ISLAMIC UNIVERSITY OF SCIENCE & TECHNOLOGY
AWANTIPORA, KASHMIR

Dated:02-02-2022
No:IUST/FO/MPG/22-118

Subject: Release of Manual for procurement of goods, 2022.

Sir / Madam,

IUST procures a wide variety of goods and services and undertakes execution of works in pursuance to furthering its objectives. In the last few years, the Government of India has issued new instructions in the domain of public procurement, some of these include Government e-Marketplace (GEM), preference for domestic manufacturers of electronics, inclusion of integrity pact, etc. The GFR has been revised comprehensively in 2017 covering all these new instructions.

With a view to improving transparency in decision making in procurement and reducing the scope for subjectivity, the Finance Committee of IUST in its 3rd meeting held on 11-09-2017 recommended to bring the financial procedures of the University in conformity with that of the GFR-2017. This manual is the first step in that direction and has been drafted in keeping with GFR 2017 and in consonance with the fundamental principles of transparency, fairness, competition, economy, efficiency and accountability.

The overall aim is to increase productivity in work and make administration more responsive. Efforts have been made to maintain concordance between organisational goals, procedures of work and functionaries entrusted with the responsibility of discharging them.

I am happy to forward e-copy of the Manual for Procurement of Goods, 2022 for your kind perusal with a request to give the document wide publicity in your department / office. We have uploaded the electronic version on the University website also. This manual shall supersede all the earlier orders for procurement.

We will be glad to provide any further inputs / clarification on the matter should you feel the need for the same.

(Sameer Wazir)
Finance Officer

All officers of the University
(As per list enclosed)

Manual for procurement of goods, 2022

Islamic University of Science & Technology
Office of the Finance Officer
Expenditure Division

MESSAGE

In all of my deliberations with university faculty and officers, a common theme emerged: the need to improve procurement rules and procedures and update them to meet the university's current needs, as well as to empower those making expenditures and implementing projects while maintaining principles of probity, fairness and accountability. I am today glad to make public the IUST Manual for Procurement of Goods (MPG) which was prepared by the Office of the Finance Officer after a series of internal discussions. I am aware that the MPG provisions are complaint with the GFR 2017 requirements and the revisions thereof. Therefore, the adoption of the MPG in the university would bring a greater degree of efficiency, responsibility, transparency and simplicity in the existing system of procurement for goods and services

I am confident that all the stakeholders would find the manual helpful in conducting financial business with ease. I hope that that the revised framework would aid in the simplification of the procurement procedures and processes in the university resulting in improved and efficient financial management and procedures at all levels.

(Prof. Shakil Ahmad Romshoo)
Vice Chancellor

Dated:02-02-2022
Place: Awantipora, JK.

FOREWORD

The Expenditure Division (ED) in the Office of the Finance Officer is charged with the responsibility of prescribing procedures for the general expenditure to the University.

IUST procures a wide variety of goods and services and undertakes execution of works in pursuance to furthering its objectives. With a view to improving transparency in decision making in procurement and reducing the scope for subjectivity, IUST prepared guidelines in 2006 for procurement which became the part of its Statutes. Over the years, the Statutes have served as a guidebook for procurement.

In the last few years, the Government of India has issued new instructions in the domain of public procurement, some of these include Government e-Marketplace (GEM), preference for domestic manufacturers of electronics, inclusion of integrity pact, etc. The GFR has been revised comprehensively in 2017 covering all these new instructions.

The Finance Committee of IUST in its 3rd meeting held on 11-09-2017 recommended to bring the financial procedures of the University in conformity with that of the GFR-2017, This Manual is the first step in that direction and has been drafted in keeping with GFR 2017 and in consonance with the fundamental principles of transparency, fairness, competition, economy, efficiency and accountability.

The overall aim is to increase productivity in work and make administration more responsive. Efforts have been made to maintain concordance between organisational goals, procedures of work and functionaries entrusted with the responsibility of discharging them.

For those who are working in the IUST and for future entrants, the Manual will be an invaluable source of guidance and reference.

(Sameer Wazir)
Finance Officer

Dated:02-02-2022
Place: Awantipora, JK.

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PROCUREMENT GLOSSARY

In this Manual and in the ‘Procurement Guidelines’, unless the context otherwise requires:

i) “Bid” (including the term ‘tender’, ‘offer’, ‘quotation’ or ‘proposal’ in certain contexts) means an offer to supply goods, services or execution of works made in accordance with the terms and conditions set out in a document inviting such offers;

ii) “Bidder” (including the term ‘tenderer’, ‘consultant’ or ‘service provider’ in certain contexts) means any eligible person or firm or company, including a consortium (that is an association of several persons, or firms or companies), participating in a procurement process with a Procuring Entity;

iii) “(Standard) Bid(ding) documents” (including the term ‘tender (enquiry) documents’ or ‘Request for Proposal Documents’ – RfP documents in certain contexts) means a document issued by the Procuring Entity, including any amendment thereto, that sets out the terms and conditions of the given procurement and includes the invitation to bid. A Standard (Model) Bidding Document is the standardised template to be used for preparing Bidding Documents after making suitable changes for specific procurement.

iv) “Bidder registration document” means a document issued by a Procuring Entity, including any amendment thereto, that sets out the terms and conditions of registration proceedings and includes the invitation to register;

v) “Bid security” (including the term ‘Earnest Money Deposit’(EMD), in certain contexts) means a security from a bidder securing obligations resulting from a prospective contract award with the intention to avoid: the withdrawal or modification of an offer within the validity of the bid, after the deadline for submission of such documents; failure to sign the contract or failure to provide the required security for the performance of the contract after an offer has been accepted; or failure to comply with any other condition precedent to signing the contract specified in the solicitation documents.;

vi) “Competent authority” means the officer(s) who finally approves the decision.

vii) “Consultancy services” means a one-off (that is, not repetitive and not routine) services, involving project specific intellectual and procedural processes using established technologies and methodologies but the outcomes – which are primarily of non-physical nature – may not be standardised and would vary from one consultant to another. It may include small works or supply of goods which are incidental or consequential to such services;

viii) "e-Procurement" means the use of information and communication technology (specially the internet) by the Procuring Entity in conducting its procurement processes with bidders for the acquisition of goods (supplies), works and services with the aim of open, non-discriminatory and efficient procurement through transparent procedures;

ix) "Goods" includes all articles, material, commodity, livestock, medicines, furniture, fixtures, raw material, consumables, spare parts, instruments, machinery, equipment, industrial plant, vehicles, accessories, a group of machines comprising an integrated production process or such other categories of goods or intangible, products like technology transfer, licenses, patents or other intellectual properties (but excludes books, publications, periodicals, etc., for a library), procured or otherwise acquired by a Procuring Entity. Procurement of goods may include certain small work or some services, which are incidental or consequential to the supply of such goods, such as transportation, insurance, installation, commissioning, training and maintenance;

x) "Indenter" (or the term 'User (Department)' in certain contexts) means the entity and its officials initiating a procurement indent, that is, a request to the Procuring Entity to procure goods, works or services specified therein;

xi) "Inventory" means any material, component or product that is held for use at a later time;

xii) "Invitation to (pre-)qualify" means a document including any amendment thereto published by the Procuring Entity inviting offers for pre-qualification from prospective bidders;

xiii) "Invitation to register" means a document including any amendment thereto published by the Procuring Entity inviting offers for bidder registration from prospective bidders;

xiv) "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;

xv) "Notice inviting tenders" (including the term 'Invitation to bid' or 'request for proposals' in certain contexts) means a document and any amendment thereto published or notified by the Procuring Entity, which informs the potential bidders that it intends to procure goods, services and/or works.;

xvi) “Pre-qualification (bidding) procedure” means the procedure set out to identify, prior to inviting bids, the bidders that are qualified to participate in the procurement;

xviii) “Pre-qualification document” means the document including any amendment thereto issued by a Procuring Entity, which sets out the terms and conditions of the pre- qualification bidding and includes the invitation to pre-qualify;

xix) “Procurement” (or ‘Purchase’, or Purchase’ in certain contacts) means acquisition by way of purchase, lease, license or otherwise, either of goods, works or services or any combination thereof, 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 of goods, works or services without consideration, and the term “procure” or “procured” shall be construed accordingly;

xx) “Procurement contract” (including the terms ‘Purchase Order’ or ‘Supply Order’ or ‘Withdrawal Order’ or ‘Work Order’ or ‘Consultancy Contract’ or ‘Contract for Services’ under certain contexts), means a formal legal agreement in writing relating to the subject matter of procurement, entered into between the Procuring Entity and the supplier, service provider or contractor on mutually acceptable terms and conditions and which are in compliance with all the relevant provisions of the laws of the country. The term “contract” will also include “rate contract’ and “framework contract”;

xxi) “Procurement process” means the process of procurement extending from the assessment of need; issue of invitation to pre-qualify or to register or to bid, as the case may be; the award of the procurement contract; execution of contract till closure of the contract;

xxii) “Procuring authority” means the officer who finally approves as well as those officials and committee members who submit the notes/reports for the approval for any decision.

xxiii) “Procuring Entity” means Islamic University of Science & Technology (IUST) or a unit thereof or its attached or subordinate office to which powers of procurement have been delegated;

xxiv) “Prospective bidder” means anyone likely or desirous to be a bidder;

xxv) “Public Private Partnership” means an arrangement between the central, a 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, or a combination thereof, through investments being made or management being undertaken by the private sector entity, for a specified period of time, where there is predefined allocation of risk between the private sector and the public entity and the private entity receives performance linked payments that conform (or are benchmarked) to specified and predetermined performance standards, deliverables or Service Level agreements measurable by the public entity or its representative;

xxvi) “Rate contract” (or the term ‘framework agreement’ in certain contexts) means an agreement between Islamic University of Science & Technology (IUST) with one or more bidders, valid for a specified period of time, which sets out terms and conditions under which specific procurements can be made during the term of the agreement and may include an agreement on prices which may be either predetermined or be determined at the stage of actual procurement through competition or a predefined process allowing their revision without further competition;

xxvii) “Service” 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;

xxviii) “Subject matter of procurement” means any item of procurement whether in the form of goods, services or works or a combination thereof;

xxix) “Works” refer to any activity, sufficient in itself to fulfil an economic or technical function, involving construction, fabrication, repair, overhaul, renovation, decoration, installation, erection, excavation, dredging, and so on, which make use of a combination of one or more of engineering design, architectural design, material and technology, labour, machinery and equipment. Supply of some materials or certain services may be incidental or consequential to and part of such works. The term “Works” includes (i) civil works for the purposes of roads, bridges, buildings, irrigation systems, water supply, sewerage facilities, dams, tunnels and earthworks; and so on, and (ii) mechanical and electrical works involving fabrication, installation, erection, repair and maintenance of a mechanical or electrical nature relating to machinery and plants.

CHAPTER-1

INTRODUCTION – POLICIES AND PRINCIPLES

1.1 Basic aims of Procurement – the Five R's of Procurement

In every procurement, public or private, the basic aim is to achieve just the right balance between costs and requirements concerning the following five parameters called the Five R's of procurement. The entire process of procurement (from the time the need for an item, facility or services is identified till the need is satisfied) is designed to achieve such a right balance. The word 'right' is used in the sense of 'optimal balance'.

i) Right Quality

Procurement aims to buy just the right quality that will suit the needs – no more and no less – with clear specification of the Procuring Entity's requirements, proper understanding of functional value and cost, understanding of the bidder's quality system and quality awareness. For the Right Quality, Technical Specification is the most vital ingredient. In public procurement, it is essential to give due consideration to Value for Money while benchmarking the specification.

ii) Right Quantity

There are extra costs and systemic overheads involved with both procuring a requirement too frequently in small quantities or with buying large quantities for prolonged use. Hence, the right quantity should be procured (in appropriate size of contract) which balances extra costs associated with larger and smaller quantities.

iii) Right Price

It is not correct to aim at the cheapest materials/facilities/services available. The price should be just right for the quality, quantity and other factors involved (or should not be abnormally low for a facilities/works/services which could lead to a situation of non-performance or failure of contract). The concept of price can be refined further to take into account not only the initial price paid for the requirement but also other costs such as maintenance costs, operational costs and disposal costs.

iv) Right Time and Place

If the material (or facility or services) is needed by an organisation in three months' time, it will be costly to procure it too late or too early. Similarly, if the vendor delivers the materials/facilities/services in another city, extra time and money would be involved in logistics. An unrealistic time schedule for completion of a facility may lead to delays, claims and disputes.

v) Right source

Similarly, the source of delivery of Goods, Works and Services of the requirement must have just right financial capacity and technical capability for our needs (demonstrated through satisfactory past performance of contracts of same or similar nature). Buying a few packets of printer paper directly from a large manufacturer may not be the right strategy. On the other hand, if our requirements are very large, buying such requirements through dealers or middlemen may also not be right.

1.2 Public Procurement Cycle

The procurement process for goods, works and/or services typically involves the following cycle of activities, undertaken in the order stated below.

I. **Need Assessment:** Need assessment, formulation of Specifications and Procurement Planning;
II. **Bid Invitation**: Preparing bid documents, publication, receipt and opening of bids;
III. **Bid Evaluation:** Evaluation of bids and award of contract; and
IV. **Contract Execution:** Contract management and closure;
V. **Disposal of Scrap:** Disposal of Scrap through various modes of disposal.

CHAPTER-2

MODES OF PROCUREMENT AND BIDDING SYSTEMS

2.1 Modes of Procurement

Offers from prospective bidders in public procurement must be invited according to a procedure that achieves a balance between the need for the widest competition, on one hand, and complexity of the procedure, on the other hand. Different modes of procurement and bidding systems are used to suit various procurement circumstances to achieve this balance. All the procurements exceeding the value of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand only) shall be made through the Central Purchase Committee (CPC) of the University.

However, for procurements financed by Loans/Grants extended by International Agencies, like the World Bank, Asian Development Bank etc., the procurement procedures, as finalized and incorporated in the Articles of Agreements with such agencies for relevant Loans/Grants are to be followed.

The various modes of procurement that can be used in public procurement are:

i) **Open Tenders**

- a) Open Tender Enquiry (OTE); and
- b) Global Tender Enquiry (GTE)

ii) **Procurement through selected suppliers**

- a) Limited Tender Enquiry - LTE up to Rs. 25,00,000/- (Rupees Twenty-Five) lakhs); and
- b) Special Limited Tender Enquiry-SLTE above Rs. 25,00,000/- (Rupees Twenty-Five) lakhs under special circumstances)

iii) **Nomination basis Tenders**

- a) Proprietary Article Certificate (PAC); and
- b) Single Tender Enquiry (STE) without PAC

iv) **Procurements without calling Tenders**

- a) Withdrawals against Rate Contracts (RC);
- b) Direct Procurement without Quotation;

c) Direct Procurement by Departmental Purchase Committee;

v) **Procurement of Goods and services for Goods or services available on GeM**

2.2 Open Tender enquiry (OTE)

2.2.1 In OTE, an attempt is made to attract the widest possible competition by publishing the NIT simultaneously on the University website, e-tender website, and newspapers. This is the default mode of procurement and gives the best value for money. OTE procedures through e-Procurement or through traditional tendering should be adopted in the following situations:

i) Procurements exceeding the threshold of Rs. 25,00,000/-(Rupees Twenty Five lakh);

ii) All common use requirements with clear technical specifications;

iii) For requirements that are ordinarily available in the open market but it is necessary to evaluate competitive offers to decide the most suitable and economical option available; and

iv) When requirements are not available from known sources or sources are presently limited and need to be broad based. In such situations, even for procurements below Rs. 25,00,000/- (Rupees twenty-five lakhs), OTE mode may be used, if warranted.

2.2.2 **Terms and conditions**

i) Advertisement in such cases should be given on University website Portal, e tender website and on GeM. The advertisements for invitation of tenders should give the complete web address from where the bidding documents can be downloaded;

ii) The tender documents, shall be priced minimally keeping in view the value of the tender as also the cost of preparation and publicity of the tender documents;

iii) The due date fixed for opening of the tender shall be minimum two weeks from the date of advertisement which may vary taking into account the nature of material called for as well as the time required to prepare the bids. The due date may be subsequently extended with the approval of the CA only to promote better competition and also considering account delivery requirement.

2.3 Global Tender enquiry (GTE)

2.3.1 GTE is similar to OTE but, through appropriate advertising and provision for payment in Foreign Currencies through Letter of Credit, it is aimed at inviting the participation of inter-alia foreign firms. *The point of balance between VfM (Value for Money) and cost/complexity of procedure is further aggravated as compared to OTE. Development of* *local industry also needs to be kept in mind. Hence, it may be viable only* in following situations:

i) Where Goods of required specifications/quality are not available within the country and alternatives available in the country are not suitable for the purpose;

ii) Non-existence of a local branch of the global principal of the manufacturer/vendors/ contractors;

iii) Requirement for compliance to specific international standards in technical specifications;
and

iv) Absence of a sufficient number of competent domestic bidders likely to comply with the required technical specifications, and in case of suspected cartel formation among indigenous bidders.

2.3.2 Terms and conditions

i) Advertisement in such cases should be given on IUST website and on GeM. The advertisements for invitation of tenders should give the complete web address from where the bidding documents can be downloaded;

ii) The sale/availability for downloading of tender documents against NIT should not be restricted and should be available freely. Tender documents should preferably be sold/ available for download up to the date of opening of tenders;

iii) The tender documents, shall be priced minimally keeping in view the value of the tender as also the cost of preparation and publicity of the tender documents;

iv) GTE tender documents must be in English and the price should be asked in Indian Rupees or US Dollars or Euros or Pound Sterling or Yen or in currencies under the Reserve Bank of India's notified basket of currencies;

v) GTE tender documents must contain technical specifications which are in accordance with national requirements or else based on an international trade standard;

vi) In such cases e-Procurement may not be mandatorily insisted upon;

vii) The due date fixed for opening of the tender shall be minimum two weeks from the date of advertisement which may vary taking into account the nature of material called for as well as the time required to prepare the bids. The due date may be subsequently extended with the approval of the CA only to promote better competition and also considering account delivery requirement; and

viii) Relevant INCOTERMS (International Commercial Terms) should be included in the tender;

ix) Relevant provisions of GFR for GTE should be referred for latest guidelines.

2.4 Limited Tender enquiry (LTE)

2.4.1 LTE is a restricted competition procurement, where a preselected list of vendors is directly approached for bidding; bids from uninvited bidders are treated as unsolicited and are normally not entertained, except in special circumstances. *This mode provides a short and simple procedure, but may not provide as good a VfM as in case of open tendering – still a good balance for procurements below a threshold. LTE procedures should be default mode of procurement when the estimated value of procurement is between Rs. 2,50,000/- to Rs. 25,00,000/- (Rupees Twenty five Thousand to Twenty Five Lakhs)*. The bidding documents should be simple normally consisting a single page with terms and conditions printed overleaf.

2.4.2 Terms and conditions

i) Copies of the bidding documents should be sent free of cost (except in case of priced specifications/drawings) directly by speed post/courier/e-mail to firms which are registered vendors/contractors. Further, Procuring Entity should also mandatorily publish its limited tender enquiries on website.

ii) A simplified single Page Bid Document (Annexure 1) should be used, instead of a detailed Bid Document. The minimum number of bidders to whom LTE should be sent is more than three. In case less than three approved vendors/contractors are available, LTE may be sent to the available approved vendors/contractors with approval of the CA, duly recording the reasons.

2.5 Special Limited Tender enquiry for Procurements more than Rs. 25,00,000/- (Rupees Twenty Five Lakhs)

2.5.1 LTE mode, even for values higher than Rs. 25 lakh (Rupees Twenty-Five lakh) where normally OTE should have been done, is permissible in certain special circumstances as follows. Powers to sanction procurement on LTE basis in such special cases may be based on a certificate of urgency signed by the indenter. *This mode has the merit of being quicker but VfM (Value for Money) obtained may be less than in case of OTE; hence it should be restricted to rare situations*:

i) The Institute/Department certifies that there is an existing or prospective urgency for operational or technical requirements and any additional expenditure involved by not procuring through advertised tender enquiry is justified in view of urgency. The Institute /Department should also put on record the nature of the urgency and reasons why the procurement could not be anticipated earlier;

ii) There are sufficient reasons, to be recorded in writing by the Institute /Department, indicating that it will not be in University interest to procure the goods through advertised tender enquiry;

iii) The sources of supply are definitely known and possibility of fresh source(s) beyond those being tapped is remote;

iv) Nature of items to be procured is such that pre-verification of competence of firm is essential, hence requires registration of firms; and

v) Government policy designates procurement from specific agencies.

2.5.2 Terms and conditions

i. The tendering process would be same as in the case of a normal LTE described above. However, the bidding documents are more detailed as in the case of OTE; and

ii. The indenter should certify that there is an existing or prospective urgency for operational or technical requirements and any additional expenditure involved by not procuring through an advertised tender enquiry is justified in view of urgency. The indenter should also put on record the nature of the urgency and reasons why the procurement could not be anticipated.

iii. The case file shall be forwarded to the Finance Officer for further course of action and for getting the sanction(s) from the Hon'ble Vice Chancellor (Competent Authority).

2.6 Proprietary Article Certificate

2.6.1 In procurement of goods, certain items are procured only from Original Equipment Manufacturers (OEMs) or manufacturers having proprietary rights (or their authorised dealers/ stockists) against a PAC certificate (Annexure 2) signed by the appropriate authority. *This mode may be shortest but since it may provide lesser VfM (Best Value for Money) as compared to LTE/OTE and also strains the transparency principle, it should be used only in justifiable situations.*

2.6.2 Terms and conditions

i) Users should enclose, with their Indent, a PAC certificate indicating the justification for sourcing an item from OEM or PAC firms or their authorised agents;

ii) Proprietary items shall be purchased only from a nominated manufacturer or its authorised dealer as recorded in the PAC certificate;

iii) In certain unavoidable cases, the procuring authority may have no alternative but to waive payment of EMD/SD for procurement on a proprietary basis;

iv) To the extent feasible, the firm may be asked to certify that the rates quoted by them are the same and not higher than those quoted with other Government, public sector or private organisations.

2.7 Single Tender Enquiry (STE) without a PAC

4.6.1 A tender invitation to one firm only without a PAC certificate is called a single tender. *This mode may be shortest but since it may provide lesser VfM (Value for Money) as compared to LTE/OTE and may also strain the transparency principle, it should be resorted to only under following conditions*:

i) In a case of existing or prospective emergency relating to operational or technical requirements to be certified by the indenter, the required goods are necessarily to be purchased from a particular source subject to the reason for such decision being recorded and approval of the competent authority (Hon'ble Vice Chancellor) obtained.

ii) For standardization of machinery or components or spare parts to be compatible to the existing sets of machinery/equipment (on the advice of a competent technical expert and approved by the competent authority), the required goods are to be purchased only from a selected firm.

2.7.1 Terms and conditions

i) The reasons for a STE and selection of a particular firm must be recorded and approved by the CA; and

ii) Other terms and conditions of PAC procurement mentioned above would also apply in this case.

2.8 Drawals against rate contract (RC)/Framework Contract (FC)

2.8.1 RC is essentially a price agreement with the vendors/contractors at a specified price and terms and conditions during the period covered by the RC. Neither quantity is mentioned nor is any minimum commitment guaranteed in the RC. RC is most frequently used in procurement of goods but can as well be used mutatis mutandis in works, services and consultancy – where it is commonly known as a Framework Contract (FC). *For appropriate items drawals against an existing RC exploits the power of collaboration/clubbing of numerous small and frequent requirements and thus provides best VfM along with a simple and quick procedure.* However, entering into a new RC may have the same procedural complexity, prolonged timeframe and systemic cost as in OTE, which may not be viable for low volumes. In view of Government e Marketplace coming into operation, Rate Contract is not required to be executed for common use items like computers, printers, photocopiers, paper and stationery, other office items like furniture, bottled water etc., which are being placed on GeM and will now be applicable for specialized and engineering items which are not available on GeM, and are identified as common use items and are needed on recurring basis. The University shall follow those rate contracts to the maximum extent possible. In case items are not covered in such RCs or if it is decided by the Procuring Entity to conclude their own RC, then RC should be finalised through procurement procedures for an open tender.

2.9 Direct Procurement without Quotation

2.9.1 Direct procurement of goods without formal quotations is normally done for the smallest value procurements. This is also called petty purchase. It should be used for off-the-shelf goods of simple and standard specifications. *The procedure is the simplest and quickest but VfM may be poor; hence it is suitable only in very low value, urgent and simple requirements in the following situations*:

i. Procurements do not exceed the threshold (for each requirement) of Rs. 25,000/- (Rupees Twenty-Five thousand) for each case;
ii. The requirement is of urgent nature; and
iii. The requirement is for off-the-shelf goods of simple and standard specifications. Examples of procurement are day-to-day needs of the office and field units, and so on.

2.9.2 Terms and conditions

i) The Head of the Department or a competent officer of the Procuring Entity can initiate and complete this purchase after diligent enquiries from the market and filling the certificate prescribed;

ii) Normally an imprest amount (with facilities for cheque payments) can be sanctioned for such officers to handle such procurements. The imprest amount can be recouped on monthly basis by submission of expense vouchers;

iii) In a summary form, records should be kept of the vendors/contractors approached and prices indicated by them;

iv) Selection of seller by diligent market enquiry is of essence of this mode of procurement;

v) The Shopping Malls may also be included in the market survey. Reputed internet shopping portals may also be explored.

2.10 Direct Procurement by Departmental Purchase Committee

2.10.1 This mode of procurement, which draws on Rule 155 and Rule 156 of the GFR-2017, shall be employed by authorised Head of Departments/Centres/Principal Investigators/officers in accordance with the recommendations of a duly constituted Departmental/Centre Purchase cum Technical Committee for procurement of goods and services valued above Rs. 25,000/- (Rupees twenty-five thousand) and up to Rs. 2,50,000/- (Rupees two lakhs fifty thousand) through GeM portal. Heads of the Departments/ Directors/ Principal investigators must ensure that a demand for goods/ equipment/services is not divided into small quantities to make piecemeal purchases to circumvent procurement through the university Central Purchase Committee.

The procurements of goods and services in a Department or under sponsored research projects by Principal Investigators in the Department, as per the above ceiling, are to be done primarily through the Departmental Purchase cum Technical Committees, which shall comprise of the following members:

1. Head of the Department (Chairman)

2. Two nominees of the Vice Chancellor &

3. All substantive faculty members of the Department/Centre concerned

This mode of procurement is described as per the provisions of the GPR-2017 and the amendments thereof for the procurement of goods, services and works such as equipment, chemicals, small works and other contingency expenditure in various teaching departments/research centres and under sponsored research projects primarily through GeM portal ensuring best value for the public money.

In case, a certain item/equipment/service is not available on the GeM portal and subject to the production of the GeM non-availability report, the Purchase Committee would survey the market to ascertain the reasonability of rate, quality and specifications and identify the appropriate supplier in a transparent manner. Before recommending placement of the purchase order, the members of the committee will jointly record a certificate as under.

“Certified that we, members of the purchase committee are jointly and individually satisfied that the goods recommended for purchase are of the requisite specification and quality, priced at the prevailing market rate and the supplier recommended is reliable and competent to supply the goods/services in question, and that he/she is not debarred or black listed by the IUST.”

Alternately, for goods and services not available on GeM, the Purchase Committee through Head of the concerned Department may also register reliable and credible suppliers of goods and services which are specifically required by that Department or Office. The Purchase cum Technical Committee shall ensure that registration of the suppliers/manufacturers is done following a fair, transparent and reasonable procedure and after giving due publicity. Such registered suppliers/manufacturers shall be prima facie eligible for consideration for procurement of goods/services through Limited Tender Enquiry.

The list of registered suppliers finalized for procurement of goods and services by a Department shall be exhibited prominently on Departmental webpages. However, such registered suppliers should be boarded on GeM as and when the item or the service gets listed on the GeM.

All the Heads of the Departments and Principal Investigators shall be designated by the university as buyers on the GeM so that they are authorized by the Departmental Purchase cum Technical Committee to make procurements through GeM portal.

2.10.2 Terms and conditions

i) In case of emergency procurement, facility of withdrawing requisite advance cash amount and its subsequent accounting may also be considered;

ii) This is intended to be fast track, simple mode of procurement. The committee will survey the market to ascertain the reasonableness of rate, quality and specifications and identify the appropriate supplier;

iii) Selection of suitable product and supplier by actual market survey (not by calling of tenders like a mini LTE) is of essence of this mode;

iv) Before recommending placement of the purchase order, members of the committee will jointly record the certificate prescribed (Annexure 3); and

v) The presence of reputed Shopping Malls may also be included in the market survey.

vi) Reputed internet shopping portals may also be explored.

2.11 Bidding Systems

Bidding systems are designed to achieve an appropriate balance between the countervailing needs for Right Quality, Right Source and the Right Price under different complexities/criticality of Technical requirements and value of procurements. In certain critical and complex requirements, the technical and financial capability of Source of supply becomes an important determinant for value for money. Depending on the complexity and criticality Technical of requirement, Criticality of capability of Source and value of procurement, following types of bidding systems may be used.

2.12 Single Stage Bidding System

In single stage bidding, all bids are invited together in a single envelope or in multiple envelops system. This bidding system is suitable where technical requirements are simple or moderate; capability of source of supply is not too crucial and the value of procurement is not too high;

2.12.1 Single Stage Single Envelop System: Where qualitative requirements and technical specifications are clear, capability of source of supply isn't critical and value of procurement is low or moderate, the single envelop system, where eligibility, technical/commercial and financial details are submitted together in the same envelop may be followed. This is the simplest and the quickest bidding system and should be the default system of bidding. The lowest responsive priced bid that meets the eligibility criteria, technical and commercial requirements laid down in the bid documents is declared as successful.

2.12.2 Single Stage Two Envelops System (Two Bid System): In technically complex requirements but where capability of source of supply is still not crucial and value of procurement is not low, a two envelop system may to be followed.

i) The tenderers should be asked to bifurcate their quotations in two envelops. The first envelop, called the techno-commercial bid, contains the eligibility, technical quality and performance aspects, commercial terms and conditions and documents sought in the tender, except the price and relevant financial details. In the second envelop, called the financial bid, the price quotation along with other financial details are submitted. Both the envelops are to be submitted together in a sealed outer envelope;

ii) If required, Technical specification and techno-commercial conditions should be modified, in a pre-bid conference in the two envelop tender and it would be desirable not to invite fresh financial bids after opening of the techno-commercial bids;

iii) The techno-commercial bids are to be opened in the first instance on the bid opening date and time, and scrutinised and evaluated by the TC with reference to parameters prescribed in the tender documents and responsive, eligible and technically compliant bidders are decided;

iv) Thereafter, in the second instance, the financial bids of only the techno-commercially compliant offers (as decided in the first instance above) are to be opened on a preannounced date and time for further scrutiny, evaluation, ranking and placement of contract. The financial bids of technically non-compliant bidders should be returned unopened to the respective bidders by registered acknowledgement due/reliable courier or any other mode with proof of delivery. In e-Procurement, financial bids of technically non-compliant offers would not get opened.

2.12.3 Single Stage Multiple Envelops System with Pre-qualification: As discussed below, where the procurement is moderately complex and the time, effort and money required from the bidder to participate in a tender is not very high, instead of a separate stage of Pre-Qualification bidding (as described below) a clear-cut, fail-pass qualification criteria can be asked to be submitted as the first (additional) envelop in a three envelop single stage bidding, so that a bidder’s risk of having his bid rejected on grounds of qualifications is remote if due diligence is exercised by him. Strictly speaking, this is not a pre-qualification but a Post-qualification of bidders. In the first instance on the bid opening date only the PQB envelops (also containing the EMD and other eligibility documents) are opened and evaluated to shortlist the responsive bidders who pass the Pre-qualification. Rest of procedure is same as two envelop system for only qualified bidders. Rest two envelops of unqualified bidders are returned unopened to the respective bidders by registered acknowledgement due/reliable courier or any other mode with proof of delivery;

2.12.4 Pre-qualification Bidding (PQB)

i) In complex technical requirements where capability of source of supply is crucial (for example in procurement of complex machinery and equipment's), for the successful performance of the contract, besides considering techno-commercial suitability, it is necessary to ensure that competition is only among bidders with requisite capabilities matching the challenges of the task. In case bidders with inadequate capability are allowed to compete, the better qualified bidders would be eliminated since their bid price is likely to be higher commensurate with their higher capability infrastructure. In such situations a separate stage of PQB bidding system may be considered (or single stage multiple envelop bidding – please refer para above). In PQB stage, competent qualified tenderers are shortlisted by using a Pre-qualification Criterion (PQC – for example - 1. past experience of similar contracts, 2. performance capability and 3. financial strength) prior to the issue of the bid document exclusively to shortlisted bidders in the second stage. Pre-qualification Bids (PQBs) should meet the norms of transparency, fairness and maintenance of competition. *Since PQB system may strain the transparency principle and there is heightened risk of cartelization among shortlisted bidders, PQB should be done only as an exception under specified circumstances. It should not be a routine/ normal mode of procurement of goods and an eligibility criteria clause as part of single/ two envelop/cover tendering should suffice in normal/routine situations. PQB bidding as a separate stage is contraindicated in the following circumstances*:

a) Where procurement can be done through limited tender enquiries;

b) Where the Procuring Entity has at least three registered bidders of the category and grade matching tendered scope of procurement and financial limit;

c) Where the requirement is technically and commercially simple enough that prequalification of the bidder is not crucial for the performance of the contract, for example, Commercially off the Shelf (COTS) requirements; and

d) Where the procurement is moderately complex and the time, effort and money required from the bidder to participate in a tender is not very high. A clear-cut, fail-pass post-qualification criteria can be specified in a three envelop single stage bidding (instead of two stage bidding), so that a bidder's risk of having his bid rejected on grounds of qualifications is remote if due diligence is exercised him.

ii) **Pre-qualification criteria:** PQC should be unrestrictive enough so as not to leave out even one capable vendor/contractor. Otherwise, it can lead to higher prices of procurement/works/services. However, on the other hand, these criteria should be restrictive enough so as not to allow even one incapable vendor/contractor and thus vitiate fair competition for capable vendors/contractors to the detriment of the buyer's objectives. A misjudgement in either direction may be detrimental. Certain guidelines regarding the framing of PQC have been laid down. Due consideration should be given while framing PQC, to its effect on adequacy of competition. To encourage MSEs, past successful bidders, a call may be taken – whether PQC should apply to full quantity/packages or be proportional to part quantity/ package quoted by a bidder. In case requirement is suddenly a multiple times the past procurements, blind adoption of past PQCs may lead to disqualification of successful past vendors leading to inadequate competition. PQC should therefore be carefully decided for each procurement with the approval of CA for acceptance of the tender. It should be clarified in the PQB documents that bidders have to submit authenticated documents in support of eligibility criteria.

iii) **Advertisement and Notification:** The invitation for PQB shall be processed (advertised, bid document preparation, publicity and evaluation, and so on) in the same manner as a normal GTE or OTE (as the situation calls for) tender, ensuring the widest possible coverage. The PQC and evaluation criterion should be notified clearly in the PQB documents. The PQB documents should also indicate a complete schedule of requirements for which this PQB is being done, including approximate likely quantities of requirements. A minimum period of 30 days (Thirty) days may be allowed for the submission of PQBs. In the case of urgency, duly approved by CA, the time limit may be reduced to 15 days (Fifteen) days.

iv) **Evaluation:** At least in high value and critical procurements, the credentials regarding experience and past performance, submitted by the successful bidder, may be verified as per eligibility criteria, as far as reasonably feasible, from the parties for whom work has been claimed to be done. The Procuring Entity shall evaluate the qualifications of bidders only in accordance with the PQC specified and shall give due publicity to the particulars of the bidders that are qualified on the relevant portals/websites.

v) **Subsequent Procurement Tender:** The pre-qualification shall be valid for such period as may be specified in the pre-qualification document and for a single subsequent procurement within this period, except when it is determined that engaging in fresh pre-qualification shall not result in enhanced competition. During the period of such validity, the Procuring Entity shall invite bids for procurement (Request for Proposals – RfP) from pre-qualified bidders and all other bids may be treated as unsolicited offers which are normally rejected. In case bids are not invited within such a period, fresh prequalification shall be done. It is desirable that the time gap between the pre-qualification approval and floating of the linked main procurement tender is less than three months.

2.13 Two stage bidding - expression of interest Tenders – market exploration

2.13.1 There are instances where the equipment/plant to be procured is of complex nature and the procuring organization may not possess the full knowledge of either the various technical solutions available or the likely sources for such products in the market. To meet the desired objectives of a transparent procurement that ensures value for money simultaneously ensuring upgradation of technology & capacity building- it would be prudent to invite a two-stage Expression of Interest (EoI) Bids and proceed to explore the market and to finalise specifications based on technical discussions/presentations with the experienced manufacturers/suppliers in a transparent manner. Expression of Interest (EoI) bids may be invited in following situations:

i) 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;

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

iii) The Procuring Entity seeks to enter into a contract for the purpose of research, experiment, study or development, except where the contract includes the production of requirements in quantities sufficient to establish their commercial viability or to recover research and development costs; or

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

2.13.2 The procedure for two stage bidding shall include the following:

i) In the first stage of the bidding process, the Procuring Entity shall invite EoI bids containing the broad objectives, technical and financial eligibility criteria, terms and conditions of the proposed procurement etc without a bid price. On receipt of the Expressions of Interest, technical discussions/presentations may be held with the short-listed manufacturers/ suppliers, which are prima facie considered technically and financially capable of supplying the material or executing the proposed work, giving equal opportunity to all such bidders to participate in the discussions. During these technical discussions stage the procurement agency may also add those other stakeholders in the discussions who could add value to the decision making on the various technical aspects and evaluation criteria. Based on the discussions/presentations so held, one or more acceptable technical solutions could be decided upon laying down detailed technical specifications for each acceptable technical solution, quality benchmarks, warranty requirements, delivery milestones etc., in a manner that is consistent with the objectives of the transparent procurement. At the same time care should be taken to make the specifications generic in nature so as to provide equitable opportunities to the prospective bidders. Proper record of discussions/presentations and the process of decision making should be kept;

ii) In revising the relevant terms and conditions of the procurement, if found necessary as a result of discussions with the shortlisted bidders, the Procuring Entity shall not modify the fundamental nature of the procurement itself;

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

iv) Any bidder, invited to bid but not in a position to supply the subject matter of procurement due to modification in the specifications or terms and conditions, may withdraw from the bidding proceedings without forfeiting any bid security that he may have been required to provide or being penalised in any way, by declaring his intention to withdraw from the procurement proceedings with adequate justification;

v) If the Procuring Entity is of the view that after EoI stage, there is likelihood of further participation by many more bidders and to avoid getting trapped into a legacy technology, the second stage bidding may not be restricted only to the shortlisted bidders of EoI stage and it may be so declared in the EoI document ab-initio. Thereafter in the second stage, normal OTE/GTE bidding may be done. Such variant of EoI is called 'Non-committal' EoI.

2.13.3 Invitation of EoI Tenders: In EoI tenders, an advertisement inviting expression of interest should be published. The invitation to the EoI document should contain the following information:

i) A copy of the advertisement;

ii) **Objectives and scope of the requirement:** This may include a brief description of objectives and broad scope of the requirement. It may also include the validity period of empanelment;

iii) **Instructions to the bidders:** This may include instructions regarding the nature of supply, fees for empanelment (if any), last date of submission, place of submission and any other related instructions;

iv) **Formats for submission:** This section should specify the format in which the bidders are expected to submit their EoI;

v) The EoI document should be made available to the interested bidder as a hard copy as well as on its website in a downloadable form; and

vi) **Eligibility Criteria:** The invitation to EoI should clearly lay down the eligibility criteria, which should be applied for short listing.

2.13.4 Evaluation of EoI: The bidders should be evaluated for shortlisting, inter-alia, based on their past experience of performance in a similar context, financial strength and technical capabilities, among others. Each bidder should be assigned scores based on the sum of marks obtained for each parameter multiplied by the weightage assigned to that parameter. All bidders who secure the minimum required marks (normally 60 (sixty) per cent) should be shortlisted. The minimum qualifying marks should be specified in the EoI document. Alternatively, instead of weighted evaluation, the EoI document may specify a ‘fail-pass criteria’ with the minimum qualifying requirement for each of the criteria, such as minimum years of experience, minimum number of assignments executed and minimum turnover. Under such circumstances, all bidders who meet the minimum requirement, as specified, should be shortlisted. The short list should normally comprise at least three firms.

2.14 Electronic Reverse Auction (RA)

Electronic Reverse Auction is a type of auction (classified as dynamic procurement method) where the starting price, bid decrement, duration of auction, maximum number of automatic extensions are announced before start of online reverse auction. If required, RA may be preceded by an e-Procurement stage of eligibility/PQB to shortlist competent bidders who would be allowed to participate in the RA. The shortlisted bidders can after the start of RA start bidding online in an iterative process wherein the lowest bidder at any given moment can be displaced by an even lower bid of a competing bidder, within the duration of the RA.

2.14.1 The procedure for electronic reverse auction shall include the following, namely:

i) The Procuring Entity shall solicit bids through an invitation to the electronic reverse auction to be published or communicated in accordance with the provisions similar to e-Procurement; and

ii) The invitation shall, in addition to the information as specified in e-Procurement, include details relating to:

   a) Access to and registration for the auction;
   b) Opening and closing of the auction;
   c) Norms for conduct of the auction; and
   d) Any other information as may be relevant to the method of procurement.

2.15 One Stop Government e-marketplace (Gem) by DGS&D

2.15.1 An online marketplace (or e-commerce marketplace) is a type of e-commerce site where product or services are offered by a number of sellers and all the buyers can select the product/ services offered by any one of the seller, based on his own criteria. In an online marketplace, Purchaser’s transactions are processed by the marketplace operator and then product/services are delivered and fulfilled directly by the participating retailers. Other capabilities might include auctioning (forward or reverse), catalogues, ordering, posting of requirements by Purchasers, Payment gateways etc. In general, because online marketplaces aggregate products from a wide array of providers, selection is usually wider, availability is higher, and prices are more competitive than in vendor-specific online retail stores.

2.15.2 DGS&D has developed an online Government e-Market Place for common use goods and services. The procurement process on GeM is end to end from placement of supply order to payment to suppliers. This is to ensure better transparency and higher efficiency. All the process will be electronic and online.

2.15.3 Products and services are listed on Gem by various suppliers as on other e-commerce portals: The registration of suppliers on GeM is online and automatic based on PAN, MCA-21, Aadhar authentication etc. The suppliers will offer their products on GeM and the buyer will be able to view all the products as well as compare them. Tools of reverse bidding and e-auction are also available which can be utilised for the procurement of bulk quantities.

2.15.4 Demand Aggregation: The best prices can be available if same requirement demands of various departments are aggregated. This acts as an incentive for the supplier to quote their best price. For the same products, the demand of various Departments can be clubbed together and reverse auction done on the basis of aggregated demand which will provide the best prices.

CHAPTER-3

PREPARING BID DOCUMENTS, PUBLICATION, RECEIPT AND OPENING OF BIDS

3.1 Preparation of Bid Documents

3.1.1 The text of the bid document should be self-contained and comprehensive without any ambiguity. All essential information, which a bidder needs for sending responsive bid, should be clearly spelt out in the bidding document in simple language. This will also enable the prospective bidders to formulate and send their competitive bids with confidence. A carefully prepared tender document avoids delays and complaints. Hence, it is worth spending time and effort on this even in cases of urgency.

Bid documents should be based on Standard Bidding Documents (SBDs) relevant for the value range and the category of procurement. SBD for e-Procurement would be slightly different from the traditional SBD. To ensure uniformity, the standard provisions in most sections of the SBD/ SRfPD (Standard Request for Proposal Document) are to be used unaltered. Any modification to suit a unique requirement of the specific procurement in these documents is to be done through variable sections such as Special Instructions to Bidders or special conditions of contract.

In case of a limited tender, instead of a full set of SBD, only a machine numbered tender form (Annexure 4) is used as the tender document, after filling up the name of the vendor and details of requirements. It has the “terms and conditions of tender” printed on the obverse side. In any case, all registered vendors, who normally are invited to quote in such limited tenders, have already acknowledged acceptance of “general conditions of contract” as part of the registration application, which are applicable to such procurements, in additions to “terms and conditions of tender” on the obverse of tender form. If necessary, specifications and drawings or any other document may be enclosed with the limited tender form.

While SBDs would be complete in themselves and may be slightly different for various categories of procurements, these must necessarily address the following essential aspects:

i) Description of the subject matter of procurement, its specifications including the nature, quantity, time and place or places of delivery;

ii) Limitation or preference for participation by bidders in terms of the Government policies;

iii) The criteria for eligibility and qualification to be met by the bidder (the eligibility criteria should take care of the supplier’s eligibility to receive such a Government contract. The qualification criteria should take care of the supplier’s past performance, experience, technical competence and production capacity of the subject goods, financial strength to handle the contract successfully, compliance with environmental protection regulations/Environment Management System and so on);

iv) There are no such qualifications for the bidders that would be advantageous to the foreign manufactured goods at the cost of domestically manufactured goods;

v) The procedure as well as date, time and place for obtaining, submitting and opening of the bids;

vi) Terms of delivery/completion;

vii) Suitable provisions for enabling a bidder to question the bidding conditions, bidding process and/or rejection of its bid. These provisions should include a time frame in which Procuring Entity will address the bidder's questions;

viii) Criteria for determining the responsiveness of bids, criteria as well as factors to be taken into account for evaluating the bids on a common platform and the criteria for awarding the contract to the responsive, most advantageous (lowest/highest as the case may be) bidder should be clearly indicated in the bidding documents. SBDs should include a clause that "if a firm quotes NIL charges/consideration, the bid shall be treated as unresponsive and will not be considered";

ix) Suitable provision for settlement of disputes, if any, emanating from the resultant contract, should be kept in the bidding document; and

x) Essential terms of the procurement contract including a suitable clause mentioning that the resultant contract will be interpreted under Indian laws.

3.1.2 Contents of Tender Documents

The main sections of the SBD are:

i) Notice Inviting Tender (NIT);

ii) Instructions to Bidders (ITB);

iii) Appendix to Instructions to Bidders (AITB) (instead of modifying ITB, it is better to have information specific to a procurement as a separate section);

iv) Eligibility and qualification criteria;

v) Schedule of requirements;

vi) Technical specifications (including Drawings) and Quality Assurance (Inspections and Tests);

vii) General Conditions of Contract (GCC);

viii) Special Conditions of Contract (SCC) (instead of modifying GCC every time, it is better to have it as a separate section); and

ix) Standard formats, including Bid Cover letter, price schedules, bank guarantees and contract format.

A reading of the sections of the tender document will make the purpose and instructions clear. However, some broad guidelines for preparing bid documents are provided in the subsequent paragraphs.

3.1.3 Notice Inviting Tender

The model NIT format in SBD should be used for publishing the tender notice. To ensure competition, attention of all likely tenderers, for example, registered suppliers, past suppliers and other known potential suppliers, should be invited to the NIT through email/SMSs/letters. In e-Procurement, the website may be programmed to generate these alerts automatically.

The Notice Inviting Tender (NIT) is crucial for attracting wide competition in the tender. The model NIT format in SBD should be used for publishing the tender notice. The NIT should be brief but must contain sufficient detail for a prospective bidder to decide whether to participate in the tender or not and, if he decides to participate, how to go about it. To ensure competition, attention of all likely tenderers, for example, registered vendors, past suppliers and other known potential suppliers, should be invited to the NIT through email/SMSs/letters. In e-Procurement, the website may be programmed to generate these alerts automatically. NIT should be published as per the current policy of Procuring Entity in this regard.

In case of procurement through a limited tender, the NIT may be uploaded on e tender website with a note saying:

“This notice is being published for information only and is not an open invitation to quote in this limited tender. Participation in this tender is by invitation only and is limited to the selected Procuring Entity’s registered suppliers. Unsolicited offers are liable to be ignored. However, suppliers who desire to participate in such tenders in future may apply for registration with Procuring Entity as per procedure.”

Printouts of the tenders published on the website should be collected and kept on record as a proof of publicity. The complete details of the dates, on which advertisements actually appeared on the website, should be indicated while sending cases to higher authorities.

3.1.4 Information to Bidders (ITb) and AITb

ITB contain all relevant information as well as guidance to the prospective tenderers regarding all aspects of obtaining tender documents, and preparing and submitting a responsive bid. It also mentions the process of establishing the eligibility of the tenderer as well as evaluation and comparison of tenders and award of contract. ITB should not contain information on processes after the announcement of the award which should be covered in GCC, for example, the arbitration clause, resolution of disputes, and so on. Instead of modifying ITB every time, any changes warranted by special circumstances may be indicated with the prior approval of CA on a separate Appendix to ITB (AITB) and ITB may be included unchanged in every tender document. It should also to be indicated therein that the provisions in the AITB will supersede the corresponding provisions in the ITB.

Important clauses of ITB/AITB which may require attention and action are:

i) **Purchase Preference Policies**

If the purchaser intends to give a purchase preference in line with current Government policies, this fact must be declared in the ITB/AITB and in NIT as well.

ii) **Clarification of Tender Documents**

A prospective bidder requiring clarification on the tender documents may notify to Procuring Entity in writing, well before the due date of submission of bids, and a response will be sent in writing to the clarifications sought prior to the date of opening of the tenders. Copies of the query and clarification shall be sent to all prospective bidders who have received the tender documents.

iii) **Amendment of Tender Documents**

At any time prior to the date of submission of bids, the purchaser may, whether at his own initiative or in response to a clarification sought by a prospective bidder, amend bid documents by issuing a corrigendum. The corrigendum shall be notified in writing by registered post/speed post/courier/email to all known prospective bidders. Copies of such amendments are also to be prominently attached in the unsold sets of the tender documents (which are available for sale), including the tender documents uploaded on the website. When the amendment/modification changes the requirement significantly and /or when there is not much time left for the tenderers to respond to such amendments, and prepare a revised tender, the time and date of submission of tenders are also to be extended suitably, along with suitable changes in the corresponding timeframes for receipt of the tender, tender validity period, and so on, and validity period of the corresponding EMD/bid security. Depending on the situation, such an amendment may also need fresh publication adopting the same procedure as for publication of the original tender enquiry.

iv) **Bid Validity**

A bid shall remain valid for the period mentioned in the ITB/AITB (normally 75(seventy-five) days for OTE and 90 (ninety) days for GTE). In exceptional circumstances, the consent of the bidder may be requested in writing for an extension to the period of bid validity. Such requests should preferably be made much before the expiry of the bid validity. The bid security provided shall also be suitably extended. A bidder accepting the request and granting extension shall not be permitted to modify his bid.

v) **Sealing and marking of Tenders**

The tender document is to indicate the total number of tender sets (for example, in duplicate or in triplicate, and so on) required to be submitted. The tenderer is to seal the original and each copy of the tender in separate envelopes, duly marking the same as “Original”, “Duplicate,” and so on, and also printing the address of the purchase office and the tender reference number on the envelopes. Further, the sentence ‘’NOT TO BE OPENED” before (due date and time of tender opening) is also to be printed on these envelopes. The inner envelopes are then to be put inside a bigger outer envelope, which will also be duly sealed marked, and so on, as above. If the outer envelope is not sealed and marked properly as above, the purchaser will not assume any responsibility for its misplacement, premature opening, late opening, and so on. All the above instructions are to be suitably incorporated in the tender documents.

vi) **Withdrawal, Substitution and Modification of Tenders**

The tenderer, after submitting the tender, is permitted to withdraw, substitute or modify the tenders in writing without forfeiture of Bid Security/EMD, provided these are received duly sealed and marked like the original tender, up to the date and time of receipt of the tender. Any such request received after the prescribed date and time of receipt of tenders will not be considered. No bid may be withdrawn in the interval between the deadline for submission of bids and expiration of the period of bid validity. Withdrawal of a bid during this period will result in forfeiture of the bidder’s bid security (EMD) and other sanctions.

vii) **Eligibility/Evaluation/Qualification Criteria**

If it is intended to use eligibility/evaluation/qualification criteria to evaluate a tender and determine whether a tenderer has the required qualifications, this point may be clearly specified in NIT, ITB/AITB or as a separate section of the tender document. The bidder has to ensure that he provides convincing proof of having fulfilled these criteria. *Anycriteria not specified in the tender cannot be used for evaluation or qualification*.

The condition of prior turnover and prior experience may be relaxed for Startups (as defined by Department of Industrial Policy and Promotion) subject to meeting of quality & technical specifications and making suitable provisions in the bidding document.

viii) **OEM/Authorised Dealer/Agents of Supplier**

Except in case of Commercially-Off-the-Shelf (COTS) items, when a firm sends quotation for an item manufactured by some different company, the firm is also required to attach, in its quotation, the manufacturer’s authorisation certificate and also manufacturer’s confirmation of extending the required warranty for that product as per formats given in SBD. This is necessary to ensure quotation from a responsible party offering genuine product, also backed by a warranty obligation from the concerned manufacturer. In the tender, either the manufacturer or its authorised dealer can be considered as valid bidders.

In case of large contracts, especially capital equipment, the manufacturer's authorisation must be insisted upon on a tender specific basis, not general authorisation/dealership, by so declaring in the bid documents clearly.

In cases where the manufacturer has submitted the bid, the bids of its authorised dealer will not be considered and EMD will be returned.

And in case of violations, both infringing bids will be rejected.

ix) **Conflict of Interest among Bidders/Agents**

A bidder shall not have conflict of interest with other bidders. Such conflict of interest can lead to anti-competitive practices to the detriment of Procuring Entity's interests. The bidder found to have a conflict of interest shall be disqualified. A bidder may be considered to have a conflict of interest with one or more parties in this bidding process, if:

a) they have controlling partner (s) in common; or

b) they receive or have received any direct or indirect subsidy/financial stake from any of them; or

c) they have the same legal representative/agent for purposes of this bid; or

d) they have relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the bid of another bidder; or

e) bidder participates in more than one bid in this bidding process. Participation by a bidder in more than one Bid will result in the disqualification of all bids in which the parties are involved. However, this does not limit the inclusion of the components/sub-assembly/assemblies from one bidding manufacturer in more than one bid.

f) in cases of agents quoting in offshore procurements, on behalf of their principal manufacturers, one agent cannot represent two manufacturers or quote on their behalf in a particular tender enquiry. One manufacturer can also authorise only one agent/dealer. There can be only one bid from the following:

1. The principal manufacturer directly or through one Indian agent on his behalf; and
2. Indian/foreign agent on behalf of only one principal.

g) a Bidder or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the contract that is the subject of the Bid;

h) in case of a holding company having more than one independently manufacturing units, or more than one unit having common business ownership/management, only one unit should quote. Similar restrictions would apply to closely related sister companies. Bidders must proactively declare such sister/common business/ management units in same/similar line of business.

x) **Schedule of Requirements**

This section comprises the list of goods and delivery schedule. If there is no separate Technical Specification (TS), then TS, quality assurance and inspections may also be included here. If the tender contains a number of schedules of requirements, it must be clarified, whether evaluation of eligibility/qualifications/financial bids would be on a schedule by schedule basis or on the basis of a total of all schedules put together.

xi) **Quotation received from Dealers/Agents for Items not Manufactured by Them**

When a firm sends a quotation for an item manufactured by a different company, the firm is also required to attach in its quotation that manufacturer's authorisation certificate and also manufacturer's confirmation of extending the required warranty for that product (in addition to the tenderers' confirmation to the required warranty). If the firm is an authorised agent/dealer of that manufacturer, certified documentary evidence to this effect is to be attached along with the quotation. This is necessary to ensure a quotation from a responsible party offering the genuine product, also backed by a warranty obligation from the concerned manufacturer.

xii) **Special Conditions in GTE Procurements**

a) **Currency of Bidding:** In GTE tenders, the Foreign Bidders are allowed to quote price (and get paid) in RBI's notified basket of foreign currencies - US Dollar or Euro or Pound Sterling or Yen etc., in addition to the Indian Rupees - except for expenditure incurred in India (including agency commission if any) which should be stated in Indian Rupees. Indian Bidders are to quote in INR only.

b) **Agency Commission:** The amount of Agency Commission, (normally not exceeding five percent) payable to the Indian Agent should not be more than what is specified in the Agency agreement (a certified copy should be submitted along with the bid) between the bidder and the Indian Agent. The Indian Agent will be required to submit a certificate along with their Agency Commission bill, confirming that the amount claimed as Agency Commission in the bill has been spent/will be spent, strictly to render services to the foreign Principal, in terms of the Agency Agreement. The Purchaser or their authorized agencies and/or any other authority of the Government of India shall have rights to examine the books of the Indian Agent and defects or misrepresentations in respect of the afore indicated confirmation coming to light during such examinations will make the foreign Principal (i.e. the Contractor) and their Indian Agent liable to be banned/ suspended from having business dealings with the Purchaser, following laid down procedures for such banning/suspension of business dealings.

c) **Delivery Terms:** The delivery terms are to be expressed in terms of Incoterms. As per the revised policy of the Government, all Public Procurement import contracts involving (ocean freight of dry or liquid bulk cargoes) are to be finalized only on FOB (Free on Board)/FAS(Free Alongside Ship) basis and in case of any departure there-from, prior approval of the concerned administrative Department may be obtained. However imports involving ocean freight of general liner: cargoes, project cargoes, heavy lift, container, break bulk cargoes etc. can now be made on FOB (Free on Board)/FAS (Free Alongside Ship) or CFR (Cost & Freight)/CIF (Cost, Insurance & Freight) basis. All importing Government Departments/PSUs are now allowed to make their own shipping arrangements without needing to route their requirements through Chartering Wing of Ministry of Shipping. As per the extant directive of the Government, airlifting of imported goods from abroad will be done only through the national carrier, that is, Air India, wherever applicable. However, before processing any contract involving import of goods through air, contemporary instructions in this regard may be ascertained and followed;

d) **Insurance:** Wherever necessary, the goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the contract. If considered necessary, the insurance may be done for coverage on an “all risks” basis including war risks and strike clauses. The amount to be covered under insurance should be sufficient to take care of the overall expenditure to be incurred by the purchaser for receiving the goods at the destination. Insurance of imported goods/equipment would need to be arranged on a very selective basis and only for cases where the value of individual shipment is expected to be in excess of Rs. 5,00,00,000/- (Rupees Five crore). Procuring Entities who are entering into large number of imports contracts, may enter into annual Insurance arrangements for all imports during the year with Insurance Companies, instead of insurance for each individual imports separately on the basis of “Open Cover (all Risk)”. Where delivery of imported goods is required by the purchaser on Cost Insurance and Freight/Carriage and Insurance Paid (CIF/CIP) basis, the supplier shall arrange and pay for marine/air insurance, making the purchaser the beneficiary. Where delivery is on Free On Board/Free Alongside Ship (FOB/ FAS) basis, marine/air insurance shall be the responsibility of the purchaser

3.1.5. General and special conditions of the contract

The GCC to be used for contracting for procurement are provided in Procuring Entity's SBD. GCC covers all information on aspects after the announcement of the tender award till the closure of the contract and dispute resolution. It should not cover any aspect up to announcement of award. Instead of modifying the GCC every time, any changes warranted by special circumstances may be indicated in a separate SCC with the prior approval of the CA and GCC may be included unchanged in every tender document. It is also to be indicated therein that the provisions in the SCC will supersede the corresponding provisions in the GCC.

3.1.5 Submission Formats

This section contains the relevant forms for tender submission: various declarations by tenderer, formats for the bank guarantee, price schedule forms, exception and deviation forms, contract forms and manufacture's authorisation form, and so on.

3.1.6. Mandatory e-Publishing of Tenders

It is mandatory for all Institutions/Departments, their attached and subordinate offices and autonomous/statutory bodies to publish their tender enquiries, corrigenda thereon and details of bid awards on the University website. In the case of procurements made though DGS&D Rate Contracts or through any other Central Procurement Organizations (CPOs) only award details need to be published. These 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. These instructions would not apply to Purchase of goods without quotations or Purchase of goods by purchase committee.

3.2 Receipt and Custody of Tenders

3.2.1 Cost and Availability of Tender Documents

Tender documents should preferably be sold or made available for download up to date of opening of tenders and this should be clearly indicated in the documents. The organisation should also post the complete tender document in the website and permit prospective tenderers to make use of the document downloaded from the website.

The tender document fee should be as low as possible considering the cost/effort of preparing documents. *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.* The Procuring Entity may decide not to take any charges for the tender documents, in view of prevalence of e-publishing/downloading of tender documents. The cost of the tender document is to be submitted to the authority nominated therein by the prospective tenderer in the form of a demand draft /banker's cheque/pay order. Firms that are eligible for exemption from the tender document fee such as MSEs, Procuring Entity registered units (for relevant items and monetary limit) have to submit/upload scanned copy of documents in support of this exemption. Although the Procuring Entity is the best judge to decide or waive the document cost.

3.2.2 Pre-bid Conference

In case of turnkey contract(s) and facilities of a special nature for procurement of sophisticated and costly equipment, large works and complex consultancy assignments, a suitable provision is to be kept in the bidding documents for one or more pre-bid conference for clarifying issues/ clearing doubts, if any, about the specifications and other allied technical/commercial details of the plant, equipment and machinery projected in the bidding document and for ensuring that the technical requirements provide a level playing field. The date, time and place of the pre-bid conference should be indicated in the tender enquiry document. Bidders should be asked to submit written queries in advance of the conference. After the conference, the techno-commercial requirements may be revised if considered necessary by way of issue of a formal corrigendum (mere minutes of the meeting of pre-bid conference would not suffice) and shared with all the bidders who purchase or have purchased the bid documents.

3.2.3 Extension of Tender Opening Date

Sometimes, situations may arise necessitating modification of the tender documents already issued (LTE case) or already put on sale (OTE case). Also, after receiving the documents, a tenderer may point out some genuine mistakes necessitating amendment in the tender documents. In such situations, it is necessary to amend/modify the tender documents suitably prior to the date of submission of bids. Copies of such amendment/modification should be simultaneously sent to all the selected suppliers by registered/speed post/courier/e-mail in case of LTE. In case of OTE, the copies of such amendment/modification are to be simultaneously despatched, free of cost, by registered/speed post/courier/e-mail, to all the parties who have already purchased the tender documents and copies of such amendments are also to be prominently attached in the unsold sets of the tender documents (which are available for sale), including the tender documents for downloading put on the Procuring Entity's own website.

When the amendment/modification changes the requirement significantly and/or when there is not much time left for the tenderers to respond to such amendments, and prepare revised tender, the time and date of submission of tenders are also to be extended suitably, along with suitable changes in the corresponding time-frames for receipt of tender, tender validity period etc and validity period of the corresponding EMD/bid security. Depending on the situation, such an amendment may also need fresh publication adopting the same procedure as for publication of the original tender enquiry.

3.2.4 Sealing, and Marking of Bids by Bidders

The tender document is to indicate the total number of tender sets (e.g., in duplicate or in triplicate etc.) required to be submitted. In case of two envelop bidding system, the techno-commercial bid and financial bid should be sealed by the tenderer in separate covers duly marking these as 'Techno-commercial Bid' and 'Financial Bid' and marked these with the address of the purchase office and the tender reference number on the envelopes. Further, the sentence ''NOT TO BE OPENED" before……….. (due date & time of tender opening) are also to be put on these envelopes and these sealed covers are to be put in a bigger cover which should also be sealed and duly super scribed in a similar manner. In case bids are asked in a number of copies, the tenderer is to seal the original and each copy of the tender in separate envelopes, duly marking the same as "Original", "Duplicate" and so on and also marking these as mentioned above. The inner envelopes are then to be put in a bigger outer envelope, which will also be duly sealed marked etc. as above. If the outer envelope is not sealed and marked properly as above, the purchaser will not assume any responsibility for its misplacement, premature opening, late opening etc. These details regarding the submission of bids should also form a part of the ITB and AITB in the tender documents; all the above instructions are to be suitably incorporated in the tender documents.

3.2.5 Submission, Receipt and Custody of Tenders

In e-Procurement, all tenders uploaded by tenderers are received, safeguarded and opened online on the portal. In offline tenders, receipt and custody of bids shall be done in a transparent manner to maintain the credibility of the process. The following guidelines should be adhered to for receipt and custody of bids:

i) The Procuring Entity shall maintain tender boxes for receiving the bids at suitable locations which would facilitate security and easy access to bidders.;

ii) Bids received by courier shall be deposited in the tender box by the Dispatch Section till the date and time of bid opening. Bids sent by telex, cable or facsimile are to be ignored and rejected.; and

iii) For bulky/oversized bids which cannot be dropped into tender boxes, the officials authorised to receive such bids shall maintain proper records and provide a signed receipt with date and time to the bearer of the bid. He will also sign on the cover, duly indicating the date and time of receipt of the tender(s). Names and designations of at least two such authorised officers should be mentioned in the bid documents

3.2.6 Withdraw/Amendments/Modifications to Bids by Bidders

The tenderer, after submitting its tender, is permitted to withdraw/alter/modify its tender so long such withdrawal/alterations/modifications are received duly sealed and marked like original tender, upto the date & time of receipt of tender. Any withdrawal/amendment/modification received after the prescribed date & time of receipt of tenders are not to be considered.

3.2.7 Procedures to be followed during Bid Opening

Immediately after the deadline for bid submission, Procuring Entity shall proceed to the bid opening. In e-Procurement, bids are opened online. In offline tenders, the Bid Opening Committee (BOC) shall comprise one officer each from the Procuring Entity and Finance.

i) The authorised representatives of bidders, who intend to attend the tender opening in OTE/GTE/SLTE are to bring with them letters of authority from the corresponding bidder. The prescribed format for the letter of authority for attending the bid opening should be given in the bidding document. All bid-opening activities should be carried out demonstrably before such a gathering. The prescribed format for the bid opening attendance sheet and report are given at (Annexure 5);

ii) At a prescheduled date and time, the BOC of the day should get the particular tender box opened, after ensuring and demonstrating that the seal on the box has not been tampered with. All bids should be collected from the tender box. Bids for tenders not opening on that day should be put back into the box and the box resealed. Sometimes, there would be tenders dropped wrongly into this tender box. Such wrongly dropped tenders with appropriate endorsement should be put into the appropriate box or sent to the Tender Committee (TC) concerned, if the date of opening is over. The bids for different tenders opening on the day (including oversized bids, which were submitted to designated officers) should be sorted, and a count for each tender should be announced and recorded, particularly noting any modifying/altering/withdrawal of bids. BOC should ensure and demonstrate that bid envelopes are duly sealed and untampered. Late bids should be separately counted but kept aside and not opened. In the case of an advertised tender enquiry or limited tender enquiry, late bids (that is, bids received after the specified date and time for receipt of bids) should not be considered;

iii) After opening, every tender shall be numbered serially (say 3/14 – if it is the third bid out of 14 total), initialled, and dated on the first page by the BOC. Each page of the price schedule or letter attached to it shall also be similarly initialled, particularly the prices, delivery period, and so on, which shall also be circled and initialled along with the date. Any other page containing significant information should also be dealt with similarly. Blank tenders, if any, should be marked accordingly by the BOC. The original (and duplicate, if any) copies in a tender set are to be marked accordingly by the BOC;

iv) Erasure/cutting/overwriting/use of whitener/columns left unfilled in tenders, if any, shall be initialled along with date and time and numbered by the officials opening the tenders and total number of such noticed alterations (or the absence of any alteration)should be explicitly marked on the first page of the bid. Wherever quantity/amount is written only in figures, the BOC should write them in words. All rebates/discounts should be similarly circled, numbered and signed. In the absence of any alteration/overwriting/whitener/ blanks, the remark "no corrections noted" should be written. Similarly, the absence of discounts should be marked with "no discounts noted;"

v) The BOC is to announce the salient features of the tenders such as description and specification of the goods, quoted price, terms of delivery, delivery period, discount, if any, whether EMD furnished or not, and any other special feature of the tender for the information of the representatives attending the tender opening. No clarifications by tenderers should be entertained or allowed to be recorded during the bid opening. It should be understood that BOC has no authority to reject any tender at the tender opening stage;

vi) Proper sealing and codification need to be done on samples as well for samples which accompany the bid. These should be kept for reference under lock and key. Details should be recorded in the sample register maintained in the opening section. Documents related to money should be noted in the bid opening report/register and handed over to the Finance Section for safe custody and monitoring; and

vii) A bid opening report containing the names of the tenderers (serial number wise), salient features of the tenders, as read out during the public opening of tenders, will be prepared by the tender opening officers, and duly signed by them along with the date and time. The tenders that have been opened, list of the representatives attending the tender opening, and bid opening report are to be handed over to the nominated purchase officer and an acknowledgement obtained for him.

CHAPTER-4

FORMS OF SECURITIES, PAYMENT TERMS AND PRICE VARIATIONS

4.1 Forms of security

4.1.1 Bid Security

To safeguard against a bidder's withdrawing or altering its/his bid during the bid validity period in the case of OTE and GTE tenders, Bid Security (also known as Earnest Money Deposit (EMD)) is to be obtained from the bidders along with their bids except from bidders who are exempted from paying Bid Security. The amount of Bid Security should generally be between two to five per cent of the estimated value of the goods to be procured. The exact amount of Bid Security, rounded off to the nearest thousands of Rupees, as determined by the Procuring Entity, is to be indicated in the bidding documents. The Bid Security may be obtained in the form of an account payee demand draft, fixed deposit receipt, or banker's cheque. However, in case the Bid Security is more than a threshold Rs. 25,00,000/- (Rupees five lakh) and in case of foreign bidders in GTE tenders it may also be allowed in the form of a bank guarantee (in equivalent Foreign Exchange amount, in case of GTE) issued/confirmed from any of the scheduled commercial bank in India in an acceptable form, and so on, safe guarding the purchaser's interest in all respects. The Bid Security is normally to remain valid for a period of 45 (Forty-Five) days beyond the final bid validity period.

In appropriate cases, submission of the Bid Security may be waived with the Competent Authority's (CA's) approval, especially in the case of indigenisation/development tenders, limited tenders and procurements directly from the manufacturer or authorised agents.

A bidder's Bid Security will be forfeited if the bidder withdraws or amends its/his tender or impairs or derogates from the tender in any respect within the period of validity of the tender or if the successful bidder fails to furnish the required Performance Security within the specified period.

Bid securities of the unsuccessful bidders should be returned to them at the earliest after expiry of the final bid validity period and latest by the 30th day after the award of the contract. Bid Security should be refunded to the successful bidder on receipt of a performance security.

4.1.2 Performance Security

To ensure due performance of the contract, performance security (or Performance Bank Guarantee (PBG) or Security Deposit (SD)) is to be obtained from the successful bidder awarded the contract. Unlike contracts of Works and Plants, in case of contracts for Goods, the need for the Performance Security depends on the market conditions and commercial practice for the particular kind of goods. Performance Security should be for an amount of five to ten per cent of the value of the contract as specified in the bid documents. Performance Security may be furnished in the form of an account payee demand draft, fixed deposit receipt from a commercial bank, bank guarantee issued/confirmed from any of the commercial bank in India in an acceptable form, safeguarding the purchaser's interest in all respects. In case of GTE tenders, the performance security should be in the same currency as the contract and must conform to Uniform Rules for Demand Guarantees (URDG 758) – an international convention regulating international securities[1]. Unlike, Procurement of Works, in Procurement of Goods, the concept of taking part of Performance Guarantee as money retained from first or progressive bills of the supplier is not acceptable. Submission of Performance Security is not necessary for a contract value upto Rs. 1,00,000/- (Rupees One lakh).

Performance Security is to be furnished by a specified date (generally 14(fourteen) days after notification of the award) and it should remain valid for a period of 90 (ninety) days beyond the date of completion of all contractual obligations of the supplier, including warranty obligations.

The Performance Security will be forfeited and credited to the Procuring Entity's account in the event of a breach of contract by the contractor. It should be refunded to the contractor without interest, after he duly performs and completes the contract in all respects but not later than 90(ninety) days of completion of all such obligations including the warranty under the contract. Return of Bid/Performance Securities should be monitored by the senior officers and delays should be avoided. If feasible, the details of these securities may be listed in the e-Procurement portal, to make the process transparent and visible.

4.1.3 Warranty Bank Guarantee

In case of works and capital equipment, there is usually a defect liability/warranty clause against defects arising from design, material, workmanship or any omission on part of the vendor/ contractor during a specified period of months from the date of commissioning or from the date of dispatch in case of goods – whichever is earlier. In such cases, the Performance Guarantee is to be valid upto 90 (ninety) days beyond the warranty period. It is normally permissible in such a situation to allow Performance Guarantee to be valid upto 90 (ninety) days beyond delivery/ commissioning period and the contractor may be allowed to submit a fresh Warranty Bank Guarantee of 10 (ten) per cent of the value of the goods in the currency of the contract valid upto 90 (ninety) days beyond the Warranty period. In such cases, the Performance Guarantee is to be returned only after satisfactory delivery/commissioning and receipt of such a Warranty Bank Guarantee. In procurement of other than Capital Equipment Goods (and in case of low value Capital Goods – say upto Rs. 1,00,000/- (Rupees one Lakh), Warranty Clause is not called for.

4.1.4 Verification of Bank Guarantees

Bank guarantees submitted by the tenderers/suppliers as EMD/Performance securities need to be immediately verified from the issuing bank before acceptance. There may not be any need to get the Bank Guarantee vetted from legal/finance authority if it is in the specified format. Guidelines for verification of BGs submitted by the bidders/contractors against EMD/ performance security/advance payments and for various other purposes are as follows:

i. BG shall be as per the prescribed formats;
ii. The BG contains the name, designation and code number of the Bank officer(s) signing the guarantee(s);
iii. The address and other details (including telephone no.) of the controlling officer of the bank are obtained from the branch of the bank issuing the BG (this should be included in all BGs);
iv. The confirmation from the issuing branch of the bank is obtained in writing through registered post/speed post/courier. The bank should be advised to confirm the issuance of the BGs specifically quoting the letter of Procurement Entity on the printed official letterhead of the bank indicating address and other details (including telephone nos.) of the bank and the name, designation and code number of the officer(s) confirming the issuance of the BG;
v. Pending receipt of confirmation as above, confirmation can also be obtained with the help of responsible officer at the field office, which is close to the issuing branch of the bank, who should personally obtain the confirmation from issuing branch of the bank and forward the confirmation report to the concerned procurement entity.

4.1.5 Safe Custody and Monitoring of EMDs, Performance Securities and other Instruments

A suitable mechanism for safe custody and monitoring of EMDs and performance securities and other instruments should be evolved and implemented.

4.2 Payment Clause

The elements of price included in the quotation of a tenderer depend on the nature of the goods to be supplied and the allied services to be performed, location of the supplier, location of the user, terms of delivery, extant rules and regulations about taxes, duties, and so on, of the seller’s country and the buyer’s country.

In case of indigenous goods, the main elements of price may include raw material, production cost, overhead, packing and forwarding charges, margin of profit, transit insurance, excise duty and other taxes and duties as applicable. In case of imported goods, in addition to similar elements of price as above (other than excise duty and taxes), there may be elements of custom duty, import duty, landing and clearing charges and commission to Indian agents. Further, depending on the nature of the goods (whether domestic or imported), there may be cost elements towards installation and commissioning, operator’s training, and so on.

It is, therefore, necessary that, to enable the tenderers to frame their quotations properly in a meaningful manner, the tender documents should clearly specify the desired terms of delivery and also the duties and responsibilities to be performed by the supplier in addition to supply of goods.

While claiming the payment, the supplier should also certify in the bill that the payment being claimed is strictly in terms of the contract and all obligations on the part of the supplier for claiming this payment have been fulfilled as required under the contract. There should also be a suitable provision for verification of the authenticity of the person signing the invoice, and so on, to claim the payment.

i) **Elements of Price:** Where the price has several components such as the price of the goods, cost of installation and commissioning, operators' training, and so on, bidders should be asked to furnish a cost break-up indicating the applicable prices and taxes for each of such components along with the overall price. The payment schedule and terms will be linked to this cost break-up.

ii) **Currency:** The tender documents are to specify the currency (currencies) in which the tenders are to be priced. As a general rule, domestic tenderers are to quote and accept their payment in Indian currency; Indian agents of foreign suppliers are to receive their agency commission in Indian currency; costs of imported goods, which are directly imported against the contract, may be quoted in foreign currency (currencies) and paid accordingly in that currency; and the portion of the allied work and services, which are to be undertaken in India (like installation and commissioning of equipment) are to be quoted and paid in Indian currency.

iii) **Payment to Suppliers:** In a supply contract, delivery of goods is the essence of the contract for the purchaser. Similarly, receiving timely payment for the supplies is the essence of the contract for the seller. A healthy buyer-supplier relationship is based on the twin foundation of timely and quality supply, on the one hand, and prompt and full payment to the supplier, on the other. It should be ensured that all payments due to the firm, including release of the performance security, are made on a priority basis without avoidable delay as per the tender/contract conditions.

4.3 Terms of Payment for Domestic Goods

Where the terms of delivery are FOR dispatching station, the payment terms, depending on the value and nature of the goods, mode of transportation, and so on, may be 60 to 90 (sixty to ninety) per cent on proof of dispatch and other related documents and balance on receipt at site and acceptance by the consignee.

Where the terms of delivery is FOR destination/delivery at site, the usual payment term is 100 (hundred) per cent on receipt and acceptance of goods by the consignee and on production of all required documents by the supplier.

Where goods to be supplied also need installation and commissioning by the supplier, the payment terms are generally:

i) For a contract with terms of delivery as FOR dispatching station -- 60 (sixty) per cent on proof of dispatch along with other specified documents, 30 (thirty) per cent on receipt of the goods at site by the consignee and balance 10 (ten) per cent on successful installation and commissioning and acceptance by the consignee; and

ii) For a contract with terms of delivery as FOR destination/delivery at site -- 90 (ninety) per cent on receipt and acceptance of goods by the consignee at destination and on production of all required documents by the supplier and balance 10 (ten) per cent on successful installation and commissioning and acceptance by the consignee.

Note: Generally (especially for goods requiring installation and commissioning at site by the supplier), the desirable terms of delivery are FOR destination/delivery at site, so that the supplier remains responsible for safe arrival of the ordered goods at the site. Therefore, unless otherwise decided ex-works or FOR dispatching station terms should be avoided.

4.4 Modes of Payment for Domestic Goods

Payments to domestic suppliers are usually made by cheque/demand/draft. Such payment can also be made to the supplier's bank, if the bills are endorsed in favour of the bank with a pre-receipt embossed on the bills with the words, "received payment" and both the endorsement and pre-receipt are authenticated by the supplier. In addition, an irrevocable power of attorney is to be granted by the supplier in favour of the bank. In such of those cases where there has been global tendering, in order to have uniform payment clauses, if domestic suppliers, especially against high value contracts for sophisticated equipment/machinery, desire payment through LC, depending on the merits of the case, this may be agreed to. However procuring entities should switch over to more transparent electronic payment systems like Electronic Clearance System (ECS), Real-Time Gross Settlement Systems (RTGS) National Electronic Funds Transfer (NEFT) or Electronic Payment Gateways.

4.5 Documents for Payment for Domestic Goods

i) Supplier's Invoice indicating, *inter alia* description and specification of the goods, quantity, unit price, total value;

ii) Packing list;

iii) Insurance certificate;

iv) Railway receipt/consignment note;

v) Manufacturer's guarantee certificate and in-house inspection certificate;

vi) Inspection certificate issued by purchaser's inspector; and

vii) Any other document(s) as and if required in terms of the contract.

4.6 Terms of Payment for imported Goods

Usual payment terms, unless otherwise directed by CA, are indicated below:

i) Cases where installation, erection and commissioning (if applicable) **are not the responsibility of the supplier** -- 100 (Hundred) per cent net FOB/FAS/CFR/CIF/CIP price is to be paid against invoice, shipping documents, inspection certificate (where applicable), manufacturers' test certificate, and so on;

ii) Cases where installation, erection and commissioning are the responsibility of the supplier -- 80 - 90 (Eighty to Ninety) per cent net FOB/FAS/CFR/CIF/CIP price will be paid against the invoice, inspection certificate (where applicable), shipping documents, and so on, and balance within 21-30 (Twenty-One to Thirty) days of successful installation and commissioning at the consignee's premises and acceptance by the consignee; and

iii) Payment of agency commission, if payable, against FOB/FAS/CFR/CIF/CIP contract – the entire 100 (Hundred) per cent agency commission is generally paid (in non-convertible Indian Rupees on the basis of BC selling rate of exchange) after all other payments have been made to the supplier in terms of the contract.

4.7 Modes of Payment for Imported Goods

It should be ensured that the imports into India are in conformity with the export-import policy in force: FEMA; FEMA (Current Account Transactions) Rules, 2000 framed by Procuring Entity; and directions issued by RBI under FEMA from time to time.

For imported goods, payment usually happens through the Letter of Credit (LC) opened by the State Bank of India or any other scheduled/authorised bank as decided by the Procuring Entity. The amount of LC should be equal to the total payable amount, and be released as per the clauses mentioned above. Provisions of Uniform Customs and Practices for Documentary Credits should be adhered to while opening the LC for import into India. If the LC is not opened, payment can also be made to the seller through a direct bank transfer for which the buyer has to ensure that payment is released only after the receipt of prescribed documents.

4.8 Documents for Payment for Imported Goods

The documents, which are needed from the supplier for release of payment, are to be clearly specified in the contract. The paying authority is also to verify the documents received from the supplier with corresponding stipulations made in the contract before releasing the payment. Documents, which the supplier is to furnish while claiming payment, are specified in the Letter of Credit, but usually are:

i) Supplier's original invoice giving full details of the goods including quantity, value, and so on;

ii) Packing list;

iii) iii) Certificate of country of origin of the goods to be given by the seller or a recognised chamber of commerce or another agency designated by the local Government for this purpose;

iv) Certificate of pre-dispatch inspection by the purchaser's

representative;

v) Manufacturer's test certificate and guarantee;

vi) Certificate of insurance;

vii) Bill of lading/airway bill/rail receipt or any other dispatch document, issued by a Government agency (like the Department of Posts) or an agency duly authorised by the concerned Ministry/Department, indicating:

a) Name of the vessel/carrier;

b) Bill of lading/airway bill;

c) Port of loading;

d) Date of shipment;

e) Port of discharge and expected date of arrival of goods; and Any other document(s) as and if required in terms of the contract.

4.9 Air Freight Charges

Goods that are required to be airlifted are to be dispatched on a 'charge forward basis'. All air freight charges, which are shown on the relevant consignment note as chargeable to the consignee, are to be paid to the Airline in Rupees. Some departments need to import sophisticated instruments, tools and kindred goods. These are usually small in size and very delicate/fragile in nature. Such goods, invariably, need to be airlifted. But, quite naturally, form a small part of the Air Cargo carried by an Aircraft. For such imports, procuring entities may engage Air Freight Consolidators who consolidate the small Air Cargos of different customers, to be airlifted from one Airport to another. Hiring of services of Airfreight Consolidators should be done in a transparent manner, following standard principles of Public Procurement.

4.10 Letter of Credit (LC)

Two banks are involved in payment to the supplier by LC, the purchaser's bank and supplier's bank. The purchaser is to forward the request to its bank in the prescribed format as formulated by the Bank, along with all relevant details including an authenticated copy of the contract. Based on this, the purchaser's bank opens the LC on behalf of the purchaser for transacting payment to the supplier through the supplier's bank. Care should be taken to ensure that the payment terms and documents to be produced for receiving payments through LC are identical with those shown in the contract. Generally, the irrevocable LC is opened so that the supplier is fully assured of his payment on fulfilling his obligations in terms of the contract. In case the delivery date of the contract is extended to take care of delay in supply, for which the supplier is responsible, the tenure of the LC is also to be extended, but the expense incurred for such an extension (of LC) is to be borne by the supplier. Provisions of Uniform Customs and Practices for Documentary Credits (UCP 600)[2] should be adhered to the while opening the LC for import into India.

4.11 Advance Payment

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

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

ii) Advance payment demanded by firms against fabrication contracts, turn-key contracts; and so on;

Such advance payments should not exceed the following limits.

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

b) Forty per cent of the contract value to a state or central Government agency or PSU; or

c) In case of the maintenance contract, the amount should not exceed the amount payable for six months under the contract;

d) In exceptional cases, the Competent Authority may relax the ceilings mentioned above with prior concurrence of the Associated/integrated Finance. While making any advance payment as above, adequate safeguards in the form of a bank guarantee, and so on, should be obtained from the firm.

4.12 Documents for Advance Payments

Documents, needed from the supplier for release of payment, are to be clearly specified in the contract. The paying authority should also verify the documents received from the supplier with corresponding stipulations made in the contract before releasing the payment.

4.13 Insurance

In every case where advance payment or payment against dispatch documents is to be made or LC is to be opened, the condition of insurance should invariably be incorporated in the terms and conditions. Wherever necessary, the goods supplied under the contract, shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the contract. If considered necessary, insurance may cover “all risks” including war risks and strike clauses. The amount to be covered under insurance should be sufficient to take care of the overall expenditure to be incurred by the Procuring Entity for receiving the goods at the destination. Where delivery of imported goods is required by the purchaser on CIF/CIP basis, the supplier shall arrange and pay for marine/air insurance, making the purchaser the beneficiary. Where delivery is on FOB/FAS basis, marine/air insurance shall be the responsibility of the purchaser.

4.14 Taxes, Duties and Levies

4.14.1 Statutory Duties and Taxes on Domestic Goods

The duties and taxes including excise duty and VAT/GST levied by the Government on domestic goods vary from product to product. Unless a different intention appears from the terms of the contract, statutory variation in duties or taxes are to be borne by the buyer (Procuring Entity) as per the section 64A of the Sales of Goods Act, 1930. As a general policy, the statutory variations in such duties and taxes are to be allowed during the period from the date of the tender to the date of acceptance of the tender (that is, placement of the contract) and during the original/re-fixed delivery period of the contract so that both the supplier and purchaser are equally compensated for rise or fall in the price of the goods on account of such statutory variations.

4.14.2 Octroi and Local Taxes

In case the goods supplied against contracts placed by Procuring Entity are exempted from levy of town duty, Octroi duty, terminal tax and other levies of local bodies, the suppliers should be informed accordingly by incorporating suitable instructions in the tender enquiry document and in the resultant contract. Wherever required, the supplier should obtain the exemption certificate from the Purchasing Department to avoid payment of such levies and taxes.

In case such payments are not exempted (or are demanded in spite of the exemption certificate), the supplier should make the payment to avoid delay in supplies and forward the receipt to the Purchasing Department for reimbursement and for further necessary action.

4.14.3 Customs Duty on Imported Goods

On imported goods, the tenderers shall also specify separately the total amount of custom duty included in the quoted price. The tenderers should also indicate correctly the rate of custom duty applicable for the goods in question and the corresponding Indian customs tariff number. Where customs duty is payable, the contract should clearly stipulate the quantum of duty payable, and so on, in unambiguous terms. The standard clauses to be utilised for this purpose are to be incorporated in the tender enquiry documents. Any import of materials directly from the supplier or manufacturer should be in the name of Procuring Entity. In this regard, all formalities will be completed by Procuring Entity engaging a Custom House Agent (CHA) and payment in this regard will be borne by Procuring Entity.

4.14.4 Duties/Taxes on Raw Materials

Procuring Entity is not liable for any claim from the supplier on account of fresh imposition and/ or increase (including statutory increase) in excise duty, custom duty, sales tax, and so on, on raw materials and/or components used directly in the manufacture of the contracted goods taking place during the pendency of the contract, unless such liability is specifically agreed to in terms of the contract. A clause to this effect should also form part of the tender documents.

4.15 e-Payments

e -Banking and e-payments are now used by various banks by adopting Electronic Clearing System (ECS) and Electronic Fund Transfer (NEFT/RTGS) procedure. Payments to suppliers may be made through such mechanism where such facilities are available. As per RBI guidelines, ECS mandate in RBI's format may be obtained at the time of registration of suppliers and in the bid document. The Format is available with all Banks.

4.16 Deduction of Income Tax, GST, Service Tax, and so on, at source from Payments to Suppliers

This will be done as per the existing law in force during the currency of the contract.

4.17 Refund from Supplier

Sometimes, the supplier, after claiming and receiving reimbursements for sales tax, excise duty, custom duty, and so on, from the purchaser, applies to the concerned authorities for refunds, on genuine grounds, of certain portions of such duties and taxes paid by it and receives the allowable refunds. Such refunds contain the purchaser's share also (out of the payments already made by the purchaser to that supplier). The tender enquiry document and the contract are to contain suitable provisions for obtaining such refunds from the supplier.

4.18 Payment against Time Barred Claims

Ordinarily, all claims against the University are time barred after a period of three years calculated from the date when the payment falls due unless the payment claim has been under correspondence. However, the limitation is saved if there is an admission of liability to pay, and fresh period of limitation starts from the time such admission is made. The drill to be followed while dealing with time barred claims will be decided by the paying authority. The paying authority is to ensure that no payment against such time barred claim is made till a decision has been taken in this regard by the CA.