



NUMALIGARH REFINERY LIMITED



MANUAL FOR PROCUREMENT OF CONSULTANCY & OTHER SERVICES

(Released on 07.11.2022; Revised on 16.03.2023)



**Numaligarh Refinery Limited
Numaligarh**

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FOREWORD

Numaligarh Refinery Ltd. formally brought about a comprehensive Guideline for Procurement and Contract Services in 2004 after deliberations by a dedicated cross functional committee, with due consideration of views of BPCL and CVO to streamline the procedures for procurement and contractual systems in use and to help in making decisions in a laid down manner that would stand the test of any future scrutiny as a public procuring entity.

With a similar view to improving transparency in decision making in public procurement and reducing the scope for subjectivity, Department of Expenditure (DoE), in 2006, issued a set of three Manuals on Policies and Procedures for Procurement of Goods, Works and Hiring of Consultants in conformity with the General Financial Rules (GFR), 2005. Over time, the Government of India issued new instructions in the domain of public procurement like introduction of Central Public Procurement Portal (CPPP), Government e-Marketplace (GeM), preferential market access for micro and small enterprises, preference for domestic manufacturers of electronic goods, inclusion of Integrity Pact, etc. The GFR was revised comprehensively in March 2017 covering inter-alia these set of new instructions. Consequently, the Manuals of Procurement by DoE too were revised after a decade and within a month of the release of GFR 2017.

Central Vigilance Commission (CVC) have since issued various instruction on public procurement from time to time as also various other organisations like NITI Aayog, D/o Promotion of Industry & Internal Trade etc. NRL has kept abreast of these guidelines for procurement by publishing various internal notifications and hosting them on the website to supplement/ substitute the provisions of its procurement manual. Due to multiple organizations issuing guidelines, procurement executives were commonly facing problems in having a single authoritative source of reference. CVC after deliberations with DoE and with the other organisations came to the logical conclusion that it would only be appropriate if public procurement guidelines are henceforth issued from a single source viz. DoE.

Consequently, the three Manuals for Procurement (of Goods, Works and Consultancy & Other Services) were recently revised by DoE and made effective from 1st July 2022, incorporating all interim procurement guidelines issued by DoE since its last revision in 2017 as well subsuming all extant instructions from CVC and other Government bodies. Accordingly, the CVC has issued a circular No-14/07/22 dated 11.07.2022.

Vide letter ref. NRL/Vig/02 dtd. 12.07.2022, CVO-NRL submitted the advisory to the Managing Director, NRL to update/align the procurement manual/guideline of NRL in line with the updated manuals of DoE and upload the same on NRL's website.

Accordingly, a cross functional committee was constituted by MD-NRL to review and update NRL's procurement manuals in line with the latest comprehensive version issued by the DoE while incorporating organization specific provisions. The adoption of these updated policies / guidelines by NRL is expected to uphold the fundamental principles of transparency, fairness, competition, economy, efficiency and accountability.

Public Procurement is a dynamic field where policies are constantly reviewed to help Government achieve its socio-economic or strategic goals. Hence, it will be our endeavor to update this manual from time to time at periodic intervals to ensure their continued relevance for all the years to come.

I also take this opportunity to record my appreciation to the committee members involved in participating in the knowledge sharing for updating this significant document.



Indranil Mittra
(Director Finance)

DISCLAIMER:

The contents of this manual are up to date, till October 2022. The personnel involved in procurement activities are advised to check the precise current provisions and applicable instructions through any subsequent amendment(s) of this manual, as well as notifications issued by NRL management.

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Abbreviations and Acronyms

AAEC -Appreciable Adverse Effect on Competition	IT -Information Technology
BC (selling)-Bill for Collection Selling (Foreign Exchange) Rate	ITB -Instructions to Bidders (may in some instance be called Instructions to Tenderers - ITT)
BDS -Bid Data Sheet	ITC -Instructions to consultants
C&AG -Comptroller and Auditor General (of India)	JV -Joint Venture (Consortium)
C (F) A -Competent (Financial) Authority	L-1 -Lowest Bidder
CAPEX -Capital Expenditure (model of acquisition/ procurement)	LCC -Life Cycle Costing
CBI -Central Bureau of Investigation	LCS -Least Cost System
CCI -Competition Commission of India	LD -Liquidated Damages
CEC -Consultancy Evaluation Committee	LEC -Lowest Evaluated Cost
CIPP -Code of Integrity for Public Procurement	LOI -Letter of Invitation
CMC -Contract Management Committee	LTE -Limited Tender Enquiry
CPO -Central Purchasing Organizations	MSME -(Ministry of) Micro Small and Medium Enterprises
CPPP -Central Public Procurement Portal	MSMED -Micro, Small and Medium Enterprises Development Act, 2006
CRAC -Consignee Receipt and Acceptance Certificate	NGO -Non-Government Organisation
CV -Curriculum Vitae	NIC -National Informatics Centre
CVC -Central Vigilance Commission	NIT -Notice Inviting Tender
CVO -Chief Vigilance Officer	OPEX -Operating Expense (model of acquisition/ procurement)
DFPR -Delegation of Financial Power	PA -Procurement Agent(s)
DG -Director General	PAN -Personal Account Number
DGS&D -Directorate General of Supplies and Disposals	PPD -Procurement Policy Division
DPIIT -Department for Promotion of Industry and Internal Trade	PPP-MII -Public Procurement (Preference to Make in India), Order
DSC -Digital Signature Certificate	PQB -Prequalification Bidding
EC -Evaluated Cost	PSARA -Private Security Agencies Regulation Act, 2005
ECS -Electronic Clearing System	PSU/ PSE -(Central) Public Sector Undertaking/ Enterprise
EMD -Earnest Money Deposit	QCBS -Quality and Cost Based Selection
EOI -Expression of Interest (Tender)	RfP -(Standard) Request for Proposals (Document)
EPF -Employee Provident Fund	REoi -Request for Expression of Interest
ESI -Employee State Insurance	RTI -Right to Information (Act)
FA (&CAO) -Financial Adviser (and Chief Accounts Officer)	SBD -Standard Bidding Document
FEMA -Foreign Exchange Management Act	SCC -Special Conditions of Contract
FM -Force Majeure	SHG -Self Help Group
FTP -Full Technical Proposal	SLA -Service Level Agreement
GCC -General Conditions of Contract	SoPP -Schedule of Procurement Powers
GeM -Government Electronic Market	SoR -Schedule of Rates
GeMAR&PTS -GeM Availability Report and Past Transaction Summary	SSS/ STE -Single Source Selection/ Single Tender Enquiry
GFR -General and Financial Rules, 2017	STP -Simplified Technical proposal
GOI -Government of India	TC -Tender Committee also called Tender Purchase or Evaluation Committee (TPC/ TEC)
GTE -Global Tender Enquiry	TCO -Total Cost of Ownership
HOD -Head of the Department	ToR -Terms of Reference
HUF -Hindu Undivided Family	UAM -Udyam Aadhaar Memorandum
ICT -Information & Communications Technology	URC -Udyam Registration Certificate
IEM -Independent External Monitor	VfM -(Best) Value for Money
IP -Integrity Pact	WOL -Whole of Life (Cost) or Total Cost of Ownership TCO
ISO -International Organization for Standardization	

Procurement Glossary: The “Procurement Glossary” section in the “Manual for Procurement of Goods” may be referred for definitions of relevant terms.

1.0 PREAMBLE

It is necessary that the following points are kept in mind while deciding upon the tenders:

- a) The Delegation of Authority to the various levels imposes commensurate responsibility and accountability.
- b) In exercise of the delegated authorities, the competent authority (ies) must observe all the laid down procedures and instructions.
- c) In deciding upon the award of contracts and / or placement of orders on contractors / suppliers, there must be commercial prudence to ensure that, firstly, the company receives value for money, and secondly, there is fairness and equity in our dealings with Contractors / Suppliers.
- d) The fact that all transactions are, and will continue to be subject to close scrutiny, it is essential that this aspect is borne in mind and adequate records maintained to avoid problem(s) at a later date.
- e) All expenditure shall be regulated through approved capital / revenue budget.
- f) Earlier procedure notes / circulars / manuals with regard to procurement process through Commercial Department shall stand replaced with the release of this consolidated Manual for Procurement of Consultancy & Other Services. Henceforth, this manual shall be referred for all new procurement of Consultancy & Other Services.

2.0 RESPONSIBILITY FOR PROCUREMENT OF GOODS, WORKS & CONTRACT SERVICES:

The responsibility for procurement of goods, works and service contracts vests with the Commercial Department for the entire company, **except:**

- i) Crude Oil and Natural Gas-
- ii) Security arrangements (CISF / AISF / Home Guard), Agreements with Medical Services and Schools, Ad-Hoc Vehicle arrangements, Land related issues, Guest House consumables, Guest Relation expenses including hotel charges, payment of electricity and telephone bills, empanelment of travel agencies for air/rail ticket booking, legal consultants.
- iii) Procurement of services by user department for the value as per provisions of DOA.
- iv) Deposit Works through Govt. & Other agencies.
- v) Procurements made under approved DOA for HR/P&A, Marketing, Finance, CSR, Corporate Communications etc.

Though the above procurements are excluded from the responsibility of procurement by Commercial Department, the guidelines of these procurement manuals shall be followed to the extent possible.

3.0 PROCEDURE TO DEAL WITH EMERGENCIES :

In the normal course of business procedure as outlined below should be followed. However, to deal with unforeseen emergencies at the Refinery / marketing installation /depots etc. due to natural calamities and/or accidents like break down of Plant and Equipment, Fire accident, structural failures, any product leakage, major power failures, short circuits etc. which need to be attended to immediately, necessary action may be initiated by the competent authority as per provisions of the DOA.

Chapter 1: Introduction to Procurement of Consultancy/Other Services

1.1 Procurement Rules and Regulations; and this Manual

Numaligarh Refinery Limited (hereinafter referred to as “NRL”) spend a sizeable amount of their budget on procurement of goods, works and services to carry out new Projects, Developmental Activities, regular Repair and Maintenance Activities etc.

The Board of Directors has delegated powers to make arrangements for procurement of goods, works and services. These powers have to be exercised as per NRL’s Delegation of Authority (DOA) and in conformity with the 'Procurement Guidelines' described below. DOA is annexed to the “Manual for Procurement of Goods” as Annexure 1.

1.2 Amendments and Revision of this Manual

The Commercial Function shall be the nodal agency for this Manual. For any revision relating to this manual, necessary action will be initiated by Commercial Department, and approval of Committee of Functional Directors shall be obtained for adoption of the same. Revision of certain clause (if specifically mentioned in the manual) may require approval from the Board of Directors.

Any revision of the current Govt. policies such as MSE order 2012, PP-LC (MII) policy etc. released by the Govt./MoPNG from time to time, or introduction of new policy by the Govt./MoPNG and applicable for NRL may be implemented suitably through internal circular issued by functional head of Commercial Department. No separate approval from higher authority is required in case the guidelines are adopted without any customization for NRL.

Such revisions/introductions shall be issued in the form of circulars as and when applicable, and treated as part of this manual. However, comprehensive review and revision of the procurement manuals should be made periodically, but not later than 03 years.

1.3 Applicability of this Manual

1.3.1 This manual is applicable to procurement of all "Services" as defined in “Procurement Glossary”.

If the generic word "Services" is used in this manual, it implies both Consultancy and other services taken together.

1.3.2 Similarly, "Consultancy services" is defined in “Procurement Glossary”.

Procurement of IT Projects should normally be carried out as Procurement of Consultancy services, as the outcomes/deliverables vary from one service provider to another. The IT Projects may include:

- i) bespoke software development;
- ii) cloud based services and
- iii) composite IT system integration services involving design, development, deployment, commissioning of IT system including supply of hardware, development of software, bandwidth and operation/maintenance of the system for a define period after go-live etc.

1.3.3 Similarly, "Other services" (including the term 'Non-consultancy services' in certain contexts) is defined in “Procurement Glossary”.

1.3.4 The term 'Outsourcing of Services' is defined in "Procurement Glossary". Besides outsourcing, other services also include procurement of short-term stand-alone services.

1.3.5 It is possible that, depending on the nature and complexity of the assignment, a task could be dealt with either as a consultancy or non-consultancy service. In essence, if the intellectual and advisory part of services dominates (and the physical part is incidental), the selection needs to be dealt with in Consultancy mode. For example, if the task is looking at the condition of a dam (for dam safety) by physically inspecting a dam through underwater observation, this task is collection of data using technologies and photography, but the actual analysis is an intellectual and advisory task and is the crux of the assignment. Therefore, the entire task needs to be dealt with as selection of a consultant.

1.3.6 For sake of simplicity, this Manual for Procurement of Consultancy and Other Services is written from the point of view of procurement of Consultancy Services. A separate Chapter at the end covers the Outsourcing/ Procurement of Other (non- consultancy) Services, and points out areas where policies and procedures are different for such outsourcing/ procurements. However generic word 'Service(s)' wherever used implies both Consultancy and other services taken together.

1.3.7 These procurement guidelines would continue to apply if procurement entities outsource the procurement process or bundle the procurement process with other contractual arrangements or utilise the services of procurement support agency or procurement agents to carry out the procurement on their behalf. But these procurement guidelines would not apply to procurements by procuring entities for their own use (but not for purpose of trading/ sale) from their subsidiary companies including Joint Ventures in which they have controlling share.

1.3.8 However, by a general or special notification, the government may permit certain 'Procuring Entities', considering unique conditions under which they operate, for all or certain categories of procurements, to adopt detailed approved guidelines for procurement, which may deviate in some aspects but conform with all other essential aspects of 'Procurement Guidelines'.

The Interpretation or any conflicts between various documents shall be governed by the following order of precedence:

- 1) Manual for procurement of Goods, Works or Consultancy & Other Services, as applicable.
- 2) Special Conditions of Contract (SCC) and other terms and conditions of the tender.
- 3) General Purchase Conditions (GPC) / General Conditions of Contracts (GCC).

1.4 Authorities competent to procure Consultancy and other services and their Purchase Powers

Shall be as per provisions of the Delegation of Authority (DOA).

1.5 Basic Aims of Procurement - 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 five parameters called the five Rs of procurement. The entire process of procurement (from the time that need for an item, facility or services is identified till the need is satisfied) is designed to achieve following basic aims. Although couched in jargon of procurement of Goods, it's equally applicable to procurement of Consultancy and other services. The

term 'Right' is used here in the sense of being optimal:

- i) Right quality;
- ii) Right quantity;
- iii) Right price;
- iv) Right time and place; and
- v) Right source.

(For more details on basic aims of procurement, please refer to Chapter 1 of the Manual for Procurement of Goods).

1.6 Principles of Service Procurement

Over and above the basic aims of procurement, the obligations of procuring authorities can be grouped into following five fundamental principles of service procurement, which needs to be followed:

- i) Transparency principle;
- ii) Professionalism principle;
- iii) Broader obligations principle;

(For more details on principles of procurement, please refer to Chapter 1 of the Manual for Procurement of Goods).

1.7 Standards (Canons) of Financial Propriety

Public Procurement like any other expenditure in Government must conform to the Standards (also called Canons) of Financial Propriety.

Standards of financial propriety: Every officer incurring or authorizing expenditure from public moneys should be guided by high standards of financial propriety. Every officer should also enforce financial order and strict economy and see that all relevant financial rules and regulations are observed, by his own office and by subordinate disbursing officers. Among the principles on which emphasis is generally laid are the following:-

- i) Every officer is expected to exercise the same vigilance in respect of expenditure incurred from public moneys as a person of ordinary prudence would exercise in respect of expenditure of his own money.
- ii) The expenditure should not be prima facie more than the occasion demands.
- iii) No authority should exercise its powers of sanctioning expenditure to pass an order which will be directly or indirectly to its own advantage.
- iv) Expenditure from public moneys should not be incurred for the benefit of a particular person or a section of the people, unless -
 - a) a claim for the amount could be enforced in a Court of Law, or
 - b) the expenditure is in pursuance of a recognized policy or custom.
- v) The amount of allowances granted to meet expenditure of a particular type should be so regulated that the allowances are not on the whole a source of profit to the recipients.
- vi) While discharging the duties of financial concurrence of any public expenditure, such

authorities subsequent to such decision, shall not be involved in any future audit responsibilities which may create conflict of interest.

1.8 Public Procurement Infrastructure at the Centre

1.8.1 Procurement Policy Division

Procurement Policy Division (PPD) in Department of Expenditure; Ministry of Finance has been created to encourage uniformity and harmonisation in public procurement processes by dissemination of best practices, provision of guidance, oversight and capacity building and issuing of procurement manuals. However, Centralisation of procurement or involvement in procurement processes is not the intended purpose of creation of PPD.

1.8.2 Central Public Procurement Portal

Central Public Procurement Portal (CPPP) has been designed, developed and hosted by National Informatics Centre (NIC, Ministry of Electronics & Information Technology) in association with Dept. of Expenditure to ensure transparency in the public procurement process. The primary objective of the Central Public Procurement portal is to provide a single point access to the information on procurements made across various Ministries and the Departments. The CPPP has e-publishing and e-procurement modules. It is mandatory for all Ministries/ Departments of the Central Government, Central Public Sector Enterprises (CPSEs) and Autonomous and Statutory Bodies to publish on the CPPP all their tender enquiries and information about the resulting contracts. CPPP provides access to information such as documents relating to pre-qualification, Bidders' registration, Bidding documents; details of bidders, their pre-qualification, registration, exclusions/ debarments; decisions taken regarding prequalification and selection of successful bid. It is also now mandatory to implement end-to-end e- Procurement for all procurements either through CPPP portal or any other suitable portal.

1.8.3 Government e-Marketplace (GeM): Refer other sections below.

1.9 Preferential/Mandatory Purchase from certain sources

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

Note: Before considering any Purchase Preference mentioned below, the Procuring Entity should check the latest directives in this regard for necessary action. Purchase Preference provision shall invariably be part of the Notice Inviting Tender (NIT) and Instructions to Bidders (ITB).

1.9.1 Public Procurement Policy for Micro and Small Enterprises (MSEs)

Section 1.10.3 of the "Manual for Procurement of Goods" may kindly be referred.

1.9.2 Procurement Preference to Make in India (PP-LC POLICY)

Section 1.10.4 of the "Manual for Procurement of Goods" may kindly be referred.

1.10 When is Procurement of Services justified

1.10.1 Consultancy Services: We may justify need for Procurement of Consultancy Services on consideration of:-

- i) The inadequacy of Capability or Capacity of required expertise in-house;

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

1.10.2 Other (Non-consultancy) Services: In the interest of economy, efficiency and to provide more effective services, procuring entity may procure/ outsource auxiliary and support services. We may justify need for Procurement of other services on consideration of economy, speed and efficiency and more effective delivery of public services relating to additional requirement/ commitment/ usage of:

- a) Staff/ Management/ Organization;
- b) Technological and Material Resources;
- c) Money, and
- d) Time/ Speed of execution.

1.11 Principles for Procurement of Services

1.11.1 Other principles of Public Procurement as mentioned in 1.6 above are also equally applicable to Procurement of consultancy/ other services. To ensure value for money during procurement of consultancy and other services, the following additional principles shall be considered:

- i) Services to be procured should be justifiable in accordance with Para 1.10 above;
- ii) In case of Consultancy Services - well-defined scope of work/ Terms of Reference (ToR - description of services) and the time frame, for which services are to be availed of, should be determined consistent with the overall objectives of Procuring Entity. In other (non-consultancy services) Activity Schedule (a document covering well-defined scope of work/ description of services and the time frame for which services are to be availed of) should be consistent with the overall objectives of Procuring Entity;
- iii) Equal opportunity to all qualified service providers/ consultants to compete should be ensured;
- iv) Engagements should be economical and efficient.
- v) Transparency and integrity in the selection process (that is, proposed, awarded, administered, and executed according to highest ethical standards) and;

- vi) Additionally, in procurement of consultancy services, consultants should be of high quality, in line with justification as per para 1.10.1 above

1.11.2 In Procurement of Consultancy, these considerations can be best addressed through unrestricted competition among qualified shortlisted firms or individuals in which selection is based on the quality of the proposal and, where appropriate, on the cost of services to be provided. Hence Procurement of Consultancy in a two stage process is preferred for high value project jobs with estimated consultancy value more than Rs.10 Crores. However, single stage two envelope process of tendering can also be resorted to.

However procurement of other services is done by a simpler process akin to those of procurement of Goods and Works. These are detailed in Chapter 9.

1.12 The Law of Agency - applicable to Procurement of Consultancy and other Services

Laws which are applicable to Public Procurement of goods equally apply to Procurement of Consultancy and other services. Legally speaking consultants/ service provider would be an Agent of the Principal/ Client/ Procuring Entity, to carry out the service/ assignment on its behalf. Such a relationship is covered by The Law of Agency (Section 182 to section 238, of the Indian Contract Act, 1872) and hence there exists a Principal/ Procuring Entity and Agent relationship between Procuring Entity and such consultant/ service provider. As per this law, the Procuring Entity is vicariously legally and financially liable for actions of its Agents. For example, a violation of certain labour laws in deputing staff for Procuring Entity's contract by the agents may render the Procuring Entity legally and financially answerable for such violations, under certain circumstances. There is a need to be aware of such eventualities. Standard Bidding Documents should take care of this aspect.

1.13 Procurement Cycle

The entire process of procurement and implementation of Consultancy and other services shall include the following steps:

- i) Preparation of Concept Paper/ Procurement Proposal and obtaining in principle approvals;
- ii) Preparation of the ToR (in case of consultancy services)/ Activity Schedule (in case of other/ non-consultancy services), cost estimate and seeking administrative and budgetary approval;
- iii) In case of Procurement of Consultancy Services – Open tendering / Short listing of consultants - EoI formulation, publication, receipt of proposals and evaluation;
- iv) Preparation and issuance of the RfP; Receipt of proposals; Evaluation of technical proposals: consideration of quality; Evaluation of financial proposals; Selection of winning proposal; Negotiations and award of the contract to the selected firm; and
- v) Monitoring of Assignments, measurement, payment etc.

Details and procedures of various stages of the procurement cycle are described in following Chapters of the manuals.

1.14 Procurement Proposal for Consultancy and other services

1.14.1 A critical part of the procurement of *Services* process is preparing an appropriately

staffed and budgeted Procurement Proposal/ Concept Paper (which serve the role that an Indent serves in procurement of Goods).

1.14.2 Preparing Procurement Proposal

As a first step towards procurement of services, a formal written brief Proposal and Justification for the Services should be prepared. It is akin to the Indent for Materials/ Material Requisition in case of Procurement of Goods. The User should prepare in simple and concise language the requirement, purpose/ objectives and the scope/ outcomes of the assignment and justify the assignment.

1.14.3 In-principle Approval for initiating procurement of Services

Based on the justification contained in the Procurement Proposal, in-principle administrative approval and budgetary sanction for initiating procurement of such services should be accorded by the Competent Authority (CA) as laid down in DOA. Further stages may be proceeded with, only after such approvals.

Chapter 2: Consultants, service providers and Governance Issues

2.1 Types of consultants/ service providers

The term consultants/ service providers includes a wide variety of private and public entities, including Consultancy firms, engineering firms, Architectural Firms/ consultants, construction management firms, management firms, procurement agents, inspection agents, auditors, investment and merchant bankers, universities/ educational institutions, research institutions, government agencies, non-governmental organizations (NGOs) and individuals/experts or their joint ventures. These can be grouped as:

2.1.1 Consortium of consultants/ service providers

In large and complex assignments consultants/ service providers may associate with each other to form a consortium to complement their respective areas of expertise, to increase the technical responsiveness of their proposal, and make larger pools of experts available or for other reasons. Such an association may be for the long term (independent of any particular assignment) or for a specific assignment. The consortium may take the form of a Joint Venture (JV) or a sub consultancy. In case of a JV, all members of the JV shall sign the contract and shall be jointly and severally liable for the entire assignment. After the short list is finalised, and the Request for Proposal (RfP) is issued, any association in the form of a JV or sub consultancy among the short-listed firms shall be permissible in accordance with provisions stated in the RfP. Under such circumstance, one of the shortlisted consultants/ service providers must become the lead member of the consortium. The Procuring Entity only deals with the lead member of consortiums for all the purposes. Bid documents should clearly specify whether JVs are allowed to bid (in case of complex and large assignments, say above certain values (say - Rupees five crore). Maximum number of partners in JV shall be limited (say - three). In case JVs are permitted to bid, it should be clarified what qualifications are to be collectively (clubbed together) met by the JV partners (say experience of particular consultancy, Financial Turnover etc) and what each partner has to individually and separately meet (financial soundness). In this case it should also be specified that each partner should meet at least 25% (and the lead partner at least 50%) out of the qualifying limit in case of experience of particular consultancy and financial turnover, if any.

Conflicting Association: A firm shall submit only one proposal, either individually or as a JV partner in another proposal. If a firm, including a JV partner, submits or participates in more than one proposal, all such proposals shall be disqualified. This does not, however, preclude a firm from participating as a sub-consultant or an individual consultant to participate as a team member in more than one proposal when circumstances justify but only if permitted by the RfP document.

2.1.2 Consultancy or Service Providing Firms

The main source of consultants and service providers is Consultancy or Service providing firms of diverse specializations that provide teams to Clients. These firms provide project preparation services, project implementation supervision services, training, advisory services, and policy guidance. Such firms are normally classified as either international - firms that have international experience and are capable of undertaking work at international level at international rates; or national - firms that may not have international exposure and normally undertake assignments only within that country, usually at significantly lower rates.

2.1.3 Individual consultants/ service providers

Individual consultants or service providers are recruited for similar activities as Consultancy/ Service providing firms when a full team is not considered necessary. They may be independent experts not permanently associated with any particular firm, or they may be employees of a firm recruited on an individual basis. They may also be employees of an agency, institution, or university. They are normally recruited for project implementation supervision, training, provision of specific expert advice on a highly technical subject, policy guidance, special studies, compliance supervision, or implementation monitoring. Individual consultants/ service providers are not normally recruited for project preparation unless the proposed project is simple and, generally, a repeat of an already established and successful project. If more than three experts are required, then the assignment should normally be undertaken by a team from a firm. As with firms, individual consultants/ service providers are classed as either international or national, depending on their level of expertise and their international experience and exposure.

2.1.4 Specialized Agencies and Institutions

Specialized agencies or institutions (including Government/ Semi-Government agencies, universities and professional institutions) may also from time to time be recruited to provide Consultancy/ other services. These services may be provided by individuals (as discussed above) or by teams. Nonetheless, there are at times distinct advantages to using such agencies. Experts and teams from such agencies and institutions may undertake a variety of roles across the whole field of possible Consultancy and other services. These may range from project preparation through project supervision and policy advice to project benefit monitoring and evaluation.

2.1.5 Non-governmental Organizations (NGO)

There may be distinct advantage in use of Non-governmental organizations (NGOs) in Projects which emphasize experience in community participation and in-depth local knowledge - for example, Projects related to Corporate Social Responsibility (CSR).

2.1.6 Retired Government Servant

The consulting services do not include direct engagement of retired Government servants. They should not be engaged against regular vacant posts as consultant under this rule. Retired Government servants can be engaged only for the specific task and for specific duration as consultant. They should be assigned clear output related goals.

2.2 Code of Integrity for Public Procurement (CIPP)

Section 3.2 of the “Manual for Procurement of Goods” may kindly be referred to.

Additionally, following aspects should be taken into account for consultancy services:

2.2.1 Conflict of Interest in case of consultants

- i) The consultant is required to provide professional, objective, and impartial advice, at all times holding the Procuring Entity's interests paramount, strictly avoiding conflicts with other assignments or his/its own corporate interests, and acting without any consideration for future work.

- ii) The consultant has an obligation to disclose to the Procuring Entity any situation of actual or potential conflict that impacts its/his capacity to serve the best interest of its client/Procuring Entity. Failure to disclose such situations may lead to the disqualification of the consultant or termination of its/his contract during execution of the assignment.
- iii) Without limitation on the generality of the foregoing, and unless stated otherwise in the data sheet for the RfP document, the consultant (i.e., private entities) shall not be hired under the circumstances set forth below:
 - a) **Conflicting activities:** a firm that has been engaged by the client to provide goods, works, or non-consultancy services for a project, or any of its affiliates, shall be disqualified from providing Consultancy service resulting from or directly related to those goods, works, or non- Consultancy services for the same project. Conversely, a firm hired to provide consultancy services for the preparation or implementation of a project, or any of its affiliates, shall be disqualified from subsequently providing goods or works or non-consultancy services resulting from or directly related to the consultancy services for such preparation or implementation for the same project;
 - b) **Conflicting assignments:** Consultants (including its experts and sub--consultants) or any of their affiliates shall not be hired for any assignment that, by its nature, may be in conflict with another assignment of the consultant for the same Procuring Entity.

2.2.2 Unfair Competitive Advantage in case of consultants

Fairness and transparency in the selection process require that the consultants or their affiliates competing for a specific assignment do not derive an unfair competitive advantage from having provided consultancy services related to the assignment in question. Such unfair competitive advantage is best avoided by full transparency and by providing equal opportunity so that all firms or individuals interested or involved have full information about a service assignment and its nature, scope, and background information. To that end, the request for proposals and all information would be made available to all short listed consultants simultaneously.

2.3 Integrity Pact (IP)

Section 3.3 of the “Manual for Procurement of Goods” may kindly be referred.

2.4 Debarment of Suppliers/ contractors/ consultants/ service providers

Please refer section 3.1(ii) and 3.5 of the “Manual for Procurement of Goods”

Chapter 3: Types of Contracts and Systems of Selection of consultants/ service providers

3.1 Types of Contracts

There are different basis for linking payments to the performance of services (called types of contracts). Bids are called and evaluated based on the type of contract. The choice of the type of contract should be based on Value-for-Money (VfM) with due regard to the nature of assignment. Adoption of an inappropriate type of contract could lead to a situation of lack of competition, contractual disputes and non-performance/failure of the contract.

Each type of contract is described briefly in subsequent paras, and criteria are suggested for their adoption. Mostly used types of contracts are:

- i) Lump sum (Firm Fixed Price) contract;
- ii) Time based (Retainer-ship) contracts;
- iii) Percentage (Success Fee) contract;
- iv) Indefinite delivery contract.

However, in case of Procurement/ Outsourcing of other (non-consulting) Services depending on the nature of services, can be either Lump-sum contracts, Time-based (Retainer-ship) contracts, or unit (item/ service) rate (say Taxi Service on per Km basis) based contract (as in case of Goods and Works) - or a mix of these. In certain uncertain but regularly needed services, indefinite delivery contracts, based on time or unit (item/ service) rates may be appropriate. Other types of contracts are not usual in procurement of other services.

3.2 Lump Sum (Firm Fixed Price) Contract

3.2.1 The lump sum (firm fixed price) contract is the preferred form of contract and under normal circumstances; the Procuring Entity shall use this form of contract. Consultant's proposal is deemed to include all prices - no arithmetical correction or price adjustments are allowed during evaluation. Lump sum consultancy contracts are easy to administer because there is fixed price for a fixed scope and payments are linked to clearly specified outputs/ milestones/ deliverables such as reports, documents, drawings, bills of quantities, software programs and so on. In view of Risks mentioned below this type of contracts are widely used for simple planning and feasibility studies, environmental studies, detailed design of standard or common structures, preparation of data processing systems, and so forth.

Lump sum service contracts should be used mainly for assignments in which the quality, scope and the timing of the required output of the consultants/ service providers are clearly defined. The contract should include provision for evaluation of quality and scope of deliverables and certificate for its acceptability may be recorded. Payment should be made only against certificate of acceptance of deliverables.

While the payments are not linked to time, the assignment should be monitored per month to ensure that the output per month is in line with planned and estimated time-line.

3.3 Time-Based Contract

3.3.1 In Time-based contracts payments are based on agreed hourly, daily, weekly, or monthly rates for staff (who in consultancy contracts are normally named, but not so in other services) and on reimbursable items using actual expenses and/or agreed unit prices. This type of contract is appropriate when Lump sum contract is not feasible due to difficulties in defining the scope and the length of services, either because the inputs required for attaining the objectives of the assignment is difficult to assess or because the services are tied up to activities by others for which the completion period may vary.

This type of contract is widely used for complex studies, supervision of construction, advisory services, and most training assignments etc.

The contract should include provision for evaluation of quality and scope of deliverables. Payments should be released only against certification by EIC.

Contracts need to be closely monitored and administered by the EIC to ensure that the progress of assignment is commensurate with the time spent and that the resources for which payment is claimed have actually efficiently and productively been deployed on the assignment during the period.

3.4 Percentage Contract

3.4.1 Percentage contracts directly relate the fees paid to the consultant/ service provider to the estimated or actual project cost, or the cost of the goods procured, inspected or sold. Since the payment is made after the successful realisation of objectives, it is also called success (or contingency) fee contract. The final selection is made based on QCBS evaluation process or among the technically qualified consultants/service providers who have quoted the lowest percentage while the notional value of assets is fixed.

These contracts are commonly used for appropriate architectural services; procurement and inspection agents, disposal of scrap etc.

The contract should include provision for evaluation of quality and scope of deliverables. Payments should be released only against certification by EIC.

3.5 Indefinite Delivery Contract (Price Agreement)

3.5.1 These contracts are used when Procuring Entity need to have "on call" specialized services, the extent and timing of which cannot be defined in advance. This is akin to the system of 'Rate Contracts' or framework contracts in the procurement of Goods. There is no commitment from Procuring Entity for the quantum of work that may be assigned to the consultant/ service provider. The Procuring Entity and the firm agree on the unit rates to be paid, and payments are made on the basis of the time/ quantum of service actually used. The consultant/ service provider shall be selected based on the unit rate quoted by them for providing the services.

These are commonly used to retain "advisers" or avail services 'on-call' - for example; expert adjudicators for dispute resolution panels, institutional reforms, procurement advice, technical troubleshooting, and so forth - normally over a period of a year or more.

The contract should include provision for evaluation of quality and scope of deliverables. Payments should be released only against certification by EIC.

Contracts need to be closely monitored and administered by the EIC to ensure that the progress of assignment is commensurate with the time spent and that the resources for which payment is claimed have actually efficiently and productively been deployed on the assignment during the period.

3.6 Systems of Selection of service providers

3.6.1 Since the quality and scope of a consultancy assignment are not tangibly identifiable and consistently measurable, the technical and financial capability of consultants becomes an important though indirect determinant for quality and scope of performance. In such a situation value for money is achieved by encouraging wide and open competition among equally competent consultant. Thus, selection of consultants is therefore, normally done in a two stage process. In the first stage, likely capable sources are shortlisted, if need be through an 'Expression of Interest' (EoI) through advertisement (i.e., open notifications). On the basis of responses received, consultants meeting the relevant qualification and experience requirements for the given assignment are shortlisted for further consideration. The shortlist should include a sufficient number, generally not fewer than three (3) and not more than eight (8) eligible firms. In the second stage, the shortlisted consultants are invited to submit their technical and financial (RfP) proposals generally in separate sealed envelopes. Evaluation of the technical proposal is carried out by evaluators without access to the financial part of the proposal. Financial proposals are opened after evaluation of quality.

3.6.2 The relative importance of Quality and Price aspects may vary from assignment to assignment depending on complexities/ criticality of quality requirements, internal capability of Procuring Entity to engage and supervise the assignment, as well as the value of procurements. Hence different systems of selection of consultants/ service providers are designed to achieve appropriate relative importance (weightage) of Quality and Price aspects. Decision on system of selection is normally preceded by an assessment of the capacity of the user to engage and supervise the implementation of proposed assignment. The selection method chosen depends to some extent on this assessment. Selection of system of selection also should take into account the likely field of Bidders.

3.6.3 The nomenclature of various selection methods below is in line with generally prevalent nomenclature.

- i) Price based System - Least Cost Selection (LCS);
- ii) Quality and Cost Based Selection (QCBS);
- iii) Direct Selection: Single Source Selection (SSS)

3.6.4 Unlike Procurement of Consultancy Services, **procurement of other services is done by a simpler process akin to those of procurement of Goods and Works.** In procurement of other (non-consultancy) services normally system of selection used is lowest price (L-1) basis as in procurement of Goods/ works for technically responsive offers. Under very special circumstances Single Source Selection may also be used. However, in highly technical and complex services, where quality is important (say in studies like seismic surveys, airborne data acquisition etc) where use of QCBS system appears to be called for, it may be better handled as a consultancy contract.

3.6.5 It is possible that there may be single offer situation against open tenders and there may be tendency to go for re-tender as a safe course of action. Re-bidding has costs: firstly the actual costs of retendering; secondly the delay in execution of the work with consequent delay in the attainment of the purpose for which the procurement is being done; and thirdly the possibility that the re-bid

may result in a higher bid. Even when only one Bid is submitted, the process may be considered valid provided following conditions are satisfied:

- 1) The procurement was satisfactorily publicized and sufficient time was given for submission of bids.
- 2) The qualification criteria were not unduly restrictive; and
- 3) Prices are reasonable in comparison to market values

3.7 Price based System - Least Cost Selection (LCS)

3.7.1 In this method of selection, consultants/ service providers submit both a technical proposal and a financial proposal at the same time. Minimum qualifying marks for quality of the technical proposal are prescribed as benchmark (normally 75 (seventy five) out of maximum 100 (hundred)) and indicated in the RfP along with a scheme for allotting marks for various technical criteria/ attributes. *Alternatively, since in LCS selection, technical offers do not require be ranked (or adding of weighted technical score to financial score - as in QCBS selection), it would suffice in appropriately simple cases (please refer to para 6.2.2), if the evaluation criteria is only a fail/pass criteria prescribing only the minimum qualifying benchmark. Thus, in*

LCS, a simplified evaluation criteria may also be used where instead of a marking scheme a minimum fail/pass benchmark of technical evaluation may be prescribed (i.e. must have completed at least two similar assignments; must have a turnover of at least Rs 10 (Rupees Ten) Crore etc. Any bidder that passes these benchmarks is declared as technically qualified for opening of their financial bids. The technical proposals are opened first and evaluated and the offers who are qualifying as per these technical evaluation criteria will only be considered as technically responsive, and the rest would be considered technically nonresponsive and would be dropped from the list. Financial proposals are then opened for only eligible and responsive offers (Financial bids of other unresponsive bidders are not opened) and ranked. L-1 offer out of the responsive offers is selected on price criteria alone without giving any additional weightage to marks/ ranking of Technical proposal. *This system of selection is roughly the same as the price based selection of L-1 offer (among the technically responsive offers) in procurement of Goods/ Works.*

LCS is considered suitable for recruiting consultants/ service providers from firms in most assignments that are of a standard or routine nature (such as engineering design of non-complex works) where well established practices and standards exist. It is the simplest and the quickest system of selection and under normal circumstances, this method of evaluation shall be used as default since it allows for minimum satisfactory technical efficiency with economy. Justification must be provided if a selection method other than LCS is to be used.

Technical criteria selected should be relevant and proportional to the requirement of quality of assignment and the selection process should be rigorous enough to ensure that on one hand no technically unsatisfactory bids should be able to get past a loose criteria and on the other hand no technically satisfactory offer should get ruled out by tight criteria.

It is important to lay down a scheme of marking as objective as possible. Cases where subjectivity is unavoidable (as in evaluation of methodology etc), a system of grading responses and their marking may be laid down in the bidding documents. Procuring Entity should also have a system of conciliation and moderation of widely disparate markings by different members of evaluation committee.

3.8 Quality and Cost Based Selection (QCBS)

3.8.1 In QCBS selection, minimum qualifying marks (normally 70-80 (seventy - eighty) out of maximum 100 (hundred) marks) as benchmark for quality of the technical proposal will be prescribed and indicated in the RfP along with a scheme for allotting marks for various technical criteria/ attributes. During evaluation of technical proposal, quality score is assigned out of the maximum 100 (hundred) marks, to each of the responsive bids, as per the scheme laid down in the RfP. The consultants/ service providers who are qualifying as per the technical evaluation criteria are considered as technically responsive, and the rest would be considered technically nonresponsive and would be dropped from the list. Financial proposals are then opened for only eligible and responsive offers and other financial offers are not to be opened. The Financial Proposals are also given cost-score based on relative ranking of prices, with 100 (hundred) marks for the lowest and pro- rated lower marks for higher priced offers. The total score shall be obtained by weighting the quality and cost scores and adding them. The weight given to the technical score may not be confused with the minimum qualifying technical score (though they may in some case be equal). For example, the weightage given to cost score may be 30% (thirty percent) and technical score may be given weightage of 70% (seventy percent, but should never be more than 80%). The ratio of weightages for cost and Technical score could also be 40:60 (forty: sixty) or 50:50 (fifty: fifty) etc. However, the weight for the "cost" shall be chosen, taking into account the complexity of the assignment and the relative importance of quality. The proposed weightings for quality and cost shall be specified in the RfP. The firm obtaining the highest total score shall be selected. *It may be noted that theoretically QCBS system with weight of 100% (hundred percent) for the 'cost' approximates the price based LCS system.* This method of selection shall be used for highly technically complex and critical assignments where it is justifiable to pay appropriately higher price for higher quality of proposal. Table 3 provides a suggestive weighting for QCBS.

Table 3. A suggestive weighting of scores for QCBS

Description	Remarks	Quality/Cost Score Weighting (%) in QCBS
High complex/downstream consequences/specialised assignments	Use QCBS with higher technical weightage	80/20
Moderate complexity	Majority of cases will follow this range	75-65/ 35-25
Assignments of a standard or routine nature such as auditors/procurement agents handling the procurement	Use of LCS is appropriate	60-50/40-50

Technical criteria selected should be relevant and proportional to the requirement of quality of assignment and the selection process should be rigorous enough to ensure that on one hand no technically unsatisfactory bids should be able to get past a loose criteria and on the other hand no technically satisfactory offer should get ruled out by tight criteria.

It is important to lay down a scheme of marking as objective as possible. Cases where subjectivity is unavoidable (as in evaluation of methodology etc), a system of grading responses and their marking may be laid down in the bidding documents. Procuring Entity should also have a system of conciliation and moderation of widely disparate markings by different members of evaluation committee.

3.9 Direct Selection: Single Source Selection (SSS / STE)

Under some special circumstances, it may become necessary to select a particular consultant/ service provider where adequate justification is available for such single-source selection in the context of the overall interest of Procuring Entity.

- a) Proprietary / OEM
- b) Nomination Basis Tenders

(A) **Proprietary / OEM:** Certain services may have to be carried out by Original Equipment Manufacturers (OEMs) or service providers having proprietary rights (or their authorized agencies). Approval for declaring a service as Proprietary / OEM service has to be obtained from appropriate authority at the designated level as per DOA.

For procurement and contracts from proprietary vendors and OEMs, the indenting departments shall directly obtain firm quotes (instead of budgetary offers), without seeking EMD, after freezing technical requirements and then forward to Commercial along with Purchase Requisition for further processing of the indent for award of purchase order.

For “Declaration of OEM and Proprietary items”, please refer section 4.6.3 (and related Annexure 4) of the “Manual for Procurement of Goods”;

(B) **Nomination Basis:** Procurements and Contracts will be permitted on a single tender basis in the following circumstances only:

- i. Where the material to be manufactured / fabricated or services to be obtained are of a specialized / proprietary nature.
- ii. Where under Technical / Professional Advice, works are to be obtained from specialized parties / individuals, such as cases of soil investigation, land valuation, arbitration, HR / Finance / IT interventions, technical investigation etc.
- iii. Where situation warrants immediate / urgent action.
- iv. In case of indigenous development of items for import substitution, invitation of offer from a single party specializing in the field / commodity and subsequent negotiations with them will be permissible.

Scrutiny of contracts & purchase orders awarded on nomination basis should continue as per prevailing practice for highlighting lapses observed for corrective action. The data on such contracts & purchase orders above Rs 5 lakhs in value should be checked by Internal Audit to the extent of at least 10%. Internal Audit shall put up to the Audit Committee of the Board their findings on such verifications.

The selection by nomination is permissible under exceptional circumstance such as:

- i) in case of an emergency situation, situations arising after natural disasters, situations where timely completion of the assignment is of utmost importance;
- ii) situations where execution of the assignment may involve use of proprietary techniques or only one consultant has requisite expertise;
- iii) At times, other PSUs or Government Organizations are used to provide technical expertise.

It is possible to use the expertise of such institutions on a SSS basis;

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

Procuring Entity shall ensure fairness and equity, and shall have a procedure in place to ensure that:

- a) the prices are reasonable and consistent with market rates for tasks of a similar nature; and
- b) the required consultancy services are not split into smaller sized procurement.

All works / purchase / consultancy contracts awarded on nomination basis should be brought to the notice of the Board of Directors by Commercial department through Company Secretary for information on quarterly basis. For reporting, 02 lists (i) upto Rs.5 lakhs, and (ii) above Rs.5 lakhs shall be submitted.

The audit committee in the organisation may be required to check at least 10% of such cases.

3.10 Fixed Budget - based Selection (FBS) for consultancy services:

3.10.1 There are three methods for selection/evaluation of consultancy proposals viz. Quality and Cost Based Selection (QCBS), Least Cost System (LCS) and Single Source Selection (SSS). The Fixed Budget Based Selection (FBS) method is hereby also allowed for selection of consultants. Under this method, cost of the consulting services shall be specified as a fixed budget in the tender document itself. FBS may be used when :

- (i) the type of consulting services required is simple and/or repetitive and can be precisely defined; and
- (ii) the budget can be reasonably estimated and set based on credible cost estimates and/ or previous selections which have been successfully executed; and
- (iii) the budget is sufficient for the consultant to perform the assignment.

3.10.2 Under FBS, the selection of the consultant shall be made by one of the following two methods :

- (i) By a competitive selection process, based only on quality, using specific marking criteria for quality. The proposal with the highest technical score that meets the fixed budget requirement shall be considered for placement of contract.
- (ii) In cases of repetitive or multiple assignments, by empanelling suitable quality criteria. Thereafter, selection of a specific consultant for a specific assignment from such panel shall be based on overall considerations of timeliness, practicability, number of other assignments already given to that consultant in the past, etc. In such cases the budget for each assignment shall also be fixed by the procuring entity.

Clear & unambiguous scoring methodology must be indicated so that there is no scope for subjective evaluation.

Chapter 4: Preparing for Procurement of Consultancy Services

4.1 Preparation of Terms of Reference (ToR)

4.1.1 ToR is akin to Description, Quantity and Technical Specification in Procurement of Goods. This is the first step in the selection of the consultants once a need has been identified. A ToR explains the purpose/ objectives of the assignment, scope of work, activities, tasks to be performed, respective responsibilities of the Procuring Entity and consultant, expected results, and deliverables of the assignment. ToR is important for an understanding of the assignment and its correct execution to ensure that the objectives of assignment are achieved. It reduces the risk for the Procuring Entity of unnecessary extra work, delays, and additional expenses of the Procuring Entity. In addition, it helps reduce for the bidders the risk of ambiguities during the preparation of bidder's proposals, contract negotiation, and execution of Consultancy.

4.1.2 Hence ToR should be comprehensive and unambiguous. However, it should not be too detailed and inflexible, so that competing consultants may be in a position to propose their own methodology and staffing. Bidders shall be encouraged to comment on the ToR in their proposals. The ToR shall include:

- i) Procuring Entity's organisation background and Project background;
- ii) Purpose and Service Outcomes Statement of the assignment; (refer to chapter 1)
- iii) Detailed scope of work Statement including schedule for completing the assignment;
- iv) Expected requirement of key professionals and kind of expertise;
- v) Capacity-building programme and transfer of knowledge, if any;
- vi) Deliverables - List of reports (or documents, data, maps, surveys, designs, drawings), schedule of deliveries, and period of performance;
- vii) Background material, Data, reports, records of previous surveys, and so on, available and to be provided to the consultant;
- viii) Facilities such as local conveyance, office space, office machines, secretarial assistance, utilities, local services, etc., which would be provided to the consultant by the Procuring Entity;
- ix) Institutional and organisational arrangement; and
- x) Procedure for review of the work of consultant after award of contract

4.1.3 It should cover following aspects:

i) Detailed Scope of Work

As part of the ToR, at its simplest, the 'Detailed Scope of Work ' will contain the type and volume of activity to be undertaken and the time-frame of activity involved to achieve the Purpose and Service Outcomes as envisaged in the 'Brief proposal and Justification of the Services' (refer chapter 1). Starting from end-outcomes backwards, the process to achieve the outcomes is broken down into a discrete number of interrelated tasks, which the consultant will have to undertake. In consultancy Services, the 'Detailed Scope of Work' should describe only the activities, not the approach or methodology by which the results are to be achieved, since these are the task of the consultants. However, suggestions may be provided on the approach or the methodology that the

consultants could or should use to execute the assignment. After the tasks are identified, a logical sequencing of the tasks must be determined. Usually a simple bar chart (or Gantt-chart) is the best way to illustrate required outputs over time and their relationship to each other. The 'Detailed Scope of Work' contains such a sequence of tasks over a timeline and also tangible outputs and activities such as reports, workshops, or seminars.

ii) Expected requirement of key professionals and kind of expertise

Except in very complex Consultancies, it is desirable to not to distinguish the tasks of individual experts but instead to prepare a longer and more detailed description of what the Consultancy team, as a whole, will provide without splitting up tasks. These are generally known as "activity based" ToR as opposed to "position-based" ToR. The ToR would list a range of tasks without regard to who will have the responsibility to undertake them. In most of the cases, where the number of experts is small, the work to be done is not clearly defined, and a degree of flexibility is required- this is acceptable. In Consultancy services, Key professionals are usually named and their credentials carry weightage in technical evaluation.

iii) Deliverables and Reports Requirements

The assignments, deliverables and reporting should be clearly specified. In particular, for inception and progress reports, there should be a balance between keeping the Procuring Entity well informed and not forcing consultants to spend an excessive amount of time preparing minor reports. The ToR should indicate the format, frequency, and content of reports as well as the number of copies, the language, and the names of the prospective recipients of the reports. For all major reports, an executive summary is recommended as a separate section. Depending on the assignment, the following reports are usually required;

- a) **Inception Report:** This report should be submitted at initial stage of the contract (say about four weeks after the commencement date). Any major inconsistency in the ToR, staffing problems, or deficiency in Procuring Entity's assistance that have become apparent during this period should be included. The inception report is designed to give the Procuring Entity confidence that the assignment can be carried out as planned and as agreed upon in the contract, and should bring to its attention major problems that might affect the direction and progress of the work.
- b) **Progress Reports:** These reports keep the Procuring Entity regularly informed about the progress of the assignment. They may also provide warnings of anticipated problems or serve as a reminder for payment of invoices due. Depending on the assignment, progress reports may be delivered monthly or bimonthly. For feasibility studies and design assignments, delivery of progress reports at two-month intervals is satisfactory. For technical assistance and implementation supervision, for instance, construction, progress reports are best submitted monthly. Progress reports may include a bar chart showing details of progress and any changes in the assignment schedule. Photographs with time-stamping are a quick and easy way of conveying the status of a project, and their use in progress reports should be encouraged. For technical assistance services, progress reports also serve as a means of setting out the work program for the following months. Each team member usually contributes to the preparation of the monthly report.
- c) **Interim Reports:** If the assignment is phased, interim reports are required to inform the Procuring Entity of preliminary results, alternative solutions, and major decisions that need

to be made. Since the recommendations of an interim report may affect later phases of the assignment and even influence the results of the project, the Procuring Entity should discuss the draft interim reports with consultants in the field. The Procuring Entity should not take more than 15 (fifteen) days to review and approve draft interim reports.

- d) **Final Report:** The final report is due at the completion of the assignment. The Procuring Entity and consultants should discuss the report while it is still in draft form. The consultants alone are responsible for their findings; although changes may be suggested in the course of the discussions, consultants should not be forced to make such changes. If the consultants do not accept comments or recommendations from the Procuring Entity, these should be noted in the report. The consultants should include in the report the reasons for not accepting such changes.
- iv) Background material, records of previous surveys etc. available and to be provided to the consultant. This would vary from project to project, but transparency demands that such information should be transparently and equitably shared with all prospective bidders.
- v) Facilities such as local conveyance, office space, secretarial assistance etc., which can be provided to the consultant. This aspect has a great bearing on the cost that will be quoted by the bidders. This can have implications in vitiating the selection process either way - a facility to be provided may not get declared or a declared facility may not be provided ultimately. So, great care and reality check is necessary, while preparing this statement.
- vi) The E-I-C will be responsible to monitor, review and approve work of the consultant.

4.2 Estimating Costs, Setting the Budget, and Seeking Approval

4.2.1 Preparation of a well-thought-through cost estimate is essential if realistic budgetary resources are to be earmarked.

- i) **Categories:** Costs shall be divided into two broad categories: (a) fee or remuneration (according to the type of contract used); and (b) reimbursable costs. Depending on the nature of the assignment, cost estimates may be prepared either in local currency or with a combination of local plus foreign currencies. Cost estimate should provide for forecast of inflation during the period of assignment.
- ii) **Estimated Resources:** The cost estimate shall be based on the assessment of the resources needed to carry out the assignment:
 - a) Manpower/Staff cost (taking account of time, skill & experience)
 - b) Logistical support (City, National and International Travels/ Trips and durations), and
 - c) Physical inputs (for example, vehicles, laboratory equipment, tools & tackles)
 - d) Miscellaneous (Support services, contingencies and Profit element, taxes and duties)
- iii) **Rates:** Costs are normally estimated using unit rates (staff remuneration rates, reimbursable expenses) and quantities (exceptionally some items may be estimated on the lump-sum basis or percentage basis - Contingencies and support services). Rates of payment should be identified (including applicable taxes if any) in local and foreign currency for Staff Time, Logistics Costs and Costs of various physical inputs/ support services.
- iv) **Staff Costs:** The estimate of staff cost is based on an estimate of the personnel time (staff-months or staff-hours) required for carrying out the assignment taking into account the time required by each expert, his or her billing rate, and the related direct cost component.

In general, staff remuneration rates include basic salary, social charges, overheads, fees or profit and allowances.

- v) **Logistic Costs:** Number of trips required should be estimated as required to carry out various activities. Travel costs may be included for city travel, National and International travel and stay.
- vi) **Physical Inputs Costs:** Assessment of such costs would depend on the technical requirements of equipment.
- vii) **Miscellaneous costs:** Support services may be taken as a percentage of staff costs. Contingencies and Profit elements are usually taken as a percentage of the total cost of the Consultancy. To this would be added the taxes and duties likely to be incurred by the consultants.

4.2.2 Although assignments vary in size, length and nature, it is possible to make a cost estimate by breaking down the assignment's activities into the following cost categories:

- i) Professional and support staff;
- ii) Travel, Hotel, and transport;
- iii) Mobilisation and demobilisation;
- iv) Office rent, Furniture/ Equipment, supplies, Utilities, IT equipment and communication;
- v) Assignment related surveys, training programmes;
- vi) Translation, report printing;
- vii) Contingencies: miscellaneous, insurance, shipping; and
- viii) Indirect local taxes and duties in connection with carrying out the services.

If, in particular cases, estimates cannot be made meaningfully, full reason should be recorded.

4.3 Finalizing and Approval of the ToR

The scope of the work described in the ToR shall be compatible with the available budget. The most important step is to determine whether all tasks required to achieve the desired output have been included in the ToR. The next step is to determine whether adequate budget has been allocated to implement the ToR as designed. Since the budget may be fixed or limited, a series of iterations may be required before a final, acceptable ToR is formulated. Approval of **Functional head** should be taken for the ToR before proceeding ahead. After approval of ToR PR may be initiated based on available budget or if that is not feasible, additional confirmation at the time of seeking Administrative approval may be taken for inclusion in the Revised Estimate stage of Budget. Procurement may be initiated only after such budgetary provisions/ confirmations.

4.4 Developing a Procurement Plan

The Consultancy may be part of a larger project/ works in which there may be other components of work, Goods or services. Once a project or a program is identified, the Procuring Entity needs to develop synchronised procurement plan for all the various components of the project/programme.

4.5 e-Procurement

Electronic procurement (e-procurement) is the use of information and communication technology

(specially the internet) by the buyer in conducting procurement processes with the vendors/ contractors for the acquisition of goods (supplies), works and services aimed at open, non-discriminatory and efficient procurement through transparent procedures.

Respective officers performing e-tendering activities will use digital signature officially provided to them by the company (NRL).

4.6 Initiation of Procurement of Services

The concerned user departments such as, Operations, Maintenance, HR, Township & Estates etc. will do initiation for procurement which are to be executed, by creating the Purchase Requisitions (PRs) through Aarohan system and getting the same released by the Competent Authority after ascertaining that there is requirement of procurement of such services.

To the extent practicable, planning for procurement and contracts should be done on an integrated basis, should be adequate and effective, so as to keep the contracts to the minimum number.

Should Commercial Department feel that any of the PRs received by them could be executed by Company's own resources / skills and available ARCs, they may refer it back to User Department for review (with their reasons) before processing the said PR.

The PR shall contain, inter alia, the following information:

- a) Name of work
- b) Justification of procurement
- c) Scope of work* (as a part of Special Terms & Conditions of Contract)
- d) Any special requirements (SCC)
- e) Details of services required in terms of time and quality
- f) The modality of determining the quantities of service executed should be clearly defined and any difference between agreed scope of work & executed quantity should be considered for purpose of payment
- g) Any special requirements
- h) Estimated cost (*may kindly refer Chapter 4*)
- i) Material / Equipment to be supplied by the Contractor.
- j) Material / Equipment to be supplied by the Company (whether "chargeable" or "free issue" basis; Ex- Warehouse or other specified place or places)
- k) Details of completion time required
- l) Details of work area / location
- m) Warranty / Defect Liability Requirements
- n) Payment terms
- o) Budget Number: WBS / Cost Centre / GL
- p) Under whose supervision (EIC) the service is to be carried out.
- q) Reference of last order, if any

Special conditions (SCC) shall be approved by the HOD of indenting dept.

*Note: * Scope of service once tendered and if required to be changed subsequently, then necessary intimation/corrigendum should be published for information of all bidders and reasonable time should be allowed for submission of bids.*

Where the jobs involve usage of equipment, which forms major part of the total cost, the company's equipment should be used, subject to availability. The indenting dept. should indicate whether such usage will be on a "free issue" basis or at cost as per procedure.

Chapter 5: Shortlisting Stage in Procurement of Consultancy Services

5.1 Shortlisting of qualified consultants - Expression of Interest (Eol)

5.1.1 Due to inherent complexities of evaluation of physically non-measurable scope and quality standards of consultancy proposals, it is too time consuming and expensive for the Procuring Entity to invite (as well for the Consultancy firms to prepare) and evaluate proposals from all consultants who want to compete. Therefore, instead of publicly inviting all interested bidders to present their bids; the consultant selection process may be based on obtaining limited number of proposals from a short list of qualified firms that, in the Procuring Entity's view of experience, are capable and can be trusted to deliver the required services at the desired level of quality.

5.1.2 In Procurement of Consultancy, these considerations can be best addressed through unrestricted competition among qualified shortlisted firms or individuals in which selection is based on the quality of the proposal and, where appropriate, on the cost of services to be provided. Procurement of Consultancy in a two-stage process is preferred. In the first stage of procurement, the qualified firms are shortlisted transparently. In the second stage Request for Proposals (RfP) containing Technical and Financial Bids is invited from such shortlisted bidders to select the winning bidder. Care should be taken to avoid formation of unreasonable qualification criteria prior to shortlisting of consultants that may lead to restricted participation. However, single stage two envelope process of tendering can also be resorted to.

Unlike Procurement of Consultancy Services, procurement of other (non- consultancy) Services is done by a simpler process akin to those of procurement of Goods and Works.

5.1.3 Procurement of Consultancy in a two stage process is preferred for high value project jobs with estimated consultancy value more than Rs.10 Crores. For such procurement shortlisting is done in an openly published competitive shortlisting process called Expression of Interest (Eol), giving equal opportunity to all interested bidders to be considered for shortlisting. Under Eol the "Request for Expression of Interest" (REol) is advertised on Central Public Procurement Portal (CPPP) at www.eprocure.gov.in and on Government E-Market (GeM). An organisation having its own website should also publish its open tender enquiries on the website. The notice for invitation of tenders should give the complete web address from where the bidding documents can be downloaded. A complete ToR should be ready before requesting Eol. Attention of known reputed consultants may also be separately drawn wherever possible. The advertisement must include, among other things, the last date of submission of Eol, how to get/download copy of the Eol document including ToR, contact information of the Procuring Entity with the name of contact person, and so on. In case it is felt that likely consultants may not be available in India, the Eol process may be done on Global Tender Enquiry (GTE) process, by sending REol notice to foreign embassies in India and Indian embassies in relevant countries.

5.1.4 No Global Tender Enquiry (GTE) up to Rs. 200 crores

Please refer sections 4.3.3 to 4.3.6.2 in the "Manual for procurement of Goods".

5.1.5 Adequate time should be allowed for getting responses from interested consultants. The Procuring Entity shall make available copies of the Eol document to the interested consultants in hard copies as well as on its website.

5.1.6 In procurements of consultancy services below Rs.10 crores, shortlisting is done without a formal published Expression of Interest (Eol), akin to a Limited Tender Enquiry (LTE) process. To start with, the preparation of a long list of potential consultants/ service providers may be done on the basis of formal or informal enquiries from other Ministries or Departments or Organisations involved in similar activities, Chambers of Commerce & Industry, Association of consultancy firms etc. The Procuring Entity should scrutinise the preliminary long list of likely contractors as identified above and shortlist the prima facie eligible and capable contractors from the long list. The number of consultants in this moderated long-list should not be less than three. In case sufficient consultants cannot be located, then the responses may be called from lesser number of consultants, but not less than three in any case, after taking CA's approval. To smoothen this shortlisting of consultants for projects below Rs.10 Crores, Procuring entities who do frequent procurement of consultancy services, may consider preparation of a Panel of qualified consultants, after evaluation of their credentials, on the lines of registration of vendors in procurement of goods. If the complexity of the project so justifies, a formal Eol may be advertised as in above, even for procurements below Rs.10 crores

Empanelment of contractors: Empanelment / registration of contractors may be done for those specific goods and services which are required regularly. Performance of such empanelled contractors should be reviewed periodically. The list of empanelled / registered contractors shall be updated on a regular basis. Empanelment of contractors shall be done in a fair and equitable manner, preferably online after giving due publicity. The practice of empanelment of contractors may be confined to tenders up to certain threshold value, as decided by NRL. NRL has a practice of empanelment of contractors for various nature of jobs (either for direct allocation of jobs based on pre-fixed rates and modality, through tendering or through individual tenders to the empanelled agencies) for defined value limit as well as validity period of empanelment. Modality for such empanelment may be adopted on case to case basis with due approval of CA as per DOA.

5.1.7 **The Eol document shall contain following sections:**

i) **Letter of Invitation:**

It shall include a copy of the advertisement whereby consultants are invited to submit their Eol.

ii) **Instructions to the consultants**

It may include instructions regarding nature of job; submission requirement; requirement of bid processing fees; if any; last date of submission; place of submission; and any related instruction;

iii) **Description of Services - Brief Purpose and Scope of Work**

This may include brief purpose/objective statement; Service Outcomes Statement; broad scope of work including Time-frames; inputs to be provided by the Procuring Entity; and expected deliverables of the assignment. This may also include the place of execution of the assignment. The request for Eol shall not include the assignment ToR, The consultants may also be asked to send their comments on the objectives and scope of the work or service projected in the enquiry.

iv) **Qualification Criteria**

This may clearly lay down the qualification criteria which shall be applied by the Procuring Entity for short listing the consultants. The REol should ask for sufficient information so that

the Procuring Entity may evaluate the consultant's capabilities and eligibility to undertake the assignment. Information should include: (a) core business and years in business; (b) qualifications in the field of the assignment; (c) technical and managerial organisation of the firm; and (d) general qualifications and number of key staff. In addition, the consultants should indicate information relating to their eligibility and any conflict of interest that they know may impact objective performance and impartial advice for their services. Consultants should not be asked about their approach to the services or to submit any curricula vitae of key personnel, because these documents will be dealt with in the RfP. No legal documents such as certificates of incorporation of the firm, powers of attorney, financial statements, or translations of standard brochures should be requested. Given the often-large number of submissions, the advertisement should stress the importance of brevity of the information to be sent.

5.2 Short List of consultants

5.2.1 The Procuring Entity shall evaluate the consultants for shortlisting, inter-alia, based on their past experience of handling similar types of projects, strength of their man power and financial strength of the firm. For example, it is important to find out if the firm: (i) is a small specialised firm or a large firm with access to a pool of expertise; (ii) has been in business for an extended period and has a track record in the field of assignment and in the region; and (iii) has appropriate certification in in- house quality control [firm adheres to the requirement of International Organization for Standardization (ISO)] as relevant to the task and has an ethics code in place.

5.2.2 It is important for the Procuring Entity to hire consultants who have a reputation for integrity and impartiality rooted in independence from third parties. It is seen that the process of shortlisting is one of the most difficult and time-consuming tasks in the selection process of a consultant. This could be eased by writing a clear Description of Service (objectives and Scope) and shortlisting criteria.

5.2.3 Finally, if the same firm is considered for concurrent assignments (for example, a construction supervision consultant for different stretches/packages of rehabilitation / reconstruction of a road contract), the Procuring Entity shall assess the firm's overall capacity to perform multiple contracts before including it in more than one short list. However this needs to be pre-declared in the EoI documents.

5.2.4 The short list of firms is required for the selection of consultancy services in a competitive process generally with a minimum of three and not more than eight.

5.2.5 The Procuring Entity may assign scores to the response of each consultant based on weightages assigned to each of the criteria in the EoI. Each criterion may be sub-divided into sub-criteria, if called for. Normally, the weightages shown in Table 1 may be used for such an evaluation (this is just an indicative criterion to assist the evaluators. The criteria and their weightage may be changed as per the need of Procuring Entity).

Table 1. Qualification criteria and their weightages

Sl. No.	Criteria	Weightage	
	Sub-criteria	Criteria Total	Sub-criteria
1	Past experience of the consultant (track record)	60%	
	• Number of years' relevant experience		20%
	• Past experience of studies of similar nature		50%
	• Past experience in carrying out		
	• Studies in the related sector		20%
	• Studies carried out in the region		10%
2	General profile of qualification, experience and number of key staff (not individual CVs)	25%	
	• Qualifications		30%
	• Relevant experience		70%
3	Overall financial strength of the consultant in terms of turnover, profitability and cash flow (liquid assets) situation	15%	
	Turnover figure for Last three Years.		50%
	Net Profit Figure for Last three years		50%
	Totals	100%	

5.2.6 The Procuring Entity shall short list all the consultants who secure the minimum required marks [normally 75% (seventy five percent)]. The minimum qualifying requirement shall be specified in the EoI document.

In EoI, simplified evaluation criteria can also be used, instead of marking schemes as mentioned above. A fail-pass, minimum benchmark in each criteria/ sub-criteria can be specified e.g. Must have past experience of at least two similar projects; key professionals must have at least seven years' experience and must have Master's

Qualification in relevant field; Firm must have a turnover of at least Rs 10 (Rupees Ten) Crores and so on. Any firm which passes these benchmarks is declared as qualified.

5.2.7 However this exercise of scoring is not merely for disqualification of firms below a threshold, but to establish the relative strengths and weaknesses of the applicants, in order to arrive at a robust short list of qualified consultants who have the required experience and qualifications to deliver the required services at the desired level of quality.

5.2.8 The short lists shall normally comprise at least three firms but not more than eight (to avoid inordinate delays in evaluation of subsequent RfP). The short list may comprise only national consultants (firms registered or incorporated in the country), for small assignments and indicated in the EoI. This situation is applicable where qualified national firms are available at a competitive cost or if the nature of the assignment is such that a foreign consultant's inclusion is not justified (for example, a training or outreach to be carried out in local language) or if foreign consultants have

not expressed any interest. RfP documents would be issued only to the shortlisted consultants.

5.2.9 The evaluation committee may submit its EoI Evaluation report to CA for approval. Tender Committee (TRC) format can be mutatis-mutandis used for this purpose.

Chapter 6: Selection of consultants by Competitive Process (i.e., through shortlisting or through open tender)

6.1 The evaluation process

The selection process for consultants generally includes the following steps:

- i) Preparation and issuance of the Request for Proposals (RfP);
- ii) Pre-proposal meeting;
- iii) Receipt of proposals;
- iv) Evaluation of technical proposals: consideration of quality;
- v) Public opening of financial proposals;
- vi) Evaluation of financial proposals;
- vii) Selection of the winning proposal;
- viii) Negotiations with the selected bidder, if required; and
- ix) Award of the contract to the selected firm.

6.2 Preparation and Issuance of the Request for Proposals (RfP)

6.2.1 The Request for Proposals (RfP) is the bidding document in which the technical and financial proposals from the consultants are obtained. [*In procurement of other (non-consultancy) Services, since the procurement is done without EoI, RfP is published on open tender basis*]. It contains the following sections:

- i) A letter of invitation (Loi) / Notice Inviting Tender (NIT)
- ii) Information to consultants (ITC) and data sheet (which contains assignment specific information);
- iii) Terms of Reference (ToR);
- iv) List of key experts required for the assignment, if applicable;
 - As consultancy assignment is an intellectual product, the effective contribution of the qualified firm (or partner firm in case of JV/consortium) can only come from experts (in particular the team leader) who have worked for sufficient time with the main qualified consultant. Therefore, RfP should specify that the team leader proposed should have worked for a sufficient number of years (say, two to three years) with the main qualifying firm. If this is not complied with it could be a ground for the proposal being termed as non-responsive.
- v) Requirement of qualifications and experience of the firm and key experts;
- vi) Criteria of proposal evaluation and selection procedure;
- vii) Standard formats for the technical proposal;
- ix) Standard formats for the financial proposal; and
- x) Proposed form of the contract, including General Conditions of Contract and Special Conditions of Contract; The prevailing GCC in NRL website be referred.

- xi) Proposed procedure to be followed pertaining to mid-term review of the progress of the work and review of the final draft report.

Clauses as follows (as applicable; but not limited to) are to be included in the tender documents, as applicable:-

(a) In accordance with the D.O. no. 1-21/2021-PP dtd. 29.04.2021 issued by National Disaster Management Authority, Ministry of Home Affairs (GOI), the following clause related to “Vulnerability Atlas of India” shall be included in all tenders related to design, construction related activities, for information of hazard-vulnerability to reduce vulnerability and increase resilience in the built environment.

Clause: Planning and Designing in purview of Vulnerability Atlas of India

Vulnerability Atlas of India (VAI) is comprehensive document which provides existing hazard scenario for the entire country and presents the digitized State/UT- wise hazard, maps with respect to earthquakes, winds and floods for district-wise identification of vulnerable areas. It also includes additional digitized maps for thunderstorms, cyclone and landslides. The main purpose of this Atlas is its use for disaster preparedness and mitigation at policy planning and project formulation stage.

This Atlas is one of its kind single point source for the various stakeholders including policy makers, administration, municipal commissioners, urban managers, engineers, architects, planners, public etc. to ascertain proneness of any city/location/site to multi-hazard which includes earthquakes, wind, floods thunderstorms, cyclones and landslides. While project formulation, approvals and implementation of various urban housing, buildings and infrastructures schemes, this Atlas provides necessary information for risk analysis and hazard assessment.

The vulnerability Atlas of India has been prepared by Building Materials and Technology Promotion Council under Ministry of Housing and Urban Affairs, Government of India and available at their website www.bmtpc.org.

It is mandatory for the bidders to refer Vulnerability Atlas of India for multi-hazard risk assessment and include the relevant hazard proneness specific to project location while planning and designing the project in terms of:

- i) Seismic zone (II to V) for earthquakes,
- ii) Wind velocity (Basic Wind Velocity: 55, 50, 47, 44, 39 & 33 m/s)
- iii) Area liable to floods and Probable max. surge height
- iv) Thunderstorms history
- v) Number of cyclonic storms/ severe cyclonic storms and max sustained wind specific to coastal region
- vi) Landslides incidences with Annual rainfall normal
- vii) District wise Probable Max. Precipitation

(b) **Contractors’ Performance Evaluation:** Following clause (or any updated version) shall be included in the tenders*:-

NRL has adopted a dynamic performance monitoring /evaluation procedure for continuous monitoring and evaluation of contractors, to maintain their accountability and performance. A rating, based on performance shall be assigned for each work executed by a contractor. This

rating shall be used in determining eligibility of the bidder in subsequent tenders issued by NRL (or by NRL authorized agencies / PMC / EPCM).

Following are the areas to be covered under continuous evaluation process:

1. Compliance of safety and housekeeping at worksite
2. Resource mobilization/delay in completion
3. Quality of works and documentation
4. Compliance of statutory / regulatory guidelines

Contractor whose performance is evaluated as Unsatisfactory based on pre-defined scoring criteria shall be debarred for 1 year from participating in NRL's tenders from the date of issuing notification by NRL.

Detailed Contractors' Performance Evaluation methodology is to be made available in NRL Website [location/link to be specified in tenders]

[Except supply tenders, as well as services & works provided on OEM/Proprietary basis. Also, works & services pertaining to expert/specialized agencies like manufacturer of high end equipment and services related to them (e.g., DCS/PLC/Compressor/Motor and such other items) shall fall outside the ambit of this policy. Respective functional HOD shall approve such exception at the time of raising the PR.]*

(c) PRICE REDUCTION CLAUSE IN TENDER

All tenderers shall indicate time schedule for completion of jobs, drawn after taking into account availability of the work force, drawings, materials and facilities to be supplied by the Company, reasonable mobilization period necessary for the Contractor etc. Undue delays in completion shall be investigated. Lapses, on the part of the contractor contributing for the delayed completion shall be considered in assessing the Contractor's performances while updating the list of Approved Contractors.

Where the time is the essence of the Tender / Contract, Price Reduction Clause shall be incorporated suitably, and enforced in the event of delayed completion entirely attributable due to lapses on the part of the Contractor. A suitable clause for Price Reduction Clause shall be incorporated in all contracts including that with other PSUs to ensure prompt execution of contracts. The Price Reduction Clause to be specified in General Conditions of Contract shall be subject to a maximum of 5% of the Contract value. Suitable provision shall also be made to ensure that the contract is terminated or suitable alternative arrangements are made at the cost of contractor in case of delay beyond 6 months.

(d) Goods and Services Tax (GST): A detailed clause regarding GST may be included in the bid documents, stipulating inter-alia that all the bidders/ tenders should ensure that they are GST compliant and their quoted tax structure /rates are as per GST Law.

Additionally, the following criteria related to GST should be incorporated in the tender/RfP document / ATC:

- Submission of Valid GSTIN/UIN registration certificate / GSTIN Number, with the

condition that “NRL at its discretion may not consider the bidder's bid for further evaluation if the same is not found uploaded with the bid or not found to be valid in GST portal. Any misinterpretation or misinformation may attract penal action including putting the bidder on holiday / blacklisting as per rules in vogue at NRL.”

- **Undertaking / Information w.r.t. availing of ITC by NRL:**

- a) Bidder to submit “INDEMNITY BOND CUM UNDERTAKING” as per “Annexure 24 in the Manual for Procurement of Goods”.
- b) An amount equivalent to the extent of eligible Input Tax Credit (ITC) available to NRL on each invoice shall be released only upon reflection of corresponding invoice and Input Tax Credit details in GSTR-2B report relating to NRL in GST portal. In other words, GST component eligible for Input Tax Credit, of any invoice shall be withheld till such time same is reflected in GSTR-2B.

In case, post priced bid opening if any party is found to be defaulting in GST portal, the party may be requested to activate itself in the GST portal within a definite time-line. If the party fails to comply within the allowable time-frame, show-cause notice should be served and necessary action should be initiated as per procedure.

The Procuring Entity shall use the applicable standard RfP with minimal changes as necessary to address project-specific issues. The Procuring Entity may use e- Procurement platform to issue RfP.

(e) **Clause related to information of litigation/arbitration:** In some of the tenders, declaration from bidders is sought that they are not involved in any litigation/arbitration, otherwise, if involved they need to furnish detail information about the status of litigation (including the arbitration) filed by or against the bidder during the past years with respect to contract(s) executed by the bidder.

Such clauses in the ITB/tender document have no bearing on the prospective bidder's eligibility nor has any impact on awarding the order. The same may avoided in all tenders as the same is not relevant in bidder's evaluation process.

6.2.2 Simplified Technical Proposal: In LCS system of evaluation, since the technical scores are not ranked or weighted and added to Financial Scores, it would suffice if instead of a detailed marking scheme for the criteria/ sub criteria, minimum fail-pass qualifying benchmarks are laid down for each criteria/ sub criteria. For such assignment technical evaluation can be carried out by following a simplified procedure for evaluation of technical quality and only a Simplified Technical Proposal (STP, instead of a Full Technical Proposal - FTP) may be called for and indicated in the data sheet of the RfP document. STP should be used when the assignment is:

(i) unlikely to have significant downstream impact; (ii) of a routine nature where ToR already defines details of tasks to be performed and required output and approach, methodology, organisation and staffing could be evaluated without use of sub criteria; and (iii) that characteristics of work do not require further detailed evaluation of the consultant's experience (e.g. engagement of accountants, auditors, consultant engineers etc). STP reduces the time and cost required to prepare the proposal and could be evaluated faster by the Evaluation Committee. For example following parameters can be used:

- i) Minimum experience including number of assignments handled by the firm similar to the area of assignment;

- ii) Turnover and other financial parameters of the firm, if required;
- iii) Minimum educational qualifications of each of the key professionals;
- iv) Minimum requirement of experience of the key professionals in an area similar to the proposed assignment.

Alternatively, simpler fail/pass pre-qualifying criteria akin to procurement of other (non-consultancy services) may also be prescribed for technical qualification under LCS method.

All the firms which meet the minimum qualifying standards/ criteria so prescribed will stand technically qualified for consideration of their financial bids.

6.2.3 Letter of Invitation (Loi)

The Letter of Invitation (Loi) shall state the intention of the Procuring Entity to enter into a contract for the provision of consultancy services, details of the Procuring Entity, and date, time, and address for submission of proposals.

6.2.4 Instructions to consultants (ITC)

The Instructions to consultants (ITC) shall consist of two parts: (1) standard information; and (2) assignment specific information. The assignment specific information is added through the data sheet. The ITC contains all necessary information that would help the consultants prepare responsive proposals, and shall bring in as much transparency as possible to the selection procedure by providing information on the evaluation process and by indicating the evaluation criteria and factors and their respective weights and minimum passing quality score. Standard information includes clauses relating to the procedure of bid submission, relating to pre-bid meeting, for seeking clarifications, and so on. The assignment/job specific information will be prepared separately and include the date and time of bid submission, contact address, qualification criteria, method of selection, evaluation process, factors of evaluation and their respective weights, and so on.

Since cost is part of the selection criterion the ITC shall not indicate the budget but shall indicate the expected input of key professionals (staff time). Consultants, however, shall be free to prepare their own estimates of staff time necessary to carry out the assignment. The ITC shall specify the proposal validity period [normally 180 days].

6.2.5 Formats for Technical and Financial Proposals

- i) The formats for technical proposals include those specified for FTP or STP, as & when applicable:
 - a) Technical proposal submission form (including declaration on conflict of interest, eligibility, following Code of Integrity in Public Procurement - CIPP);
 - b) For a JV, a Loi or copy of existing agreement, as applicable;
 - c) Power of attorney (in case of a JV, lead member to be authorised);
 - d) Consultant's organisation and experience (for FTP only);
 - e) Comments and suggestions on ToR, counterpart staff and facilities to be provided by the client (for FTP only);
 - f) Description of approach and methodology and work plan for performing the assignment;
 - g) Work schedule and planning for deliverables; and
 - h) Team composition, key expert's inputs, attached CVs.

- If the scope/requirement of service so demands, RfP should include instructions regarding signing of CVs by the concerned key personnel(s) with a condition that proposals with unsigned CVs may be summarily rejected.
- i) Format for Comments/ modifications suggested on proposed form of contract.
- ii) The formats for a financial proposal to include (as applicable):
 - a) Financial proposal form;
 - b) A summary sheet of the cost to be quoted by the Bidder;
 - c) Remuneration payable; and
 - d) Reimbursable expenses

6.2.6 Important Provisions of RfP/ Contracts

- i) **Currency:** Under normal circumstances, all the contracts should be based on Indian Rupees only. RFPs shall clearly state that firms may express the price for their services, in the currency specified in RfP. If RfP allows proposals in any other currency, the date and the exchange rate (normally date of opening of the Technical Bid) for converting all the bid prices to Indian Rupees shall be indicated in RfP. Costs of imported services, which are directly imported against the contract, may be quoted in foreign currency(ies) and paid accordingly in that currency.
- ii) **Price Adjustment:** Please refer clause 6.5.5 'Price Variation' in the "Manual for Procurement of Works"
- iii) **Payment Provisions:** Payment provisions, including amounts to be paid, schedule of payments, and payment procedures, shall be indicated in RfP and also in the contract. Payments may be made at regular intervals (as under time-based contracts) or for agreed outputs (as under lump sum contracts).

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 in exceptional cases to make advance payments. While making any advance payment as above, adequate safeguards in the form of bank guarantee etc. should be obtained from the firm.

- iv) **Bid Securities:** Procuring Entity has the option of requiring a bid security in time-critical procurements. When used, to safeguard against a bidder's withdrawing or altering its bid during the bid validity period in the case of open or limited tender enquiry, Bid Security (also known as Earnest Money) is to be obtained from the bidders except Micro and Small Enterprises (MSEs) as defined in MSE Procurement Policy. The manual for procurement of works shall be referred for details regarding Bid Security / Earnest Money Deposit (EMD).

v) **SECURITY DEPOSIT:**

(i) A sum of Ten percent (10%)* of the accepted value of the tender shall be deposited by the the CONTRACTOR as Security Deposit with the OWNER (NRL). This may be deposited initially at two and half percent (2.5%) of the value of CONTRACT (referred as Initial Security Deposit) within Twenty one (21) days of receipt by him of the Work Order / LOA and the balance Seven and half percent (7.5%) will be recovered in installments through deductions at the rate of Ten percent (10%) of the value of each running account bill till total Security Deposit amount is collected, after which no further deductions from Bills will be made on this account, subject to Clause (iii) below.

(ii) Alternatively, the contractor may, at his option, deposit the full amount of Ten percent (10%) of the accepted value of the Tender towards the Security Deposit within Twenty one (21) days of receipt by him of the Work Order / LOA. contractor can furnish the Initial or Total Security Deposit amount through a Bank Guarantee from any Scheduled Bank in the prescribed form.

(iii) However if the value of WORK as per actual execution exceeds the accepted value of Tender i.e., value given in the Purchase Order, further recoveries towards Security Deposit shall be effected at Ten percent (10%) of the value in excess of the accepted value of the Tender from running Bills and final Bill. Similarly if the value as per actual execution is less than the accepted value of Tender, recovery towards Security Deposit, effected in the running Bills, in excess of Ten percent (10%) of the value of WORK as per actual execution shall be refunded to the contractor along with final Bill.

(iv) **CONVERSION OF EMD TO SECURITY DEPOSIT:** The earnest money deposit (EMD) of the contractor whose tender may be accepted, if paid in forms other than Bank Guarantee, can be converted to and adjusted with security deposit for due performance of the contract if the contractor so desires.

In case of non-submission of Initial Security Deposit (ISD) within the specified time of 21 days (or till first bill is due for payment) after placement of order/LOA, an equivalent amount shall be deducted from his first bill (or balance ISD from subsequent bills if the value of first bill is less than the ISD) and kept as ISD.

In the event of extension (provisional or firm) of Time of the contract , if granted, the contractor shall be required to suitably extend the period of Bank Guarantee if submitted, towards security Deposit/retention money suitably.

This Retention amount or Bank Guarantee furnished against security deposit shall be released only on expiry of the period of liability and also based on the certification of the Engineer-in-charge that no defect/damage has been reported / observed during the stipulated period of liability for the contract.

All compensation or other sums of money payable by the contractor to the owner under terms of this contract may be deducted from or paid by the encashment of a sufficient part of his security deposit or from any sums which may be due or may become due to the contractor by the owner on any account whatsoever and in the event of his security deposit being reduced by reasons of any such deductions of said, the aforesaid contractor shall within ten days thereafter make good in cash or Bank drafts as aforesaid any sum or sums which may have

been deducted from his security deposit, or any part thereof. No interest shall be payable by the owner for sum deposited as security deposit.

For a contract value upto Rupees 5 (five) lakh, submission of Security Deposit may be exempted.

1. Release/refund of security deposit.

(a) The security deposit amount deposited by the contractor against a particular contract or work order (WO) or purchase order (PO) will be retained by NRL till completion of execution of the contract or till end of defect liability period whichever is later as per the terms and conditions of the particular contract. Refund of security deposit amount whether full or part, during any time of execution of the contract and due to any reason will not be admissible.

(b) In the cases **where defect liability period is not applicable** as per contract terms and conditions the security deposit will be refunded to the contractor's bank account as provided by the contractor and registered in the NRL vendor master database, within 30 days from date of completion of contract as certified by the respective Engineer In-Charge (EIC) of NRL and after adjustment of recoveries (if any) as per procedure.

(c) In the cases **where defect liability period is applicable** as per contract terms and conditions the security deposit will be refunded to the contractor's bank account as provided by the contractor and registered in the NRL vendor master database, within 60 days from date of expiry of defect liability period as certified by the respective Engineer In-Charge (EIC) of NRL and after adjustment of recoveries (if any) as per procedure.

(d) **Wherever defect liability period is not applicable**, in case the contractor has deposited the security deposit amount in full as per original PO and successfully executed the work as per contract terms and condition without any recoverable from security deposit amount, however the scope of work / quantity / time period has been extended or increased with increase in total contract value through an amendment over original contract, then security deposit equivalent to 10% of the additional / increased contract (PO) amount will be retained by NRL and the balance amount (if any) of security deposit will be refunded to the contractor period as certified by the respective Engineer In-Charge (EIC) of NRL. This provision will not be applicable for the service / work contracts **where defect liability period is applicable**, and in such cases an additional amount equivalent to 10% of the increased value of contract will be deposited by the contractor immediately after acceptance of amendment of original contract, either in full or in installments.

Note: For one time jobs, 80% of SD may be released; balance 20% of the SD to be released after the contract is closed (*Closing may be with/without formal approval, as applicable for individual cases*).

2. Amount of Security Deposit in case of extended AMCs.

AMCs for manpower supply, where no defect liability period exists; Security Deposit shall be released after completion of one year (12 months). If contract is awarded for more than one year then SD shall be released on completion of each year (12 months) based on the

recommendation of respective EICs, and fresh security deposit will be deducted from running bills for the subsequent year.

[* The value of security deposit has been reduced to three (3) percent for tenders floated till 31.03.2023; Applicable for both domestic & foreign bidders]

- vi) **Proposed form of contract:** The contract includes accepted ToR methodology, general and specific conditions of contract, etc. wherever possible, the Procuring Entity shall use the Standard Form of Contract. The general conditions of contract shall include all such conditions which are common in nature and not project specific. Such conditions include clauses pertaining to sub-contracting, methods of payment, termination and extension of contracts, arbitration, variation in quantities, indemnity and insurance, force majeure, conflict of interest, compliance to local laws and taxes and duties etc. The project specific conditions include clauses relating to the assignment in hand. These clauses should be carefully developed to protect the interest of the Procuring Entity.
- vii) **Conflict of Interest:** Consultants hired to prepare ToR for an assignment shall not be hired for the assignment in question and shall not be in a conflict of interest situation as described in the RfP/contract.
- viii) **Professional Liability:** The consultant is expected to carry out its/his assignment with due diligence and in accordance with the prevailing standards of the profession. As the consultant's liability to the Procuring Entity will be governed by the applicable law, the contract need not deal with this matter unless the parties wish to limit this liability. If they do so, they should ensure that: (a) there must be no such limitation in case of the consultant's gross negligence or wilful misconduct; (b) the consultant's liability to the Procuring Entity may, in no case, be limited to less than a multiplier of the total value of the contract to be indicated in the RfP and special conditions of contract (the amount of such limitation will depend on each specific case); and (c) any such limitation may deal only with the consultant's liability toward the Procuring Entity and not with the consultant's liability toward third parties.
- ix) **Staff Substitution of Key Professional:** During an assignment where key professionals are named in the contract, if substitution is necessary (for example, because of ill health or because a staff member proves to be unsuitable, or the member is no longer working with the consultant), the consultant shall propose other staff of at least the same level of qualifications for approval by the Procuring Entity. The RfP/contract must specifically make provision for terms and conditions under which the staff can be replaced, about the remuneration to be paid, and so on.
- x) **Applicable Law and Settlement of Disputes:** The contract shall include provisions dealing with the applicable law, which should be the law applicable in India and the forum for the settlement of disputes - applicable Arbitration Clause and procedures.
- xi) **Training or Transfer of Knowledge:** If the assignment includes an important component of training or transfer of knowledge to the procuring entity staff, the ToR shall indicate the objectives, nature, scope, and goals of the training programme, including details on trainers and trainees, skills to be transferred, timeframe, and monitoring and evaluation arrangements. The cost of the training programme shall be explicitly stated in the consultant's

contract and in the budget for the assignment.

xii) **Tender Documents:**

- a) The tender document is the fundamental document in the public procurement process as after award of the contract it becomes part of the contract agreement. All necessary provisions governing the contract should be clearly provided in the tender document. Examples are technical specifications, drawings, commercial terms and conditions including time period, inspection, payment terms, obligations of the procuring entity and the suppliers timeframe/ milestones, tax implications, compliance framework for statutory and other norms, dispute resolution. Provisions/ clauses in the tender document should be clear to avoid differences in interpretation and possible time overrun, cost overrun and quality compromises. Model Tender Documents may be used with customisation wherever necessary.
- b) In tenders containing General Conditions of Contract (GCC), additional/ special conditions to be incorporated in the tender document, shall be need based and specific. The GCC should not be altered and changes, in conditions of contract, if any, should only be made through the Special Conditions of Contract.
- c) Instructions regarding appropriate delegation of authority for approval of deviations, variations and changes in the scope of the contract are provided in the DOA.
- d) Provision of price variation, wherever considered appropriate, as well as methodology for calculation of the same shall be clearly stipulated in the tender document.
- e) Technical and Financial eligibility Criteria for the bidders are important in the public procurement process. They shall be clear and fair, having regard to the specific circumstances of the procurement. Appropriate parameters should be prescribed in the eligibility criteria for bidders, to enable selection of the right type of bidders in public interest, balancing considerations of quality, time and cost.
- f) **Open online tendering** should be the default method to ensure efficiency of procurement. Public authorities should also keep the experience criteria broad based so that bidders with experience in similar nature of items/ goods can participate. Sections 4.2 **Open Tender Enquiry (OTE)**, 5.1 (A) **Bidding Period** and 5.1 (B) **Minimum Response** of the "Manual for Procurement of Goods" may please be referred.

Sometimes, against open/limited tender cases, the procuring entity may not receive sufficient number of bids, and/or after analysing the bids ends up with only one responsive bid - a situation referred to as 'Single Offer'. **Such situation of 'Single Offer' is to be treated as Single Tender.** Restricted powers of approval of award on Single tender basis of procurement would apply.

- g) Pre-bid conference may be conducted by Procuring Entities. The Place and time of pre-bid conferences should be mentioned in the tender document and/ or publicized through the website of the procuring.

6.3 Pre-proposal (Pre-Bid) Meeting

- i) In case of large value or complex assignments, a pre-proposal meeting may be prescribed in the RfP. The date and time for such a meeting should normally be after 07 (seven) days of issue of the RfP and should be specified in the RfP itself. During this meeting, the scope of assignment, responsibilities of either parties or other details should be clearly explained to the prospective bidders so that there is no ambiguity later at the time of submission of

technical/financial bids. Where some significant changes are made in the terms/scope of the RfP as a result of the pre-bid meeting or otherwise considered necessary by the Procuring Entity, a formal corrigendum to the RfP may be issued, to all bidders. In such cases, it should be ensured that, after issue of the corrigendum, reasonable time is available to the bidders to prepare/submit their bids. If required, the time for preparation and submission of bids may be extended, suitably.

- ii) **Pre-Notice Inviting Tender (NIT) Conference:** In complex and innovative procurement cases or where the procuring entity may not have the required knowledge to formulate tender provisions, a pre-NIT conference may help the procuring entity in obtaining inputs from the industry. Such conferences should be widely publicised so that different potential bidders can attend.

6.4 Receipt of Proposal

The technical and financial proposals shall be submitted at the same time. To safeguard the integrity of the process, the technical and financial proposals shall be submitted in separate sealed envelopes, kept in an outer sealed envelope. The technical bids will be opened immediately after closing of receipt of technical bids by the Consultancy Evaluation Committee (CEC) / TEC. Guidelines regarding constitution of bid opening committee are provided in the DOA. The financial proposals shall remain sealed and shall be opened publicly only for those firms that have qualified technically. Any proposal received after the closing time for submission of proposals (Late Bids) shall not be considered. It may be noted that as per guidelines, now all procurement are to be done through e-Procurement.

6.5 Consultancy Evaluation Committee (CEC) [CEC is same as TEC]

6.5.1 For all cases a Consultancy Evaluation Committee (CEC), comprising of normally three members including a representative of Finance and user, shall be constituted as per DOA, in order to carry out the consultant selection procedure. Suitable domain/technical experts may be included in the committee, if required, to render assistance in evaluation of the bids. No member of CEC should be reporting directly to any other member of the CEC.

6.5.2 For different categories of consultancy with different threshold values DOA should be followed to ensure checks & balances in the Tender Evaluation Process. Commercial dealing officer(s) will receive the bids opened along with other documents from the tender opening officials and be responsible for safe-custody and processing of documents till award of the consultancy contract.

6.5.3 Technical proposals for consultancy services are an intellectual product. Their evaluation must be based on individual professional judgement of competent evaluators and should not be reduced to a purely arithmetical exercise. The difficulty is to ensure that this judgement is not exercised in an unreasonable or arbitrary manner. It is important that subjectivity, implicit to any individual professional judgement, be complemented by transparency, consistency, and fairness.

The technical proposals are to be opened in the first instance on the scheduled opening date and time, and scrutinised and evaluated by the Technical Recommendation Committee (TRC) with reference to parameters prescribed in the RfP documents as per qualifying method for quality of the technical proposal as prescribed and indicated in the RfP to determine responsive and eligible bidders.

The individual evaluator entrusted with the evaluation, when required, should be able to explain

to the satisfaction of approving authority the reason for his/her scoring and recommendation. One way to achieve this objective is by adopting a rating/ grading system for evaluation of the criteria and sub-criteria (if so specified in the RfP) in the technical proposals.

6.5.4 After the review meeting (refer 6.6), the TRC meets again to define the grades of the rating system to be adopted for scoring the technical proposals (if not detailed in the RfP), according to the criteria and sub criteria set out in the Data Sheet. To discourage subjectivity and avoid the use of points and fractions of points, the rating system provides a few grades (from three to four) for each criterion and sub-criterion. Minimum qualifying marks or relative qualifying method for quality of the technical proposal will be prescribed and indicated in the RfP. The grading system must be defined before the technical proposals are opened to prevent bias (or perceived bias) occurring because of the TRC's knowledge of the opened proposal contents. It is recommended that the evaluation and scoring of technical proposals be carried out only after defining the grading system. Otherwise, TRC members would have to assign a level of responsiveness of the proposals to each of the different criteria and sub criteria without guidance and support from predefined grades. This could easily distort the evaluation for the following main reasons:

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

6.5.5 Before starting the evaluation, the TRC members should ensure that they

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

6.5.6 After the rating system has been defined and proposals have been opened, the evaluation process can begin.

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

| _____

Rating	Assesment	Detailed evaluation in case of unquantifiable criteria	Marks
A	Very Good	The service providers have outstanding, advanced expertise in specific problem areas of the assignment that can promise an excellent execution of the assignment. The service providers' staff includes top experts in the field of the assignment. The service providers are considered world-class specialists in the approaches and methodologies dealing with specific issues in the assignment. The service providers operate according to well-established Quality Management (ISO 9002 etc.) Procedures.	Full Marks
B	Good	The service providers have extensive experience in the field of the assignment and have worked in Regions and Sectors with similar physical and institutional conditions, including similar critical issues. Permanent staff are adequate and highly qualified to cover the requirements of the assignment. The service providers have experience with advanced approaches and methodologies for dealing with the specific requirements of the assignment.	80% of full Marks
C	Satisfactory	The service providers have experience in the field of assignments similar to the one being considered, but have not dealt with critical issues specific to it (such as, for instance, delicate social or environmental issues). The service providers are experienced in the use of standard approaches and methodologies required for the assignment. The service providers' permanent staff are adequate.	60% of full Marks
D	Unsatisfactory	The service provider has experience which is not considered adequate for the quality needed by the Project.	30% of full Marks
E	Not Relevant	The service provider' experience has no or little relevance to the Project under consideration.	10% of full Marks

6.5.8 The evaluation of the proposals shall be carried out in two stages: at the first stage evaluation of responsiveness and technical proposals is taken up. Evaluators of technical proposals (TRC) shall not have access to the financial proposals until the technical evaluation is concluded as the envelope containing the financial proposal is not opened till the technical evaluation is complete. The financial proposal of only such bidders will be opened which obtain minimum qualifying marks/standards prescribed for the technical proposal. The evaluation shall be carried out in full conformity with the provisions of the RfP.

6.5.9 Tender Evaluation Committee (CEC / TEC) duties are to be discharged personally by the nominated officers. They may take help of their subordinate officers by way of reports/ evaluations, but they would still be answerable for such decisions. CEC / TEC members cannot co-opt or nominate others to attend deliberations on their behalf. CEC / TEC deliberations are best held across the table and not through circulation of notes/comments/e-mails etc.

All members of the CEC / TEC should resolve their differences through personal discussions instead of making to and fro references in writing. In cases where it is not possible to come to a consensus and differences persist amongst TC members, the reasons for dissent of a member should be recorded in a balanced manner along with the majority's views on the dissent note. The final recommendations should be that of the majority view. However, such situations should be rare.

6.6 First Stage of Evaluation: Consideration of Responsiveness

Each member of the TRC should first read all proposals, without scoring them. This first review helps determine whether the proposals are free of significant omissions or deviations from the ToR or other key requirements of the RfP; it also allows TRC members to assess the overall clarity of the proposals and identify elements that will require special attention in the evaluation. Proposals without earnest money (bid security), unsigned and incomplete (i.e. when the required bid formats have not been submitted), not responding to the ToR fully and properly and those with lesser validity than that prescribed in the RfP will be summarily rejected as being non-responsive, before taking up the appraisal of the technical proposal for evaluation of quality. TRC shall evaluate each proposal on the basis of its responsiveness to the ToR. A proposal shall be considered unsuitable and shall be rejected at this stage if it fails to comply with important aspects as described in the RfP.

6.7 Evaluation of the Technical Proposals

6.7.1 In the second stage evaluation process TRC members shall apply the criteria and sub-criteria set forth in the Data Sheet. Each proposal should be judged on its own merits and assigned an absolute - not comparative grade. A comparative evaluation would single out the best proposal on a relative scale, but still could leave the Procuring Entity with a poor proposal. Instead, the evaluation should measure absolute quality scored against predefined criteria and sub-criteria. The Procuring Entity shall evaluate each technical proposal taking into account criteria as prescribed in the RfP: (a) the consultant's relevant experience for the assignment; (b) the quality of the methodology proposed; (c) the qualifications of the key staff proposed; and (d) capability for transfer of knowledge (if relevant). Each of the technical proposals will be evaluated for the criteria prescribed in the RfP by awarding marks so as to make the total maximum technical score of 100 (one hundred). The criteria and weightage to each criteria or sub-criteria would depend on the requirements of each case and may be fixed objectively. A model scheme of maximum/minimum marks in terms of percentage is, however, proposed in Table 2.

Table 2. A model scheme of maximum/minimum marks in terms of percentage

Rated Criteria	Range of Percentage for Score
1.Consultantcy firm's Specific Experience	5-10%
2. Methodology	20-50%
3. Qualification and relevant experience of Key Staff	30-60%
4.Transfer of Knowledge*	0-10%
Overall	100 %

*Note: * If this criterion is not required, the marks can be adjusted against some other criteria. The weight given to the firm's experience can be relatively modest, since this criterion has*

already been taken into account when short listing the consultant. More weight shall be given to the methodology in the case of more complex assignments (for example, multidisciplinary feasibility or management studies). Evaluation of only the key personnel is recommended. Since key personnel ultimately determine the quality of performance, more weight shall be assigned to this criterion if the proposed assignment is complex. The TRC shall review the qualifications and experience of proposed key personnel in their curricula vitae, which must be accurate, complete, and signed by an authorized official of the consultant and the individual proposed. The experience criteria mentioned in point 1 in the table above holds true for Consultancy Firm and not for an individual consultant.

6.7.2 The TRC shall normally divide the above criteria mentioned in Table 2 into sub-criteria. However, the number of sub criteria should be kept to the minimum that is considered essential. For example, methodology Criteria can be sub-divided into sub-criteria as:

- i) understanding of ToR (30% weightage);
- ii) acceptability and detailing of methodology and work plan (50% weight);
- iii) innovation, if it is important (20% weightage);

The criteria for suitability of the key professionals for the assignment can also be divided into:

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

As mentioned in para 6.2.2 earlier, in LCS, a simplified evaluation criteria laying down minimum qualifying fail-pass benchmarks for each criteria/ sub criteria (instead of marking schemes) may also be used in appropriate cases. All offers that pass the qualifying benchmarks are declared as technically qualified and their financial bids are opened. Please also refer para 3.7.1 above.

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

6.7.4 The TRC evaluation should be based on the proposal as submitted. Under no circumstances can the TRC request information or clarifications that may change the proposals. Issues to be clarified with the selected consultant will have to be discussed during technical negotiations.

6.7.5 Next, the TRC should conduct a joint review, discuss the merits of individual evaluations and finalize the scores.

6.7.6 Eventually, for each of the technical proposals, the TRC should calculate the average of the scores allocated to each criterion by all members, establish the technical ranking of the proposals, identify the best, and propose it for award.

6.7.7 At the end of the technical evaluation process, the TRC shall prepare a technical evaluation report of the "quality" of the proposals recording the scores given to each criterion and sub-criterion, as well as explain the decisions and take the competent authority's (CA) approval. The CA should decide how any acceptable deviation in each proposal should be handled. The technical evaluation report is a confidential document, and its contents shall not be disclosed. All records relating to the evaluation, such as individual mark sheets, shall be retained until completion of the project and its audit.

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

6.8 Evaluation of Cost

6.8.1 After evaluation of quality has been completed, the Procuring Entity shall notify those consultants whose proposals did not meet the minimum qualifying standard or were considered non-responsive to the RfP and/or ToR (notification through tender portal, with reasons for rejection). In case of QCBS, the Procuring Entity shall simultaneously notify the consultants that have successfully satisfied the qualifying standard or where marks have been awarded, the qualifying marks, and indicate the date and time set for opening the financial proposals. In such a case, the opening date shall preferably be within one weeks after the notification date. The financial proposals shall be opened publicly in the presence of representatives of the technically qualified consultants who choose to attend

6.8.2 For QCBS, the proposal with the lowest offered total price shall be given a financial score of 100 % (one hundred per cent) and other financial proposals given scores that are inversely proportional to their prices. This methodology shall be specified in the RfP document.

6.8.3 For the purpose of comparing proposals, the costs shall be converted to Indian Rupees as stated in the RfP. The dealing officer shall make this conversion by using the BC selling exchange rates for those currencies as per the exchange rate quoted by an official source, for example, the State Bank of India. The RfP shall specify the source of the exchange rate to be used and date of the exchange rate to be taken for comparison of costs. This date shall be the date of opening of technical bids.

6.8.4 For the purpose of evaluation, the total cost shall include all taxes and duties for which the Procuring Entity makes payments to the consultant and other reimbursable expenses, such as travel, translation, report printing, or secretarial expenses as indicated in the RfP document

6.8.5 When using QCBS, the scores of quality and cost scores shall be weighted appropriately and added to determine the most advantageous proposal.

6.8.6 An Abnormally Low Bid is one in which the Bid price, in combination with other elements of the Bid, appears so low that it raises material concerns as to the capability of the Bidder to perform the contract at the offered price. Procuring Entity may in such cases seek written clarifications from the Bidder, including detailed price analyses of its Bid price in relation to scope, schedule, allocation of risks and responsibilities, and any other requirements of the bids document. If, after evaluating the price analyses, procuring entity determines that the Bidder has *substantially failed* to demonstrate its capability to deliver the contract at the offered price, the Procuring Entity may reject the Bid/Proposal. However it would not be advisable to fix a normative percentage below the estimated cost, which would be automatically be considered as an abnormally low bid. Due care should be taken while formulating the specifications at the time of preparation of bid document so as to have a safeguard against the submission of abnormally low bid from the bidder.

As a safeguard, it should be closely monitored by the EIC that final payments in such cases do

not abnormally increases due to extra items. Further, there is no abnormal increase in quantities of the item for which contractors have initially quoted very high rates.

In case of abnormal rates (both low and high), the L1 bidder's confirmation to bridge the gap by providing necessary discount in case of any vitiation of L1 position after execution, should be sought before finalization of the contract.

6.9 Selection of the winning consultant

Before a final award is announced, the technical and financial credentials of the selected bidders/ consultant should be cross-checked to the extent feasible.

6.9.1 LCS Selection

Under the LCS procedures, the financial proposals will be ranked in terms of their total evaluated cost. The least cost proposal will be ranked as L-1 and the next higher and so on will be ranked as L-2, L-3 etc. The least cost proposal (L-1) will be considered for award of contract / invited for negotiation for final award of contract.

6.9.2 QCBS Selection

Under QCBS selection, the technical proposals will be allotted weightage of 70% (Seventy per cent) while the financial proposals will be allotted weightages of 30% (Thirty per cent) or any other respective weightages as declared in the RfP (Example, 60:40, 50:50, but not greater than 80%). The proposed weightages for quality and cost shall be specified in the RfP. Proposal with the lowest cost may be given a financial score of 100 (Hundred) and other proposals given financial scores that are inversely proportional to their prices w.r.t. the lowest offer. Similarly, proposal with the highest technical marks (as allotted by the evaluation committee) shall be given a score of 100 (Hundred) and other proposals be given technical score that are proportional to their marks w.r.t. the highest technical marks. The total score, both technical and financial, shall be obtained by weighing the quality and cost scores and adding them up. On the basis of the combined weighted score for quality and cost, the consultant shall be ranked in terms of the total score obtained. The proposal obtaining the highest total combined score in evaluation of quality and cost will be ranked as H-1 followed by the proposals securing lesser marks as H-2, H-3 etc. The proposal securing the highest combined marks and ranked H-1 will be invited for negotiations, if required, and shall be recommended for award of contract. In the event two or more bids have the same score in final ranking, the bid with highest technical score will be H-1.

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

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

where

C = Evaluated Bid Price

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

T = the total Technical Score awarded to the Bid

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

X = weightage for the Price as specified in the BOS

The Bid with the best evaluated Bid Score (B) among responsive Bids shall be the Most Advantageous Bid

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

A: 75 Marks

B: 80 Marks

C: 90 Marks

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

A: $75/90 = 83$ points

B: $80/90 = 89$ points

C: $90/90 = 100$ points

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

A: Rs.120.

B: Rs.100.

C: Rs.110.

Using the formula C_{low}/C , the committee gave them the following points for financial proposals:

A: $100/120 = 83$ points

B: $100/100 = 100$ points

C: $100/110 = 91$ points

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

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

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

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

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

Proposal A: 83 points: H-3

Proposal B: 92.3 points: H-2

Proposal C: 97.3 points: H-1

Proposal C at the evaluated cost of Rs.110 (Rupees One hundred and ten) was, therefore, declared as winner and recommended for negotiations/approval, to the competent authority.

6.9.3 SSS Selection

The Single Source in case of SSS selection shall be called for further negotiation, if need be, after opening and evaluation of its financial proposals.

6.10 Negotiations and Award of Contract

6.10.1 In the Consultancy Services contract, the accepted ToR and methodology etc are laid down in form of 'Description of Service'. Therefore, before the contract is finally awarded, discussions may be necessary with the selected bidder to freeze these aspects, especially when, it is discouraged during evaluation of technical proposals to seek clarifications on these matters. Negotiations are not an essential part of the selection process. In many cases, however, it is felt necessary to conduct negotiations with the selected consultant for discussions of the ToR, methodology, staffing, government ministry/department's inputs, and special conditions of the contract. These discussions should not substantially alter (or dilute) the original ToR or terms of the offer, as otherwise the quality of the final product, its cost, and the initial evaluation will be vitiated. The final ToR and the agreed methodology shall be incorporated in "Description of Services," which shall form part of the contract.

6.10.2 Financial negotiations shall only be carried out if, the costs/cost elements quoted are not found to be reasonable. However, in no case such financial negotiation should result in an increase in the financial cost as originally quoted by the consultant and on which basis the consultant has been called for the negotiations. If the negotiations with the selected consultant fail, the Procuring Entity may cancel the bidding procedure and re-invite the bids.

Mode of negotiation may be either through e-mail, telephonic, video-conferencing, or across-the-table etc.

Tender Evaluation Committee Recommendations/ Report

The procuring department has to make formal recommendations for the award of the contract to the bidder whose bid has been determined to be substantially responsive and successful, provided further that the bidder is determined to be qualified to perform the contract satisfactorily and his credentials have been verified.

Detailed procedure for verification of bidder credentials (mandatory for L1 bid price of Rs.5 crore and above) is provided in the "Manual for Procurement of Works" as "Annexure 9".

TEC approval should be obtained based on the estimated cash outflow for the entire tendered quantity, including provision for extensions / enhancements as may be provided in the tender document.

After the acceptance of these recommendations by the tender accepting authority (TEC), the Work Order / Letter of Award (LOA) can be issued.

LOA / Work Orders incorporating all the terms and conditions agreed to with the tenderer shall be placed within the validity periods of the tenders proposed for acceptance. When the original validity periods have expired, suitable extensions shall be obtained before the orders are issued.

The successful bidder will be notified by issuance of a digitally signed work order (WO) with detailed terms & conditions like items/quantities to be supplied with rate, delivery schedule, payment term, etc. and sent through any foolproof method like e-mail or through tender portal. In case of any constraints in issuing system WO, a letter of acceptance (LoA) may be issued briefly indicating therein relevant details such as quantity, specification of the goods ordered, prices, and so on. Detailed system generated WO (against LoA) should be issued at the earliest.

To ensure that the supplier has received the LOA / Work Order and that he is taking necessary steps to arrange services, he may be asked to acknowledge receipt of the order, preferably by signing and returning a copy (by email / courier / post etc.) of the work order sent. Such acknowledgement is not mandatory when the bidders offer has been accepted in entirety, without any modifications; or with modifications agreed by the bidder.

Bids awarded in GeM Portal shall be dealt as per provisions therein.

A contract agreement on a stamp paper in the prescribed proforma may be required to be executed. Please refer section 5.7.1 of the “Manual for Procurement of Works”.

6.10.3 The name of the successful bidder along with details of costs, and so on, shall be posted on the departmental website after award of work to the successful bidder has been made and communicated to him in writing.

6.11 Rejection of All Proposals, and Re-invitation

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

Authority for approval of cancellation of tender shall be as per clause 7.5.11(iii) of the “Manual for Procurement of Goods”.

6.12 Confidentiality

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

Chapter 7: Special Types of Engagements

7.1 Single Source Selection (SSS / STE)

7.1.1 Selection of consultants/ service providers through direct negotiations does not provide the benefits of competition in regard to quality and cost, lacks transparency in selection, and could encourage unacceptable practices. The reasons for SSS and selection of a particular consultant must be recorded and approved by the CA as per the delegation of authorities, prior to single tendering. Therefore, single-source selection shall be used only in exceptional circumstance, where it is inescapable over competitive selections as discussed in sub-paras below.

7.1.2 When in a Project, continuity for downstream work is essential, the initial RfP shall outline this prospect, and, if practical, the factors used for the selection of the consultant/ service provider should take the likelihood of continuation into account. Continuity in the technical approach, experience acquired, and continued professional liability of the same consultant/ service provider may make continuation with the initial consultant/ service provider preferable to a new competition subject to satisfactory performance in the initial assignment. For such downstream assignments, the Procuring Entity shall ask the initially selected consultant/ service provider to prepare technical and financial proposals on the basis of ToR furnished by the Procuring Entity, which shall then be negotiated (technical discussion).

7.1.3 If the initial assignment was not awarded on a competitive basis or if the downstream assignment is substantially larger in value, a competitive process shall normally be followed in which the consultant/ service provider carrying out the initial work is not excluded from consideration if it expresses interest.

7.1.4 For selecting a consultant/ service provider under this method, the Procuring Entity should prepare a full justification and take the approval of the competent authority as per the DOA.

7.1.5 While selecting the consultant/ service provider under this method, the Procuring Entity shall ensure that the consultant/ service provider has the requisite qualification and experience to undertake the assignment. Normally the Procuring Entity shall adopt the same short listing criteria as applied to similar assignments while evaluating the EoI.

7.2 Selection of Individual consultants/ service providers

7.2.1 Individual consultants/ service providers are normally employed on assignments for which

- i) Teams of personnel is not required;
- ii) No additional outside professional support is required, and
- iii) The experience and qualifications of the individual are the paramount requirement.

7.2.2 The procedures for selecting individual consultants/ service providers are similar to, but much simpler than, those for selecting teams of consultants/ service providers from a firm. Process of selection of Individual consultants/ service providers entails:

- i) Preparing a Consultancy and other services package including the ToR, time frame, number of person-months, budget, Tendering / EoI Short-listing criteria and getting it approved by the CA;
- ii) **Notification:** Notification in such case should be given on Central Public Procurement

Portal (CPMP) at www.eprocure.gov.in and on Government E- Market (GeM). An organisation having its own website should also publish all its advertised tender enquiries on the website. The notification for invitation of tenders should give the complete web address from where the bidding documents can be downloaded.

- iii) **Method of Selection:** They shall be selected through comparison of qualifications of the candidates who have expressed interest in the assignment or have been approached directly by the Procuring Entity. Candidates who are already employed with the Procuring Entity shall meet all relevant qualifications and shall be fully capable of carrying out the assignment. Capability is judged on the basis of academic background, experience, and, as appropriate, knowledge of the local conditions, such as local language, culture, administrative system, and government organisation.
- iv) **Direct Negotiation:** Individual consultants/ service providers may be selected on a direct negotiation basis with due justification in exceptional cases such as: (a) tasks that are a continuation of previous work that the consultant/ service provider has carried out and for which the consultant/ service provider was selected competitively; (b) emergency situations resulting from natural disasters; and (c) when the individual is the only consultant/ service provider qualified for the assignment. Individual consultants/ service providers may be (among others) independent consultants/ service providers; consultants/ service providers recruited from firms; or consultants/ service providers recruited from academic, government, or international agencies.
- v) **Staff or Associates of Consultancy/ service provider Firms:** If the candidate is permanent staff or associates of a Consultancy firm the conflict of interest provisions described in these guidelines shall apply to the parent firm.

7.3 Selection of Specialized Agencies/ Institutions

7.3.1 From time to time, there may be a need to recruit a specialized agency or institution to undertake a specific task for which it is particularly well suited. Such agencies may be Government/ Semi-Government Agencies, Universities or Professional Institutions.

7.3.2 In some cases, the agency or institution has access to special expertise or special backup and support facilities that make it worthwhile considering recruitment on an SSS basis. In such cases, there must be full justification that the use of SSS is in the best interests of Procuring Entity.

7.3.3 In cases, of Government and semi-Government Agency SSS would be an appropriate method of recruitment.

7.3.4 Individual consultants/ service providers recruited from agencies and institutions may be selected in the same way as any other independent consultants/ service providers.

7.4 Selection of Non-Governmental Organizations (NGO)

7.4.1 Procuring Entity may engage NGOs meeting qualifying for assignments typically attributable to NGOs. In this case, QCBS should be followed, and the evaluation criteria of proposals should reflect the NGO-unique qualifications, such as the following:

- i) History of work with grassroots communities and evidence of satisfactory performance;
- ii) Familiarity with participatory development approaches and low-cost technologies;

- iii) Experienced staff conversant with the cultural and socioeconomic dimensions of beneficiaries;
- iv) Committed leadership and adequate management;
- v) Capacity to co-opt beneficiary participation

7.4.2 Procuring Entities may select NGOs using SSS, provided the approvals and procedures laid down for the same are followed. For example, SSS may be adopted to hire a local NGO for a very small assignment in a remote area where only one NGO is available and competition is impractical.

7.5 Procurement Agents

Procurement agents (PAs) may be hired by the Procuring Entity to assist in carrying out procurement, to provide advice, or a combination of both. When PAs are specifically used as "agents" handling the procurement of specific items and generally working from their own offices, they are paid a percentage (either fixed or inversely proportional) of the value of the procurements handled or a fixed fee or a combination of a percentage and a fixed fee. In such cases, they are selected under QCBS, with cost being given a weight of up to 50 (fifty) percent. If the weight of the cost element adopted were as high as 50 (fifty) percent, financial considerations would dominate the selection, creating the risk of an unacceptably lower service quality. In such cases, it is essential to ensure that the quality threshold in the evaluation is set sufficiently high. When PAs provide only advisory services for procurement or act as "agents" for a whole project in a specific Unit of Procuring Entity, they are usually paid based on the staff-months of effort provided, and they shall be selected following the appropriate procedures for other Consultancy assignments using QCBS and time-based contracts, as specified for other Consultancy assignments.

7.6 Inspection Agents

Procuring Entities may hire inspection agents to inspect and certify goods before shipment or on arrival in the Procuring Entity country. The inspection by such agents usually covers the quality and quantity of the goods concerned and the reasonableness of the price. Inspection agents are selected using QCBS, with cost being allocated a weight of up to 50 (fifty) percent. Payment is usually based on a percentage of the value of goods inspected and certified.

7.7 Financial Advisors

7.7.1 Procuring Entities may hire financial institutions to implement two main types of assignment:

- i) in the preparation of studies and financial Consultancy; or
- ii) As advisers on financial restructuring, M&A or demerger etc.

7.7.2 In the first case, the advisers can be selected under any of the methods described in this chapter (that is, whichever is considered most suitable, depending on the scope of work of the assignment). In the second case, QCBS shall be adopted, whereby the RfP specifies technical evaluation criteria similar to those relevant to standard Consultancy assignments.

7.8 Auditors

Auditors typically carry out auditing tasks under well defined ToR and professional standards. They shall be selected according to LCS system, with cost as a selection factor.

Chapter 8: Monitoring Consultancy/ Other services Contract

8.1 Monitoring of the Contract

The progress of the contract should be monitored throughout so that the output of the contract is in line with the Procuring Entity's objectives laid down in the Contract. Suitable provision for this should be made in the contracts which should also take care of the need to terminate/ penalize the contractor or to suspend payments till satisfactory progress has not been achieved. The Procuring Entity should also designate a EIC with adequate technical qualification, managerial experience, and power of authority as the nodal person to interact with the consultant/ service provider's team.

8.2 Engineer-In-Charge (EIC) / Contract Monitoring Committee - (CMC)

In service contracts, NRL shall designate one officer at the appropriate level, from executing dept. as the Engineer-In-Charge (EIC) for monitoring the progress of the assignment. The CMC/EIC shall be responsible for monitoring the progress of the assignment, to oversee that the assignment is carried out as per the contract, to assess the quality of the deliverables, to accept/reject any part of assignment, to levy appropriate liquidated damages or penalty (as per Contract, SCC or GCC, as applicable) if the assignment is not carried out as per the contract and if the quality of services is found inferior and for any such deficiency related to the completion of the assignment. Role of EIC is also guided by the General Conditions of Contract (GCC).

For the assignments which are very complex and/or are of highly technical nature, the Procuring Entity may decide to appoint another qualified consultant/ service provider to assist the CMC/EIC in carrying out its functions. Monitoring the progress of Assignment entails following activities:

- i) Issuing the notice to proceed;
- ii) Review of the inception phase;
- iii) Deciding on possible modifications to scope of work and issuing contract variations;
- iv) Monitoring progress of assignment, Monitoring that key experts are actually employed; reports and their review including review of draft final report and the final report to ensure that assignment (whether time-based or lump-sum) is completed in accordance with the contract;
- v) Billing, payment and monitoring the expenditure vis-a-vis progress;
- vi) Resolving problems faced by consultants/ service providers and dealing with disputes and arbitration;
- vii) Terminating services prior to the end of the contract; and
- viii) Release of final payment and guarantees (if any) and closing the contract;
- ix) Post contract evaluation.
- x) Any other responsibility as assigned in GCC, SCC etc.

8.3 Issuing Notice to Proceed - consultant/ service provider's Mobilisation

A notice to proceed is required to initiate consultancy/ other services. It is normally issued as soon as possible after the contract has been awarded. After the issuance of the notice to proceed, the contract normally commences upon the arrival of the consultant/ service provider or the Consultancy

team's members at the premises for the Procuring Entity, if so required under the description of services. The Procuring Entity and the consultant/ service provider agree on the detailed content of inception, progress and final report.

8.4 Consultancy Services - Review of Inception Phase:

For more complex consultancies, the work is divided into phases, of which one of the most critical is the inception phase. The inception phase covers the submission and review of the work plan with the Procuring Entity, and the initiation of the field work.

8.5 Reporting of Progress

The timing, nature, and number of reports that the consultant/ service provider should provide are normally contained in the Consultancy and other services contract. If the assignment is of a routine nature over a long period (for example, implementation supervision), then monthly, quarterly, and annual progress reports may be required. On the other hand, if the assignment is to prepare a study or to implement a particular task, a more specific type of reporting may be required.

8.6 Monitoring a Time-based Contract

As indicated earlier, the performance of a time-based contract may depend on the progress in other contracts (for example, the progress of a construction supervision contract depends on the progress of a construction contract). In such situations, the mobilisation and demobilisation of resources/ key experts and time employed by them should be mobilised and monitored carefully as it is possible that the contract period and the total amount under the contract are spent fully and construction work being supervised is not even half complete. These situations could lead to claims and disputes.

8.7 Monitoring a Lump-sum Contract

As Lump-sum contract is based on output and deliverables, it is important that the quality of draft reports is checked carefully before release of stage payment as subsequent dispute after completion of the task could lead to disputes. In this form of contract, if there are extra additional services, there should be timely amendment to the contract to reflect these increases and to regulate payment. In general, in a lump-sum contract, the increase should not be more than 10-15 (ten to fifteen) per cent.

8.8 Unsatisfactory Performance

Poor performance may involve one or more particular staff from the consultant/ service provider's team, or the whole team or non-participation by the main qualifying JV member. Based on the provisions of the contract, the Procuring Entity will advise the consultant/ service provider to take the necessary measures to address the situation. Poor performance should not be tolerated; therefore, the consultant/ service provider should act quickly to comply with a reasonable request to improve the performance of the team or to replace any particular staff member who is not performing adequately. If the consultant/ service provider fails to take adequate corrective actions, the Procuring Entity may take up the issue with the top management of the consultant/ service provider and issue notice to rectify the situation and finally consider terminating the contract.

8.9 Delays

Consultancy and other services may be delayed for a variety of reasons. The consultant/ service

provider should notify the Procuring Entity and explain the causes of such delays. If corrective action requires extra work and the delay cannot be attributed to the consultant/ service provider, the extra work should be reimbursed in accordance with the contract.

8.10 Issuing Contract Variations

8.10.1 The formal method of making and documenting a change in the Consultancy and other services contract is through a contract variation.

Contract variations are issued when there are agreed-upon changes in the scope of work, personnel inputs, costs, timing of the submission of reports, or out-of-pocket expenditures. There are few Consultancy and other services contracts of any type that do not require a contract variation at one time or another. Normally, these relate to changes that have a cost implication, but when there is a significant change in the timing of an activity or a particular output, these should also be recorded through a contract variation. Normally, the request for contract variation is prepared by the consultant/ service provider or Consultancy/ service provider firm and submitted to the Procuring Entity.

8.11 Substitution of Named Key Personnel

8.11.1 One common type of variation involves a substitution of key personnel identified by name in the contract. Sometimes a change of personnel is unavoidable because of resignation, illness, accident, inadequate performance, or personality conflict. The contract must specifically make provision for terms and conditions under which the staff can be replaced, about the remuneration to be paid etc. When personnel are to be replaced, certain factors need to be considered:

- i) Any replacement should be as well qualified or better qualified than the person being replaced;
- ii) The remuneration should not be more than that was agreed upon for the person being replaced;
- iii) The consultant/ service provider should bear all costs arising out of or incidental to the replacement (such as airfares for the substitute expert).

8.11.2 Substitution of key personnel during execution of consultancy contract:

- i) Quality in consultancy contracts is largely dependent upon deployment and performance of key personnel, during execution of the contract.
- ii) The following conditions should be incorporated in tender documents for procurement of consultancy services:
 - a) Substitution of key personnel can be allowed in compelling or unavoidable situations only and the substitute shall be of equivalent or higher credentials.

8.12 Billing and Payments

8.12.1 Payment is made to the consultant/ service provider based on a schedule agreed on in contract, often based on certain milestones or outputs. The consultant/ service provider submits an invoice to the Procuring Entity detailing the expenditures for personnel and out-of-pocket items. The Procuring Entity then reviews the documentation and forwards it to Paying Authority for ultimate payment. In normal practice, if any item needs further scrutiny before the Procuring Entity can approve payment, payment of undisputed items will be made. But payment of any disputed items will be withheld until the circumstances are clarified.

8.12.2 The terms and conditions of such payments are set out in the contract wherein the amount of advance payment is specified, as are the timing of the payment and the amount of advance payment security to be provided by the Consultancy firm. The advance payment is set off by the Procuring Entity in equal instalments against monthly billing statements until it has been fully set

off. Once an advance has been provided, requests for any additional advance are not considered until the consultant/ service provider liquidates the previous advance. The advance payment security is then released.

E-Payment: All payments (including any advances) are to be routed through e-payment method (NEFT/RTGS/Online mode etc.), as per terms of the contract.

E-invoices / digitally signed invoices should be the preferred mode of invoicing to enable faster processing.

Payment through cheque, demand draft or such instruments may be made on exceptional cases following the prevailing guidelines issued by Finance Dept. from time to time.

8.13 Disputes and Conflicts

8.13.1 Disputes between the consultant/ service provider and the client may arise for a number of reasons. This could relate to technical and administrative matters such as interpretation of contract, payment for services or substitution of key experts - all of which should be dealt with promptly and amicably between the contracting parties in terms of contract provisions. These may be the result of delays prompted by weaknesses on the part of the consultant/ service provider or the Procuring Entity; by a lack of funds; by delays in getting key approvals, data, or information; or by causes beyond anyone's control such as natural disasters. These may be the result of deviations from the Scope of Work or work plan by the consultant/ service provider or out-of-course requests for deviations by the Procuring Entity.

8.13.2 All reasonable efforts should be made to avoid disputes in the first place; both parties should attempt to deal with problems as they arise, on a mutually constructive basis. (This may include the repatriation of consultant/ service provider staff if necessary or a change in the personnel of the Procuring Entity's CMC/EIC) If this is not possible, GCC sets clear procedures for dealing with disputes. This entails provision of a notification of dispute by one party to the other, and provision for a mutual resolution at higher levels of authority within the consultant/ service provider and the Procuring Entity. Finally, if the dispute cannot be amicably settled between the consultant/ service provider and the Procuring Entity, then provision is made for arbitration under the Arbitration Clause. The award decreed by arbitration tribunal is binding.

For further details please refer section 6.10.1 and 6.10.2 of the “Manual for Procurement of Works”

8.14 Force Majeure

8.14.1 A Force Majeure (FM) means extraordinary events or circumstance beyond human control such as an event described as an act of God (like a natural calamity) or events such as a war, strike, riots, rebellion or sabotage, lockouts, crimes, hostility, acts of public enemy, civil commotion, fires, explosions, floods, earthquakes, epidemics, quarantine restrictions and freight embargoes (but not including negligence or wrong-doing, predictable/seasonal rain and any other events specifically excluded in the clause). An FM clause in the contract frees both parties from contractual liability or obligation when prevented by such events from fulfilling their obligations under the contract. An FM clause does not excuse a party's non-performance entirely, but only suspends it for the duration of the FM. The firm has to give notice of FM as soon as possible and it cannot be claimed ex-post facto. There may be a FM situation affecting the purchase organisation only. In such a situation, the purchase organisation is to communicate with the supplier along similar lines as above for further necessary action. If the performance in whole or in part or any obligation under this contract is

prevented or delayed by any reason of FM for a period exceeding 90 (ninety) days, either party may at its option terminate the contract without any financial repercussion on either side.

8.14.2 Any delays in or failure of the performance of either party hereto shall not constitute default hereunder or give rise to any claims for damages, if any, to the extent such delays or failure of performance is caused by force majeure.

8.15 Terminating Services Prior to End of Contract

8.15.1 At times, a decision is taken to terminate a contract prior to its conclusion and the completion of the Consultancy and other services assignment. This may be for various reasons, for example:

- i) **Termination due to External factors:** External factors (like natural disasters) which are beyond the control of the consultant/ service provider or the Procuring Entity;
- ii) **Termination for convenience:** The Procuring Entity may also terminate a contract for convenience for reasons like shortage of budget;
- iii) **Termination due to breach of contract:** Failure/ inability of one party or the other.

8.15.2 In some cases, termination is the optimal choice; in others, it is detrimental to the overall intent of the assignment. This implies a missed opportunity and a waste of the funds already expended on the assignment. For these reasons, termination should be avoided, if possible, even if this means a considerable re-staffing of the Consultancy team.

8.15.3 Termination may be initiated by any party. Termination must be undertaken within the terms of the contract document. These provide for a notice period of 30 (thirty) days, the payment by the Procuring Entity of any legitimate outstanding fees and costs to the consultant/ service provider, and the payment of legitimate costs to wind-up the Consultancy/ other service team (unless the termination was occasioned by the default of the consultant/ service provider). If termination is initiated by the consultant / service provider the bid security (EMD) / security deposit, if any, available with NRL may be forfeited.

8.15.4 The CMC/EIC would indicate which of the final billings by the firm are eligible for payment and which are not. In case of dispute over what is or is not a legitimate expense, eligible for payment, the dispute mechanism described above is invoked and, if it is not possible to resolve the matter amicably, the issue is submitted for arbitration. The contract will remain valid until the arbitration decision is made.

8.16 Concluding the Assignment

The contract is normally considered concluded on the day after the completion date listed in the contract. Any expenditure incurred after the completion date are unlikely to be paid. It is therefore, important, under all types of assignments, for the consultant/ service provider to request an extension of the completion date if it appears that additional time will be needed to complete the assigned scope of services after the contractual completion date. The consultant/ service provider should submit the final claim promptly after completing the assignment. The standard consultant/ service provider contract states that the claim must be submitted within 60 (sixty) days of completion.

Chapter 9: Procurement (Outsourcing) of Other (Non- consultancy) Services

To make this chapter self-contained and complete some of the relevant paras are repeated wherever required. Any circumstances which are not covered in this manual for procurement of non-consulting services, the Manual of Policies and Procedures for Procurement of Works (1st preference) or Goods (2nd preference) may be referred and not to the provisions for procurement of consulting services. Also, relevant Annexures in the Manual for Procurement of Goods / Works may be referred.

9.1 Applicability of this Chapter to Procurement (Outsourcing) of Other (Non-consultancy) Services

9.1.1 "Other services" (including the term 'Non-consultancy services' in certain contexts) is defined in "Procurement Glossary".

9.1.2 The term "Outsourcing of Services" is defined in "Procurement Glossary". Besides outsourcing, other services also include procurement of short-term stand-alone services.

9.1.3 It is possible that, depending on the nature and complexity of the assignment, a task could be dealt with either as a consultancy or non-consultancy service. In essence, if the intellectual and advisory part of services dominates (and the physical part is incidental), the selection needs to be dealt with in Consultancy mode. For example, if the task is looking at the condition of a dam (for dam safety) by physically inspecting a dam through underwater observation, this task is collection of data using technologies and photography, but the actual analysis is an intellectual and advisory task and is the crux of the assignment. Therefore, the entire task needs to be dealt with as selection of a consultant.

9.1.4 For sake of simplicity, this Manual of Policies and Procedure for the Procurement of Consultancy and other services is written from the point of view of procurement of Consultancy Services. This Chapter now covers the Outsourcing/ Procurement of Other (non-consultancy) Services, and points out areas where policies and procedures are different for such outsourcing/ procurements.

9.2 Authorities competent to procure Consultancy and other services and their Purchase Powers

Shall be as per provisions of the Delegation of Authority (DOA).

9.3 When is Procurement/ Outsourcing of Other (Non- consultancy) Services justified

In the interest of economy, efficiency and to provide more effective delivery of services, Departments procure/ outsource auxiliary and support services. Approval of the competent authority should be obtained before engaging service providers. We may justify need for Procurement of other services on consideration of:-

- i) Economy, Speed and efficiency and more effective delivery of services relating to additional requirement/ commitment/ usage of:
 - a) Staff/ Management/ Organization;

- b) Technological and Material Resources;
 - c) Money, and
 - d) Time/ Speed of execution
- ii) An administrative policy as may be decided by the company to outsource specific (class of) services;

9.4 Principles for Public Procurement of other (non-consultancy) services:

9.4.1 Other principles of Public Procurement as mentioned in Para 1.6 in chapter-1, are also equally applicable to Procurement of other services. Additional principles of procurement needed to ensure value for money in procurement of other services are to ensure:

- i) Services to be procured should be justifiable in accordance with Para 1.10 in Chapter-1;
- ii) In other (non-consultancy) services an Activity Schedule (a document covering well-defined scope of work/ description of services and the time frame for which services are to be availed of) should be consistent with the overall objectives of Procuring Entity;
- iii) Equal opportunity to all qualified service providers to compete should be ensured
- iv) Engagements should be economical and efficient; and
- v) Transparency and integrity in the selection process (that is, proposed, awarded, administered, and executed according to highest ethical standards);

9.4.2 **Period of Contract:** A very short period of contract would require spending needless administrative time in repeating the exercise at short intervals while a very lengthy contract period may affect service quality. Therefore, in the normal course, the period of initial contract may be fixed normally for two years.

9.4.3 **Extension of Contract:** The clause of extension of contract beyond the period of two years may be for a further period of one year subject to the service provider providing satisfactory service. Thereafter fresh bidding for new tender for the said service may be undertaken.

In case of contracts of regular nature (AMCs, ARCs etc.) where the services are required on continuous basis, action for renewal of such contracts or lining up of fresh contracts in its place must be taken by the user functions and PR should be forwarded to Commercial Dept. at least **four months** before the date of expiry/completion of contract.

As far as possible, extension of contract beyond provision of tender terms & conditions, should be avoided. Cases where action is not taken on time and extension of contract is necessary, prior approval from the competent authority must be taken before expiry of the contractual period.

9.4.4 **Instances of Multiple L1s:** In number of cases, especially non-consultancy services, usually multiple bidders emerge as L1. GeM provides following two options to choose the vendor to be engaged in case of multiple L1s:

- i) System determined vendor selection.
- ii) Selection by lottery conducted by NRL

Multiple factors may weigh upon the decision of selecting the successful contractor. GeM system based selection could be more transparent. The method of selection of successful contractor in case of multiple L1 should be decided and specified in the tender.

Evaluation of group tenders:

Methodology needs to be laid down in the tender document for priced bid opening and subsequent evaluation in case of composite tenders floated for several similar jobs grouped together in one tender document with preconditions like awarding one group to one vendor only.

If the job volume is planned to be distributed to two or more contractors, modality for the same should be clearly spelt out in the tender document.

Selection Through Lottery:

Selection of successful bidder(s) among multiple L1 bidders shall be determined through lottery in the following circumstances:-

- (i) Vehicle tenders where detailed estimate is displayed considering the bidder's capital and operational expenditure and margin.
- (ii) Manpower oriented tenders with displayed estimates.
- (iii) Other tenders with displayed estimates based on approved SOR.
- (iii) Other than above scenarios, where the prices of multiple L1 bidders remain same even after submission of revised priced bid / discount because of tie in the original prices.

The methodology for conducting lottery shall be specified in the tender documents. Commercial department shall conduct the lottery in presence of representatives from Finance and User department. The concerned bidders shall be invited to witness the lottery.

It may also be decided that in case the L1 agency selected through lottery refuses or fails to execute the job, the job (or balance part of the job) may be subsequently offered to any of the other L1 agencies (not selected for award so far), adopting appropriate selection process by NRL like lottery among the remaining interested agencies. Alternatively, a process for selection of wait listed L1 agency(ies) may be appropriately specified. Such conditions should be specified in the tender documents.

- In case of "refusal", subsequent award to next eligible agency shall be done within original or extended offer validity.
- In case of "failure", unexecuted quantities shall be offered to the next eligible agency within maximum one year from the original date of award.

Defaulting supplier/contractor shall be subject to penalties as per procedure.

9.4.5 Past Experience: Bid documents normally provide for a qualification criteria considering past experience. Normally past experience in supply of service at a particular station or to Central Government Ministries/ Departments may be considered as restrictive. However, in case such restriction is considered essential the same may be provided for in the bid documents, duly recording reasons for such decisions on the file.

9.4.6 Manpower Oriented Contracts: A uniform approach shall be adopted for all manpower oriented contracts as highlighted below:-

- a. **Uniform Minimum Margin:** A uniform process of allowing bidders to quote percentage of profit against manpower engagement, within the range of 5% to 15% of total gross wage amount i.e., Basic Wage, Statutory Allowance and Non-statutory Allowance. For other NRL locations such as

Siliguri, Delhi etc., Govt. declared wage rates may be applicable in line with the provision of local administration.

- b. **Standard Excel Format for preparation of Estimates:** A standard format of displaying contract worker wage rates in line with approved Wage Rates and quantity in man-days will be followed for all manpower oriented contracts. Bidder will be allowed to quote his profit % in a defined cell in Excel Sheet/ BOQ format and other SOR elements will be uneditable / display only.
- c. **Mandatory Display of Rates where manpower component is 100% or substantial:** Uniform procedure of displaying SORs/ estimates for manpower portion will be followed for all tenders where manpower component is 100% or substantial (i.e. wage components not less than 70% of estimated value). BOQ for other items will follow normal process.
- d. **Evaluation Process:** In case there are more than one L1 bidders above lower limit of 5%, additional discount within lower limit will be asked in closed envelope. Thereafter, if more than one bidder are found to be L1 then successful bidder will be selected through lottery.
- e. **Vetting of estimate not necessary, HoD's Certification shall suffice:** The contract worker wage rate for different skill categories are to be considered based on prevailing approved contract workers' negotiated/fair wage rates. Requirement of man-days (quantity) is estimated by EIC as per job requirement and displayed in the tender. Hence, further vetting of estimate by inter-disciplinary committee is not envisaged, respective HOD's certification shall suffice.

Engagement of Manpower: Engagement of manpower on a regular basis / through contractual basis can be done only with prior approval from the Committee of Functional Directors.

Following table is for guidance regarding requirement of approval of CFD for engagement of manpower in different categories on contractual basis:-

CFD Approval Matrix for Engagement of Manpower on Contractual Basis: (YES - CFD approval required ; NO - CFD approval not required)						
Type of manpower → Type of Contracts ↓	AMC Manpower (Unskilled to High Skilled)	One Time Manpower (Unskilled to High Skilled)	Supervisors / Site Engineers etc. under regular basis	Professional Manpower (Engineers/CA/Lawyers/ Doctors/Experts/Consultants etc.) under regular basis	Site-Supervisors / Site-Engineers under ad-hoc / on-call basis	Professional Manpower (Engineers/CA/Lawyers/Doctors/Experts/Consultants etc.) under ad-hoc / on-call basis
Existing Manpower - Renewal of AMC/ARC	NO	NO	NO	NO	NO	NO
Replacement of Existing Manpower - New /Renewal of AMC/ARC contract	NO	NO	NO	NO	NO	NO
Additional Manpower - New / Renewal of AMC/ARC contract	YES	YES	YES	YES	YES	NO
New one-time contract with manpower engagement	YES	YES	YES	YES	YES	NO
Works Contract - One time	YES	NO	YES	YES	NO	NO
OEM/Proprietary/Nomination contracts	NO	NO	NO	NO	NO	NO

9.5 Types of Contracts in Other (Non-consultancy) Services

Procurement/ Outsourcing of other (non-consulting) Services depending on the nature of services can be either Lump-sum contracts, Time-based contracts, or unit (item/ service) rate

based contract (as in case of Goods and Works - say Taxi Service on Km basis). Or it can be a mix of these. For occasionally but continually needed services, indefinite delivery contracts, based on time or unit (item/ service) rates may be appropriate. Other types of contracts are not usual in procurement of other services.

9.6 System of Selection in Other (Non-consultancy) Services

9.6.1 Unlike Procurement of Consultancy Services, **procurement of other services is done by a simpler process akin to those of procurement of Goods and Works**. It is normally done in a Single Stage (RfP) Process containing Technical and Financial bids. However in highly technical and complex services, where quality is important (say in studies like seismic surveys, airborne data acquisition etc) a pre-qualification (PQB) process may be done on the lines of procurement of Goods and Works.

9.6.2 **Open online tendering** should be the default method to ensure efficiency of procurement.

9.6.3 In procurement of other (non-consultancy) services normally system of selection used is lowest price (L-1) basis among the technically responsive offers, as in procurement of Goods/ works. Under very special circumstances, Limited Tender Enquiry or Single Source Selection may also be used.

9.7 One Stop Government e-Marketplace (GeM)

9.7.1 **Authority of procurement through GeM:** Please refer section 4.18 of the “Manual for Procurement of Goods”.

9.7.2 **GeM Portal:** <https://gem.gov.in>. Detailed instructions for listing of products, terms and conditions, online bidding, reverse auction, demand aggregation, call centre, etc. are available on GeM portal. Please refer relevant sections of the “Manual for Procurement of Goods” for further reference.

9.8 Procurement Proposal for other (non- consultancy) Services

The steps for initiating procurement (outsourcing) of Other (Non-consultancy) Services, is similar to that described in para 1.15 in Chapter 1.

9.9 Obtaining Final Administrative and Budgetary Approvals

Before a final administrative and budgetary approval is taken, a detailed Activity Schedule and Cost estimate is required to be prepared in following manner:

9.9.1 Activity Schedule and Other Requirements

The objectives of the Activity Schedule are:

- i) To provide sufficient information on the quantities of Services to be performed to enable bids to be prepared efficiently and accurately; and
- ii) When a Contract has been entered into, to provide a priced Activity Schedule for use in the periodic valuation of Services executed.

Besides detailing the activities, quantum and time frame, Activity Schedule should contain the following sections also:

- a) **Description of Services:** A brief description of service required is important information that

would help the bidders understand the service requirement. It should cover background about the Procuring Entity's organisation and about the project/ service. The Purpose and Service Outcome statement should be included in the description of services (as finalised for initiating the procurement - Para 1.15, Chapter-1) to help the service providers understand the requirement.

- b) **Itemized Activity Schedule:** In order to attain objectives of the Activity Schedule, Services should be itemized in the Activity Schedule in sufficient detail to distinguish between the different classes of Services, or between Services of the same nature carried out in different locations or in other circumstances which may give rise to different considerations of cost. Consistent with these requirements, the layout and content of the Activity Schedule should be as simple and brief as possible. All information relevant for the bidder to quote a price may be included e.g. -the frequency and quantum and time-frame/ duration of completion of activities to be performed. In activity schedule containing scores of items, evaluation can be simplified if the system used in Works contracts is borrowed, if feasible, where Schedule of rates (SoR) for each activity is specified in the bid documents by the Procuring Entity and only percentage +/- above the SoR (separately for different Schedules or combined) is asked to be quoted by the bidders.
- c) **Labour/ Personnel Activity Schedule:** If labour/ personnel are used in the activity, these may be quantified specifying place, shifts and frequency of utilization in the Activity Schedule. In case any key professionals or Project Manager is required, their qualification and experience required may also be mentioned. Any relievers and leave reserve for deploying the personnel should be included in the rate for such personnel and would not be separately payable.
- d) **Material Schedule:** In case any Materials/ Consumables/ tools of trade are to be consumed/ deployed, a Separate Materials Schedule should be included, indicating the specification and quantity of such materials/ consumables/ tools to be consumed/ deployed per unit activity/ day/ location/ per manpower deployed. Price of all these materials/ tools etc is to be shown as a separate lump-sum or unit cost in the financial bid by the bidder.
- e) **Essential Equipment Schedule:** Any essential equipment, machinery (Trucks, Cranes, Washing Machines, Vessels/ crafts, plant and machinery etc) that the service provider must have and should deploy as a qualifying requirement must be mentioned along with specification, capacity, age of equipment etc. It should be ensured that competent operators for such critical equipment must be mentioned as key personnel;
- f) **Reimbursement Items:** Please refer section 2.10 in the “Manual for Procurement of Works” for estimation and treatment of reimbursement items.
- g) **Performance Specifications, Drawings:** The performance specification or drawings if necessary should be specified for each activity, materials, tools and machines to be used in the activity. Any reporting requirement, periodic meetings or other submissions must be part of the activity schedule.
- h) **Statutory and contractual obligations to be complied with by the contractor:** Service provider mostly works within the premises of Procuring Entity, along with staff of Procuring Entity. Many services are subject to various statutory provisions relating to labour, taxation, Workmen Safety, Child and Women Labour, Private Security Agencies, Environmental Protection, Mining, Forest clearance, Employment reservations etc. The bidder must have GST, ESI, **EPF** Registration Certificate, Registration Declaration of ownership under Indian Registration Act 1908 and Labour License and PAN (Income Tax) etc. Moreover the Procuring Entity himself may have its own regulation about safety, security, confidentiality etc. All such

statutory and contractual obligations must be listed, so that price implications and compliance is taken care of by the bidder. In case of security services contracts, the bidder must have the valid license to run the business of Private Security Agency in the state issued by the appropriate authority for operating Security Services.

- i) **Facilities and Utilities to be provided by the Procuring Entity to service provider at Site:** It should be mentioned, if any facility/ utility (Operation Manuals, Emergency Medical, Room, Furniture, Electricity connection, Water connection) etc would be made available to the successful bidder to carry out the service. In case it is proposed to charge the Electricity/ Water supplied to the service provider, the same may be mentioned, including the rate of charges. This aspect has a great bearing on the cost that will be quoted by the bidders. This can have implications in vitiating the selection process either way - a facility to be provided may not get declared or a declared facility may not be provided ultimately. So great care and reality check is necessary, while preparing this Statement. Specially mention facilities and utilities which will not be provided, or the facilities which would be provided on chargeable basis. It should be clearly mentioned that the service provider will not be allowed to use any of Procuring Entity's facility/ area which are not listed in this section.

9.9.2 **Estimating Costs, Setting the Budget, and seeking Approval.**

Preparation of a well-thought-through cost estimate is essential if realistic budgetary resources are to be earmarked. The cost estimate shall be based on the Procuring Entity's assessment of the resources needed to carry out the assignment: managerial and staff time and physical inputs (for example, materials, consumables, tools and machines). Costs shall be divided into three broad categories:

- i) Remunerations for Personnel deployed;
- ii) Reimbursable: (Travel, logistics, Consumable, Material, Tools, Hiring of third party services etc.);
- iii) Administrative and Miscellaneous (Mobilisation, demobilisation, Temporary Structures, Administrative expenses, office and IT equipment, contingencies, financing costs, Costs for hiring/ depreciation/ financing of machinery and equipment etc).

9.9.3 **Final Administrative and Budgetary Approvals**

The Activity Schedule shall be compatible with the available budget. The most important step is to determine whether all tasks required to achieve the desired output have been included. The next step is to determine whether adequate budget has been allocated to implement the assignment as designed. Procurement should be initiated only after such approvals and budgetary provisions.

Appropriate WBS / Cost Centre having required fund has to be used in all POs. No PO should be issued with "Unknown" account assignment.

Services are procured against Cost Centre (K) and Project (P) and procurement budget is required during creation of PR and PO. Cost is booked in GL as soon as SES (Service Entry Sheet) is made and accepted in system.

For ARCs (outline agreement) adequate fund will be required only at the time of issuing Release Order.

- For revenue item procurement where budget is expected to be consumed across financial years, detailed procedure for "Control over release of Commitment Budget", issued by Finance Dept. to be referred.

9.10 Procedure for Single Source Selection (SSS)

Should it become necessary, in an exceptional situation to outsource a job to a specifically chosen contractor, the CA's approval may be taken. In such cases the detailed justification, the circumstances leading to the outsourcing by choice and the special interest or purpose it shall serve shall form an integral part of the proposal.

9.11 Procedure for Small Value and emergency Procurements of Other (Non-consultancy) Services

In many small value procurements of other services, the service provider may neither be capable of handling the bidding process, nor would this be a cost-effective process for the Procuring Entity. The 'Direct Procurement without Quotation' mode of procurement used in Procurement of goods may very well be utilised in such cases. Similarly for procurement of services 'Direct Procurement by a Purchase Committee' mode as used in procurement of Goods may be utilised. In all such modes of procurement, the procedure prescribed in the Manual for Policies and Procedures for Procurement of Goods may be followed.

Please refer "Manual for Procurement of Goods":-

Section 4.9 **Direct Procurement without Quotation**; and

Section 4.10(a) **Departmental Purchase**; and

Section 4.10(b) **Spot Purchase**

9.12 Procedure for Procurements through shortlisted agencies

The Procuring Entity should scrutinise the preliminary list of likely contractors shortlist the prima facie eligible and capable contractors and issue RfP to these shortlisted firms on a limited tender enquiry basis as per procedure in vogue.

9.13 Procedure for Open Tender Enquiry

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.

Notification (NIT) in such case should be given on Central Public Procurement Portal (CPPP) at www.eprocure.gov.in and/or on Government E-Market (GeM). In addition, NIT should be published in NRL website. The NIT for invitation of tenders should give the complete web address from where the bidding documents can be downloaded.

9.14 Preparation of the Request for Proposals (RfP)

In procurement of other (non-consultancy) Services, a Standard RfP document should be basis for preparation of Bid Documents. There are variations in the way information and sections in standard RFPs are formulated which may generally include the following information/sections:

- i) A letter of invitation (Loi) / Notice Inviting Tender (NIT);
- ii) Instructions to Bidders (ITB) and data sheet (which contains assignment specific information);

- iii) Qualification/ Eligibility Criteria for service providers;
- iv) Activity Schedules and other Requirements
 - a) Description of Service
 - b) Activity Schedule
 - c) Manpower Schedule: Assessment of Manpower for Deployment
 - d) Materials Schedule (indicating the specification and quantity of such materials/ consumables/ tools to be consumed/ deployed per unit activity/ day/ location/ per manpower deployed).
 - e) Essential Equipment: Any essential equipment, machinery that the service provider must have as a qualifying requirement along with specification, capacity, age of equipment etc.;
 - f) The statutory and contractual obligations to be complied with by the contractor.
 - g) Services & Facilities to be Provided by the Procuring Entity and respective obligations of the Procuring Entity and service provider
- v) General Conditions of Contract (GCC)- The prevailing GCC in NRL website be referred.;
- vi) Special Conditions of Contract (SCC);
- vii) Formats
 - a) Service provider's Bid Cover Letter
 - b) Qualification Information (Technical & Financial)
 - c) Formats for the Technical Proposal;
 - d) Format for the Financial Proposal
 - e) Agreed Terms & Conditions
 - f) Contract Agreement Form
 - g) Securities Formats
 - 1. Bid Security (Bank Guarantee)
 - 2. Security Deposit (Bank Guarantee)
 - h) Any other formats, as may be applicable on case to case basis

9.15 Important Provisions of ITB

9.15.1 **Eligibility Criteria:** Eligibility for firms to be considered as responsive bid in procurement of Other (Non-consultancy) Services should be specified. For example:

- i) The bidder must be registered under appropriate authorities i.e., GST authorities/Income Tax/EPF/ESI authorities/ PSARA / PAN etc, as applicable;
- ii) Consortium bids are normally not permitted in the procurement of Other (Non- consulting) services;
- iii) Each Bidder shall submit only one Bid for one RfP. The system shall consider only the last bid submitted through the e-procurement portal.

9.15.2 **Qualifying criteria** to be met by bidders to qualify for award of the Contract may be specified. Although the qualification criteria would depend on the type of service, its complexity and volume, broad qualifying criteria are given below. PQC should be approved by Functional Head of Indentor/User.:

i) **Financial Capability:**

- a) Average Annual financial turnover of related services during the last three years, ending 31st March of the previous financial year, should be at least 30% (thirty percent) of the estimated cost.
- b) Whenever felt necessary, the following aspects should also be taken care of while fixing the PQC: The applicant should have: (i) access to, or possess available liquid assets and other financial means (independent of any contractual advance payments) sufficient to meet the construction cash flow requirements for the subject contract, of the certain minimum amount specified; (ii) adequate sources of finance to meet the cash flow requirements of works currently in progress and for future contract commitments; and (iii) financial soundness as established by audited balance sheets and/ or financial statements.

ii) **Past Experience:**

The bidder must have successfully executed/completed similar Services (definition of "similar services" should be clearly defined), over the last ten years: -

1. Three similar completed services costing not less than the amount equal to 30% (thirty percent) of the estimated cost; or
2. Two similar completed services costing not less than the amount equal to 40% (forty percent) of the estimated cost; or
3. One similar completed service costing not less than the amount equal to 50% (fifty percent) of the estimated cost.

Value of past experience be adjusted at a simple rate of 7% for every completed year **and / or part thereof** ending last day of the month preceding the month in which bids are invited.

Note: If along with the term "completed works", the term "substantially completed" works is also to be accepted as "past experience" under PQC, the same should be clearly defined, justified and concurred by functional head of user dept. for individual cases. The value of such "substantially completed" works should match the value criteria specified for past experience in similar works.

- Definition of "similar work" should be clearly defined.
- The pre-qualification criteria specified in the tender document should neither be made very stringent nor very lax to restrict/ facilitate the entry of bidders. However, it should be ensured that the PQ criteria are exhaustive, yet specific and there is fair competition. It should also be ensured that the PQ criteria are clearly stipulated in unambiguous terms in the bid documents.)

The estimated cost for determination of PQC shall be the total estimated cost including 'reimbursement items' as well as 'SOR items to be quoted by bidders' (excluding GST).

iii) **Equipment and Personnel Capability: (Optional PQC)**

- a) Ownership / proposals for the timely acquisition (own, lease, hire, etc.) of the essential equipment listed in the BDS;
- b) Personnel capabilities, for example, a Contract Manager with five years' experience in Services of an equivalent nature and volume, including not less than three years as Manager;

iv) Any other technical criteria: (Optional PQC)

On case to case basis, wherever deemed necessary, any other technical qualification criteria w.r.t. the scope of work, capacity, additional experience, statutory requirement etc. may be stipulated. Such pre-qualification criteria should not be made very stringent or restrictive.

Table for applicability of PRE-QUALIFICATION CRITERIA:

	GTE	OTE	LTE	PAC/OEM	Nomination	Departmental / Committee Purchase
Goods	Optional	Optional	Optional	NA	NA	NA
Works	Yes	Yes	NA	NA	NA	NA
Consultancy Services	Yes	Yes	NA	NA	NA	NA
Other / Non- consultancy Services	Yes	Yes	NA	NA	NA	NA

NA - Not Applicable ; Yes – Applicable ; Optional – None or One or more qualifying criteria may be applied on case to case basis

Applicability of PQC is further subject to relaxations under MSE policy or any other Govt. policy. [MSE policy is not applicable for Works contracts]

9.15.3 Qualification Documents to be submitted: To judge their qualification, all bidders may be asked to include the following information and documents with their bids:

- i) Copies of original Registration certificate documents defining the constitution or legal status, place of registration, and principal place of business; written power of attorney of the signatory of the Bid to commit the Bidder. Appropriate business licences/ registrations:
 - a) GST registration certificate
 - b) PAN number
 - c) Copies of EPF, ESI, Labour license, as applicable
 - d) Copy of valid license under the Private Security Agencies (Regulation) Act, 2005 or the similar Act/ Rules promulgated by State in which the service is performed (in case of Security Service)
- ii) Copies of work orders and completion certificates in Services of a similar nature in support of meeting the PQC
- iii) Evidence of adequacy of working capital for this Contract (access to line(s) of credit and availability of other financial resources);
- iv) Audited financial Statements for the last three years (Copies of the Profit and Loss (P/L) statements along with Balance Sheet for the concerned period);
- v) Bank Account details;

9.15.4 Site Visit: The Bidder, at the Bidder's own responsibility and risk, may be encouraged to visit at their own cost, and examine the Site of required Services and its surroundings and obtain all information that may be necessary for preparing the Bid and entering into a contract for the Services.

9.15.5 Restrictions regarding Personnel Deployed: The quoted rates shall not be less than the

minimum wage fixed/notified by NRL / the State Government - where the service is performed and shall include all statutory obligations. However bids without any element of cost over and above such minimum wage (or below it) shall be treated as 'Nil' price quotation and would be rejected. The service provider shall be liable for all kinds of dues payable in respect of all personnel provided under the contract and the Procuring Entity shall not be liable for any dues for availing the services of the personnel. The service provider should ensure that persons to be deployed are not alcoholic, drug addict and not indulge in any activity prejudicial to the interest of the Procuring Entity. The service provider shall ensure to get the Police verification for all the manpower deployed by them and the contractor should ensure that the manpower deputed should bear good moral character.

9.15.6 Workmen Safety and Insurance: The service provider shall alone be fully responsible for safety and security and insurance or life insurance of their personnel who is working on the operation and maintenance works. The service providers (a) shall take out and maintain, and shall cause any Subcontractors to take out and maintain, at their (or the Subcontractors', as the case may be) own cost but on terms and conditions approved by the Procuring Entity, insurance against the risks, and for the coverage, as shall be specified in the SCC/GCC; and (b) at the Procuring Entity's request, shall provide evidence to the Procuring Entity showing that such insurance has been taken out and maintained and that the current premiums have been paid. The service provider shall provide and ensure sufficient protection gears like safety shoes, hand gloves, ladders, etc. are being used by their workers while carrying out works. The Procuring Entity shall not be liable for any compensation in case of any fatal injury/death caused to or by any manpower while performing/discharging their duties/ for inspection or otherwise.

However, the above shall be subject to other legal provisions / responsibilities of the procuring entity, under applicable laws.

9.15.7 Liquidated Damages for Delay in Performance and Incentives/ Bonus:-

Liquidated Damages: Compensation of loss on account of late delivery (actually incurred as well as notional) where loss is pre-estimated is termed as LD. Recovery of such pre-estimated loss is allowed provided such a term is included in the contract. There is no need to establish actual loss due to late delivery. Price reduction clause (PRC) for late delivery shall convey the same meaning as Liquidated Damages (LD).

The Contractor is liable to pay Liquidated Damages for per day of delay beyond the specified date of completion, an amount equal to 0.5% for every week or part thereof, subject to the total amount of Damages not exceeding 5% (five per cent) of the Contract Price. However, the Contractor is entitled to time extension arising out of delays on account of change of scope and force majeure or delays caused by or attributable to NRL. The Procuring Entity may deduct liquidated damages from payments due to the service provider. Payment of liquidated damages shall not affect the service provider's liabilities.

Normally, tenders shall be invited with reference to a pre-determined period of completion of services. Provision of incentives for completion of service before schedule should be sparingly made after careful assessment of tangible benefits there from and disclosed in the tender documents in clear monetary terms.

Incentives/ Bonus (e.g. one percent of the contract value per month subject to a maximum of five percent of contract value) for early completion and penalties for delay should, therefore, be built into the contract very judiciously. To avail of the incentive clause, it shall be mandatory on the part of the contractor to report the actual date of completion to the concerned Engineer (Engineer herein refers

to EIC). To implement a bonus clause in any tender, prior administrative approval of CFD shall be obtained by indenting/user department.

9.15.8 Penalty for non-performance: If the service provider has not corrected a Defect within the time specified in the Procuring Entity's notice, a penalty for Lack of performance will be paid by the service provider. The amount to be paid will be calculated as a percentage of the cost of having the Defect corrected, as assessed by EIC or as described in SCC/GCC.

9.15.9 Filling up the Financial Bid by the Bidders: The Bidder should be asked to fill in rates and prices for all items of the Services described in the Activity Schedule. Items for which no rate or price is entered by the Bidder will not be paid for by the Procuring Entity when executed and shall be deemed covered by the other rates and prices in the Activity Schedule. The priced Activity Schedule contains sections on Remuneration for Staff deployed, Reimbursable Expenses and Miscellaneous Expenses. All duties, taxes, and other levies payable by the service provider under the Contract, or for any other cause, as in the month prior to the month of the deadline for submission of bids, should be included/indicated in the total Bid price submitted by the Bidder. Bidding Documents should include a clause that **"if a firm quotes NIL charges/consideration, the bid shall be treated as unresponsive and will not be considered"**. In case of e-tendering, the soft copy BOQ (priced bid format) should be free of ambiguity and user friendly. All necessary information should be provided in the BOQ format to guide the bidder for correct uploading of their quoted price; further, if any formula is used to arrive at the total quoted price from the unit prices entered by the bidder, the formula should be made known to the bidder.

9.15.10 Price Adjustment

9.15.11 Please refer clause 6.5.5 'Price Variation' in the "Manual for Procurement of Works"

9.16 Standard Formats for Technical and Financial Proposals

- i) The standard formats for technical proposals should generally include:
 - a) service provider's Bid Cover Letter (including eligibility, following Code of Integrity in Public Procurement - CIPP);
 - b) Power of attorney;
 - c) Qualification Information with enclosures (Technical & Financial);
 - d) Write up on Bidder's Organisation, confirmation of compliance with (or deviations from) Description of Services, Activity Schedule, Essential Equipment Schedule, Manpower/ Team, Statutory Obligation and Facilities to be provided by the Procuring Entity, Statutory and Contractual requirements, Respective obligations of Procuring Entity and service provider, Contract For, GCC and SCC; etc. and
 - e) Enclosures: Bid Security (EMD)
- ii) The standard formats for a financial proposal include:
 - a) Financial Bid Format;
 - b) Breakdown of Contract Prices

9.17 Receipt of Bids, Evaluation and Award of Contract

9.17.1 Receipt and opening of Bids is done in a manner similar to procurement of other categories. Guidelines regarding constitution of bid opening committee are provided in the DOA.

9.17.2 The Procuring Entity should evaluate, segregate, rank the responsive bids and select the successful bidder for placement of the contract, in a manner similar to Procurement of Goods/ Works. Procuring Entity will award the Contract to the Bidder whose Bid has been determined as the lowest evaluated Bid price, provided the offer is determined in accordance with the bid documents to be:

- i) Substantially responsive;
- ii) Eligible bidder;
- iii) Meets the minimum Technical/ qualification standards

9.17.3 If, the contract is being let on a "slice and package" basis, the lowest evaluated Bid Price will be determined when evaluating the contract in conjunction with other contracts to be awarded concurrently, taking into account any discounts offered by the bidders for the award of more than one contract.

9.17.4 The Procuring Entity reserves the right to accept or reject any Bid, and to cancel the bidding process and reject all bids, at any time prior to the award of Contract, without thereby incurring any liability to the affected Bidder or bidders or any obligation to inform the affected Bidder or bidders of the grounds for the Procuring Entity's action.

9.17.5 Notification of Award, Security Deposit and Signing of the Contract also follows same procedure as in other categories of procurements.

9.17.6 **Quality-cum-cost based Selection (QCBS) for Works and Non-Consultancy Services:**

Clause 4.9.1A of the "Manual for Procurement of Works" may please be referred.

9.18 Monitoring the Contract

Before commencement of the Services, the service provider shall submit to the Procuring Entity for approval a Program showing the general methods, arrangements, order and timing for all activities.

After studying time allowed for completion, the EIC should plan the work in consultation with the contractor, to complete the same within the stipulated time and make available the work front to the contractor in time to enable him to execute the work without delay. A time schedule for completion of various stages of the work should be drawn up and got duly signed from the representative of the contractor.

The Services shall be carried out in accordance with the approved Program as updated. The process is described in chapter-8, which is broadly applicable to both Consultancy and Non-consultancy services.

Release of Procurement Manuals on 7th November 2022



The first version of the three updated Manuals for (i) Procurement of Goods, (ii) Procurement of Works, and (iii) Procurement of Consultancy & Other Services were released on 7th November 2022 during the closing function of Vigilance Awareness Week in the august presence of Former Chief Secretary of Assam and Chairman APDCL Shri Jishnu Barua, IAS (Retd); CVO OIL & NRL Shri Amit Saran (IRSME); Managing Director NRL Shri B J Phukan and Director (Finance) NRL Shri Indranil Mittra.