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FINANCE MINISTER

དངུལ་རྩིས་སྒྲོན་པོ།
ROYAL GOVERNMENT OF BHUTAN
MINISTRY OF FINANCE
TASHICHHO DZONG
THIMPHU



MoF/DNP/PMDD-14/2021-22/523

2 November 2021

NOTIFICATION

Subject: Simplified Procurement Rules and Regulations (SPRR) 2021

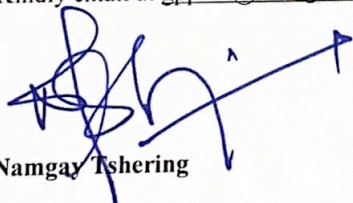
On 29 June 2020, recognizing the challenges in the wake of COVID-19 pandemic, the Ministry of Finance issued the Simplified Procurement Rules and Regulations (SPRR) 2020, vide Notification no. MoF/DNP-14/2019-2020/1500 dated 29 June 2020 which was effective from 1 July 2020 to expedite the implementation of 12th FYP including projects under the Economic Contingency Plan. Over one and half year of implementation of SPRR 2020, it has proved to be very effective, providing reduction in turnaround time while adopting the different methods of procurement, enhancement of procurement threshold and flexibilities in the procurement processes.

Despite having a robust rule in place, Procuring Agencies have not been able to derive an optimal balance of costs and benefits (value for money). Beyond monetary value, reliability and accountability while carrying out procurement still remains a challenge and grave concern. As we go through unprecedented times, with hope to negate the adverse impacts of COVID-19 and steer the economy on the track to recovery through procurement, the SPRR 2020 has been reviewed in close coordination and collaboration with the relevant stakeholders.

Therefore, **superseding the SPRR 2020**, the Ministry of Finance would like to notify all Procuring Agencies on the issuance of **Simplified Procurement Rules and Regulations (SPRR) 2021**. The SPRR 2021 aims to ensure and achieve transparency & accountability, quality & timeliness, cost effectiveness & efficiency and fair & equal access for award of contracts.

This notification shall be effective from 2nd November 2021.

Kindly email at gppmd@mof.gov.bt or contact at 02-336962 for any clarification or interpretation.


Namgay Tshering

Copy to:

1. The Hon'ble Prime Minister, Gyalyong Tshokhang, Thimphu.
2. Dashi Zimpon, Office of the Gyalpoi Zimpon, Thimphu.
3. The Auditor General, Royal Audit Authority, Thimphu
4. All Constitutional Heads, Government Secretaries, Dzongdags, Thrompons, Heads of Autonomous Bodies, Drungpas and Gups.
5. All Procurement Officers, to guide and facilitate smooth implementation.

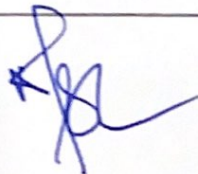


SIMPLIFIED PROCUREMENT RULES AND REGULATIONS
(SPRR) 2021

Ministry of Finance
1 November, 2021

CHAPTER ONE : PRELIMINARY	4
Rationale	4
Objective	4
Application	4
Responsibility and Power of Procuring Agency	4
CHAPTER TWO : PROCUREMENT OF WORKS	5
Methods of Procurement	5
Open Tender Method (OTM)	5
Limited Tendering Method/ Limited Enquiry Method (LEM)	5
Direct Contracting Method (DCM)	6
Community Contracting	6
Other conditions for works	7
Splitting of Works	7
Mobilization Advance	7
Lifting Reschedule Notification	7
Change in quantities	7
Performance Security	7
Retention Money	7
Milestone Contract	7
Early Termination	8
Specialized Sub-contracting	8
Monitoring of contracts	8
CHAPTER THREE : PROCUREMENT OF GOODS & NON-CONSULTANCY SERVICES	9
Methods of Procurement	9
Open Tender Method (OTM)	9
Limited Tendering Method/ Limited Enquiry Method (LTM/LEM)	9
Direct Contracting Method (DCM)	10
Domestic Preference	10
Advance payment for Goods	11
Quality of Goods	11
Specification of Brands	11
CHAPTER FOUR : PROCUREMENT OF CONSULTANCY SERVICES	12
Advertising for shortlist	12
Receipt of Proposal	12
CHAPTER FIVE : OVERALL GENERAL CONDITIONS	13

Preparation of Bidding Documents	13
Time Taken for Evaluation	13
Lifting of Referral to higher level Tender Committee	13
Bid Securing Declaration	13
Pre- Bid Meeting	13
Best Evaluated Bid (BEB)	14
Negotiation of Contract Prices	14
Next process upon Termination of Contract	15
Mandatory Minutes and Records	15
Verification and Payment of Bills	15
Dispute Resolution	16
Exclusion of Bidders	16



CHAPTER ONE : PRELIMINARY

Rationale

1. Recognizing the unprecedented time, with hope to negate the adverse impacts of COVID-19 and steer the economy on the track to recovery through procurement the Ministry of Finance simplified the Procurement Rules and Regulations for Procurement of Goods, Works and Services as an interim measure during the COVID-19 situation.

Objective

2. To objective of SPRR shall be to ensure:
 - 2.1. Transparency & Accountability
 - 2.2. Quality & Timeliness
 - 2.3. Cost effectiveness and efficiency.
 - 2.4. Fair and equal access for award of contracts.

Application

3. This Rule shall be effective from 2 November 2021 and shall supersede SPRR 2020.
4. Shall apply to all procurement of Goods, Works & Services by all Government agencies.
5. Other than the conditions specified in this Rule, all relevant provisions in the PRR 2019 shall apply.

Responsibility and Power of Procuring Agency

6. In addition to the responsibilities and powers specified in Clause 3.1.2; 3.1.3 and 3.1.4 of the PRR 2019:
 - 6.1. While carrying out procurement activities under this Rule, Procuring Agencies should always ensure that the objectives of transparency & accountability, quality & timeliness, cost effectiveness & efficiency and fair & equal access for award of contracts are taken into consideration.
 - 6.2. The respective Tender Committee shall be the **Competent Authority** and shall have the power vested in making any procurement decision beyond the responsibilities and powers prescribed in PRR having exercised due diligence and best of their judgment but not contravening the existing provisions.
 - 6.3. The Tender Committee, Tender Evaluation Committee and other officials involved in procurement shall always act in accordance with the highest standard of ethics and shall be fully responsible and directly accountable for all the decisions taken.
 - 6.4. The decision of the Tender Committee shall be final and binding.



CHAPTER TWO : PROCUREMENT OF WORKS

Methods of Procurement

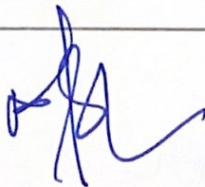
7. The Procuring Agency may choose to apply any of the following procurement methods while procuring works:
 - 7.1. Open Tender Method (OTM)
 - 7.2. Limited Tendering Method/ Limited Enquiry Method (LEM)
 - 7.3. Direct Contracting Method (DCM)
 - 7.4. Community Contracting

Open Tender Method (OTM)

8. Works above Nu. 15 Million (Ngultrum Fifteen Million) be awarded following the OTM.
9. Minimum days for submission of Bids reduced from thirty (30) to ten (10) days. However where necessary the procuring agency may prescribe a realistic time limit taking into consideration the complexity of the project and the time that would be required to complete the bid submission process.
10. Standstill period reduced from ten (10) days to two (2) working days. The Procuring Agency shall observe 2 working days standstill period from the date of the issuance of letter of intent to award to allow the bidders to lodge complaints if aggrieved by the decision of the tender committee.
11. Award and Conclusion of Contract: Signing of Contract shall be executed within five (5) days from the issuing of a letter of acceptance.

Limited Tendering Method/ Limited Enquiry Method (LEM)

12. Works upto Nu. 15 Million (Ngultrum Fifteen Million) may be awarded through LTM/LEM.
13. Employ only Bhutanese construction workers. However, based on the decision of the Tender Committee, foreign workers may be employed wherever it is necessary.
14. Minimum days for submission of Bids reduced from five (5) to three (3) days. However where necessary a procuring agency may prescribe a realistic time limit taking into consideration the market situation, the complexity of the project and the time that would be required to complete the bid submission process.
15. Invitation to be sent to at least two contractors after prior approval from the Tender Committee.
16. Short listing of contractors to be based on past performance (like timely completion, quality of works carried out, similar works carried out in past), no adverse record as maintained by Procuring Agency(ies) and CDB, capacity of the contractors and other applicable criteria. The shortlisting of the contractor shall be approved by the Tender Committee.



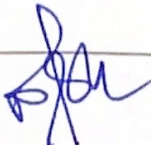
17. Evaluation should be completed within five (5) working days from the opening of the bids under this method. Special approval from the Tender Committee will be required incase of delay in evaluation process.
18. Standstill period reduced from ten (10) days to two (2) working days. The Procuring Agency shall observe 2 working days standstill period from the date of the issuance of letter of intent to award to allow the bidders to lodge complaints if aggrieved by the decision of the tender committee.
19. Award and Conclusion of Contract: Signing of Contract shall be executed within five (5) days from the issuance of letter of acceptance.

Direct Contracting Method (DCM)

20. Works up to Nu. 10 Million (Ngultrum Ten Million) may be awarded through direct contracting method.
21. Employ only Bhutanese construction workers. However, based on the decision of the Tender Committee, foreign workers may be employed wherever it is necessary.
22. Selection of contractors to be based on past performance (like timely completion, quality of works carried out, similar works carried out in past), no adverse record maintained by the procuring agency(ies) and Construction Development Board (CDB), capacity of the contractors and other applicable criteria. The selection of the contractor shall be approved by the Tender Committee.
23. Negotiations shall be carried out on prices and terms and conditions.
24. The detailed terms and conditions of contract should be spelt out properly based on relevant provisions from General Conditions of Contract (GCC) and Special Conditions of Contract (SCC) of the Standard Bidding Documents and drawing proper contract agreements.
25. Evaluation and award should be completed within two (2) working days from the opening of the bid. Special approval from the Tender Committee will be required incase of delay in evaluation process.
26. Once the contractor is selected, the details of award of work, the information of engaged HR and equipment shall be entered into the Construction Industry Information (CiNET) through Construction Development Board (CDB) immediately for record and reference.
27. PRR Clause 4.2.5.2 (f) Additional works exceeding twenty percent (20%) of the original contract and subject to availability of budget within the same program, approval must be sought from the Finance Committee *constituted as per MoF Notification no. DNB/RULES/2018-19/555 dated 9th April 2019*

Community Contracting

28. Works upto Nu. 1.5 Million may be awarded through community contracting method as per community contracting protocol.



Other conditions for works

Splitting of Works

29. Procurement of works may be split into packages by the Tender Committee to apply the above mentioned procurement methods.

Mobilization Advance

30. Superseding the Ministry of Finance Notification no. MoF/DNP/GPPMD-14/2020-21/892 dated 23 March 2021, determining the mobilization advances payment up to 20% shall be left up to the procuring agencies basing on the nature of project.

Lifting Reschedule Notification

31. The Ministry of Finance notification no. MoF/DNP/GPPMD-09/2020-21/611 dated 21st January 2021 is hereby lifted. The procuring agencies to work out a realistic project duration taking into account the present situation.

Change in quantities

32. Change in quantities for a particular item of work can be considered as variation only if the following two conditions are fulfilled:
- 32.1. If the final quantity of the work done differs from the quantity in the Bill of Quantities (BoQ) for the particular item by more than twenty percent (20%) and
 - 32.2. The cost of variation beyond twenty percent (20%) limit exceeds one percent (1%) of the Initial Contract Value
 - 32.3. Any change in quantity variation shall be approved by the Tender Committee prior to execution of the work.

Performance Security

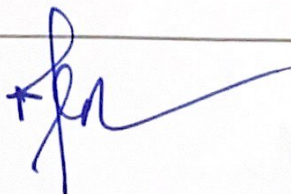
33. Performance Security of 10% of contract amount must be furnished prior to execution of contract agreement under all methods. The 10% Performance Security shall be valid till the end of Defect Liability Period and shall be returned upon issuance of no defect liability certificate.

Retention Money

34. Retention money shall not be deducted from the amounts payable to the contractor in accordance with the progress of the works.

Milestone Contract

35. Contracts shall be executed based on agreed milestones, which shall be *Specific, Measurable, Achievable, Realistic and Timely (SMART)*, set in the work schedule of the contract documents, executed between the procuring agency and contractor.



36. If parties to a contract decide to have a separate milestone agreement executed, it should be in consonance with the work schedule mentioned above.

Early Termination

37. Notwithstanding termination provisions in PRR 2019 and Contract documents, a contract can be prematurely terminated by the procuring agency upon failure by the contractor to mobilize resources and commence physical activities within 45 days from the date of issuance of letter of start/proceed.
38. Contract can be terminated based on non-compliance to milestones set and agreed as mentioned in clause 35 & 36 of this rule.
39. These conditions should be clearly spelled out in the Special Conditions of Contract (SCC) when preparing the contract documents.

Specialized Sub-contracting

40. Any Subcontractors proposed by the contractor shall be approved by the Procuring Agency only if registered as a Specialized Firm (SF) with CDB for the specific parts of the Works as per the contract terms and conditions.
41. Subcontracting to other contractors or without prior approval of the procuring agency shall lead to fundamental breach of contract and termination of contract.

Monitoring of contracts

42. The Tender Committee shall MANDATORILY carry out compliance monitoring including the milestones agreed.
43. Monitor periodical progress implementation of contract, including determination of volume of works accomplished according to work plan, milestone agreement and inspection of quality aspects.
44. Schedule frequent meetings at least once in every month between the Contractor and procuring agency to review the progress and if necessary for timely intervention.
45. Project Engineer to submit the **monthly progress report** to the Head of Procuring Agency.
46. Monitor works ensuring that works are executed as per the contract and invoking the relevant monitoring tools from the General Conditions of Contract (GCC) and Special Conditions of Contract (SCC) of the SBD and other contract terms and conditions.
47. The Procurement Officers shall be involved in the entire procurement process, including the monitoring of projects within the agency.
48. The Dzongkhag Tender Committee may also carry out periodic monitoring of capital works in Gewogs, to ensure timely completion of works, assure quality, provide technical backstopping and enhance coordination between the Dzongkhag and the Gewog,.

CHAPTER THREE : PROCUREMENT OF GOODS & NON-CONSULTANCY SERVICES

Methods of Procurement

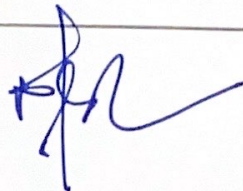
49. The Procuring Agency may choose to apply any of the following procurement methods while procuring goods:
- 49.1. Open Tender Method (OTM)
 - 49.2. Limited Tendering Method/ Limited Enquiry Method (LEM)
 - 49.3. Direct Contracting Method (DCM)

Open Tender Method (OTM)

50. Procurement of Goods above Nu. 1.00 Million (Ngultrum One Million) be awarded following OTM.
51. Minimum days for submission of Bids reduced from thirty (30) to ten (10) days. However where necessary the procuring agency may prescribe a realistic time limit taking into consideration the complexity of the project and the time that would be required to complete the bid submission process.
52. Standstill period reduced from ten (10) days to two (2) working days. The Procuring Agency shall observe 2 working days standstill period from the date of the issuance of letter of intent to award to allow the bidders to lodge complaints if aggrieved by the decision of the tender committee.
53. Award and Conclusion of Contract: Signing of Contract be executed within five (5) days from the issuance of letter of acceptance.

Limited Tendering Method/ Limited Enquiry Method (LTM/LEM)

54. Procurement of Goods upto Nu. 1.00 Million (Ngultrum One Million) may be awarded using the LTM/LEM.
55. Minimum days for submission of Bids reduced from fourteen (14) to three (3) days. However, where necessary the procuring agency may prescribe a realistic time limit taking into consideration the complexity of the project and the time that would be required to complete the bid submission process.
56. Invitation to be sent to at least three suppliers after prior approval from the Tender Committee.
57. Short listing of suppliers to be based on past performance (like timely completion, quality of goods supplied, similar works carried out in past), no past adverse record, capacity of the supplier and other applicable criteria.
58. Evaluation should be completed within three (3) working days from the opening of the bids. Special approval from the Tender Committee will be required incase of delay in evaluation process.



59. Standstill period reduced from ten (10) days to two (2) working days.
60. Award and Conclusion of Contract: Signing of Contract be executed within five (5) days from the issuance of letter of acceptance.

Direct Contracting Method (DCM)

61. There is no monetary threshold under DCM, however, this method may be applied:
 - 61.1. Up on fulfillment of any of the conditions laid down in Clause 4.2.5.2 of the PRR 2019; or the changes below-
 - a) In case of purchase up to a maximum of 0.050 (point zero five) million for the purpose of day to day administration.
 - b) In the absence of at least three bids following the application of Limited Enquiry methods, provided the terms of bidding documents have not changed.
 - c) Where, for unique nature of procurement, technical reasons or for reasons connected with the protection of industrial property rights the contract may be executed by only one supplier or contractor, provided that there is no suitable substitute;
 - d) In the case of additional supplies which are intended as a partial replacement, for repair of equipment, and supplies in continuation of an existing procurement contract where a change of supplier would oblige the procuring agency to acquire material having different technical characteristics which would result in incompatibility or technical difficulty in operation and maintenance or disproportionate additional cost;
 - e) Clause 4.2.5.2 (e) the 15% maximum ceiling in case of repeat order previously procured through competitive bidding shall not apply in case unit price are same or lower than those in the original contract, provided that such prices are still in the most advantageous to the government after price verification.
 - f) The Procurement of Goods under the COVID-19 situation with extremely tight deadlines to complete the Projects and will lead to delay through the other Procurement Methods, shall also be considered as an "emergency" situation under Clause 4.2.5.2 (g).
 - 61.2. Evaluation and award should be completed within two (2) working days from the opening of the bid. Special approval from the Tender Committee will be required incase of delay in evaluation process.

Domestic Preference

62. Procurement of locally manufactured/ produced goods shall be given a preferential treatment of 10% Domestic Preference as per the Guidelines issued by the Ministry of Finance vide Notification no. MoF/DNP-14/2019-20/1501 dated 29 June 2020.

Advance payment for Goods

63. Clause 5.1.13.1 of PRR is revised, in case of procurement of goods, the Tender Committee shall have the authority to consider advances of more than ten percent (10%), secured against a bank guarantee.
64. Clause 5.1.13.2 of the PRR is revised, in case of direct contracting by a procuring agency from the manufacturer or principal company, 100% (hundred percent) advance may be considered against provision of unconditional Bank Guarantee. However, advance guarantee may be waived off if the Tender Committee is sufficiently convinced that there is no risk in delivery of goods or recovery of the advance amount.

Quality of Goods

65. It is critical that the Procuring Agency based on the needs, market research and nature of procurement set proper technical specifications and bidding documents. However, quality cannot be determined solely based on documents received in response to an invitation for bids.
66. To confirm quality and detect any defects or damages, the goods should be inspected during the receiving process. If any non-conformity, defects or damage is detected, a remedy can be sought based on the terms and conditions of the contract.
67. All Procuring Agencies shall MANDATORILY constitute a Goods Receiving Committee led by the Procurement Officer or the relevant technical officer to carry out the full inspection & conformity check during receipt of goods. Any certification of faulty acceptance of the goods shall be directly accountable to the concern officer

Specification of Brands

68. Revising Clause 5.2.2.12 of the PRR 2019, the Procuring Agencies are allowed to specify brand names. However, to ensure that competition is not restricted or to favour any particular supplier, the Procuring Agency basing on the nature of procurement having carried thorough market research and need analysis can at least specify TWO BRAND NAMES which shall be approved by the Tender Committee.



CHAPTER FOUR : PROCUREMENT OF CONSULTANCY SERVICES

Advertising for shortlist

69. The number of days to obtain expression of interest under Clause 7.3.1.5 of PRR 2019 reduced from “not less than fourteen (14) days” to “not less than seven (7) days” from the date of publication to provide for responses, before preparation of the short list.
70. Revising Clause 7.3.1.2 (c) and Clause 7.3.1.5 of the PRR, Requesting and Advertising for Expression of Interest (EoI) for preparation of shortlists shall be left to the discretion of the procuring agency. The procuring agency shall have the authority to directly go for the Request for Proposal (RFP) stage basing on the nature and complexity of the project.

Receipt of Proposal

71. Under Clause 7.3.1.8 of PRR the procuring agency shall allow enough time for the consultants to prepare their proposals depending on the nature of the services. The time allowed has been reduced from “not less than two (2) weeks” to “not less than one (1) week”.
72. Standstill period reduced from ten (10) days to two (2) working days. The Procuring Agency shall observe 2 working days standstill period from the date of the issuance of letter of intent to award to allow the bidders to lodge complaints if aggrieved by the decision of the tender committee.
73. Award and Conclusion of Contract: Signing of Contract be executed within five (5) days from the issuance of letter of acceptance.



CHAPTER FIVE : OVERALL GENERAL CONDITIONS

Preparation of Bidding Documents

74. Preparation of Bidding Documents for procurement of Goods, Works and Services shall be done through e-GP System by the Procuring Agencies already implementing e-GP.

Time Taken for Evaluation

75. The time taken for evaluation of bids for Open Tender Method and Consultancy Services will depend on Evaluation Committee's efforts and for any delays beyond the reasonable time, they shall be accountable.

Lifting of Referral to higher level Tender Committee

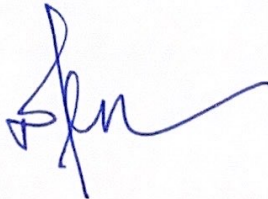
76. The Tender Committee of Local Government (Gewogs, Drungkhags, Dzongkhags and Thromdes) and Autonomous Agencies are empowered to decide on award of GOODS, WORKS and SERVICES above the thresholds prescribed in Clause 3.1.1.10 of the PRR 2019 without having to refer to higher level tender Committee.

Bid Securing Declaration

77. If a bidder is in breach of conditions of bid securing declaration, the number of days for which the bidder shall be required to pay the bid security amount specified in the bidding data sheet has been reduced from within 14 days to within 7 days and failure to do so will automatically exclude the bidder from bidding or submission bids in any contract with the procuring agency for period of two years.
78. Subsequent to the exclusion mentioned above, the procuring agency shall immediately intimate Construction Development Board (CDB) for imposing a relevant administrative sanctions as per the Ethical Code of Conduct for Contractors or any other relevant legal instruments.

Pre- Bid Meeting

79. Revising Clause 5.1.5.1(c) of the PRR, pre-bid meetings shall be conducted to clarify doubts and concerns of the bidders prior to submission of bids. Records of Discussion of Pre Bid Meeting shall be maintained.
80. The pre-bid meeting shall be MANDATORILY conducted as per the threshold given



below:

Category of procurement	Threshold (Nu.)
Procurement of Works	50 million and above
Procurement of Goods	10 million and above
Procurement of services	5 million and above

81. For procurement of goods, works and services below the above thresholds shall be at the discretion of the procuring agencies as approved by the head of the Procuring Agency.
82. The procuring agencies shall carry out the pre-bid meeting face-to-face or virtually.
83. The Pre-Bid Meeting shall be attended by the owner or the bidder's representative who will be authorized to prepare the tender/sign the contract agreement after the award of the contract.
84. The person representing the bidder in the pre-bid meeting shall be required to furnish power of attorney/self declaration form. The identity of the person attending the meeting shall be verified by the procuring agency.
85. Agreed Minutes of the pre bid meeting shall be circulated to all the participating bidders.

Best Evaluated Bid (BEB)

86. The Lowest Evaluated Bid shall be replaced by Best Evaluated Bid. The Best Evaluated Bid means the responsive bid which offers the best value for money, evaluated on the basis of various objective criteria set out in the bidding document. BEB does not necessarily mean the lowest quoted price (price shall be only one criteria for evaluation).
87. Responsive bids shall mean substantially responsive bids where the bidder fulfills the eligibility and qualification criterion, terms & conditions and technical specifications laid down in the bidding document without material deviation or reservation.
88. Material deviation or reservation is one which affects in any substantial way the scope, quality or performance of the assignment under bid, or which limits in any substantial way and is inconsistent with the bidding documents, the procuring agencies right or the bidders obligations under the contract, or whose rectification would affect unfairly the competitive position of other bidders presenting responsive bids.

Negotiation of Contract Prices

89. For procurement of goods and works for Open Tendering Method (OTM) and Limited Tendering Method/Limited Enquiry Method (LTM/LEM) negotiation of contract price is allowed and for the procurement of Consultancy Services, in addition to the existing provision of negotiation, the contract price may also be negotiated, if:
 - 89.1. It can result in cost benefit and in best interest of the procuring agency;

- 89.2. The bid has been technically qualified and fulfilled all the requirements and terms & conditions.
- 89.3. The bid exceeds departmental estimates having reviewed the estimate after ensuring that it is realistic or the bid is abnormally high as compared to market rates.
- 89.4. The Tender Committee shall decide whether to carry out negotiation or not. Accordingly the Tender Committee shall direct the Tender Evaluation Committee to carry out the negotiation which shall be presented to the Tender Committee for final decision.

Next process upon Termination of Contract

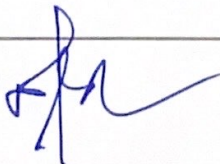
- 90. In case a contract is terminated, in the interest of the project, the Procuring Agency shall have the authority to decide if want to:
 - 90.1. re-tender; or
 - 90.2. execute the works departmentally in case of works; or
 - 90.3. directly award; or directly procure from the market in case of goods.

Mandatory Minutes and Records

- 91. It shall be MANDATORY for the Procuring Agency to maintain detail, proper minutes and records of the deliberations and decisions and the reasons for any decision or action.

Verification and Payment of Bills

- 92. Procuring Agency shall ensure that the verification and payment shall be made not later than twenty five (25) *[15 day for engineers to verify the claims and 10 days for accounts personnel to process and effect the final payment]* days after the submission of correct bills/ invoice in complete form or request for payment by the Contractor.
- 93. Procuring Agency shall ensure that the verification and payment shall be made not later than 15 (fifteen) days after the submission of correct bills/ invoice in complete form or request for payment by the Supplier/ consultant.
- 94. In case of delay in payment, interest shall be calculated from the date by which the payment should have been made up to the date when the late payment is made at the prevailing rate of interest for overdraft facilities availed from respective financial institutes.
- 95. The official concerned resulting in the delay in payment shall be fully responsible and directly accountable.
- 96. All payments to be routed through proper Banking channels.
- 97. If there are reasonable grounds to believe that the bills have to be further corrected or verified, the Tender Committee shall extend the time payment timeline and accordingly inform the contractor/ supplier/ consultant.



Dispute Resolution

98. In line with Clause 6.3.8 of the PRR, the Procuring Agencies while preparing the bidding documents shall clearly specify in the Special Conditions of Contract (SCC) the mechanism for dispute resolution at the time of contract implementation. Procuring agencies shall have the option to choose the method for resolving any dispute i.e., whether it will be resolved through arbitration or Court of law. However, this has to be clearly spelled out in the contract documents.

Exclusion of Bidders

99. In continuation to Clause 2.1.4 of the PRR, any information on non fulfilment of breach of bidding terms and conditions or not fulfilment of contractual obligations shall MANDATORILY be sent to Construction Development Board (CDB) by the procuring agency for imposing a relevant administrative sanctions as per the Ethical Code of Conduct for Contractors or any other relevant legal instruments.

