

PROCUREMENT REFORMS



Sensitization Presentation

21st October, 2019

LEGAL BASIS

- Section 104 (i) of the PFA (amendment 2012) states that MoF may issue rules and regulations on Procurement system which is equitable, transparent, competitive and cost effective

BASIS & OBJECTIVES

- Procurement have increased by manifolds in last five decades
- This revision is a very important milestone in the procurement history, this is the second reform after 2009
- Incorporate the concerns/recommendations of National Council, RAA reports, World Bank, 8th Engineering Conference, CAB and other stakeholders
- Incorporate changes due to new initiatives and Modernization of the procurement system
- Harmonize with relevant documents

Chronology of Consultations

22-23 January 2018	Government Agencies
24 January, 2018	Autonomous Agencies (ACC, ECB, RAA, NEC)
10-11 February, 2018	2 nd Annual Procurement Workshop
12-16 March, 2018	Reviewed by Multi-Sectoral Task Force (MoWHS, CAB, CDB, MoF, RAA, MoE)
May, 2018	Annual Contractors' forum
5 September, 2018	Reviewed by World Bank & Local Consultant
9-13 July, 2018	Consultative Meeting at DNP
6 September, 2018	Presented to the HLC ,MoF
16 January, 2019	Final High Level Consultation
20 February, 2019	Final Presentations on Procurement Reforms for Approval (co-chaired by MoWHS & MoF Lyanpo)

**Procurement
Rules and Regulations 2009**

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**Ministry of Finance
Royal Government of Bhutan**

དངུལ་རྩིས་ལྷན་ཁག།
དཔལ་ལྷན་འབྲུག་གཞུང་།

Procurement Rules and Regulations 2009 (PRR)

དཔལ་ལྷན་འབྲུག་གཞུང་།
དངུལ་རྩིས་ལྷན་ཁག།

**Royal Government of Bhutan
Ministry of Finance**



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**Procurement
Rules and Regulations
2019**

1.1.2.2. Domestic preference

Existing

Preference given to the bid offering goods of Bhutanese origin shall not exceed five percent (5%)

Similarly, a five percent (5%) margin of preference may be given to the National bidders in case of works.

Change

Preference given to the bid offering goods of Bhutanese origin shall not exceed ten percent (10%).

Similarly, in case of works when tender from foreign bidders are invited a ten percent (10%) margin of preference may be given to the National bidders.

1.1.2.3 Departmental Execution

Existing

The work to be executed is of specialized nature *and* the required level of skills and/or technical know-how is not available with the contractors, or

The works are to be carried out through community *participation*

Additional grounds

- under emergency situation (a sudden unforeseen event which can result in injury, loss of life or critical damage to property or Infrastructure) that need urgent attention, or
- work should be carried out without interrupting the ongoing work.

1.1.2.3 (c) Public Private Partnership

New provision

Public Private Partnership (PPPs) projects which shall be carried out as per PPP Rules & Regulations issued by Ministry of Finance;

1.1.2.5 Procurement of online tickets

New provision

Procurement of online air ticket shall be done as per the guidelines issued by Ministry of Finance.

1.1.5 Market Research

New provision

The procuring agency shall conduct market research and analysis to develop a thorough understanding of the nature of market, how it works and how it impacts upon your approach to the market and overall procurement strategy. It allows you to make informed decisions to get the best results.

The following are some of the common options to obtain information about the market:

- i. Internet research
- ii. Request for information(RFI)
- iii. Previous experience
- iv. Industry bodies

Objects:

For defining requirement, Choosing procurement methods, Price trends

1.1.6 Identification of need

- All procurement under this rule shall be initiated after first determining the need for the subject matter. While assessing the need the procuring agency shall take into account the estimated cost of the procurement and also decide on the following matters, namely:-
 - a. the scope or quantity of procurement;
 - b. Ensure that the need is neither artificially created nor exaggerated, with the intention to channel benefits to certain individual(s) or organization(s);

1.1.7 Annual Procurement Plan

- The Procuring Agency shall prepare a procurement plan of goods, works and services in the prescribed format for each fiscal year.
- The Procurement plan shall be fully integrated with applicable budget processes and circulars or the budget preparation instructions issued by Ministry of Finance.
- The APP is indicative only and does not create a legal or binding commitment to go to tender.

2.1.4.1 Exclusion of Bidders

2.1.4.1 A bidder shall be excluded from registration or **prequalification** and participating in a procurement procedure under the following circumstances:

b. His **business** affairs are being administered by a court, judicial officer or by an appointed liquidator; or

g. He has not fulfilled his contractual obligations with the Employer in the past.

3.1.1.2 Conflict of Interest

New provision

- The procuring agency shall maintain lists of spouse and dependents (father, mother, brother, sister, and own children) of their employees engaged in formal and informal business to verify conflict of interest during the procurement process.

3.1.1.5 Capacity Development

New provision

- The HOPA shall ensure that the Tender Committee and Evaluation Committee members, including other relevant procurement personnel have attended procurement training/capacity development/ sensitization program. Within six (6) months upon designation, the Tender Committee and Evaluation Committee members should have satisfactorily completed such program conducted, authorized or accredited by the Government Procurement and Property Management Division

Head of Procuring Agency (HoPA)

- The HOPA shall review and approve annual procurement plans and any revisions thereof in order to ensure it supports the objectives and operations of the procuring agency.
- The HOPA shall review and approve bidding documents to ensure that it has been prepared and issued in accordance with this procurement rules and regulations.
- The HOPA shall ensure wherever necessary that an appropriate opening committee has been constituted chaired by one member of Tender Committee.

3.1.1.4 (i) Gewog Tender Committee

Existing

Threshold Limits-

- Up to Nu.2 (two) million in the case of goods;
- Up to Nu.4 (four) million in the case of works.

Revised

Threshold Limits

- Up to Nu.3 (three) million in the case of goods;
- Up to Nu.5 (five) million in the case of works.

3.1.1.4 (iii) Field Level Tender Committee

New Provision

- d. Where required all Dungkhag and regional offices shall constitute a tender committee as outlined above and chaired by the head of agency for any procurement within the threshold defined above

3.1.1.4 (viii) Thromde Tender Committee

New Provision

- The Executive Secretary (Chairperson);
- Threshold limit:
 - i. Up to Nu.20(twenty) million in the case of goods;
 - ii. Up to Nu.50 (fifty) million in the case of works.
- c. Cases of Procurement in which the estimated values are higher than the thresholds mentioned at (b) (i & ii) above, shall be referred to the relevant Ministerial Tender Committee by

SBDs Threshold

Type/Value	Small	Large
Works (existing)	$\leq 4\text{M}$	$> 4\text{M}$
Works (Change)	$< 5 \text{ M}$	$> 5\text{M}$
Goods(existing)	$\leq 0.250\text{M}$	$> 0.250\text{M}$
Goods(Change)	$< 0.500\text{M}$	$> 0.500\text{M}$

Harmonization

- Changes in contractor threshold values to harmonize with the SBDs

Small- Up to Nu. 5 M	Small Contractor
Large-Above Nu. 5 M	Medium and Large Contractor

3.1.1.11 Member Secretary

New Provision

- The Procurement Officer of the respective agency shall serve as member secretary to the Tender Committee. However, in absence of a Procurement Officer, relevant official of the agency

Declaring Conflict of Interest for Opening, Evaluation and Tender Committee

Existing

“Declared that none of my close relatives (father, mother, brother, sister, spouse and own children) have taken part in the competitive bidding and that I do not have any direct interest in any of the parties participating in the bidding.”

Revised

“Declared that none of my spouse and dependents (father, mother, brother, sister, and own children) have taken part in the competitive bidding and that I do not have any direct interest in any of the parties participating in the bidding.”

- In such cases, officers of appropriate level should be appointed to replace the designated member.

3.1.2.3 Powers and Responsibilities of Tender Committee

New Clause

- f. review and approve quantity deviations, variations and changes during contract implementation;
- h. function as a first tier grievance redressal body for complaints related to pre-award stage of procurement;
- i. function as a first tier dispute resolution body for any contractual disputes before referring the case to adjudication or arbitration;

Procurement Thresholds

TYPE	OPEN TENDER	LIMITED TENDER	LIMITED ENQUIRY
WORKS(Existing)	Above 10,00,000	Above 200,000 Up to 10,00,000	Up to 200,000
Change	Above 1800,000	Above 400,000 Up to 1800,000	Up to 400,000
GOODS & SERVICES(Existi ng)	Above 200,000	Above 100,000 Up to 200,000	Up to 100,000
Change	Above 400,000	Above 200,000 Up to 400,000	Up to 200,000

4.1.2 International Competitive Procurement

Existing

the procuring agency may seek offers and/or quotations and/or invite bids from individuals and legal entities from outside Bhutan when certain goods or the capacity to undertake certain works or services are not available in the country.

Revised

- a. When certain goods or domestic contractors with required capacity to undertake certain works or the service providers are not available in the country; or
- b. For donor funded projects when the funding agreement requires the procuring agency to resort to international market.

International Procurement

Existing

advertisement in national mass media

Change

For ICB, the PA is required to:

- i. Advertise at least in one widely circulated national newspaper;
- ii. Relevant websites including GPPMD website;
- iii. Internationally such as in UNDB and Development Gateway's dg Market; and/or
- iv. Transmit such invitations to embassies and trade representatives of the countries from where bidders are likely to participate.

4.2.1.1. Procurement Methods

Existing

- a. Open tender/bidding;
- b. Limited tender/bidding;
- c. Limited enquiry;
- d. Direct contracting;
- e. Framework contracting;

Revised

- a. Open tender/bidding;
- b. Limited tender/bidding;
- c. Limited enquiry;
- d. Direct contracting;
- e. Framework contracting;
- f. **electronic reverse auction (e-auction)**

4.2.5.2 Direct Contracting

Existing

a. In the case of purchases up to a maximum of Nu 0.02 (point zero two) million for the purposes of the day to day administration.

Revised

a. In case of purchase up to a maximum of 0.050 (point zero five) million for the purpose of day to day administration.

4.2.5.2 Direct Contracting

Existing

- f. In the case of additional works provided that the value of the additional work shall not exceed twenty percent (20%) of the original contract amount, or the maximum threshold value for the use of Limited Tender whichever is lower. Additional works exceeding twenty percent (20%) of the original contract price, and subject to availability of budget within the same program, special approval must be sought from the competent authority.

Revised

For works above Nu. 50 Million, if the value of additional work exceeds twenty percent (20%) of the initial contract price, the procuring agency shall seek prior approval of the Competent Authority (Public Investment Board/Public Investment Coordination Committee)

5.1.1.3 Precedence of Document

New Provision

The rights and obligations of the Employer and the provider of goods, works, and services for the procurement activities are governed by the bidding documents, and the contracts signed by the Employer with the providers of goods, works, and services and not by this Procurement Rules and Regulations.

5.1.1.5 Mandatory pre-requisites studies

New Provision

Procurement of works, goods and non-consulting services which exceeds departmental threshold shall be subject to mandatory pre-requisites studies such as pre-feasibility studies, detailed project reports, geotechnical investigation and detailed estimates.

Time Limits

Minimum Time Limits	Open Bidding		Limited Bidding		Limited Enquiry	Direct Contracting
	International Competitive Bidding	National Competitive Bidding	International Limited Bidding	National Limited Bidding		
From the Day the documents are made available	45 days	30 days	25 days	14 days	5 days	By mutual agreement

5.1.4.1 (b) Participation

Existing

No spouse or dependent of a Public servant shall be allowed to participate in supply of goods and services to the particular office where the civil servant is employed or where the Public servant has an authority over.

Revised

- b. The **spouse or dependent of the HOPA** shall not be allowed to participate in supply of goods and services to the particular office where he/she is employed or has an authority over it.

5.1.4.2 Government Owned Enterprises

New Provision

Government-owned enterprises in Bhutan shall be eligible only if they can establish that they

- (i) are legally and financially autonomous,
- (ii) operate under commercial law, and
- (iii) are not a dependent agency of the Employer.

5.1.9.6 Bid Securing Declaration

New Provision

In place of a Bid Security, the Procuring Agency may instruct bidders to sign a Bid Securing Declaration in the form provided in the bidding documents accepting that if;

- a. they withdraw or modify their Bids during the period of validity, or
- b. a bidder fails to accept the arithmetical corrections of its bid price, or
- c. they are awarded the contract and they fail to sign the contract, or to submit a performance security before the deadline defined in the bidding document, they will be required to pay bid security amount specified in the Bidding Document within 14 days. Failure to do so will lead to exclusion of the bidder from being eligible to submit bids for contracts with the procuring agency that invited the bids, for the period specified in the bidding document..

5.1.9.8. Bid Security

- Bid security shall not be required in case of limited enquiry and direct contracting

5.1.13.2 Payment of Advances

Additional Clause

In case of direct contracting by procuring agency from manufacturer or principal company, where staggering payment procedures is not practical due to the size of demand, hundred percent (100%) advance may be considered against provision of unconditional bank guarantee. However, in case of purchase from government owned companies or enterprises, advance guarantee may be waived off if the procuring agency is convinced that there is no risk in delivery of goods or recovery of the advance amount.

5.4.5.1 Abnormally low Bids

Existing

Where the prices in a particular bid appear abnormally low or the bid appears seriously unbalanced, the Procuring Agency may reject it only after seeking written explanations from the bidder submitting the low or seriously unbalanced bid. In the case of a bid which appears seriously unbalanced, the procuring agency shall request from the bidder an analysis of rates of the relevant items.

Revised

Before proceeding to further analysis, the procuring agency shall revisit their departmental estimate to ensure it is realistic compared to the prevailing market rates.

After evaluating the price analyses, if the procuring agency determines that the bidder has failed to demonstrate its capability to deliver the contract for the offered price, the procuring agency shall reject the Bid.

5.4.5.1 Abnormally low Bids

Existing

If the Procuring Agency decides to accept the abnormally low bid or the bid with the seriously unbalanced rates after considering the above factors, the bidder shall be required to provide additional differential security equivalent to the difference between the estimated amount and the quoted price in addition to the performance security.

Revised

If the Procuring Agency decides to accept the abnormally low bid after considering the detailed price analysis, the Procuring Agency shall increase the performance security from ten percent (10%) up to maximum of 30% of the initial contract price; or

Alternatively, the procuring agency may ask the successful bidder to deposit the difference between departmental estimate and contract amount in the form of cash warrant in addition to 10% performance security. However, the total performance security amount shall be limited to maximum of 30% of initial contract price.

5.4.9 Standstill period

Notification of Intention to Award

the procuring agency shall promptly provide letter of intent to award the contract to the successful bidder. Copies of such notification shall also be sent to all unsuccessful bidders.

The Procuring Agency shall observe 10 (ten) days of standstill period from the date of the issuance of letter of intent to award to allow the bidders to lodge complain if aggrieved

5.4.10 Debriefing

- The purpose of debriefing is to inform the aggrieved bidder of the reasons for lack of success, pointing out the specific shortcomings in the bid without disclosing contents of other bids.
- An unsuccessful Bidder shall within three (3) working Days make a written request to the procuring agency
- procuring agency shall provide a debriefing within five (5) working days.
- The debriefing shall not include:
 - a. point-by-point comparisons with another bid; and
 - b. Information that is confidential or commercially sensitive to other bidders.

6.3.6.3. Approval of Additional works

Existing

Additional works exceeding twenty percent (20%) of the original contract price and subject to availability of budget within the same program, special approval must be sought from the competent authority

Revised

For works up to Nu.50 M ,additional works exceeding twenty percent (20%) of the initial contract price and subject to availability of budget within the same program, special approval must be sought from the Finance Committee.

For works above Nu. 50 Million, the procuring agency shall seek prior approval of the Competent Authority (Public Investment Board/Public Investment Coordination Committee).

6.4. Contract Management

- shall include all administrative, financial, managerial and technical tasks to be performed by the procuring agency from contract award until it is successfully concluded or terminated and, payment is made and disputes or claims under it has been resolved.
- The elements of contract management may include-
 - a. Review and approval of the work plan;
 - b. Monitoring periodically progress in implementation of the contract, including determination of volume of works accomplished according to work plan, milestone agreement and inspection and testing of quality aspects; and
 - c. Management of variation orders, contract suspension and termination, price revisions, contract remedies such as imposition of liquidated damages, delayed payments and disputes or claims settlement procedures.

Chapter IX: E-GP system

New Chapter

To promote transparency and efficiency, information and communications technology (*ICT*) shall be utilized in the conduct of procurement procedures. There shall be a single portal that shall serve as the primary source of information on all government procurement. Accordingly, the e-GP system shall serve as the primary and definitive source of information on government procurement.

All government agencies shall use e-GP system for all kinds of procurement activities and it shall be guided by e-GP guideline issued by Ministry of Finance.

**Standard Bidding Document for works-Large
Above Nu.4 Million**

(Now Above Nu.5 Million)

Specialized Subcontracting

Existing (ITB 4.3)

proposals for subcontracting components of the Works amounting to more than twenty percent (20%) of the Contract Price. The ceiling for subcontractors' participation is stated in the BDS.

Revised (ITB 33)

- Unless otherwise stated in the BDS, the Employer does not intend to execute any specific elements of the Works by specialized subcontractors selected in advance by the Employer.
- Specialized Subcontractors proposed by the Bidder shall be approved by the Employer only if registered in the specialized trade of CDB for the specific parts of the Works.
- However, sub-contracting up to twenty percent (20%) of the initial contract price shall not require prior approval of employer but the sub-contractors should be registered in the specialized trade/contractors of CDB.

GCC 21.2 Site information

New Provision

Within 14 days of possession of site the contractor shall erect an information board as specified in SCC.

With following details:

Name of Work:

Start and Completion Date:

Value of Work:

Name of Contractor:

Name of Employer:

Late Payment Interest

Existing (43.2)

- Employer shall make late payment interest at the rate of ten percent(10%) p.a.

Change (44.2)

- Employer shall make late payment interest at the prevailing rate of interest for overdraft facilities fixed by RMA

GCC 51.3 Mobilization Advance

Existing

- The Contractor is to use the advance payment only to pay for, Equipments, Plant, Materials and mobilization expenses required specifically for execution of the Contract.

Additional

- The Contractor shall demonstrate that advance payment has been used in this way by supplying copies of invoices or other documents to the Project Manager. The Manager shall encash the advance payment guarantee **if the Contractor is in breach of its obligation under the Contract because the Contractor used the Advance Payment for purposes other than the costs of mobilization in respect of the Works.**

Claim on Performance Security

Existing

The Employer shall not make a claim under the Performance Security, except for amounts to which the Employer is entitled under the Contract in the event of:

- i. failure by the Contractor to extend the validity of the Performance Security as described in the preceding paragraph, in which event the Employer may claim the full amount of the Performance Security.
- ii. failure by the Contractor to pay the Employer an amount due, as either agreed by the Contractor or determined under Clause 43 [payments] or Clause 62 [payment upon Termination], within 42 days after this agreement or determination,
- iii. circumstances which entitle the Employer to terminate the contract under Clause 58 [Termination], irrespective of whether notice of termination has been given.

Change

- The Employer shall encash the performance security to avoid becoming invalid in case of failure by contractor to extend the validity
- The performance security (*including additional performance security obtained under abnormally low and seriously unbalanced and/or frontloaded bid*) shall be payable to the employer as compensation for any loss resulting from the contractor's failure to complete its obligations under the contract.

Bill Verification Timeline for Engineer

Existing (42.2)

- The project manager shall check the contractor's monthly statement and certify the amount to be paid to the contractor

Change (43.2)

The project manager shall check the contractor's running bills(monthly statements) and certify the amount to be paid to the contractor **latest by 30 working days** from the date of receipt of the contractor's RA bills(monthly statements) in correct and complete form.

Defect Liability Period

Existing

The Defects Liability Period is usually be 12 to 24 months. In the case of works up to Nu.two(2) million the defects liability period should be minimum of 6 months.

Change

The Defects Liability Period shall be minimum 12 months. The procuring agency may prescribe a realistic defect liability period based on the type and complexity of the project.

Milestone contract

Additional Provision For Early termination of contract

Fails to execute the contract in accordance with the contract, such failure being defined in SCC

GCC 58.2 (l) Failure to execute contract in accordance with.....*[specify the imposition of milestone agreement or performance target as appropriate as a conditions for termination]*

(m) refuses or is unable to execute and complete the Works and Services in the manner specified in the program furnished under GCC Clause 27

Requirement for Notice Period

New Provision

For fundamental breach of contract by contractor the employer shall give notice of a breach of contract for causes listed under GCC sub-clause 58.2 above and requiring the contractor to remedy the same. If the Contractor fails to remedy or to take steps to remedy the same within fifteen (15) days of its receipt of such notice, then the Employer may terminate the Contract forthwith by giving a notice of termination to the Contractor that refers to this GC Sub-Clause 58.2.

For fundamental breach of contract by employer the Contractor shall give a notice to the Employer thereof to remedy the breach within thirty (30) days of such notice and if the **Contractor** (employer) is still unable to carry out any of its obligations under the Contract for any reason attributable to the Employer within thirty (30) days of the said notice, the Contractor may by a further notice to the Employer referring to this GC Sub-Clause 58.2, forthwith terminate the Contract.

Information Board

New Provision

At the time of taking over the work, the project Manager shall ensure that the contractor constructs a permanent information board as specified in SCC:

With following details:

Name of the Work:

Completion Year:

Constructed by:

Name of Employer:

CAPACITY

Existing

- Bid Capacity (0-10)

$2 \times A \times N-B$

Revised

- Bid Capacity (0-25 Points)

$2 \times A \times N-B$

Parameter	Level of achievement	Score
Bid Capacity (0-25)	<ul style="list-style-type: none"> ▪ Bid capacity \geq quoted bid 	
	<ul style="list-style-type: none"> ▪ Bid capacity is between 80-100% quoted bid 	25
		20
	<ul style="list-style-type: none"> ▪ Bid capacity is between 60-80% quoted bid 	15
		10
	<ul style="list-style-type: none"> ▪ Bid capacity is between 40-60% quoted bid 	0
	<ul style="list-style-type: none"> ▪ Bid capacity $<$ 40% quoted bid 	

CAPACITY

Existing

- Credit Line Available[0-20]
- *The ideal credit line amount is three months or more*

Revised

- Credit Line Available[0-5]

Parameter	Level of achievement	Score
Credit line available (unused) (0-5)	▪ $\geq 100\%$ of estimated 3 month project cash flow	
	▪ 80 – 100% of estimated 3 month project cash flow	5
		4
	▪ 60 – 80% of estimated 3 month project cash flow	2
		0
	▪ $<60\%$ of estimated 3 month project cash flow	

CAPACITY

Existing

Technical Cut-off Point:65/100

i. Work experience	[0-10]
ii. Equipment	[0-25]
iii. Manpower	[0-25]
iv. A PS	[0-10]
v. Bid Capacity	[0-10]
vi. Credit Lines	<u>[0-20]</u>
Total	[100]

Revised

Technical Cut-off Point :70/100

i. Work experience	[0-10]
ii. Equipment	[0-25]
iii. Manpower	[0-25]
iv. A PS	[0-10]
v. Bid Capacity	<u>[0-25]</u>
vi. Credit Lines	<u>[0-5]</u>
Total	[100]

PRICE PREFERENCE

Existing

- Employment of VTI Graduates /Local Skilled Labourers[0-4]
- Commitment for internships to VTI Graduates[0-2]

Revised

Employment of Bhutanese [0-6]

GCC 40 Variation

- For works up to Nu. 50 Million, if the value of additional work exceeds twenty percent (20%) of the initial contract price, the procuring agency shall seek prior approval of the Competent Authority (Finance Committee constituted in respective agency).
- For works above Nu. 50 Million, if the value of additional work exceeds twenty percent (20%) of the initial contract price, the procuring agency shall seek prior approval of the Competent Authority (Public Investment Board/Public Investment Coordination Committee).

ITB 42 Complaint and Review

- shall submit the complaint in writing to the Employer within ten (10) days from the date of letter of intent
- The head of agency shall, within 7 days after the submission of the complaint, issue a written decision.
- The Bidder may appeal to the Independent Review Body within 5 days of the decision of the Head of the Procuring Agency or, where no such decision has been taken, within 15 days of the original complaint and the copy of the appeal shall be given to procuring agency on the same day.

Payment upon Termination

Existing (GCC 60.1)

If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Project Manager shall issue a certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of work not completed, as indicated in the SCC. **Additional Liquidated Damages shall not apply.** If the total amount due to the Employer exceeds any payment due to the Contractor, the difference shall be a debt payable by the Contractor to the Employer.

Revised (GCC 61.1)

If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Project Manager shall issue a certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of work not completed, as indicated in the SCC. If the total amount due to the Employer exceeds any payment due to the Contractor, the difference shall be a debt payable by the Contractor to the Employer.

SCC 49.1 Liquidated Damages

Existing

The liquidated damages for the whole of the Works are [insert percentage of the final Contract Price] per day. The maximum amount of liquidated damages for the whole of the Works is [insert percentage] of the final Contract Price.

Revised

The liquidated damages for the whole of the Works are *[insert percentage of the **initial Contract Price**] per day. The maximum amount of liquidated damages for the whole of the Works is [insert percentage] of the initial Contract Price.*

**Standard Bidding Document for works-
Small**

Up to Nu.4 Million

(Revised Up to Nu. 5 million)

ITB 19 Bid Securing declaration

Existing

Bid Security options:

- Unconditional BG
- Demand Draft
- Cash Warrant

Change

- The Bidder shall furnish as part of its Bid a Bid-Securing Declaration
- BSD Format

ITB 31 Abnormally low bid Clause

New Provision

An Abnormally Low Bid is one where the Bid price, in combination with other constituent elements of the Bid, appears unreasonably low to the extent that the Bid price raises material concerns as to the capability of the Bidder to perform the Contract for the offered Bid price.

Any bid price less than twenty percent (20%) from the employer's departmental estimate shall be scrutinized by seeking written clarifications from the Bidder

If the Procuring Agency decides to accept the abnormally low bid after considering the detailed price analysis, the Procuring Agency shall increase the performance security from ten percent (10%) up to maximum of 30% of the initial contract price; or

ITB 33 Seriously Unbalanced/frontloaded bids

Change

If the Bid that is evaluated as the lowest evaluated cost is, in the Employer's opinion, seriously unbalanced or front loaded the Employer may require the Bidder to provide written clarifications

After the evaluation of the information and detailed price analyses presented by the Bidder, the Employer may as appropriate:

- i. accept the Bid and increase the performance security from ten percent (10%) up to maximum of 30% of the original contract price; or
- ii. reject the Bid

ITB 31 Evaluation

Existing [ITB 31]

Evaluation and Comparison of Tenders

- The evaluation will take into account corrected Bid Price and discounts (if any).
- The Employer will check substantially responsive Bids for any arithmetical errors

Additional

To evaluate a bid, the employer shall consider the following:

- i. making appropriate adjustments to reflect discounts if any
- ii. Correction of arithmetic errors
- iii. using the additional evaluation factors are specified in Section 3, Evaluation and Qualification Criteria

Section 3 Evaluation Criteria

Existing

1. Evaluation

- Evaluation shall be done to determine the responsiveness and the award shall be made to the lowest evaluated bidder.

Additional Proposed

Evaluation and Qualification Criteria

2. Qualification Criteria

[specify following where applicable]

2.1 Key personnel

Specify requirements for each positions as applicable

2.2 Equipments

Specify each equipments required as applicable

2.3 Add any other criteria

GCC 26 Change in Quantities

New Provision

- Increase or decrease for the particular item by more than 20 percent,
- Provided the value exceeds 1 percent of the Initial Contract Price,
- Employer shall fix the market rate (which may be lower or higher than the quoted rate
- For works up to Nu. 50 M, when quantity exceeds 20% from quantity in BOQ and total cost exceeds 20% of ICP, PA shall seek prior approval from Finance Committee

GCC 27 Variation

New Provision

- a. increase or decrease in the quantity,
- b. omission or insertion of any item of work,
- c. change in the character or quality or kind of any such work,
- d. change in the levels, lines, position and dimensions,
- e. additional work of any kind, or
- f. change in any specified sequence or timing of construction activities.

GCC 31 Price Adjustment Clause

Existing

- The rates and prices in the bill of quantities are fixed for the duration of the Contract and not subject to price adjustment during the performance of the Contract.

Revised

- Prices may be adjusted for fluctuations in the cost of materials only if contract duration exceeds 12 months and if so **provided for in the SCC.**



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ROYAL GOVERNMENT OF BHUTAN
MINISTRY OF FINANCE
TASHICHHO DZONG



MoF/DNP/GPPMD-08/2018-19/ 1107

25th February, 2019

NOTIFICATION

This is to notify that the Procurement Rules and Regulations (PRR), 2009 has been revised and issued as PRR 2019 along with the following documents for procurement of works, goods and consultancy services.

1. Standard Bidding Documents for procurement of Works (above Nu. 5 Million) 2019;
2. Standard Bidding Documents for Procurement of Works (Up to Nu. 5 Million) 2019;
3. Standard Bidding Documents for Procurement of Goods (Above Nu.0. 500 Million) 2019;
4. Evaluation Guidelines for Procurement of Works for procurement of works (above Nu. 5 Million) 2019;
5. Standard Request for Expression of Interest (SREoi) for short listing of consulting firms 2019;
6. Standard Request for Expression of Interest (SREoi) for selection of Individual Consultant 2019;
7. Standard Request for Proposal (SRFP) for selection consultant based on qualification (CQS) for small assignment (Up to Nu. 1 Million) 2019; and
8. Terms of Reference for Procurement Officer as Member Secretary to Tender Committee.

The above documents can be accessed and downloaded from the *Electronic Government Procurement system* website www.egp.gov.bt

The above documents will come into effect from 1st July 2019.

For further clarification, please contact Government Procurement and Property Management Division, Department of National Properties, Ministry of Finance at 02-336962.


Nim Dorji
Finance Secretary

NOTIFICATION

This is in continuation to earlier notification MoF/DNP/GPPMD-08/2018-2019/1107 dated 25th February, 2019, that the revised Procurement Rules and Regulations (PRR), 2019 and Standard Bidding Documents (SBD), 2019 will be effective from 1st July 2019. To complete making necessary enhancement in the e-tools and e-GP system for the smooth transition the revised PRR & SBD shall come into force as follows :

1. All tenders published before 31st August 2019 both online and offline shall be done using the existing SBDs, 2015, and evaluated accordingly.
2. All tenders published from 1st September 2019 both online and offline shall apply the revised PRR 2019 and SBDs 2019.
3. For procurement of works, from 1st to 30th September, 2019 irrespective of threshold all procuring agencies are requested to publish tenders using only Open Tender Method (OTM).

Tashi Delek