION | SERVICES |
|---|--|
| Patient Provider Support Agency (PPSA) | <ol style="list-style-type: none"> 1. Private provider empanelment and engagement 2. Linkages for specimen transportation and diagnostics 3. Patient management (public health action, counselling, adherence support) 4. Logistics of anti-TB drugs <p>The PPSA is an example of a “service bundle” that covers a whole range of activities for end-to-end management of private sector</p> |
| Public Health Action | <ol style="list-style-type: none"> 1. Counselling and adherence management 2. Contact tracing and chemoprophylaxis 3. HIV counselling, testing and treatment linkage 4. DST and linkage for DR-TB services 5. Blood sugar testing and linkages for diabetic care 6. Linkages for Ni-kshay Poshan Yojana |
| Specimen Management | <ol style="list-style-type: none"> 1. Collection of sputum samples 2. Collection of respiratory (excluding sputum) and EP specimen 3. Transportation of specimen |
| Diagnostics | <ol style="list-style-type: none"> 1. X-ray centers 2. Smear Microscopy (ZN/FM)/Molecular diagnostics 3. Culture (stand-alone) / Line Probe Assay / Culture and DST 4. Pre-treatment and follow-up investigation 5. Latent TB infection test (LTBI) |
| Treatment Services | <ol style="list-style-type: none"> 1. TB management center 2. DR-TB treatment center (outdoor) 3. DR-TB treatment center (indoor) 4. Specialist consultation for DR-TB patients |
| Drug Access and Delivery Services | <ol style="list-style-type: none"> 1. Drug supply chain management 2. Improving access to anti-TB drugs for Person with TB notified by the private sector |
| Active TB Case Finding and TB Prevention | <ol style="list-style-type: none"> 1. Active TB case finding 2. TB prevention package for vulnerability mapping and LTBI management |
| Advocacy, Communication and Community Empowerment | <ol style="list-style-type: none"> 1. Advocacy 2. Communication 3. Community Empowerment |

3.2.8 Key Principles for Partnership Model*

Implementation experience has revealed five guiding principles that should help in designing the partnership model. These are:

- a) **Patient Centric:** The goal should always be that the patient is able to access the continuum of services in an easy, comfortable manner. Therefore, service bundles (vertical bundles) should be preferred whenever appropriate because through them, people can access multiple services from the same provider. It is also important to strike a balance between minimizing out-of-pocket expenditure for the patient and providing services in the most efficient manner.
- b) **Rationality:** Bundling choices should be logical. When making geographical clusters for horizontal/geographical bundling, it is important to select clusters in a rational, careful manner i.e., avoiding clusters that are either too small or too large and not clustering districts that are separated by large distances or natural barriers. When making vertical/service bundles, the program team should bundle services that require similar skills.
- c) **Management Requirement:** States should avoid 'overbundling' i.e., putting too many services in one bundle i.e., to avoid high management costs. As bundles become larger, managing them can become inefficient, complicated, and time consuming.
- d) **Diversification:** There is risk of overdependence on private partners. A good strategy is to diversify the service bundles between partner agencies and to avoid overreliance on one partner, even if this is likely to lead to slightly higher costs.
- e) **Alignment with other government programs and departments:** Program teams should evaluate whether there are any existing government schemes that can be added into service bundles. For example, a contract to seed bank accounts can include the task of linking people with Pradhan Mantri Jan Arogya Yojana (PMJAY). The two activities are related because both consist of administrative tasks i.e., sharing of bank information (for Ni-kshay Poshan Yojana [NPY]) and enrollment in insurance portals (for PMJAY) i.e., for which people from low-income communities need support.

3.2.9 Challenges in Designing Partnerships and Bundling**

Few challenges which are experienced in designing partnership and bundling are as under:

- a) **Over bundling:** A tendency to build large and complicated bundles (with a view to maximizing service delivery) has been observed. Such 'over bundling' and overreliance on one partner can slow down all processes, from the RFP to verifications and payments, leading to unsatisfactory outcomes.
- b) **Bundling of unrelated/dissimilar services:** As mentioned, activities that are related to each other (that is, require similar staff skills or similar resources) should be bundled together. When unrelated services are bundled (for example, bundling sample transport services with treatment adherence services i.e., the former requires skills around logistics, and the latter needs expertise in counselling), it can lead to inefficient outcomes.
- c) **Imbalance in the service bundle:** A challenge seen sometimes is when, in a bundle, one set of services (for example, diagnosis and treatment initiation) is linked to payments and another service in the same bundle (for example, treatment completion) is not linked to payments. In such a case, the implementing partner will not be incentivized to invest efforts in treatment completion.

Source: *Operations Manual for Partnership under NTEP Box 1 Page 9

**Operations Manual for Partnership under NTEP para 3.3 page 35

Challenges in Designing Partnerships and Bundling:



3.3 Developing Scope of Work/Terms of Reference/Specifications

After assessing the needs, the subsequent step involves the development of comprehensive specifications. The specifications outline the detailed qualitative requirements of the procurement.

- a) **For services, instead of specifications,** the qualitative requirements are typically specified in Terms of Reference (TOR) and scope of work (SOW).
- b) **For goods,** specifications should include material composition, physical and dimensional parameters, performance indicators, tolerances (if applicable), manufacturing processes (wherever relevant), test schedules, and preservation and packing requirements, among others.
- c) **In the case of works,** specifications should specify the materials to be used (including their specifications, tests, and storage), the method of execution (including measurements, acceptance tests, and any temporary work involved), and applicable schedule of rates.

The development of specifications holds significant importance in achieving value-for-money in procurement. Specifications should ensure a level playing field for all potential bidders. Key considerations for effective specifications include:

- a) **Meeting Essential Needs:** Specifications must address the essential requirements and objectives of the procurement process.
- b) **Objectivity, Functionality, Generality, and Measurability:** Specifications should be objective, functional, generic, and measurable to allow for fair evaluation of bids.
- c) **Technical, Qualitative, and Performance Characteristics:** Specifications should clearly define the desired technical, qualitative, and performance characteristics of the procured services, goods or works.
- d) **Level Playing Field:** Specifications should provide equal opportunities for all prospective bidders, enabling fair competition.
- e) **Standards:** Whenever possible, specifications should be based on relevant national standards (e.g., Bureau of Indian Standards) or international standards (e.g., International Organization for Standardization: ISO) in special cases.

By adhering to these principles, organizations can ensure that the specifications are comprehensive, transparent, and enable the selection of the most suitable suppliers. Effective specifications contribute to fair competition, improved value-for-money, and the successful achievement of procurement objectives.

3.3.1 Scope of Work/Terms of Reference in Service Procurement

In services procurement, scope of work/terms of reference (SOW/TOR) plays a crucial role in defining the qualitative requirements and expected outcomes of the procured services. The appropriate selection of SOW/TOR is essential to ensure that the procured services meet the specific needs and objectives of the buying organization. Public procurement guidelines emphasize transparency, fairness, and value for money, making the selection of suitable SOW/TOR a critical aspect of the procurement process.

Here, we explore few types of SOW/TOR commonly used in services procurement and best practices for their appropriate selection in public procurement:

3.3.2 Different Aspects of designing Scope of Work/Terms of Reference in Service Procurement

- a) **Technical Aspects:** Technical aspects in services procurement define the specific technical requirements, methodologies, and tools that service providers must adhere to when delivering their services. These specifications outline the necessary qualifications, expertise, and certifications required from the service providers. Examples include IT consulting services with specific programming languages, methodologies, and project management frameworks.
- b) **Functional Aspects:** Functional aspects focus on the desired outcomes and performance objectives of the procured services without prescribing the specific methodologies or approaches. These specifications emphasize the purpose and desired results of the services. Examples include outsourcing of customer support services with defined service levels, response times, and customer satisfaction metrics.
- c) **Performance Aspects:** Performance aspects outline the expected performance standards and criteria for the delivered services. They focus on measurable outcomes and results, allowing service providers flexibility in their approach. Examples include performance-based contracts for facility management services with defined Key Performance Indicators (KPIs) for maintenance response times, energy efficiency, and asset uptime.
- d) **Outcome-Based Aspects:** Outcome-based aspects define the desired end results and outcomes that the procured services should achieve. These specifications give service providers the freedom to propose innovative solutions to meet the specified outcomes. Examples include social welfare programs where service providers are contracted to achieve specific outcomes, such as reducing unemployment rates or improving literacy levels.



3.3.3 Best Practices for designing Scope of Work/ Terms of Reference in Services Procurement

Here are some of the best practices for designing SOW/TOR in Services Procurement:

- a) **Stakeholder Consultation:** Engage relevant stakeholders, including end-users and subject matter experts, during the specification development process. Their input can provide valuable insights into the specific needs and requirements, ensuring that the specifications are relevant and practical.
- b) **Clarity and Precision:** Ensure that the specifications are clear, precise, and unambiguous. Ambiguity can lead to misinterpretations and potential disputes during the execution of the contract. Well-defined specifications help in the effective evaluation of bids and facilitate efficient service delivery.
- c) **Focus on Outcomes and Results:** Consider using outcome-based or performance specifications where appropriate. Emphasizing the desired results encourages service providers to propose innovative approaches and can lead to improved service quality and cost-effectiveness.
- d) **Fair Competition:** Avoid overly restrictive specifications that may unduly favor certain service providers. Foster fair competition by providing clear and objective criteria for evaluation and encouraging a diverse pool of qualified bidders.
- e) **Incorporate Quality Standards:** Specify any relevant quality standards or certifications required for the services. This ensures that the service providers meet the necessary qualifications and expertise to deliver high-quality services.
- f) **Sustainability Considerations:** Integrate sustainability criteria, such as environmental impact, social responsibility, and ethical practices, where applicable. Sustainable service delivery can align with the broader goals of the public sector organization.
- g) **Alignment with Budget and Resources:** Ensure that the selected specifications align with the available budget and resources. The specifications should be realistic and achievable within the allocated funds.
- h) **Flexibility for Innovation:** Allow service providers the flexibility to propose innovative solutions within the framework of the specified outcomes or performance standards. This encourages creativity and fosters continuous improvement in service delivery.
- i) **Avoid Over-Prescription:** Avoid overly detailed and prescriptive specifications that may limit competition or innovation. Instead, focus on the essential requirements and desired outcomes, leaving room for service providers to propose the most effective approach.
- j) **Documentation the rationale:** Document the justifications behind the selected specifications. This documentation ensures transparency and accountability in the procurement process and helps in addressing any challenges or queries from stakeholders.

By adhering to these best practices, procuring entities can enhance the effectiveness and efficiency of services procurement. The appropriate selection of specifications should promote fair competition, fosters innovation, and ultimately lead to the delivery of high-quality services that align with the specific needs and objectives of the public sector organization.

3.4 Developing Procurement Plans

Developing procurement plans is of utmost importance, particularly in services procurement, during the procurement process. Adequate procurement planning ensures that appropriate strategies are in place to achieve the broader procurement objectives effectively. Ad-hoc and emergency procurements can lead to inefficiencies and compromised outcomes, making the structured approach essential through procurement plans.

Procurement plans are necessary for both centralized and decentralized procurement processes, with careful consideration of budgetary allocations. These plans encompass various activities to ensure well-organized procurement management. Key components of procurement plans include:

- a) **Determining services, goods and works:** Identifying the services, goods and works that need to be procured during the upcoming year forms the basis of the procurement plan. A thorough assessment of requirements enables better resource allocation and prioritization.
- b) **Agency and Time Schedule:** For centralized procurements, the agency responsible for procurement and the time schedule for clubbing requirements are decided. Centralized procurement streamlines the process, ensuring efficient resource utilization.
- c) **Description of Requirements:** A clear and comprehensive description of the procurement requirements is essential to avoid ambiguity and facilitate precise communication with potential suppliers.
- d) **Estimated Quantity and Contract Packaging:** Accurate estimation of quantities and determining the bundling and slicing of contract packages are crucial for efficiency, cost-effectiveness, and timely completion of the procurement process.
- e) **Limitations on Bidders:** If the government has a purchase policy favoring specific sectors of the industry, these preferences are considered while inviting bids and selecting suppliers.
- f) **Type of Procurement:** Deciding on the appropriate procurement method, such as single/two-stage, single/two bids, e-procurement, or reverse auction, ensures the procurement process aligns with the specific needs and complexity of the requirements.
- g) **Mode of Procurement:** Selecting the mode of procurement based on factors like the nature of goods/services, urgency, and market dynamics is crucial for achieving the desired outcomes.
- h) **Implementation Scheduling:** Careful planning of the various stages of procurement, considering the lead time and time of requirement, helps in avoiding delays and ensures timely delivery.
- i) **Regular Review:** Procurement plans need to be periodically reviewed at predefined intervals to assess their effectiveness, make adjustments based on changing requirements, and maintain alignment with overall procurement objectives.

To ensure efficiency and cost-effectiveness, a mid-year review of the annual procurement plan is recommended. This review involves comparing the quantities procured with actual consumption data from the past six months. User departments play a crucial role in re-evaluating the proposed requirements for the subsequent six months based on their consumption data. The modified demand is then communicated to the procurement department, enabling necessary adjustments in contract execution. If needed, delivery periods can be advanced or postponed, and the 'quantity option clause' may be exercised according to accommodate changes.

In conclusion, developing comprehensive procurement plans is essential for successful services procurement in the public sector. These plans provide a structured approach to procurement management, aligning the procurement process with the broader organizational objectives. Regular reviews and adjustments ensure adaptability and efficiency, leading to optimal utilization of resources and better procurement outcomes.

3.5 Cost Estimates and Budgeting

Estimating costs, setting the budget, and seeking approval are crucial steps in the process of procurement. To ensure that realistic budgetary resources are allocated, a well-thought-through cost estimate must be prepared. Here are some of the steps related to Cost Estimates and Budgeting:

a) **Categorization:** Costs should be divided into two main categories:

- i. fee or remuneration based on the contract type
- ii. reimbursable costs

Depending on the nature of the assignment, cost estimates may be prepared using local currency or a combination of local and foreign currencies. It is important to consider inflation forecasts for the assignment period.

- b) **Estimated Resources:** The cost estimate should be based on the procuring entity's assessment of the resources required to carry out the assignment. This includes staff time, logistical support (such as travel and duration), and physical inputs (e.g., vehicles, laboratory equipment). Miscellaneous costs, support services, contingencies, profit elements, taxes, and duties should also be considered.
- c) **Rates:** Unit rates and quantities are typically used to estimate costs (e.g., staff remuneration rates and reimbursable expenses). Payment rates, including applicable taxes, should be identified in both local and foreign currency for staff time, logistics costs, and various physical inputs or support services.
- d) **Staff Costs:** Estimating staff costs involves considering the personnel time (staff-months or staff-hours) required for the assignment, the billing rate of each expert, and the related direct cost component. Staff remuneration rates usually encompass basic salary, social charges, overheads, fees or profit, and allowances. Creating a bar chart to indicate the duration of each main activity and the time allocated to different members of the consultancy team could be useful. It's also important to account for the breakdown of a consultant's time between the home office and the client's countries place/office, as well as any allowances for time spent away from the home office.
- e) **Logistic Costs:** The number of trips required should be estimated based on the activities involved. Travel costs, including city travel, national and international travel, and accommodation, may need to be included.
- f) **Physical Inputs Costs:** Assessing costs related to physical inputs depends on the technical requirements of the equipment needed for the assignment.
- g) **Miscellaneous Costs:** Support services can be estimated as a percentage of staff costs, while contingencies and profit elements are typically calculated as a percentage of the total consultancy cost. Additionally, consultants may need to account for taxes and duties likely to be incurred.

Although assignments vary in size, deliverables, length, and nature, by breaking down the assignment activities into different cost categories, a cost estimate can be made:

- i. professional and support staff,
- ii. travel and accommodation
- iii. mobilization and demobilization
- iv. office-related expenses,
- v. surveys, training programs
- vi. translations, printing
- vii. contingencies: miscellaneous, insurance, shipping; and
- viii. local taxes and duties

Ensuring alignment between the cost estimate and the terms of reference (ToR) is crucial to avoid misunderstandings and problems during contract negotiations and implementation.

In context of NTEP, budget estimation should be done at the same time when need assessment is done so that both processes can use information emerging from each other. During needs assessment, procuring entities can start collecting some budget-related information (market prices) during the resource mapping phase itself. The budget estimation should consider following aspects:*

- The budget estimation should be based on the scope and volume of services identified.
- The budget estimation can be done through three different ways: – market analysis, activity-based costing (ABC), and use of prevailing prices in similar settings.
- The budget estimates must include relevant considerations around taxability (direct and indirect taxes) under relevant acts and, as much as possible, include the applicable tax amount in the budget estimation.



*Source: Operations Manual For Partnership under NTEP Para 4.2 Step 3 Page 50

| Market Analysis | Activity Based Costing | Prevailing Rates |
|---|--|--|
| <p>Process</p> <ul style="list-style-type: none"> Reach out to private labs in the state/district and collect information on current prices the CBNAAT package (sample collection, transport, and testing). Using the mean (average), mode (most frequent price) and median (center of range), estimate a price that would be attractive to private partners. | <p>Process</p> <ul style="list-style-type: none"> Make a simple Excel tool to calculate the cost of services. The tool should include all inputs that would be required to complete the activity and the cost of each input based on experience. | <p>Process</p> <ul style="list-style-type: none"> Use rates prescribed under any other government scheme. Add in relevant inflation costs. |

Approvals

It is essential to ensure that the scope of work outlined in the ToR aligns with the available budget. The first priority is to assess whether all necessary tasks to achieve the desired results are included in the ToR. Simultaneously, the budget allocation for implementing the ToR must be thoroughly examined. As budgets can be fixed or limited, multiple iterations might be needed to formulate a final, acceptable ToR.

Before proceeding, approval from the Competent Authority should be sought for the ToR. Once administrative approval is granted, provisions may be made in the budget, or if that is not possible, additional confirmation from the Competent Authority may be sought during the Revised Estimate stage. Procurement activities can only commence once the necessary budgetary provisions or confirmations have been obtained. This careful approach ensures that procurement aligns with the available resources, avoiding potential financial constraints during the project's execution.

3.6 Program Implementation Plan (PIP) Processes – Concept and Format

Following are the main points in preparing Program Implementation Plan (PIP) for a state:

- a. Districts prepare district-specific action plans, which should align with the state-specific strategic plans.
- b. Based on the need assessment exercise done and the key priority areas identified, planning for budgeting those activities to be started
- c. Map activities/resources from all possible sources of funds/support
 - i. State budget (PIP)
 - ii. Schemes/programs of other ministries,
 - iii. CSR,
 - iv. Support from development partners
- d. While it is important that these resources are mapped well at the time of PIP preparation, it will also be relevant to carry out such activities periodically.
- e. In the PIP, there are 7 rows (11 columns against each row) for NTEP:

| Pool | FMR Code | Program/ Theme | S. No. | Scheme/ Activity |
|-----------|----------|--|--------|--|
| NDCP Pool | NDCP.4 | National Tuberculosis Elimination Programme (NTEP) | 72 | Drug Sensitive TB (DSTB) |
| | | | 73 | Ni-kshay Poshan Yojana |
| | | | 74 | PPP |
| | | | 75 | Latent TB Infection (LTBI) |
| | | | 76 | DR-TB |
| | | | 77 | TB Harega Desh Jeetega Campaign |
| | | | 78 | State specific Initiatives and Innovations |

For every row, there are 11 heading columns. The headings are as follows:

- i. Direct Benefit Transfer (DBT)
- ii. Infrastructure: Civil Works Old/New
- iii. Equipment
- iv. Drugs and Supplies: (i) Central Supplies, (ii) State Supplies, (iii) Total
- v. Diagnostics: (i) Consumables, (ii) PPP, (iii) Sample Transport
- vi. Capacity building including training
- vii. ASHA incentives
- viii. Others including operating Cost (OOC)
- ix. IEC and printing
- x. Planning and M&E
- xi. Surveillance, Research, Review, Evaluation (SRRE)

| | | | | | | | | | | |
|-----|--|----------------|---|---|---|-------------------------|---|-----------------------------|-----------------------------|--|
| DBT | Infrastruc- ture- Civil Works: Old/ New | Equip- ment | Drugs and Supplies: Central supplies; Proc by state; Total | Diag- nostics (Consum- ables, PPP, Sample transport) | Ca- pacity build- ing includ- ing train- ing | ASHA Incen- tives | Others includ- ing Op- erating costs (OOC) | IEC and Print- ing | Plan- ning and M&E | Surveil- lance, Re- search, Review, Evalu- ation (SRRE) |
|-----|--|----------------|---|---|---|-------------------------|---|-----------------------------|-----------------------------|--|

Budget heads relevant to PPP:

| Column/ Head | Activities that can be budgeted under the Column/ Head | Description |
|--|--|---|
| DBT | Private Provider Incentive | Private Provider Incentives- NTEP DBT Scheme @Rs. 500/- per notification and Rs. 500/- when treatment outcome declared. |
| | Informant Incentive | Incentives for first informant (20% of Public notified case will be expected to be eligible for first informant incentive) |
| Others including operating costs (OOC) | Any Public Private Mix (PP/ NGO Support) | Cost of existing NGO/ PP support schemes and new NGO/ PP support schemes proposed as per NTEP Public Private Partnership Guidance 2019. |
| | Public Private Support Agency | Cost for PPSA for ongoing and newly proposed districts. |
| | Multi-sectoral collaboration activities | Any activities for collaborating with other line departments and organizations (e.g.: AYUSH, Directorates of Labor, Rural Development, Urban Development, Industries, PRI, Railways, Postal Department, etc.) |

Along with this, it is also important to share the Public Private Mix (PPM) annexures (as a part of the PIP format)

3.7 Case Scenarios*

1. In District A, a major gap identified during the need assessment showed that 60% of the patients accessed private sector for TB care but there was poor participation and notifications from private-sector providers. Doctors did not use STCI practices and there was limited information available on treatment outcomes. The Program Manager found the efforts of the Public Private Mix- Coordinator to be insufficient to engage with the private-sector providers and realized that it will be beneficial to use the Patient Provider Support Agency (PPSA); a readymade bundle which provides end-to-end services. PPSA, explained in detail in the subsequent section, is a recommended option which is responsible to provide end-to-end services including provider engagement, specimen transportation, notification support, drug distribution to private-sector providers, public health action and treatment adherence support for person with TB treated in private sector.
2. In a tribal district, poor case detection emerged as a major challenge. This was primarily due to poor health-seeking and limited access to testing facilities. While active case finding could be a good strategy to improve the detection rates, it would not be completely effective without adequate preparatory activities like awareness programs or without linkages to appropriate diagnostic services. Hence, the

Program Manager could design a bundle to link the following partnership options – active case finding and community mobilization. To ensure closure of the service loop, the Program Manager will also have to plan how the local RNTCP body will ensure that all the patients identified through these activities are initiated on treatment, receive public health action, and are followed up till treatment completion.

3. State B has limited capacity to provide first and second line probe assays (LPA) to all patients, prior to DR-TB treatment initiation. To minimize wastage of resources and time, the Program Manager can propose bundling the specimen transportation partnership option with the outsourcing of first or second LPA.
 - a) District C has a huge influx of migrants from neighboring districts and faces the challenges for case detection and tracking treatment outcomes given the mobile and transient nature of this vulnerable group. The Program Manager can design a “Migrant TB Project” by bundling partnership options of community engagement, active case finding, specimen management, public health actions and treatment adherence.



KEY TAKEAWAYS

- i. Key steps in planning for procurement under NTEP involves need assessment and developing procurement plans.
- ii. Key issues in need assessment under NTEP i.e., identify (and quantify) the needs or service gaps and build a service delivery plan that comprehensively fulfils such needs.
- iii. Process of need assessment as per NTEP: Building a Service Delivery Plan, Capacity Analysis and Gap Analysis.
- iv. Service delivery planning recommended approaches are target tased i.e., top-down approach or asking what are the services that need to be provided and patient centric approach i.e., how are these services going to be provided to patients.
- v. Capacity analysis a comprehensive assessment of the healthcare resources that are currently available to provide the services described in the service delivery plan.
- vi. Gap analysis means what type of services are to be provided which is determined after analyzing difference found between service delivery planning and capacity analysis.

- vii. Key principles of need assessment i.e., dynamic updating, combine bottom-up and top-down approaches, collaboration with other departments and should be comprehensive.
- viii. Identifying the partnership model i.e., prioritization of services needed and choosing a suitable partnership option.
- ix. Bundling of partnership options – vertical, horizontal or both.
- x. Key principles in partnership model i.e., patient centric, rationality, management requirement, diversification, and alignment with other government programs.
- xi. Challenges in identifying partnership model and bundling i.e., over bundling, bundling of unrelated/dissimilar services and imbalance in the service bundle.
- xii. Developing procurement plan i.e., identifying need, agency, and time schedule, specifying requirement, estimation, type and mode of procurement, implementation scheduling and regular review.
- xiii. Cost estimates methods i.e., Market Analysis, Activity based Costing and Prevailing Rates.
- xiv. Program Implementation Plan (PIP) Processes – Concept and Format.

Module 4: Methods of Procurement

4.1 Methods of Public Procurement

4.2 Steps in Procurement of Services

- 4.2.1 Open Competitive Bidding (OCB)
 - 4.2.1.1 Procedure for OCB
 - 4.2.1.1.1 Single Stage Bidding
 - 4.2.1.1.2 Two Stage Bidding
 - 4.2.1.2 National Competitive Bidding (NCB)
 - 4.2.1.3 International Competitive Bidding (ICB)
- 4.2.2 Restricted/Limited Competitive Bidding
 - 4.2.2.1 Single Tender / Single Source Selection (SSS)
- 4.2.3 Procurement through GeM

4.3 Applications of Various Methods

- 4.3.1 Threshold Limit of Procurement Methods
- 4.3.2 Applicability of Procurement Methods
- 4.3.3 Pros and Cons of Various Methods

Module 4

Methods of Procurement



4.1 Methods of Public Procurement:

There are several methods of procurement in practice. Each method has its own advantages and disadvantages and are suitable for a given situation. Most common methods used widely and recommended are:

- **Open Competitive Bidding Methods**

(The Open Competitive Bidding is normally recommended as the default method of procurement)

International
Competitive
Bidding (ICB)

National
Competitive
Bidding (NCB)

- **Restricted Competitive Bidding Methods**

(A restricted competitive bidding is open only to prequalified suppliers/service providers)

Limited
Competitive
Bidding (LCB)

Single Tender
/ Single Source
Selection

- **Other Bidding Methods**

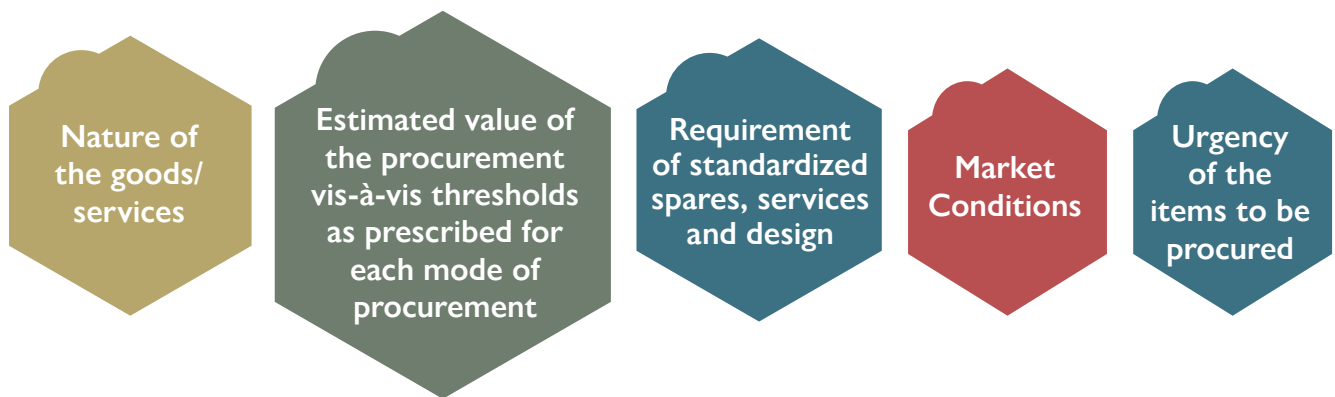
Electronic
Reverse
Auction

Purchase of
goods with
quotation
on approval
of purchase
committee

Procurement
through
GEM

Procurement
without
Quotation
/ Spot
Procurement

Procuring Entity has to decide which procurement method best suits for procurement keeping in view the objectives of procurement under consideration. The following criteria helps in selecting the most appropriate method of procurement:



4.2 Steps in Procurement of Services

Services are classified as non-consultancy services or consultancy services. “Non-consultancy services” are the services that involve routine repetitive physical or procedural services which are measurable in terms of physical outputs such as courier / taxi/ house keeping/ catering / printing / aerial photography services. For such services, performance standards can be clearly identified and applied whereas “Consultancy Services” covers a range of services that are of an advisory or professional nature and are provided by consultants.

In the case of services, the nomenclature of few terms differs from those used for procurement of goods or works. These terms are listed below:

- “Request for Proposal (RFP)” is used instead of “bidding document”,
- “Proposal” is used instead of “bid”,
- “Consultant for consultancy services and service provider/ contractor for non-consultancy services ” is used instead of “bidder”
- “Letter of Invitation” is used instead of “Notice Inviting Bids” and
- “Instructions to Consultants/Service Provider” is used for services procurement instead of “Instructions to bidders”.

4.2.1 Open Competitive Bidding (OCB) Method:

The Open Competitive Bidding is considered as default method of procurement. Under OCB, tender could either be international or national in nature. This method is employed for procurement above the value limit specified from time to time by the Central Government/concerned State Government as applicable. Where the procuring entity chooses a method of procurement other than the open competitive bidding, it shall record the reasons and circumstances thereof. The monetary threshold varies depending on the procuring entity and from state to state.

In the case of open tender inquiry a free and fair competition among the prospective bidders is ensured through appropriate publicity of the tender information in different media sources including news papers, websites, and e-procurement portal for wider dissemination.

Certain specific requirements need to be followed in case of procurement is processed through open competitive bidding, such as:

- Invitation to bid should be advertised widely to attract potential bidders;
- Standard tender documents have to be used which clearly state the type of contract to be entered into and content of the proposed contract;
- The tender documents must contain Instructions to Bidders/Consultants, Scope of supply/Services, Qualifying requirements, Bidding Forms, Technical requirements/specifications, General Conditions of Contract (GCC) and Special Conditions of Contract (SCC) which should be in accordance with National/International standards;
- Minimum bidding time allowed in case of ICB should be 6 weeks and 4 weeks for NCB from the date of invitation of bid. As per GFR Rule 161 (vi), in case of e-procurement 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.

4.2.1.1 Procedure for Open Competitive Bidding

During a tender process in general, bidders are required to submit the following documents



In case of open competitive bidding, the procuring entity may choose single stage or two stage bidding procedure for inviting the bids from potential bidders keeping in mind the nature/ type of procurement:

4.2.1.1.1 Single Stage Bidding Procedure:

In a, single-stage selection, the bidding process is conducted in one stage which means bidders submit their evidence of qualification together with the technical and financial offer at the same time. In single stage bidding procedure, the procuring entity may invite bids in one-envelope or in two-envelope, as given below:

- (1) **One-envelope bids:** This method is suitable for simple and low value procurement and evaluation is based on the lowest price. In single envelope system, bids (technical details of the offer and financial offer i.e. quoted price) are invited in single envelope. The lowest price bid that meets the technical requirements laid down in the bid documents is declared as successful.
- (2) **Two envelope bids:** If it is essential to evaluate the technical proposal of the bid before opening and considering the financial proposal, the bids may be invited in two-envelope, namely;
 - The first envelope, termed as techno-commercial bid, containing the technical, quality and performance aspects and commercial terms and conditions; and

- The second envelope, termed as financial bid containing the financial aspects including the price.
- Techno-commercial bid shall be opened and evaluated first and the financial bid of only those bidders shall be opened and evaluated whose techno-commercial bid has been found to be responsive and technically acceptable.
- The financial offers of the bidders who did not fulfill the technical requirements remain unopened and shall be returned back to the bidders.

4.2.1.1.2 Two-Stage Bidding Procedure

This procedure is adopted where it is required to pre qualify the bidder prior to invitation of bids or when it is not feasible for the Procuring Entity to formulate detailed specifications or identify specific characteristics for the subject matter of procurement, without receiving inputs regarding its technical aspects from bidders.

In a Two-Stage Selection method, the Tender Process is divided into two consecutive stages. The first stage is used to firm up the requirement after getting inputs from the prospective Bidders and then the procurement is processed during the second stage. In some cases, the first stage bidding process is used to pre-qualify the potential bidders by way of submitting details to demonstrate their qualification in terms of experience, capacity and resources to perform the contract. Potential bidders which fulfill the pre-qualification requirements are considered prequalified. In the second stage prequalified potential bidders are invited to submit a technical and financial offer under two envelop system.

All the procurement is now carried electronically under e-procurement system either through GeM or e-procurement portal: “<https://eprocure.gov.in/cppp/>” developed by the National Informatics Centre (NIC)

The detailed contents for procurement through e-procurement is explained in Module 5 and procurement through GeM are covered in Module 8.

4.2.1.2 National Competitive Bidding (NCB)

This method is the most common and recommended method for procurement through open competitive bidding used by all procuring entities in the Central and State Governments. As per Rule 161 (i) of General Financial Rules (GFR) 2017, 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. The organization should also post the complete bidding document on its website and on the CPPP to enable prospective bidders to make use of the document by downloading from the web site.

Example

States propose budget for contracting of Patient Provider Support Agency for Tuberculosis care to the patients notified in private sector under National Tuberculosis Elimination Programme (NTEP). As these services must be provided within the state and service providers with the relevant experience are available within India, the most suitable procurement method in this case shall be through NCB. Procuring entity may go for one stage two envelope procedure the specification can be clearly defined.

4.2.1.3 International Competitive Bidding (ICB)

This method (also called as Global Tender Enquiry) is generally adopted for large and complex procurement having less or no bidders/consultants within the country and allowing participation of the foreign firms in the

bidding process along with national bidders to have more competition and get better offer. As per Rule 161 (iv) of General Financial Rules (GFR) 2017 “No Global Tender Enquiry (GTE), however shall be invited for tenders up to Rs 200 crore or such limit as may be prescribed by the Department of Expenditure from time to time. Provided that for tenders below such limit, in exceptional cases, where the Ministry or Department states that there are special reasons for GTE, it may record its detailed justification and seek prior approval for relaxation to the above rule from the competent authority specified by the Department of Expenditure. ICB procurement has longer procurement cycle time compared to other methods.

4.2.2 Restricted/Limited Competitive Bidding Method

A restricted tender method is used by issuing tenders to only to prequalified/pre-established/limited suppliers within the pre-defined monetary limits. This method is followed in the cases where the monetary value of the procurement is low (different limits have been pre-defined by various States) and it is not advisable to use OCB or where the suppliers are very limited and it is felt that no useful purpose would be served by following the open competition or the procurement is of urgent nature. Prospective bidders for the issue of Limited Tender Enquiry need to be selected in a non-discriminatory manner.

As per Rule 162 (i) of General Financial Rules (GFR) 2017, This method may be adopted when estimated value of the goods to be procured is up to Rupees Twenty-five Lakhs. Further, an organization should publish its limited tender enquiries on the CPPP as per Rule 159. Apart from CPPP, the organization should publish the tender enquiries on the Department’s or Ministry’s web site.

It is recommended to have an empaneled vendor’s database for all Goods/ work/services. The list of empanelment may be referred to while floating limited tender. Before resorting to limited tendering it would be essential to ensure that the demand is not split into small quantities for the sole purpose of avoiding NCB mode of Procurement. There should be sufficient reasons, to be recorded in writing by the competent authority, indicating that it will not be in the public interest to procure the goods through open competitive bidding.

Example

The Health Department purchases stationery items worth around Rs 20 lakhs in a year procured on a quarterly requirement basis or as per the requirement. For this, the department has empanelled few suppliers through open tender (local) which indicated annual procurement value as approved supplier. Department issues limited tender with empanelled supplier to meet its stationery requirement as and when required during the financial year.



4.2.2.1 Single Tender / Single Source Selection (SSS)

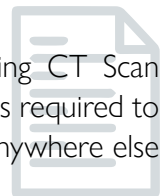
Invitation to bid issued only to one firm is called 'Single Tender/Single Source Selection'. Rule 194 of GFR reflects method of Single Source Selection /Consultancy by nomination. A procuring Entity may choose to procure the subject matter of procurement by the method of single source procurement /Single Source Selection (SSS), if:

- the subject matter of procurement is available only with a particular bidder and/or such bidder has exclusive rights in respect of the subject matter of procurement; or
- the Procuring Entity, having procured goods, equipment, technology, or services from a supplier, determines that additional supplies or service is required to be procured from that supplier for reasons of standardization or because of the need for compatibility with existing goods, equipment, technology, or services; or
- owing to a sudden unforeseen event, there is an extremely urgent need for the subject matter of procurement and engaging in any other method of procurement would be impractical; or
- the Procuring Entity determines that the use of any other method of procurement is not appropriate for the protection of national security interests; or
- subject matter is of artistic nature; or
- subject matter of procurement is of such nature which requires the Procuring Entity to maintain confidentiality, like printing of examination papers.

This is the simplest of all as it involves direct purchase from a single supplier either at quoted prices or negotiated prices. This method is well suited for emergency situations but is not the preferred choice for routine orders. The reasons for issuing single tender enquiry (STE) and selection of a particular firm must be recorded and approved by the Competent Authority prior to Procurements.

Example

Health Department has to source a small sub-assembly for maintenance of existing CT Scan equipment procured from a German firm. The sub-assembly being a proprietary item is required to be procured from the OEM only as there is no possibility of sourcing the item from anywhere else because it would not fit the Equipment.



4.2.3 Procurement through GeM

GeM is an online platform which facilitates procurement of common use goods & services by various Government offices. It is an e-commerce portal for procurement and selling of services and goods. It is a platform to bring the buyer and seller together and provides the liberty to the buyer to choose from the wide range of products and services available on the platform. It also provides the tools of e-bidding, reverse e-auction and demand aggregation to facilitate the government users, achieve the best value for their money

Following are the advantages of GeM :

- It acts as a centralized and unified public procurement platform for government Procuring Entities and suppliers of services and goods.
- Policy reforms of public procurement ecosystem
- Driving inclusiveness and ease of doing business with the government (especially for smaller organizations such as MSMEs)

The detailed contents are covered in the Module 8

- Standardization of processes backed by the regulatory framework
- A fully automated system enabled through advances technologies

4.3 Applications of Various Methods

4.3.1 Thresholds Limit of Procurement Methods

As per General Financial Rules (GFR), threshold limit fixed for various types of procurement are as follows, however these values may not be applicable for States as financial limits prescribed may be different.

| Method of procurement | Financial Threshold | GFR Reference |
|---|---|-------------------|
| I) Purchase of goods without quotation | Purchase of goods up to the value of Rs.25,000/ (Rupees Twenty Five Thousand) only | GFR 2017 Rule 154 |
| II) Purchase of goods with quotation on approval of purchase committee | Purchase of goods costing above Rs.25,000/- (Rupees Twenty-Five Thousand) only and up to Rs. 2,50,000/- (Rupees Two lakh and fifty thousand) | GFR 2017 Rule 155 |
| III) Direct contracting/ single tender enquiry | Subject to preconditions as described with the approval of competent authority | GFR 2017 Rule 166 |
| IV) Limited Tender | Purchase of goods to be procured is up to 25 lakhs (Rupees Twenty-five Lakhs) | GFR 2017 Rule 162 |
| V) Open Tender/ Advertised tender enquiry | Purchase of goods of estimated value Rs. 25 lakhs (Rupees Twenty-Five Lakh) and above. | GFR 2017 Rule 161 |
| VI) Through GeM | <p>Up to Rs. 25,000/- through any of the available suppliers on the GeM,</p> <p>Above Rs. 25,000/- and up to Rs. 5,00,000/- through the GeM Seller having lowest price amongst the available sellers, of at least three different manufacturers, on GeM,</p> <p>Above Rs. 5,00,000/- 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.</p> <p>The above-mentioned monetary ceiling is applicable only for purchases made through GeM. For purchases, if any, outside GeM, relevant GFR Rules shall apply.</p> | GFR 2017 Rule 149 |

The procuring entities will have to take into account the latest financial threshold as applicable for their organization which might be different than included in the above table.

4.3.2 Applicability of Procurement Methods

The table below gives the brief details about various procurement methods available for procurement and its applicability. If procuring entity deviates from the defined threshold limit or from recommended method, the justified reason for deviation needs to be recorded before undertaking procurement. with the approval of competent authority.

| Procurement Method | What | When |
|---|--|--|
| ICB | <ul style="list-style-type: none"> A formal open tender process advertised internationally, Open to any bidder from any country | <ul style="list-style-type: none"> Suitable for large and complex procurement When local competition is low When there is better chance to get quality products and services from other country |
| NCB | <ul style="list-style-type: none"> A formal open tender process advertised at national level; | <ul style="list-style-type: none"> It is the default mode of procurement The required goods/services are available within the country When estimated value of procurement is above the specified limit but it does not bar using NCB for tenders lower in value than the specified limit if considered appropriate? |
| Restricted/ Limited Tender | <ul style="list-style-type: none"> Not an advertised tender; Bid invited bidders from registered suppliers for the goods in question; Number of supplier firms in should be more than three | <ul style="list-style-type: none"> When estimated value of procurement is below the specified threshold limit When the subject matter of procurement can be supplied only by a limited number of bidders When procurement is of urgent nature |
| Single Source Procurement | <ul style="list-style-type: none"> Invite one or more supplier/ service provider directly to submit bid without advertising or prequalification | <ul style="list-style-type: none"> It the item is of proprietary nature If there are few supplier/ service provider If the requirement is urgent and there is no time to go for procurement through tender |

| Procurement Method | What | When |
|---|---|--|
| Electronic Reverse Auction (ERA) | <ul style="list-style-type: none"> It is online real time competitive bidding method It is opposite to traditional auction. | <ul style="list-style-type: none"> Where the subject matter of procurement is of standard specifications and There are large number of prospective Bidders for competing to supply |
| Through GeM | <ul style="list-style-type: none"> GeM is online e-commerce portal of Govt for online purchase of services and goods by the PEs of the Government. | <ul style="list-style-type: none"> Procuring Entities (PEs) can procure services and goods directly on GeM portal |

4.3.3 Pros and cons of various procurement methods

Each procurement method has its own advantages and disadvantages. The procuring entity has to select the most suitable method for procurement under consideration keeping in view the nature of procurement, procurement value and other factors. A comparative table listing advantages and disadvantages of each method listed below:

| Procurement Method | Advantages | Disadvantages |
|--|--|--|
| International Competitive Bidding (ICB) | <ul style="list-style-type: none"> Competitive Rate at international level; Identification of new source of suppliers/ service providers internationally Wider choice of supplier/ service provider Access to goods/services not available locally | <ul style="list-style-type: none"> Takes longer time in getting Bids/ Proposals, evaluation and selecting supplier/service provider Higher administrative load and cost Lesser access and control on bidder/ Service provider from outside the country |
| National Competitive Bidding (NCB) | <ul style="list-style-type: none"> Competitive Rate Access to goods and service within the country Better access and control on national bidders/service providers International firms are also allowed to participate in INR competitively | <ul style="list-style-type: none"> Less competition for services and goods not easily available locally Takes longer time compared to restricted bidding Higher administrative load and cost compared to Restricted Bidding Difficult to ensure quality of unknown bidders |

| Procurement Method | Advantages | Disadvantages |
|--|---|--|
| Electronic Reverse Auction (ERA) | <ul style="list-style-type: none"> • Online real time competitive procurement method • Competitive rate • Transparent and fair procurement | <ul style="list-style-type: none"> • Suitable only when procuring entity has the detailed specifications of subject matter of procurement • No negotiation in this method • Suitable only when adequate bidders for online competition is available |
| Restricted/ Limited Tender | <ul style="list-style-type: none"> • Registered suppliers are eligible to bid; • Quality easier to ensure • Easy to handle bids | <ul style="list-style-type: none"> • Fewer bids/ limited options; • A system for prequalification of suppliers/ service provider must be in place • Less competition • Higher cost |
| Direct Procurement | <ul style="list-style-type: none"> • Easy and quicker than full tender • Low administrative load and cost • Better quality assurance | <ul style="list-style-type: none"> • No competition means more price • Risk of missing out qualified supplier • Risk of including supplier that are not qualified • Lack of transparency |
| Purchase with quotation on approval of purchase committee | <ul style="list-style-type: none"> • Quick to implement • Low administrative burden • Low administrative cost | <ul style="list-style-type: none"> • Not suitable for large or complex procurement • Lack of transparency • High cost |
| Through GeM | <ul style="list-style-type: none"> • Quick online procurement • No administrative load or administrative cost | <ul style="list-style-type: none"> • Availability of limited services and goods • Less competitive than open tender |

KEY TAKEAWAYS

- Available methods of procurement as per GFR: Open Competitive Bidding, Limited Bidding, e-reverse auction, procurement without quotation, single tender/direct procurement, and procurement through GeM.
- Single Envelope (Technical and Financial bid opened together) and Two Envelope (Technical and Financial bid opened separately) Bidding.
- Single Stage bidding i.e., Technical and Financial bids opened once and Two Stage bidding i.e., technical bids opened two times and financial bids once.
- Thresholds for using various procurement methods.

Module 5: Preparation of Request for Proposal/Bidding document and Tendering Process

5.1 Introduction

5.2 Contents for bidding Documents for Procurement of Goods Works

- 5.2.1 Section-1: Notice Inviting Bids (NIB)
- 5.2.2 Section-2: Instruction to Bidders (ITB)
- 5.2.3 Section-3: Qualification and Evaluation Criteria
- 5.2.4 Section-4: Bidding Forms
- 5.2.5 Section-5: General Conditions of Contract (GCC) and Special Conditions of Contract (SCC)
- 5.2.6 Section-6: Contract Forms
- 5.2.7 Section-7: Technical Specifications/Works Requirement

5.3 Contents of RFP for Procurement

5.4 Publication of RFP/Tender enquiries

5.5 Use of e-procurement portal

5.6 Pre bid meeting

5.7 Opening of bids

Module 5

Preparation of Request for Proposal/Bidding document and Tendering Process



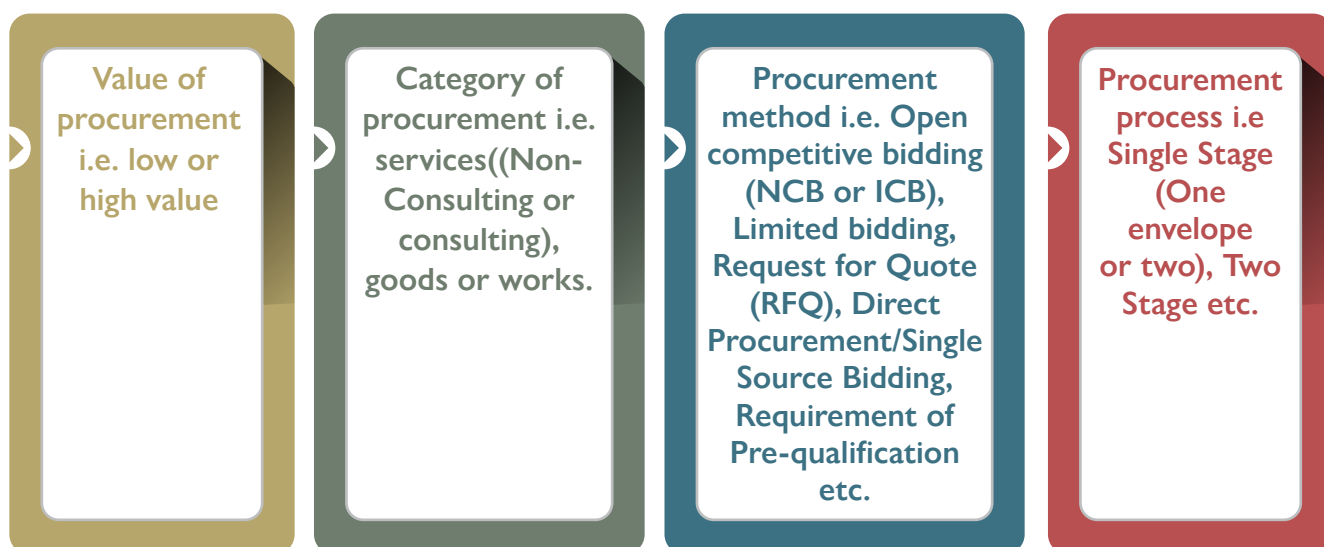
5.1 Introduction:

- i. A Request for Proposal (RFP)/Bidding Document is an important document by which a procuring entity conveys to prospective proposers/bidders about the subject matter of procurement, technical specifications, design & drawings, quantity being procured, scope of services, time of completion / delivery period, Instructions to bidders to prepare and submit proposals/bids, eligibility and qualification criteria, proposal/bid evaluation methodology, bidding forms, contract conditions and contract forms etc. A properly drafted bidding document ensures that the scope, risk, complexity, bid submission procedure, proposal/bid evaluation and contract award methodology, terms and conditions of contract etc. are communicated clearly and equally to all the prospective bidders. The purpose is to make sure that no bidder, or group of bidders, has an advantage over others due to availability of better information, thereby creating a level playing field.
- ii. Before starting preparation of Bidding Document/Request for Proposal, procuring entity has to complete the following tasks:
 - a) Describe the subject of procurement: It shall include technical specifications, quantity being procured, in services context it means brief description of service for example: Sample collection and Transportation, Community Services etc.
 - b) Define scope of services: Define extend of service along with the estimated requirement of key & non-key experts and time frame of completion. It will depend on the organizational requirement.
 - c) Estimated value of procurement: This will depend on scope of supply/services and its timelines i.e., if the service is required to be completed within a shorter period of time, then estimated cost may higher as more resources might be required to complete the service.

A RFP i.e., subject matter of procurement, scope of services, Instructions to proposers/bidders, eligibility and qualification criteria, evaluation methodology, and contract conditions

- d) **Qualification Criteria:** This will depend upon capacity of market. It should not be too restrictive so as to narrow the scope of participation resulting in reduced competition and at the same time it should not be too liberal which allows suppliers/service providers of dubious credentials.
 - e) **Decide method of procurement:** This will depend on State Government policy. Normally open competitive bidding is default mode of procurement unless the procurement is of low value where it might not be cost & time effective to follow the method.
 - f) **Take competent authority approval:** This will depend on delegation of powers as per the policy of the State Government.
- iii. Public procurement can be of services, goods and works. The procurement of services are further categorized under two types viz., non-consultancy and consultancy services. When a need for procurement is identified, it has to be decided as under what category i.e., services, goods or works the procurement has to be done.
- iv. **Types of bidding documents:**

There could be various types of bidding documents depending upon the following factors:



Expression of Interest (EOI), Request for Proposal (RFP) / Request for Quotation (RFQ):

Expression of Interest (EOI): As per Rule 183 of GFR 2017, Expression of Interest (EOI) is used to identify likely sources. 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 prequalification criteria to be met 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. 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.

As per Manual of Procurement of Services of Department of Expenditure, Government of India, Clause 3.7.1, since the quality and scope of a consultancy assignment are not tangibly identifiable and consistently measurable, the technical and financial capability of consultants becomes an important though indirect determinant for quality and scope of performance. In such a situation value for money is achieved

by encouraging wide and open competition among equally competent consultant. Thus, selection of consultants is Therefore, normally done in a two-stage process. In the first stage, likely capable sources are shortlisted, if need be, through an 'Expression of Interest' (EOI) through advertisement. On the basis of responses received, consultants meeting the relevant qualification and experience requirements for the given assignment are shortlisted for further consideration. The shortlist should include a sufficient number, not fewer than three (3) and not more than eight (8) eligible firms. In the second stage, the shortlisted consultants are invited to submit their technical and financial (RFP) proposals generally in separate sealed envelopes. Evaluation of the technical proposal is carried out by evaluators without access to the financial part of the proposal. Financial proposals are opened after evaluation of quality.

Request for Proposal (RFP): As per clause 6.2.1 of Manual of Procurement of Services, The Request for Proposals (RFP) is the bidding document in which the technical and financial proposals from the consultants are obtained. For procurement of Consultancy Services, the RFP is sent only to the short-listed consultants. In procurement of other (non-consultancy) Services, since the procurement is done without Expression of Interest (EOI), RFP is generally advertised for threshold value as specified by Government. Request for Proposal (RFP) as explained in "Guidance Document of Partnership RNTCP 2019" is a document that an organization submits to one or more potential suppliers eliciting quotations for a product or service. Typically, it seeks an itemized list of prices for something that is well-defined and quantifiable. As per Rule 185 of GFR 2017, 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.

Request for Quotation (RFQ): Request for Quotation (RFQ) is not used in either GFR 2017 or it's Manual for Procurement of Services, Goods, or Works. In the Glossary the term "Bid" is explained as "Bid (including the term 'tender', 'offer', 'quotation' or 'proposal' in certain contexts) an offer to supply services, goods or execution of works made in accordance with the terms and conditions set out in a document inviting such offers." Therefore, in Procurement of Services, there is no difference between "Request for Quotation" or "Request for Proposal".

However, in many states and public entities the term "Request for Quotation (RFQ)" is generally used for procurement of small value of services say till the threshold limit for issue of limited bids, for requirement which are of common nature and selection is done by least cost selection method.

5.2 Contents of Bidding Document for Procurement of Goods/Works:

For general understanding, the bidding document for the Procurement of Goods/ Works is described here. The document shall have various sections as given below which have been provided to create an understanding.

| | |
|-------------------|---|
| Section-1: | Notice Inviting Bids (NIB) |
| Section-2: | Instruction to Bidders (ITB) and Bid Data Sheet (BDS) |
| Section-3: | Qualification and Evaluation Criteria |
| Section-4: | Bidding Forms |
| Section-5: | General Conditions of Contract (GCC) and Special Conditions of Contract (SCC) |
| Section-6: | Contract Forms |
| Section-7: | Technical Specifications/Works Requirement |

5.2.1 Section-1: Notice Inviting Bids (NIB)

NIB is a notification to prospective bidders informing them about the procurement opportunity and inviting them to submit bids against the bid invitation. It contains information from where the complete bidding documents can be downloaded (or obtained). The full notice to be published on e-procurement portal and PE's website should contain the information:

| | | | | |
|--|--|---|--|---|
| NIB number, Date & File number | Designation and complete address of the Procurement Entity (PE) inviting bids | Brief description of subject matter of procurement | Procurement method (Single / Two Stage, One/ two envelope, etc) | Price of bidding documents & processing fees (if any) with payment procedure |
| Bid Security amount, validity and mode of payment | Evaluation method | Important dates of procurement process | Bid submission & opening procedure | Names of the websites where detailed bidding documents are available |

Abridged NIB may be used to publish a notice in the newspapers informing prospective bidders how to get the Bidding Document/RFP. The idea is to give a small and cost-effective advertisement in print media. Newspaper(s) chosen for publication of the abridged NIB should be those with wide circulation in business circles.

5.2.2 Section-II Instructions to Bidders (ITB)

This section provides comprehensive information to prospective bidders on preparing and submitting their bids. ITB section contains information such as:

- How to prepare a responsive bid,
- Procedure and the deadline for bid submission,
- Date, time and place for bid opening,
- Bid security, validity requirements,
- Purchase preferences applicable if any
- Pre-bid conference if applicable - date, time and place
- Procedure for evaluation of bids
- Requirement of performance security and validity

5.2.3 Section-III Qualification and Evaluation Criteria:

A. Qualification Criteria:

The qualification criteria which the bidder is required to meet in order to be considered for placement of contract is provided in this section. (No other criteria can be used for evaluation of Bids). For each bidding, the PE must frame these conditions as per guidelines to suit their requirements. The criteria normally include the following:

i. Experience Requirement:

Minimum supplies made of the same or similar item or quantum of Work executed during last specified period in the Bid document to be judiciously framed and included.

Bid capacity- Applicable for Works tenders only. The method to calculate the Bid capacity to be included here. It has to be more than the cost of the work (Bid Cost)

ii. Availability of Machinery & Equipment – To be included as per requirement of Works to be executed.

iii. Availability of Manpower: To be included as per requirement of works to be executed.

iv. Financial capacity/capability:

Turnover requirement: Bidder's average annual financial turnover should be at least of 'x' times of the cost of goods/work (bid cost) during last 'y' completed financial years.

Net worth requirement: Bidder should have positive net worth at the time of submission of bid.

Cash Flow Requirement: It is normally used for works tenders only. Bidder should submit a letter from his bank/financial institution showing the availability of cash/ overdraft / credit facilities to the bidder in case the work is awarded, amounting to fund requirements for 3 months of the estimated cost of work.

B. Evaluation Criteria:

- i. The method by which bids will be evaluated is mentioned here. (No other method of evaluation can be used).
- ii. Evaluation of Techno-Commercial Bid: The Techno-commercial bid of bidders who have passed the preliminary examination is evaluated according to specified criteria qualification requirements. The evaluation should be carried out by Bid Evaluation Committee as per criteria declared in the bidding document. It is first checked whether the bidder has submitted all the information and certificates/documents as prescribed. Thereafter it is ascertained whether the bidder fulfils all the qualifications.
- iii. Evaluation of Financial Bid: Evaluation of the financial bids, shall be carried out by the Bid Evaluation Committee, as per evaluation methodology laid down in the bidding documents.

The risk associated with each type of evaluation and its mitigation is given at page 40, 42 and 43 of Manual for Procurement Services, 2022.

5.2.4 Section-4 Bidding Forms:

Bidding forms include all such forms which bidders are required to use/fill and submit along with their bids. These forms are to be used without modification and to be filled out as per the instructions provided. The documents which are to be attached in bid should be signed by bidder's authorized signatory.

Forms are divided into two sections:

1. Techno-commercial Bid; and
2. Financial bid.

Number of forms depends on the requirement. Indicative list of these forms is given in the table below:

| Techno-commercial bid | |
|-----------------------|--|
| Form No. | Description |
| 1 | Format for letter of techno-commercial bid |
| 3 | Bidder's information form |
| 4 | JV information Form |
| 5 | Format of Bank Guarantee for bid security |
| 6 | Format for Bid securing declaration (in case allowed) |
| 7 | Format for evidence of access to or availability of credit facilities applicable for works procurement |
| 8 | Experience for supplies items/ execution of similar works |
| 9 | Specific construction experience in key items of work |
| 10 | Current contract commitments/work in progress |
| 11 | Format for machinery and equipment required for execution of works |
| 12 | Format for key personnel for the execution of work |

| | |
|----------------------|--|
| 13 | Manufacturer's authorization wherever applicable for supply items |
| 14 | Historical contract non-performance |
| Financial bid | |
| 1 | Letter of financial bid |
| 2 | Bill of quantities |
| | Bidder's offer in the case of an item-rate bid |
| | Bidder's offer in the case of percentage rate bid |
| 3 | Price schedule for supply of items and related services like installation, commissioning, annual maintenance contract etc. (for goods) |

Example

| Techno-commercial Bid for PPSA RFP | |
|---|--|
| Forms | Description |
| 1 | Format of proposal cover letter |
| 3 | Format of authorization letter for signing of proposal |
| 4 | Format for particulars of the bidder's organization |
| 5 | Format for declaration of blacklisting/non-debarment |
| 6 | Format for undertaking of experienced manpower involved in the project implementation by the agency/bidder |
| Financial Bid | |
| 1 | Format of price schedule |



5.2.5 Section-5 General conditions of contract (GCC) and special conditions of contract (SCC)

GCC as per the model tender document for procurement of non-consultancy services issued by Department of Expenditure, GoI. The GCC are formulated under the various heading as given in the table below:

| Main Heading | Sub-heading |
|---------------------|-------------------------------|
| 1. General | 1.1. Tenets of Interpretation |
| | 1.2. Definitions |
| | 1.3. Document Conventions |
| | 1.4. Abbreviations: |

| Main Heading | Sub-heading |
|--|---|
| 2. The Contract | 2.1. Language of Contract |
| | 2.2. The Entire Agreement |
| | 2.3. Severability |
| | 2.4. Parties |
| | 2.5. Contract Documents and their Precedence |
| | 2.6. Modifications/ Amendments, Waivers and Forbearances |
| | 2.7. Separate Contracts in Connection with Services |
| 3. Governing Laws and Jurisdiction | 3.1. Governing Laws and Jurisdiction |
| | 3.2. Changes in Laws and Regulations |
| 4. Communication | 4.1. Communications |
| | 4.2. Persons signing the Communications |
| | 4.3. Address of the parties for sending communications by the other party. |
| 5. Contractor's Obligations and restrictions on its Rights | 5.1. Changes in Constitution/ financial stakes/ responsibilities of a Contract's Business |
| | 5.2. Obligation to Maintain Eligibility and Qualifications |
| | 5.3. Restriction on Potential Conflict of Interests |
| | 5.4. Consequences of breach by Constituents of a Contractor |
| | 5.5. Assignment and Sub-contracting |
| | 5.6. Obligation to Indemnify Procuring Entity |
| | 5.7. Confidentiality, Secrecy and IPR Rights |
| | 5.8. Performance Bond/ Security |
| | 5.9. Labour Codes and Related Obligations |
| | 5.10. Insurances |
| | 5.11. Permits, Approvals and Licenses |
| | 5.12. Accounting, Inspection and Auditing |
| | 5.13. Book Examination Clause |
| 6. Procuring Entity's Obligations | |
| | 6.1. Facilities to be Provided by the Procuring Entity |
| | 6.2. Provision of Utilities at Site by Procuring Entity |
| | 6.3. Custody and Return of the Procuring Entity's Assets loaned to Contractor |

| Main Heading | Sub-heading |
|---|--|
| 7. Scope of Services, Performance Standards and Quality Assurance | 7.1. Scope of Services |
| | 7.2. Performance Standards |
| | 7.3. Quality Control and Defect Liability |
| | 7.4. Eligible Services - Country of Origin and Minimum Local Content |
| | 7.5. Quantity Tolerance |
| | 7.6. Contract Period and Option Clause |
| 8. Measurement, Variations and Modifications | 8.1. Quantities in Contract |
| | 8.2. The admeasurement of Inputs and Services |
| | 8.3. Variations and Claims |
| | 8.4. Rates for Extra Items |
| 9. Deployment of Resources | 9.1. Site and Assets thereon |
| | 9.2. Key and Non-key Personnel |
| | 9.3. Key and Non-key Equipment, Tools and Plants |
| | 9.4. Materials Deployment |
| | 9.5. Property in Equipment and Materials brought to Site. |
| 10. Delivery of Services and delays | 10.1. Works Program |
| | 10.2. Compliance to Contract Manager's Instructions |
| | 10.3. Commencement of Services |
| | 10.4. Time for Delivery of services and Extensions Thereof |
| | 10.5. Damages and Deductions Thereof |
| | 10.6. Suspension of Services |
| | 10.7. Force Majeure |
| 11. Prices and Payments | 11.1. Prices |
| | 11.2. Taxes and Duties |
| | 11.3. Terms and Mode of Payment |
| | 11.4. Withholding and lien in respect of sums claimed: |
| | 11.5. Payments to Contractor |

| Main Heading | Sub-heading |
|--|--|
| | 11.6. Completion Certificate and Final payment |
| | 11.7. Defects Liability Period |
| | 11.8. Payment Against Time-Barred Claims |
| | 11.9. Commissions and Fees |
| 12. Resolution of Disputes | 12.1. Disputes and Excepted Matters |
| | 12.2. Excepted Matters |
| | 12.3. Adjudication |
| | 12.4. Conciliation of disputes |
| | 12.5. Arbitration Agreement |
| 13. Defaults, Breaches, Termination, and closure of Contract | 13.1. Termination due to Breach, Default, and Insolvency |
| | 13.2. Termination for Default/ Convenience of Procuring Entity and Frustration |
| | 13.3. Closure of Contract |
| 14. Code of Integrity in Public Procurement; Misdemeanours and Penalties | 14.1. Code of Integrity |
| | 14.2. Obligations for Proactive Disclosures |
| | 14.3. Misdemeanours |
| | 14.4. Penalties for Misdemeanours |

GCC as per Request for Proposal for Selection of Patient Provider Support Agency (PPSA) for Providing Tuberculosis Related Services under NTEP issued by CTD

| S. No. | Main Heading / TERMS AND CONDITIONS |
|--------|--|
| 1 | Use of contract documents and information |
| 2 | Intellectual Property Rights |
| 3 | Insurance |
| 4 | Duration of hiring of services of PPSA |
| 5 | Payments |
| 6 | Performance Review, Incentives & Penalty provisions. |
| 7 | Signing of the contract |

| S. No. | Main Heading / TERMS AND CONDITIONS |
|--------|-------------------------------------|
| 8 | Start of the services |
| 9 | Sub-Contracts |
| 10 | Modification to Contract |
| 11 | Income Tax Deduction at Source |
| 12 | Force Majeure |
| 13 | Termination of Contract |
| 14 | Notices |
| 15 | Resolution of Disputes |

5.2.6 Section-6 Contract Forms

1. Letter of acceptance
2. Letter of bid & completed schedules (as accepted) and correspondence
3. Special conditions of contract
4. General conditions of contract
5. Specifications

5.2.7 Section-7 Technical Specifications for the Goods / Works Requirements including specifications & Drawings

This section shall have the following:

1. **Description and scope of services;** outcomes, deliverables, reports, frequency/shifts, timelines milestones, quantum and units.
2. **Detailed description of goods,** specifications, drawings, and other supplementary information including inspections & tests required to be carried out.
3. **Details of the work:** In this part, full details of the work to be executed by the contractor should be provided, including location, and geographical and socio-economic details of the area where work will be executed.

5.3 Contents of Request for Proposal (RFP) for Procurement of services

General: In the context of procurement under partnership document of RNTCP, procurement of services is envisaged. Services could be non-consulting or consulting type.

The non-consultancy services are the services which are of routine repetitive physical or procedural, non-intellectual and measurable nature . The deliverables or outcome, quantum and performance standards can be clearly identified and consistently applied and across service providers.

The **consultancy services** are the services of an intellectual and advisory nature provided by the qualified experts using their professional skills. Examples could be various studies requiring data and detailed research, designs, managing specific projects/ activities, advising clients, capacity development and training etc.

Procurement of non-consultancy Services can be justified on following grounds:*

- i. Economy, speed and efficiency and more effective delivery of public services relating to additional requirement/ commitment/ usage of:
 - b) Staff/ Management/ Organization;
 - c) Technological and Material Resources;
 - d) Money, and
 - e) Time/ Speed of execution.
- ii. An administrative policy decided by the Ministry/ Department to outsource specific (class of) services;

Procurement of consultancy services can be justified on following grounds:**

- i. The inadequacy of Capability or Capacity of required expertise in-house;
- ii. The need to have qualified consultant for providing a specialized high quality service;
- iii. Need for impartial advice from a consultant (acting independently from any affiliation, economic or otherwise) to avoid conflicts of interest;
- iv. The need in some cases for Transfer of Knowledge/ Training/ Capacity and capability building as a by-product of such engagement;
- v. Need to acquire information about/ identifying and implementing new methods and systems;
- vi. Need for planning and implementing organizational change;
- vii. There may be internal capacity/ capability to do the job but there are considerations of economy, speed and efficiency in relation to additional requirement/ commitment/ usage of;
 - b) Staff/ Management/ Organization;
 - c) Technological and Material Resources;
 - d) Money, and
 - e) Time/ Speed of execution.

- i. A Request for Proposal (RFP) is divided into sections, for better readability and understanding. Each RFP may have a different focus depending upon the nature of procurement. For non-consulting services the focus shall be on physical services i.e., description of services, service specifications, key personnel, Equipment, Service Quality Level. On other hand for consulting services the focus shall be on intellectual services i.e., scope of work, methodology, workplan, key experts, non-key experts, person-months, reports. The differences between RFP for non-consulting and consulting services would generally be as follows:

*Manual for procurement of services 2022 Para 1.10.1 Page 16

**Manual for procurement of services 2022 Para 1.10.1 Page 16 and 17

| | Non-consulting services | Consulting services |
|---|---|---|
| Description | Description of non-consultancy services | Description of consultancy services |
| Technical Requirement | Scope of services | Terms of Reference |
| Size/ Quantity, place of service and time of completion | Quantity of work, location and time of completion | Time input of key and non-key experts and time of completion |
| Evaluation Method | Lowest bid | Most advantageous bid, QCBS, fixed budget based selection, LCS etc. |
| Qualification Criteria | Past experience, financial capability, managerial staff | Experience of similar projects, Financial capability, Technical approach & methodology, Work plan, availability of key experts, |

- ii. The structure of RFP would broadly consist of following:
- a) Notice Inviting Bid/Request for Proposal letter
 - b) Instruction to Consultants and Data Sheet
 - c) Scope of Service/Terms of Reference.
 - d) Eligibility and qualification criteria.
 - e) Proposal evaluation criteria and selection procedure.
 - f) Standard formats for technical and financial proposal.
 - g) Proposed contract terms including contract management and payment mechanism.
 - a) **Notice Inviting Bid:** Notice Inviting Bid (NIB) shall state the intention of the Procuring Entity to enter into a contract for the provision of non-consultancy/ consultancy services, details of the Procuring Entity, and date, time, address and some other points considered important by the procuring entity. Notice Inviting Bid (NIB) basically brings out the brief of the whole procurement process. The information which should be put in Notice Inviting Bid are as under are as under:
 - i. Department, Office & Procuring Entity inviting bids
 - ii. Designation and complete address of the Procurement entity
 - iii. NIB number and Date
 - iv. Brief description of services, package, estimated cost, location
 - v. Procurement method (Single / Two Stage, One-part/two-part, etc)
 - vi. Price of bidding document and processing fees (if any) with payment method
 - vii. Evaluation method (in brief)
 - viii. All important dates mentioned in one place in chronological order as follows:



- ix. Bid Security amount, mode of payment & validity required
- x. Names of the websites where detailed bidding documents are available
- xi. Other important/key information

b) **Instruction to Bidders/Consultant:** In this section following is specified:

General: 1 Definitions & Introduction, 2. Eligibility requirement, 3. Code of Integrity, 4. Conflict of Interest

Contents: Downloading of document including date, place (website), Clarification of RFP, Pre-bid meeting details if any, Amendment to RFP, Cost of submitting proposal.

Preparation of proposal/Bid: Proposal/Bid Security, Clarifications, Pre-bid meeting, Amendment to RFP, Documents establishing conformance of services, Documents required for meeting qualification criteria, Validity of proposal/bid, Technical Proposal/Financial Proposal.

Submission and opening of proposals/bids: Modification, Substitution & Withdrawal of proposals/bids, deadline of submission, opening of bids

Evaluation of proposals/bids: Preliminary Examination, Clarification, Evaluation of proposals/bids, Comparison of proposals/bids

Award of Contract: Award Criteria, Notification of Award, Performance Security, Signing of Contract, Complaints handling

GFR and the procurement Manual issued by the Department of Economic Affairs, Ministry of Finance define the Code of Integrity and Conflict of Interest for inclusion in bidding document. In case the State Government have adopted their own definition for the Code of Integrity and Conflict of Interest, the same should be a part of Bid document.

Eligibility requirement is the primary requirement of any bid document. This is normally uniform for all types of procurement and generally consist of commitment from proposer. Few of the important declarations which proposer has to certify are as under:

- i. No person acting for Bidder/Consultant's behalf will engage in any activities which is in contravention of the Code of Integrity prescribed in Bid/RFP document;
- ii. The Bidder/Consultant does not have any conflict of interest as prescribed in the RfP document;

- iii. The Bidder/Consultant is not insolvent, in receivership, bankrupt or being wound up, not have its affairs administered by a court or a judicial officer, not have its business activities suspended and must not be the subject of legal proceedings for any of the foregoing reasons;
- iv. The Bidder/Consultant or its successor has not been convicted (within three years preceding the last date of bid submission) for:
 - a) offences involving moral turpitude in business dealings under the Prevention of Corruption Act, 1988 or any other law; and/or
 - b) offences under the Indian Penal Code or any other law for causing any loss of life/ limbs/ property or endangering Public Health during the execution of a public procurement contract;
- v. The Bidder/Consultant or its successor has not been disqualified on account of breach of code of integrity by any Procuring Organization or its Ministry/ Department from participation in its Tender Processes.

- c) **Scope of Services/Terms of Reference (ToR):** Scope of services/ToR is prepared carefully after the need assessment is done to meet the objective of the procurement. In case of non-consultancy services an Activity Schedule is provided whose objective is to give (i) sufficient information on the quantities of services to be performed to enable Bidders to be prepare their Bids efficiently and accurately and (ii) when a Contract has been entered into, to provide a priced Activity Schedule for use in the periodic valuation of Services executed..

In case of consulting services after need has been identified the first step is preparation of ToR. A ToR explains the purpose/ objectives of the assignment, scope of work, activities, tasks to be performed, respective responsibilities of the Procuring Entity and the Consultant, expected results, and deliverables of the assignment. ToR is important for an understanding of the assignment and its correct execution to ensure that the objectives of assignment are achieved. ToR should be comprehensive and unambiguous. However, it should not be too detailed and inflexible, so that competing Consultants may be in a position to propose their own approach, methodology and staffing.

- d) **Eligibility and qualification criteria:** Eligibility conditions are the initial and principal requirements for considering a Bid/Proposal for acceptance. For compliance with the eligibility criteria a Bidder/Consultant has to give commitment of agreeing to terms and condition of the RfP though letter of Bid/Proposal, submission of bid security and if applicable written confirmation authorizing the signatory of the Bid to commit the Bidder/Consultant. As per manual of procurement of Services, Bid security should be 2% to 5% of the estimated value and should be valid for 45 days beyond the validity period of the Bid/Proposal.

If the Bidder/Consultant passes the eligibility criteria, then the Bid/Proposal is examined with respect to qualification criteria as specified in the bid document and whether the Bidder/Consultant has submitted documentation to establish their qualification for rendering the services as per the requirement specified in the bid document.

- e) **Proposal evaluation criteria and selection procedure:** How the proposal will be evaluated and compared with each other is specified. The evaluation may be done based only on the price criteria i.e. the lowest Bid meeting the qualification requirements or Quality and cost-based selection (QCBS) method. On this basis winning Bidder/Consultant is identified and considered for Award of Contract.

- f) **Standard format for Technical and Financial proposal:** In the bid document standard forms are provided for bidders to submit their technical and financial proposals. It is important and absence of such Forms would make it very difficult for procuring entity to evaluate and compare different Bids/proposals and the same will be a very time consuming and complicated process.
- g) **Proposed contract terms including contract management and payment mechanism:** All the terms and conditions which will govern the contract is mentioned. Important clauses which form part of contract conditions are:
- i. Duration of the services, including start date and completion date.
 - ii. Reporting requirements
 - iii. Performance review
 - iv. Provisions for levy of penalties
 - v. Description regarding deployment of personnel/Key-experts
 - vi. Force-Majeure clause
 - vii. Termination of contract
 - viii. Dispute resolution
 - ix. Payment conditions including mobilization advance if any.

5.4 Publication of RFP/Tender Enquiries

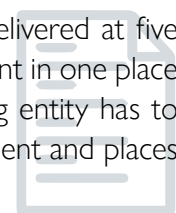
- i. As per Rule 159 of the GFR, it is mandatory to publish tender enquiries, corrigenda thereon and details of bid awards on the CPPP. The above instructions apply to all Tender Enquiries, Requests for Proposals, Requests for Expressions of Interest, notice for pre-qualification/ registration or any other notice inviting bids or proposals in any form whether they are advertised, issued to limited number of parties or to a single party.
- ii. As per Rule 161 of GFR, advertisement should be given on the CPPP at www.eprocure.gov.in or GeM. An organization having its own website should also publish all its advertised tender enquiries on their website. The advertisements for invitation of tenders should give the complete web address from where the bidding documents can be downloaded.
- iii. The organization 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. The downloading of the tender may start immediately after e-publication of NIT and can continue till the last date and time of bid submission.
- iv. 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.

- As per Rule 183 (ii) of GFR for estimated value of purchase above Rs 25 lakh, advertised enquiry should be invited for consultancy services.
- As per Rule 201 (ii) of GFR for estimated value of purchase above Rs 10 lakh, advertised enquiry should be invited for non-consultancy services.

- 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.
- After the bidding document has been published, some prospective bidders may need clarification on some techno-commercial and/or contractual matters. Such bidders can make a request to the procuring entity in writing, well in advance of the deadline for submission of bids. The procuring entity should examine the request(s) and issue a clarification. The clarification should be published in the same manner as publication of initial bidding document.
- Due to clarification or due to its own administrative or change of requirement reason, a Procuring Entity may issue changes in the Bid document at any time before submission of bid. Changes in bid document i.e., Amendment/addendum should be published in same manner as publication of initial bidding document. After issue of Amendment/Addendum it has to be ensured by Procuring Entity that sufficient time is available to modify their bids in line with the revised requirement. In case there is not sufficient time then Procuring Entity should extend the date of bid submission through same Amendment/Addendum.

Example

A procurement entity issues a bid for procurement of TB drugs which should be delivered at five different locations. After issue of bid it is realised by Procurement Entity that requirement in one place has increased and one new place is to be added for delivery. In such cases procuring entity has to issue Amendment/Addendum of the bid document which shows the revised requirement and places of delivery.



5.5 Use of e-procurement Portal:

- e-procurement is the use of information and communication technology (specially the internet) by the buyer in conducting procurement processes with the vendors/ contractors for the acquisition of services, goods(supplies) and works aimed at open, non-discriminatory and efficient procurement through transparent procedures.
- As per Rule 160 of GFR, it is mandatory for Ministries/ Departments to receive all bids through e-procurement portals in respect of all procurements. 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. Engaging of other service provider who may provide e-procurement solution is also allowed.

- iii. In e-procurement, all processes of tendering have the same content as in normal tendering and are executed online. Manual process in tendering and its equivalent process in e-procurement portal is as follows:

| Manual Process | e-Procurement |
|--|--|
| Manual signature on bids mandatory | Signature requirement is fulfilled using Digital Signature Certificate (DSC). IT act 2000 recognizes use of DSC to sign a document as if the document has been signed by the person |
| Communication is through physical letters, fax etc. | Communication can be online through email in the e-procurement system |
| Submission of earnest money deposit (EMD)/Bid Security and documents supporting exemption from such payments are submitted in paper form | Submission of EMD/Bid Security and documents supporting exemption from such payments are submitted in paper form to nominated officials mentioned in bid document. However, this process has been made online in GeM. |
| Publishing of tender notice in newspaper is mandatory for advertised bid. | Advertised Bid are only published on the e-procurement portal by authorized executives of Procuring Entity with DSC. |
| Hard copy of Tender document is sold to bidder | Tenders are uploaded and prospective bidder can download the document without any restriction |
| Registration of bidder to submit bid not mandatory | In order to submit the bid, bidders have to register themselves online, as a one-time activity, on the e-procurement portal with a valid DSC. The registration should be in the name of the bidder, whereas DSC holder may be either the bidder himself or a duly authorized person. |
| Bid submission has to be done either manually at the place specified in Bid document or by post. | Bidders submit their techno-commercial bids and price bids online. There is no possibility of bid not getting submit if proper procedure of bid submission is followed. In fact, acknowledgement of bid submission is received online instantaneously. |
| Corrigendum, clarifications, modifications and withdrawal of bids are done manually | Corrigendum, clarifications, modifications and withdrawal of bids can be done online |
| Bid opening in physical presence of bidder and bids have to be signed manually by bid opening official(s). | Both the techno-commercial and price bids are opened online by the bid openers mentioned at the time of creation of the tender online by using DSC. Relevant bidders can simultaneously take part in bid opening online and can see the resultant bids of all bidders. |

| Manual Process | e-Procurement |
|--|--|
| Shortfall documents have to called physically | Shortfall document can be obtained online |
| Evaluation of techno-commercial and price bids is done manually. | Evaluation of techno-commercial and price bids is done manually but based on system generated reports and comparative statements |
| Award of Contract done manually | Award of the contract is done offline, and a scanned copy is uploaded on the portal for meeting the transparency requirement. However, in GeM this is done automatically once you enter the marks of Techno- Commercial Evaluation system. |
| Bid security is returned manually | At present as bid security is received manually so return of bid security is also done manually. In future bid security can obtained online via e-bank guarantee then in that case return of bid security can be done online. In GeM it is submitted online and returned online. |

- iv. In the e-procurement system, bids are submitted electronically by the bidders. The need to submit documents in the physical form is limited to submission of the Bid Security document. Following are the important steps:
- Bidders prepare their bids on their computer systems.
 - Pamphlets, technical literature, copies of documents, credentials etc. are scanned to one or more PDF files.
 - Financial bid is prepared on Excel Sheet downloaded with the bidding documents on the bidder's computer. The format of the excel sheet cannot be altered.
 - File sizes are preferably kept small, by scanning at 100 dpi to avoid delay in uploading.
 - Bidders should scan the files and remove computer viruses, if any.
 - All above documents should be converted to pdf or acceptable formats for uploading.
 - Bidder logs into the e-procurement system using his Login ID, password and DSC.
 - Technical bid, Financial Bid, scanned copy of Bid Security instrument is uploaded on the e-procurement system. During the process of upload, the bid is encrypted using the bidder's digital signature.
 - Payment of Bid Security preferably must be completed at least a day in advance of the deadline,
 - Even after uploading, the status of the bid remains as "DRAFT", till the bidder "freezes" or "submits" it.
 - A bid acknowledgement is generated by the system, which carries the system generated Bid Number.
 - As the uploaded bid is encrypted, other bidders, procurement entity or even the server administrators cannot open it to see or alter its contents.

- After the deadline for bid submission has passed, the “upload” and “freeze/submit” facility is disabled for all bidders (and the electronic “bid-box” gets locked).
- v. A bidder may discover shortcomings/mistakes/weaknesses in his submitted bid which they may try to correct, to increase the chances of his winning the contract. In the e-procurement system, modification/substitution/withdrawal of bids can be done. The bid may be modified and uploaded any number of times by the bidder; attachments added or removed as per the bidder’s requirements any number of times. When the bid is needed to be submitted, the bidder must “freeze” and/or “submit” the bid. However, they must carry out these actions before the deadline for submission of bids has passed.
 - **Modification:** A bidder can modify their bid on the e-procurement website any number of times, by uploading a new bid any number of times within the deadline for submission of bids. The last bid uploaded is the final bid.
 - **Substitution:** A bidder can upload a revised bid any number of times within the deadline for submission of bids.
 - **Withdrawal:** A bidder can withdraw their bid at any time within the deadline for submission of bids without losing his bid security. However, after withdrawing, they cannot submit a new bid for the same bidding.

Karnataka had passed Procurement Law in the state in year 1999. In 2009, Bangalore Development Authority issued an e-procurement notice which was challenged by some bidders on the ground that e-procurement procedure is not notified by state government hence as per Procurement Law 1999, Procuring entity cannot follow the e-procurement bidding process. Although Government tried to defend the process, but High Court quashed the procurement process as illegal as without authority of law.

Reverse to this argument is that as of now e-procurement is mandated for all types of procurement so resorting to manual procurement may be considered a serious lapse.

5.6 Pre-bid meeting:

- i. The purpose of the pre-bid meeting is to clarify the bidder’s doubts and/or explain finer points of the subject matter of procurement. The meeting is scheduled after the issue of the bid documents and before the deadline for bid submission. The date, time and venue of the pre-bid meeting is declared in the bidding documents. It is to be ensured that sufficient time has been given to prospective bidders to read and understand the scope of service and technical requirements before the pre-bid meeting is held.
- ii. Pre-bid meeting, receipt and opening of bids are very important steps of procurement process under Open Competitive Bidding method for services, goods and works. The date, time and venue of pre-bid meeting (wherever required), due date and time of receipt and opening of bids are disclosed in bidding document. This is required as part of transparency of procurement process.
- iii. It is not mandatory to have pre-bid meeting in each and every case. However, on many occasions it has been found the for the sake of transparency and ensure hassle free procurement pre-bid meeting is essential. Situations in which pre-bid meeting is considered mandatory are:

- a) subject matter of procurement is complex or large,
 - b) technical specifications, scope of services or works need to be clarified to the prospective bidders for their proper understanding, or
 - c) bidders' inputs are needed in order to fine-tune the technical specifications and/or scope of work, or
 - d) consulting or services project has a long-running scope of work.
- iv. Bidders are allowed to send their queries (if any) in writing (by email/post) before the date of pre-bid meeting. Such queries are also discussed in the pre-bid meeting. From the procuring entity's side, procurement and technical staff normally attend the meeting. Bidders' attendance at the meeting is optional, and not attending the pre-bid meeting does not disqualify the bidder.
 - v. For the queries raised by the bidders, whether raised during the pre-bid meeting or sent beforehand by e-mail/post as far as possible replies are given during the meeting itself. However, some queries do need deliberation by the technical/procurement officials of procuring entity, so the replies to such queries are included in the minutes of pre-bid meeting.
 - vi. There is need to exercise extreme caution while dealing with query during pre-bid meeting. One aspect of pre-bid meeting is that prospective bidders may try to influence procuring entity by forwarding their business agenda. Thus, it is extremely important that while dealing with pre-bid meeting queries procuring entity should take decision in unbiased manner. If procuring entity is finding difficult to give immediate reply, then he should hold the response and for detailed deliberation and the same may be responded along with minutes of pre-bid meeting. The major challenge to procuring entity comes when prospective bidders request for certain changes w.r.t. qualification criteria, technical specification, scope of services etc., for which a particular bidder may not be comfortable. In such case, procuring entity should exercise due care so that changes, so accepted, should not affect the expected performance and quality of services, goods or works. Any change to qualification criteria should not affect free and fair competition among qualified bidders.

Example

In a pre-bid meeting, an objection was raised by one of the prospective bidders that the turnover requirement specified is too high and should be relaxed so as to widen participation of other prospective bidders. However, there were other sufficient number of prospective bidders who did not raised this concern. Procuring Entity has to take an unbiased decision in which it examines whether with existing turnover requirement there will be sufficient competition and relaxation of turnover requirement may allow participation of prospective bidders with dubious credentials.

On other hand concern may be raised by several prospective bidders that requirement specified of having completed same type of service makes the bid document restrictive and instead allow completion of similar type of service so as to widen competition. Procuring Entity after examining can allow completion of similar type of services, however, Procuring Entity should define similar services clearly so that there is no ambiguity.

- vii. After the pre-bid meeting is held, minutes of pre-bid meeting are promptly issued by the procurement entity. The minutes include text of the queries raised during the meeting, those received before the meeting and replies given to the queries without disclosing the identity of the bidder who raised the query.
- viii. This pre-bid meeting should be published in the same manner as publication of initial bidding document. They may also be circulated to all bidders who attended the pre-bid meeting or send their query in the pre-bid meeting.
- ix. If as a result of pre-bid meeting it felt necessary by Procuring Entity to issue an Amendment/Addendum to the bid document than the same shall be issued. If it is felt that the bidders need more time to incorporate the changes made by such amendment, the deadline for submission of bids may also be extended by the procuring entity through the same amendment.

5.7 Opening of Bids:

- i. The process for opening of bids must instill confidence in the bidders that their bids have been received and stored securely without being tampered. No other bid was added after the closing time. Bid Opening is done “in public”, i.e., in presence of the bidders for this reason; so that bidders can see the process online and be sure that the process is secure, transparent, and fool proof. With the advent of e-Procurement most of the problems of the manual bidding system have been eliminated.
- ii. Following system is followed in opening of bids under e-procurement system developed by NIC:
 - a) Single Envelope System:
 - The Bid Evaluation Committee (BEC) is nominated before issue of bid document, or a Standing Bid Evaluation Committee is used.
 - The number of members (2 or more) whose keys are needed is specified beforehand, at the time of uploading the bidding document on the e-procurement portal. (The uploaded bids are encrypted with their public keys.)
 - The security protocols of the e-Procurement system guarantee that the received bids will be in encrypted condition till they are decrypted and read after the appointed date and time of bid opening.
 - It also ensures that only the last submitted bid is read at the time of bid opening.
 - Bid Evaluation Committee (BEC) can only open / decrypt the bids after the bid opening date and time has been reached.
 - The members of the Bid Opening Committee (minimum of 2 keys are required) insert their private key into their computers.
 - The e-procurement system checks their authorization and opens the bids which this committee is empowered to open.
 - Relevant bidders can simultaneously take part in bid opening online and can see the resultant bids of all bidders. The system automatically generates a technical scrutiny report and commercial scrutiny report in case of the techno-commercial bid opening and a price comparative statement in case of price bid opening which can also be seen by participating bidders online.
 - Opened bids (Techno-commercial and financial bids) may be downloaded onto local PCs.

- The bids open in read-only mode, i.e., they cannot be modified by anyone even after bid opening and downloading.
- b) Two Envelope System:
 - Technical and Financial bids are uploaded by the bidder separately.
 - In the first stage, only Technical Bids are opened and downloaded by the BEC.
 - After evaluation of these bids, bids which are technically suitable are marked by the BEC.
 - The financial bids of these marked bids are opened, and the comparative statement may be downloaded.
 - Relevant bidders can simultaneously take part in bid opening online and can see the resultant bids of all bidders for technical and financial bids.

Shri. H. K. Satish vs The State of Karnataka on 2nd December, 2022

Petitioner challenged that tender process is flawed as tender opening date is not mentioned, specification of work not defined etc., hence the tender proceeding should be dismissed.

The conclusion was that tender process is flawed due to non-specification of work and non-disclosure of tender opening date. Respondent has to go in for fresh tender.

KEY TAKEAWAYS

- i. Types of bidding document depends upon low value, category of procurement, type of procurement and procurement process.
- ii. Content of Request for Proposal/ Bidding Documents are LOI/NIB, ITC/ITB, Terms of Reference/ Technical Specifications or Works Requirement, Qualification and Evaluation Criteria, Contract forms.
- iii. Eligibility, Qualification and Evaluation in terms of experience, manpower, financial capacity etc.
- iv. Publication requirement, pre-bid meeting procedure, bid submission and bid opening procedure.

Module 6: Evaluation of Proposals/Bids

6.1 Introduction

6.2 Formation of Evaluation Committee (EC)

6.3 General Provisions for Evaluation of Proposals/Bids

6.3.1 Preliminary Examination and Responsiveness of Proposals/Bids

6.3.2 Evaluation of Responsive Proposals/Bids

6.3.3 Evaluation of Techno-commercial Bid

6.4 Evaluation of Bids for Non- Consulting services under NTEP

6.4.1 Responsiveness

6.4.2 Evaluation of Technical Proposals

6.5 Evaluation of Proposals for Procurement of Consultancy Services

6.5.1 Responsiveness

6.5.2 Evaluation of Technical Proposals

6.6 Evaluation of Proposals / Bids for Goods

6.7 Evaluation of Financial Proposals/Bids

6.7.1 Least Cost Selection (LCS)

6.7.2 Quality and Cost Based Selection (QCBS)

6.8 Negotiations

6.9 Rejection of Proposals and Re-Invitation

6.10 Confidentiality

6.11 Role of Bid Evaluation Committee

6.11.1 Meeting and Discussions

6.11.2 Making Recommendations

6.12 Role of Competent Authority

Module 6

Evaluation of Proposals/Bids



6.1 Introduction:

Evaluation of bids/proposals is one of the most important areas of the procurement process. This is the stage where a decision is taken about the winning bidder/consultant for the placement of the contract. There are various provisions in GFR-2017 and also in the Manual for Procurement of Consultancy and Other Services-2017 which deliberate upon the aspect of evaluation. Similar provisions exist in the State Financial Rules and Procurement regulations with and the Procuring Entities need to consider such provisions.

Provisions in GFR-2017:**

Rule 173 relates to transparency, competition, fairness and elimination of arbitrariness in the procurement process for securing best value for money. To ensure this, it stipulates that the text of the bidding document to be self-contained and comprehensive without any ambiguities including the Bid Evaluation Criteria.

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

Rule 186 relates to preparation and issue of the RFP for hiring of Consultants and it should contain Bid evaluation criteria and selection procedure.

Rule 189 & 190 relates to Evaluation of Technical and Financial Bids. It mentions that the technical bids should be analyzed and evaluated by the Evaluation Committee of the Procuring Entity. The Committee shall record in detail the reasons for acceptance or rejection of the technical proposals analyzed and evaluated by it. The financial bids of only those bidders are opened who have been declared technically qualified by the Evaluation Committee for further analysis or evaluation and ranking and selecting the successful bidder for placement of the contract.

***Source-Latest version of GFR 2017 - <https://doe.gov.in/order-circular/general-financial-rules2017-0>*

Thus, all the aspects that are to be considered for evaluating the bids, including the method to be adopted for evaluation of bids and the criteria for determining the lowest bid/most advantageous responsive bid for placement of the contract are to be included in the bid document. These are required to be done in a clear and comprehensive manner without any ambiguity and/or confusing stipulations therein. Further, all the bids/proposals are to be evaluated strictly based on the criteria/terms and conditions incorporated in the bidding document/RFP and the terms, conditions etc. stipulated by the consultants/bidders in their proposals/bids. No new condition should be brought in while evaluating the bids/proposals. Similarly, no bid conditions should be overlooked while evaluating the bids. The aim should be to ensure that no bidder gets undue advantage at the expense of other bidders and/or at the cost of organization.

6.2 Formation of Evaluation Committee (EC)

The EC should normally comprise three members including Financial Advisor or its representative and a representative of the user as per the Schedule of Procurement Powers to carry out evaluation of the bids/proposals. EC should not be very large as it may slow down the evaluation process. However, suitable domain/ technical experts may be included in the committee to render assistance in evaluation of the bids. There is no need to constitute separate committees for preliminary evaluation, technical evaluation, financial evaluation, negotiations (if any) or contract negotiation for Consultancy services and final selection of the Consultant etc. Normally the representative of the user Department will work as a convenor of the EC. **(GFR-2017's Rule 173 (xxii) 2017** lays down that no member of the evaluation committee should be reporting directly to any other member of such committee except in case where the estimated value of the procurement is lower than the specified value. Such provisions are considered good from the procurement process point of view. The provisions applicable at the Procuring Entity needs to be taken into account).

The convenor of the EC shall distribute the RFP to the EC members even before opening of the Technical Proposals and request them to familiarize themselves with the characteristics and requirements of the assignment, the selection procedures, and the evaluation criteria and sub-criteria. The EC should have a meeting prior to opening of technical proposals to review the evaluation principles, procedures, and objectives etc. and discuss the provisions of RFP.

6.2.1 Deliberations by the Bid Evaluation Committee

6.2.1.1 Timely Processing of Proposals/Bids (Rule 174 (i) of GFR 2017)

Timely finalization of the recommendations for award of contract are important. Any delays in finalizing procurement deprive the public of the intended benefits and may cause cost overruns. There is a need to lay down the schedule of finalizing the bid process from the date of issuing the bid to the date of issuing the contract considering various factors like nature of the requirements, sourcing, method of procurement etc. Any deviation from the schedule may be monitored and explained, though a system of Management Reporting.

6.2.1.2 Extension of Bid Validity Period

The entire process of scrutiny and evaluation of Proposals/bids, preparation of recommendations for award and notification of award must be done expeditiously and within the original bid validity period (Rule 174 (iii) of GFR 2017).

If, however, due to exceptional and unforeseen reasons, the purchasing organisation is unable to decide on the placement of the contract within the original validity period, it may request all the responsive bidders to extend their Proposals/bids (including the validity of the bid security) up to a specified period before expiry of the original validity period.

Any Bidder not agreeing to such a request will not require forfeiture of its bid security. However, the Bidders, who agree to extend the validity, are to do so without changing any terms and conditions of their original proposals/bids.

6.2.1.3 Reasonableness of Prices

The EC needs to deliberate upon the reasonableness of rate of the lowest bid or Most Advantageous Bid being recommended for award and record that the rates recommended are reasonable. For this purpose, the EC may consider the estimated cost, the last purchase price (LPP) (against the latest successful contract) considering the variation in the price indices during the intervening period, prevailing market rates for judging reasonableness of rates. The following points may be kept in mind before the LPP is relied upon as a basis for justifying rate reasonableness:

Abnormalities in Proposals/Bids

RFP/bid documents used for calling proposals/bids may result in receipt of proposals/bids which may be of varying quality and numbers. An ideal situation is when the proposals/bids are received are in adequate numbers and quoted rates are competitive. To avoid abnormalities in proposals/bids, the following actions are considered necessary:

- a) Adequate market research regarding realistic cost at the time of need assessment/demand generation;
- b) Clear and detailed Terms of Reference/Specification;
- c) Engage with the market adequately to encourage a competitive response;
- d) Sufficient period is allowed for submission of proposal/bid;
- e) Issue adequate and timely responses to clarification requests; and
- f) Ensure qualification criteria are adequate and appropriate.

However, this may not happen on several occasions and a Service Provider/Bidder may submit a proposal/bid which is abnormal either inventorially or intentionally. Types of abnormalities in proposals/bids are discussed below:

- i. **Abnormally Low Proposals/Bids:** An Abnormally Low Proposal/Bid is one in which the proposal/bid price, in combination with other elements of the proposal/bid, appears so low that it raises material concerns as to the capability of the Service Provider/Bidder to perform the contract at the offered price. Examples of how a Proposal/Bid may appear abnormally low include:
 - a) When it is compared with the Procuring Entity cost estimate for the contract if there is no ability to compare to market prices;
 - b) When it is compared with all other Substantially Responsive Bids; and
 - c) When it does not appear to provide margin for profit.

To deal with such situation it is important to remember that process of establishing whether a Service provider/Bidder is capable to perform a contract within its total evaluated Proposal/Bid price can be highly complex and subjective and one needs to be careful in arriving at any conclusion. The following approach is recommended in such situations:



- a) Assess financial viability: At the time of evaluation, financial viability of the bidder's proposal should be assessed critically by the evaluation committee, which can come to the conclusion that the proposal is not financially viable, for example, if the quote/price proposed for services is significantly lower than the budget estimates emerging from the market scan conducted by the state. If the committee comes to such a conclusion, the following steps are recommended by GFR 2017:
- i. Invite the bidder for review: The L-1 bidder is called to explain why the prices are misaligned with the market scan. For example, if the bidder's explanation for the low quotes is that they are planning to leverage other resources, the evaluation committee can ask for a detailed written undertaking on the plan to leverage other resources (including documentary evidence of the quantum and duration of availability of any alternative funding source). If the evaluation committee is satisfied with the explanation, the contract award can proceed.
 - ii. Seek approval to reject the bid: If the evaluation committee is not satisfied with the bidder's explanation, they should make representation to the competent authority that at these prices, the expected service outcomes cannot be achieved, seeking approval to reject the L-1 bidder and proceed with the L-2 bidder. If approval is received from the competent authority, the L-1 bidder is informed of the decision, and the state can select the L-2 bidder.
 - iii. Re-tender: If the competent authority does not approve of the decision to reject the L-1 bid (i.e., low bid), the entire bid will need to be cancelled and the state will need to go for rebidding. The entire RFP process needs to be repeated from scratch, which is a massive loss of time and resources.

In such situation when the Service Provider/Bidder whose Proposal/Bid is rejected then the Service Provider's/Bidder's Bid Security will not be forfeited.

Prevention: How to prevent irrationally low financial bids

As mentioned, irrationally low bids lead to situations in which states must either reject the lowest quote or proceed for rebidding, and neither option is ideal. Therefore, it is essential to put in place some systems that can prevent bidders from submitting such irrational bids. States may be tempted to fix some base rates to protect themselves from such situations, but that would be against the spirit of innovation and performance-based contracting. Instead, there are a few other ways to avoid these challenges:

- a) Use the QCBS method of vendor selection and accord higher weights to technical evaluations (weighting commonly used is 70 percent or higher for technical bids).
- b) Evaluate the technical plan in detail to identify areas of inadequate planning; the following areas are examples of details to focus on:
 - i. Operational workflow
 - ii. HR deployment
 - iii. Business model.
- c) Carry out a thorough market scan and costing during the budgeting phase of the RFP—this will allow the program to build some internal benchmark costs.
- d) Request agencies to provide comprehensive costing, including component-wise breakups of staff costs, indirect costs, and so on. A suggested template for costing can be added in the RFP.
- e) Request agencies to comply with local state laws around minimum wages.

ii. **Lack of Competition in Open Tenders [Rule 173 (xix) and (xxi) of GFR 2017]:**

Sometimes, against open competitive bidding, the procuring entity may not receive a sufficient number of proposals/bids or after analyzing the proposals/bids, ends up with only one responsive proposal/bid i.e., a 'single offer'. Some of the procuring entities assume that open proposals/bids which result in single proposals/bids are not acceptable, and to go for re-bid. This is not correct practice. Re-bidding has its own costs, firstly the actual costs of retendering; secondly the delay in procurement and consequent delay in the attainment of the purpose for which the procurement is being done; and thirdly the possibility that the re-bid may result in a higher bid. Even when only one Bid is submitted, the process may be considered valid provided the following conditions are satisfied:

- a) The procurement was satisfactorily advertised, and sufficient time was given for submission of proposals/bids.
- b) The qualification criteria were not unduly restrictive; and
- c) Prices quoted in the financial bid are reasonable in comparison to market values.

In case the price is not reasonable, negotiations or retender may be considered justifiable.

iii. **Adequate number of Proposals/Bids not being received:** On some occasions it may happen that an inadequate number or even no response are received against an RFP. In such situations, the following actions need to be taken by the Procuring Entity before fresh proposals/bids are invited:

| Possible cause of no bids being received in response to RFP | Possible solution |
|--|--|
| (a) The publicity was inadequate, and information about the RFP did not reach potential bidders. | The deadline should be extended and the RFP should be published in a wider range of publications. |
| (b) The Scope of Work (SoW) in the RFP was less than clear, and potential bidders were unable to understand the type/scope of services required. | The procuring entity should request the RFP committee to make the required changes in the SoW. The changes will need to be approved by the competent authority, after which the RFP can be published again with an extended deadline. If the RFP needs major changes or if the competent authorities do not approve of the changes, the RFP will need to be cancelled and go for rebidding. |
| (c) The eligibility criteria were too stringent, and no bidders could meet all the criteria. | The procuring entity should request the RFP committee to make the required changes in the eligibility criteria or consider permitting consortiums to apply. The changes will need to be approved by the competent authority, after which the RFP can be published again with an extended deadline. If the RFP needs major changes or if the competent authorities do not approve of the changes, the RFP will need to be cancelled and go for rebidding. |

Prevention: How to avoid situations with limited bid responses based on the three contributory causes listed. The following are some ways to ensure that an adequate number of diverse bids are received in response to RFPs, giving procuring entities an opportunity to select the most suitable private sector partner:

- a) When the SoW is drafted, ensure it is adequately detailed and easy to understand.
 - b) As much as possible, eligibility criteria (especially related to financial capacity, and experience of organizations) should be flexible so that a wider range of agencies are able to apply.
 - c) The RFP should not be limited to state-specific procurement portals. States may consider publishing the RFPs in national-level newspapers, the CTD website, and central procurement portals.
- iv. **Receipt of large numbers of Proposals/Bids:** Against proposals/bids for common types of procurements there may be a large number of responses, many of which may appear frivolous. In such situations the Procuring Entity may examine whether the qualification criteria are commensurate with the requirement. For example, for a value of annual requirement of Rs 2 crore the financial requirement is kept substantially less than Rs 50 lakhs or criteria for execution of the same or similar type of order is not specified or inadequately specified. In such situations, it would be better to cancel the process and invite fresh proposals/bids with revised qualification requirements.

6.3 General provisions for Evaluation of Proposals/Bids:

Common steps involved in Evaluation of Proposals/Bids are as follows:

6.3.1 Preliminary Examination and Responsiveness of Proposals/Bids:

All proposals/bids received will first be scrutinized by the EC to see whether they meet the basic requirements as incorporated in the bid document. Bids are treated non-responsive if:

- a. The proposal/bid is not in the prescribed format or not signed by an authorized signatory
- b. The required Bid Security has not been provided
- c. The proposal/bid departs from the essential requirements specified in the RFP/Bidding document
- d. The Service Provider/Bidder has not quoted as per the requirements specified in the relevant schedule.
- e. The Service Provider/Bidder does not meet the eligibility criteria given in the RFP/Bidding documents.

Proposals/Bids that do not meet the basic requirements specified in the bid documents are to be treated as unresponsive and ignored. Proposals/Bids which meet the basic requirements are treated as responsive Proposals/Bids and are considered for the next stage of evaluation.

6.3.2 Evaluation of Responsive Proposals/Bids:

All responsive Proposals/Bids are evaluated by the EC with a view to select the lowest (L1) or most advantageous bidder who meets the qualification criteria and techno-commercial aspects.

In case of single stage single envelope bidding, the evaluation of qualification of bidders, technical, commercial and financial aspect is done simultaneously.

In single stage two envelope bidding, initially the techno-commercial proposals/bids would be opened and evaluated for the qualification criteria and techno-commercial aspects. Financial bids of bidders who qualified during technical evaluation only would be opened for selecting the lowest (L1) or most advantageous bidder among these.

It is of utmost importance in cases of manual bidding that the authenticity, integrity and sanctity of unopened financial proposals/bids must be ensured, before their opening. All the financial proposals/bids may preferably be put in a large envelope, which may be dated, sealed and signed (including by some of the bidders present), to show that none of the proposals/bids were accessed during the custody period. In case of e-procurement, the security of financial proposals/bids is taken care of by the system which is fully secured.

6.3.3 Evaluation of Techno-commercial Bids:

In evaluation of the techno-commercial proposal/bid, conformity of the eligibility/qualification, technical and commercial conditions of the offered services/goods to those in the bid document is ascertained.

Considering non-material deviations/minor deviations: The procuring entity is required to consider and allow minor deviations, which do not amount to material deviations. A material deviation, reservation, or omission which should not be waived are those that:

- a) Affect, in any substantial way, the scope, quality or performance of the goods and related services specified in the contract;
- b) Limit or are inconsistent, in any substantial way, with the tendering documents, the procuring entity's rights or the Bidder's obligations under the contract; or
- c) If rectified, would unfairly affect the competitive position of other bidders quoting substantially responsive proposals/bids.

If it is a multiple envelope bid, then the EC prepares a recommendation of the techno-commercial bid and after the approval of competent authority, the results of the techno-commercial bid evaluation are announced (including informing the failed bidders). Financial proposals/bids of technically qualified proposals/bids are opened as per laid down procedure.

6.4 Evaluation of Bids for Non- Consulting services under NTEP**

6.4.1 Responsiveness

The eligibility criteria normally to be adopted for partnership services under NTEP are as per the Table below. The PEs shall include all these eligibility requirements in the RFP and EC shall examine the responsiveness of the Proposals received against such requirements. The Proposals fulfilling these requirements only shall be taken further for technical evaluation and the Proposals not meeting these requirements shall be rejected at this stage.

**Source: Operational Manual for Partnerships under NTEP, Page 108, Table 27

| A. Eligibility criteria | | Mandatory documents as evidence |
|-------------------------|---|--|
| 1 | <p>1. The organization needs to be registered as one of the following:</p> <ul style="list-style-type: none"> a. A single business entity under the Companies Act 2013 (as amended from time to time) or an incorporated entity under equivalent acts of the parent country (in case of foreign entities) b. An organization registered under the Societies Registration Act 1860 or any relevant act of a state or union territory in India c. A public trust registered under the Indian Trusts Act 1882 or any other equivalent act of a state or Union Territory in India d. A charitable company registered under Section 25 of the Companies Act, 2013 (as amended from time to time) e. A firm registered under Limited Liability Partnership (LLP) Act 2008 f. A partnership firm g. Any combination of (a) to (f) with a formal intent to enter into an agreement or under an existing agreement to form a consortium h) A firm registered under any other act of India. | Self-attested copy of registration certificate |
| 2 | In case of non-profit entity, the organization should be registered on the Gol's portal, DARPAN, https://ngodarpan.gov.in/maintained by NITI Aayog, Gol. | Proof of registration on NGO - DARPAN portal |
| 3. | The organization must not be (a) blacklisted/banned/convicted by any court of law for any criminal or civil offenses/declared ineligible by any entity of any state government or Gol or any local self-government body or PSU in India for participation in future proposals for unsatisfactory performance, corrupt, fraudulent or any other unethical business practices or for any other reason, as on date of submission (upload) of online proposal document. | Affidavit attested by Notary Public or sworn before Executive Magistrate |
| 4 | The organization shall inform the procurement entity of any such pending suits/enquiry/investigation against the proposer in any court of law, legal authority, or paralegal authority which may hamper the execution of works under this RFP. | Undertaking to be submitted on a no judicial stamp paper |

| B. Experience and financial criteria | Mandatory documents as evidence |
|--|--|
| <p>1 Proposer should have 3 (three) years of experience—both completed and ongoing projects/contracts (projects with experience and contract period less than 1 (one) year would not be considered for eligibility matrix)—in health and/or social sector with public and/or private agencies in the state/ country in the last 5 years as of the due date for submission of proposal. Proposer should submit the listed documents in support of proposer's qualifications, along with its proposal.</p> <p>Preference will be given to the organization that has experience of working in TB program and will be considered for evaluation.</p> | <ul style="list-style-type: none"> • Registration document showing incorporation of the proposer and self-declaration by the director/ partner/chief executive officer (CEO) or authorized signatory of the proposer; • Copy of agreement/ work order/ letter of notification of award, and • Client's certificate of satisfactory completion and/or satisfactory progress report of project. |
| <p>2 The proposer should have a positive net worth in the last three (3) financial years (that is).</p> <p>However, non-profit organizations may have negative net worth.</p> | <p>Certificate from Statutory Auditor and Audited financial statements shall be submitted by the Proposer for the stated financial years.</p> |
| <p>3. The proposer must have average annual turnover of</p> <ol style="list-style-type: none"> a) INR 50,00,000 (fifty lakh rupees) if proposal is for 1 cluster/district and b) Additional INR 50,00,000 (fifty lakh rupees) for every additional cluster/district will be required. | <p>Audited balance sheet and</p> <ol style="list-style-type: none"> a) Statement of Income and Expenditure account (if the proposer is a non-profit entity) or b) Statement of Profit and Loss (if the Proposer is a for-profit entity). |

| C. General documents required |
|---|
| <p>1 Self-attested copy of certificate issued by the appropriate authority valid as on date of submission of RFP documents</p> <p>Self-attested copies of:</p> <ol style="list-style-type: none"> a) PAN card, b) GST registration certificate (if applicable), c) GST exemption certificate (if any), d) Copy of Income Tax Return (with computation) filed and submitted by the proposer for three financial years FY;; e) Employee state insurance (ESI) and employee provident fund (EPF) registration certificate, and f) MSME registration certificate (if applicable). |

C. General documents required

- 2
 - a) Accounting/financial policies
 - b) Internal control policies, risk matrix, and procedures
 - c) Procurement guidelines
 - d) HR and administrative policies.
3. Valid certificate of 12A and/or 80G registration (submit documented proof), if applicable, in case of non-profit entity
- 4 Self-attested copy of the MoA/deeds/bylaws or such other document evidencing vision, mission, objective, and rules and regulations
- 5 Copy of last three years annual reports
- 6 Proof of annual documents submission to registrar of societies/trusts/companies/registrar of companies
- 7 Evidence of local office premises or declaration for establishment of local office premise in the district of the state where it wants to operate once contract is awarded
- 8 Any other relevant detail, statutory requirements, and compliance - EPF, income tax/GST, ESI and labor welfare fund
- 9 Such other document/s as may be relevant at the point of assessment

Note: States/districts can use these evaluation criteria to make a preliminary evaluation matrix (Figure 9) to examine the eligibility of bidding organizations. The technical bids should be opened only for those organizations that fulfil the conditions in the preliminary evaluation matrix.



| Sl. No. | Required document | Name of bidder | | |
|-------------------------|---|----------------|----------|----------|
| | | Bidder-1 | Bidder-2 | Bidder-3 |
| For Profit Entities | | | | |
| 1 | Copy of certificate of registration under companies Act 1956/2013 | | | |
| For Non-profit Entities | | | | |
| 2 | Copy of certificate of registration under Indian Societies Registration Act 1860 (register firms as non-profit agency/ NGO under Firms and Society Act rule 27 of the state) or registered trust under Indian Trust Act 1882 | | | |
| 3 | Proof of registration on the Gol portal, DARPAN (https://ngodarpan.gov.in) | | | |
| 4 | Certified copy of the MoA/Deeds/byelaws or such other document evidencing vision, mission, objective and rules and regulations | | | |
| 5 | Certification of 12 A/80G Registration, if applicable | | | |
| General Documents | | | | |
| 6 | Audited Balance sheet confirming Annual turnover of at least Rs. 50 lakhs | | | |
| 7 | Undertaking for nonblack listing/banning by any entity of any State Government or Gol or any local Self Government body or public sector | | | |
| 8 | Undertaking regarding any pending suits/enquiry/ investigation against the Bidder | | | |
| Self-attested copies of | | | | |
| 9 | 1) PAN Registration 2) TAN Registration 3) GST Registration (if applicable) 4) Income Tax Return for last 3 financial years 5) MSME Registration (if registered) 6) ESI & Employee Provident Fund Registration | | | |
| Policies and Procedures | | | | |
| 10 | 1) Accounting/Financial policies 2) Internal control policies 3) Procurement guidelines 4) HR and Administrative Policies | | | |

Eligibility criteria for consortiums**

Table below provides a sample list of criteria that can be used to assess consortiums.

| A. Eligibility criteria | Mandatory documents as evidence |
|---|---|
| Same as eligibility criteria mentioned above for proposers—all organizations that are part of the consortium must independently fulfil the eligibility criteria. | Same as above |
| B. Experience and financial criteria - the consortium partners need to fulfil these criteria as a combined entity. | Mandatory documents as evidence |
| <p>1 Lead proposer and consortium partner should each have 3 (three) years of combined experience—both completed and ongoing projects/contracts (projects with experience and contract period less than 1 [one] year would not be considered for eligibility matrix)— in health and/or social sector with public and/or private agencies in the state/ country in the last 5 years as on due date for submission of proposal. Proposer should submit the following documents in support of fulfilment of proposer's qualification, along with its proposal.</p> <p>Preference will be given to the organization that has experience of working in TB program and will be considered for evaluation.</p> | <ul style="list-style-type: none"> • Registration document showing incorporation of the proposer and self-declaration by the director/ partner or authorized signatory of the proposer, • Copy of agreement/work order/ letter of notification of award, and • Client's certificate on satisfactory completion and/or satisfactory progress report of project. |
| <p>2 Lead proposer and consortium partner should have a combined positive net worth in the last three (3) financial years (that is,;;).</p> <p>However, non-profit organizations may have negative net worth.</p> | Certificate from statutory auditor and audited financial statements shall be submitted by the proposer for the stated financial years. |
| <p>3 Lead proposer and consortium partner must have combined average annual turnover of</p> <p>(a) INR _____ (_____ if proposal for 1 cluster/district and _____)</p> <p>(b) Additional INR _____ for every additional cluster/district will be required.</p> <p>These amounts can be derived from market scans or costing tools.</p> | <p>Audited balance sheet and</p> <p>(a) Statement of Income and Expenditure account (if the proposer is nonprofit entity) or</p> <p>(b) Statement of Profit and Loss (if the proposer is a for-profit entity).</p> |
| C. Additional documents required | |
| Same as the documents mentioned above for proposers—all organizations that are part of the consortium must independently submit the additional documents mentioned in Table 27. | |

**-Source: Operational Manual for Partnerships under NTEP, Page 112, Table 28

Specific terms and conditions relevant for consortiums

- (a) With regard to establishment of relation of lead proposer and consortium partner(s), procurement entity would require a declaration/memorandum of understanding (MoU) between the parties, clearly defining lead proposer and consortium partner(s) and their roles and responsibilities. The declaration or MoU needs to be signed by authorized signatories from all partners.
- (b) For procurement entity, the lead proposer will be liable for satisfactory performance of all services mentioned in the SoW as well as legal/financial implication of the contract.
- (c) Lead proposer will be responsible for monitoring the performance of consortium partner(s).
- (d) Any proposer (including consortium partner, as the case may be) participating in the procurement process shall:
 - (i) Not have a conflict of interest, which materially affects fair competition.
 - (ii) Have fulfilled his/her obligation to pay tax payable to the central government or the state government or any local authority.
 - (iii) Not be insolvent, in receivership, bankrupt or being wound-up, not have its affairs administered by a court or a judicial officer, not have its business activities suspended, and not be the subject of legal proceedings for any of the foregoing reasons.
 - (iv) Ensure its directors and officers have not been convicted of any criminal offense related to their professional conduct or the making of false statements or misrepresentations as to their qualifications to enter into a procurement contract within a period of three years preceding the commencement of the procurement process, or not have been otherwise disqualified pursuant to debarment proceedings.
 - (v) Not be debarred by any procurement entity under the state government, the Central Government, autonomous body, or authority by whatever name called under them.

6.4.2 Evaluation Technical Proposals

Technical Evaluation Criteria as per Operations Manual for Partnerships under NTEP shall be as given in the Table below and included in the RFP. The EC shall evaluate the Proposals in line with the methodology like Least Cost Based Selection (LCBS), Quality Cost Based Selection (QCBS) and the concepts explained earlier keeping in mind that the criteria included in RFP shall only be used.

| Particulars | Allocation of marks | | Weightage |
|--|------------------------------|----------|-----------------|
| 1. Experience of implementing health and/ or social sector program with public and/ or private agencies in any three years of the last five financial years (20.. - ..). | (a) Minimum 3 years | 5 marks | 15 marks |
| | (b) > 3 years and <= 5 years | 10 marks | |
| | (c) > 5 years | 15 marks | |

| Particulars | Allocation of marks | Weightage |
|--|---|-----------------|
| 2. Experience of working in TB program with public and/or private agencies in any two years of the last five financial years (20....-) | (a) Minimum 2 years 5 marks (b) > 2 years and <= 5 years 10 marks (c) > 5 years 15 marks | 15 marks |
| 3. Average annual financial turnover INR 50 lakhs (rupees fifty lakhs) per cluster/district in the last three (3) financial years (20.... - ...) | (a) INR 50 Lakhs - 10 marks (b) Additional one (1) mark for every additional INR 10 lakhs average annual financial turnover above INR 50 lakhs | 20 marks |
| Concept plan for executing the project in the concerned cluster/district with technical presentation (one hard copy of technical presentation to be submitted along with proposal) | 1.1 Provider/patient management plan/operational plan <ul style="list-style-type: none"> • Provider of mapping and engagement • Notification support • Links for free diagnostics (X-ray, sputum microscopy, molecular testing, and DST services) • Links and drug distribution models for NTEP-provided FDC • Links for comorbidity testing • Patient support, treatment adherence, and follow-up till treatment outcome reporting | 30 marks |

| Particulars | Allocation of marks | Weightage |
|---------------------|---|------------------|
| | <ul style="list-style-type: none"> Contact Investigation and TB preventive treatment - links for people with TB Facilitation of incentives. | |
| | 1.2 Creativity and innovations | 10 marks |
| Implementation plan | (Proposed HR structure with organogram for project implementation, M&E, data management, operational model with timelines, analysis, and reporting) | 20 marks |
| Total marks | | 20 marks |
| | | 100 marks |

Note: While the scoring for the first part of technical evaluation (related to experience and financial turnover) is straightforward, there can be subjectivity when evaluating the remaining sections, especially those related to concept planning and implementation plan. Therefore, the procuring entity must ensure that the evaluation committee is made up of subject matter experts/procurement/finance experts from local NHM teams, members of STSUs, and consultant networks, to ensure that technical evaluation is stringent and transparent.

6.5 Evaluation of Proposals for Procurement of Consultancy Services:

The convenor of the EC shall distribute the RFP to the EC members even before opening of the technical proposals and request them to familiarize themselves with the characteristics and requirements of the assignment, the selection procedures, and the evaluation criteria and sub-criteria. The EC should have a meeting prior to opening of technical proposals to review the evaluation principles, procedures, and objectives etc. and discuss the provisions of RFP.

Technical proposals for consultancy services are an intellectual product and thus the evaluation is based on professional judgement of competent evaluators and should not be done as an arithmetical exercise. Thus, there is need reduce arbitrariness in the process of evaluation. It is important that subjectivity, implicit to any individual professional judgement, be complemented by transparency, consistency, and fairness. The individual evaluator involved in the evaluation should be able to justify to the higher authority or to enforcement agencies the reason for his/her scoring and recommendation. One way to achieve this objective is by adopting a rating/ grading system for evaluation of the criteria and sub-criteria (if so specified in the RFP) for the evaluation of the technical proposals.

After the initial review meeting, the EC meets again to define the grades of the rating system to be adopted for scoring the technical proposals, according to the criteria and sub criteria set out in the data sheet. To reduce subjectivity and avoid the use of points and fractions of points, the rating system provides a few grades for each criterion and sub-criterion. Minimum qualifying marks or relative qualifying method for quality of the technical proposal is prescribed and indicated in the RFP. The grading system to be adopted by the EC must be finalized before the technical proposals are opened to avoid any bias because of the EC's knowledge of the opened proposal contents. It is considered a good practice to start the evaluation and scoring of technical proposals only after defining the grading system. In absence of a grading system, EC members would have to evaluate the proposals and give marking against different criteria and sub criteria without guidance and support from predefined grades. This could result into large variation in the evaluation by the members of EC for the following reasons:

- i. Evaluators may differ, even widely, in their definition, understanding, or interpretation of the same criterion and also because of their subjective experience and understanding of the ToR;
- ii. Disparities in evaluators' relative generosity or severity in judgment and ratings can easily be magnified by the lack of common definitions of the requirements to be considered for each criterion and sub-criterion;
- iii. Large differences in scores caused by inadequate understanding of the ToR or improper use of the evaluation criteria and sub-criteria are difficult to reconcile and explain.

Before starting the evaluation, the EC members should ensure that they

- i. have no conflict of interest;
- ii. understand the rating and scoring system;
- iii. have been provided with evaluation work sheets; and
- iv. agree on how to evaluate the proposals.

After finalizing the rating system and opening of the technical proposals, the evaluation process can begin. Members of the EC should not engage in any communication with short-listed firms from the date of their appointment to the date on which the contract is awarded.

Precise and exact markings of criteria and sub-criteria specified in technical evaluation (especially of unquantifiable criteria e.g. evaluation of Methodology) may neither be feasible nor warranted, especially when there is bound to be variation among marks by different members of EC. Instead of assigning marks over the full range of attributes, it is more appropriate to divide the range into 4-5 slabs of ratings.

EC members shall not have access to the financial proposals as the envelope containing the financial proposal is not opened till the technical evaluation is complete. The financial proposal of only such Consultants/bidders will be opened which obtain minimum qualifying marks fixed for the technical proposal. The evaluation shall be carried out in full conformity with the provisions of the RFP.

EC members cannot co-opt or nominate others to attend deliberations on their behalf. It is a good practice to conduct deliberations of EC across the table and not through circulation of notes.

All members of the EC should resolve their differences through personal discussions instead of making to and fro references in writing. In cases where it is not possible to come to a consensus and differences persist amongst EC members, the reasons for dissent of a member should be recorded in a balanced manner along with the majority's views on the dissent note. The final recommendations should be that of the majority view. However, such situations should be rare. The authority competent to approve the recommendations of EC can overrule such dissent notes after recording reasons for doing so clearly. His decision would be final.

In cases where the competent authority does not agree with the majority or unanimous recommendations of the EC, he should record his views and, if possible, firstly send it back to EC to reconsider along the lines of the Bid accepting authority's views. However, if the EC, after considering the views of the competent authority, sticks to its own earlier recommendations, the competent authority can finally decide as deemed fit, duly recording detailed reasons. He will be responsible for such decisions. However, such situations should be rare.

The technical evaluation of the proposals shall be carried out in the following two stages:

6.5.1 Responsiveness:

Each member of the EC should first read all proposals, without scoring them. This first review helps determine whether the proposals are free of significant omissions or deviations from the ToR or other key requirements of the RFP.

Proposals without EMD (bid security), unsigned and incomplete (i.e. when the required bid formats have not been submitted), not responding to the ToR fully and properly and those with lesser validity than that prescribed in the RFP will be summarily rejected as being non-responsive, before taking up the appraisal of the technical proposal for evaluation of quality. EC shall evaluate each proposal on the basis of its responsiveness to the ToR. A proposal shall be considered unsuitable and shall be rejected at this stage if it fails to comply with important aspects as described in the RFP. A technical proposal containing any material financial information shall also be rejected.

6.5.2 Evaluation of Technical Proposals

In the second stage, EC members shall evaluate the proposals by applying the criteria and sub-criteria set forth in the Data Sheet. Each proposal should be judged on its own merits and assigned an absolute - not comparative grade. A comparative evaluation would single out the best proposal on a relative scale, but still could leave the Procuring Entity with a poor proposal. Instead, the evaluation should measure absolute quality scored against predefined criteria and sub-criteria.

The Procuring Entity shall evaluate each technical proposal taking into account criteria as prescribed in the RFP which are normally based around: (a) the consultant's relevant experience for the assignment; (b) the quality of the approach & methodology proposed; (c) the qualifications of the key staff proposed; and (d) capability for transfer of knowledge (if applicable). Each of the technical proposals will be evaluated for the criteria prescribed in the RFP by awarding marks so as to make the total maximum technical score of 100 (one hundred). The criteria and weightage to each criteria or sub-criteria would depend on the requirements of each case and are fixed objectively at the time of preparation of RFP. An indicative range of maximum marks in terms of percentage included in RFP (Data Sheet) are as shown in the Table below:

An indicative range of maximum marks in terms of percentage for various criteria normally applicable for constancy assignments

| Rated Criteria | Range of Percentage for Score |
|--|-------------------------------|
| Consultancy firm's Specific Experience | 5-10% |
| Methodology | 20-50% |
| Qualification and relevant experience of Key experts | 30-60% |
| Transfer of Knowledge | 0-10% |
| Overall | 100% |

The EC shall normally divide the above criteria mentioned in Table above into sub- criteria. However, the number of sub criteria should be kept to the minimum that is considered essential. For example, approach & methodology Criteria can be sub-divided into sub-criteria as:

- i. Understanding of ToR (30% weightage);
- ii. Acceptability and detailing of methodology and work plan (50% weightage);
- iii. Innovation, if it is important(20% weightage);

The criteria for marking of the key experts for the assignment can also be divided into:

- i. Educational qualifications (20% weightage),
- ii. Professional experience in the required area of assignment (80% weight).

EC members should carry out the evaluation independently and score the proposal based on the rating criteria.

The EC evaluation should be based on the proposal as submitted. EC should not request any information or clarifications from the consultants who submitted their proposals that may change the proposals. Issues to be clarified with the selected consultant may be discussed during Contract negotiation stage. After each member has independently rated the proposals on all criteria and sub-criteria, it is good practice to read each proposal again to ensure that scores reliably reflect the quality of the proposal.

EC should conduct a joint review and discuss the merits of individual evaluations and scores. Some evaluators tend to be generous while others are rigid in their judgment and ratings. Such disparity does not matter, provided each evaluator is consistent and differences in scores are not too large. Large differences should be reviewed and explained because they often are caused by improper or inaccurate use of the rating system. Reconciling differences that are considered too large by the EC may result in members revising some of their

ratings and scores. As such, any changes should be recorded. Finally the scores given by different members may be averaged out. During the meeting, the EC should also comment on the strengths and weaknesses of all proposals that have met the minimum technical score indicated in the RFP. This will help in identifying the issues that should be clarified during negotiations.

Eventually, for each of the technical proposals, the EC should calculate the average of the scores allocated to each criterion by all members, establish the technical ranking of the proposals, identify the best, and propose it for award. The evaluation also establishes whether a proposal passes the minimum qualifying mark (or technical score, normally 70-75) provided in the RFP. If one or more proposals fail to meet the minimum qualifying mark, both individual and joint assessments must be carefully reviewed and justified. Short-listed consultants are usually discouraged when their proposals are rejected, particularly when they are only a few points below the minimum mark; therefore, the procuring entity should be prepared to debrief consultants to explain the evaluation of their proposals.

At the end of the technical evaluation process, the EC shall prepare a technical evaluation report of the proposals recording the scores given to each criterion and sub-criterion, as well as explain the decisions and take the competent authority's approval. For each proposal, the report also should substantiate the results of the evaluation and indicate technical weaknesses or deviations from the terms set out in the RFP and comment on their acceptability or otherwise. EC shall record in detail the reasons for acceptance or rejection of the proposals analyzed and evaluated by it. The competent authority may ask the EC to explain the report, but should not request that scores be changed. It should review the EC's evaluation of each proposal. The competent authority should decide how any acceptable deviation in each proposal should be handled during negotiations, in case that proposal is ranked first. The technical evaluation report is a confidential document, and its contents shall not be disclosed. All records relating to the evaluation, such as individual mark sheets, shall be retained until completion of the project and beyond as per guidelines in this regard.

Only consultants qualifying as per the technical evaluation criteria will be considered as eligible for the consultancy assignment. All the consultants which meet the minimum qualifying standards/criteria so prescribed will stand technically qualified for opening of their financial proposals.

6.6 Evaluation of Proposals/Bids for Goods

In evaluation of the techno-commercial bid, conformity of the eligibility/qualification, technical and commercial conditions of the offered goods to those in the bid document is ascertained. Additional factors, if any, incorporated in the tender documents may also be considered in the manner indicated therein. Evaluation must be based only on the conditions included in the tender document and any other condition should not form the basis of this evaluation.

6.7 Evaluation of Financial Proposals/Bids

After completion of the evaluation of technical proposals, the procuring entity shall notify those consultants/bidders whose proposals/bids did not meet the minimum qualifying standard or were considered non-responsive to the RFP and/or ToR/ or specifications, indicating that their financial proposals will be returned unopened after completing the selection process in case of manual bidding. The procuring entity shall simultaneously notify the consultants that have scored the minimum qualifying marks and indicate the date and time for opening the financial proposals. The financial proposals shall be opened publicly in the presence of representatives of the technically qualified consultants who choose to attend in case of manual bidding. The name of the consultant, technical scores, and proposed prices shall be read aloud and recorded when

the financial proposals are opened. No modification to financial proposals is permitted. The Procuring Entity shall prepare the minutes of the public opening. When electronic submission of proposals is used, this information shall be posted online.

6.7.1 Least Cost Selection (LCS)

Under the LCS procedures, the financial proposals will be ranked in terms of their total evaluated cost. The least cost proposal will be ranked as L1 and the next higher and so on will be ranked as L2, L3 etc. The least cost proposal (L1) will be considered for award of contract. The EC will put up a report on financial evaluation of the technically qualified consultants to the competent finance authority along with the recommendation that the least cost proposal (L1) can be approved/ invited for negotiation and for final award of contract.



6.7.2 Quality and Cost Based Selection (QCBS)

(Rule 192 of GFR 2017)

Under QCBS selection, the proposed weightages for quality and cost shall be specified in the RFP (e.g. 70:30, 60:40 or 50:50 etc.).

The proposal with the highest technical marks (as allotted by the evaluation committee) shall be given a score of 100 (Hundred) and other proposals be given technical score that are proportional to their marks w.r.t. the highest technical marks.

The proposal with the lowest cost may be given a financial score of 100 (Hundred) and other proposals given financial scores that are inversely proportional to their prices w.r.t. the lowest offer.

The total score, both technical and financial, shall be obtained by weighing the quality and cost scores and adding them up. On the basis of the combined weighted score for quality and cost, the consultant shall be ranked in terms of the total score obtained. The proposal obtaining the highest total combined score in

evaluation of quality and cost will be ranked as H-1 followed by the proposals securing lesser marks as H-2, H-3 etc. The proposal securing the highest combined marks and ranked H-1 and is most advantageous offer. The H-1 ranked consultant will be invited for contract negotiations, and shall be recommended for award of contract.

In such a case, an Evaluated Bid Score (B) will be calculated for each responsive Bid using the following formula, which permits a comprehensive assessment of the Bid price and the technical merits of each bid:

$$B = \frac{C_{low}}{C} X + \frac{T}{T_{high}} (1 - X)$$

where

C = Evaluated Bid Price

C_{low} = the lowest of all Evaluated Bid Prices among responsive Bids

T = the total Technical Score awarded to the Bid

T_{high} = the Technical Score achieved by the Bid that was scored best among all responsive Bids

X = weightage for the Price as specified in the BDS

The bid with the best evaluated Bid Score (B) among responsive bids shall be the most advantageous bid.

Example:

In a particular case of selection of consultant, it was decided to have minimum qualifying marks for technical qualifications as 75 (Seventy five) and the weightage of the technical bids and financial bids was kept as 70: 30 (Seventy: Thirty). In response to the RFP, three proposals, A, B & C were received. The technical evaluation committee awarded the following marks as under:



A: 75 Marks

B: 80 Marks

C: 90 Marks

The minimum qualifying marks were 75 (Seventy five) thus, all the three proposals were found technically suitable. Using the formula T/T_{high} , the following technical points are awarded by the evaluation committee:

A: $75/90 * 100 = 83$ points

B: $80/90 * 100 = 89$ points

C: $90/90 * 100 = 100$ points (Normalized score of C can be taken as 100, and based on this score of A and B is calculated)

The financial proposals of each qualified consultant were opened after notifying the date and time of bid opening to the successful participants. The price evaluation committee examined the financial proposals and evaluated the quoted prices as under:

A: Rs.120

B: Rs.100

C: Rs.110

Using the formula Clow/C , the committee gave them the following points for financial proposals:

A: $100/120 * 100 = 83$ points

B: $100/100 * 100 = 100$ points (Normalized score of B can be taken as 100, and based on this score of A and C is calculated)

C: $100/110 * 100 = 91$ points

In the combined evaluation, thereafter, the evaluation committee calculated the combined technical and financial score as under:

Proposal A: $83 \times 0.30 + 83 \times 0.70 = 83$ points.

Proposal B: $100 \times 0.30 + 89 \times 0.70 = 92.3$ points

Proposal C: $91 \times 0.30 + 100 \times 0.70 = 97.3$ points.

The three proposals in the combined technical and financial evaluation were ranked as under:

Proposal A: 83 points: H-3

Proposal B: 92.3 points: H-2

Proposal C: 97.3 points: H-1

Proposal C at the evaluated cost of Rs.110 (Rupees One hundred and ten) was, therefore, declared as winner and recommended for contract negotiations and award.

6.8 Negotiations

Normally, there should be no negotiation (Ref.: Rule 173 (xiv) of GFR 2017). Negotiations should be a rare exception rather than the rule and may be resorted to only in exceptional circumstances. If it is decided to hold negotiations for reduction of prices, they should be held only with the lowest acceptable bidder (L1) or Most Advantageous Bidder, who is techno commercially responsive. The circumstances where negotiations may be considered could be:

- a) Where the procurement is done on nomination basis;
- b) Procurement is from single or limited sources;
- c) Procurements where there is suspicion of cartel formation which should be recorded; and
- d) Where the requirements are urgent and the delay in re-tendering for the entire requirement would jeopardize essential operations, maintenance and safety.

6.9 Rejection of Proposals, and Re-invitation:

The government ministry/department will have the right to reject all proposals. However, such rejections should be well considered and normally be in cases where all the Proposals/Bids are either deviating substantially from the ToR or considered unreasonably high in cost and, if in the latter case, the lowest qualified bidder during negotiations fails to reduce the costs to a reasonable level. If it is decided to re- invite the Proposals/Bids, the ToR should be critically reviewed/modified so as to address the reasons of not receiving any acceptable bid in the earlier Request for Proposals.

6.10 Confidentiality

Information relating to evaluation of proposals and recommendations concerning awards shall not be disclosed to the consultants who submitted the proposals or to other persons not officially concerned with the process, until the award of contract is notified to the successful firm, except that after technical evaluation, the overall technical score shall be informed to all consultants for each criterion or sub-criterion, if any, as required by RFP document.

6.11 Role of Bid Evaluation Committee:

6.11.1 Meeting and discussions

- Holding meetings & discussions on the bids/proposals received at the notified place, date and time
- Respond to any pre tender/post tender opening comments
- Discuss the need for any post tender clarification(s)
- Clarifications to be sought only in case of minor deviations

6.11.2 Making Recommendations:

- Carry out preliminary examination/responsiveness of bids
- Do the technical evaluation & financial evaluation of bids
- Record complete justification/observations on the technical/financial evaluation of the proposals/bids
- Record whether Consultant/bidder meets the criteria or not, indicating facts and figures
- Discuss and decide on any deviation/variation quoted by the Consultant/bidder to be included in the recommendations for approval to the competent authority
- Record full reasons for ignoring any proposal/bid
- Record any disagreements within the Evaluation committee members
- Prepare recommendations for award of contract to lowest priced bid or most advantageous bid or for cancellation of the procurement process and rebidding, or dropping the procurement and send to the competent authority
- Ensure sufficient validity before sending the recommendations to the accepting authority

6.12 Role of Competent Authority

After receiving the recommendation from evaluation committee, the decision for either acceptance of bid/proposal for award of contract or rejection/re-inviting of bids is done by competent authority to whom such recommendation have been put up. The decision is required to be taken during the bid/proposal validity period. Competent authority examines all aspects of the recommendations including fulfilment of quality requirements, the price reasonableness and analysis of any disagreement & the dissent notes among

the members of the EC contrary to the recommendations by the majority members of the EC before approving such recommendations for award of contract. Competent authority shall give decision on the recommendations of EC by recording reasons for the decision which is different than the recommendations of EC:

- Acceptance of the recommendations for finalization of contract
- Modification of the recommendations made by EC and give its own decision
- Cancellations of the procurement process and rebidding.
- Cancellations of the procurement process and dropping the procurement

(The Module have been developed taking into account the provisions of GFR-2017, Manual for Procurement of Consultancy & Other Services (Updated June, 2022) and Operations Manual for Partnerships under NTEP)

KEY TAKEAWAYS

- i. Important provisions in GFR regarding evaluation of proposals/bids.
- ii. Preliminary examination of bids, responsiveness of bids, techno commercial evaluation and financial evaluation.
- iii. Difference between least cost selection (LCS) method and quality cum cost based selection (QCBS) method of evaluation.
- iv. Evaluation of techno-commercial bids in services contract i.e., indicative criteria and scoring method in QCBS.
- v. Evaluation of Financial bids in case of LCS and QCBS method
- vi. Validity extension criteria, important points for conducting negotiations, lack of competition criteria etc.
- vii. Role of proposal/bid evaluation committee and role of competent authority.

Module 7: Contract Management

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Module 7

Contract Management



7.1 Contract Management

Contract management plays a pivotal role in procurement to ensure transparency, efficiency, and accountability. It involves administering contracts between the procuring entity and suppliers throughout the contract lifecycle, from formation to execution to closure. Effective contract management is critical for successful project execution, considering the significant financial resources involved.

The process begins with clear specifications and well-defined terms during the procurement phase. After awarding the contract, diligent monitoring of its performance and adherence to timelines is necessary. Regular progress reviews help to promptly identify and address potential issues. Keeping accurate records of communications, changes, and deliverables is vital.

Transparency and fairness are integral to public procurement, demanding strict compliance with laws, regulations, and ethical standards. Public contracts must be awarded through competitive bidding to promote fair competition and prevent favoritism.

Risk management is vital in handling public procurement contracts. Assessing and mitigating risks, such as delays, cost overruns, and quality issues, protect public funds and ensure successful project outcomes.

Throughout the contract duration, open and effective communication between the parties is essential. Regular meetings, feedback mechanisms, and dispute resolution frameworks contribute to smooth contract execution.

In summary, effective contract management is crucial in procurement, to ensure value for money, transparency, and accountability. Proper planning, transparency, risk management, and communication are vital elements for successful projects, ultimately benefiting the nation and its citizens.

Regarding procurement methods, the main objective is to establish legally enforceable contracts with suppliers/contractors for services, goods, works or a combination of them. Selecting the appropriate contract type during procurement planning is essential and bid documents should include a draft contract to be finalized after identifying the preferred bidder.

Choosing the right contract type is vital for the success of the procurement process, as it can affect competition, performance, and potential disputes. Different types of contracts are used for services, goods and works, varying in delivery mechanism, payment, risk allocation, and complexity of monitoring and administration.

To ensure a well-balanced contract, both parties should benefit from the agreement. Passing on all risks to the contractor could lead to an unbalanced contract and disputes in the future. Therefore, careful consideration and selection of the contract type are crucial to foster successful public procurement.

7.2 Types of Contracts

A diverse array of contract types is employed to cater to the unique requirements and categories of procurement, which include **services, goods** and **works**. These contracts set down the terms, conditions, and obligations of both - the procuring entity and the suppliers / contractors involved. Depending on the specific nature of the procurement, different contract structures are adopted to ensure efficient and successful project execution.

Whether it is procuring goods, undertaking construction works, or engaging various service providers, the selection of the appropriate contract type plays a pivotal role in fostering fair competition, risk allocation, and overall value for money in the public procurement process.

7.2.1 Types of Contracts in Procurement of Non- Consulting services- Implementing Partnership Options for TB care services*

There are three main types of contracting. The program manager may decide on the type of contract based on various components, such as services to be provided, partnership options used etc.

1. Input-based contracts

What are “input-based” contracts?

- These are contracts in which the nature of the services is clear, direct, and easy to define but the results or output are not easy to quantify/verify.

How to plan for an input-based contract?

- Should be used for a well-established processes and activities for specified services, (e.g., training, empowerment, education) that may not vary during implementation, but whose measurement of outputs are difficult to quantify.
- Here the calculation of contract value and payments are made based on resources deployed (input) or based on the number of activities. Payment schedules should be drawn up well in time and should be followed. Providing advance payment can be considered for more effective deployment of resources by Service Provider toward service delivery.
- To develop these contracts, the program manager may develop indicators to measure processes and activities.
- RNTCP may negotiate scope of services in terms of inputs, approach, methodology and work plan with the Service Provider.
- A Request for Proposal (RFP) should be used for input-based contract which defines the expected activities/processes and process indicators, including methodology, proposed cost/bid value with justification/break up to deliver services in a defined area.

*Guidance document for partnership 2019 RNTCP page 56

What are the advantages of an input-based contract?

- This mode of contract opens the market to service providers who have limited means, such as, NGOs to provide services but are able to work in specific, often challenging environments.
- These contracts can help service providers become more activity/process oriented. But it is recommended that program managers consider performance goals or outcomes in the long term.

What types of partnership options can be covered under this?

- This contract type may be considered for partnership options like advocacy, communication, and community empowerment.

Recommended when inputs, services, or activities can be defined clearly, but outputs are difficult to quantify. For example, contracts for community empowerment through awareness sessions. In such projects, measuring the output (that is, awareness in the community) may indeed be possible but is not easy or straightforward.

Payment is linked to inputs, for example, in a contract for community empowerment, payment can be made according to the number of training sessions held.

2. Fee-for-service contracts or purchasing of services contract

What are “fee for service” contracts?

- These are contracts in which the activities, processes and results are quantifiable and are available at a specified value/fee.

How to plan for a “Fee for Service” contract?

- In this contract, the scope of services is well defined up to the unit level. The results of the service are measurable and of verifiable quantity and quality.
- The fee is based on the unit of service provided. The payment is based on the number of services provided to patients and adjusted, if needed, to assure quality parameters. Payment should be made monthly after services are provided.

Under this contract, the program manager will pay for predefined units of services from the service provider to bridge the existing gaps in existing services (programs).

- Quality indicators should be defined before engaging the service providers and should be included in the agreement.
 - o In a scenario where a combination of fee-for-service contracts are to be developed, the program manager may use the rationale of the scenarios described below, when applicable.
 - o In scenarios where the service provider is procured through a non-competitive process with a fixed rate, the same service cannot be procured with a different method like input or out-put based contracting or cost for the same set of patients (e.g., patients from private health facility) in the same geographical area (e.g., TB unit).
 - o In a scenario in a geographical area where only one service provider is available for the provision of a particular service, ask for a quotation from the single service provider, negotiate, if possible, and sign the agreement.

- o In a geographical area, there are multiple service providers, but after the bid process, only one service provider bids for service delivery. In this case, negotiate if possible and sign the contract.
- o In a geographical area, there are multiple service providers and RNTCP wishes to engage with more than one service provider for service delivery. In this case, based on a market survey of tariffs for a specific service in the geographical area to administratively determine price of the service. Seek application from the service providers willing to deliver services at the price prescribed by RNTCP and sign an agreement.
- o In a geographical area, there are multiple service providers for a specific service and RNTCP wishes to choose the service provider competitively. In this case, ask for open quotation and choose the service provider through a competitive

What are the advantages of a “Fee for Service” contract?

- This contract can be useful when it is more efficient to pay per service rather than the government establishing the infrastructure and running operations. Alternatively, it can be used in an attempt to reach the patients who are using services of the private sector and paying from out of pocket.

What types of partnership options can be covered under this?

- This contract type may be considered for partnership options like specimen management, diagnostics, treatment centers, and drug supply and delivery services.

Recommended for services that have a clear-cut scope with acceptable quality, for which activities and results can be defined clearly, and the cost of service can be easily estimated through market assessments. For example:

1. Contracts for purchase of CXR services and
2. Contracts for CBNAAT services.

Payment linked to specific services delivered:

1. In a contract for CXRs, the payment can be made according to the number of X-rays carried out and
2. In a contract for CBNAAT services, payment is made according to the number of NAATs conducted.

3. Output-based contract

What are “output-based” contracts?

- These are contracts in which the desired results are well specified but means of achieving the results are not prescribed.
- It is a performance-based contracting method which focuses on the output, quality, or outcomes which are verifiable in quantity and quality.
- In these contracts, a part of the service provider’s payment is linked to the achievement of the pre-set performance indicators. The service provider is expected to identify innovative, efficient, and effective ways to achieve output.

How to plan for an output-based contract?

- The service provider should be identified through a Request for Proposal (RFP) process. Selection may combine quality and cost assessment of the proposal (QCBS, described in the subsequent section on costing).
- The program manager issues a contract which includes the performance indicators identified by RNTCP and a clause on performance-based payment matrix (largely based on Ni-kshay). Payment schedules should be finalized in advance and strictly followed. Provision of advance payment should be considered for more effective implementation of services.
- The work plan in the contract should clearly define the indicators to be measured. This will enable the program manager to effectively monitor the services being provided.

What are the advantages of output-based contracts?

- These contracts allow flexibility, innovation, and efficiency (for example case notification, treatment success etc.).

What types of partnership options can be covered under this?

- This contract type may be considered for partnership options like PPSA, public health actions, active case finding and TB prevention package.

Recommended for areas if work outputs or results are clearly defined, but inputs or services are not prescribed. Service providers can define their own innovative services or inputs. For example, contracts for case notification.

Payment is linked to performance or output indicators in a contract. In case of notification, the payments can be made according to the number of notifications on Ni-kshay.



Output-based contracts, or contracts that focus on results rather than on inputs, can be of two types:*

Target-based contracts: The service provider is given a list of parameters with fixed targets to achieve and is paid according to the achievement of those targets.

Performance-based contracts: The service provider is paid according to performance, which might exceed the targets. Performance-based contracts can incentivize performance and drive agency efforts to deliver services above and beyond the targets. Performance-based payments can also be referred to as 'incentives' or 'target-plus' payments.

Example to demonstrate the difference between targets-based and performance-based contracting:

- Service/partnership option: Notification of people diagnosed with TB
- KPI: No. of people with TB notified in Ni-kshay
- Target for the year: 800 people with TB to be notified over the year
- Payment linked to this indicator: INR 200 per notification
- Target achieved: The agency is able to notify 900 people with TB.

Scenario 1: Target-based payments |Payment: $200 \times 800 = \text{INR } 1,60,000$

Scenario 2: Performance-based payment |Payment: $200 \times 900 = \text{INR } 1,80,000$

In this example, the agency was able to exceed the notification target by 100 and was given additional payment for this. The additional payment of INR 20,000 can be seen as an incentive or reward for exceeding the target. The incentive can be processed using the buffers built in the budget and the contract. As can be readily seen, there can be little to no motivation among service providers to exceed targets in case of a targets-based contract.

4. Hybrid Contract:

If deemed fit, states can also design and roll out 'hybrid contracts', that is, contracts that are a mix of more than one type of contract. In a contract that is a hybrid input-output based contract, a state may decide to link 70 percent of the payments to outputs and 30 percent of the payments to inputs or activities. This type of structure can be useful if the state sees value in monitoring the quality of inputs/activities. For example, in a project to increase private case notification in a state, it may be decided that:

- a) The payment-linked indicators for 30 percent of the payment are the number of private providers notifying to NTEP, hiring of staff, and establishment of infrastructure (inputs) and
- b) The remaining 70 percent of the payment is linked to the increase in notifications from the private sector (outputs).

7.2.1.1 Important aspects of service contract

In the endeavor to eliminate TB in India, the NTEP plays a crucial role in coordinating efforts to combat this infectious disease. One of the vital aspects of NTEP's strategy is to engage service providers through well-structured contracts to ensure efficient and effective service delivery.

An employer (e.g., NTEP) can ensure that service providers deliver high-quality services aligned with the program's objectives. Clear scope, performance-based metrics, risk allocation, and transparent reporting will foster successful partnerships with service providers, contributing to the success of contracts. Let us explore the important aspects of services contracts:

Clear Scope of Services:

A critical aspect of services contracts is defining a clear scope of services to be delivered by the service providers. The scope should include specific tasks, deliverables, timelines, performance standards, and expected outcomes. For instance, NTEP could enter into a contract with a private medical laboratory to conduct diagnostic tests for Person with TB, with clearly defined parameters and turnaround times for test results.



Performance-Based Metrics:

Incorporating performance-based metrics in services contracts ensures that service providers are held accountable for their performance. Key performance indicators (KPIs) should be established to measure the quality and efficiency of service delivery. An example would be a contract with a healthcare provider that rewards them for achieving high treatment success rates among people with TB.

Another example of performance-based metrics in services contracts is a contract with a technology firm to develop a digital health platform. In this contract, KPIs could be established to measure the platform's effectiveness in improving patient data management, facilitating real-time reporting, and enhancing communication between healthcare providers and PE. The technology firm would be incentivized based on the successful implementation of the platform, as demonstrated by improved data accuracy, timely reporting, and streamlined communication processes. The contract could specify performance bonuses for achieving specific KPI targets, motivating the technology firm to deliver a highly effective and efficient digital health solution.

Risk Allocation and Mitigation:

Proper risk allocation is vital to safeguard NTEP's interests and ensure that the burden of risks is shared appropriately between the procuring entity and the service provider. Identifying potential risks and establishing measures to mitigate them is essential. For example, in a contract with a transportation company to deliver medical supplies to remote areas, the contract should outline the responsibilities of both parties in handling any potential transportation disruptions.

Another example of risk allocation and mitigation in services contracts for NTEP is a contract with a research organization to conduct field surveys to assess TB prevalence in remote regions. In this contract, potential risks could include challenges in accessing remote areas, adverse weather conditions, or logistical issues in data collection. The contract should clearly outline the responsibilities of the research organization to mitigate these risks, such as having backup plans for data collection in case of adverse weather or ensuring the availability of necessary transportation for accessing remote locations. Additionally, NTEP may share some responsibilities, such as providing support for data validation and verification to reduce data collection errors and enhance the accuracy of survey findings. By identifying potential risks and allocating responsibilities to mitigate them, NTEP can ensure a successful and comprehensive TB prevalence assessment in challenging locations.

Flexibility and Adaptability:

NTEP's service contracts should be designed to accommodate changing needs and circumstances, particularly in the dynamic healthcare landscape. Including provisions for modifications, extensions, or early termination, if required, helps ensure the contract's adaptability. For instance, a contract with a technology company providing telemedicine services could include provisions for scaling up services during emergencies or pandemics.

Intellectual Property Rights (IPR):

When engaging service providers, issues related to intellectual property rights (IPR) should be carefully considered. NTEP must ensure that any intellectual property (IP) developed during the contract period remains accessible to the public health system. For example, in a contract with a software development firm to create a digital health platform for TB case management, the contract should specify that NTEP retains ownership including but not limited to the code, database, domain, URL and rights to use the platform beyond the contract term.

Confidentiality and Data Protection:

Services contracts often involve the exchange of sensitive information, especially in healthcare-related projects. Including confidentiality and data protection clauses is crucial to safeguard patient data and maintain privacy standards. For instance, a contract with a research organization to conduct a study on TB prevalence should include provisions to ensure that patient data is handled securely and anonymized appropriately.

Transparency and Reporting:

Transparency in services contracts is essential for accountability and to build trust with service providers. NTEP should require regular reporting from service providers on their activities, outcomes, and financial performance. For instance, a contract with a non-governmental organization (NGO) for awareness campaigns should stipulate regular reporting on the reach and impact of the campaigns.

Payment Mechanism:

The payment mechanism is a critical aspect of services contracts, determining how service providers are compensated for their services. The payment structure should align with the delivery of services and achievement of performance targets. For example, a contract with a healthcare facility for TB treatment services could be structured as a fixed price per patient treated, with additional incentives for higher treatment success rates.

Dispute Resolution Mechanism:

Incorporating a robust dispute resolution mechanism in services contracts helps in addressing potential conflicts and disagreements between the employer and service providers. It should outline the steps for dispute resolution, such as negotiation, mediation, or arbitration as alternative dispute resolution, before landing in the court. For instance, a contract with a diagnostic laboratory could specify a third-party mediator to resolve any disputes related to service quality or payments.

Compliance with Legal and Ethical Standards:

Service contracts must adhere to all applicable laws, regulations, and ethical standards. This includes compliance with procurement laws, health regulations, and standards of professional conduct. For example, a contract with a pharmaceutical company to supply anti-TB drugs must comply with drug procurement regulations and ethical guidelines.

7.2.2 Types of Contracts in Procurement of Consultancy Services

In consultancy services, a variety of contract types are employed to enlist service providers for diverse government projects and initiatives. These contracts outline the responsibilities and terms for both the procuring entity and the service provider. The selection of the suitable contract type depends on factors like the service's (consulting and non-consulting) nature, desired outcomes, required level of control, and the project's specific needs.

Here are some common contract types used in “Services Procurement” by the procuring entity:

| S. No. | Types of Services Contracts | Example |
|--------|---|--|
| 1 | <p>Lump sum (Firm Fixed Price) contract: This is the preferred form of contract and under normal circumstances, the procuring entity shall use this form of contract. Typically utilized, these contracts simplify administration by having fixed prices for specific scopes. The consultant's proposal includes all costs, and no price adjustments occur during evaluation. These contracts are well-suited for straightforward tasks with clear deliverables, such as reports, documents, and software programs</p> | <p>A lump sum contract is employed to engage an agency for TB awareness campaign. The contract stipulates a fixed price for creating awareness materials, conducting workshops, and delivering educational sessions. Payments are linked to key milestones, such as material development, workshop completion, and session delivery. Since all costs are encompassed in the initial proposal, there are no adjustments during the evaluation phase. This ensures efficient management and clear expectations, benefiting both the procuring entity and the consultant</p> |
| 2 | <p>Time-based (retainer-ship) contracts: Involve payments based on agreed hourly, daily, weekly, or monthly rates for staff, along with reimbursable expenses and unit prices for specific items. Also known as retainer-ship contracts, these are suitable when defining scope and service duration is challenging. Such contracts retain consultants or service providers for a predetermined period.</p> | <p>A time-based contract is utilized to secure the services of a public health expert for TB program evaluation. The contract outlines an hourly rate for the expert's time, covering salary, social costs, overhead, and profit. Reimbursable expenses, such as travel and accommodation, are accounted for separately. The expert is retained for a six-month period to assess the program's effectiveness and recommend improvements. Since the scope and timeframe are intricate, a time-based contract allows flexibility for evolving tasks and ensures fair compensation for the expert's time and expertise. The service provider based on the actual time spent by the provider's personnel(s) and the materials used. The contract includes an agreed-upon hourly rate or daily rate for labor, along with reimbursement for approved expenses related to the provision of services.</p> |

| S. No. | Types of Services Contracts | Example |
|--------|---|--|
| 3 | <p>Percentage (success/ contingency fee) contracts: Establish fees for consultants or service providers based on a percentage of the estimated or actual project cost, or the value of goods procured/ inspected. These contracts are termed success (or contingency) fee contracts since payment is contingent upon achieving objectives. Among technically qualified consultants/providers, the final selection prioritizes those quoting the lowest percentage, while the notional asset value remains fixed.</p> | <p>A percentage (success/contingency fee) contract is usually used for procurement and inspection agents. Percentage contracts directly relate the fees paid to the consultant to the estimated or actual cost of the goods procured or inspected. The contracts are negotiated on the basis of market norms for the services and/or estimated staff-month costs for the services, or competitively bid.</p> |
| 4 | <p>Retainer and success (contingency) fee contracts encompass two components in consultant remuneration: A retainer (monthly payment) and a success fee (percentage-based), often linked to the estimated or actual project cost. This contract model combines aspects of time based and percentage contracts.</p> | <p>A retainer and success fee contract is engaged with a strategic consulting firm to facilitate a major organizational restructuring. The consultant receives a monthly retainer for ongoing advisory services throughout the project duration. In addition, they stand to earn a success fee equivalent to 3% of the total restructuring project's cost, which includes expenses for new software implementation, training, and change management efforts. This incentivizes the consultant to ensure effective execution and successful outcomes, aligning their compensation with the overall project success. Such contracts are suitable when complex and transformative changes demand sustained consultancy and concrete achievements.</p> |
| 5 | <p>Indefinite Delivery Contract (Price Agreement): Indefinite delivery contracts, akin to rate contracts, are employed when requiring specialized "on-call" services of uncertain extent and timing. Unlike traditional contracts, there is no predetermined volume of work. Instead, unit rates are agreed upon between the procuring entity and the service provider. Payments are based on actual service usage, determined by time or quantity.</p> | <p>An indefinite delivery contract is established with a technical advisory firm. The firm offers specialized guidance on complex supply chain management issues, with a mutually agreed unit rate of ₹ 5,000 per hour. When the procuring entity faces intricate supply chain challenges, they access the firm's expertise as needed, with payments calculated based on hours consulted.</p> |

| S. No. | Types of Services Contracts | Example |
|--------|--|---------|
| | Indefinite delivery contracts are well-suited for advisory needs where unpredictability exists, such as hiring legal consultants for ad hoc legal counsel, utilizing IT consultants for software troubleshooting, or engaging temporary logistics specialists for unexpected spikes in workload. These contracts ensure timely access to expertise while maintaining cost-effectiveness. | |

Consulting services depending on the nature of services can be either lump-sum contracts, time-based contracts, or unit (item/ service) rate-based contract (as in case of goods and works - i.e., taxi service on km basis), or it can be a mix of these. For occasionally but continually needed services, indefinite delivery contracts, based on time or unit (item/ service) rates may be appropriate.

7.2.3 Types of Contracts in Procurement of Goods

Below are some of the frequently employed contract types in goods procurement as per Manual of Procurement of Goods 2022. The selection of the contract type hinges on factors such as the characteristics of the goods, specific project requirements, and the risk allocation preferences of both the procuring entity and the suppliers involved.

| S. No. | Types of Goods Contracts | Example |
|--------|---|---|
| 1 | Fixed Price Contract: In this type of contract, the price for the goods is agreed upon and remains fixed throughout the contract duration. The supplier bears the risk of any cost fluctuations, and the procuring entity pays the agreed-upon price upon delivery of the goods. | A contract is awarded to supply 10 units of micropipettes (100-1000 UL WITHOUT LOCK) of a given specification at a fixed price per unit. |
| 2 | Rate Contract: A rate contract is a pre-negotiated agreement between the procuring entity and the supplier on the rates of specific goods. It remains valid for a specified period. The procuring entity can place orders as per its requirements at the pre-negotiated rates during the validity of the contract. | A rate contract is established with a catering agency for providing refreshment and food during official meeting and training conducted under NTEP at pre-negotiated rates for a specified period, allowing the procuring entity to order as per requirements during the contract period. |
| 3 | Turnkey Contract: In a turnkey contract, the supplier takes responsibility for the entire project, including design, supply, installation, and commissioning of the goods. The procuring entity receives the completed project or goods without having to manage individual aspects of the procurement process. | A contractor is responsible for designing, supplying, and installing a complete solar power system, including solar panels, inverters, and electrical connections. |

| S. No. | Types of Goods Contracts | Example |
|--------|--|--|
| 4 | Annual Maintenance Contract (AMC): An AMC is helpful for the upkeep of sophisticated equipment and machinery for seamless operation. The contract typically starts after the warranty period, during which the supplier provides free maintenance. The contract can be with the manufacturer/supplier or a competent firm. Clauses for supplier-based maintenance should be included in the tender document, factoring maintenance costs in the evaluated tender value. Performance-based payments, milestone payments, and other payment terms should be clearly outlined. A Service Level Agreement (SLA) can detail service parameters. The bid document should clarify costs, visiting charges, spares, and additional provisions. Maintenance charges should align with prevailing rates. Performance security might be required, and safeguards for withdrawals and cancellations should be in place. | NTEP contracts with an agency for an AMC of Lab Equipment. The contract outlines periodic servicing, spare parts availability, and response times in case of issues. Performance based payments may be incorporated, incentivizing quality maintenance. To prevent overcharging, the contract specifies charges not exceeding prevailing rates. For complex contracts, a Service Level Agreement (SLA) may detail uptime, response times, and escalations. A notice period for contract termination is established in case unforeseen circumstances arise. Performance security and bank guarantees may also be required, based on the value of contract and maintenance duration. |

7.2.4 Types of Contracts in Procurement of Works

Various contract types are employed in works procurement to facilitate construction, infrastructure development, and civil engineering projects. These contracts govern the terms and conditions for contractors/construction companies. The choice of contract depends on project complexity, risk allocation, and level of detail in specifications. Common contract types in works procurement include:

| S. No. | Types of works Contracts | Example |
|--------|--|---|
| 1 | Lump Sum Contract: Also known as a fixed-price contract, the lump sum contract involves a predetermined and fixed price for the entire project. Primarily for projects with fixed designs, scope, and milestones; Lump sum contracts are suitable for standardized projects like residential buildings, minor bridges, bins, and tanks, with minimal uncertainties. Quality and scope evaluation clauses are crucial to prevent compromised work. | NHM uses a lump sum contract with a construction firm to build standardized healthcare centers as per the prescribed guidelines, ensuring fixed scope and milestones are met. |

| S. No. | Types of works Contracts | Example |
|--------|--|--|
| | <p>While not time-linked, monthly progress checks are advised to ensure timely completion. A Schedule of Rates (SOR) can manage extra work costs. Payments follow a set schedule or completion, with “activity schedules” to track percentage completion. Detailed measurements are not needed, except for additions/ omissions. Prevailing SOR guides payment adjustments for extra work costs.</p> | |
| 2 | <p>Item Rate Contract: In this type of contract, contractors provide rates for each work item based on a Bill of Quantities (BOQ) from the procuring entity. Reasonable quantity variations are allowed during execution. Payments align with agreed rates for measured quantities within a set range (typically +/- 15% per item) of the initial BOQ estimate. This contract type is widely used for civil works like buildings, roads, and bridges, minimizing uncertainty. Thoroughly assessing specifications, designs, drawings, and contract conditions before procurement initiation is vital to prevent inconsistencies, disputes, and contract failure.</p> | <p>A contract is signed with a contractor to construct a road, with rates assigned for different items of work such as excavation, laying asphalt, and installing road signs.</p> |
| 3 | <p>Percentage Rate Contract: involves contractors quoting an overall percentage either above or below the total estimated cost of a project. This contract type is ideal for projects that do not require intricate design processes and can be executed using simple drawings. It proves especially useful for small and routine works, such as land levelling, stormwater drainage, water supply, and sewer line maintenance. Unlike other contracts, percentage rate contracts do not necessitate extensive pre procurement design efforts, saving time and resources. Under this arrangement, bills are formulated based on estimated rates for individual items, with the specified percentage being added or subtracted from the gross amount. Contractors are then paid according to the measured quantity of work completed. When a standard schedule of rates (SOR) is not available, a custom schedule is created for specific project items and their rates.</p> | <p>The Health Department may require routine maintenance services for its healthcare facilities, it might opt for a percentage rate contract. Contractors would submit bids with a specified percentage above the estimated cost, covering tasks like landscaping, facility upkeep, and general repairs. This approach streamlines the procurement process for routine services without the need for intricate project design.</p> |

| S. No. | Types of works Contracts | Example |
|--------|---|--|
| 4 | <p>Piece Work Contract: is utilized in specific scenarios:</p> <ol style="list-style-type: none"> When work needs to commence before the formal contract is finalized, a piece work agreement can be established. This temporary arrangement allows work to begin in anticipation of the official contract. For ongoing projects like pipe installations or sewerage laying, periodic quotations are solicited, resulting in a running rate contract typically spanning a year. In these cases, a piece work contract outlines predetermined payment rates based on specified quantities or timeframes. Additionally, it stipulates that the procuring entity retains the option to terminate the agreement at their discretion. | <p>Health facility requires the installation of pipes for a new water supply system. To begin work promptly, a piece work contract is entered into, specifying rates for pipe installation per unit. This allows work to commence while formal negotiations for the comprehensive contract are underway, ensuring timely project initiation.</p> |
| 5 | <p>Engineering, Procurement and Construction (EPC) Contracts: Streamline project execution by entrusting contractors with investigations, design, and construction for a lump sum price through competitive bids, transferring construction risks. The contractor conducts surveys, designs, and drawings under the procuring entity's standards. Payments are stage-based, with defect liability included. Overall, EPC contracts provide an efficient and controlled way to execute complex projects. Key benefits of EPC Contracts are:</p> <ol style="list-style-type: none"> Risk Transfer: The contractor is responsible for any issues during construction, reducing the agency's risk. Streamlined Management: All aspects from design to construction are handled by the contractor, saving time and effort for the agency. Cost Certainty: The lump sum price provides cost predictability. Quality Assurance: The contractor ensures the project meets specified standards. | <p>In an EPC contract, a government agency wants to build a solar power plant. They invite bids from various contractors. The selected contractor will handle everything- from designing the solar panels layout and sourcing materials to constructing the plant. The contractor ensures the project meets technical specifications and quality standards. If there are any delays or design issues, the contractor takes responsibility, but they can also earn bonuses for completing the project ahead of schedule. This approach reduces the agency's risk and simplifies project management.</p> |

| S. No. | Types of works Contracts | Example |
|--------|---|---|
| 6 | Public Private Partnership (PPP): PPP involves a government entity (Authority) and a private sector entity (concessionaire) collaborating to create/manage public assets/ services. The private partner invests and manages for a defined period, with risk sharing. The concessionaire receives performance-based payments aligned with predetermined standards. Selection is through competitive bidding, ensuring transparency. | The public sector, in turn, has the basic last mile infrastructure in terms of sub-centers and primary health centers to reach the remotest populations. Making the private sector services and expertise available to these public health facilities will ensure ensuring accessibility and affordability. In this case Telemedicine initiatives are a strong case in point, the national teleconsultation service eSanjeevani being an apt example. |

7.3 The Law of Agency - The Principal Agent Relationship

Laws which are applicable to public procurement of goods equally apply to Procurement of Services. Legally speaking consultants/ service provider would be an agent of the principal/ client/ procuring entity, to carry out the service/ assignment on its behalf. Such a relationship is covered by The Law of Agency (Section 182 to section 238, of the Indian Contract Act, 1872) and hence there exists a principal/ procuring entity and agent relationship between procuring entity and such consultant/ service provider. As per this law, the procuring entity is vicariously legally and financially liable for the actions of its agents.

For example, a violation of certain labor laws in deputing staff for a procuring entity's contract by the agents may render the procuring entity legally and financially answerable for such violations, under certain circumstances. There is a need to be aware of such eventualities. Standard bidding documents should take care of this aspect.

7.4 Payment process and Mechanism

An effective payment process and mechanism are crucial in ensuring timely and accurate compensation to service providers while promoting transparency and accountability in public procurement.

The payment processes and mechanisms in services contracts for NTEP are essential components of successful partnerships with service providers. By establishing clear payment terms, incorporating performance-based metrics, and implementing a transparent and efficient payment process, NTEP can ensure that service providers are appropriately compensated while maintaining accountability and value for money. A well-designed payment mechanism not only facilitates effective service delivery but also promotes the overarching goal of the procuring entity.

Before we discuss the payment mechanisms, let us try understanding the process. The first step is to “verify the deliverable” (ref: Operational Manual; P:81)

Step 1: Generation of reports based on Ni-kshay

- The agency generates and submits reports on services completed during the previous month/ quarter (according to the frequency defined in the contract).
- The formats for the reports should be according to the type of partnership option and should provide information on the services delivered by the agency, for example, number of samples collected and transported, number of CBNAATs done, line-list of people identified with TB, and so on. The formats for the reports should be included in the contract.
- The reports must be accompanied with supporting documents as prescribed in the contract. These can include organization-specific reports and Ni-kshay-generated reports.
- The reports must be generated on a designated day of the month (mentioned in the contract), to avoid discrepancy in the patient cohorts during verification process.

Step 2: Raising of invoices

- The partner agency raises invoices (in the format prescribed under the contract) on completion of services of the previous month/quarter.
- The invoices must be submitted on a designated day of the month. The template of the invoice should be provided in the contract.
- The agency submits the invoices to designated state/district NHM department personnel (defined clearly in the contract).
- The invoices must be accompanied with supporting documents according to a predetermined 'document index'.

Steps 1 and 2 can be carried out simultaneously.

Step 3: Verification of payment process and verification:

- **First level of verification:** The invoices and supporting documents are received and examined by the NTEP team. The first level of verification is 100 percent, that is, 100 percent of the metrics submitted for payment are cross-checked against data in Ni-kshay or any other NTEP database.
- Payments are processed on this level of verification, so it should be completed within 10 days of invoice submission.
- **Validation:** Physical or field verification of data needs to be done on a much smaller proportion of the data 5 percent is recommended. To do the physical validation, a combination of various modalities can be used, for example:
 - o Interview (in-person or telephonic) of randomly selected Person with TB whose invoices have been submitted by the agency/partner as achieved deliverables to cross-check deliverables like NAAT and bank seeding for DBT.
 - o Validation of randomly selected patient reports/supporting documents for the given deliverables, for example, for validating a deliverable on NAAT, the NAAT report copy can be checked from the private lab or primary lab record from Ni-kshay in case the test was done at an NTEP lab. For verifying DBT seeding verification, bank passbook or check copy can be cross-checked.
 - o Interactions with randomly selected health care providers to cross-check availability of FDCs and Ni-kshay login details.

- **Discrepancies:** If any discrepancies are found (in Ni-kshay based verification or in physical validation), the following steps can be followed:
 - o Communication is sent to the agency within 3 working days of the discrepancy being found, and the agency gets 7 days to provide an explanation.
 - o If no explanation is made, or the explanation is not acceptable, penalties are calculated and deducted from payment due at the end of the year.
 - o Additionally, the designated NTEP staff increases the quantum of verification from 5 percent to 10 percent or 20 percent of the deliverables (also selected randomly) to identify further discrepancies.
 - o If there are continued discrepancies, the state may further expand the quantum of verification or may also consider getting an independent audit from a third-party organization.
 - o States may also consider building a consensus on 'the tolerance rate for discrepancy in verification' (for example, discrepancies of less than 0.5 percent magnitude may be data entry errors) and include this in the RFP and contract.
- **Reporting:** A report of the verification is shared with the competent authority who gives approval for the payment to be released.

The above steps are indicative, and states should use them as guiding principles to build their own 'verification and payment protocol' with detailed instructions and clear assignment of responsibilities

Key points to note in verification of deliverables:

- Levels of verification and responsibilities
- Clarity on frequency and metrics
- Quantum of verification
- Clarity on penalties
- Use of technology for invoice verification and payments

Process of Deliverable Verification and Payment

Following is the process of deliverable verification and payment:

- Generation of reports based on Ni-kshay
 - Raising of invoices
 - Verification
 - Payments
- A. Generation of reports based on Ni-kshay
- a) The agency is responsible for creating and submitting reports detailing the services they have completed in the preceding month or quarter, based on the frequency specified in the contract.
 - b) The reports should be tailored to the type of partnership option and must contain relevant information about the services provided by the agency. This may include details such as the number of samples collected and transported, the number of CBNAATs conducted, a line-list of individuals identified with TB, and other relevant data. The specific formats for these reports must be outlined in the contract.

- c) Each report must be accompanied by supporting documents as specified in the contract. These documents can be a combination of organization-specific reports and reports generated by the Ni-kshay system (or any relevant system).

Furthermore, the reports must be generated on a specified day of the month, as mentioned in the contract. This ensures consistency and prevents discrepancies in the patient cohorts during the verification process.

B. Raising of invoices

- a) The partner agency is required to create invoices, following the format specified in the contract, upon completing services for the previous month or quarter.
- b) These invoices must be submitted on a specific day of the month, as stated in the contract. The contract itself should include a template for the invoice.
- c) The agency submits these invoices to designated personnel from the NHM/Health Department at the state or district level, as clearly defined in the contract.
- d) Accompanying the invoices, the agency must also provide supporting documents based on a predetermined 'document index.'

C. Verification

- a) First Level of Verification:

The initial level of verification involves receiving and examining the invoices and supporting documents by the NTEP (National Tuberculosis Elimination Programme) team. This verification process is thorough, with a 100 percent cross-check of all metrics submitted for payment against data in Ni-kshay or any other NTEP database. Payments are processed promptly upon completing this level of verification, and it should be completed within 10 days of invoice submission.

- b) Validation:

A smaller proportion of the data, specifically 5 percent, requires physical or field verification. This validation involves various modalities, such as interviewing randomly selected person with TB whose invoices have been submitted by the agency/partner to verify deliverables like NAAT (Nucleic Acid Amplification Test) and the seeding of DBT in banks. Additionally, randomly selected patient reports and supporting documents are checked for specific deliverables.

For example, to validate NAAT, the NAAT report copy may be obtained from the private lab or primary lab record from Ni-kshay, in case the test was conducted at an NTEP lab. For DBT seeding verification, the bank passbook or check copy is cross-checked. Furthermore, interactions with randomly selected health care providers help verify the availability of FDCs and Ni-kshay login details.

- c) Discrepancies:

If any discrepancies are identified during the Ni-kshay based verification or physical validation, the following steps are taken:

- A communication is sent to the agency within 3 working days of discovering the discrepancy, and the agency is given 7 days to provide an explanation.
- If the agency fails to provide an acceptable explanation or does not respond, penalties are calculated and deducted from the payment due at the end of the year.

- Additionally, the designated NTEP staff increases the verification quantum from 5 percent to 10 percent or 20 percent for further identification of discrepancies. These additional deliverables are also selected randomly for verification.

d) Reporting:

A verification report is prepared and shared with the competent authority responsible for approving the payment release.

D. Payments

- Payment will be determined based on a predefined 'performance-linked payment plan. Regarding the verification of deliverables and subsequent payments:
- An initial payment of 75 percent will be made within 10 days of submitting the invoices.
- The remaining 25 percent will be paid within 28 working days of invoice submission.
- However, this final 25 percent payment may be withheld until the verification process is completed or until any identified discrepancies are satisfactorily resolved. It can also be used to account for penalties, if applicable.
- In situations where the payment is not released as scheduled, efforts should be made to process it promptly. Additionally, any delays in payment must be communicated in writing to the higher authority within three working days after the payment is made.
- All payments are subject to Tax Deducted at Source (TDS) as per Income Tax Rules/GST Act, where applicable, and other deductions as per relevant laws.

Verification and Validation Tools (Guidance Document of Partnership, RNTCP)

State / District should conduct a field verification and validation for these indicators / key output periodically among a sample of at least 5% service users. Verification and validation can be done using record review (e.g. valid test results of NAAT), contacting the patients (e.g. notification of TB patient, result of HIV testing, successful treatment outcome), verifications from healthcare service provider - a combination or any other method which might be useful in the context of the partnership option. Validation and verification should be completed within a quarter of performance of activities. It is advisable that indicators are combined for verification and validation, for example, a patient contacted for verification and validation of notification can also help in verification and validation of a public health action activity.

Observations made during verification and validation should be communicated to the Service Provider and be given an opportunity to respond to the observations and discordance, if any, within a deadline. The program manager will review the response and finalize the report.

In case of discordance, a pre-finalized penalty can be applied on the payments for the concerned patient cohort. The rate of penalty for discordance can be the deduction of two times the unit cost for the number of patients with discordance or can be applied on pro-rata basis, as decided by the program manager. The penalty clause should be a part of the bid and contract.

Suppose after verification and validation the following is noted:

- Out of 15 patients under validation, information on 1 patient was not correct (patient notified as TB in Ni-kshay, but on field found that the patient was not TB as per patients' report) with discordance of 6.67% [1/15]
- The service provider may be asked to explain the discordance and give them 30 days to respond. However, if the Service Provider is unable to justify the discordance then penalty may be levied as follows:
 - i) Suppose in notifications, number of patients with indicators are 300.
 - ii) As discordance is found to be 6.67% so number of patients for levy of penalty would be $6.67/100 * 300 = 20$
 - iii) If payment of Rs 1200/- is specified for each patient indicator, then penalty would be $20 * 1200 = \text{Rs } 24,000/-$.
 - iv) The penalty amount will be not paid or be deducted from any future payment if the payment of the previous quarter has been made. The penalty will be applied depending upon the number of discordant results as per a specific indicator variable.

Step 4: Payments (ref: Operational Manual; P:83)

- **Payment** to be made is calculated on the basis of a predetermined 'performance-linked payment plan'.
- As per operations manual Para 6.1 D. Step 4, after deliverable verification an ad hoc payment of 75 percent is to be made within 10 days of submission of invoices, and the remaining 25 percent is to be made within 28 working days of submission of invoice.
- The remaining 25 percent payment can be held back until the verification process is completed, until discrepancies have been satisfactorily addressed. It can also be used to make adjustments for calculations of penalties, if any.
- In case the payment has not been released as prescribed, it should be made as soon as possible, and after payment, a written explanation for the delay needs to be submitted to the next higher authority within three working days.
- All payments are subject to TDS according to the Income Tax Rules/GST Act (if applicable) and other deductions according to applicable laws.
- These decisions—to make verification process monthly versus quarterly and to make payments at a district versus at a state level—will need to be made by the state based on administrative feasibility. This type of detailed verification and payment protocol should be part of the RFP and the contract.

7.4.1 Payment Delays

If the contract payments are made late, months into the implementation, it might lead to a situation where the service provider has to cover operational costs on its own for a long time. This puts a large financial burden on the service provider and affects not only staff motivation but also program quality.

To prevent such delays, it may be useful to understand (and therefore avoid) the reasons that lead to payment delays.

Understanding payment delays**

| Possible Cause of Payment Delay | Responsibility |
|---|--|
| Delays in invoice submission: If invoices are submitted late, the staff in charge of verification will have challenges in verifying the outputs (for example, the people with TB may have migrated and may not be traceable). | service provider |
| Incomplete documentation: If supporting documents submitted with invoices are incomplete and/or have errors or internal contradictions, it may lead to back and forth between the service provider and procuring entity, taking up time. | service provider |
| Backlogs: When agencies submit long lists of deliverables for verification, including deliverables from previous reporting period that need to be reconciled, it can contribute to longer verification processes. | service provider |
| Multiple tiers of review: The payment mechanisms are based on too many levels of verification (from STS to DTO to STO). | procuring entity |
| Poorly defined contract terms and ambiguous verification and payment mechanisms: If contract terms are not well defined and the payment mechanisms described in the contract are not objective and easily verifiable, it can lead to unnecessary back and forth. | procuring entity |
| High quantum of verification: Some procuring entities continue to carry out as much as 100% of the physical verification | procuring entity |
| Complex penalty clauses: The payment terms include complex calculations for penalties and pro rata deductions, which requires the verifying team to invest time in cross-checking and calculations. | procuring entity |
| Paper-based invoices: Following up and cross-checking paper-based invoices and supporting documents is time-consuming. | procuring entity |
| Communication issues: The team in charge of verifications may take too long in sharing information on discrepancy or the service provider might take too long to provide explanations. | Both service provider and procuring entity |

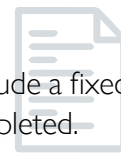
** - Source: Operational Manual for Partnerships Under NTEP, Page 85, table 22

7.4.2 Payment Terms

Clarity in payment terms is paramount in contracts. The contract should specify the payment schedule, the basis for calculating payments, and any milestones that trigger payments.

Example

In a contract with a diagnostic laboratory to conduct TB tests, the payment terms may include a fixed fee per test performed, with payments made monthly based on the number of tests completed.



7.4.2.1 Payment Types

Pay for Services: These are contracts in which the activities, processes and results are quantifiable and are available at a specified value / fee.

Example

In a contract with a diagnostic laboratory to conduct TB tests, the payment terms may include a fixed fee per test performed, with payments made monthly based on the number of tests completed.



Performance linked payments: contracts that focus on results rather than on inputs, can be of two types:

- **Target-based contracts:** The service provider is given a list of parameters with fixed targets to achieve and is paid according to the achievement of those targets.
- **Performance-based contracts:** The service provider is paid according to performance, which might exceed the targets. Performance-based contracts can incentivize performance and drive agency efforts to deliver services above and beyond the targets. Performance-based payments can also be referred to as 'incentives' or 'target-plus' payments. Incorporating performance-based payments incentivizes service providers to achieve higher quality outcomes. Establishing KPIs aligned with NTEP's goals allows for variable payments based on the achievement of targets.

Example

A contract with a healthcare provider for TB treatment services may include bonus payments for achieving a certain treatment success rate among patients.



Milestone Payments: Dividing the contract into milestones and making payments upon reaching specific progress points ensures that service providers receive compensation as they make tangible advancements.

Example

A contract with a research organization conducting TB prevalence studies may include milestone payments linked to data collection, analysis, and final reporting.



7.4.2.2 Currency of Payment

The currency in which payments are made should be explicitly stated in the contract. It is essential to agree on a stable and acceptable currency to avoid issues related to currency exchange rate fluctuations. Here it is important to note that all domestic payments must be made only in INR.

7.4.2.3 Penalties

Including penalties for non-performance or breach of contract by service providers is a crucial mechanism to safeguard NTEP's interests. Penalties should be proportional to the severity of the failure and clearly outlined in the contract.

7.4.2.4 Mode of Payment

All domestic payments to suppliers are typically made via account payee cheque or through an electronic clearing service. If there is a need for an alternative mode of payment, approval must be obtained from the finance and accounts department before entering into any contracts. The objective is to eventually transition toward using ECS for all payments, streamlining the payment process and enhancing efficiency.

7.4.3 Advance Payment

In certain circumstances, providing advance payments to service providers can facilitate smooth project implementation. However, to mitigate risks, NTEP should carefully assess the need for advance payments and set conditions for their disbursement.

Example

In a contract with an NGO for community outreach, an advance payment may be provided to cover initial expenses, but contingent upon submitting a detailed work plan and budget.



7.4.4 Incentive Payment

Incentive payment may be given in case of over achievement of target in performance-based contracts. Achievements should be evaluated annually. Maximum incentive (overall) may be 10% on the annual payment made to the service provider. The program manager can select the activities and indicators against which incentives will be given.

7.4.5 Timely Payment

Ensuring prompt payment to service providers enhances their confidence and commitment to the project. NTEP should establish a clear timeline for payment processing and adhere to it consistently.

Example

A contract with a pharmaceutical company to supply TB medications should include provisions for prompt payment within a specified period after receipt of the invoice. Needless to say, the material receipt process must also be fully adhered to.



Note On Differences Between Contract, Agreement and MoU

| Particulars | Agreement | Contract | Memorandum of Understanding |
|----------------|---|--|---|
| Definition | An agreement is a document in which two parties agree upon to work together for a common objective. It contains the rights and obligations which are to be performed as per the terms agreed. | A contract is a legally binding agreement between two or more parties. They contain duties and obligations to one another which are legally enforceable. | A Memorandum of Understanding or MOU is a document by which parties describes their intent to achieve a particular object and shows their intent to enter into a legal binding contract. Hence, MOU can be understood as merely a statement of understanding between two or more parties which when made has no enforceability in the eyes of law as such an agreement has no intention to create a legal bond between such persons. As a result of which, if in case there is a breach of such MOU there is no relief. |
| Enforceability | An agreement can be enforceable in the court of law. Note- <ul style="list-style-type: none"> The major difference between an agreement and contract is that only those agreements which can be enforced under law are contracts. For an agreement to be considered as contract it should fulfil conditions mentioned under section 10 of Indian Contract Act, 1872 <p>Example- An agreement between A and B to kidnap C can never be a contract.</p> | Enforceable in the courts of law | A Memorandum of Understanding is not enforceable in the court of law. Note: A MOU would be legally binding if the parties thereto agree to insert any such clause, the literal meaning upon reading would mean that such a MOU intends to create a legal relationship between the parties to the contract and that the breach of such provisions would mean the same as a breach of a contract. MOU will be considered as binding if the following are comprehended from the terms of the MOU: (i) Construction of words are of nature which reflects the intent that parties wish to be bound by the terms. For e.g. Use of word “shall” instead of “may”. (ii) Insertion of dispute resolution clause (iii) Legally binding clause. (iv) If MOU is consistent with the terms of Section 10 of the Indian Contract Act. |

| Particulars | Agreement | Contract | Memorandum of Understanding |
|-------------|--|--|--|
| Purpose | Aims to document obligations of both parties, distribute and minimize the risk if one party fails to perform as per agreement. | Aims to document obligations of both parties, distribute and minimize the risk if one party fails to perform as per contract term. | Aims to show that two parties have a mutual understanding in written form. |
| Example | Example-Meehika and Rahul mutually decided to go for dinner on Friday Night. However, when the day came, Rahul had to work overtime and could not meet Meehika. As a result, Meehika lost valuable time. Here Meehika cannot sue Rahul for damages as the decision to go for dinner is not a contract but merely a domestic agreement as it was not intended to create a legal relationship between the parties. | Example-Preeti takes a loan of Rs. 1 Lakh from a lender. Her brother Pradeep promises in writing to the lender that he would pay off his sister's loan if she were to default on the monthly instalments and stated that the lender has the right to move against him in appropriate court of law. Preeti repaid the initial few instalments of the loan after which she went bankrupt. The lender reaches out to her brother Pradeep and asks him to pay on his sister's behalf. Pradeep refuses to pay. Now, the lender has every right to sue Pradeep for damages as well as recover the balance part of the loan since the agreement to stand in as surety was in writing and registered and is enforceable in the court of law. | Example- China and Russia agreed to build a lunar research station, reportedly on the moon's surface, for which a document was signed between them. They will execute an agreement specifying each obligations |

7.5 Applicable Taxations (profit/non-profit) & Compliances

An essential aspect of the contracts is understanding and managing the applicable taxes (whether the service provider is a profit or non-profit entity) and ensuring compliance with tax regulations.

Managing applicable taxes and compliances in services contracts is critical for NTEP to ensure smooth contract execution and efficient utilization of resources. Understanding the tax implications for profit and non-profit entities, adhering to TDS, withholding tax regulations, and exploring tax planning opportunities contribute to successful partnerships with service providers. Complying with tax regulations not only safeguards NTEP's interests but also upholds the organization's reputation and promotes transparency.

Let us understand key points around taxation in public procurement contracts:

Budgets:

The budgets estimates must include relevant considerations around taxability (direct and indirect taxes) under relevant acts and, as much as possible, include the applicable tax amount in the budget estimation. (ref: Operational Manual; P:50)

Include Goods & Services Tax (GST) and other relevant taxes:

There have been instances of delays and failure in procurement due to limited understanding around taxes, especially related to GST. It should be specified in the RFP that the bidder needs to clarify whether the bid amount is inclusive or exclusive of GST and the same needs to be incorporated in the contract. (ref: Operational Manual; P:52) Generally, service providers are expected to charge GST from the procuring agency (that is, include it in their invoices). However, the exception is when the services provided by the agency fall under reverse charge mechanism (services notified by the central government. from time to time)—in such cases, GST shall be borne by the service receiver/ procuring entity. Other taxes like tax deducted at source (TDS) are also applicable according to the existing norms, and budgets must include tax amounts as applicable, from all relevant taxation acts.

Taxes: Tax component/amount as applicable by the relevant act should be clearly mentioned.

Applicable Taxes – “for Profit Entities”:

When partnering with profit-oriented service providers, NTEP must consider the applicability of various taxes, such as Goods and Services Tax (GST) and other indirect taxes. These taxes are typically passed on to NTEP as part of the service provider's invoices. For example, if NTEP contracts with a for-profit laboratory for TB diagnostic services, the laboratory would levy GST on the invoiced amount, which NTEP is obligated to pay.

Applicable Taxes- “for Non-Profit Entities”:

Service contracts with non-profit entities differ in terms of taxes. Under certain circumstances, non-profit entities may be eligible for tax exemptions or reduced tax rates. However, this depends on the specific regulations and tax incentives granted to non-profit organizations. For instance, if NTEP collaborates with a non-profit research organization to conduct epidemiological studies, the contract may involve lower tax liabilities due to the organization's non-profit status.

Tax Deduction at Source (TDS):

In certain services contracts, TDS obligations may arise. When payments exceed a specific threshold, NTEP is required to deduct a certain percentage of the payment as TDS and remit it to the Income Tax

Department. Complying with TDS regulations is crucial to avoid penalties and ensure smooth contract execution. For example, if NTEP engages a private consulting firm for program evaluation services and the contract value exceeds the TDS threshold, NTEP must deduct TDS from the consultant's payment and deposit it with the tax authorities.

Withholding Tax for International Contracts:

In the case of international services contracts, particularly with foreign service providers, withholding tax may apply. This tax is levied on payments made to foreign entities and is deducted at the source before remitting funds abroad. Proper understanding of the applicable rates and adherence to withholding tax regulations are essential. For instance, if NTEP contracts with an international organization to provide technical assistance, withholding tax would be deducted from the payments before being remitted to the foreign organization.

Tax Exemptions for Essential Services:

Certain healthcare-related services contracted by NTEP may be eligible for tax exemptions or reduced rates to promote public health initiatives. For example, if NTEP collaborates with a non-profit organization to conduct TB awareness campaigns, the organization may be eligible for tax exemptions as per government guidelines for promoting public health.

Compliance with Tax Regulations:

Complying with tax regulations is a critical aspect of services contracts for NTEP. Ensuring accurate calculations, timely tax deposits, and correct documentation is essential to avoid legal complications and financial liabilities. Noncompliance may lead to penalties and damage NTEP's reputation. For example, NTEP must accurately calculate and pay GST for services provided by a for-profit laboratory to avoid any legal repercussions.

Tax Planning and Optimization:

To maximize cost-effectiveness, tax planning and optimization strategies should be explored where applicable. NTEP can work with service providers to explore legitimate tax-saving opportunities, taking advantage of available exemptions or deductions. However, it is vital to maintain transparency and comply with the spirit of the tax laws. For example, NTEP can plan contracts with non-profit organizations to leverage their tax-exempt status for specific services, ultimately reducing overall project costs.



7.6 Acceptance and Rejection of Contract

When the lowest bidder or the most advantageous bidder is identified and found to fulfill all the necessary criteria and requirements outlined in the contract, the procuring organization or authority will generally accept the bid. Acceptance is based on the understanding that the lowest bidder can meet the service standards, has a proven track record of successful service delivery, and possesses the necessary qualifications and resources to perform the contract efficiently. The acceptance process often includes verifying the bidder's credentials, conducting reference checks, and ensuring compliance with all regulatory and legal obligations.

Once the lowest bidder or the most advantageous bidder is identified, the following steps are typically taken in the service contract awarding process:

- 1. Notification to Selected Bidder:** The procuring authority notifies the selected bidder that their bid has been accepted and they have been chosen to be awarded the contract. This notification can be done through letter of intent/letter of acceptance, specifying the bid amount, project details, and other relevant information.
- 2. Performance Security:** In some cases, the procuring authority may require the selected bidder to provide performance security, such as a performance bond or bank guarantee, to ensure the contractor fulfils their obligations under the contract. This is generally taken in the form of performance bank guarantee to ensure that the bidder is going to comply with the contract and will work in accordance with the terms and procedure mentioned in the contract.
- 3. Contract Negotiations:** After the bidder is notified of their selection, contract negotiations begin. During this stage, the terms and conditions of the contract are discussed and finalized. This includes clarifying any ambiguities in the bid, negotiating the contract price, defining the scope of work, setting milestones, and determining deliverables and timelines.

However, during the negotiation process, the original terms and conditions as mentioned in the bid are not to be altered and the contractor is under the obligation to abide by the same.
- 4. Approval and Awarding of Contract:** Once contract negotiations are successfully concluded, the final contract document is prepared. The contract is reviewed and approved by the appropriate authorities within the procuring organization or relevant government body. Upon approval, the contract is awarded to the selected bidder.
- 5. Contract Signing:** The awarded contract is signed by both parties - the procuring authority and the selected bidder. This makes the contract legally binding and confirms the formal agreement between the two parties.
- 6. Mobilization and Project Commencement:** With the contract now in effect, the selected bidder mobilizes its resources, including personnel, equipment, and materials, and commences work on the project according to the agreed-upon schedule.

One of the important aspects which determines the acceptance and rejection of the contract even after the bidder is identified is the successful negotiation. Negotiation process before signing of the contract is a



very crucial aspect for both the service provider and the procuring entity. Both the parties to the contract at this stage, wishes to bring to the table their best aspects.

Rejection of Contract

The circumstances under which bidder or procuring entity can reject a contract are as under:

1. Bidder may reject a contract issued by procuring entity for following reasons:
 - a) A letter of acceptance has been issued by the procuring entity after the validity of the bid offered by the bidder.
 - b) The letter of acceptance or contract is not as per the offer submitted by the bidder.
 - c) There has been a violation of the terms and conditions of contract by the procuring entity.
2. Procuring entity may cancel award of contract issued to bidder for the following reasons:
 - a) Bidder does not furnish the performance security as per terms and conditions laid down in the letter of acceptance.
 - b) Violation of code of integrity by the bidder comes to the notice of procuring entity.
 - c) There has been a violation of the terms and conditions of contract by the service provider.



7.7 Contract Management and its Purpose

The term contract management can be understood as “the process undertaken during the period from the signing of the contract to contract closure, that enables both the contracting entity and the contractor to meet their obligations within the contract in order to deliver the objectives set by the contract, in an efficient and effective manner”.

Generally, the contracts which are executed between the entities are complex in nature and thereby necessitates the requirement of the efficient contract management which serves the purpose by effectively recognizing the rights and obligations of the parties entering into the contract.

The primary major aim of contract management is to guarantee the fulfillment of contractual commitments and performance expectations. Additionally, it involves timely identification and resolution of any issues that may arise during the contract's execution.

7.8 Understanding the Steps in process of Contract Management

Steps in Contract Management: An effective contract management practice helps the parties in the successful execution of the contract. On the contrary, when the provisions of the contract are ambiguous and there is a poor contract management between the parties, several negative consequences may arise, leading to the problems such as dissatisfaction, strained relationships, financial loss or even legal disputes. The best practices that will assist in establishing the right systems in the realm of the contract management and secure the benefits of the contract are as follows:

i. **Creation of the standardized contract**

One of the best and cost friendly practice for contract management is to develop and utilize the

standardized contract templates with clearly defined terms and conditions. This practice generally streamlines the contract creation process and minimizes the errors likely to arise while drafting separate contract for every transaction.

ii. **Governance, Recording and Reporting Mechanism:**

The ministry/department awarding the contract should be involved in monitoring the progress of the assignment so that the output of the assignment is in line with the procuring entity's objectives laid down in the contract. A Contract Monitoring Committee (CMC) may be formed by the procuring entity to monitor the progress. The procuring entity may designate a counterpart



project manager with adequate technical qualification, managerial experience, and power of authority as the nodal person to interact with the consultant/service provider's team. A system of reporting should be developed and preferably mentioned in the contract. In case it is not mentioned in contract, then it should be finalized and agreed upon by both procuring entity and service provider before commencement of services. Monitoring the progress of assignment entails the following activities:

- a. Issuing the notice to proceed;
- b. Review of the inception phase;
- c. Deciding on possible modifications to scope of work and issuing contract variations;
- d. Monitoring progress of assignment - key experts are employed to report and review draft reports and the final report to ensure that assignment (whether time-based or lump-sum) is completed in accordance with the contract;
- e. Billing, payment and monitoring the expenditure vis-à-vis progress;
- f. Resolving problems faced by consultants/ service providers and dealing with disputes and arbitration;
- g. Terminating services prior to the end of the contract; and
- h. Release of final payment and guarantees (if any) and closing the contract;

iii. **Post contract evaluation.**

iv. **Commencement of Services**

There may be a possibility the services do not start within the agreed time and date. In such situations, prompt action shall be taken in issuing notice to the service provider. For complex contracts like PPSAs, it would be advisable to specify the time period of starting the contract and in case the services do not start on scheduled time then suitable penalty may be levied. The amount of penalty should either be mentioned in the contract or agreed upon between the procuring entity and service provider before commencement of the services.

v. **Reporting, and Performance Monitoring**

For assignments which are of routine nature over a long period, monthly, quarterly, and annual progress reports may be required. On the other hand, if the assignment is to prepare a study or to implement a particular task, a more specific type of reporting may be required. This could entail, besides the inception report mentioned above, interim or midterm reports if required, a draft final report, and a

final report. These may be provided in a number of media and formats but normally will entail hard and soft copy versions. Following are the important points in service contract:

- a. Mobilization and demobilization of resources/ key experts and time employed by them should be mobilized and monitored carefully.
- b. It is important that quality of output of deliverables is decided by a set of verifiable parameters and should be mentioned in the contract, for example notification of TB patient should be considered from Ni-kshay data only etc.

(Please refer section 7.14 on Performance Management for more details)

vi. **Resolving grievances/difficulties during contract implementation**

Risk identification and mitigation in contract management involve the process of identifying potential risks and uncertainties associated with a contract and implementing strategies to reduce or eliminate their potential negative impact. Following may be two types of situation which may arise during contract execution:

- a. Shortcomings in the quality of the work produced or deviations from the implementation schedule should be brought to the immediate attention of the procuring entity, so that they can be addressed at the earliest opportunity. Poor performance should not be tolerated; therefore, the service provider should act quickly to comply with a reasonable request to improve the performance of the team or to replace any particular staff member who is not performing adequately.
- b. As services contract under NTEP are a new type of contract, the service provider may face some unforeseen difficulty and, in such situations, it is necessary that the service provider should be considered as partner and support be provided to the extent possible, so that the output by the service provider is as per agreed parameters.
- c. Services delivery may be delayed for a variety of reasons. The service provider should notify the procuring entity and explain the causes of such delays. If corrective action requires extra work and the delay cannot be attributed to the service provider, the extra work should be reimbursed in accordance with the contract.

vii. **Modifications in Contract**

To cater to unforeseen situations, how modifications in contract can be carried out, shall be mentioned in detail in the contract itself.

viii. **Invoicing Cycle, Payment System, Verification and Validation**

The contract should be self-explanatory in terms of invoicing, payment system and verification including the time cycle. Both service provider and procuring entity shall adhere to the time cycle mentioned in the contract.

ix. **Breach of Contract, Remedies Available, Force Majeure and Termination**

Contract document shall clearly mention following aspects:

- a. Mechanism as to how breach of contract will be handled.
- b. Remedies available in case of breach of contract.
- c. How situation arising out of Force Majeure shall be handled.
- d. Circumstances under which contract can be terminated prior to its conclusion.

x. **Dispute, Dispute Resolution Mechanism and Arbitration**

Disputes between the service provider and the client may arise for a number of reasons. This could relate to technical and administrative matters such as interpretation of contract, payment for services or substitution of key experts – all of which should be dealt with promptly and amicably between the contracting parties in terms of contract provisions. If this is not possible, contract should specify procedures for dealing with disputes. This entails provision of a notification of dispute by one party to the other, and provision for a mutual resolution at higher levels of authority within the service provider and the procuring entity. Finally, if the dispute cannot be amicably settled between the service provider and the procuring entity, then provision is made for arbitration under the Arbitration Clause. The award decreed by the arbitration tribunal is binding.

xi. **Concluding the Assignment**

The contract is normally considered closed on the day after the completion date listed in the contract. Any expenditure incurred after the completion date are unlikely to be paid. Handling over of any asset, documents or transfer of record has to be completed before the completion date listed in the contract. The service provider should submit the final claim within 60 days of the completion date of contract.

7.9 Managing Change and Variation in Contract

Contract variation can be understood as a situation wherein parties intend to perform part of the contractual obligations differently from the manner in which they originally agreed. Varying a contract allows the business entities to alter the terms or obligations laid down in line in the original contract, without needing to scrap or redraft the entire contract. Essentially, this process of altering the terms without scraping the entire contract can be understood as amending a contract.

The variation in contract can be on account of various reasons such as (i) variation owing to change in scope of work by increasing or reducing the scope of activities to be performed by the parties; (ii) variation owing to increase or decrease in contract price which can be on account of increase or decrease by the price of the raw materials, goods required or increase or decrease in the taxes, cess, GST etc. leviable; and (iii) Substitution of named Key Personnel.

a) Variation owing to change in scope of work

At the time of the execution of the contract, certain roles and responsibilities are being conferred upon both the parties which they have to reciprocally perform for the proper and due execution of the contractual terms. Contract variation by change in scope of work entails change in circumstances and roles and responsibilities which the parties are obliged to perform under the terms of the contract.

Example

Initially, the RFP was made to the service provider for conducting a mapping exercise and landscape analysis of the private sector enterprises engaged in the TB care cascade by way of analysis of the secondary data and physical verification and for which an amount of INR 1,00,000 was agreed to be given for consideration. However, the procuring entity wants to confer the obligation upon the service provider of designing the specimen collection and coordinate with the patients and screen the contacts of the patient.

At the time of contract, the parties agree to the scope of work and the certain roles and responsibilities which are expected to be performed by the parties during the continuation of the contract period. However, during the continuation of the services requirements of the other allied services can be realized, giving rise to the procurement of other services. Thus, to avoid such lengthy procedure of another procurement for the allied services, provisions relating to the power of expanding the scope of work is generally incorporated in the contracts or the Request for Proposal released.

While drafting the RFP and drafting the agreement, the following points should be given due consideration by the procuring entity to avoid the future complications:

- A provision authorizing the procuring entity to expand or alter the scope of work or services to be rendered by the service provider should be duly incorporated in the contract.
- The provision authorizing the procuring entity should be absolute in nature.
- There should be provision incorporated in the contract for deciding the payment terms and change of contract price in case of change in scope of work by the procuring entity.
- For increase in the scope of work, the provision regarding the additional price should be incorporated as an ideal procuring entity.
- For low value and low risk contracts, include a simple clause which states (i) who can agree on a change; (ii) how and on what basis any additional costs would be calculated; and (iii) that for a change to be legally binding it has to be in writing and signed by authorized persons.
- For high value and high risk contracts, established and detailed processes containing the process of determination of consideration, compensation in case of denial etc. should be mentioned. It is to be noted that power to alter should be absolutely vested with the procuring entity and provision of compensation or penalty in case the service provider does not agree with the alteration.

Sample Provision for low value and low risk contracts

The parties hereby agrees and acknowledges that the parties shall diligently perform their obligations in consonance with the scope of work. Further, the parties hereby agrees and acknowledges that the procuring entity shall have discretion to alter the scope of work and consequent obligations related thereto.

The procuring entity shall for such increase in scope of work shall provide adequate consideration to the service provider.

b) Variation owing to change in contract prices

At the time of the execution of the contract, the party to the contract agrees on the consideration for the services which are to be rendered by the service provider. However, this contract price is adopted by taking into consideration the existing circumstances in the legal regime, the market and timely completion of the contracted work by the service provider.

The need for the variation in the contract prices arises on account of the fluctuations or transitions in the existing market circumstances and on account of the change in law.

i. Variation owing to change in market circumstances

The market circumstances are very dynamic in nature and are subject to frequent fluctuations. Thereby, an adequate provision of price variation to address the increase burden on the service provider should be incorporated. Otherwise, the non-existence of the similar provision will dissuade the service providers to enter into any contract with the procuring entity.

As per Rule 225 of the General Financial Rules, Price Variation Clause are to be provided only in long-term contracts, where the delivery period extends beyond 18 months and short-term contracts should be based on firm and fixed prices.

Sample Provision incorporated:

The estimate for the subsequent years may be revised and accordingly the service provider will be communicated at the stage of the subsequent years.

The rates for the subsequent years will be revised by the Wholesale Price index or 10% whichever is lower.

The Price Variation clause should not be as the one depicted in the “Sample Provision incorporate in the box” rather it should be unambiguous and should be properly drafted. The employer while drafting the contract shall undertake the following points into consideration:

- The price agreed upon by the parties should specify the base level viz, the month and year to which the price is linked. This specification is necessary to enable variations being calculated with reference to the price levels prevailing in the month and year of execution of the contract.
- An adequate formula for calculation of the price variations should be specified that have taken place between the base level and the date of completion should be included.
- The clause should specify the minimum variation i.e. the minimum percentage of variation above the contract price which would be admissible under the clause.
- The clause should specify the events under which the claims of price variations can be made.
- The price variation clause should specify the maximum ceiling i.e., the maximum percentage up to which the benefit of price variation will be provided by the procuring entity.

ii. Variation owing to delay in execution of work

Under the terms of the contract, the parties are imposed with the certain obligations and rights which are to be performed by the parties for the due completion of the contracted work. The parties are expected to perform their obligations in the timely manner. Otherwise, delays in the same will lead to the increase in costs of execution of the project.

An ideal procuring entity is expected to provide for adjustment in case of increase in contract price owing to delay in performance of obligations. However, it is to be noted that in terms of the Rule 225 of the General Financial Rules, the Price Variation clause should contain the provision that no adjustment in costs and other expenses to be provided if the delay is attributable to the service provider.

iii. Variation owing to change in legal regime

The contract price is submitted by the service provider against the RFP considering the taxes, cess, GST etc. applicable on the services provided under the contract. However, the law is dynamic in nature and the same can be amended by the legislature during the continuance of the contract owing to several considerations. Such amendments can have the effect of increase or decrease in the contract price, thus the provision providing for equitable adjustment of increase or decrease in taxes should be provided so that benefit can be extended to both the procuring entity and the service provider and avoid further claims by the services providers in the name of equity.

Sample Provision to be incorporated for addressing change in law:

If any rates of tax are increased or decreased, a new tax is introduced in India only, an existing Tax is abolished, or any change in interpretation or application of any tax resulting from a change or introduction in India only due to any national or state statute, ordinance, decree or other law or any regulation or by-law of any local or other duly constituted authority in India only, in the course of performance of contract, which was or will be assessed on the contractor, in connection with the performance of the contract, an equitable adjustment of the contract price shall be made to fully take into account any such change by addition to the contract price or deduction there from, as the case may be.

(c) Variation owing to change in key personnel.

Another type of contract variation is substitution or replacement of the key managerial personnel of the service provider identified in the contract. Sometimes a change of personnel is unavoidable because of resignation, illness, accident, inadequate performance, or personality conflict. The contract must specifically incorporate conditions in the contract regarding the change in key personnel of the service provider as the quality of execution of the contracts is largely dependent upon the performance, deployment and working of the Key personnel.

To address the issue of change in key personnel, the following points shall be considered while drafting the tender documents and shall be incorporated for the protection of the interests of the Procuring Entity:

- Substitution of key managerial personnel should not be allowed as a routine but to be allowed in a compelling circumstance.
- A requirement of approval from the Procuring Entity should be incorporated in the tender document before proceeding with the change in personnel by the service provider.

7.10 Risk and Liabilities

“Risk” and “Liabilities” are essential aspects that define the responsibilities and potential consequences of both parties involved in the agreement. Understanding these terms is crucial for protecting the interests of the parties to the contract.

Risk in a contract refers to the possibility of unexpected events or circumstances that could result in financial losses, disruptions, or damages to either party. The parties to the contract need to identify and address potential risks and establish measures to manage or mitigate them.

It includes delayed payments by the company, inadequate and non-performance of the contractor/ service provider, parties' failure to cooperate etc.

Here are some common types of risks in a service contract:

- a) **Performance Risk:** This refers to the risk that the service provider may not deliver the agreed-upon services to the expected standards or within the specified time frame.
- b) **Legal and Compliance Risk:** Both the parties to the contract need to comply with applicable laws, regulations and contractual obligations.
- c) **Data Security and Privacy Risk:** Handling of sensitive data or information is also one of the risks associated in the contracts. There is a risk of data breach or unauthorized access, leading to the potential legal liabilities and reputational damage.

Clause in GCC for protection of personal data:

Protection and Security of Personal Data

- 1) *Where the contractor is processing personal data, as a data processor or otherwise for the procuring entity, the contractor shall:*
 - a. *Process the personal data only as per instructions from procuring entity (which may be specific instructions or instructions of a general nature) as set out in this contract or as otherwise notified by procuring entity;*
 - b. *Comply with all applicable laws;*
 - c. *Process the personal data only to the extent, and in such manner as is necessary for the discharge of the contractor's obligations under this contract or as is required by law or any regulatory body;*
 - d. *Implement appropriate technical and organizational measures to protect personal data against unauthorized or unlawful processing and accidental loss, destruction, damage, alteration, or disclosure. These measures shall be appropriate to the harm which might result from any unauthorized or unlawful processing, accidental loss, destruction, or damage to the personal data and having regard to the nature of the personal data which is to be protected;*
 - e. *Take reasonable steps to ensure the reliability of its staff and agents who may have access to the personal data;*
 - f. *Obtain prior written consent from the authority to transfer the personal data to any sub-contractor for the provision of the services;*
 - g. *Not cause or permit the personal data to be transferred, stored, accessed, viewed, or processed outside of India without the prior written consent of the procuring entity.*
 - h. *Ensure that all staff and agents required to access the personal data are informed of the confidential nature of the personal data and comply with the obligations set out in this clause.*
 - i. *Ensure that none of the staff and agents publishes or disclose any personal data to any third parties unless directed in writing to do so by the procuring entity.*

- j. *Not disclose personal data to any third parties in any circumstances other than with the written consent of the procuring entity or compliance with a legal obligation imposed upon the procuring entity;*
- 2) *Notify the procuring entity (within five working days) if it receives;*
 - a. *a request from an employee of procuring entity to have access to his or other employees' personal data; or*
 - b. *a complaint or request relating to the procuring entity's obligations under the law;*
- 3) *The provision of this clause shall apply during the contract period and indefinitely after its expiration..*

- d) **Termination and Exit Risk:** There may be risks associated with contract termination, such as early termination penalties, loss of resources invested in the contract, or difficulties in transitioning to a new service provider.

To mitigate these risks, it is essential for both parties to thoroughly review and understand the contract terms, define clear deliverables and expectations, and establish contingency plans to address potential issues that may arise during the contract period.

Liabilities in a service contract are the obligations and legal responsibilities that each party assumes under the terms of the agreement. These obligations define what actions the parties are required to take or refrain from taking to fulfill the contractual requirements successfully.

The following are the various types of liabilities generally set out in a contract:

- a) **Performance-based Liabilities:** These are the obligations related to the delivery of services according to the terms and covenants mentioned in the agreement. It includes quality, standards, and timelines. If either of the party fails to meet these requirements, they may be held liable for the damages and penalties.
- b) **Indemnification Liabilities:** Indemnification clauses protect one party from financial losses or legal claims arising from the actions or omission of the other party.

Example:

The service provider may indemnify the employers/ companies against any third-party claims related to the services provided.



- c) **Confidentiality Liabilities:** The parties are liable to protect the sensitive and confidential information, which may be disclosed during the subsistence of the agreement. The parties have the obligation to protect this information to the third parties, such as service providers have the obligation to protect the sensitive medical records of the patients.
- d) **Intellectual Property Liabilities:** If the services provided involve the creation or use of intellectual property, the contract should specify who retains ownership and who is responsible for any intellectual property-related issues.

Clause in GCC for Intellectual Property Rights:

IPR Rights

All deliverables, outputs, plans, drawings, specifications, designs, reports, and other documents and software submitted by the contractor under this contract shall become and remain the property of the procuring entity and subject to laws of copyright and must not be shared with third parties or reproduced, whether in whole or part, without the procuring entity's prior written consent. The contractor shall, not later than upon termination or expiration of this contract, deliver all such documents and software to the procuring entity, together with a detailed inventory thereof. The contractor may retain a copy of such documents and software but shall not use it for any commercial purpose.

To manage liabilities effectively, the service contract should clearly define each party's responsibilities, the scope of services, any limitation on liability for resolving disputes or breach of contract.

In conclusion, a well-drafted contract, especially service contracts should comprehensively address risks and liabilities to protect the interests of both parties and provide a clear framework for the delivery of services and the management of potential issues of disputes that may arise during the course of the agreement.

7.11 Performance Management

7.11.1 Monitoring of Performance

7.11.1.1 What is monitoring?

Monitoring refers to the ongoing oversight and evaluation of the execution of a contract or project that has been awarded to a specific supplier or contractor through the tender. Once a tender has been awarded and a contract has been signed, the entity that issued the tender needs to ensure that the terms of the contract are being fulfilled as per the agreed-upon conditions.

Monitoring: Monitoring involves regularly observing and tracking the progress and performance of the supplier or contractor in implementing the contract. This is done to ensure that the work is being carried out efficiently, effectively, and in compliance with the agreed-upon terms, standards, and timelines. Monitoring may involve site visits, progress reports, meetings with project teams, and other forms of communication to keep track of the project's status.



The main objectives of monitoring and supervision in tendering are to:

1. **Ensure Compliance:** Verify that the awarded contractor is complying with all the terms, conditions, and specifications outlined in the contract.
2. **Quality assurance:** Verify that the work being performed meets the required quality standards and expectations.
3. **Progress tracking:** Keep track of the project's progress to ensure it is on schedule and identify potential delays or issues.
4. **Risk Management:** Identify and address any potential risks or challenges that may arise during the contract's execution.

5. **Budget control:** Ensure that the project is being carried out within the agreed-upon budget and that any cost overruns are justified and approved.
6. **Client satisfaction:** Ensure that the end product or service meets the needs and expectations of the contracting entity.

Monitoring and supervision are essential aspects of successful contract management, as they help maintain accountability, transparency, and the overall success of the project. It is the responsibility of the procuring entity to establish clear monitoring and supervision mechanisms and to communicate these expectations to the awarded contractor.

7.11.1.2 Factors Involved in Monitoring and Supervision

Monitoring and supervision in a contract involve a comprehensive set of factors to ensure successful project execution and adherence to the terms of the agreement. Here are some key factors involved in monitoring and supervision in a contract:

1. **Performance Metrics:**

Defining specific performance metrics and KPIs is crucial for monitoring the contractor's progress and evaluating their performance. These metrics should align with the project's objectives and provide quantifiable measures to assess success.

2. **Monitoring Framework:**

The contract should have a well-defined monitoring framework in terms of the frequency, responsibility and reporting methods. The clarity with respect to the above matters help in monitoring progress against the agreed-upon scope of work in the contract.



I. **Metrics**

For building a robust monitoring framework, defining the key performance indicators is necessary to ensure the optimum performance of the service providers. Monitoring should cover both types of metrics:

- (a) **Payment-linked metrics:** These metrics are ones which are directly linked with the outputs or deliverable in the contract by the service provider. These are the metrics or indicators which are to be submitted along with the invoices to be raised by the service providers.

Example:

In relation to the scope of services which can be envisaged in relation to the eradication of TB, the payment linked metrics to the service providers can be following:

- Number of people with TB notified in Ni-kshay.
- Number of notified Person with TB with validated bank accounts.
- Percentage of people with TB who underwent HIV and DM testing.
- Percentage of people with TB who successfully completed the treatment.



- (b) **Non-payment linked metrics:** These are the kind of metrics which can be deprioritized by procuring entity because they are not linked to payments but are very important for ensuring the quality of service delivery. Depending upon the type of project, non-payment linked metrics can be of multiple kinds covering programmatic aspects, management aspects, quality of service etc.

(Operations Manual for Partnership)

Example: In relation to the scope of services which can be envisaged in relation to the eradication of TB, the non-payment linked metrics to the service providers can be as follows:

1. Programmatic Indicators:
 - % change in number of providers registered on Ni-kshay
 - % increase in the engaged private sector providers (mapped and notifying to Ni-kshay)
 - % change in number of active providers
 - % change in number of providers with FDC available at their clinic
 - % private notified patients initiated on programmatic FDCs
 - % patients who received the comorbidity testing within the agreed TAT
2. Management related indicators:
 - Number of continuous medical education (CME) trainings done with the private providers
 - % of HR positions vacant for more than a month
 - Program management unit has set their office up at an accessible location
 - All the patient's records are being maintained according to the program guidelines
3. Quality of service indicators:
 - Quality of sample collection
 - Management and disposal of biomedical waste according to regulations
 - NAAT test carried out within 7 days of diagnosis
 - Second-line DST carried out within timelines prescribed by the PMDT guidelines

- Frequency and quality of adherence counselling
 - Basis of diagnosis (microbiological vs clinical)
4. Data Quality Indicators:
- Consistencies and logic in dates (dates of enrolment, diagnosis, treatment initiation, NAAT, DBT, and treatment outcomes should follow each other and should have a logical distance)
 - Consistency between age of person with TB with treatment protocols (paediatric vs adult)
 - Consistency between results of diagnosis and DST result with treatment protocol (DSTB vs DRTB)
 - No inappropriate/outlier values

II. Monitoring framework

A monitoring framework in a contract refers to a structured and systematic approach to monitor and evaluate the progress, performance, and compliance of the contract throughout its lifecycle. It provides a set of guidelines, tools, and processes that the contracting entity uses to effectively oversee the execution of the contract and ensure that the agreed-upon objectives are achieved. The monitoring framework helps maintain accountability, transparency, and control over the contract, enabling timely identification of issues and facilitating appropriate actions to address them.

Key components of a monitoring framework in a contract:

1. **Objectives and Indicators:** Clearly define the objectives and outcomes expected from the contract. Establish measurable performance indicators (KPIs) that will be used to assess the progress and success of the project.
2. **Roles and Responsibilities:** Clearly define the roles and responsibilities of the parties involved in the contract, including the contracting entity, the contractor, and any other relevant stakeholders. This ensures that everyone knows their obligations and accountabilities.
3. **Reporting and Documentation:** Specify the reporting requirements and frequency of progress updates that the contractor must provide to the contracting entity. These reports should be comprehensive, accurate, and submitted on time.
4. **Data Collection and Analysis:** Outline the methods and sources for collecting relevant data to measure the project's performance against the established indicators. Ensure that data is analyzed effectively to provide valuable insights.
5. **Risk Management Plan:** Include a risk management plan that identifies potential risks associated with the project and outlines strategies for mitigating these risks.
6. **Quality Assurance and Control:** Detail the procedures and standards for ensuring the quality of the deliverables and services provided by the contractor.
7. **Communication Plan:** Establish a communication plan that outlines how information will be shared among stakeholders, how feedback will be provided, and how issues will be escalated and resolved.

8. **Change Management Process:** Define a process for handling any changes to the contract scope or requirements, including procedures for obtaining approvals and documenting modifications.
9. **Performance Evaluation and Review:** Set up mechanisms for periodic performance evaluations and reviews with the contractor to discuss progress, identify challenges, and make necessary improvements.
10. **Compliance Monitoring:** Establish procedures to ensure that the contractor is complying with all contractual obligations, legal requirements, and relevant regulations.
11. **Penalties and Incentives:** Include provisions for penalties in case of non-compliance or underperformance, as well as incentives for exceptional performance.
12. **Contract Closeout Process:** Outline the steps for the smooth closure of the contract, including final acceptance procedures and any necessary handover arrangements

Monitoring Framework: PPSA: Suggested payment-linked indicators (Operations Manual for Partnership)

1. *Number of people with TB notified in Ni-kshay:*
2. *% of diagnosed people with TB who received NAAT testing:*
Number of private sector patients received NAAT testing
Total number of private sector patients notified
3. *% of private sector patient initiated on FDC:*
Number of private sector patients received NAAT testing
Number of private sector patients initiated on FDC
Data source which can be measured is through Ni-kshay/field visit at following frequency level:
State level: Monthly
District level: Weekly
Sub-district level: Weekly

7.11.1.3 Principles Underlying Process of Monitoring

While incorporating the monitoring framework in the contract, the following principles concerning the monitoring should be given due consideration:

- (i) **Structured process:** A robust monitoring process is the process which is properly structured and concurrent. Such process needs to be developed and implemented as early as the first month of the operations of the contract so that issues can be identified in the beginning itself. Situation of reviewing performance in 6 months by incorporating provisions in the contract should be avoided so that purpose of the contract can be effectively implemented.
- (ii) **Modalities of Communication:** Monitoring is to be done through mixture of modalities such as check-in meeting, document examination, random field visits etc.

- (iii) **Supportive supervision:** The object of the monitoring process should be on analysis of determining the factors by which the process can be streamlined and performance can be secured effectively and not merely fault finding.

Points to be considered while formulating monitoring framework

The following points are to be adopted to make the monitoring and supervision efficient and effective with regard to the performance of the contract:

- Wherever possible in contract, standardized formats for the documents that needs to be maintained should be prescribed.
- Documents maintained in electronic formats should be accepted.
- Performance meeting review timetable should be specifically incorporated and specified in clear terms in the contract.
- Include the random monitoring visits by visiting the areas allotted to the service provider.
- Constitute a committee at least of three members for monitoring the progress of the assignment. The members of the committee shall be experts in relation to the services to be discharged by the service provider.

7.11.1.4 Provisions under General Financial Rules (GFR), 2017 for Monitoring

Rule 195 Monitoring the Contract. The 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 226 Management of Contracts:

- (i) Implementation of the contract should be strictly monitored, and notices issued promptly whenever a breach of provisions occurs.
- (ii) Proper procedure for safe custody and monitoring of bank guarantees or other instruments should be laid down. Monitoring should include a monthly review of all bank guarantees or other instruments expiring after three months, along with a review of the progress of supply or work. Extensions of bank guarantees or other instruments, where warranted, should be sought immediately.

Conclusion

Monitoring and supervision are vital components of successful contract management. By overseeing the execution of a contract or project awarded through a tender, the contracting entity ensures that the terms and conditions are met, and project objectives are achieved. Monitoring involves systematic observation and tracking of the supplier or contractor's progress and performance.

A well-established monitoring framework encompasses various factors such as performance metrics, clear scope of work, regular reporting, site visits, and risk management. It also includes communication, quality control, compliance monitoring, and contract closeout procedures. By implementing a robust monitoring system, the contracting entity can verify compliance, track progress, manage risks, and ensure client satisfaction.

Additionally, adhering to government regulations like the GFR 2017 ensures that the monitoring and management of contracts follow best practices. Monitoring the contract throughout its lifecycle, involving stakeholders, and promptly addressing breaches or issues contribute to successful project outcomes. Thus,

the effective monitoring and supervision in projects not only foster transparency and accountability but also enhance the likelihood of project success, meeting stakeholders' expectations and ultimately contributing to the overall growth and development of the organization.

7.11.2 IT Based Performance Verification

IT based performance verifications helps the entities and other departments to verify and monitor the performance digitally. The use of information technology tools and techniques made it possible for the grass-root level healthcare providers to track data of every TB patient.

ID based verification: ID (Identification) based verification can be an effective method for ensuring effective service delivery to a patient. Patient Identifiers are key for identifying a patient. Ideally, there should be only one identifier for each patient which identifies patient as well as processes for lifetime. However, during the continuum of care, one identifier may not be appropriate to represent the episodes and other processes. Hence, there are various IDs which are tagged to one patient. Knowing each IDs and its purpose is therefore important.

7.11.2.1 Effectiveness of ID based Verification

The various IDs that are present in Ni-kshay and their purpose are described below:

- a) **Patient ID:** In Ni-kshay, a TB patient can be identified by their Name, Patient ID or Ni-kshay ID. Since, patients might get enrolled at one primary health institute (PHI), diagnosed at another and initiated on treatment at a different PHI, the ID has been simplified to a unique number.
- b) **Episode ID:** In a life cycle approach, a person needs to be tracked across episodes of TB known as the episode ID. In the first episode, the Patient ID = Episode ID (will be numerically equal). The patient is notified and completes one treatment cycle (diagnosis to outcome). However, the patient may continue to have TB or have TB again at a later point in time. This is recorded as a second notification and becomes the second episode of TB. A patient may be identified in Ni-kshay using a global search by both episode ID and patient ID.
- c) **Test ID:** When request for a laboratory test and test result for a patient is added under Ni-kshay, it generates a unique test ID. For multiple tests added a new test ID is generated for a patient.
- d) **Transfer ID:** In Ni-kshay, a transfer request of patients between health facilities across the country feature is enabled. Users make requests of two types - "transfer in" and "transfer out". This process generates a unique transfer ID for the patient. The details of transfer in and transfer out with transfer ID are available in Ni-kshay's transfer management feature.
- e) **Sample ID:** It is essential that patient samples are registered in Ni-kshay. While "Adding Test(s)" when sample details are added, Sample IDs are auto-generated. Sample IDs help to track samples in Ni-kshay using this unique ID.
- f) **Benefit ID:** A "benefit" defined in the Ni-kshay-PFMS (Public Finance Management System) is a payment due to a beneficiary under a particular scheme. For example, in Ni-kshay Poshan Yojana (TB Patient Nutritional Support Scheme), the beneficiary is a case of TB, notified to Ni-kshay. This beneficiary under the scheme is eligible for Rs 500 for each treatment month. Thus, Ni-kshay generates a Benefit ID that identifies the patient eligible for benefits @ Rs. 500 for each treatment month.
- g) **Beneficiary ID:** A beneficiary is a person/ citizen who is eligible to get benefits (financial or in kind) under any government scheme. Whenever Ni-kshay identifies a potential beneficiary, it issues a unique beneficiary ID to it. All the benefits processed or paid to a beneficiary are tracked using the Ni-kshay

Beneficiary ID. For example, if a patient has multiple episodes, all the benefits of the patient across episodes are managed using the Beneficiary ID. This information is available in the beneficiary register exported from Nikshay.

- h) **Ayushman Bharat Health Account (ABHA) ID:** The Ayushman Bharat Digital Mission (ABDM) aims to develop the backbone necessary to support the integrated digital health infrastructure of the country. Ayushman Bharat Health Account (ABHA) ID is a 14-digit number which can uniquely identify persons and authenticate them (previously known as Health ID). It can be used to access and digitally share one's health records, with consent. ABHA is integrated into Ni-kshay and addresses ABHA creation, capture and verification for seamless patient registration in Ni-kshay. Ni-kshay uses the Aadhaar verification services provided by NDHM (National Digital Health Mission) to generate ABHA.

Here are some benefits and considerations for using ID-based verification in the tendering:

- a) **Reduced Fraud:** ID-based verification helps reduce the risk of fraudulent activities, such as submitting false information.
- b) **Increased Accountability:** When service providers are required to provide documentation in relation to the process, they are more likely to avoid the fraudulent acts and also the same would assist the Procuring Entity to verify the performance of the service provider regularly.
- c) **Better Vendor Evaluation:** Accurate identification of the performance of the service providers allows the authority to conduct more effective due diligence. The evaluation process becomes more reliable as the authority can verify the track record, financial stability, and reputation of the bidders before making a selection.

In relation to the above tools for verification, there are some considerations that need to be taken into account:

- a) **Data Privacy:** Collecting and storing personal data for ID verification must be done responsibly and in compliance with data protection laws. Proper safeguards should be in place to protect sensitive information from unauthorized access or misuse.
- b) **Administrative Burden:** Implementing ID based verification may require additional administrative effort and resources. Adequate systems and personnel should be in place to handle the verification process efficiently.
- c) **Accessibility:** The ID verification process should be accessible to all potential service providers, including small and medium-sized enterprises. Requirements should not create unnecessary barriers that might exclude qualified participants.
- d) **Validity and Verification Process:** Ensuring the authenticity of submitted identification documents is crucial. The verification process should be reliable, and measures should be in place to detect forged or manipulated documents.



7.11.2.2 Ni-kshay Portal

Ni-kshay (Ni=End, kshay=TB) is the web-enabled patient management system for TB control under the NTEP. It is developed and maintained by the CTD, Ministry of Health and Family Welfare, Gol, in collaboration with

the NIC, and the World Health Organization Country Office for India.

Ni-kshay is used by health functionaries at various levels across the country both in the public and private sector, to register cases under their care, order various types of tests from labs across the country, record treatment details, monitor treatment adherence and to transfer cases between care providers. It also functions as the National TB Surveillance System and enables reporting of various surveillance data to the Gol.



7.11.2.2.1 How Ni-kshay Portal is effective?

Automated verification and payment processes are valuable for three reasons:

- First, they have a positive impact on verification timelines and release of payments, ensuring transactions are completed quickly and efficiently. Such tools can reduce the time taken in the first level of verification (against Ni-kshay data) from current average of 20 days to as low as 1 day.
- Secondly, technology-based systems can lead to transparent systems that function seamlessly, are not person dependent, and help expand mutual trust between partners. Automated tools can remove all possibility of subjectivity in physical verification (validation) by randomly selecting the 5 percent quantum of deliverables that need to be validated.
- Third, in developing technology tools, attempts should be made to automate even the validation (for example, automated IVRS calls to validate patient information).

7.11.2.2.2 Advantage of Ni-kshay Portal

1. Centralized and Standardized System

Ni-kshay serves as a centralized and standardized patient management system for TB control under the NTEP. This ensures uniformity in data collection, reporting, and management of TB cases across the country.

2. Accessibility and Web-enabled

Being a web-enabled system, Ni-kshay can be accessed from various locations and devices with an internet connection. Health functionaries at different levels in both public and private sectors can efficiently manage TB cases, which facilitates better coordination and monitoring.

3. Real-time Data Reporting

The system allows for real-time reporting of TB cases and treatment details. This feature aids in timely decision-making, resource allocation, and intervention planning to tackle TB effectively.

4. Collaboration with Stakeholders

Developed in collaboration with the NIC and the World Health Organization (WHO), Ni-kshay benefits from the expertise and inputs of these organizations, making it a comprehensive and reliable platform for TB control.

5. Comprehensive Case Management

Ni-kshay supports various functions related to TB case management, including case registration, ordering tests from labs, recording treatment details, monitoring treatment adherence, and facilitating case transfers between care providers. This comprehensive approach ensures continuity of care and reduces the chances of gaps in patient management.

6. National TB Surveillance System

The system also serves as the National TB Surveillance System, enabling the GoI to collect and analyze surveillance data. This data-driven approach enhances the understanding of TB trends, hotspots, and helps in formulating targeted strategies for disease control.

Overall, Ni-kshay plays a crucial role in facilitating TB control and surveillance in India, but careful attention should be given to addressing the mentioned disadvantages to ensure its widespread and seamless implementation.

These real-time examples illustrate the tangible impact of Ni-kshay advantages and the challenges posed by its disadvantages in TB control. Addressing the limitations while maximizing the strengths of the platform is essential to optimize its role in India's fight against TB.

7.12 IT Enabled Contract Management

Government e Marketplace is one of the best examples of IT enabled contract management system. In GeM the following is done through electronic means for purchase of common Goods and Services:

1. Issue of contract.
2. Modification contract for example delivery period extension etc.
3. Raising of invoices by the contractor is done online.
4. Acceptance of material or services has to be done online.
5. After acceptance, the contractor raises the bill online.
6. Passing of bills and payment to contractor is also done online.
7. The digital signature on the documents is done through Aadhar based system.

In this context following instructions are relevant:

1. GoI, Department of Expenditure notification No. F.26/4/2016-PPD dated 26.05.2016 (PPD_GeM26062016_0.pdf (doe.gov.in))
2. Clause 5.2.4.6 regarding "Order Fulfilment and Payment" and Clause 5.2.4.7 regarding "Contract Management" states IT enabled Contract Management system (https://assets-bg.gem.gov.in/resources/pdf/GeM_handbook.pdf)
3. Training Modules with respect to "Invoice Creation on GeM", "Order Processing", "Supplementary Invoice Generation" and "Service Invoicing, Consignee Review and "Order Billing" are also available (https://gem.gov.in/training/training_module)

Indian railways have developed their own IT enabled system for procurement and contract management of Goods, Services and Works. As far as goods and works are concerned the IT system. Like GeM the invoices are raised online and deductions if any (liquidated damages etc) is done online. Passing of bills and payment is also done online. The following documents explain the online process of invoice/bill generation and payment.

1. Procedure for mapping party codes & viewing status of bills (Microsoft Word - Viewing Status of Bills for Payment (ireps.gov.in))
2. User Manual for Contractors/ Suppliers for Online Bill Tracking Version 1.0 (Microsoft Word -

User Manual for Contractors- Suppliers for Online Bill Tracking (ireps.gov.in))

3. User Manual for On-Line Submission of Supplementary Bills by Vendors (Version-2.0) ([https://www.ireps.gov.in/ireps/upload/resources/User_Manual_for_Supplementary_Bills_\(Vendors\)_Version_2.0.pdf](https://www.ireps.gov.in/ireps/upload/resources/User_Manual_for_Supplementary_Bills_(Vendors)_Version_2.0.pdf))

Indian Railways IR-WCMS: Works Contract Management System is an IT enabled for contract management (<https://ircep.gov.in/IRWCMS/wpmisp2/HelpOuter.jsp>). The Following activities are done through this portal:

1. Process Flow
2. Administration
3. Porting Of LOA
4. LOA or Agreement Entry
5. PG And Agreement
6. Billing
7. Correspondence
8. Release Of PG/SD
9. Doc Extension
10. Contract Variation
11. NS Item Sanction
12. Old but Live (Manual/Offline) Contract Module
13. Physical Bill Module and Old but Live (Manual/Offline) Contract Entry
14. Contractor Advance
15. Departmental e-MB
16. Contractor's e-MB
17. Module of Billing through Contractor's e-MB
18. Module of e-Pay Order
19. Setup of DSC for live Run

7.13 Breach of Contracts

Under the terms of contract, certain obligations are imposed upon both the parties which are to be timely performed for the effective execution of the contract. In case parties do not fulfill the obligations envisaged in the contract, the purpose of the contract will be frustrated.

The non-fulfillment of the respective obligations envisaged in the contract constitute breach of contract which can be understood as the event wherein either party to the contract fails or refuses to fulfill their promises stated in the contract. It is a legal issue where a binding agreement is not honored by one or more parties, making it impossible for the contract to be performed as intended.

In simpler terms, breach of contract occurs when the parties involved in a contract do not do what they promised to do.

Major Issues That Generally Arose In The Contractual Matters

Case study

The procuring entity was under an obligations to provide the surgical instruments and other materials requisite for the performance of obligations by the contractor, however, the procuring entity does not have at any point of time during the contract period sufficient quantity of materials required to be supplied and thereby supplied the materials to the contractor in piecemeal form which consequentially have the effect of delay in completion of the work by the contractor and raising of claim by the contractor for the idle workers and increase in cost of work.

A contract once executed is binding in nature and the parties are under an obligation to honor the terms and provisions entered by them with open eyes. The major issues that generally arise during execution of the terms of the contracts are:

- a) Delay in the fulfillment of the reciprocal obligations by the parties under the terms of contract;
- b) Delay in timely remittance of the consideration by the Procuring entity;
- c) Completion of the work by the contractor not in accordance with the terms and provisions of the contract;
- d) Wrongful deduction by the Procuring entity from the performance security/ security deposit.
- e) Failure to act in accordance with the terms of the contract by the either party to the contract;
- f) Encashment of the security deposited submitted by the Service Provider.
- g) Adequate adjustment in the quoted prices owing to the change in law and prices.
- h) Management of variation in contracts.
- i) Conflicts of understanding concerning the respective obligations by the parties etc.

Types of Breach in a Contract:

- a) **Material Breach:** This is considered as as a severe type of breach and involves a significant failure to perform a crucial part of the contract. It is deemed a serious violation of the contract's provisions. A minimal violation of contract normally does not prohibit the deal from being completed in a timely and satisfactory way. A major breach, on the other hand, makes achieving a satisfying result difficult or impossible.

Case study

The private sector medical service providers are given a target to treat 800 people with TB in a month by the government entity. In case the service providers fulfill this target, the service providers will be paid in accordance with the contract value. Now one of the major conditions provided in the contract is that the service providers are required to upload the information of the people with TB on the portal so that the government entity can track the target completed by the Patients.

However, the service provider, in order to fulfill the requisite target uploaded the fake information of the people with TB and raises fake invoices against them.

When the Government Entity received the knowledge of such acts done by the service provider, they terminated the contract with the service provider.

Now this act of the service providers considers as the material breach of the contract and the Government Entity has the right to impose the legal obligations on such entities.

- b) **Anticipatory Breach:** This occurs when one party clearly and unequivocally indicates that they will not be able to fulfill their contractual obligations in the future. For instance, if a service provider informs the client in advance that they will not be able to deliver the services as agreed upon. In such cases, the non-breaching party can consider the contract as breached and may choose to pursue legal remedies immediately.
- c) **Minor Breach:** A minor breach, also known as a partial breach, occurs when one party fails to perform a minor or non-essential part of the contract. While it is a breach, it does not go to the heart of the agreement and may not significantly affect the overall purpose of the contract. In such cases, the non-breaching party can still claim damages for the specific breach but must continue to fulfill their own obligations under the contract.

A breach of contract in a service contract occurs when one party fails to fulfill their obligations. The type and severity of the breach determine the available remedies, which may include damages, specific performance, termination, or injunction. To minimize the risk of breach and its potential consequences, parties should draft a clear and comprehensive contract, maintain communication, and take proactive steps to address any issues that may arise during the contract's execution.

7.14 Remedies Available

When a breach of contract occurs, the non-breaching party may seek legal remedies to address the harm caused by the breach and enforce the terms of the contract. The available remedies for breach of contract can vary depending on the nature and severity of the breach, as well as the governing laws and the specific provisions of the contract. Some common remedies for breach of contract are described below:

- a) Provisions under law
- b) Provisions under contract

i. Provisions under law

- a) **Specific performance:** Specific performance is a remedy available under contract law that allows a court to order the party who is not acting in accordance with the terms agreed to fulfil their contractual obligations exactly in consonance with terms specified in the contract. It is a discretionary remedy granted by a court when monetary claims/damages would be incapable of redressing the grievance of the other party if a party to the contract continues to act contrary to the terms agreed.

The remedy for specific performance is governed by contract law principles and is typically available when the subject matter of the contract is unique or rare, making it challenging to obtain a suitable replacement in the event of a breach. It is to be noted that the terms of the contract should be drafted in a manner so that the contract is not considered as a determinable in nature in terms of Section 14 of the Specific Relief Act, 1963 i.e. the contract should not confer unilateral right with any of the party to contract to terminate or end the contract without assigning any reason to the other party. If the contract will be of determinable in nature, then the terms of the contract cannot be specifically enforced by the Procuring Entity.

*In the case of **Narendra Hirawat and Co. V. Sholay Meida Entertainment Private Limited**, it was held that the contracts which provides for a condition to be fulfilled as a necessary ground for the termination of a contract will not be considered as a determinable in nature as the party is not vested with the unconditional right to terminate the contract. Thus, in the instant case, wherein the termination can be affected only on ground of default by the other party, thereby the contract cannot be considered as determinable by its very nature and is specifically enforceable against the other party*

*In the case of **Orissa Manganese and Minerals (Pvt.) Ltd.v. Adhunik Steel Ltd.**, it is clear that in the event any terms and conditions of the agreement are violated by any of the parties to the agreement, it will be open for either party to give 90 days' notice to remedy the breach. Only in the event either party fails to remedy the breach, the agreement can be terminated. Therefore, it cannot be said that the agreement is determinable at the instance of either party.*

- b) **Unliquidated damages:** Section 73 of the Indian Contracts Act, 1872 deals with actual damages resulting from infringement of the contract and the injury arising from such infringement which is in the nature of unliquidated damages since such damages are granted by the courts on the basis of an evaluation of the loss or injury caused to the party against which the infringement occurred.

Section 73 of the Act embodies the law on unliquidated damages and stipulates that in the event of a breach of contract, the aggrieved party is entitled to receive compensation for any loss or damage caused to the aggrieved party. This loss or damage must have naturally arisen in the usual course of things or should have been within the contemplation of parties at the time of entering into the contract. This does not include remote and indirect losses and the possibility of mitigation of losses must be taken into consideration while computing the damages.

Case study

This case study involves a contract between a medical research institute, “HealthCare Innovations,” and a pharmaceutical company, “MediPharma,” for the development of a groundbreaking vaccine to combat a highly infectious and deadly disease. The contract aimed to conduct extensive research and clinical trials to develop an effective and safe vaccine to protect the global population.

HealthCare Innovations had significant expertise in medical research and had successfully completed various healthcare projects. On the other hand, MediPharma was a leading pharmaceutical company known for its innovations in vaccine development. Both parties were highly motivated to collaborate on this critical medical project.

The contract between HealthCare Innovations and MediPharma outlined the scope of work, milestones, timelines, and the financial arrangement for the research project. It also contained a clause stating that if either party breached the contract, the non-breaching party would be entitled to compensation for unliquidated damages. Unfortunately, during the research process, a serious breach occurred. HealthCare Innovations failed to meet critical milestones within the agreed timelines, causing substantial delays in the vaccine development process. The delays led to a significant financial loss for MediPharma, as they had invested substantial resources in the collaboration.

Upon discovering the breach, MediPharma promptly notified HealthCare Innovations of their failure to meet the contractual obligations and the resulting financial losses incurred. MediPharma claimed compensation for unliquidated damages as per Section 73 of the Indian Contract Act, 1872.

ii. Provision under the Contract

- a) **Liquidated damages:** Liquidated damages are a form of predetermined compensation agreed upon by the parties in a contract to be paid in the event of a specific breach. These damages are meant to serve as a reasonable estimate of the actual losses that would result from a breach of contract. Liquidated damages are specified in the contract itself, and their purpose is to provide certainty and avoid disputes over the extent of damages in case of a breach.

The parties involved in a contract will typically agree on the amount of liquidated damages at the time the contract is signed and include the details in the agreement. Those signing the contract may also choose to include information on what types of actions would require that one party pay liquidated damages to the other party. For example, if a software developer agreed to deliver a set number of widgets but couldn't deliver that number and/or couldn't meet the deadline, that developer might have to pay liquidated damages.

There should be a suitable provision in the terms & conditions of the contract for claiming liquidated damages of an appropriate amount from the supplier to take care of delays in supplies and performance, for which the service provider is responsible. Such recovery through liquidated damages should be without prejudice to the other remedies available to the purchaser under the terms of the contract. Depending on the nature and value of the goods to be ordered and the urgency of the requirement, a specific percentage of the delivered price of the delayed goods (or delayed services) for each week or part thereof delay, is to be incorporated in the contract terms. Generally, the percentage is 0.5% per

week or part thereof. There should also be an appropriate maximum limit of such deduction, to be shown as a specific percentage of the contract value of delayed supplies/services and incorporated in the contract terms. This percentage is generally 10%. Any lower ceiling should be clearly justified while formulating the contract.

- b) **Settlement of dispute:** Normally, there should not be any scope of dispute between the purchaser and the supplier after entering into a mutually agreed valid contract. However, due to various unforeseen reasons, problems may arise during the progress of the contract leading to disagreement between the purchaser and the supplier. Therefore, the conditions governing the contract shall contain suitable provision for settlement of such disputes / differences binding on both the parties.

Mode of Settlement

Mode of settlement of such disputes/differences shall be through Arbitration. However, when a dispute/difference arises, both the purchaser and the supplier shall first try to resolve the same amicably by mutual consultation. If the parties fail to resolve the dispute by such mutual consultation within twenty-one days, then, depending on the position of the case, either the purchaser or the supplier shall give notice to the other party of its intention to commence arbitration as herein after provided:

- i) When the contract is with domestic supplier, the applicable arbitration procedure will be as per Indian Arbitration and Conciliation Act, 1996.
 - ii) When the contract is with foreign supplier, the supplier has the option to choose either Indian Arbitration and Conciliation Act, 1996 or Arbitration in accordance with the provision of United Nations Commission on International Trade Law Arbitration Rules.
- c) **Right against performance security:** The right can be exercised in case of any default that occurs on the part of any of the parties. Then in such a case the parties can forfeit or encash the security. In the event that any of the defaults shall have occurred, and the supplier does not rectify the default within a Cure Period ("Cure Period") usually 30 days, then the performance security can be encashed and appropriated.
- d) **Claim of force majeure:** Force majeure is related to the concept of an act of god or an event which is beyond the control of the either party and for which no party can be held liable.

A force majeure event works to excuse all or part of the obligations of one or both the parties. It is pertinent to note that mere monetary hardship owing to the change in market circumstances would not constitute the force majeure event.

The following things should be considered while drafting the force majeure clause in a contract:

- What would constitute force majeure should be specifically defined;
- Requirement of notice in case of occurrence should be incorporated in the clause;
- Effects owing to occurrence of force majeure event on obligations to be performed under the contract should be specifically mentioned;
- Procuring Entity should be vested with the authority to determine whether force majeure event has occurred or not upon notice by the other party;
- Provision regarding termination of contract if the force majeure event continues for a long time.

In the case of **Energy Watchdog v. CERC**, the Hon'ble Apex Court has observed that the party cannot excuse its obligations under the contract by taking shelter under the force majeure clause merely on the ground that the tariff on imports has increased substantially from what was contemplated at the time of execution of contract.

7.15 Settlement of Disputes

As discussed earlier, during the continuation and the performance of contract, several disputes or differences in relation to interpretation of contract, remittance of payment, delay in performance of obligations, quality of services, scope of work etc. may arise between the parties. Thus, it is necessary for the proper execution of the contract of services and to protect one's interest that an adequate mechanism to resolve the dispute or difference and enforce the right shall be provided in the contract. Generally, for the resolution of disputes arising in relation to the works and services contract, can be resolved/settled through various methods.

The most common methods of settling the contract disputes are:

- Mediation;
- Conciliation;
- Litigation; and
- Arbitration.

i. Mediation as a process of dispute resolution

Mediation is an exclusive process whereby the parties to the contract agrees for a voluntary arrangement of the third party (mediator) to resolve the dispute. Precisely, it is an informal process wherein the mediator chosen by both the parties listens to the arguments of both the sides and discusses the disputes or differences between the parties either separately or together with motive to assist the parties in reaching the settlement. Essentially, the mediator has no authority to bind the parties with its decision and its role is restricted to assisting the parties in recognizing the strengths and weakness of arguments of both the parties and look for a solution acceptable by both the parties.



ii. Conciliation as a method of dispute resolution

Conciliation is an informal process in which a third party (Conciliator) appointed by the parties to the disputes tries to bring the disputes which arose between the parties to an end. The Conciliator overcomes the point of disputes between the parties by lowering the tensions, improving the communication, interpreting the issues, providing technical assistance, and exploring the solutions to the disputes.

The process of conciliation is similar to the mediation, however, the main difference that exists between the conciliation proceedings and the mediation proceedings is difference in terms of the role played by

the Conciliator and Mediator as at some point during conciliation, the conciliator may be asked by the parties to provide for the non-settlement agreement.

Under Indian legal regime, the Part III of the Arbitration and Conciliation Act, 1996 deals with the provisions relating to the conducting of the conciliation proceedings. As per the provisions of the Act, the conciliation is a voluntary flexible process which allows the parties to decide the time and place for conciliation, structure, content, and terms of negotiation.

iii. **Arbitration as a method of dispute resolution**

Arbitration is a most common method of alternative dispute resolution mechanism adopted by the parties to the contract to settle the disputes. Under the arbitration, the dispute is being referred to the decision of the independent third party/parties known as arbitrator/arbitrators. Arbitration proceedings are entirely different in nature than the mediation and conciliation proceedings as the parties will be bound by the decision taken by the arbitrator/s.

The arbitration proceedings are essentially like a court procedure, a trial listens to the entire situation or dispute between the parties and the parties adduce evidence for substantiating their claims. At the end of the arbitration proceedings, the arbitrator considering the submissions made by both the parties pass an arbitral award which will be binding on both the parties.

The arbitration proceedings under the Indian law are conducted under the terms of the Arbitration and Conciliation Act, 1996. It is pertinent to note that for referring the dispute arising in the contract to the arbitration, the parties shall have a written agreement depicting their clear intentions to refer the disputes arising out of the contract to arbitration. Clear intention is to be understood so as to mean the unambiguous intention to refer the disputes to arbitration. An agreement between the parties for referring the disputes to arbitration can either be in an independent contract or can be through the incorporation of a clause in the contract wherein the parties agreed for exchanging of services.

Case Study:

AIMS entered into contract with the Delhi Research Centre wherein blood samples will be delivered to Delhi Research Centre and it was expected from the Delhi Research Centre to timely sent the reports to the AIMS as per the requirement supported by the relevant observations. However, during the continuation of the agreement, AIMS experienced inconsistencies on the part of the Delhi Research Centre and even upon several correspondences the same was not rectified and gave rise to the dispute of non-payment by the AIMS.

The contract entered between the AIMS and Delhi Research Centre contains a clause wherein it was stated that the parties for resolving the disputes can either refer to the arbitration or can approach the courts.

Observations: *In such a provision, the AIMS cannot seek for mandatorily reference to the arbitration if the Delhi Research Centre approaches the appropriate court for resolving the disputes as the clause is ambiguous in nature.*

Case Study:

An agreement was entered between the Insolation Hospital and JVK Nursing home where the JVK Nursing Home is to refer the patients visit for curing of the influenza to Insolation Hospital. There was a clause in the agreement which restricts JVK from the enter into similar contracts with other entities. However, JVK contrary to the terms entered into similar agreements and Insolation Hospital for restricting the JVK filed a petition under section 9 of Arbitration Act for interim relief before Delhi Court. JVK contended that they have arbitration clause and such petition is not maintainable. Is JVK argument maintainable?

Dispute Resolution Clause: The dispute resolution clause in the contract provide for the resolution of disputes through arbitration and there exist clause in the contract which confers exclusive jurisdiction to courts of Delhi.

Observation: If there exist such clause, then the power of courts to be exercised in relation to the arbitration under the Arbitration and Conciliation Act will be exercised by the courts to which exclusive jurisdiction is conferred. Such clause would not be interpreted as the ambiguous clause as in clear manner it is stated that the disputes would be referred to arbitration.

Thereby, Section 9 petition being a petition in consonance with the Arbitration proceedings and Arbitration and Conciliation Act, the petition is maintainable.

Case Study:

An agreement was entered between the Atal Innovation Centre established in Jaipur with the Catalyst Research Centre in Delhi. The parties in their contract, conferred the exclusive jurisdiction to the courts of Ranchi wherein the parties discussed the proposals of contract and negotiated the terms. Dispute arises between the parties and Catalyst Research Centre wants to initiate suit before the courts of Delhi and is of the opinion that the courts of Ranchi does not have jurisdiction. Can Catalyst innovation file a suit before court of Delhi?

Observations: The conferring of jurisdiction might fall into the scope of cause of action but to unnecessarily avoid the hustle, if any disputes arose, such provisions should not be incorporated, as if any dispute arise, then none of the parties can bring dispute to any other courts.

Thus, owing to the operation of the exclusive jurisdiction clause, Catalyst Innovation cannot bring the disputes to the courts of Delhi.

iv. Litigation as a method of dispute resolution

Litigation is a most common method of resolution of dispute undertaken in civil matters by approaching the appropriate forum having jurisdiction to adjudicate the issue. However, recently, in contracts, litigation as a method of dispute resolution is not preferred owing to the time period involved in resolution of disputes.

However, while conferring exclusive jurisdiction on courts, it is to be noted that the exclusive jurisdiction is to be conferred to court which have appropriate jurisdiction according to law i.e. (i) where respondents reside; (ii) where respondents carry on the business; and (iii) where cause of action arises. The operation of the exclusive jurisdiction clause would oust the jurisdiction of the other courts having appropriate jurisdiction. Thereby, the jurisdiction shall be conferred to courts which are easily accessible to the parties and have jurisdiction according to the law, suggestively at a place where the contract was executed between the parties.



KEY TAKEAWAYS

- i. Indian Contract Act with respect to Services Contract i.e., Law of Agency.
- ii. Types of Contracts in Service procurement – Lump Sum Contract, Time Based Contracts, Percentage Contracts, Retainer and success fee contracts, Indefinite Delivery Contracts.
- iii. Important aspects in Services Contract - Deciding performance metrics, risk allocation and mitigation, flexibility in implementation, data protection, reporting mechanism, payment procedure and dispute resolution method.
- iv. Types of contracts in Procurement of Goods - Fixed Price Contract, Rate Contract, Turnkey Contract, Annual Maintenance Contract.
- v. Types of contracts in Procurement of Works - Lump Sum Contract, Time Based Contracts, Percentage Contracts, Piece Work Contract, engineering procurement and Construction Contracts, Public Private Partnership Contracts.
- vi. Documentation Requirements, templates, documents required for undertaking changes in contract.
- vii. Payment can be based on payment against service or performance payment. Mechanism of payment specifies monthly or quarterly payment, documentation requirement and submission deadline, verification process, timeline for payment, penalties for non-performance, incentive payment, validation process and penalty in case of discrepancy.
- viii. Managing variation in contracts due to change in scope of work, work execution method, legal regime, price variation, key personnel, non-performance or delayed performance etc.
- ix. Risk and liabilities management, provision in GCC for managing risks and liabilities, breach of contract and its remedies like liquidated damages, force majeure and dispute resolution method i.e., Arbitration, Litigation, Mediation.
- x. Monitoring involves systematic observation and tracking of the supplier or contractors progress and performance.
- xi. Specifying key performance indicators both payments linked, and non-payment linked metrics.
- xii. IT-based and ID based performance verification helps the entities and other departments to verify and monitor the performance digitally.
- xiii. Ni-kshay (Ni=End, kshay=TB) is the web-enabled patient management system for TB control under the NTEP.

Module 8: Government e Marketplace

8.1 Introduction

- 8.1.1 Amended Purchase Ceilings
- 8.1.2 Buyer Registration
- 8.1.3 Seller and Service Provider Registration

8.2 Bid Creation Service

8.3 Custom Bid for Services

8.4 BOQ Based Bidding

8.5 Bid Evaluation & Financial Evaluation

8.6 Price Negotiation

8.7 Invoicing, Consignee Review and Order Billing

Module 8

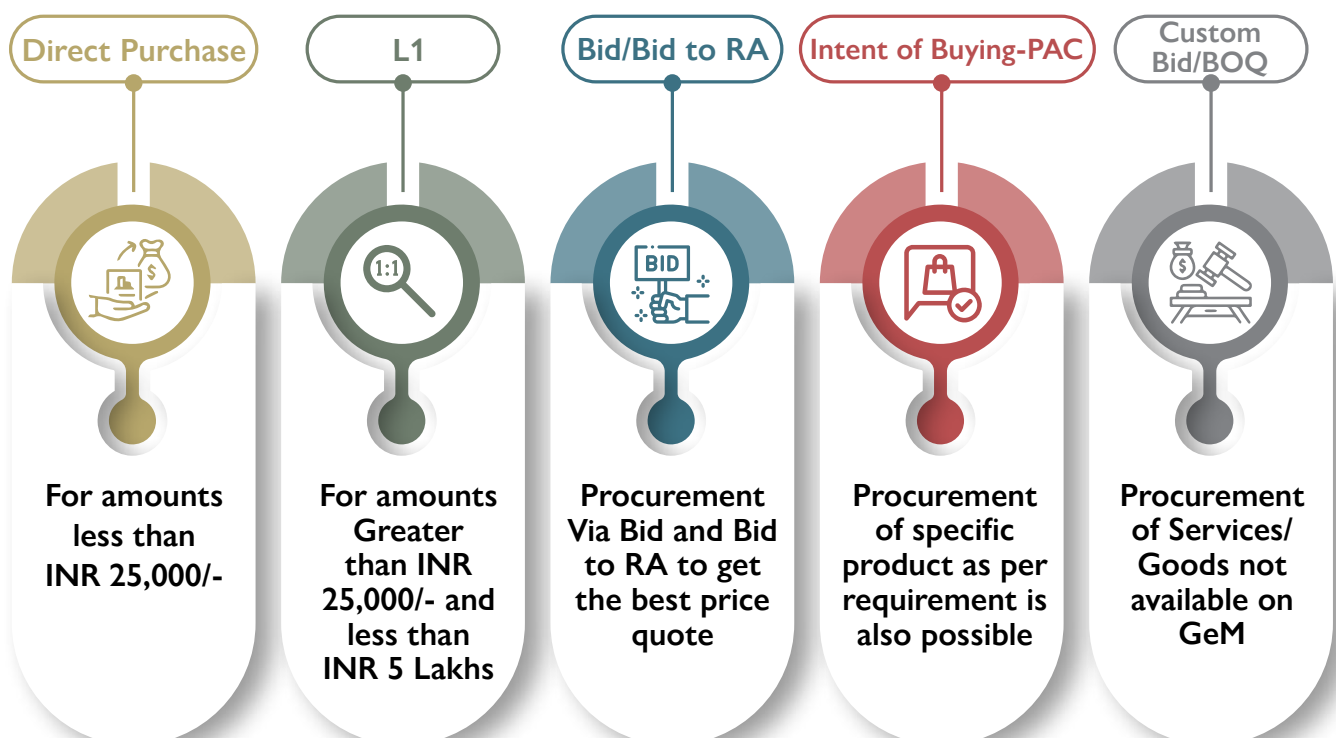
Government e Marketplace



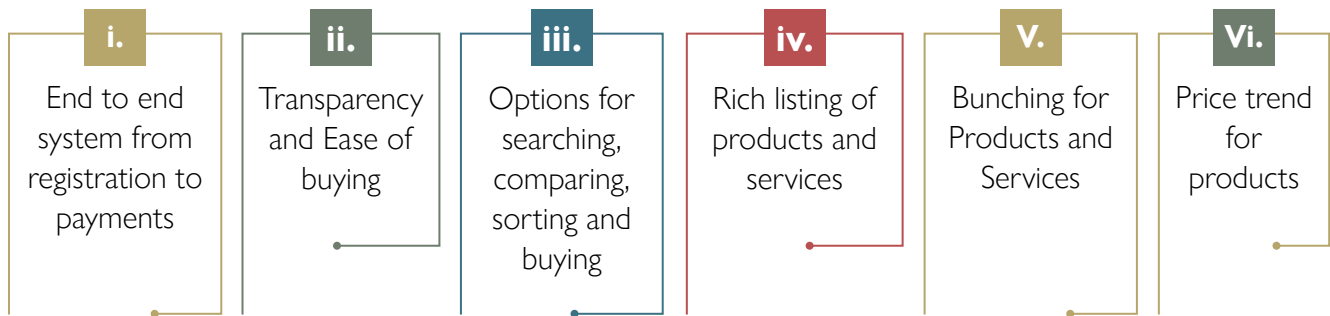
8.1 Introduction

GeM is a one-stop online procurement portal for all government buyers including central/state ministries, departments, bodies & PSUs. Launched on 9th August 2016. (<https://www.gem.gov.in/>). GeM follows General Financial Rules and Rule 149 is specifically included for GeM. It refers as “Procurement of Goods and Services by Ministries or Department will be mandatory for Goods or Services available on GeM”. GeM aims to enhance efficiency, transparency, and inclusiveness in public procurement.

It provides the tools of e-Bidding, Reverse Auction and Direct Procurement to facilitate government users achieve the best value for their money.



Some key advantages of GeM to buyers are: -



GeM has designed and incorporated different user roles based on segregation of duties like buyer, consignee, indenter, Drawing and Disbursement Officer, technical evaluator and primary user.

In the forthcoming module, we will understand how to place a services bid on GeM. This can be used to hire services offered by verified service providers through GeM.

8.1.1 Amended Purchase Ceilings:

As mentioned in GFR rule 149, below price slabs are referenced. Buyer needs to select the procurement method as per the price ceilings mentioned.

- (i) Up to Rs. 25,000/- through any of the available suppliers on the GeM, meeting the requisite quality, specification, and delivery period.
- (ii) Above Rs. 25,000/- and up to Rs.5,00,000/- 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.5,00,000/- 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 (excluding automobiles)

8.1.2 Buyer Registration:

Primary user is the prime authority that manages the end-to-end procurement process followed by the creation of secondary users. Each organization will have only one 'Primary User'.

The primary users are authorized at the level of Deputy Secretary / Equivalent Officers level or Head of the Officers at sub-centre / Unit / Branch of Government Organization / Public Sector Units (PSUs)/ Autonomous Bodies / Constitutional Bodies / Statutory Bodies.

Role of the Primary User

- Self-registration.
- Buyer's organization's account set-up.
- Creation of Secondary Users.
- Deactivation or transfer of Secondary Users' accounts.
- Monitoring of orders placed.
- Administration of GeM procurement.



Please check all the mandatory checkboxes in the Pre-requisites section.

Signup >

Primary User (HOD) / Verifying Authority Registration

Need help with Registration?

1 Pre-requisites ————— 2 Terms & Conditions ————— 3 Registration

Pre-requisites

USER TYPE - BUYER ORGANISATION

Please select your Role in the Buyer Organisation

User Type *

Primary User (HOD)

For User registration - you require the following before you can proceed.

- ☒ Aadhaar number
- ☒ Active Mobile number to which your Aadhaar is linked - for OTP purpose
- ☒ Government email id - preferably designation based. To view list of whitelisted domains (accepted at GeM), [Click Here](#)

If you do not have Government Email ID, [Click Here](#) to apply for @gembuyer.in Email ID.

PRIMARY USER (HOD) USER MANUAL

If you want to register as the buyers/ users involved in procurement process please contact Primary user (HOD) of your organisation

Note:- Only non buying role i.e. Primary User (HOD)/ Verifying Authority can get registered from here.

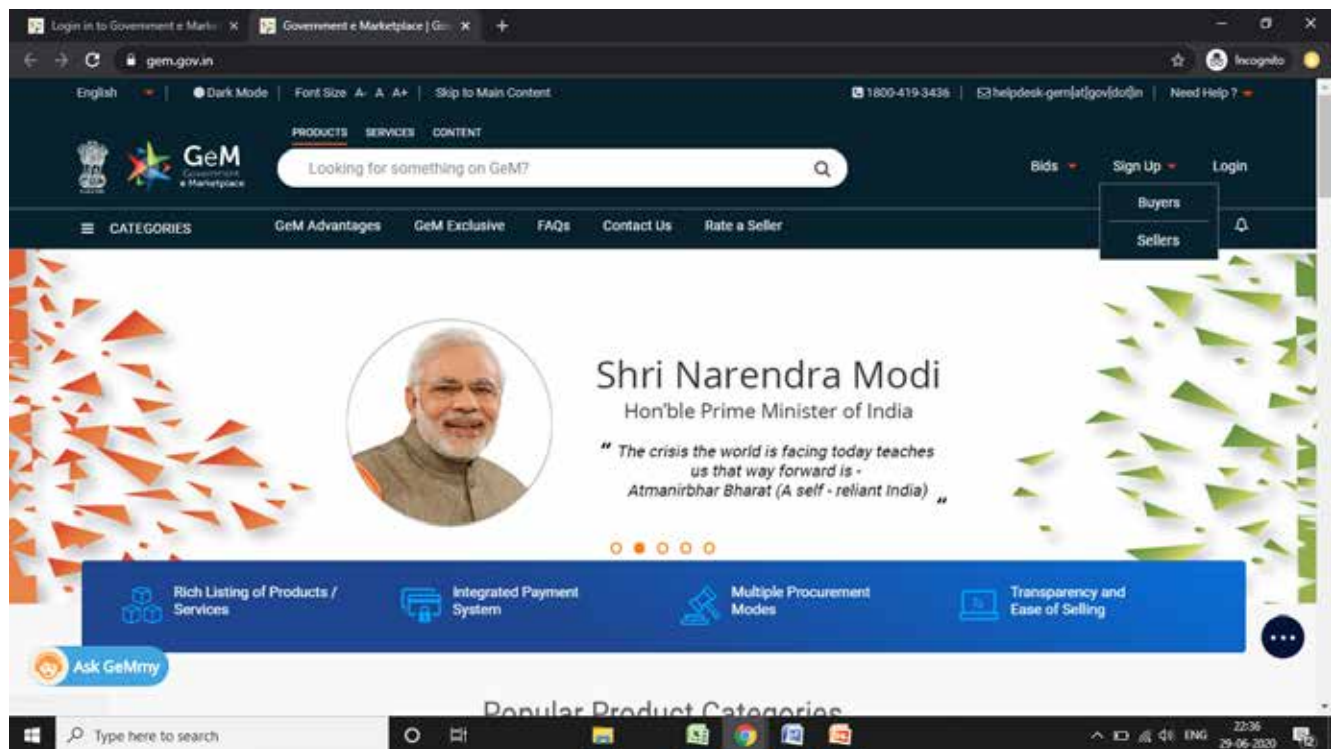
PROCEED

8.1.3 Seller and Service Provider Registration

A seller or a service provider registration on GeM can be done online.

A seller needs to select business type, enter company name and then proceed to register either with PAN number or with Aadhar details.

Once registered, the seller will generate a username and password and proceed to fill the seller profile up to 100%.



8.2 BID Creation – Service

The e-bidding module of GeM is a tool provided to the buyers for organizing bidding from GeM service providers for a pre-defined requirement i.e. service required, quantity, specifications, delivery period etc.

Service providers meeting the defined attributes then quote prices at which they are willing to provide the requested services. At the end of the bid, the seller meeting the qualification requirements with the lowest price quote wins.

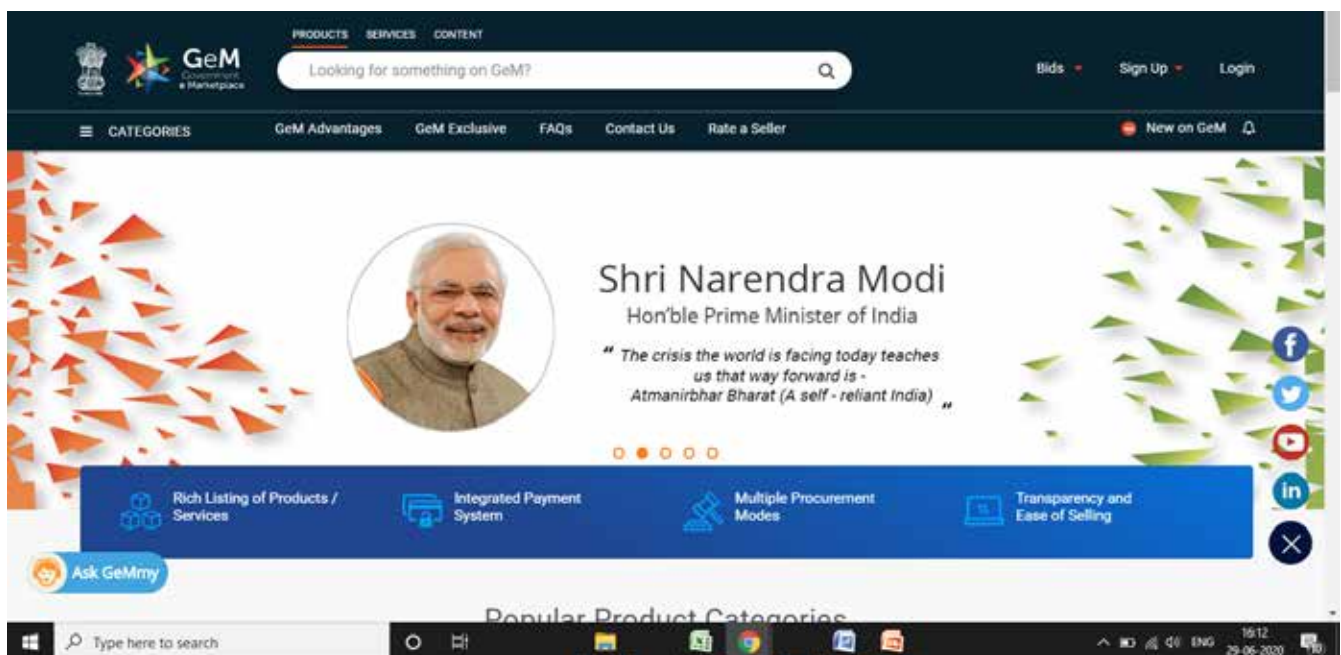
For purchases above 5 lakhs, it is mandatory for the buyer to either publish a bid or an RA (reverse auction) for their requirement. However, they can choose to utilize online bidding and RA option even for procurements less than Rs 5,00,000.

STEP 1

- Let's take a look at the bidding purchase process for procuring a service step by step. Here, we will show you a step by step guide to create an online bid. We will show how to apply filters, meaning of different filters etc

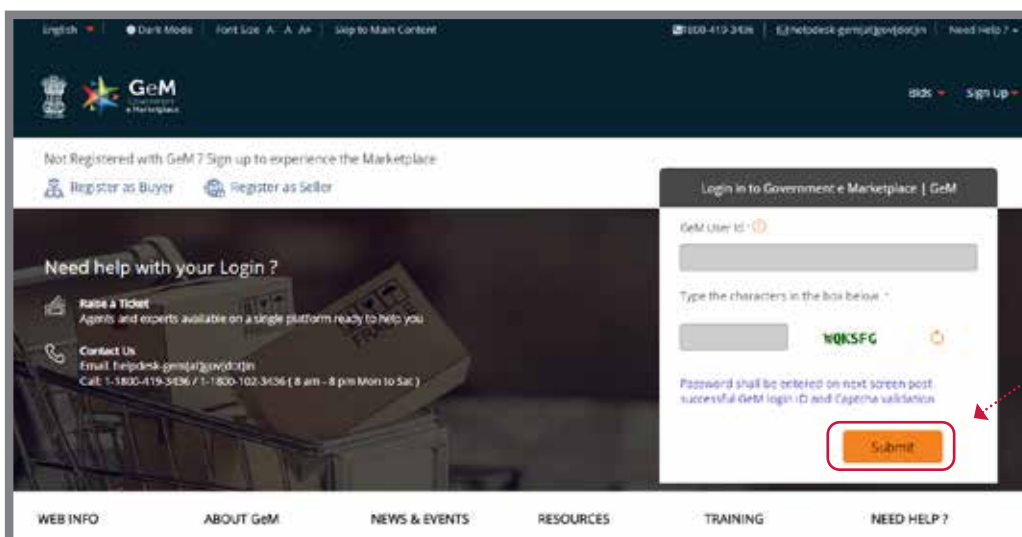
STEP 2

Open www.gem.gov.in and click on Login. The buyer (secondary user) make purchases on GeM. They will need to login to their account to perform this task. A minimum of one buyer is required for any organization to place a direct purchase order. If a buyer is not registered, please ask your primary user to create a post for the buyer in GeM. At the login screen, the buyer needs to enter the user ID & **CAPTCHA text** and then click on **Submit**.



STEP 3

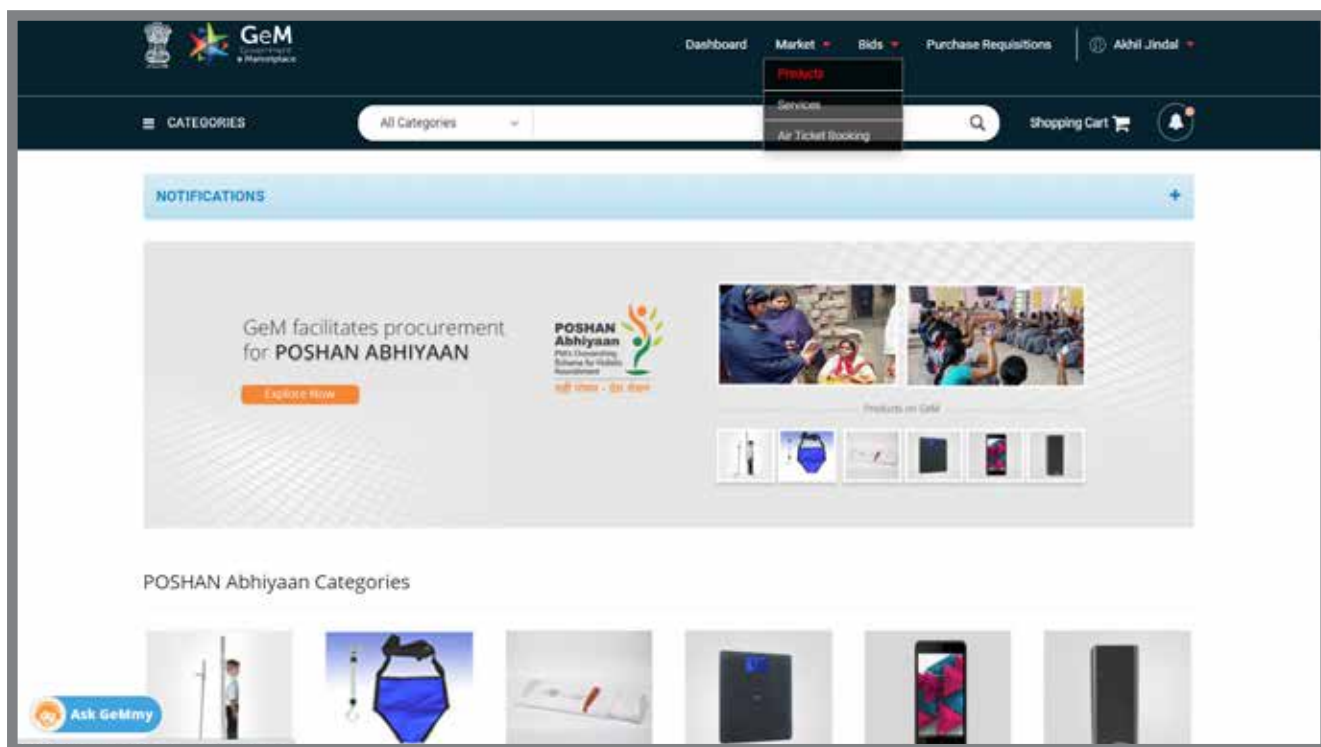
- Enter your password and** click on 'Submit' to proceed.



Enter User Id, the Captcha text and click submit.

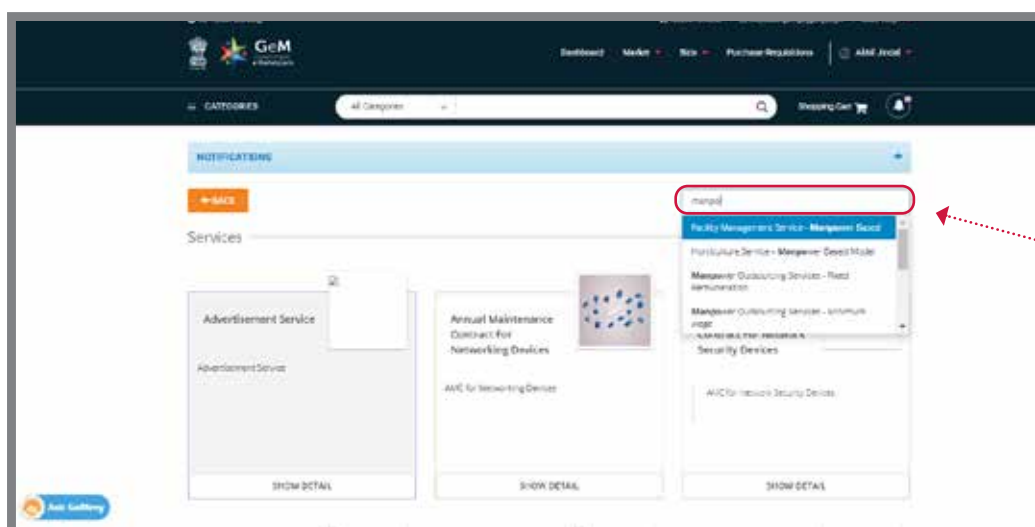
STEP 4

- Once a buyer is logged in, the buyer home page is visible. On the top, please click on “Market” and from the dropdown menu, Click on “Products” to check out the list of the products available. If you want to place a services order, please select services. Here in the below example, we will go with services.



STEP 5

Click on 'Market' and from the dropdown menu, click on 'Services' to check out the list of services available. Search for the service by typing in the keywords here. Alternatively, buyers can browse a list of services page by page.



Search for the service by typing in the keywords here.

STEP 6

Service category- Manpower Outsourcing Services - Minimum Wage has been selected here. Please read through the Service Details and Service Level Agreement document available here before you proceed. The Service Level Agreement has all details related to service like the SOW, Penalties etc.

Please read through the Service Details and Service Level Agreement document available here before you proceed.

STEP 7

Many fields are available for a buyer to enter. First of all, enter the contract start date and end date. Here, duration of contract to be finalized.

Enter the contract start date and end date.

STEP 8

Please mention the number of working days in a month, tenure and details of minimum daily wage and other components as requested. For additional components like bonus, EPF admin charge and optional allowances, please enter 0 as value if not applicable. The total price includes minimum wage, ESI, EPF, ELDI, insurance, and other non-mandatory variables defined by the Buyer in the bid document, and administration charge and GST on the mentioned components. The service provider will thus quote over and above the abovementioned components as a service charge and special allowance, if any.

STEP 9

Click here to add your location and quantity of resources. Under the tab 'Intent of buying', click on "Bid". The 'Bid' tab will ensure that only procurement and buyer may proceed to fill other options.

Under the tab 'Intent of buying', click on "Bid".

STEP 10

Select the location and enter the number of resources. Then click on 'Ok' to continue. Here, the buyer needs to select location of resources and quantity.

Delivery Location

Please select complete details and applicable Number of Resources to be hired for the Skill Category, Type of Function, List of Profile to be selected in the next step.

Date: Delivery Location: Number of Resources to be hired

DELHI Non-Semi, AutoTextEntry, Central Delhi, DELHI - IT 1

+ ADD MORE

OK

Selected category and required number of resources to be hired can be updated before add to cart.

Select the location and enter the number of resources. Then click here to continue.

STEP 11

From the list of filters, select the skill category, the type of function, list of profile as required. Here, the buyer is finalizing the requirement of resources.

List of Filters

Filter By: Skill Category

Unskilled

Semi-skilled

Skilled

Highly Skilled

Type of Function

Admin

Finance/Accounts

IT/Technical

Sales/Marketing

Healthcare

Other

List of Profiles

Educational Qualification

Characterization

From the list of filters, select the skill category, the type of function, list of profile as required.

STEP 12

Choose the 'Specialization' field and the 'Educational Qualification' for the required personnel.

The screenshot shows the AskGademy job posting interface. On the left, there are two filter sections: 'Educational Qualification' and 'Specialization'. The 'Educational Qualification' section has a red box around it, and the 'Specialization' section also has a red box around it. A red dotted line points from the 'Specialization' filter to the 'Specialization' column in the table below. The table has columns: Seller, Skill Category, Type Of Function, List Of Profiles, Educational Qualification, and Specialization. The first row shows 'Gold Service Provider' as the seller, 'Unskilled' as the skill category, 'Admin' as the type of function, 'Data Entry Operator' as the list of profiles, 'Diploma' as the educational qualification, and 'Comments' as the specialization. There are buttons for 'Add To Cart' and 'Report This Offer' next to each row.

Choose the 'Specialization' field and the 'Educational Qualification' for the required personnel.

STEP 13

The market will appear on the basis of the filters applied. Also, select if post graduation is required, the field of specialization. These filters will help buyers finalize the exact requirement.

The screenshot shows the AskGademy job posting interface with additional filters. On the left, there are three filter sections: 'Post Graduation', 'Specialization For PG', and 'Experience'. The 'Post Graduation' section has a red box around it, and the 'Specialization For PG' section also has a red box around it. A red dotted line points from the 'Specialization For PG' filter to the 'Specialization' column in the table below. The table has columns: Seller, Skill Category, Type Of Function, List Of Profiles, Educational Qualification, and Specialization. The first row shows 'Gold Service Provider' as the seller, 'Unskilled' as the skill category, 'Admin' as the type of function, 'Data Entry Operator' as the list of profiles, 'Diploma' as the educational qualification, and 'Comments' as the specialization. There are buttons for 'Add To Cart' and 'Report This Offer' next to each row.

Also, select if Post Graduation is required, the field of specialization.

STEP 14

Select the relevant experience required. You may click on 'Customized Value' option to update your own Value. Here, the buyer can enter any customized experience duration required for that particular resource.

The screenshot shows the Step 14 interface. On the left, there are three filter sections: 'Post Graduation' (with 'Not Required' and 'Required' options), 'Specialization For PG' (with 'Not Applicable', 'Commerce', 'IT', 'Science', 'Development/Design', and 'Engineering/Construction' options), and 'Experience' (with '0 to 3 Years', '3 to 7 Years', '7 to 10 Years', '10 to 15 Years', '15 Years +', and '(Customized value)' options). The 'Experience' section is highlighted with a red box. The main area is a table with columns for 'Resource', 'Status', 'Admin', 'Data Entry Operator', 'Diploma', and 'Commerce'. The table contains four rows of data, each with a 'Resource' column showing 'GSM Service Provider' and a 'Data Entry Operator' column. To the right of the table, there are two buttons: 'ADD TO CART' and 'Request This Offer'.

Select the relevant experience required. You may click on Customized Value option to update your own Value.

STEP 15

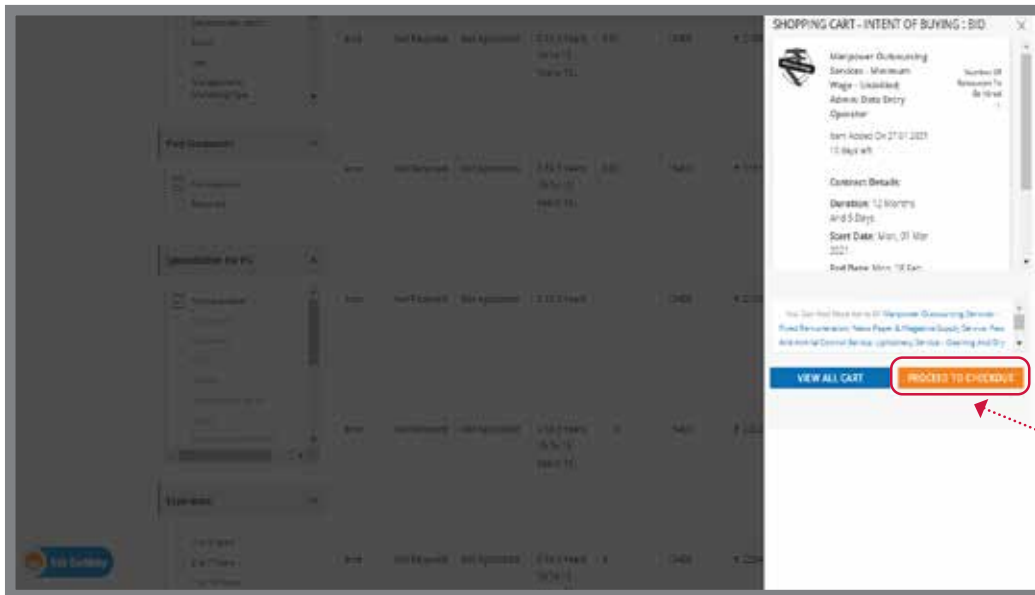
The offer price will be displayed here based on parameters applied by the buyer. Select the relevant offering to proceed. Please note that the buyer can select any price offering as this is not final price.

The screenshot shows the Step 15 interface. On the left, there are three filter sections: 'Post Graduation' (with 'Not Required' and 'Required' options), 'Specialization For PG' (with 'Not Applicable', 'Commerce', 'IT', 'Science', 'Development/Design', and 'Engineering/Construction' options), and 'Experience' (with '0 to 3 Years', '3 to 7 Years', '7 to 10 Years', and '(Customized value)' options). The 'Experience' section is highlighted with a red box. The main area is a table with columns for 'Resource', 'Status', 'Admin', 'Data Entry Operator', 'Diploma', 'Commerce', and 'Price'. The table contains four rows of data, each with a 'Resource' column showing 'GSM Service Provider' and a 'Data Entry Operator' column. To the right of the table, there are two buttons: 'ADD TO CART' and 'Request This Offer'.

Select the relevant offering to proceed.

STEP 16

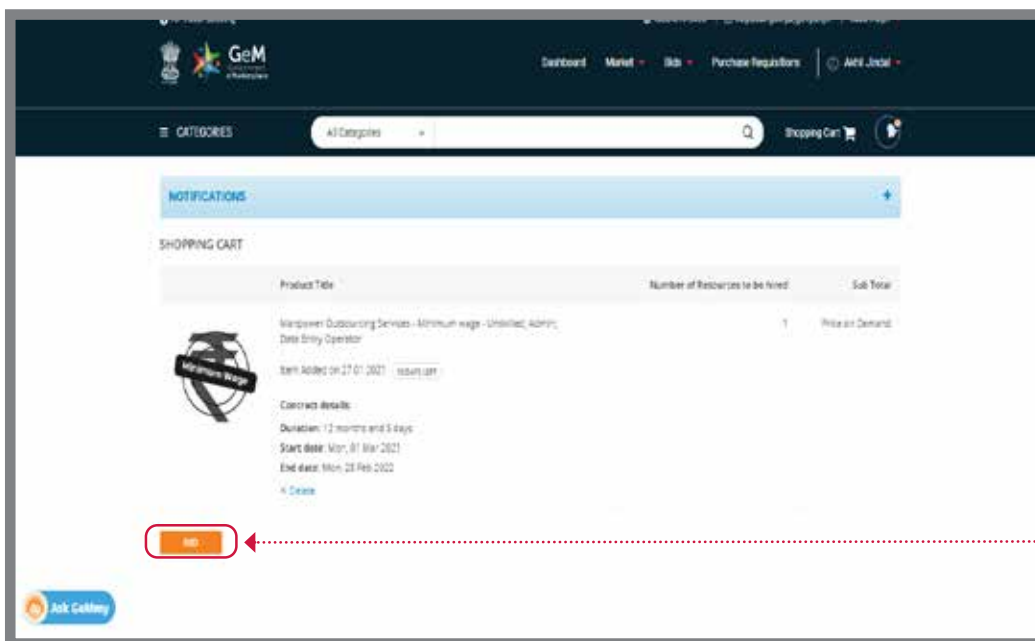
The shopping cart will be displayed based on number of resources added. It may be noted that the buyer can add multiple designations as multiple line items to the same shopping cart. This way, the buyer can select a single service provider for all designations. Click on 'Proceed to checkout'.



Click here to proceed.

STEP 17

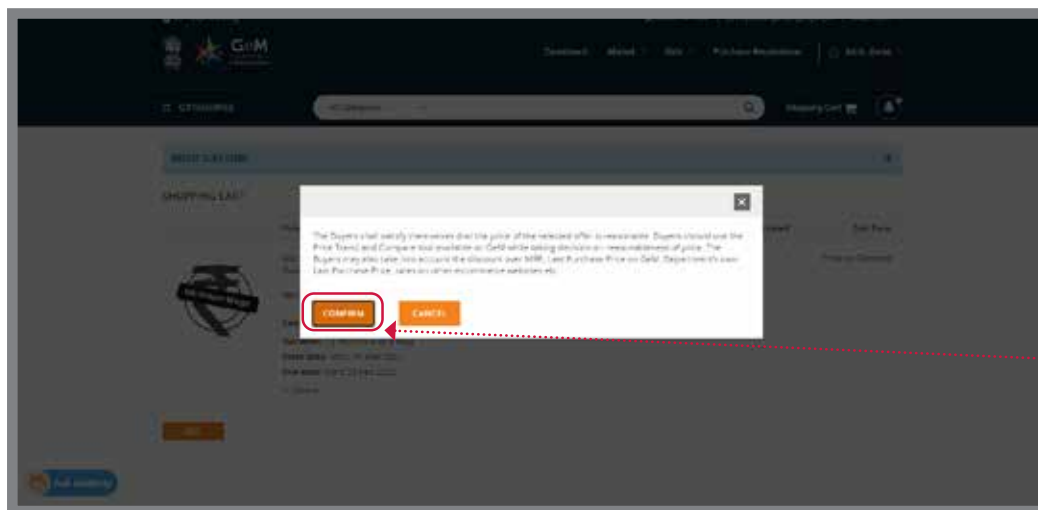
Since intent of buying selected was 'Bid', this option will only be available for the buyer to proceed. Also, if the shopping cart value exceeds 5 lakh, only the bid option will be available to buyer.



Click here to create a bid.

STEP 18

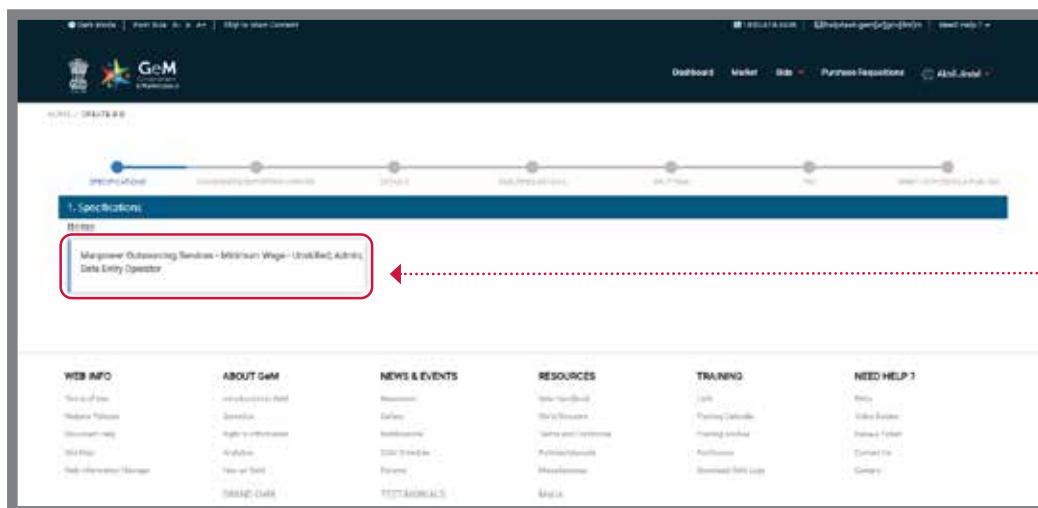
Click on 'Confirm' to continue.



Click here to proceed.

STEP 19

Here, the bidding module will begin. Step 1 is for finalizing specifications. Click on the service to fetch its specifications.



Click on the service to fetch its specifications.

STEP 20

All the specifications can be viewed and edited here. This is for the buyer's review of specifications.

Manpower Outsourcing Services - Minimum Wage - Unskilled, Admin, Data Entry Operator

Specification for Manpower Outsourcing Services - Minimum wage - Unskilled, Admin, Data Entry Operator

Category

Core

Skill Category

Type of Function

List of Profiles

Educational Qualification

Specialization

Post Graduation

Specialisation for PG

Experience

Additional Details

Designation

Save

Click here to save and proceed.

STEP 21

Once buyer has reviewed and is satisfied with all specifications, click on Continue.

1. Specifications

Manpower Outsourcing Services - Minimum Wage - Unskilled Admin Data Entry Operator

Continue

Click here to continue.

STEP 22

Here, the buyer can view the consignee details and number of resources. The buyer can edit some values here. Click on Save.

Click here to continue.

STEP 23

Click on Continue to proceed.

Click here to Proceed

STEP 24

This is bid details page and buyer needs to select the Bid duration. Bid duration is the time period (in days) in which service providers can participate in the bid. After the bid duration ends, the service provider cannot participate.

The screenshot shows the '3. Details' page of a procurement system. The 'Bid Duration' field is highlighted with a red box, showing a dropdown menu with values 10, 11, 12, 13, 14, and 15. A red arrow points from a text box to this field.

Click here to save and proceed.

STEP 25

Bid Offer Validity is the period during which the service provider's offer is valid from the bid end date. The Buyer needs to award the order within the bid offer validity period. Bid offer validity is available up to 180 days. Buyers can choose accordingly.

The screenshot shows the '3. Details' page of a procurement system. The 'Bid Offer Validity (From End Date)' field is highlighted with a red box, showing a dropdown menu with values 30, 60, 90, 120, 150, and 180. A red arrow points from a text box to this field.

Bid Offer Validity is the period during which the Service Provider's Offer is valid from the Bid End Date. The Buyer needs to award the Order within the Bid Offer Validity Period.

STEP 26

Bid to RA option is not available if minimum price is set for the bid (minimum wage criteria is defined here). In manpower services, 3.85% service charge is the minimum service charge available for any bidder to quote.

Bid Opening Date / Time 05-02-2022 2:30 PM

Note: Normal bidding time for bids is between 10:00 AM to 05:00 PM. However, in order to enable expeditious emergency procurement of critical products/services and/or emergency healthcare related products/services due to the corona pandemic, it is hereby set time for such emergency procurements only. Buyer can select shorter bidding time for such emergency procurements with the approval of their competent authorities. Buyers are advised to take a reasonable call on the requirement of earnest money deposit (EMD) since prospective bidders may find it difficult to get the EMD issued from the bankers in such short time. To ensure healthy participation of the bidders, buyers are advised to notify bidders offline, since the bid duration is of short time.

Bid Life Cycle (From Publish Date) 60 Days

Bid Offer Validity (From End Date) 30 Days

Do You Want To Take This Bid To RA Post Technical Evaluation? ☒ Yes ☐ No
Bid to RA is not allowed if minimum price is set for the bid

Time To Be Allowed To The Seller For Technical Clarifications During Technical Evaluation 2 Days

Bid to RA option is not available if minimum price is set for the Bid (Minimum Wage criteria is defined here).

STEP 27

The buyer needs to select the response duration for clarifications from the sellers. Buyers can seek clarifications from the sellers during technical evaluation. Sellers would be required to submit their response(s) within the declared time. Clarification can be sought multiple times.

Bid End Date / Time (Select Duration Between 09:00 To 21:00)

Bid Opening Date / Time

Bid Life Cycle (From Publish Date) Days

Bid Offer Validity (From End Date) Days

Do You Want To Take This Bid To RA Post Technical Evaluation?

Time To Be Allowed To The Seller For Technical Clarifications During Technical Evaluation **2** Days

Bid Estimated Value 500000 Estimated Value

Advisory: The submitted values shall be considered for EMD and Bid eligibility criteria as published in the Bid document.

STEP 28

'Bid Estimated Value' is the approximation of the total cost for project completion. For Price on Demand services, it is mandatory for the buyer to provide the estimated value for EMD and eligibility criteria consideration.

The buyer can edit the bid estimated value from here. The new value entered will override the existing bid estimated value and will be considered for the EMD and eligibility criteria.

The screenshot shows a bid form with the following fields and options:

- Bid Life Cycle (From Publish Date):** 90 Days
- Bid Offer Validity (From End Date):** 30 Days
- Do You Want To Take This Bid To RA Post Technical Evaluation?** Yes (selected) / No
- Bid Estimated Value:** 6005653.03333333 (highlighted with a red box)
- Contract Duration:** 3 Months, 0 Days
- Set Minimum Price For This Bid:** Yes / No (No is selected)
- Participant Eligibility Criterion:**
 - ☐ Bidder turnover should be greater than or equal to 30% of the bid value
 - ☐ Project experience should be validated
- Document Required From Bidder:** Yes / No (No is selected)

You can edit the Bid Estimated Value from here. The new value entered will override the existing bid estimated value and will be considered for the EMD and eligibility criteria.

STEP 29

Choose 'Yes' if you want to display the bid estimated value in the bid document. The buyer can also hide this value in bid document.

The screenshot shows the same bid form as in Step 28, but with the 'Do You Want To Take This Bid To RA Post Technical Evaluation?' field highlighted with a red box. The 'Yes' radio button is selected.

Choose "Yes" if you want to display the Bid Estimated value in the Bid Document.

STEP 30

Please select the total contract duration. The buyer can choose a contract value from 1 month to 5 years. Select 'Yes' option to set minimum price for the bid.

Please select the total contract duration.

Select "Yes" option to set minimum price for the Bid.

STEP 31

For few services, the buyer can set minimum price quotations. Mention the per unit minimum price here. Click on save and proceed.

Mention the per unit minimum price here.

Click here to save and proceed.

STEP 32

The buyer can edit the set minimum price from here. The buyer can also view the estimated minimum price.

Do You Want To Display Bid Estimated Value In Bid Document? ☒ Yes ☐ No

Advisory: The submitted values shall be considered for TMD and Bid eligibility criteria as published in the Bid document.

Note: For selection of contract duration, please consider 1 year as 365 days and 1 month as 30 days.

Contract Duration Year (S) Months Days

Set Minimum Price For This Bid ☒ Yes ☐ No [Edit Minimum Price Of](#) [Show Estimated Minimum Price](#)

Participant Eligibility Criterion (To be verified by the buyer at the time of technical evaluation)

Average Annual Turnover (For 3 Years) (In Lakhs) Years Of Past Experience Required

Past Experience Of Similar Services ☐ Yes ☐ No

You can edit the set minimum price from here.

Click here to view the estimated minimum price.

STEP 33

Estimation of Minimum Price – a sample is shown to the buyer. Click on close and proceed

Estimation of Minimum Price – Sample.

Minimum Price Bid Detail

Category-Manpower Outsourcing Services – Commission quote model - Minimum wage - KPMG 1(Testing Team) - Per Month; Admin

| Consignee(s) | Quantity | Percentage of service charge inclusive of GST | EPF Admin Charge | Bonus (in INR) | ELDI (in INR) | ESI (in INR) | Provident Fund (of Rs 15000/- (ceiling)) in INR | Optional Allowances 1 (in Rupees) | Optional Allowances 2 (in Rupees) | Optional Allowances 3 (in Rupees) | Minimum daily wage in Rupees |
|--------------|----------|---|------------------|----------------|---------------|--------------|---|-----------------------------------|-----------------------------------|-----------------------------------|------------------------------|
| Con 1 | 4 | 7.00 | 0 | 0 | 600 | 500 | 400 | 0 | 0 | 0 | 500 |

Total Price: 900,000.00 (INR)

Close

Choose “Yes” if you want to display the Bid Estimated value in the Bid Document.

STEP 34

Specify the eligibility criterion, if required. Here, the buyer can ask for a list of documents from the service provider to upload. The buyer can also select “Yes” to enable the seller to upload a PDF as part of the financial document. The seller can upload prices of spares/consumables as PDF. Refer to the tool tip for more details. Applicable for specific categories only.

Note: For selection of contract duration, please consider 1 year as 365 days and 1 month as 30 days.

Contract Duration ⓘ
 Years* 1 Months* 0 Days* 0

Participant Eligibility Criterion (To be verified by the buyer at the time of technical evaluation)

Average Annual Turnover (For 3 Years) (In Lakhs) ⓘ
 0

Years Of Past Experience Required ⓘ
 0

Past Experience Of Similar Services ⓘ
☐ Yes ☐ No

Document Required From Seller ⓘ
☐ Yes ☐ No

Do You Want To Give Exemption To Verified MSME ⓘ
☐ Yes ☐ No

Do You Want To Give Exemption To Verified Startups ⓘ
☐ Yes ☐ No

Do You Want To Give Exemption To Verified SHG ⓘ
☐ Yes ☐ No

Please ensure Compliance of DoE OM dated 25.07.2016 in this regard. [View Order](#)

Additional Qualification/Data Required

Scope Of Work & Job Description ⓘ
 (Max Size 10mb PDF Only)

Financial Document Required ⓘ
☐ Yes ☒ No

Please ensure Compliance of DoE OM dated 25.07.2016 in this regard. [View Order](#)

Specify the eligibility criterion, if required.

Select “Yes” to enable Seller to upload a PDF as part of the Financial document. Seller to upload prices of spares/consumables as PDF. Refer to the tool tip for more details. Applicable for specific categories only.

STEP 35

The job description and SOW document needs to be uploaded here. Also, the buyer may choose to request for additional data/documents from the listed options. For information, hover over the ‘i’ icon next to the title.

Additional Qualification/Data Required

Scope Of Work & Job Description ⓘ
 (Max Size 10mb PDF Only)

Annual Turnover Required By Buyer In Crores ⓘ
 (Max 200 Characters)

The Bidder Should Have Executed At Least X No. Projects With Contract Value Not Less Than Yy For Each Contract Of Providing Manpower Services To Central/ State Government Departments/ Public Sector Undertakings/ Autonomous Bodies In Last N Financial Years ⓘ
 (Max 200 Characters)

The Bidder Should Have Executed At Least X No. Projects With Supply Of Xx No. Of Manpower In Each Contract Of Providing Manpower Services To Central/ State Government Departments/ Public Sector Undertakings/ Autonomous Bodies In Last N Financial Years ⓘ
 (Max 250 Characters)

Geographic Presence: Office Registration Certificate ⓘ
 (Max 200 Characters)

STEP 36

Please upload the list of resources along with the quantity for each type to be continued by the successful bidder under the new contract, if any. Also upload gazette notification for the breakup of ESI/EPF/ELDI etc., if required. The buyer shall upload Undertaking that Minimum Wages Indicated by the buyer are as per Applicable Minimum Wages Act.

Buyer to upload Undertaking that Minimum wages Indicated by him are as per Applicable Minimum Wages Act.

STEP 37

As per GFR 2017, QCBS as the method of evaluation should be used for procuring consulting services. However, as per the recent OM No. F.1/1/2021-PPD dated October 29, 2021, issued by Department of Expenditure, MoF, QCBS can also be used for procuring non-consulting services where the estimated value of procurement does not exceed Rs. 10 crores or where the procurement has been declared to be a Quality Oriented Procurement (QOP) by the competent authority. Read the Advisory.

Choose 'yes' for QCBS evaluation, if required. Click on "Know More" for details.

Choose "yes" for QCBS evaluation, if required. Click on "Know More" for details.

STEP 38

Define Technical Qualification parameters, their weightage, and set cutoff for each parameter(if required). Also, upload qualification the scoring methodology document and choose if the seller needs to upload supporting documentation. In addition, please define the total minimum passing marks required, the Technical: Financial Weightage and select if Interview Interaction and Presentation be required as part of the selection process.

Click on 'Add New' to define additional technical parameters.

Click on "Add New" to define additional technical parameters.

STEP 39

Choose 'yes' for LCS evaluation, if required. Click on 'Know More' for details.

Choose "yes" for LCS evaluation, if required. Click on "Know More" for details.

STEP 40

Define quality parameters, their weightage, set cut-off for each parameter (if required). Also, upload qualification scoring methodology document and choose if seller needs to upload supporting document. In addition, please define the total minimum passing marks required in technical evaluation for seller to be eligible for financial evaluation.

Click on 'Add New' to define additional technical parameters.

Click on
“Add New”
to define
additional
technical
parameters.

STEP 41

Select 'Yes' to opt for Pre-Bid Interaction and provide venue details and timings. Buyer can invite service providers for a physical or online interaction before bid ending date to address service provider's queries in real time. Click on save to continue.

Select “Yes”
to opt for
Pre-Bid
Interaction
and provide
venue
details and
timings.

Click here
to continue.

STEP 42

Buyer can choose to request for EMD and ePBG for order value greater than 5 Lakhs, though not mandatory. Select 'No' if not required. Click on save and proceed.

EMD details have been saved successfully

Select "No" if not required.

1. Specifications
2. Consignee/Reporting Officer
3. Details
4. EMD/ePBG Details

Quantity: 50 Reference Price (in INR): 2,800,000.00

EMD

EMD Required: ☐ Yes ☒ No

Note:

- EMD is allowed only for Bid value greater than 5 Lakhs.
- The role of Advisory Bank is to verify the SFMS of the EMD and ePBG during bid verification of the seller. So, you are advised to select any bank and seller may choose any bank account for ePBG and EMD.

ePBG

ePBG Required: ☐ Yes ☒ No

Note:

- ePBG is allowed only for Bid Value greater than 5 Lakhs.
- The role of Advisory Bank is to verify the SFMS of the EMD and ePBG during bid verification of the seller. So, you are advised to select any bank and seller may choose any bank account for ePBG and EMD.

Save

Click here to save and proceed.

STEP 43

If EMD is required, select 'Yes' and fill in the details.

2. Consignee/Reporting Officer
3. Details
4. EMD/ePBG Details

Quantity: 50 Reference Price (in INR): 4,269,740.00

EMD

EMD Required: ☒ Yes ☐ No

Note:

- EMD is allowed only for Bid value greater than 5 Lakhs.
- The role of Advisory Bank is to verify the SFMS of the EMD and ePBG during bid verification of the seller. So, you are advised to select any bank and seller may choose any bank account for ePBG and EMD.

EMD Details

Advisory Bank: Select bank

EMD Percentage (%): 0.5

Amount (in INR):

EMD should be between 0.5 to 5 percentage of estimated price.

ePBG

ePBG Required: ☐ Yes ☒ No

Note:

- ePBG is allowed only for Bid value greater than 5 Lakhs.
- The role of Advisory Bank is to verify the SFMS of the EMD and ePBG during bid verification of the seller. So, you are advised to select any bank and seller may choose any bank account for ePBG and EMD.

Advisory Details

Name: Arvind Jindal

Designation:

If EMD is required, select yes and fill in the details.

STEP 44

If ePBG is required, select 'Yes' and fill in the details.

ePBG

ePBG Required: ☒ Yes ☐ No

Note:

1. ePBG is allowed only for bid value greater than 5 Lakhs.
2. The role of Advisory Bank is to verify the SFMS of the EMD and ePBG during bid verification of the seller. So, you are advised to select any bank and seller may choose any bank account for ePBG and EMD.

ePBG Details

Advisory Bank: ePBG Percentage (%): Duration of ePBG Required (Months):

The ePBG will be applicable for the duration of 2 months after the completion of EMD should be between 2 to 10 percentage of estimated price. only applicable for the selected items.

Beneficiary Details:

Name: Designation:

Email Address:

Address:

Test2, Department of Agricultural Research and Education (DARE), Agricultural Technology Information Centre (ATIC), Ministry of Agriculture and Farmers Welfare

If ePBG is required, select yes and fill in the details.

STEP 45

Select 'No' if not required. Click on save to continue.

EMD/ePBG Details

EMD Required: ☐ Yes ☒ No

Note:

1. EMD is allowed only for bid value greater than 5 Lakhs.
2. The role of Advisory Bank is to verify the SFMS of the EMD and ePBG during bid verification of the seller. So, you are advised to select any bank and seller may choose any bank account for ePBG and EMD.

ePBG

ePBG Required: ☐ Yes ☒ No

Note:

1. ePBG is allowed only for bid value greater than 5 Lakhs.
2. The role of Advisory Bank is to verify the SFMS of the EMD and ePBG during bid verification of the seller. So, you are advised to select any bank and seller may choose any bank account for ePBG and EMD.

Save

Select "No" if not required.

Click here to continue.

STEP 46

Select 'Yes' to give purchase preference to MSE. In case of price match, the order will be given to an MSME.

1. Specifications

2. Consignee/Reporting Officer/UF

3. Details

4. EMD/ePBG Details

5. Splitting

Total Quantity: 1

Buyer Type: Central Buyer

Do you want to provide Purchase Preference to MSE? ☒ Yes ☐ No

Purchase preference to MSE, sellers available upto price within LT+ 5%

Maximum Percentage of BQ quantity for MSE Purchase preference

Note:

1) The Buyer should carefully specify the maximum percentage for MSE and MS purchase preference. Buyer may specify the values as per the policy applicable to them and may specify 100% in case they want to provide 100% purchase preference to MSE for non-splittable quantities.

2) Buyer will be required to validate all sellers claiming to be eligible for MSE and MS purchase preference during technical evaluation and confirm the eligibility based on self-declared status by catalogue seller and supporting documents submitted by the sellers during performance.

3) Buyer will be required to invite qualified sellers to invite the LT price post financial BQ opening and would be able to award orders to any sellers accepting the price within as per the purchase preference policy applicable for the Buyer. Buyer would be required to specify the quantity that they would wish to award to this seller as well during the price match request. All the remaining quantity for which price match request is not accepted may be awarded to the LT sellers.

Save

Select "Yes" to give Purchase preference to MSE. In case of Price match, the order will be given to an MSE.

STEP 47

Please upload Competent Authority Approval for exemption from MSE compliance. Also, enter the details of the competent authority below as requested.

3. Details

4. EMD/ePBG Details

5. Splitting

Total Quantity: 1

Buyer Type: Central Buyer

Do you want to provide Purchase Preference to MSE? ☐ Yes ☒ No

Upload CA approval for exemption from MSE compliance* (Max Size 5mb PDF Only) No file chosen

This approval will be shown as part of the bid document in paper sample

Enter Details of the Competent Authority for MSE:

Name of Competent Authority *

Designation of Competent Authority *

Office / Department / Division of Competent Authority *

CA Approval Number *

Competent Authority Approval Date *

Brief Description of the Approval (issued by Competent Authority) *

Note:

Please Upload Competent Authority Approval for exemption from MSE Compliance. Also, enter the details of the Competent Authority below as requested.

STEP 48

The buyer can select additional Terms & Conditions from the listed ones as per his requirement.

5. Splitting

6. T&C

Additional Terms and Conditions (+ Click on the appropriate Group below to add the ATC specific to that Group)

| | | |
|----------------------|--------------------------------|-----------------------------|
| Generic | Scope of Supply | Turnover |
| OEM | Purchase Preference (Centre) | Service & Support |
| Inspection | Certificates | Warranty |
| Payment | All | Purchase Preference (State) |
| Sample Clause | Buyback for Non PFMS / Non GPA | Past Project Experience |
| Forms of EMD and PBG | Human Resource Service | Ration Item ATCs |
| Financial Criteria | Buyer Added Bid Specific ATC | |

Submit

STEP 49

Click here to add your own bid specific additional terms and conditions (ATC) with approval from your competent authority.

1. Specifications

2. Consignees/Reporting Officer

3. Details

4. EMD/PBG Details

5. Splitting

6. T&C

Additional Terms and Conditions (+ Click on the appropriate Group below to add the ATC specific to that Group)

| | | |
|----------------------|--------------------------------|-----------------------------|
| Generic | Scope of Supply | Turnover |
| OEM | Purchase Preference (Centre) | Service & Support |
| Inspection | Certificates | Warranty |
| Payment | All | Purchase Preference (State) |
| Sample Clause | Buyback for Non PFMS / Non GPA | Past Project Experience |
| Forms of EMD and PBG | Human Resource Service | Ration Item ATCs |
| Financial Criteria | Buyer added Bid Specific ATC | |

Submit

Click here to add your own bid specific ATC with approval from your competent authority

STEP 50

Select if you wish to update text based ATC clauses or upload ATC document and click on 'Add'.

The screenshot shows a web application interface with a modal dialog box titled "Buyer Added Bid Specific ATC Clauses". The dialog has two radio button options: "Buyer Added text based ATC clauses" and "Buyer uploaded ATC document". Below these options is a text area containing a disclaimer. At the bottom of the dialog is a red "Add" button. A red dashed arrow points from the "Add" button to a red callout box on the right.

Select if you wish to update text based ATC clauses or upload ATC document and click on Add.

STEP 51

Click here to edit the Clause.

The screenshot shows the "6. T&C" section of the web application. It features a grid of buttons for various clauses: OEM, Inspection, Payment, Sample Clause, Forms of EMD and POC, Financial Criteria, Purchase Preference (Center), Certificate, All, Buyback for Non PPMs / Non GHA, Human Resource Service, Buyer Added Bid Specific ATC, Service & Support, Warranty, Purchase Preference (State), Past Project Experience, and Random Item ATCs. Below the grid are two sections for "Buyer Added Bid Specific ATC" with radio button options and a "Submit" button. A red dashed arrow points from a red callout box on the right to a red edit icon (a square with a pencil) located next to the "Buyer Added text based ATC clauses" option.

Click here to update the Clause.

STEP 52

Click here to agree to the T&C's.

You can download the bid document from here.

Select the relevant option to verify and publish the bid.

The screenshot shows the GeM portal interface for a bid. At the top, there is a progress bar with steps: 1. Specifications, 2. Configure/Reporting Officer, 3. Details, 4. EMD/PSG Details, 5. Spillover, and 6. T&C. Below the progress bar, there are five expandable sections: 1. Specifications, 2. Configure/Reporting Officer, 3. Details, 4. EMD/PSG Details, and 5. Spillover. Below these sections, there is a checkbox labeled 'I agree to the Terms & Condition of GeM.' which is checked. To the right of the checkbox, there is a 'Bid Document' icon and three buttons: 'Verify T&C & Publish', 'DR', and 'Verify T&C & Publish'.

Click here to agree to the T&C's.

You can download the Bid document from here.

Select the relevant option to verify and publish the bid.

STEP 53

You can view your published bids under the 'Published Bids' tab.



The screenshot shows the GeM portal interface for a published bid. At the top, there is a navigation bar with links: Dashboard, Market, Bids, Purchase Requisitions, and Hemant Sharma. Below the navigation bar, there is a message: 'Your Bid GEM/2020/B/67033 has been published successfully.' Below the message, there are four tabs: 'Published Bids (96)', 'Published RAs (0)', 'Draft Bids/RAs (1)', and 'Bid to RAs (0)'. The 'Published Bids (96)' tab is selected. Below the tabs, there is a search bar labeled 'FILTER BY' and a search icon. Below the search bar, there is a table showing the details of the published bid. The table has columns: Bid No, Item(s), Specification(s), Total Participations, Remaining Days, Start Date, End Date, and Bid Status. The row for Bid No: GEM/2020/B/67033 shows: Item(s): Desktop Computers, Specification(s):, Total Participations: 0, Remaining Days: 37, Start Date: 16-07-2020 13:40:37, End Date: 23-07-2020 14:00:00, and Bid Status: Active. Below the table, there is a progress bar with steps: Published, Enquiry, and Finished. Below the progress bar, there is an 'Open Bid' button.

You can view your published RA under the 'Published RAs' tab.

You can view your published bids under the "Published Bids" tab.

STEP 54

Here is a sample bid document.

| | |
|---|--|
|   | Bid Number: GEM/2022/B/1916870 Dated: 03-02-2022 |
| Bid Document | |
| Bid Details | |
| Bid End Date/Time | 10-02-2022 18:00:00 |
| Bid Opening Date/Time | 10-02-2022 18:30:00 |
| Bid Life Cycle (From Publish Date) | 90 (Days) |
| Bid Offer Validity (From End Date) | 30 (Days) |
| Ministry/State Name | Ministry Of Agriculture And Farmers Welfare |
| Department Name | Department Of Agricultural Research And Education (dare) |
| Organisation Name | Agricultural Technology Information Centre (atic) |
| Office Name | Test2 |
| Item Category | Manpower Outsourcing Services - Minimum wage - Unskilled; Admin; Data Entry Operator |
| Contract Period | 2 Year(s) |
| MSE Exemption for Years of Experience and Turnover | No |
| Startup Exemption for Years of Experience and Turnover | No |
| SHG Exemption for Years of Experience and Turnover | No |
| Bid to PA enabled | No |

8.3 Custom Bid for Services:

Custom Bid has been introduced for buyers for procurement of specialized products and services that are currently not available on GeM. Custom bid can be placed for estimated value >5 lakhs.

In a few instances, product categories desired by government buyers for creation of bids are unavailable on GeM. Creating a GeM Category Definition may take time due to the due diligence and process involved for defining the GeM Category.

Therefore, this new functionality has been introduced for buyers for creating custom based bid for services not available on GeM.

Buyers can define the custom bid based on their needs even when the service category does not exist on GeM. The sellers would participate in the bid based on the requirements defined by the buyer.

The functionality will be primarily useful for all buyers for –

The procurement of specialized services that are currently not available on GeM.

Procurement of additional/side products that the buyer wants to procure but are not available on GeM.

Procurement of any one-time service/ bunch of services such as site survey, one-time audit service, one-time training etc.

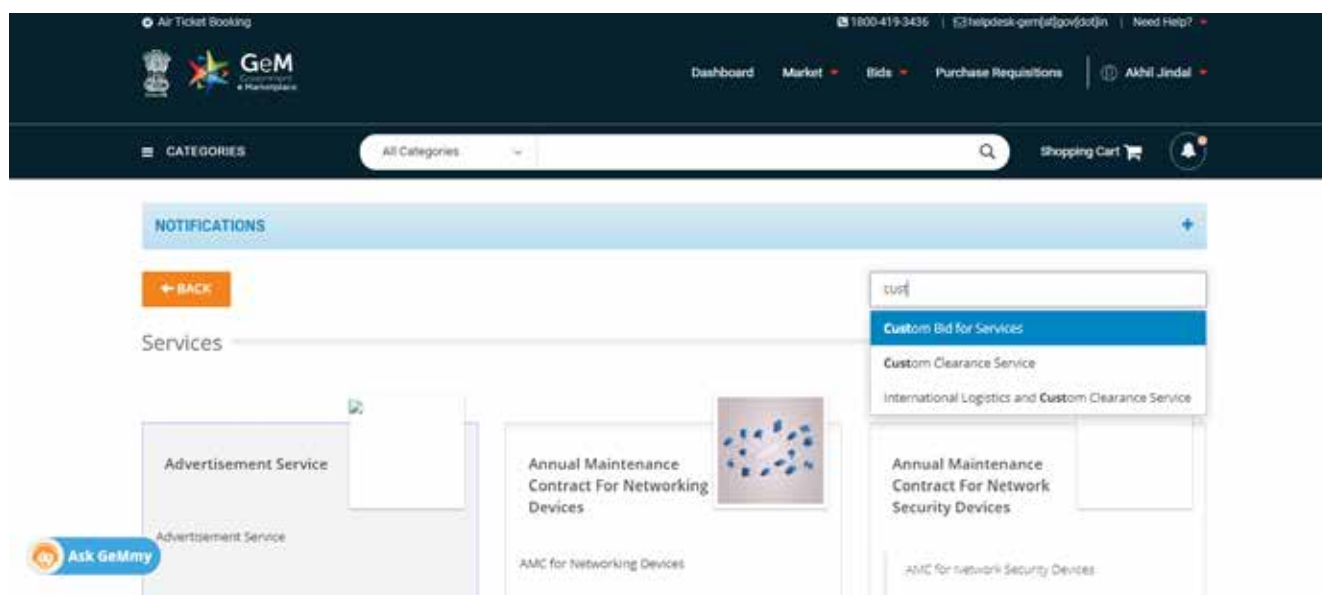
Key Highlights:

The creation of custom bid below Rs 5 lakh value is prohibited. Also, the selection of at least one related category is now mandatory for publishing custom bids.

The buyer would be asked to take an undertaking that the procurement of required item is not feasible from the items/catalogues available on GeM.

For custom bid services, the minimum bid duration is 10 days and maximum is 45 days.

All such custom definitions may be considered for defining new categories on GeM later.

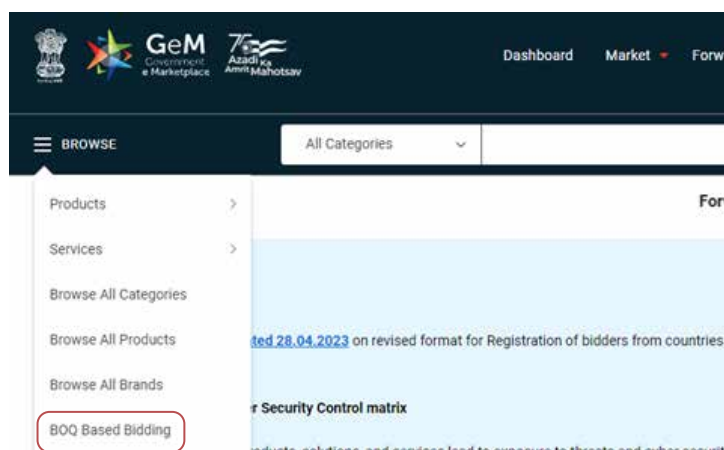


8.4 BOQ Based Bidding:

BOQ based bidding has been introduced to enable the buyer to analyze item wise price breakup in a larger contract/project.

Primary useful for turnkey jobs where the supply of line items to be procured are more, however total value wise / item wise evaluation is required.

Benefit of price break up shall help Buyer to monitor price hike for the same project.



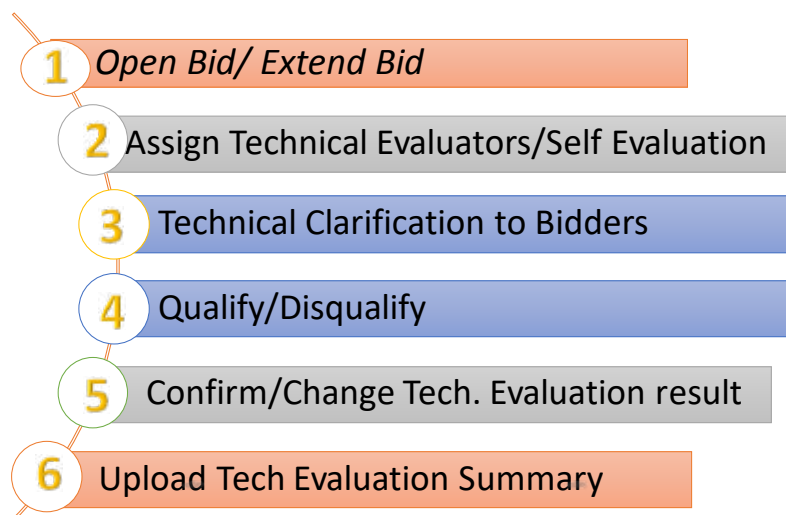
Key Highlights:

- With the new BOQ functionality, we have given buyer(S) the option to upload an Excel file with details of products required. The Excel file uploading is user friendly and details of Products like Model, Make, HSN code, GST % appear under one roof (The BOQ Sheet).
- This feature is specifically useful for contracts where line items can exceed 50, 100 or even more as it is simple and easy to manage for both buyers and sellers.
- Items can be incorporated in the excel format irrespective of the item being registered under a category by the buyer or seller having not uploaded the catalog.

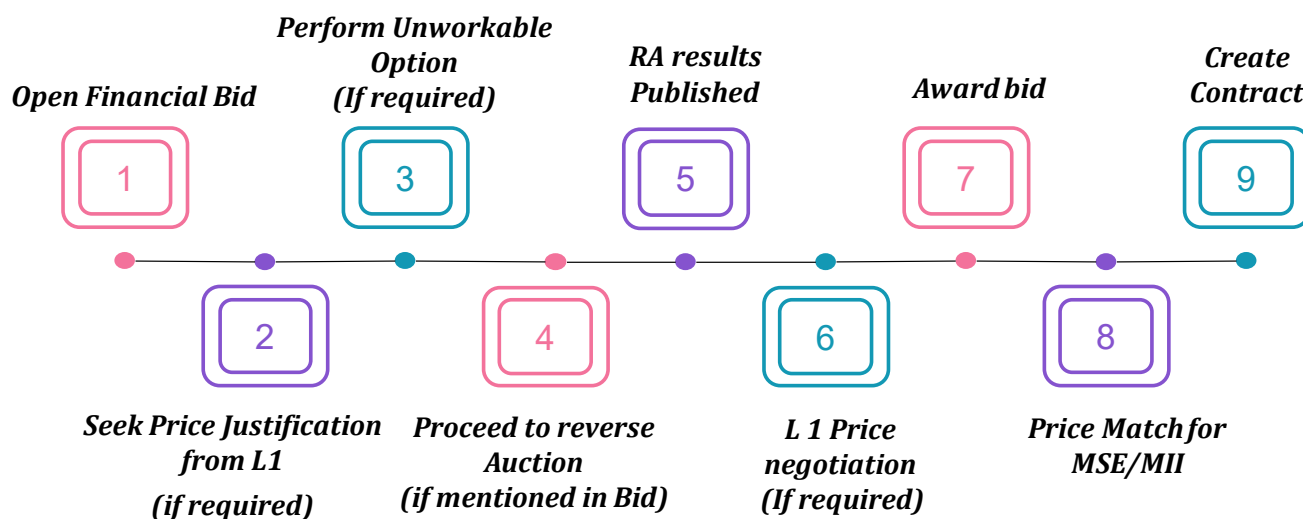
8.5 Bid Evaluation & Financial Evaluation

Bid evaluation & financial evaluation has already been discussed in Module 6 in detail. In GeM the process of Bid and Financial evaluation is followed as per the flow chart mentioned below-

BID EVALUATION



FINANCIAL EVALUATION



8.6 Price Negotiation:

We will learn the process of price negotiation with L1 bidder. Buyer/Competent Authority on GeM, in a few cases, were far from satisfied with regards to the price discovery arising with the aid of tools viz e-Bidding or Reverse Auction (RA).

In such cases, the buyer felt the need to perform online negotiation for getting a competitive edge resulting in subsequent price reduction. GeM has catered to this requirement of the client by designing an additional feature for negotiation to be used with bid and RA orders.

This functionality allows online negotiation with the L1 seller only.

The buyer will be able to initiate negotiation during the financial evaluation stage.

A maximum of five attempts will be allowed to buyer and the negotiation window will remain open for 72 hours for each attempt.

Price history including the initial price quoted by the seller, 1st round negotiated price, 2nd round, 3rd, 4th, 5th etc will be available.

It will be applicable for bids as well as RA's including schedule-wise evaluation.

A notification will be sent to the L1 seller when the buyer initiates a negotiation request.

The buyer shall initiate the negotiation request with L1 during the financial evaluation. Steps to be followed are mentioned below:

- Click on the 'Open & Award'.
- 'Need to negotiate with L1' icon will appear.
- On clicking this, the 'Icon Negotiation' window will open.
- Negotiation request is enabled.
- The buyer must input the reason for the request and upload an approval of competent authority.
- Click on the 'Confirm' icon.

Advisory:
1. The ePBG request would be initiated by Seller after order placement

Current L1

| S. No. | Seller Name | Offered Item | MSE Status | Total Price | Rank | Detail |
|--------|----------------|--|------------|-------------|------|------------------------|
| 1 | Karan Traders3 | Item Categories : computer mouse or trackballs | N/A | ₹ 100000.00 | L1 | Detail |

Actions

1. Request for Price match with L1: Price match requests will be initiated from the buyer panel and sent to eligible(MSE/MII/Others in case of split Bid) sellers.
2. Allocate Quantity to be awarded.
3. Offer Validity extension - Buyer and L1 sellers can mutually extend the offer validity online.
4. Cancel Schedule - Buyer has an option to cancel the schedule before award of schedule.

[Cancel Schedule](#) | [Seek Offer Validity Extension](#) | [Need to Negotiate with L1?](#)

Upload the certificate and click on the checkbox next to the undertaking.

Enable Negotiation

✕

CVC Guidelines

- (i) As post tender negotiations could often be a source of corruption, it is directed that there should be no post-tender negotiations with L-1, except in certain exceptional situations. Such exceptional situations would include, procurement of proprietary items, items with limited sources of supply and items where there is suspicion of a cartel formation. The justification and details of such negotiations should be duly recorded and documented without any loss of time.
- (ii) In cases where a decision is taken to go for re-tendering due to the unreasonableness of the quoted rates, but the requirements are urgent and a re-tender for the entire requirement would delay the availability of the item, thus jeopardizing the essential operations, maintenance and safety, negotiations would be permitted with L-1 bidder(s) for the supply of a bare minimum quantity. The balance quantity should, however, be procured expeditiously through a re-tender, following the normal tendering process.
- (iii) Negotiations should not be allowed to be misused as a tool for bargaining with L-1 with dubious intentions or lead to delays in decision-making. Convincing reasons must be recorded by the authority recommending negotiations. Competent authority should exercise due diligence while accepting a tender or ordering negotiations or calling for a re-tender.
- (iv) Counter-offers to L-1, in order to arrive at an acceptable price, shall amount to negotiations. However, any counter-offer thereafter to L-2, L-3, etc., (at the rates accepted by L-1) in case of splitting of quantities, as pre-disclosed in the tender, shall not be deemed to be a negotiation.

Reason For Negotiation *

Negotiation required as procurement is of proprietary items

[Download undertaking certificate](#)

Upload Competent Authority's Approval (Annexure-1): *

Browse...

ASAVEMO.pdf

☒ I confirm the reason for negotiation as selected above and confirm that the Buyer is solely responsible for compliance of CVC guidelines and / or procurement Guidelines of Buying Organization and has secured approval of competent authority for negotiation after appraising the Competent Authority about CVC guidelines.

Cancel

Save

Mention the reason for raising a negotiation request.

8.7 Invoicing, Consignee Review and Order Billing

In this module we are going to learn the process of invoicing by the service provider, consignee review of the service fulfilment and Final Bill drafting by the buyer.

Important Note- While deductions for non delivery of service can be applied by the service provider as well as the consignee, SLA deductions can only be applied by a consignee or the buyer. Service providers cannot apply any deduction for SLA breach.

STEP 1

First we look onto order creation for a service. On the create order page, buyer needs to update the contract Start Date, Contract End Date, the Billing cycle and click on “Create Order” to submit.

Create Order

Contract Start Date: 2020-09-25

Contract End Date: 2020-10-24

Billing Cycle For Florist Final: 1 day(s)

Billing Cycle For Florist Final: 1 day(s)

Create Order

WEB INFO
 Terms of Use
 Website Policies
 Document Help
 Site Map
 Web Information Manager

ABOUT GeM
 Introduction to GeM
 Statistics
 Right to Information
 Analytics
 New on GeM

NEWS & EVENTS
 Newsroom
 Gallery
 Notifications
 CCM Schedule
 Forums

RESOURCES
 GeM Handbook
 OM's/Circulars
 Terms and Conditions
 Policies/Manuals
 Miscellaneous

TRAINING
 LMS
 Training Calendar
 Training Module
 Facilitators
 Download GeM Logo

NEED HELP ?
 FAQs
 Video Guides
 Raise-a Ticket
 Contact Us
 Careers

STEP 2

Order is now finalized.



Order Summary

Name: Mansi Jawa

Email: mansi@nic.in

DEMAND NO : 511687707649336

DEMAND DATE : 24-09-2020

| Product Title | Quantity | Sub Total | Billing Cycle |
|--|----------|-------------|---------------|
|  FLORIST FINAL Price per bouquet: 200.000 Contract details: Duration: 1 month Start date: Fri, 25 Sep 2020 End date: Sat, 24 Oct 2020 | 10 | ₹ 60,002.00 | 1 day |
|  FLORIST FINAL Price per bouquet: 2.000 Contract details: | 10 | ₹ 603.00 | 1 day |

STEP 3


Now, we look at service invoicing by service provider. Go to the order details page to create invoice. Click 'Generate' to proceed.

CONTRACT # GEMC-511687706077089 **ORDER ACCEPTED** [Download Contract](#)

Contract Date: 20/08/2020
Start Date: 20/08/2020 End Date: 30/01/2021

Buyer: Hemant sharma
Department: Education department delhi
Location: Central delhi

Total order value: ₹ 8,150.00
No. of Consignee: 1
Quantity: 100 nos

 Florist Final - Regular Bouquets: Anthurium; 15 Flowers
Types of service: Regular Bouquets
Varieties of flowers: Anthurium
Size of bouquets / Indoor plants: 15 Flowers
State: delhi

Unit Price: ₹ 81.50
Total Quantity: 100 nos
Total Value: ₹ 8,150.00

Consignee: Hemant Sharma
Central delhi, Central delhi,
Delhi, 110006, India

Service Cycles: Billing Cycle: Weekly

Usage Parameters: --

Service Deliverables: [Generate](#)

Click
Generate to
proceed.

STEP 4

Please note- The details mentioned while creating GeM invoice should match the GST tax invoice uploaded here. If the details do not match, the invoice will be rejected.

Service provider to upload supporting documents for log sheet/attendance sheet while raising the invoice as well as the GST tax Invoice.

Upload GST Tax Invoice Document

Please attach the same Tax Invoice as uploaded with GST Authority, also ensure that fields entered while creating GeM invoice matches with attached document. If the details and document do not match your invoice will get rejected.

[+ Add Files](#) [Upload](#)

Supported File Format: pdf (Max Size: 5 MB)

Upload Supporting Document

[+ Add Files](#) [Upload](#)

Please note-
The details
mentioned while
creating GeM
Invoice should
match the GST
Tax invoice
uploaded here.
If the details do
not match the
invoice will get
rejected.

Service Provider
to upload
supporting
document for
Log sheet/
Attendance
sheet while
raising the
invoice as well
as the GST Tax
Invoice.

STEP 5

Upload the requested documents in PDF Format. File Size should not exceed 5MB. Scroll down to update further details on the invoice.

Upload GST Tax Invoice Document

Please attach the same Tax Invoice as uploaded with GST Authority, also ensure that fields entered while creating GeM invoice matches with attached document. If the details and document do not match your invoice will get rejected.

+

Add Files

608.5 kB

pdf

Information for selected service - Outcome based.pdf

Upload Completed Successfully

Upload

Supported File Format: pdf (Max Size: 5 MB)

Upload Supporting Document

+

Add Files

469.6 kB

pdf

Information for selected service - Mapower based.pdf

Upload Completed Successfully

Upload

STEP 6

Now, we look at service invoicing to be done by the service provider. Go to the order details page to create invoice. Click 'Generate' to proceed.

Invoice Details

Service Provider Tax Invoice No*

1234

Service Provider Tax Invoice Date*

06/09/2020

Billing Address*

1234, Delhi, East Delhi, DELHI, 110093

Service Code*

12345

Billing Start Date*

24/08/2020

Billing End Date*

30/09/2020

Bank Account Number*

1234

Service Details

☒

Florist Final - Regular Bouquets; Anthurium; 15 Flowers

Total(NR)

350.00

Service Non Delivery Deduction (₹)

Please enter a valid amount.

Cess (₹)

CGST (₹)

SGST (₹)

SGST/IGST/UTGST (₹)

0

Please enter the CGST (₹)

UTGST (₹)

GST (₹)

0

Total

350.00

Calculate Amount


Mention the deductions for Service Non Delivery, If any.

STEP 7

The system will reflect the final amount payable as per the information updated.

Click here to see the Invoice Preview.

Service Details

☒


Florist Final - Regular Bouquets, Anthurium; 15 Flowers

| | | |
|---------------------|---|-----------------------|
| Total(NR) 300.00 | Service Non Delivery Deduction (₹) 30.00 | Cess (₹) |
| CGST (₹) | SGST (₹) | SGST/IGST/UTGST (₹) |
| IGST (₹) | UTGST (₹) | GST (₹) |

Total
270.00

Total Amount Due (₹)

₹270.00

System will reflect the final amount payable as per the information updated.

Click here to see the Invoice Preview.

STEP 8

Agree to the Terms & Conditions and click here to generate the Invoice.

Invoice Preview

Invoice

SERVICE PROVIDER DETAILS:
 Address: Akshay Choudhary
 1234, Delhi, East Delhi, DELHI, 110008
 Email Id: akc@gmail.com
 Contact No: 09613123312
 GSTIN: 12HEDR123456789

SERVICE DELIVERED TO:
 Consignee Name: Harman Sharma
 Address: CENTRAL DELHI CENTRAL DELHI
 DELHI, 110008
 Contact No: 011-22123456

BILL TO:
 Buyer Name: Harman Sharma, puneethbayer
 Address: CENTRAL DELHI Central Delhi DELHI 110008 Education Department Delhi Delhi Technological University -
 Delhi College of Engineering
 Department: Education Department Delhi
 Office Zone North-East Zone
 Organization: Delhi Technological University - Delhi College of Engineering

Order No: OEAAC-511567706077066
Order Date: 20-Aug-2020

| Service Provider Tax Invoice Number | Service Provider Tax Invoice Date | Service Code | Billing period |
|-------------------------------------|-----------------------------------|--------------|----------------------------|
| 2345 | 01-Sep-2020 | 3456 | 20-Aug-2020 to 20-Aug-2020 |

| | |
|--|----------------|
| Service Name: Florist Final - Regular Bouquets, Anthurium; 15 Flowers | |
| Total(NR) inclusive of Taxes | Rs. 300 |
| Service Non Delivery Deduction | Rs. 30 |
| CGST | Rs. 1.00 |
| SGST | Rs. 0.00 |
| IGST | Rs. 0.00 |
| UTGST | Rs. 0.00 |
| Cess | Rs. 1.00 |
| Total Price inclusive all taxes | Rs. 320 |
| Grand Total | Rs. 320 |

☒ agree to the terms & conditions

Agree to the terms & Conditions and click here to generate the Invoice.

STEP 9

Now, we look at how the consignee will review the invoice and process order. Go to the Service Orders – Consignee View page from the dashboard to process and review the order.

Click here to proceed.

SERVICE ORDERS

BUYER VIEW **CONSIGNEE VIEW**

Contracts ▾ Search Demand No or Product Name 🔍

ALL CONTRACTS

CONTRACT NO: GEMC-531687708077089 **Status:** Order placed (accepted by seller) **INCIDENTS**

Buyer: Hemant Sharma **Seller:** Akshay Choudhary **Contract Generation:** 20/08/2020 17:18
Buying Mode: Direct Purchase **Total:** ₹ 8150.00

| Service | HSN Code | Ordered Quantity | Price |
|---|----------|------------------|-----------|
| Florist Final - Regular Bouquets, Anthurium; 15 Flowers | - | 100 | ₹ 8150.00 |

Process Order

Click here to Proceed.

STEP 10

Click “Process Service Orders” to review. This tab will be grayed out for orders that have been processed already.

Consignment Details

BUYER DETAILS

Name: Hemant Sharma
Email: punb@gov.in
Address: CENTRAL DELHI,CENTRAL DELHI,DELHI,110006

SELLER DETAILS

Name: Akshay Choudhary
Address: 1234,Delhi,East Delhi,DELHI,110093
Account Number: 1234
IFSC Code: KKBK0000183

Your Shipment Details

| Invoice Number | Invoice Date | Order Status | Action |
|----------------|--------------|----------------------|-------------------------------|
| GEM-74369 | Sep 7, 2020 | Dispatched By Seller | Process Service Orders |

STEP 11

You may download the documents uploaded by the service provider from here to review. The Log Sheet/ Diary will be shared as a supporting document.

Consignment Details

BUYER DETAILS
Name: Hemant Sharma
Email: punb@gov.in
Address: CENTRAL DELHI,CENTRAL DELHI,DELHI,110006

SELLER DETAILS
Name: Akshay Choudhary
Address: 1234,Delhi,East Delhi,DELHI,110093
Account Number: 1234
IFSC Code: KKBK0000183

Your Shipment Details

| Invoice Number | Invoice Date | Order Status | Action |
|----------------|--------------|----------------------|---|
| GEM-74369 | Sep 7, 2020 | Eligible For Payment | Process Service Orders View Details |

Service Provider Invoice Details

| Invoice Number | Invoice Date | Download Documents |
|----------------|--------------|--|
| GEM-74369 | Sep 7, 2020 | View Details Invoice Tax Invoice Supporting Document |

STEP 12

Click here to update the deduction reason and amount.

DELHI,DELHI,110006

Account Number: 12341234
IFSC Code: HDFC0000585

Service Delivery Acceptance

| Title | Total Base Amount | Addon Total | Service Non-Delivery Deductions | SLA Deductions | Total |
|---|-------------------|-------------|---------------------------------|----------------|--------|
| Short Term Cab & Taxi Hiring Services - KPMG 1 - Hatchback: Maruti Suzuki WagonR: Local | 192 | 0 | 10.00 | 0.00 | 182.00 |
| Florist Final | 177.6 | 0 | 1.00 | 0.00 | 176.60 |
| Sum: | | | 11.00 | 0.00 | 358.60 |

Submit

Click here to update the Deduction reason and amount.

STEP 13

Note: - The non-delivery deduction cannot be more than the invoice payable amount. SLA deduction can only be upto 10% of Invoice amount after non-delivery deductions. Select the reason for deduction from the dropdown, update the amount and submit.

| S.NO | Reason | value | Comment | Action |
|------|----------------------|-------|----------------------|--------|
| 1 | Not received on 21st | 40 | Not received on 21st | |

| S.NO | Reason | value | Comment | Action |
|------|--------------|-------|--------------|--------|
| 1 | Indiscipline | 5 | Indiscipline | |

Select the reason for deduction from the dropdown, update the amount and Submit.

STEP 14

Note: If you are not able to find a suitable reason for deduction in the drop down menu, please choose 'others' and explain the reason for deduction in comments as per the terms of your contract.

| S.NO | Reason | value | Comment | Action |
|------|--------|-------|---------|--------|
| 1 | Others | 1 | | |

| S.NO | Reason | value | Comment | Action |
|------|--------|-------|---------|--------|
| 1 | Others | 50 | | |

STEP 15

Click to Submit.

Consignment Delivery

CONTRACT DETAILS

Contract No: GEMC-511687706077089

Contract Generation: 20/08/2020 17:18:03

Contract Start Date: 25/08/2020

Contract End Date: 30/01/2021

Status: Dispatched by seller

INVOICE DETAILS

Invoice Number: GEM-74369

Invoice Date: 07/08/2020

Date of Dispatch: -

BUYER DETAILS

Name: Hemant Sharma

Email: purno@gpu.in

Address: CENTRAL DELHI, CENTRAL DELHI, DELHI, 110006

SERVICE PROVIDER DETAILS

Name: Akshay Choudhary

Address: 1234, Delhi, East Delhi, DELHI, 110093

Account Number: 1234

IFSC Code: KKBK0000163

Service Delivery Acceptance

| Title | Total Base Amount | Addon Total | Service Non-Delivery Deductions | SLA Deductions | Total |
|--|-------------------|-------------|---------------------------------|----------------|--------|
| Florist Final - Regular Bouquet, Anthurium, 15 Flowers | 350 | 0 | 30.00 | 0.00 | 320.00 |
| Sum: | | | 30.00 | 0.00 | 320.00 |

Submit

Click here to Submit.

STEP 16

Now, let us see how the consignee can reject an incorrect invoice. Go to the Service Orders – Consignee View page from the dashboard to process and review the order. Click here to Proceed.

SERVICE ORDERS

BUYER VIEW
CONSIGNEE VIEW

Contracts
Search Demand No or Product Name

ALL CONTRACTS

CONTRACT NO: GEMC-511687706077089
Status: Order placed (accepted by seller)
INCIDENTS

Buyer: Hemant Sharma
Seller: Akshay Choudhary
Contract Generation: 20/08/2020 17:18

Buying Mode: Direct Purchase
Total: ₹ 8150.00

| Service | HSN Code | Ordered Quantity | Price |
|--|----------|------------------|-----------|
| Florist Final - Regular Bouquet, Anthurium, 15 Flowers | - | 100 | ₹ 8150.00 |

Process Order

Click here to Proceed.

STEP 17

Check the required invoice and click “Reject Invoice” as deemed appropriate. Be sure to give the relevant reason for the rejection.

Consignment Details

| BUYER DETAILS | | SELLER DETAILS | |
|---------------|---|-----------------|--|
| Name: | Hemant Sharma | Name: | Akshay Choudhary |
| Email: | puri@gov.in | Address: | 1234, Delhi, East Delhi, DELHI, 110093 |
| Address: | CENTRAL DELHI, CENTRAL DELHI, DELHI, 110006 | Account Number: | 1234 |
| | | IFSC Code: | KKBK0000183 |

Your Shipment Details

| Invoice Number | Invoice Date | Order Status | Action |
|----------------|--------------|----------------------|--|
| GEM-74369 | Sep 7, 2020 | Dispatched By Seller | Process Service Orders Reject Invoice View Details |

STEP 18

Enter the reason for rejection and click here to submit.

Are you sure to reject the invoice?

Rejection reason:
Service not rendered

[Cancel](#) [Confirm](#)

Enter the reason for rejection and click here to submit.

STEP 19

The rejected invoice will be visible under the “Reject invoice” section, as shown in the screenshot below.

Name: Hemant Sharma

Email: punb@gov.in

Address: CENTRAL DELHI,CENTRAL DELHI,DELHI,110006

Name: Tushar Pal

Address: ADS,ASD,Central Delhi,DELHI,110001

Account Number: 53755375

IFSC Code: ICIC0000007

Your Shipment Details

| Invoice Number | Invoice Date | Order Status | Action |
|----------------|--------------|----------------------|---|
| GEM-130195 | Jan 8, 2022 | Eligible For Payment | Process Invoice Reject Invoice View Details |

Rejected Invoices

| Invoice Number | Invoice Date | Rejection Date |
|----------------|--------------|----------------|
| GEM-140959 | Feb 5, 2022 | Feb 21, 2022 |

STEP 20

Alternatively, the consignee can click on the “process invoice” tab for the mentioned invoice and land on the page below. After reviewing the deductions applied, you may reject the invoice after updating the remarks.

Contract Start Date: 28/12/2021

Contract End Date: 27/01/2022

Status: Dispatched by seller

Date of Dispatch: -

BUYER DETAILS

Name: Hemant Sharma

Email: punb@gov.in

Address: CENTRAL DELHI,CENTRAL DELHI,DELHI,110006

SERVICE PROVIDER DETAILS

Name: Tushar Pal

Address: ADS,ASD,Central Delhi,DELHI,110001

Account Number: 53755375

IFSC Code: ICIC0000007

Service Delivery Acceptance

| Title | Total Base Amount | Addon Total | Service Non-Delivery Deductions | SLA Deductions | Total |
|----------------------------|-------------------|-------------|---------------------------------|----------------|--------|
| Spot Hiring Service (Uber) | 200 | 0 | 0.00 | 0.00 | 200.00 |
| Sums: | | | 0.00 | 0.00 | 200.00 |

[Submit](#) [Reject Invoice](#)

STEP 21

Now let us see how the buyer drafts the bill. To draft the final bill, please go to the “Dashboard”, click on “Bills” and choose “Process Bill” option from the dropdown.

The screenshot shows the GeM Dashboard. At the top, there's a navigation bar with 'Dashboard', 'Market', 'Bids', and 'Purchase Requisitions'. The user 'Nilesh Gupta' is logged in. Below this, there's a 'Shop By Category' dropdown and a search bar. The main dashboard area has several sections: 'MY DASHBOARD', 'PRODUCT ORDERS', 'SERVICE ORDERS', 'ALL DEMANDS', 'BILLS', 'INCIDENTS', 'ALL CARTS', and 'REQUESTS'. The 'BILLS' dropdown menu is open, showing options: 'PROCESS BILLS' (highlighted with a red box), 'PAYMENT CONFIRMATION', and 'PREVIOUS FINANCIAL YEAR ORDERS'. Below the dropdown, there's a summary card showing 'Number of People/Posts: 14', 'Number of Divisions: 1', 'Total Number: 2', and 'Value of Orders (Rs.): 35000.00'. There are also several tables for 'ALL DEMANDS', 'PRODUCT ORDERS', 'SERVICE ORDERS', 'SHIPMENTS', and 'BILLS'.

STEP 22

All the bills can be viewed here. Click on Process Bill

The screenshot shows the 'Bills' page. At the top, there's a 'Choose Payment Method' dropdown set to 'PFMS' and a 'SHOW ORDERS' button. Below this, there's a search section with 'Search within a period:' and 'From'/'To' date pickers, a 'SEARCH' button, and a 'Search by contract number' field with another 'SEARCH' button. The main part of the page is a table with columns: S.No., Order No., Order Date, Product, Buyer Name and mobile, Payment Mode, and Action. The first row shows an order for 'Redmi note 5' with a 'SHOW BILLS' button. Below this, there's another table with columns: Invoice No. and Date, CRAC No. and Date, Consignee, Seller, Buyer Bill, DDO Bill, Order Amount, Payment Status, and Action. The first row of this table shows an invoice for 'AGMATEL INDIA PRIVATE LIMITED, DGS&D.' with a 'PROCESS BILL' button highlighted by a red box and a red arrow pointing to it from a red callout box that says 'Click here to proceed'. The second row of this table shows another invoice with a 'VIEW BILL' button.

STEP 23

All the details pertaining to the selected bill can be viewed here.

NOTIFICATIONS

BILL PROCESSING BY BUYER

Contract Number : GEMC-511687718686136
Contract date : 2020-09-23

Reference Signed Documents

FINANCIAL APPROVAL | SANCTION ORDER | CONTRACT | SERVICE PROVIDER INVOICE

| ORGANISATION DETAILS | | SERVICE PROVIDER DETAILS | | BUYER DETAILS | |
|----------------------|--|--------------------------|---|----------------|---|
| Type: | Central Government | GEM Unique ID: | sellertesting89 | GEM Unique ID: | buyertesting88 |
| Ministry: | Ministry of Electronics and Information Technology | Company Name: | BKTESTING pvt.ltd | Name: | Rashmi Sharma |
| Department: | NA | Email: | anant@ann.com | Address: | Jhule Lal Marg, CENTRAL DELHI, DELHI - 110006 |
| Organisation Name: | Cyber Appellate Tribunal (CyAT) | Address: | BKTESTING pvt.ltd, West Delhi, DELHI - 110087 | | |
| Office Name: | GeM | | | | |
| HOD Name: | Akshay Choudhary | | | | |

| CONSIGNEE DETAILS | | ACCOUNTING DETAILS | |
|-------------------|---|---|---|
| GEM Unique ID: | buyertesting88 | Designation of official providing admin approval: | Test |
| Name: | Rashmi Sharma | Designation of official providing finance approval: | Test |
| Address: | Jhule Lal Marg, CENTRAL DELHI, DELHI - 110006 | IFD Concurrence / Competent Authority (HOD / Head of Office) Approval Required? | IFD Concurrence / Competent Authority (HOD / Head of Office) Diary No.: |
| | | IFD Concurrence / Competent Authority (HOD / Head of Office) Diary Date: | Budget Availability: |
| | | | YES |

SERVICES DELIVERED

| # | Service Description |
|---|---|
| 1 | Short Term Cab & Taxi Hiring Services - KPMG 1 - Hatchback: Maruti Suzuki WagonR, Local |
| 2 | Florist Final |

SELLER INVOICE DETAILS

| | |
|--|--------|
| Invoice Amount | 358.60 |
| Service Non Delivery Deduction Amount (in INR) | 3.00 |
| SLA Deduction Amount (in INR) | 0.00 |
| Total Received and Accepted Order Value(INR) | 355.60 |

BILL PROCESSING

DEDUCTIONS

Whether Deductions are to be imposed? * ☒ YES ☐ NO

Additional Deductions

| Service Type Code | 2 | + |
|-------------------|---|---|
| SLA (Invoice) | 1 | - |

BILL BREAK-UP

| | |
|--|--------|
| A. Total Accepted Items Amount: | 358.60 |
| B. Total Deductions Amount: | 3.00 |
| C. Net amount of bill (A-B): | 355.60 |
| D. Final amount of bill (rounded-off): | 355.60 |

SAVE DRAFT BILL

Select "Yes" if further deductions need to be imposed, update reason and amount.

Click here to submit the final bill.

KEY TAKEAWAYS

- The buyer needs to award the contract within the bid offer validity period.
- Custom Bid has been introduced for the procurement of specialized products and services that are currently not available on GeM.
- BOQ based bidding enables the buyer to examine item-wise price breakdown in a larger project/ contract.

Suggested Reading:

1. Indian Contracts Act, 1872
- 2) Sale of Goods Act, 1930
- 3) Arbitration and Conciliation Act, 1996 read with the Arbitration and Conciliation (Amendment) Act, 2015, 2019
- 4) General Financial Rules issued by Department of Expenditure, Government of India “Compilation of amendments in GFR, 2017 up to 31.01.2023” or its latest version
- 5) Manual for Procurement of Goods, 2022 or its latest version
- 6) Manual for Procurement of Consulting and other Services, 2022 or its latest version
- 7) Manual for Procurement of Works, 2022 or its latest version
- 8) Guidance Document on Partnerships RNTCP 2019 or its latest version
- 9) Operations Manual for Partnerships Under NTEP March FINAL or its latest version
- 10) National Strategic Plan for Tuberculosis Elimination 2017–2025
- 11) National Strategic Plan to End Tuberculosis In India 2020–25 - Accelerating The National Response for Expanded Coverage and Sustained Impact at Scale to End TB in India
- 12) Model “Request for Proposal (RFP) for Selection of Patient Provider Support Agency (PPSA) for Providing Tuberculosis Related Services under NTEP” issued by CTD or its latest version.
- 13) Model Tender Document for Procurement of Non-Consultancy Services/DEPARTMENT OF Expenditure | Ministry of Finance |Government of India (doe.gov.in) or its latest version.
- 14) Model Tender Document for Procurement of Consultancy Services/DEPARTMENT OF Expenditure | Ministry of Finance |Government of India (doe.gov.in) or its latest version.
- 15) Delegation of Financial Powers to Heads of Department and Head of Offices of Government of NCT, Delhi or its latest version.
- 16) Telangana Financial Code or its latest version.
- 17) The ANDHRA PRADESH FINANCIAL CODE Vol. I or its latest version.
- 18) The ANDHRA PRADESH FINANCIAL CODE Vol. III – Delegation of Financial Powers or its latest version.
- 19) Andhra Pradesh Financial code Reading material final or its latest version.
- 20) Gujarat State Purchase Policy 2016 - Resolution No: SPO/102015/691093/2 Date:03/06/2016 or its latest version.
- 21) Gujarat - THE FINANCIAL POWERS (DELEGATION) RULES, 1998 or its latest version.
- 22) ODISHA GENERAL FINANCIAL RULES, 2023 | Finance Department or its latest version.
- 23) Odisha - Guidelines for Procurement of Goods – No 4939/F, Date 13.2.12 or its latest version.
- 24) Odisha - Guidelines for Engagement of Consultants and Outsourcing of Services – Finance OM No. 37323 dated 30.11.2018 or its latest version.
- 25) Odisha- NGO and PPP cell selection procedure – Finance OM No. 14549 dated 03.06.2014 or its latest version.





Annexure I

Steps for “Contracting of Partnerships Option”

1. Identify service(s) to be procured from the Service Provider

The services to be procured should be based on the Needs Assessment. Identified services should be proposed in the government’s annual Program Implementation Plan (PIP).








2. Prepare SOW/TOR including scope & volume, & quality/performance/output indicators

-  Prepare a SOW/TOR defining the service objectives and the scope of the services. The SOW/TOR should include a schedule to complete the tasks as well as the support or input required from the Program Manager to facilitate service provision.
-  Define the eligibility criteria to be fulfilled by the service provider.
-  Define the volume of services and geographical area where the services are to be procured.
-  Define the quality/process/performance/output indicators.

3. Estimate the budget




-  Based on the scope and volume of services, the Program Manager should estimate the budgetary requirement.

4. Preparation of invitation of bid/request for proposal




-  The request for proposal should include:
-  A letter of invitation
-  Instructions to potential service provider on the procedure for preparation and submission of proposal
-  Eligibility and qualification criteria
-  Bid evaluation criteria and selection procedure
-  Standard formats for technical and financial proposal.
-  Proposed contract terms including contract management and payment mechanism

*The latest version of “Model RFP” for PPSA is available on CTD website.







Step 5. Issue of invitation of bid/request for proposal

-  Based on the regulations laid down by the State or as per GFR 2017, the Program Manager may decide the mode of issuance of RFP through limited or open tender.
-  The Program Manager should publish RFP through advertisements in print media and on the e-procurement portal and on the department website.
-  The Program Manager should disseminate the RFP through professional outreach in the defined geographical area.



Step 6. Organize a pre-bid conference

-  A pre-bid meeting should be prescribed in the RFP along with the date and time.
-  In this meeting, the scope of services, responsibilities of either parties or other details should be explained to the prospective service providers to avoid any ambiguity at the time of submission of bids.
-  If significant changes are made in the terms/scope of the RFP after the pre-bid meeting or otherwise considered necessary by the Program Manager, a formal corrigendum to the RFP may be issued to all bidders. In such cases, it should be ensured that after issue of the corrigendum, reasonable time is available to the bidders to prepare/submit their bids. If required, the time for preparation and submission of bids may be extended.

Step 7. Submission and opening of Bids/RFP

-  Submission of the proposals should be as per the rules for the procurement process followed in the state.
-  Bidding process should follow the two-stage bid process of quality and cost based selection or least cost selection method based on the type of procurement
-  Submission of technical and financial proposals should be separate and be kept confidential.
-  The technical bids should be opened as soon as possible after the closing hours of receipt of bids by the competent authority.
-  The financial proposals shall be opened at a designated time by a competent authority only for those service providers who have qualified technical bids.
-  All rules pertaining to procurement including conflict of interest of individuals/entities should be followed.

Step 8. Technical evaluation

-  Technical bids should be analyzed and evaluated by a Bid Evaluation Committee (BEC) constituted by the competent authority.
-  The BEC should evaluate the technical bids using the technical evaluation criteria defined in the RFP.



QCBS will be used for procurement of services, where quality of service is the primary concern. This method is recommended for input- and output-based contracts.



Under QCBS system, the quality of technical proposals is scored as per criteria shared in the RFP. Only those proposals that have achieved specified qualifying score are considered further.

Step 9. Financial evaluation



The Bid Evaluation Committee (BEC) appointed by a competent authority should open the financial bids of only those bidders who have been declared qualified. Bids should be opened at a designated time.

Step 10. Select the proposal



After opening and scoring the financial proposals of the responsive technically qualified bidders, the authority arrives at a final combined score by giving predefined relative weightages for the score of quality of the technical proposal and the score of financial proposal.



The competent authority can decide the relative weightage of technical and financial components during RFP preparation stage. However, weightage of the technical parameters i.e., non- financial parameters in no case should exceed 80%. The proposal with the highest weighted combined score, based on QCBS, is selected.



Least Cost Selection (LCS) shall be used for fee-for-services contracting. This method will be used for purchase arrangement. Unlike QCBS, there is no weightage for technical score in the final evaluation and the responsive technically qualified proposal with the lowest evaluated cost will be selected.



The competent authority should consider any representation/appeal against selection decision. Usually, the time period for such appeals is not more than 15 days after the date of announcement of selection.

Step 11. Letter of acceptance and signing the agreement



The competent authority will issue a letter of acceptance to the selected Service Provider.



The letter should contain the contracted value, duration of the contract, details on adjudicator and performance security, wherever applicable.



The competent authority should also seek a reply to the letter of acceptance within the stipulated period. After receiving a positive response from the selected service provider with submission of performance securities, wherever applicable, the competent authority should proceed for the signing of agreement. The states are advised to take legal consultation on the terms of the contract by involving their respective legal departments and institutions.

Glossary

| S. No. | | Meaning/Definition |
|--------|--|---|
| 1 | Advance Payment | An advance payment, or simply an advance, is the part of a contractually due sum that is paid or received in advance for services or goods, while the balance included in the invoice will only follow the delivery. |
| 2 | Amendment | A document that modifies an existing Act or Rules which is binding on all the stakeholders |
| 3 | AMC | Annual maintenance Contract is an agreement between a company and a provider that sets expectations for the ongoing maintenance of machinery that the company purchases from the provider. An AMC is helpful for the upkeep of sophisticated equipment and machinery for seamless operation. |
| 4 | Arbitration | Settlement of a dispute (whether of fact, law, or procedure) between parties to a contract by a neutral third party called the Arbitrator, without resorting to court action. Arbitration is usually voluntary but sometimes it is required by law. If both sides agree to be bound by the Arbitrator's decision, the 'award' becomes a binding arbitration. |
| 5 | Arbitration and Conciliation Act, 1996 | The Arbitration and Conciliation Act, 1996 contains the law relating to arbitration. This Act came into force on January 25th, 1996. This act gives the provisions for International Commercial arbitration, domestic arbitration and enforcement of foreign Arbitral awards. It is an act to integrate and amend law relating to Domestic Arbitration, International commercial arbitration and Enforcement of foreign arbitral award. |
| 6 | Bank Guarantee | A guarantee from a lending institution (bank) ensuring that the liabilities of a party will be met. In other words, if the party fails to perform a contract as per terms or supply of services, goods or works as per terms or settle a debt, the bank will cover it. |
| 7 | Bid | Bid (including the term 'tender', 'offer', 'quotation' or 'proposal' in certain contexts) an offer to supply services, goods or execution of works made in accordance with the terms and conditions set out in a document inviting such offers. |
| 8 | Bid Evaluation Committee (BEC) | The bid evaluation committee (BEC) has the responsibility of supervising and ensuring that the procurement procedure outlined in the bid documents is followed. |
| 9 | Bid security | Bid security (including Earnest money) means a security provided to the procuring entity by a bidder for securing the fulfilment of any obligation in terms of the provisions of the bidding documents. |
| 10 | Bidder | Bidder (including the term 'tenderer', 'consultant' or 'service provider') means any person, company, firm, agency, institution, etc. participating in a procurement process. |

| S. No. | | Meaning/Definition |
|--------|--|--|
| 11 | Bidder registration documents | Bidder registration documents means the documents issued by a procuring entity, including any amendments thereto, that set out the terms and conditions of registration proceedings and includes the invitation to register. |
| 12 | Bidding documents | Bidding documents including the term 'tender enquiry documents' or 'request for proposal' means documents issued by the procuring entity, including any amendments thereto, that set out the terms and conditions of the given procurement and includes the invitation to bid. |
| 13 | Bill of Quantities (BoQ) | BoQ is a document used in bidding in which materials, parts, and labor are itemized which is multiplied with unit to arrive at cost of the project or procurement. It may also include insurance, transportation costs, or any relevant costs which influence the price of the subject matter of procurement. BoQ is used to rank financial bid of bidders. |
| 14 | Category | Category means category of works in which the prospective bidder may be registered as per procedure detailed in these guidelines. |
| 15 | Code of Integrity for Public Procurement | <p>Code of Integrity as defined in Rule 175 of GFR 2017, Procuring authorities as well as bidders, contractors and consultants should observe the highest standard of ethics and should not indulge in the following prohibited practices, either directly or indirectly, at any stage during the procurement process or during execution of resultant contract, some of them includes.</p> <p>Corrupt practice, Fraudulent practice, Anti-competitive practice, Coercive practice, Conflict of interest and Obstructive practice.</p> |
| 16 | Competent Authority | Competent Authority means an authority or officer to whom the relevant administrative or financial powers have been delegated for taking decision in a matter relating to procurement. |
| 17 | Completion Certificate | A certificate issued by the contracting authority after the work has been executed and the assets created are commissioned to the satisfaction of contracting authority. |
| 18 | Conflict of interest | Conflict of interest for Procuring Entity or its personnel and bidders is considered to be a situation in which a party has interests that could improperly influence that party's performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations. |
| 19 | Consortium | Consortium is association of two or more companies or firms to bid for a private sector engagement contract. |
| 20 | Consultancy Services | Such services where specific outcome is dependent upon intellectual inputs and are primarily of non-physical nature. Consultancy services may also have some element of non-consultancy services, works or goods which are incidental or consequential to such consultancy services. |
| 21 | Consultant | A variety of private and public entities, joint ventures, or individuals that provide services of an intellectual or professional nature. |

| S. No. | | Meaning/Definition |
|--------|--------------------------------------|--|
| 22 | Contract | A formal legal agreement in writing relating to the subject matter of procurement, entered between the Contracting Entity and the contractor on mutually acceptance terms and conditions, which are in compliance with all the relevant provisions of the law of the land. |
| 23 | Contract Management | The process undertaken during the period from the signing of contract-to-contract closure that enables both the Contracting Entity and the contractor to meet their obligations within the contract to deliver the objectives set by the contract. Contract Management is a continuous process that ensures compliance to contract terms and conditions, managing risks to contract completion, and includes relationship management, contract monitoring, contract administration, payment and so on |
| 24 | Contractor | The entity named in the respective contracts executes the contract. It may be referred as Supplier/ Consultant/ Service Provider/ Contractor in different contexts. |
| 25 | CPPP | National Informatics Centre (NIC), Ministry of Electronics & Information Technology, in close association with the Procurement Policy Division, Ministry of Finance, has developed, hosted and implemented the Central Public Procurement Portal customized to cater to the electronic procurement/ tendering requirements of the Central Government Departments and other organizations. The primary objective of the portal is to provide a single point access to the information on procurements made across various Ministries and the line Departments |
| 26 | Digital Signature Certificates (DSC) | Digital Signature Certificate (DSC) can be presented electronically to prove identity or right to access information or services on the Internet. DSC is required for all authorized users in a department to carry out e-procurement. DSC can be obtained directly from any of the certified authorities.(CA)-NIC is also one of the CAs. Instructions to obtain DSC are available at https://nicca.nic.in/ The DSC uses advanced cryptographic tools. |
| 27 | Direct Contracting/ Procurement | Direct Contracting/Procurement, also known as sole-source or single source, is a procurement method that allows the awarding of a contract without competition. |
| 28 | Effective Date | The date of commencement of the obligations under the contract on the parties to a contract. |
| 29 | Electronic procurement | Electronic procurement means the procurement through electronic process, wherein the physical bidding activity is carried out online using the internet and associated technologies. The electronic processes mean such processes as specified in the IT Act 2000. |
| 30 | Electronic reverse auction | Electronic Reverse Auction means an online real time purchasing technique utilised by the Procuring Entity to select the successful submission, which involves presentation by bidders of successively lowered bids during a scheduled period of time and the automatic evaluation of bids. |

| S. No. | | Meaning/Definition |
|--------|---------------------------|---|
| 31 | E-Payment | E-Payment means payment of the taxes levied by or any other amount due to State Government using electronic funds transfer services of a Bank by instant debit to payee's account with Bank and credit to the State Government account. |
| 32 | Expression of Interest | In certain cases when the exact specifications of the requirement are not known or when the likely sources of supply are not known, Expression of Interest (EOI) Bids may be invited. Once the specifications or list of the likely suppliers are finalised based on inputs from EOI, normal procurement bidding can be done. |
| 33 | Force Majeure Clause | It exempts the contracting parties from fulfilling their contractual obligations for causes that could not be anticipated and/or are beyond their control. These causes usually include acts of God, acts of humans, acts of Parliament, and other impersonal events or occurrences, wars. In French, it translates to 'superior force'. |
| 34 | Fraudulent Practice | It means a misrepresentation or omission of facts, directly or indirectly, at any stage, in order to influence a procurement process or the execution of a contract. |
| 35 | GeM | GeM is online e-commerce portal of Government of India for online purchase of services and goods by the procuring entities of the Government. The initiative was launched on August 9, 2016, by the Ministry of Commerce and Industry, Government of India with the objective to create an open and transparent procurement platform for government buyers. |
| 36 | GFR 2017 | Compilation of rules and Orders of Government of India to be followed by all while dealing with matters involving public finances. |
| 37 | Goods | This includes all articles, material, commodities, electricity, livestock, furniture, fixtures, raw material, spares, instruments, software, machinery, equipment, industrial plant, vehicles, aircraft, ships, railway rolling stock and any other category of goods, whether in solid, liquid or gaseous form, purchased or otherwise acquired for the use of a procuring entity as well as services or works incidental to the supply of the goods if the value of services or works or both does not exceed that of the goods themselves. |
| 38 | Indian Contract Act, 1872 | The Indian Contract Act, 1872 prescribes the law relating to contracts in India and is the key act regulating Indian contract law. It is applicable to all the states of India. It determines the circumstances in which promises made by the parties to a contract shall be legally binding. Under Section 2(h), the Indian Contract Act defines a contract as an agreement enforceable by Law. |
| 39 | IMA | The Indian Medical Association (IMA) is a national <u>voluntary organization</u> of physicians in <u>India</u> . It is a society registered under The Societies Act of India. The Indian Medical Association has approximately 350,000 member doctors in 1,700 active local branches in 29 states and union territories in India. It is the largest association of medical doctors in India. |
| 40 | Instructions to Bidders | This section in bid document provides comprehensive information to prospective bidders on preparing and submitting the bid. |

| S. No. | | Meaning/Definition |
|--------|-------------------------------------|--|
| 41 | Intellectual Property Rights (IPRs) | The legal rights granted with the aim to protect the creations of the intellect. These rights include Industrial Property Rights (e.g., patents, industrial designs and trademarks) and Copyright (right of the author or creator) and Related Rights (rights of performers, producers and broadcasting organisations). |
| 42 | International Competitive Bidding | International Competitive Bidding means a bidding process in which qualified bidders from all over the world, except those having nationality of a country declared ineligible by the Central Government, are allowed to participate. |
| 43 | Invitation to Bid | Invitation to Bid (including tender, proposal) means a document published by the Procuring Entity inviting bids relating to the subject matter of procurement and any notice inviting tender and request for proposal. |
| 44 | Joint Venture | As per Companies Act, 2013, a Joint Venture means a joint arrangement, whereby the parties that have joint control of the arrangement have rights to the net assets of the arrangement. In other words, a combination of two or more parties that seek the development of a single enterprise or project for profit and sharing the risks associated with its development. |
| 45 | Key Performance Indicators (KPI) | Key Performance Indicators a quantifiable measure of performance over time for a specific objective. It is used to track progress towards a specific goal or objective. |
| 46 | L1 Bidder L 2 Bidder | L1 means the lowest tender or lowest bid or the lowest quotation received in a tender, bidding process. L2 means the second lowest tender or second lowest bid or the second lowest quotation received in a tender, bidding process. |
| 47 | Law | It shall mean any law, Act, Ordinance, regulation, rule, notification, order, byelaw, scheme, or other instrument having for the time being the force of law. |
| 48 | Liquidated Damages | A sum of money (agreed to and written into a contract) specified as the total amount of compensation an aggrieved party should get, if the other party breaches certain part(s) of the contract. The contract also establishes what actions or failures to act constitute a breach. For the agreement to be legally enforceable, the nature of the contract should be such that it is difficult to determine actual damages, and the amount of damages should be reasonable under the circumstances. Otherwise, the law may regard the specified amount as a fine (included in the contract primarily to force its proper performance) and not as compensation for injury. In such cases, the damages are deemed 'not liquidated damages' and are assessed by a court according to the merits of the case. |
| 49 | Litigation | An adversarial formal process whereby claims regarding contractual disputes are taken through the civil courts and conducted in public. It provides binding resolution that may result in damages for one or more the parties. |
| 50 | Market Scan | Market scan is a market survey for determining benchmark price which comprises of available services in the private sector. These services are provided through standard rates by multiple players in the private sector. |

| S. No. | | Meaning/Definition |
|--------|------------------------------|---|
| 51 | Method of procurement | It is the procedure through which the Procuring Entity procures services, goods and works to satisfy the required need to benefit the community at large. In other words, methods of procurement are the ways-and-means to fulfil requirement of subject matter of procurement by any Procuring Entity. |
| 52 | Model Bidding Document | Model Bidding Document is the standardised template to be used for preparing bidding documents after making suitable changes for specific procurement. Please refer to latest CTD guidelines. |
| 53 | MSME | <p>As per notification 2/1(5)/2019-P&G/Policy (Pt.-IV) dated 1st June 2020</p> <p>A micro enterprise, where the investment in Plant and Machinery or Equipment does not exceed one crore rupees and turnover does not exceed five crore rupees.</p> <p>A small enterprise, where the investment in Plant and Machinery or Equipment does not exceed ten crore rupees and turnover does not exceed fifty crore rupees.</p> <p>A medium enterprise, where the investment in Plant and Machinery or Equipment does not exceed fifty crore rupees and turnover does not exceed two hundred and fifty crore rupees.</p> |
| 54 | National Competitive bidding | National Competitive bidding means a bidding process in which qualified bidders only from within India are allowed to participate. |
| 55 | Need Assessment | Need Assessment is the process of identifying short-term or long-term requirements of procurement. The outcome of need assessment exercise is the input for determination of the requirement of subject matter of procurement i.e., services, goods and works to be procured. |
| 56 | Non- consultancy services | Includes services of physical and procedural nature and are bid and contracted on the basis of performance of a measurable physical output, and for which performance standards can be clearly identified and consistently applied such as drilling, aerial photography, satellite imagery, mapping and similar operations. It may include small works or supply of goods which are incidental or consequential to such services. |
| 57 | Notice Inviting Bids | Notice Inviting Bids (including the term 'invitation to tender' or 'request for proposals' in certain contexts) document or any amendment thereto published or notified by the procuring Entity, which informs the potential bidders that it intends to procure services, goods and/or works. |
| 58 | NSP | A national strategic plan (NSP) for TB is a key document that guides national authorities and stakeholders on how to comprehensively address the TB epidemic through interventions within the health and across other sectors. |

| S. No. | | Meaning/Definition |
|--------|----------------------------------|---|
| 59 | NTEP | National Tuberculosis Elimination Programme, is the Public Health initiative of the Government of India that organizes its anti-Tuberculosis efforts. It functions as a flagship component of the National Health Mission (NHM) and provides technical and managerial leadership to anti-tuberculosis activities in the country. |
| 60 | Open Competitive Bidding (OCB) | It consolidates the competitive procurement of services, goods or works under a single procurement method. This method facilitates open competition among all eligible bidders, regardless of whether procurement contracts are advertised internationally or nationally. |
| 61 | Performance Security | Performance security is an upfront amount paid by the winning bidder which is subject to be forfeited if the project commitments are not honored. This shows the intention of the contractor that they are committed to execute the contract on time. |
| 62 | PPP contract | Means the mutually binding contract or contracts between the Procuring Entity and the private partner that set forth the terms and conditions for the implementation of a Public Private Partnership. |
| 63 | Pre bid Meeting/ conference | Meeting/ conference is conducted to fine-tune the techno- commercial stipulations in the bid documents and also to ensure that the technical requirements provide a level playing field. Bidders are often asked to submit written queries before the conference. |
| 64 | Private Procurement | The procurement that is undertaken by private organizations like businesses, companies, for-profit organizations, social organizations, NGO, individuals, etc. for their own use. Moreover, the procurement using fund other than public money may be termed as private procurement. |
| 65 | Private Sector Engagement | Private Sector Engagement is a deliberate, systematic collaboration of the government and private sector to move national health priorities forward beyond individual interventions and programs. |
| 66 | Procurement / Public Procurement | Procurement means the acquisition by purchase, lease, license or otherwise of services, goods or works, including award of Public Private Partnership projects, by a procuring entity whether directly or through an agency with which a contract for procurement services is entered into, but does not include any acquisition without consideration, and “procure” or “procured” shall be construed accordingly. |
| 67 | Procurement contract | Procurement contract means a contract entered into between the procuring entity and a successful bidder concerning the subject matter of procurement. |
| 68 | Procurement process | Procurement process means the process of procurement extending from the issue of invitation to pre-qualify or to register or to bid till the award of the procurement contract or cancellation of the procurement process, as the case may be. |

| S. No. | | Meaning/Definition |
|--------|------------------------------------|--|
| 69 | Procuring Entity | Procuring Entity means an entity defined by government for conducting procurement process as mentioned in RTPP Rules. |
| 70 | Program Managers | Program Managers refers to State TB Officers, District TB Officers, City TB Officers, Public Private Mix- Coordinators. |
| 71 | Pro-rata | Pro-rata proportionate allocation or distribution of a quantity based on a common factor. |
| 72 | Public Financial Management System | Public Financial Management System is a financial management platform for all plan schemes, a database of all recipient agencies, integration with core banking solution of banks handling plan funds, integration with State Treasuries and efficient and effective tracking of fund flow to the lowest level of implementation for plan scheme of the government. |
| 73 | Public Private Partnership | Public Private Partnership means an arrangement between the State Government, statutory entity or any other government owned entity on one side and a private sector entity on the other; for the provision of public assets or public services or both, through investments being made or management being undertaken, or both investments being made and management being undertaken, by the private sector entity, for a specified period of time, where there is well defined allocation of risk between the private sector and the State Government, statutory entity or any other government owned entity, as the case may be, and the private entity receives performance linked payments that conform (or are benchmarked) to specified and pre-determined performance standards, measurable by the State Government, statutory entity or any other government owned entity, as the case may be, or its representative. |
| 74 | Registered Entity | Registered Entity any legal or other entity including without limitation a company registered in India under the Indian Companies Laws or incorporated outside India under relevant laws of incorporation under country of its origin, or a society registered under Societies Registration Act, 1860 or any other Indian law for registration of societies, a registered trust under Indian Trusts Act, 1882 or any other Indian law for registration of public trust or a sole proprietorship or partnership registered under the relevant laws of incorporation unless otherwise specified by the State. Bidders like NGOs and Voluntary Organizations should have registration on DARPAN portal (ngodarpan.gov. in). Health facilities / laboratories should be registered under the relevant rules and regulations of the specific State/ District/ Corporation/ Municipality. All for-profit agencies are also required to be in compliance with the legal registration. |

| S. No. | | Meaning/Definition |
|--------|-------------------------------|---|
| 75 | RFP | A request for proposal (RFP) is a document that solicits a proposal, often made through a bidding process by a company interested in procurement of services or goods, potential suppliers to submit business proposals. RFP should include A letter of invitation, terms of reference, instruction to service providers, eligibility and qualification criteria, standard formats for technical and financial proposal. |
| 76 | RNTCP | The Revised National Tuberculosis Control Programme (RNTCP) was started in the year 1997 and implemented in Tamil Nadu since 2002. It aims at diagnosing and caring for TB cases both in the public as well as in the private sector. |
| 77 | Scope/ Quantities | Enumerated elements and quantities thereof the procurement outcomes. May be listed in the Activity Schedule, Schedule of Requirement, and so on. |
| 78 | Services | Services means any subject matter of procurement other than goods or works, except those incidental or consequential to the service and includes physical, maintenance, professional, intellectual, training, consultancy and advisory services or any other service classified or declared as such by a Procuring Entity but does not include appointment of an individual made under any law, rules, regulations or order issued in this behalf |
| 79 | Single Bid System | The single bid calls for technical details of the offer as well as price quoted in the same bid envelope. The lowest priced bid that meets the technical requirements laid down in the Bid Document is declared as successful. |
| 80 | Sub- contractor | An entity to whom/ which the contractor sub-contracts part of the contract while remaining solely liable for the execution of the contract. |
| 81 | Tax deducted at source in GST | As per section 51, this provision is meant for Government and Government undertakings and other notified entities making contractual payments where total value of such supply under contract exceeds Rs. 2.5 Lakhs to suppliers. |
| 82 | Termination | A forced end of the contract before its terms have been entirely fulfilled as one of the contractual remedies against breach of contract. |
| 83 | Terms of Reference (ToR) | Terms of Reference prepared by technical experts provides purpose/objectives of the assignment, scope of work, activities, tasks to be performed, respective responsibilities of the Procuring Entity and Consultant, expected results and deliverables of the assignment to facilitate the Consultants in the preparation of their proposals. |
| 84 | Total Cost of Ownership | It is referred to as Whole-of-Life (WOL), Life-Cycle Cost or Life-Time Cost (LCC), encompasses all cost elements incurred throughout the complete life cycle of a product. TCO represents the total of all costs associated with a product, service, or capital equipment over its anticipated lifespan. |

| S. No. | | Meaning/Definition |
|--------|----------------------|--|
| 85 | Turnkey contract | A turnkey contract is a contract whereby a project is delivered in a completed state. Therefore rather than contracting with various parties to develop a project in stages, procuring entity enters into a contract with one party or a contractor to finish the entire project without any further input from the procuring entity. |
| 86 | Two Bid System | Two-Bid (Envelope) System: The bidders are asked to bifurcate their quotations into two separately sealed parts – first part, called the Techno-Commercial Bid, containing the relevant technical details of the equipment/machinery offered by them with reference to the specification and allied commercial terms incorporated in the tender enquiry documents. The second part is called the Financial Bid. In the Financial Bid, the price quotation along with other allied issues is given. |
| 87 | Two-stage Bidding | Pre-Qualification Bidding (PQB) is a two-stage bidding procedure for selection of competent and qualified bidders by using a Pre-Qualification Criterion (PQC), prior to the issue of the “Invitations to Bid” to pre-qualified bidders. The crux of PQB is in locating suppliers with proven skills essentially required for the supply of services/ items/ works before the Procurement Bids are issued so as to ensure fair and wider competition among such a set of suppliers. |
| 88 | Unliquidated Damages | Unliquidated Damages refers to the damages for the breach of a party, which are not estimated in advance. Section 73 of the Indian Contracts Act, 1872 deals with actual damages resulting from infringement of the contract and the injury arising from such infringement which is in the nature of unliquidated damages since such damages are granted by the courts on the basis of an evaluation of the loss or injury caused to the party against which the infringement occurred. |
| 89 | VfM | Value for money, value for money is derived from the optimal balance of benefits and costs based on total cost of ownership. When the perceived value of a product aligns with the cost, customers feel they have received full value for their money, known as Value for Money (VfM) |
| 90 | WHO | World Health Organisation, is a specialized agency of the United Nations responsible for international public health. It is headquartered in Geneva, Switzerland and has six regional offices and 150 field offices worldwide. |
| 91 | WPI | Whole Price Index represents the price of goods at a wholesale stage i.e., goods that are sold in bulk |

Notes

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