



Program Management Unit

Municipal Services Delivery Program (MSDP)

Government of Sindh

PROCUREMENT MANUAL

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Contents

ACRONYMS	8
GLOSSARY	10
CHAPTER I: SCOPE ANDPURPOSE OF MANUAL.....	14
1.1 Purpose	14
1.2 Intended Benefits.....	14
1.3 Scope of the Manual	14
1.4 Limitations	14
1.5 Organization of the Manual	15
CHAPTER II: MSDP AND LEGAL FRAMEWORK OF PROCUREMENT	17
2.1 Introduction	17
2.2 MSD Program.....	17
2.2.1 Program Objectives.....	17
2.2.2 Program Scope	18
2.2.4 Requirements prescribed in PC I document:.....	18
2.2.5 Imperative for the Manual	19
2.2.6 Domestic Preference.....	19
2.2.7 The Legal framework.....	19
CHAPTER III: PRINCIPLES OF PROCUREMENT	22
3.1 General Principles	22
3.1.1 Fairness	22
3.1.2 Transparency.....	22
3.1.3 Financial Management.....	24
3.1.4 Economy and Value for Money	25
3.1.5 Efficiency.....	25
3.1.6 Confidentiality of Tenders.....	26
3.2 Code of Ethics for procurement officials.....	26
3.2.1 Ethical Values	26
3.2.2 Guiding Principles.....	26
3.3 Approval Protocol of Procurement	30
3.4 Conduct of Bidders and Contractors	31
3.4.1 Declarations to be submitted by the Bidder	31

3.5 Internal Controls	31
CHAPTER IV: INSTITUTIONAL ARRANGEMENT.....	32
4.1 Procurement Responsibility	32
4.1.1 Procurement Section	32
4.1.2 Program Director.....	34
4.1.3 Director General Works	35
4.1.4 Project Manager.....	35
4.1.5 Procurement Committee	35
4.1.6 Inspection Committee.....	37
CHAPTER V: PROCUREMENT PLANNING AND PRE PROCUREMENT ACTIVITIES.....	39
5.1 Procurement Requisition	39
5.2 Need Analysis of Procurement.....	39
5.3 Decision on Procurement Method	40
5.4 Preparation of Specifications	40
5.5 Preparation of Drawings (Works).....	40
5.6 Preparation of Cost Estimates.....	40
5.7 BoQs and Schedule of Requirement.....	41
5.8 Availability of Funds	41
5.9 Procurement Planning.....	42
5.9.1 Annual Procurement Plan	42
5.9.2 Structure of Annual Procurement Plan	42
5.9.3 Revision and Updating of Plan	43
5.9.4 Limitation on Splitting or Aggregation	43
5.9.5 Basis for Aggregation/ Packaging	43
5.9.6 Basis for Division into Lots	44
5.9.7 Individual Procurement Plan.....	44
5.9.8 Publicizing Procurement Plans	45
5.10 Approval of the Projects and Sub-Projects.....	45
5.11 Administrative Approval of Sub Projects.....	45
5.12 Technical Sanction of the Sub-Project (Works)	45
CHAPTER VI: PRE-QUALIFICATION PROCESS	47
6.1 Cases Where Pre-Qualification is Applicable.....	47

6.2 Basis for Pre-Qualification.....	47
6.2.1 Eligibility.....	47
6.2.2 Qualification.....	49
6.3 Pre-Qualification Procedure.....	50
6.3.1 Preparation and Issuance of Pre-qualification Notice	50
6.3.2 Preparation and Issuance of Pre-qualification Documents	50
6.3.3 Opening of Applications	51
6.3.4 Evaluation of Applications.....	51
6.3.5 Announcement of Short listed Applicants.....	52
6.3.6 Obtaining Additional/ Updated Information	52
6.4 Disqualification of Suppliers, Contractors and Consultants	52
CHAPTER VII: OPEN COMPETITIVE BIDDING	54
7.1 National Competitive Bidding	54
7.2 International Competitive Bidding	54
7.2 Procedures of open competitive bidding.....	54
7.2.1 Single Stage – One Envelope Procedure.....	55
7.2.2 Single stage – two envelope procedure	55
7.2.3 Two Stage Bidding Procedure	56
7.2.4 Two Stage - Two Envelope Bidding Procedure	57
CHAPTER VIII: ISSUANCE OF NIT AND BID DOCUMENTS.....	59
8.1 Preparation of Bidding Document.....	59
8.2 Issuance of NIT	62
8.3 Publicizing the NIT.....	63
8.4 Response Time	63
8.5 Issuance of Bidding Documents.....	63
8.6 Clarification of Bidding Documents.....	64
8.7 Site Visits.....	65
8.8 Pre-Bid Meeting	65
8.9 Extension of Time Period for Submission of Bids	66
8.10 Re-issuance of Bidding Documents	66
CHAPTER IX: SUBMISSION AND OPENING OF BIDS	67
9.1 Bid Security	68

9.2 Bid Validity	68
9.3 Modification of Bids	69
9.4 Opening of Bids	69
9.4.1 Minutes of the Bid Opening	71
CHAPTER X: EVALUATION OF BIDS.....	73
10.1 Principles of Evaluation	73
10.2 Stages of Bid Evaluation	73
10.2.1 Preliminary Examination.....	73
10.2.2 Detailed Examination of Bids	75
10.2.3 Evaluation and Comparison of Bids	77
10.2.4 Evaluation of Package with more than one Lot.....	78
10.3 Post Qualification Determination.....	78
10.4 Bid Evaluation Report	79
10.5 Publicizing the Bid Evaluation Report	80
10.6 Bid Evaluation Process and Confidentiality	80
10.7 Cancellation of Bidding Process	80
CHAPTER XI: AWARD OF CONTRACT.....	83
11.1 Notification of Contract Award	83
11.2 Acceptance of Single Bids	83
11.3 Publication of the Award of Contract.....	83
11.4 Debriefing	83
11.5 Bar on Negotiations	84
11.6 Procurement Contract	84
CHAPTER XII: ALTERNATIVE PROCUREMENT METHODS	85
12.1 Petty Purchases.....	85
12.2 Request for Quotations (RFQ).....	85
12.3 Direct Contracting	86
12.4 Force Account	88
12.5 Repeat Orders	88
CHAPTER XIII: PROCUREMENT OF CONSULTANCY SERVICES	90
13.1 Difference in Procurement of Goods/ Works and Consulting Services	90
13.2 Principles of Procurement.....	91

13.3 Conflict of Interest	91
13.4 Constitution of Consultant Selection Committee (CSC)	91
13.5 Quorum of CSC	91
13.6 Functions of Consultant Selection Committee	91
13.7 Steps in Selection Process of Consultancy Services.....	92
13.7.1 Preparation of TORs	92
13.7.2 Preparation of Cost Estimates	92
13.7.3 Issuance of REOI	93
13.7.4 Shortlisting of Consultants	94
13.7.5 Issue of RFP	97
13.7.6 Submission and opening of Proposals	99
13.7.7 Technical Proposals.....	100
13.7.8 Evaluation of Technical and Financial Proposals	100
13.7.9 Contract Negotiations.....	101
13.7.10 Contract Award and Signing of Contract	102
13.8 Methods for Selection of Consultants.....	102
13.8.1 Least Cost Selection Method.....	102
13.8.2 Quality Based Selection Method	103
13.8.3 Quality and Cost Based Selection Method	103
13.8.4 Direct Selection Method	103
13.8.5 Fixed Budget	104
13.8.6 Design Contest	105
13.8.7 Consultant’s Qualifications Selection Method	106
13.8.8 Selection Process of Individual Consultants	106
13.9 Miscellaneous Provisions:.....	107
CHAPTER XIV: CONTRACT ADMINISTRATION.....	110
14.1 Objectives of Contract Management	110
14.2 Contract File.....	110
14.3 Responsibilities for Contract Management.....	110
14.4 Contract Administration Plan	111
14.5 Risk Management	112
14.6 Amending a Contract	112

14.7 Variation Order:	113
14.8 Force Majeure.....	113
14.9 Arbitration.....	113
14.10 Contract Review Reports.....	113
14.11 Inspection and Acceptance	114
14.11.1 Technical Inspection.....	114
14.11.2 Final Acceptance	114
14.11.3 Treatment of Partial Supplies.....	114
14.12 Payment to Contractor.....	114
14.13 Closing of Contract.....	115
14.14 Contract Close out Review	115
CHAPTER XV: GRIEVANCE REDRESSAL MECHANISM	116
15.1 First Tier Complaint Redressal.....	116
15.2 Operational Systems in PMU for Handling Complaints	116
15.3 Second Tier Complaint Redressal	117
15.4 Constitution of Review Panel.....	118
15.5 Matters not subject to Appeal or Review	119
15.6 Mis-procurement	119
15.7 Black Listing and Debarment of bidders and suppliers:	120
15.8 Integrity Pact.....	121
15.9 Transparency and Anti-Corruption Measures	121

ACRONYMS

AA	Administrative Approval
ACS(Dev.)	Additional Chief Secretary Development
ADB	Asian Development Bank
ASP	Assessment and Strengthening Program
BOD	Board of Directors
BOQs	Bills of Quantities
BDS	Bid Data Sheet
BER	Bid Evaluation Report
CB	Capacity Building
CRC	Complaint Redressal Committee
CSC	Consultant Selection Committee
DG	Director General
EOI	Expression of Interest
FD	Finance Department
FM	Financial Management
GFR	General Financial Rules
GOP	Government of Pakistan
GOS	Government of Sindh
HRM	Human Resource Management
ICB	International Competitive Bidding
ITB	Instructions to Bidders
M&E	Monitoring and Evaluation
MSDP	Municipal Services Delivery Program
NAB	National Accountability Bureau
NCB	National Competitive Bidding
NIT	Notice Inviting Tender
PC	Procurement Committee
PD	Project Director
PEC	Pakistan Engineering Council
PIFRA	Project to Improve Financial Reporting and Accounting
PMU	Program Management Unit
PPP	Public Private Partnership
PPRA	Public Procurement Regularity Authority
P&DD	Planning and Development Department
PSC	Program Steering Committee
PS	Procurement Section
RFP	Request for Proposal
RFQ	Request for Quotation
RMF	Risk Mitigation Framework
RSPN	Rural Support Programs Network

SBDs	Standard Bidding Documents
SCIP	Sindh Cities Improvement Program
SLGO	Sindh Local Government Ordinance
SOPs	Standard Operating Procedures
SPPR	Sindh Public Procurement Rules
SPPRA	Sindh Public Procurement Regularity Authority
SRO	Statutory Reserve Order
TMA	Town/Taluka Municipal Administration
TORs	Terms of Reference
TS	Technical Sanction
USAID	United States Agency for International Development
USG	United States Government
XEN	Executive Engineer

GLOSSARY

Act	Sindh Public Procurement Act 2009.
Authority	Sindh Public Procurement Regulatory Authority.
Bid	A tender, or an offer by a person, consultant, firm, company or an organization expressing willingness to undertake a specified task at a price, in response to an invitation by a Procuring Agency.
Bidder	A person or entity submitting a bid.
Bidding Documents	All documents provided to the interested bidders to facilitate them in preparation of their bids in uniform manner.
Bidding Process	The procurement procedure under which sealed bids are invited, received, opened, examined and evaluated for the purpose of awarding a contract.
Black Listing	Barring a bidder, contractor, consultant or supplier from participating in any future procurement proceedings by the procuring agency.
Calendar Days	Days including all holidays in a year.
Coercive Practice	Any impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence the actions of a party to achieve a wrongful gain or to cause a wrongful loss to another party.
Collusive Practice	Any arrangement between two or more parties to the procurement process or contract execution, designed to achieve with or without the knowledge of the procuring agency to establish prices at artificial, noncompetitive levels for any wrongful gain.
Competent Authority	An officer of the Procuring Agency empowered to exercise financial powers and approve the award of contract for procurement of goods, works or services, as the case maybe.
Conflict of Interest	<p>(i) Where a contractor, supplier or consultant provides, or could provide, or could be perceived as providing biased professional advice to a procuring agency to obtain an undue benefit for himself or those affiliated with him;</p> <p>(ii) Receiving or giving any remuneration directly or indirectly in connection with the assignment except as provided in the contract;</p> <p>(iii) Any engagement in consulting or other procurement activities of a contractor, consultant or service provider that conflicts with his role or relationship with the procuring agency under the contract;</p> <p>(iv) Where an official of the procuring agency engaged in the procurement process has a financial or economic interest in the outcome of the process of procurement, in a direct or an indirect manner.</p>
Consultant	A professional who can study, design, organize, evaluate and manage projects or assess, evaluate and provide specialist advice or give technical assistance for making or drafting policies, institutional reforms and includes private entities, consulting firms, legal

advisors, engineering firms, construction managers, management firms, procurement agents, inspection agents, auditors, international and multinational organizations, investment and merchant banks, universities, research institutions, government agencies, nongovernmental organizations, and individuals.

Consulting Services	Services of an advisory and intellectual nature provided by consultants using their professional skills to study, design, organize, and manage projects, encompassing multiple activities and disciplines, including the crafting of sector policies and institutional reforms, specialist advice, legal advice and integrated solutions, change management and financial advisory services, planning and engineering studies, and architectural design services, supervision, social and environmental assessments, technical assistance, and program implementation.
Contract	An agreement enforceable by law and includes General and Special Conditions, Specifications, Drawings and Bill of Quantities.
Contractor	A person, firm, company or organization that undertakes to execute works including services related thereto, other than consulting services, incidental to or required for the contract being undertaken for the works.
Corrupt and Fraudulent Practices	<p>Either one or any combination of the practices given below:</p> <p>Coercive Practice</p> <p>Collusive Practice</p> <p>Corrupt Practice</p> <p>Fraudulent Practice</p> <p>Obstructive Practice</p>
Corrupt Practice	The offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence the acts of another party for wrongful gain.
Emergency	Natural calamities, disasters, accidents, war and breakdown of operational equipment, plant, machinery or engineering infrastructures, which may give rise to abnormal situation requiring prompt and immediate action to limit or avoid damage to person(s), property or the environment.
Fraudulent Practice	Any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation.
Goods	Articles and object of every kind and description include raw materials, drugs and medicines, products, equipment, machinery, spares and commodities in any form, including solid, liquid and gaseous form, and include services identical to installation, transport, maintenance and similar obligations related to the supply of goods, if the value of these services does not exceed the value of such goods.

Government	The Government of Sindh
Head of the Department	The administrative head of the department or the organization.
Lowest Evaluated Bid	A bid for goods, works and services having the lowest evaluated cost among the substantially responsive bids.
Misprocurement	Public procurement in contravention of any provision of Sindh Public Procurement Act, 2010, any rule, regulation, order or instruction made thereunder or any other law in respect thereof, or relating to, public procurement.
National Company or Firm	Any enterprise, firm or company set up or incorporated in Pakistan.
Notice Inviting Tender	The notice issued by a Procuring Agency through publication in the newspapers or through electronic means for the purpose of inviting bids, or applications for pre-qualifications, or expression of interests, which may include Tender Notice, Invitation for Bids, Notice for Pre-qualifications or Request for Expression of Interests;
Obstructive Practice	Harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract or deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements before investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or acts intended to materially impede the exercise of inspection and audit rights provided for under the Rules.
Open Competitive Bidding	A fair and transparent specified procedure defined under these Rules, advertised in the prescribed manner, leading to the award of a contract whereby all interested persons, firms, companies or organizations may bid for the contract and includes both National and International Competitive Biddings.
PD	Program Director PMU MSDP or any officer holding the charge of Program Director
Procurement Staff	Include (i) Procurement Officer, Procurement Specialist and the Program Director of PMU MSDP; (ii) members of procurement committee, inspection committee, consultant selection committee and grievance redressal committee
Procurement Proceedings	All procedures relating to Public Procurement, starting from solicitation of bids up to award of contract.
Program	Municipal Services Delivery Program.
Procuring Agency	(i) Any department or office of Government; or

(ii) District Government;

(iii) or any authority, corporation, body or organization established by law or which is owned or controlled by Government.

Public Procurement	Acquisition of goods, services or construction of any works financed wholly or partly out of the public fund, including projects of Public Private Partnership, unless excluded otherwise by Government.
Request for Proposal	A document issued by a procuring agency to solicit technical and financial proposal for procurement of consulting services.
Services	Any object of procurement other than goods or works, and includes consultancy services
Substantially Responsive Bid	The bid that contains no material differences or deviations from, or reservations to, the terms, conditions and specifications given in the bidding documents
Supplier	A person, firm, company or an organization that undertakes to supply goods and services related thereto, other than consulting services, required for the contract
Value for Money	Best returns for each rupee spent in terms of quality, timeliness, reliability, after sales service, up-grade ability, price, source, and the combination of whole-life cost and quality to meet the procuring agency's requirements.
Works	Any construction work, including electrical and mechanical work, consisting of erection, assembly, repair, renovation, or demolition of a building or structure or part thereof, such as site preparation, excavation, installation of equipment or materials and decoration, finishing and includes incidental services such as a drilling, mapping, satellite photography, seismic investigations and similar activities, if the value of those services does not exceeds that of the works themselves

CHAPTER I
SCOPE AND
PURPOSE OF
THE MANUAL

CHAPTER I: SCOPE AND PURPOSE OF MANUAL

1.1 Purpose

The purpose of this manual is to provide guidance to procurement team of PMU Sindh MSDP in their daily activities relating to procurements for the program. It facilitates the user in application and full compliance of Sindh Public Procurement Act 2009, Rules and Regulations made thereunder and pronouncements issued by SPPRA from time to time. It serves as a tool for standardization of procurement processes. No procurement should be undertaken without first ensuring compliance with requirements set out in this manual.

1.2 Intended Benefits

The consistent and diligent application of the principles and guidelines presented in this Manual should substantially improve competition, transparency and efficiency in procurements for the program. It should also help reduce both the perception and the actual occurrence of corruption in program activities. The Manual is further intended to enhance the confidence of prospective bidders in the implementation of procurement procedures. This will lead to wider participation in tenders and achievement of economy and value for money spent on procurement of works, goods and services.

1.3 Scope of the Manual

The Manual establishes a single comprehensive reference for undertaking procurements under the MSDP. The manual provides guidance on the following matters:

- (a) *Institutional Arrangements*: This includes constitution of Procurement Committee, Consultant Selection Committee and Inspection Committee; defining responsibilities and job description of Procurement staff of PMU MSDP.
- (b) *Procurement Planning*
- (c) *Procurement Methods*
- (d) *Procurement Cycle*: The procedures for pre-qualification, issuance and publication of NIT/EoI, preparation of bid documents/ RFP, different methods of procurement, bid submission and bid opening, bid evaluation, award of contract, application of controls and approvals procedures to be followed by the procurement staff of PMU MSDP during the procurement cycle
- (e) *Contract Management*
- (f) *Grievance Redressal*
- (g) *Inventory Management and Control*

1.4 Limitations

In the special case where there is a conflict between the requirements set out in this manual and instructions issued by the SPPRA, the instructions of SPPRA shall prevail.

1.5 Organization of the Manual

The manual is divided into four broad Sections designed to simplify the use of the manual. Each section is further sub-divided into Chapters. The sections are organized as under:

- (a) *Section I:* It comprises chapters dealing with MSD Program and the over-arching legal framework; Principles of Procurement and Institutional Arrangements for managing procurement processes;
- (b) *Section II:* It comprises chapters on Procurement Planning, Pre-Qualification process, Pre-Procurement Activity, Open competitive bidding procedures; Procurement Cycle; Alternative Procurement Methods and Procurement of Consultancy Services;
- (c) *Section III:* This section consists of Contract Management, Inspection and Quality assurance; and Grievance Redressal Mechanism.
- (d) *Section IV:* This section provides practitioners with useful procurement forms and template documents usage of which is recommended in the practical course of the procurement process.

SECTION I

CHAPTER II: MSDP AND LEGAL FRAMEWORK OF PROCUREMENT

CHAPTER II MSDP AND LEGAL FRAMEWORK FOR PROCUREMENT

2.1 Introduction

Public procurement is vitally important to the economic system of a country and therefore occupies a central place in the financial activities of the Government. Country procurement statistics reveal that public procurements constitute between 15-20% of Gross Domestic Product¹. Moreover, procurement often involves goods and services with substantial economic and social significance, including road, railways, bridges, irrigation infrastructures, hospitals and health supplies, municipal services and education services.

A robust procurement regime plays a critical role in ensuring efficient use of public resources and achieving value for money by providing an enabling environment for the prudent and judicious utilization of public money. In contrast, weak and opaque procurement systems tend to discourage competition thereby directly impacting public expenditures and raising the cost of development activity.

Efficiency and effectiveness of public procurement is reflected in the quality of public infrastructure and services. It also impacts the range and quantum of infrastructure and services that a state provides to its citizens.

Non-compliance of procurement protocols and operating procedures and capacity constraints of procurement staff pose a serious risk to the objectives of any project even if the legal procurement regime is robust. This is equally true about the Municipal Services Delivery Program.

The procurement manual is an effort to provide an easy to understand guideline to the procurement staff of PMU MSDP for efficiently managing the program procurements. The manual attempts to seamlessly consolidate all the operating procedures. It will, therefore, facilitate the compliance of applicable procurement laws, rules and regulations.

2.2 MSD Program

The Municipal Services Delivery Program (MSDP) in the Sindh province is sponsored by the Planning and Development department, GoS and will be implemented with the support and financial assistance of USAID/ Pak.

2.2.1 Program Objectives

The program aims at sustainable improvement in delivery of municipal services so as to satisfy the basic needs of citizens residing in small and medium sized towns of Sindh province. The program objectives include²:

- (a) Delivery of municipal services in a more transparent and accountable manner through infrastructure upgrade, citizen participation and management reforms;

¹http://www.wto.org/english/thewto_e/minist_e/min11_e/brief_gpa_e.htm

² Amplified Program Description for Government of Sindh, MSDP, GoS

- (b) Establishing a collaborative relationship between USAID and the GoS for urban sector policy, program design and implementation;
- (c) Upgrading provincial information systems for planning, operations and monitoring and evaluation (M&E) and
- (d) Strengthening the capacities of local government institutions.

2.2.2 Program Scope

Major portion of the program funds will be utilized for up gradation of municipal infrastructure located in the 3 divisions i.e. Sukkur, Larkana and Mirpurkhas and other towns of the Sindh Province which were affected by floods-2010. The towns that have a lot of potential to become industrial zone/business centre and taluka headquarters will be given priority³.

The towns already proposed under tranche one of ADB assisted SCIP or its subsequent tranches shall not be considered. Likewise, those towns already covered under vertical programs shall be excluded from this Program.

2.2.3 Procurement related stipulations of Activity Agreement of MSDP

The financing of the program by the USAID/Pak grant is governed by the Activity Agreement signed between the USAID/Pak and the Planning and Development Department, GoS (Grantee). Section 6.01 of the Activity Agreement⁴ lays down that the USAID/Pak has conducted an assessment of the procurement policies of the Grantee. Based on the recommendations included in the assessment, the agreement requires the Grantee to establish, implement and subsequently follow the procurement recommendations based on the assessment as agreed with USAID/Pak and present an action plan to address such recommendations.

Similarly, the agreement stipulates that all procurement actions undertaken by the GoS pursuant to the Activity Agreement shall be consistent with GoP and GoS laws, regulations, rules, policies and procedures and pronouncements issued by the SPPRA. Moreover, the USAID/Pak shall be communicated in advance, prior to deviating from, not following or not implementing any of these policies and procedures⁵.

Additionally, failure on the part of Grantee to fully cooperate with the implementation of procurement recommendations set forth in the pre-award assessment may lead to suspension of disbursements⁶.

2.2.4 Requirements prescribed in PC I document⁷:

As prescribed by approved PC I of the program, all procurement actions undertaken by the MSDP shall be consistent with Government of Pakistan and Government of Sindh laws, regulation, rules, policies, and procedures and related pronouncements issued by the Sindh Public Procurement Regulatory Authority.

The PMU of MSDP has been provided a Procurement Section comprising staff responsible for procurements related to the Program.

³PC-I of MSDP, Sindh (page 1 & 4)

⁴Activity Agreement between US AID and GoS dated 25th April, 2012, page 4.

⁵Section 6.05 of the Activity Agreement between USAID/Pak and GoS dated 25th April, 2012, page 5.

⁶Section 6.06 of the Activity Agreement between USAID/Pak and GoS dated 25th April, 2012, page 5.

⁷Planning Commission planning proforma No.1

2.2.5 Imperative for the Manual

Risk Mitigation Framework of the MSDP, Sindh conducted by KPMG considers weak procurement systems as the source of risks for the successful execution of the program. According to the Risk Management Framework, the weakness of procurement regime stems from⁸ inadequacy of staff numbers and skills; inadequate redressal mechanism; exercise of discretionary powers by procurement staff; non-existence of ethical standards; improperly defined evaluation criteria and absence of procurement plans.

The framework considers development and implementation of procurement manual; hiring of procurement staff and capacity building as the measures necessary to mitigate the risk emanating from the weak procurement regime.

2.2.6 Domestic Preference

The 'Amplified Program Description' prescribes that the funds associated with the project shall be used for Procurement of Pakistani goods and services to the extent practicable to help support and build the capacity of local businesses and organizations⁹.

2.2.7 The Legal framework

The over-arching legal framework for the manual comprises the following:

- a) Sindh Public Procurement Regulatory Authority Act, 2009
- b) Sindh Public Procurement Rules, 2010
- c) Standard Bidding Documents
- d) Procurement framework for MSDP

The Procurement Framework together with SPPRA Act 2009, SPP Rules 2009, SPPRA SBDs and the instructions issued by the SPPRA provide the basis and template for the development of this manual. The contents of above documents are discussed as under:

Sindh Public Procurement Regulatory Authority Act, 2009

The legislation titled as the Sindh Public Procurement Act, 2009 governs public procurements by all the procuring agencies of GoS. It enables creation of a regulatory authority for oversight of procuring agencies. The policies and operations of the regulatory authority are controlled by a Board comprising members from public and private sector. The composition of the board has been kept diverse by incorporating stakeholders from private sector so as to insulate the regulatory body from extraneous pressures. The legislation provides some space to the Government to exempt procurements where national interest is involved. . The procurement law provides for promulgation of subordinate legislation in the form of Rules and Regulations .

Sindh Public Procurement Rules 2010

Government of Sindh notified the Sindh Public Procurement Rules (SPPR) in 2010. The Rules provide detailed procedures and guidelines for undertaking procurements. The Rules emphasize transparency, fair play, economy,

⁸Pre award report Page No 54, Summary of Assessment

⁹Amplified Program Description for Government of Sindh, MSDP-GoS, page 9.

efficiency and value for money as the guiding principles for public procurements.

Open Competitive Bidding: The Rules declare open competitive bidding as the principal mode of public procurement except in case of emergencies and special circumstances where exigencies of the situation warrant a greater flexibility to meet public demands. The term emergency as well as the procedure for invoking emergency provisions has been clearly spelt out so as to minimize the chances of misuse of the enabling provision .

Transparency: To achieve the objective of transparency, the Rules make publicizing as well as electronic posting of procurement plan, pre-qualification notices, notices inviting tenders , changes in the bid document , bid evaluation report(s) and contract documents mandatory for the procuring agencies. Besides, the specification of items to be procured is required to be generic. It is also obligatory upon the procuring agencies to communicate the reasons of rejection of bids to the participating bidders. The procuring agency is also barred from splitting the procurements.

Efficiency of Procurement and Value for Money: For obtaining value for money, the SPP Rules prescribe evaluation of bids on the principle of “lowest evaluated bid”. Flexibility and efficiency has been built into the system by allowing different methods of procurement for different situations. The procuring agencies can resort to direct contracting and repeat tendering. The Rules generally do not allow for negotiations except in some cases of procurement of consultancy services.

Accountability: The SPP Rules also prescribe a clear accountability mechanism in case of non-compliance of mandatory provisions. In case the procurement process does not fulfill the requirements laid down in the Rules, it may be declared a Misprocurement. Mis-procurement attracts initiation of action under the Anti-Corruption Act including registration of case against the staff responsible for mis-procurement and payment of compensation to the aggrieved bidder.

Grievance Redressal Mechanism: The Rules provide an elaborate two tier grievance redressal mechanism. In the first stage, the aggrieved bidder may approach the Complaint Redressal Committee of the department. In case the complaint is filed within seven days of the publicizing of the Bid Evaluation Report, the procuring agency cannot award the contract unless the complaint is decided. If the complainant is not satisfied with such decision, he may approach the Chief Secretary who may refer the matter to an independent review panel of experts and professionals whose recommendations would ordinarily be binding on the Chief Secretary.

Procurement of Consultancy Services: SPP Rules provide an elaborate procedure for procurement of Consultancy Services . The Rules allow eight different methods so as to enable procuring agencies to access high quality intellectual and technological resources. The Rules also address the issue of conflict of interest.

SPPRA Standard Bidding Documents (SBDs)

The Standard Bidding Documents for prequalification of contractors/ suppliers, procurement of works (different categories) , services and consultancy services have been prepared by the SPPRA. The PMU MSDP is required to use these model documents for procurements under the program.

The Standard Bidding Documents (SBDs) prepared by SPPRA incorporate the internationally recognized regulations (i.e. FIDIC regulations) of contract administration. So far following SBDs have been notified by the

SPPRA.

- (i) SBD for large Works
- (ii) SBD for small Works
- (iii) SBD for works (Contract value less than PRs. 2.5 million)
- (iv) SBD/ RFP for selection of consultants

The SPPRA standard bidding documents are slightly different from PEC documents in respect of conditions regarding charging of interest on mobilization advance, non-admissibility of insurance guarantee etc.

CHAPTER III: PRINCIPLES OF PROCUREMENT

3.1 General Principles

Rule 4 of the Sindh Public Procurement Rules enumerates the underlying principles for procurement which form the basis of procurement law and rules. Adherence to these principles guarantees robust procurement outcomes. Understanding these basic principles and their application in situations which require use of judgment by the procurement staff is critical to acquisition of works, goods and services of good quality at reasonable prices.

This manual has been prepared keeping in view these principles of procurement. The procurement staff of MSDP are required to strictly observe these governing principles. They may be held accountable if they fail to apply these principles while making procurement decisions.

The principles of procurement include:

- (a) Fairness (providing equal opportunity and avoiding discrimination)
- (b) Transparency (through disclosure of all material information at various stages of procurement)
- (c) Achieving Value for Money (through competitive practices and diligent procurement planning)
- (d) Economy
- (e) Efficiency

In addition to above, the procurement staff will ensure compliance with SPPRA Act and the rules and regulations made thereunder. Similarly, the bidding documents notified by the SPPRA shall be used for all procurements.

It is again emphasized that in situations where the procurement laws, rules, regulations or instructions issued by SPPRA are silent, the decision shall be made keeping in view the aforesaid principles.

3.1.1 Fairness

The procurement officials shall treat all the bidders with fairness and without any bias. They shall not discriminate against any bidder on the basis of gender, ethnicity, religious affiliation, physical disability or party affiliation. It may be noted that discrimination discourages wider participation thereby undermining the efforts to achieve value for money.

3.1.2 Transparency

Promotion of transparency in procurement processes inspires confidence of the stakeholders in procurement process including citizens, civil society and the contracting community. It also serves as an effective tool for controlling corruption. The

CHAPTER III

PRINCIPLES OF PROCUREMENT

Procurement staff of PMU MSDP shall ensure that all the procurement announcements are adequately publicized.

Use of Internet provide simple, user friendly and cost effective solutions for disseminating procurement announcements. The MSDP shall make full use of its website for promoting transparency by posting information/ documents relating to procurement processes on its website.

The **field offices** of MSDP may also use other means of communication such as local newspapers, cable network (where appropriate), notice boards of the field office and other major offices of the town (such as those of TMA, XEN Works and Services etc.) for dissemination of information regarding upcoming procurements, results of bid evaluation etc.

Procurement Records: Transparency and accountability is promoted through recording and documentation of all processes and procedures. In view of Rule 9, the Procurement Sections shall maintain a record of the procurement proceedings along with all associated documentation for a minimum period of five years after the completion of the program. Some of the procurement records are listed below. It may be noted that the list is not exhaustive:

- (a) a brief description of the goods or works procured or of the procurement need for which the proposals were requested including their detailed specifications;
- (b) bid document containing unambiguous evaluation criteria;
- (c) statement justifying choice of a procurement method; in case of any method of procurement other than open competitive bidding, a statement to that effect and the reasons thereof;
- (d) newspaper clippings of bid notices;
- (e) list showing purchasers of bid documents;
- (f) a summary of any requests for clarification of the prequalification or solicitation documents, the response thereto, as well as a summary of any modification to those documents;
- (g) minutes of pre-bid, bid opening and de-briefing meeting;
- (h) the names and address of suppliers or contractor who were pre-qualified or selected and invited to submit bids or technical proposals;
- (i) attendance sheet showing attendance of bidders at bid opening;
- (j) the names and addresses of suppliers or contractors that submitted bids; proposals, offers or quotations and name and address of supplier or contractor with whom the procurement contract is entered into and the contract price;
- (k) the price or the basis for determining the price and a summary of the other terms and conditions of each bid, proposal, offer or quotation and procurement contract;
- (l) Bid Evaluation Report containing reasons for acceptance or rejection of bids;
- (m) in case of rejection of bids, its complete record;
- (n) applications for review of procurement decisions (if any) and decisions thereon;
- (o) notice of bid acceptance, signed copy of contract agreement;
- (p) web page showing posting of NIT/EoI/Bid Evaluation Report/contract documents on SPPRA website;
- (q) record of negotiations where applicable,
- (r) performance security, copy of bank guarantee submitted for availing mobilization advance, bid security;
- (s) all documentation and correspondence relating to contract administration;

(t) documents demonstrating performance of the contract (such as inspection reports, delivery certificates, interim certificates, completion certificate etc.), copies of contract variations/ modifications where applicable and

(u) Record relating cancellation of procurement process or termination of contract.

Obtaining the record:- (1) After acceptance of the bids or, as the case may be, termination of the procurement proceedings without resulting in a contract, any person may, on request, obtain the records referred at (a) to (p) above;

(2) The record shall be disclosed in a manner that avoids disclosure of proprietary information.

No liability to suppliers: The Program shall not be liable to suppliers or contractors for damages owing solely to a failure of keeping record of the procurement proceedings.

Communication: All communications between the PMU MSDP and the bidders shall be in writing. Accurate written records of the different stages of the procedure are essential to maintain transparency, provide an audit trail of procurement decisions for controls, serve as the official record in cases of complaints and provide an opportunity for citizens to monitor the use of public funds.

Public disclosure and dissemination of documents: The following documents shall be widely disseminated for information of public;

- (a) NIT, Pre- Qualification Notices, EoI, Corrigendum/Addendum thereof and Cancellation thereof. These documents shall be posted on MSDP and SPPRA website for all contracts exceeding PRs one lac. If the value of contract exceeds PRs one million, these documents shall also be advertised through three widely circulated newspapers in English, Sindhi and Urdu including their regional circulations..
- (b) Procurement Plan. It shall be posted on MSDP and SPPRA website
- (c) Bid Documents (including Pre-qualification notices and Request for Proposal). These shall be posted on MSDP website.
- (d) Results of Pre-qualification or shortlisting process. These shall be posted on MSDP and SPPRA website.
- (e) Bid Evaluation Report. It shall be posted on MSDP and SPPRA website.
- (f) Letter of Bid Acceptance, BoQs, Schedule of Requirement and Form of Contract: These documents shall be posted on MSDP and SPPRA website.
- (g) Decision announced by the Complaint Redressal Committee.
- (h)** Decision announced by the Review Panel.

3.1.3 Financial Management

Availability of Funds: The Program Director shall ensure that the procurement process is not initiated unless the funds for the procurement are available.

Coordination between Finance and Procurement Staff: The Program Director shall encourage strong liaison between the Procurement Section and the staff of Finance and Compliance wing of the PMU MSDP. This would facilitate timely processing of invoices and payments to the contractors.

Documentation: Procurement Section PMU MSDP while forwarding invoices to the Director Finance and Compliance shall ensure that the procurement files are clearly labeled with a unique and sequential identification code and date, along with the unique code of the corresponding expenditure file that contains the documentation reflecting the contractor claims, payment vouchers, and receipts of Goods, Services, Works and Consulting services delivered. Good documentation practices facilitate effective contract administration and post-audit of expenditure.

Audit: The Procurement Section of PMU MSDP shall comply with the documentation, minuting and filing requirements as specified in this manual. Good documentation forms a sound basis for effective expenditure control and audit. For audit purposes, all procurement files and documentation shall be maintained for a minimum period of five years after the completion of the Program. The files/documents shall be kept in an orderly, accessible and in clean conditions.

3.1.4 Economy and Value for Money

Achieving economy, efficiency and value for money in acquisition of goods, works and services would require:

- (a) Expanding competition through wide publicity of pre-qualification and bid notices, providing sufficient response time and avoiding any difficult or discriminatory condition in bid document;
- (b) Selection of appropriate method of procurement;
- (c) Transparent, unambiguous and quantifiable evaluation criteria which is disclosed in advance;
- (d) Applying methods of aggregation where appropriate in order to take advantage of economies of scale. While doing so consideration must be given to storage costs arising from the risk of ware house losses due to theft, water damage, chemical damage etc. and direct cost such as warehouse cost, insurance cost etc.
- (e) Taking into account the life cycle costs while selecting procurement alternatives such as operational costs, after sales service, availability of spares, maintenance costs, expected operating life, sale value, savings from energy conservation etc.
- (f) Discouraging fake competition such as watching out for identical spelling errors in separate bids, similar signatures, identical phone numbers, consecutive numbers of pay orders submitted in lieu of bid security issued by the same bank branch.

3.1.5 Efficiency

- i. Procurement efficiency can be achieved through careful procurement planning.
- ii. Each procurement shall be sub-divided into constituent processes/ steps (e.g. publicizing of pre-qualification notice, shortlisting of bidders, issuance of bid documents, pre-bid meeting, opening of bids, bid evaluation, contract award etc.) and a timeline shall be prescribed for each step which shall be strictly followed by the procurement section.
- iii. For improving efficiency, the Program Director PMU MSDP shall strike a balance between risk and

administrative burden.

It may be noted that excessive controls may mitigate risks but may also increase transaction cost with associated delays and inefficiencies.

3.1.6 Confidentiality of Tenders

Procurement-related information is considered confidential. This includes any documentation or information that is part of the procurement process but is not publicly available, and where any disclosure of the documentation or information could:

- (a) Place a supplier/contractor or PMU MSDP at a disadvantage.
- (b) Provide an unfair advantage to a supplier/contractor.
- (c) Adversely reflect upon the reputation and integrity of PMUMSDP.

The Procurement Staff shall not allow any supplier/contractor, access to information on a particular procurement before such information is available on equal opportunity basis.

All bids submitted by the bidders should be kept in safe and secure environment to ensure that the confidentiality of tenders and requests to participate are preserved. Confidential information may include technical or trade secrets.

The principle of confidentiality makes it obligatory on the Contracting Authority not to examine the content of bids or offers until the deadline for submission of bids has expired.

3.2 Code of Ethics for procurement officials

Like other staff of PMU MSDP, the procurement staff shall comply with the Sindh Government Servants (Conduct) Rules, 1966 and the Code of Conduct specified in the HRM Manual. In addition, in order to ensure fairness and value for money in public procurement, the procurement staff of PMU MSDP shall follow strong ethical principles which should be able to insulate them from corrupt practices and supplier favoritism.

3.2.1 Ethical Values

The ethical values to be followed by procurement staff include among others:

- (a) Acting at all times in a way to uphold the public trust;
- (b) Performing duties in a manner that public confidence and trust in the competence, integrity, objectivity and impartiality of PMU MSDP are conserved and enhanced;
- (c) Act in a manner that will bear closest public scrutiny;
- (d) Take decisions in the public interest;
- (e) Seek advice and assistance from experts/qualified persons before taking decisions if necessary.

3.2.2 Guiding Principles

In general, the procurement staff shall:

- (a) Discourage non-competitive and collusive practices;
- (b) Prevent fraudulent, obstructive and corrupt practices;
- (c) Avoid conflict of interest;

- (d) Refrain from receiving gifts or favors of any kind from the prospective, participating or successful bidder;
- (e) Maintain confidentiality of proprietary information;
- (f) Ensure transparency in decision making;
- (g) Ensure fairness in tender process;
- (h) Exercise due care and caution in performance of duties and compliance of applicable laws and rules in letter and spirit.

Discouraging non-competitive and Collusive Practices

SPP Rules define **Collusive Practices** as a relationship between two or more parties to the procurement process or contract execution which is designed to manage prices at artificial, noncompetitive levels for any wrongful gain.

Common collusive practices include:

Bid suppression: One or more vendors who otherwise would be expected to bid, or who have previously bid, agree to refrain from bidding or withdraw a previously submitted bid so that the designated winning competitor's bid will be accepted;

Complementary bidding: An agreement by vendors whereby at least one of them agrees to submit a bid that is either too high to be accepted or contains special terms and conditions that will not be acceptable to the organization;

Bid rotation: Vendors submit bids but agree to take turns being the low bidder;

Subcontracting: Vendors agree not to bid or to submit a losing bid in exchange for subcontracts from the successful bidder; and

Market division: Vendors divide markets among themselves, allocating specific customers, products or territories to themselves.

Every procurement official shall strive for genuine, fair and transparent competition. He shall avoid any attempt by the bidders to collude to the best of his knowledge and ability. To avoid collusion among the bidders, he shall maintain confidentiality regarding the bids submitted by the bidders. He shall ensure that the conditions specified in the bidding documents for eligibility/ qualification and the specifications are such that these allow maximum possible competition. The bidders shall be provided information on equal opportunity basis and the announcements regarding procurement process given wide publicity. If any collusive practice comes to the knowledge of a procurement staff he shall immediately inform the Program Director who shall take necessary corrective measures.

Prevention of fraudulent, coercive, obstructive and corrupt practices

Under the SPP Rules:

- (a) Coercive practice means the harming or threatening to harm; to influence the actions of a party to achieve Wrongful gain or to cause a wrongful loss to another party.
- (b) Corrupt practice is the offering, giving, receiving or soliciting to influence the acts of another party for wrongful gain.
- (c) Fraudulent practice is an act or omission, including a misrepresentation, that knowingly misleads, or

attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation.

- (d) Obstructive practice means the harming or threatening to harm persons or their property to influence their participation in a procurement process, or affect the execution of a contract or deliberately destroying, falsifying, altering or concealing of evidence or making false statements before investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice;

Corruption arises in procurement when the staff entrusted with the responsibility of undertaking procurement is influenced to design and manage the procurement activity or change its outcome in order to favor a particular bidder in exchange for bribes or for other rewards.

Potential Areas of Corruption: Various potential areas of corruption or fraud in the procurement system include:

- (a) The procurement is unnecessary and the demand is induced to favor a particular supplier;
- (b) Goods or services are over-estimated;
- (c) Disclosing names of bidders before submission of bids;
- (d) Collusive bidding (including formation of cartels);
- (e) Designing specifications in favor of one supplier;
- (f) Splitting and slicing of contracts;
- (g) Publication of tender notices in less known newspapers;
- (h) Refusal or delaying tactics in issuance of bid documents;
Using alternative methods of procurement without the requisite justification or fulfillment of condition specified for invoking the use of non-competitive method;
- (i) Abuse of Emergency provisions;
- (j) Not announcing evaluation criteria in advance;
- (k) Manipulating evaluation of bids;
- (l) Sub-standard works, goods or services not meeting contract specifications;
- (m) Changing contract conditions without any plausible justification to favor a contractor; Fraudulent invoicing for goods and services not supplied or for interim payments in advance of entitlement;
- (n) Provision of false test or quality assurance certificates;
- (o) Kickbacks and commissions etc.

Procurement staff of PMU MSDP and/or bidders for MSDP procurements shall ensure prevention of above practices. They shall avoid deceptive financial practices; refrain from misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Program.

The procurement staff shall also ensure that all the steps in procurement and payments to the contractors are completed without any unnecessary delay and as per the specified timelines.

PMU MSD Program may consider setting up a hotline for reporting corrupt, fraudulent and collusive practices in the bidding process or during the execution of contract.

Avoidance of Conflict of Interest

- (a) Actual or potential conflict of interest occurs when the official is in a position to influence a decision that may result in a personal gain for himself or for a relative or friend. This also covers the financial interests of working with a person with whom procurement official is seeking or has an arrangement for future employment.
- (b) Staff involved in procurement process should not assist bidders or prospective bidders or their employees or agents in their dealings with the government where this would result in preferential treatment for those entities or persons
- (c) An employee, who has a conflict of interest with respect to a particular contract, shall inform the Program Director with regards to existence of such conflict. Further, he shall not take part in the procurement proceedings of such contract and abstain from taking any decision which has a bearing on that contract.

Gifts, Favors or Hospitality

- (a) The procurement staff of PMU MSDP shall not solicit or accept gifts or transfer of economic benefits from bidders or contractors/suppliers and their employees or from an organization or individual who is interested in seeking business with the MSDP.
- (b) If the offer of a gift cannot be refused without giving an undue offence, it may be accepted and delivered to the Government for decision as to its disposal¹⁰.
- (c) Similarly, the Bidders shall not offer entertainment or hospitality directly or indirectly to the procurement officials of PMU MSDP.

Confidentiality of Proprietary Information

- (a) The officials of PMU MSDP and the members of procurement committee, consultant selection committee, grievance redressal committee or the review panel who in view of the nature of their responsibilities or otherwise are in possession of any information relating to procurement proceedings or to the bids submitted by the bidders shall keep such information confidential including bidders' proprietary information except as prescribed by SPP Rules.
- (b) The information disclosure restriction does not apply to provision of information to the SPPRA, Auditor General of Pakistan (for audit purposes), NAB and Anti-Corruption Department (if the matter is under inquiry or investigation) or the court of competent jurisdiction (if it is seized of the matter).

Transparency in decision making

The procurement staff shall ensure transparency with regards to the decisions taken by them. Immediately upon award of contract, contract documents shall be made public through hoisting on the SPPRA website as well as on

¹⁰Rule 5 of the Sindh Government Servants (Conduct) Rules, 1966.

MSDP website.

Fairness in Tender Process

The procurement announcements shall be disseminated on equal opportunity basis. Technical specifications of a product or service should exactly match the needs, should be clear and detailed and should not describe the product of a specific supplier. Similarly, the evaluation criteria shall be clear and unambiguous and shall not be tailored to favor a specific supplier.

Restriction on PMU MSDP staff

The PMU MSDP staff and their close relatives¹¹ shall not participate as bidders in the procurements of MSDP.

Declaration by PMU-MSDP Procurement Staff

The procurement staff of PMU MSDP managing a particular procurement may be required to sign a declaration prior to the commencement of the procurement to the following effect:

- (a) They have no marital or blood relationship with the bidder or his counsel or his employees;
- (b) During three years prior to the commencement of contract they have not been in employment of the bidder or held a financial interest in the bidder;
- (c) Has no financial or economic interest in the outcome of the procurement process, in a direct/indirect manner. (Please refer Annexure A1)

The Procurement Staff shall also submit the Annual Declaration of Assets as per form prescribed by the Government of Sindh from time to time on or before 31st day of July every year.¹²

3.3 Approval Protocol of Procurement

The approval process for procurement decisions of PMU MSDP shall be based on the following protocols.

- (a) *Separation of Authorities*: There shall be separation between different decision making authorities. The Procurement committee/Consultant Selection Committee; Grievance Redressal Committee, Inspection Committee and tender approving authority shall be separate and comprise different individuals.
- (b) *Prior Approvals*: Procurement shall be initiated only after the PD has granted approval in this regard;
- (c) *Written Approvals*: All recommendations, decisions and approvals shall be in writing and properly signed, dated, documented and filed.
- (d) *No Back dated Approvals*: Back dated or retrospective approvals are strictly prohibited.
- (e) *Delegation of Authority*: Delegation of Authority where permissible under the rules shall be made over to an officer with sufficient seniority and expertise to effectively carry out the approvals. In case of delegation, the responsibility for propriety of decision will rest with the delegatee as well as the officer who has been delegated the authority to grant approvals.
- (f) *Maintaining Specimen Signatures*: A secure record of specimen signatures of all officers authorized to

¹¹“Close Relative” includes spouse, children, dependent parents and dependent relatives.

¹²Rule 12 of the Sindh Government Servants (Conduct) Rules, 1966

grant approvals shall be maintained for future reference.

3.4 Conduct of Bidders and Contractors

While participating in bidding process, the bidders shall comply with the requirements of Sindh Public Procurement Act, 2009, Sindh Public Procurement Rules, 2010, this manual, contract document and other instruments applicable to their conduct and activities related to the procurement.

A bidder shall abstain from engaging in or abet corrupt, collusive, fraudulent, or obstructive practices as defined in Rule 2(1) of the SPP Rules including the offering, directly or indirectly, of improper inducements, or the misrepresentation of facts in order to influence the procurement decisions before or after the award of contract.

Consequences: If the information submitted by a supplier, contractor or consultant concerning his qualification and professional, technical, financial, legal or managerial competence as supplier, consultant or contractor, is found at any time, to be false and materially inaccurate or incomplete, OR it is found that he has indulged in corrupt and fraudulent practices, he shall stand disqualified from participation in the procurement (Rule 30).

Similarly, conviction of supplier, contractor or consultant for fraud, corruption, criminal misappropriation, theft, forgery, bribery or any other criminal offence and his involvement in corrupt and fraudulent practices while obtaining or attempting to obtain a procurement contract; shall result in his blacklisting, individually or collectively as part of consortium (Rule 35).

3.4.1 Declarations to be submitted by the Bidder

The bidding document shall provide for submission of following declarations by the prospective bidder:

- (a) Declaration that the bidder has not been debarred or black listed (Annex-A2);
- (b) In procurements exceeding PRs. 10 million for goods and works and PRs. 2.5 million for consultancy services, the bidder and the PMU MSDP shall execute an Integrity Pact (Annex- A3) . The Integrity Pact requires a mutual commitment by the PMU MSDP and the bidders to abstain from and prevent all corrupt acts and submit to penalties in case of contravention. Bidders pledge to disclose all payments in connection with the contract in question. The Integrity Pact binds bidders to refuse to pay kickbacks or commissions or to engage in anti-competitive transactions.

3.5 Internal Controls

Without an adequate internal control system, individuals are not deterred from engaging in dishonest, illegal, or unethical acts. It is particularly important to have functioning internal controls in procurement, including financial control, internal audit and management control.

This Manual provides mechanism and processes for an effective internal control system that assists in compliance with laws and regulations.

CHAPTER IV

**INSTITUTIONAL
ARRANGEMENT**

CHAPTER IV: INSTITUTIONAL ARRANGEMENT

4.1 Procurement Responsibility

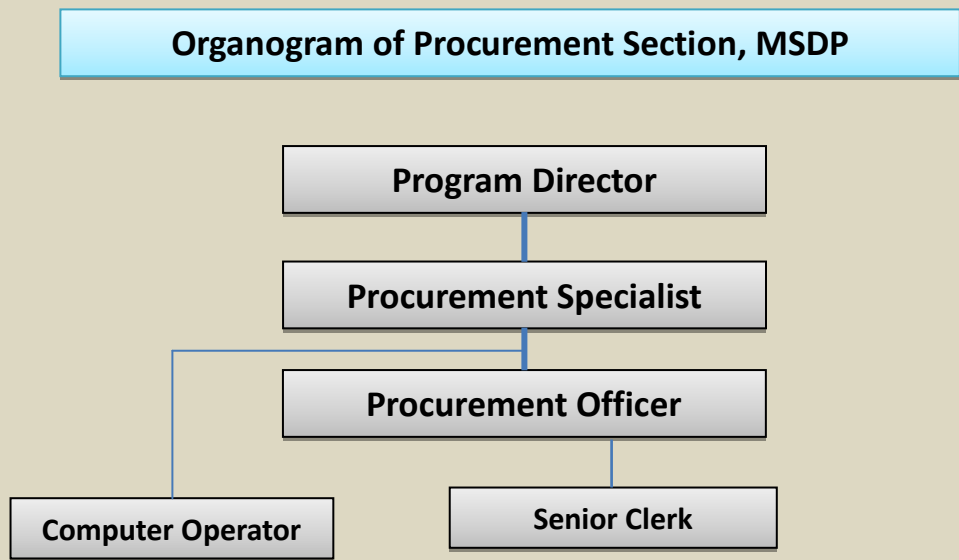
Public Procurement Rules prescribes an institutional mechanism for undertaking procurement activity. This ensures both fairness and efficiency in the decision making process. This Chapter explains the institutional arrangement for procurement in MSDP and also elaborates the functions and responsibilities assigned to the various officers within the program.

The institutional arrangement in MSDP comprises following staff, committees and sections for performing procurement function:

- (a) Procurement Section (Comprising Procurement Specialist and Assistant Director Procurement)
- (b) Program Director
- (c) Director General Works
- (d) Project Manager(s)
- (e) Procurement Committee
- (f) Inspection Committee

4.1.1 Procurement Section

The Procurement Section shall comprise Procurement Specialist and the Assistant Director Procurement. The functions and responsibilities assigned to the Procurement Section in this manual shall be performed by the Procurement Specialist with the assistance of Assistant Director Procurement. The organogram of Procurement Section shall be as under:



a. Procurement Specialist;

The Procurement Specialist shall head the Procurement Section of PMU MSDP and report to the Program Director. He shall be assisted by Assistant Director Procurement and support staff.

Functions:

The functions of Procurement Specialist shall include but not limited to the following:

- (a) Evaluate the need, justification and quantum of the goods, works and services to be procured for the PMU MSDP and submit to the Program Director for approval. The projects/Sub-projects under the program, however, may be identified by the Program Consultants in consultation with the PMU MSDP as per criteria prescribed in PC-I and submitted to the Program Steering Committee for approval;
- (b) Prepare procurement plan;
- (c) Coordinate implementation of the approved Procurement Plan; Prepare Specifications of the goods, works and services to be procured, Evaluation Criteria; Schedule of Requirement and Bill of Quantities for approval of Procurement Committee. In case of Works and complex goods and services he may seek assistance of the DG Works and Program Consultants in performance of this function ;
- (d) Carry out market survey for preparing specifications and cost estimates etc. wherever required;
- (e) Propose on aggregation, packages, lots and economies of scale buying. The;
- (f) Publish, issue and disseminate the NITs, EoIs, Pre-Qualification Notices, Pre- Qualification documents, Bidding Documents; Request for Proposal, Corrigendum/ Addendum to these documents and Cancellation Notices subject to approval of these documents by the Program Director or the Procurement Committee as the case may be;
- (g) Receive, open and keep the custody of applications to pre-qualify and expressions of interest;
- (h) Receive and keep the custody of bids submitted by the bidders;
- (i) Provide secretarial support to the Procurement Committee, Inspection Committee and the Complaint Redressal Committee. Assist these Committees in performance of responsibilities (e.g. issuing meeting notices, recording minutes, preparing comparative statement under the instructions of procurement committee etc.);
- (j) Perform functions of Procurement Committee and Inspection Committee in case of Petty purchases;
- (k) Prepare and publicize the contract award notice after its approval by the Project Director;
- (l) Prepare Contract Documents in sync with bidding documents;
- (m) Arrange De-briefing for the unsuccessful bidders and record minutes of the de-briefing;
- (n) Maintain and Archive the record of procurement as listed at Para 3.1.2 of this manual;
- (o) Provide information as required for any petition or enquiry to debar or disqualify a bidder as required by the Complaint Redressal Committee, review panel or SPPRA;
- (p) Assist the Complaint Redressal Committee of the MSDP;
- (q) Administer the Contract where applicable and ensure that the terms and conditions of Contract are complied with;
- (r) Prepare Contract Variations and modifications where applicable and submit to Project Director for

approval;

- (s) Report significant deviations from the Contract Conditions to the Program Director;
- (t) Liaise with the M&E Section in monitoring the evaluation of the Contract;
- (u) Assist the Inspection Committee in quality assurance of procurements;
- (v) Conduct periodic stock taking of assets;
- (w) Certify invoices and liaise with Director Finance and Compliance for payment to suppliers;
- (x) Liaise with SPPRA for posting of NITs, Pre-qualification notices, EoIs, Addendum/Corrigendum's to the NIT/EoI/ Pre-Qualification Notices, Pre-Qualification documents, Bidding Documents, Request for Proposals, Amendments or modifications in the bid documents/ RFP/ Pre-qualification documents, Bid Evaluation Reports, Contract Document, BoQs, Schedule of Requirement and other information;
- (y) Liaise with Information Department for advertisement of procurement notices in widely circulated newspapers;
- (z) Arrange for sale of unserviceable and obsolete/condemned items subject to approval of Project Director;

b. Assistant Director Procurement

The Assistant Director Procurement shall work under the direct supervision of the Procurement Specialist, MSDP and assist in performing all the functions assigned to the Procurement Section and the Procurement Specialist under this manual. This includes planning, executing and finalizing purchasing and procurement activities as well as sourcing and purchasing of goods and services according to available budget of MSDP.

4.1.2 Program Director

The Program Director shall perform following functions related to procurements:

- (a) Ensure that all activities related to procurements are undertaken in accordance SPP Act, Rules and Terms and Conditions of Contract;
- (b) Approval of goods, works and services to be procured and quantities thereof except the projects/sub-projects which shall be submitted to Steering Committee for Approval;
- (c) Notify Procurement Committee(s), Inspection Committee and Complaint Redressal Committee;
- (d) Approval of Procurement Plan;
- (e) Ensure that the procurement announcements, Bid Evaluation Reports and Contract Documents are appropriately notified/publicized;
- (f) Approve extension in bid validity in accordance with Rules;
- (g) Approval of Recommendations submitted by the Procurement Committee with regards to award of contract;
- (h) Signing Contract Agreement and Integrity Pact (where applicable);
- (i) Ensure management of contract in accordance with the terms and conditions of Contract Agreement;
- (j) Take appropriate remedial actions in case of deviations from the contract agreement;
- (k) Approve Contract Variations and modifications and authorize employer related approvals in the Contract;
- (l) Approve payments to supplier;
- (m) Approve sale of unserviceable items;

- (n) Liaise with Government of Sindh; SPPRA; Program Steering Committee; Procurement Committee(s) and Inspection Committee(s).
- (o) Review and approve recommended policies and procedures for the program;
- (p) Coordinate major program changes with the sponsoring government agencies;
- (q) Make technical and business management decisions in support of the program, as defined in the program charter;
- (r) Ensure compliance with the directions / recommendation of the steering committee of the program;
- (s) Coordinate for procurement Audit of the program;
- (t) Manage all activity on program funds;
- (u) Ensure that all procurement procedures are adequately documented.

The Program Director may delegate some of his responsibilities related to procurements to the Director General(Works) or Procurement Specialist.

4.1.3 Director General Works

The Director General Works (DG Works) shall be responsible for management and day-to-day execution of projects/ sub projects envisaged under the program. In particular, the DG Works shall perform following procurement functions:

- (a) Implement procurement procedures as per this manual and SPP rules.
- (b) Provide support and guidance to the Procurement Section in preparation of Specifications; Evaluation Criteria; Schedule of Requirement; Bill of Quantities, Procurement Plan etc.;
- (c) Assist the Program Director in all matters related to execution of Projects/Sub-Projects and management of contracts.

4.1.4 Project Manager

The Project Manager (s) shall report to the Director General Works and perform following functions within their jurisdiction:

- i. Identify needs of procurement in the concerned towns with the assistance of Program Consultants;
- ii. Administer Contracts when so directed by PMU MSDP;
- iii. Ensure that contract administration is carried out in accordance with legal requirements and project policies and procedures;
- iv. Provide feedback and support on all aspects of contract administration;
- v. Coordinate with the contractors, suppliers and consultants to ensure delivery of services and goods according to terms and conditions of the contract

4.1.5 Procurement Committee

Pursuant to Rule 7 of SPP Rules, 2010 The Procurement Committee(s) of MSDP shall comprise odd number of members and headed by an officer of PMU MSDP not below BS-18. One third members of the Procurement Committee(s) shall be from agencies or departments outside the PMU MSDP.

The Committee may co-opt any expert or specialist for achieving the objective of transparency, efficiency and value

for money. The Procurement Section shall act as the secretariat for the Procurement Committee.

The PMU MSDP has notified following Procurement Committees.

a. Procurement Committee for Projects and Sub Projects under the Program

Director General Works PMU MSDP Chairman

Procurement Specialist PMU MSDP Member

Deputy Secretary P&D Deptt. GoS Member

b. Procurement Committee for procurements of PMU MSDP

Director Finance and Compliance PMU MSDP Chairman

Procurement Specialist PMU MSDP Member

Deputy Secretary P&D Deptt. GoS Member

Meetings of Procurement Committee: All meetings of the Procurement Committee shall be properly documented in the shape of minutes which shall be signed and dated by all members of the Committee.

Decision Making: The Committee shall try to take decisions by consensus. Where consensus cannot be achieved, the decision shall be taken on the basis of the majority of total members voting in favor of a decision provided that at least one independent/outside member has voted in favor of such decision.

Functions:

The Procurement Committee shall perform following functions:

- (a) Preparation and approval of bidding documents including Pre-qualification documents and RFPs, selection method, aggregation, lots or packages of procurement items as the case may be, ;
- (b) Opening of bids;
- (c) Seeking clarifications from bidders in writing;
- (d) Technical as well as financial evaluation of the bids including preliminary examination and determination of bid responsiveness, correction of arithmetic errors, quantification of omissions and deviations, application of evaluation criteria and comparison of bids. The evaluation shall strictly be undertaken in accordance with the criteria laid down in the bidding document; No additional evaluation or eligibility criteria shall be specified during the evaluation process. The evaluation shall be completed preferably within a period of 15 days ;
- (e) Preparing evaluation report as provided in Rule 45;
- (f) Making recommendations for the award of contract to the competent authority; and
- (g) Perform any other function ancillary and incidental to the above.

Conflict of interest: A member of the Procurement Committee shall not enter into direct communication with any bidder individually. In case a member of the Committee has a conflict of interest or potential conflict of interest, he shall disclose the fact and separate himself from the proceedings of the Committee. **The members of inspection committee shall also sign a declaration for each procurement certifying therein absence of conflict of interest or potential conflict of interest.**

4.1.6 Inspection Committee

The inspection committee shall comprise odd number of members. The Chairman of the Inspection Committee shall preferably be an officer of PMU MSDP not below BS-18. At least one third members of the inspection committee shall be from agencies other than PMU MSDP.

The Committee may co-opt any expert or specialist for achieving the objective of transparency, efficiency and value for money. The Procurement Section shall act as the secretariat for the Procurement Committee.

Meetings of Inspection Committee: All meetings of the inspection committee shall be properly documented in recorded minutes which shall be signed and dated by all members of the Committee. If an **outside** member is unable to attend a meeting he shall delegate his authority in writing to an appropriate senior officer who shall attend the meeting on his behalf. The delegation letter shall be attached to the minutes of the Committee. It shall be responsibility of the (**outside**)delegating officer that the officer representing him has adequate skills and expertise to inspect the procured items.

Decision Making: The meetings of the procurement committee shall be attended by at least three members or their representatives. The Committee shall try to take decisions by consensus. Where consensus cannot be achieved, the decision shall be through voting by simple majority.

Conflict of interest: A member of the Inspection Committee shall not enter into direct communication with any bidder. In case a member of the Committee has a conflict of interest or potential conflict of interest, he shall disclose the fact and separate himself from the proceedings of the Committee.

Functions:

The Inspection Committee shall perform following functions for procurements whose value exceeds PRs. one lac:

- (h) Inspect and review the goods, works and services to ensure that these are compliant with the specifications and terms of the Contract;
- (i) Accept or reject on behalf of the Program, the goods, works and services;
- (j) Ensure that the correct quantities has been received;
- (k) Ensure that the goods, works and services meet the desired technical Standards;
- (l) The procured goods, works and services have been received on time and delays (if any) have been noted;
- (m) The relevant manuals, warranties and documentation has been received;
- (n) Issue completion certificates.

SECTION II

**CHAPTER V
PROCUREMENT
PLANNING
AND PRE
PROCUREMENT
ACTIVITIES**

CHAPTER V: PROCUREMENT PLANNING AND PRE PROCUREMENT ACTIVITIES

This chapter covers the activities which are required to be undertaken by the PMU MSDP prior to initiation of procurement activity. These include:

- (a) Procurement Requisition
- (b) Need Analysis of Procurement
- (c) Decision on Procurement Method
- (d) Preparation of Specification
- (e) Preparation of Drawings
- (f) Preparation of Cost Estimates
- (g) Preparation of Procurement Plans
- (h) Preparation of BoQs and Schedule of Requirement
- (i) Preparation of Evaluation Criteria
- (j) Administrative Approval
- (k) Technical Sanction
- (l) Availability of Funds
- (m) Preparation of Bidding Document

5.1 Procurement Requisition

The concerned section to which the procurement pertains will initiate the procurement requisition to start the procurement process and submit it to Procurement Section (Annex-C1). Following information/formalities will be completed while requisitioning any procurement:

- a. List the goods, works or services required along with quantities and functional requirements.
- b. Justification for requisition.

Upon receipt of the Requisition by the Procurement Section, the requirements will be verified and any clarifications or changes required and specifications will be discussed with the end-user.

Thereafter, the Procurement Section will sign the Requisition and submit it to the Program Director through the Director Finance and Compliance for approval. The Procurement Section will open a separate file for each requisition.

5.2 Need Analysis of Procurement

The need analysis of Projects/Sub-Projects shall be undertaken by the Procurement Section and the Program Director with the assistance of Program Consultants and approved by the Steering Committee in accordance with the criteria specified in the PC-I.

The identification of other procurements required for successful execution of the Program shall be undertaken by the Procurement Section with the assistance of concerned section based on sound justification, cost-benefit analysis and keeping in view the existing inventory of items to be procured. The procurements other than those requiring approval of the Steering Committee shall be approved by the Program Director.

5.3 Decision on Procurement Method

The method of procurement will depend on value of procurement; nature of procurement and conditions specified in Chapter VII and Chapter XII. The Procurement Section will propose the Procurement Method with the approval of Program Director for reasons/justification to be recorded in writing. The Procurement Committee shall approve the choice of Procurement Method.

5.4 Preparation of Specifications

The Specification shall be prepared by the Procurement Specialist. While preparing specification the Procurement Specialist shall seek input from the relevant section so as to be sure that the procurement serves the purpose. Under the SPP Rules 2010, Specifications shall be:

- a. As neutral as possible and allow the widest possible competition.
- b. The specifications shall not favor any single contractor or supplier nor put others at a disadvantage.
- c. Specifications shall be generic and shall not include references to brand names, model numbers, catalogue numbers or similar classifications.
- d. However, if the PMU MSDP is convinced that the use of a reference to a brand name or a catalogue number is essential to complete an otherwise incomplete specification. Such use or reference shall be qualified with the words “or equivalent” (Rule 13).

Following may be kept in mind while preparing specifications;

- (a) The specification shall be in sync with the market trends;
- (b) The evaluation criteria shall be partially based on specifications and require bidders responsiveness to the specifications stipulated in the bidding documents;
- (c) Specifications may include packing if necessary;
- (d) Specification shall take into account the cost of procurement and funds available for the purpose.

5.5 Preparation of Drawings (Works)

The consultant or the technical staff of the Program shall prepare the drawings of the works to be executed. The drawings help in preparation of cost estimates and BoQs. Besides, the drawings facilitate the contract administrator and the contractor in execution of contract works.

5.6 Preparation of Cost Estimates

Surveys and detailed engineering studies are conducted to assess the requirement and the detailed estimate of a works scheme. For goods and services, market surveys are conducted to obtain a fair estimate of the market price of goods or services. In case of complex goods and services which may not be available off the shelf, the preparation of estimates may require seeking the relevant information on costs from a sufficient number of manufacturers or

suppliers.

6.6.1 *Data Required for estimating Cost of Works*: The cost estimates for works may require examination /consideration of following data by the technical staff of PMU MSDP preparing the estimates:

- a) Lay out, site and location plan/index map showing for e.g. the alignment of road/lines of main and distributary piping;
- b) Detailed drawings including sections of the structures (e.g. longitudinal and cross sections of road, x-section of stream for bridge, plans of all works including filters, service reservoirs, settling tanks, pumping stations etc.)
- c) Soil investigation report including bearing capacity, water table level and qualitative tests;
- d) Structural design of all structures (calculations and reinforcement details);
- e) Quarry locations including cartage statement:
- f) Hydraulic Data;
- g) Specifications;
- h) Market Rates (esp. of items not included in the schedule).

5.7 BoQs and Schedule of Requirement

“**Bill of Quantities (BOQ)** means the price and completed bill of quantities forming part of the tender/bid. This needs to be carefully prepared in close coordination with the users. The schedule shall include the items and quantities, delivery locations and dates. The schedule shall also indicate the technical specification. For more clarity on structure of schedule (bill of quantities) and requirements; a preamble to BOQ is necessary. The preamble shall clearly define what is required to be filled, how it should be filled; what if no unit rate is filled for specified quantity; how the provisional sum amount will be executed and paid, etc. The BoQs shall be prepared by the technical staff of the concerned section of PMU MSDP with the assistance of Program Consultants and submitted to the Procurement Section for necessary approvals.

5.8 Availability of Funds

Before taking up the execution of work it shall be ensured that proper funds are available to meet out the expenditure on the work. In case of urgency, assurance may be obtained from the US AID/Pak or the Finance Department, Government of Sindh as the case may be for provision of funds before the liability matures.

5.9 Procurement Planning

Procurement is an essential component of the Public Financial Management (PFM) System. It affects the efficiency of PFM to deliver public programs and policies and acts as a link between procurement and budget preparation. It may be noted that effective Procurement planning is critical to the adequate allocation of budgetary resources and successful execution of budget.

The procurement section of PMU MSDP shall give due attention to procurement planning and prepare the plan with due care and diligence. Procurement Plan is a pre-requisite for initiation of procurement activity. It helps in forecasting the schedule of launching the invitation for bid; signing and execution of contract and delivery of goods, works or services. It, therefore, enables the Director Finance and Compliance to estimate monthly/ quarterly cash flow requirements of the Program and approach funding sources (i.e. USAID/Pak and Finance Department Government of Sindh) for provision of requisite funds.

5.9.1 Annual Procurement Plan

The annual procurement plan covers the planning and scheduling of procurements to be undertaken during the (next) financial year. The plan for next financial year shall be prepared by the Procurement Section with the assistance of concerned sections of PMU MSDP and approved by the Program Director latest by April and shared with USAID/Pak, Planning and Development Department and Finance Department Government of Sindh. The Procurement Plan shall include the following schemes/ procurements:

- (a) The Projects/ Sub-projects (new schemes) identified under the program which are to be executed during the (next) financial year;
- (b) The Projects/Sub-projects (on going) identified under the program which will continue during the (next) financial year;
- (c) Procurements of goods and services identified by various sections of PMU MSDP.

5.9.2 Structure of Annual Procurement Plan

The procurement plan shall compile the following information (Annexure C1):

- (a) Segregation of procurements into Works, Goods, Services and Consultancy Services and their further segregation into Non-Development, Revenue and Development Components;
- (b) A schedule showing timing of activities and delivery, implementation and completion of goods, works, services and consultancy services;
- (c) An indication of which items will be aggregated or included in a package/ lot and justification thereof;
- (d) Quantity, Estimated Cost, Available Budget and the Source of funding for the procurement of goods, works and services;
- (e) An indication of Rules applicable to the procurement (NCB/ICB);

- (f) Anticipated method of procurement including need for prequalification if any;
- (g) Indication of shelf life of goods where applicable.

5.9.3 Revision and Updating of Plan

The procurement plan is a dynamic document. Therefore, the procurement plan for any scheme/ sub-project shall be reviewed and updated throughout the life of the project. The adjustments will not invalidate the plan if these are made for improving the plan in the interest of successful and timely completion of the project.

Changes to an annual financial plan may be required due to (a) shortage of funds, (b) availability of supplementary funds, (c) late release of funds, (d) delays in obtaining necessary approvals and (e) failure of contractors to supply/execute as contracted, necessitating re-bidding. Procurement plans should be reviewed on a quarterly basis and adjustments made, if required.

The following factors may be taken into account while updating the procurement plan:

- (a) estimates of time requirements,
- (b) availability of funds,
- (c) assumptions about institutional capacity,
- (d) changing priorities and
- (e) other factors that require plan adjustments for the success of the project.

5.9.4 Limitation on Splitting or Aggregation

Under Rule 12 of SPP Rules, all proposed procurements for a financial year shall proceed without any splitting or regrouping of the procurements already grouped, allocated and scheduled in the Procurement Plan.

5.9.5 Basis for Aggregation/ Packaging

A good packaging helps in achieving economies of scale and efficiency in procurement. Depending upon the situation at sites, the DG(works) will inform the Procurement Section regarding the need and justification for preparation of packages of works to be undertaken under the program. The Procurement Section after evaluation of the justification for Packaging/aggregation, seek approval/orders of the Program Director.

Packaging of procurement items shall be based on following considerations:

- (a) Items are of similar nature and would attract same class of bidders;
- (b) Items will be subject to same bidding requirements and contractual terms;
- (c) Storage costs and distribution constraints do not exceed the benefits generated by the economies of scale;
- (d) Potential benefits to be realized because of reduced transaction costs and efficient contract management;

- (e) Size and type of contract which will attract maximum possible competition;
- (f) Seasonal price fluctuations (esp. in case of commodities) which may warrant/ justify aggregation for the season only instead of whole year.

Examples: Packaging may be made for all repair works of water supply tanks at the same location. Similarly, one Package can be announced for replacement of all sewerage lines in a specific town.

5.9.6 Basis for Division into Lots

The decision for division of contract into lots shall be taken by the Program Director on the recommendation of the Procurement Section. Division of a contract into lots shall be based on the consideration that the division into lots will attract greater competition and result in overall savings.

A contract shall not be divided into lots:

- (a) to avoid a procurement threshold;
- (b) to avoid use of a more competitive method;
- (c) where division into lots will create problems of compatibility between items purchased;
- (d) where division into lots increase costs of maintenance and after sales service.

In case a contract is divided into lots comprising equal packages, the interested bidders may be allowed to bid for a single lot, combination of lots or all lots.

5.9.7 Individual Procurement Plan

Once the annual procurement plan has been approved by the Program Director; the Procurement Section shall prepare detailed plan of each procurement item and have it approved by the Program Director. Individual procurement plans shall not be required for procurements below PRs one lac. The contents of individual procurement plan shall comprise (Annex- C2 to C4);

- (a) Description of procurement; schedule of delivery, implementation or completion of goods, works services and consultancy service as the case may be;
- (b) Quantity required and Estimated Cost;
- (c) Proposed procurement method;
- (d) Justification for use of method other than open competition;
- (e) Time required for each stage in procurement cycle;
- (f) Type of contract;
- (g) Resources required ;

(h) Any other relevant information.

5.9.8 Publicizing Procurement Plans

The Procurement Specialist shall ensure that the annual procurement plan and the individual procurement plans for goods, works, services and consultancy services are posted on the MSDP website and the SPPRA website.

5.10 Approval of the Projects and Sub-Projects

Projects/ sub-projects identified by the user department or the consultant hired for the purpose shall be approved by the Program Steering Committee.

5.11 Administrative Approval of Sub Projects

Administrative Approval (AA) is issued after approval for the project/sub-project has been accorded by the Program Steering Committee. It is the concurrence and formal acceptance of the project by the Program Director to the incurring of the proposed expenditure for execution of scheme *at a* stated amount to meet the requirements of the Program.

Revised Administrative Approval: Revised administrative approval should be obtained when-

- (i) The expenditure on the scheme exceeds the amount Administratively approved by more than 15 percent; or
- (ii) Material deviations are made from the original proposals, even though their cost may be covered by savings on other items.

Timely submission of revised rough cost estimate is required for revised administrative approval to maintain continuity in execution. The revised AA is obtained from the authority competent to approve the enhanced cost. No excess can be allowed over the revised cost.

Modified Administrative Approval: After issuance of Administrative Approval, but before the start of work or incurring of the expenditure on such scheme/work, it is found that cost is not sufficient for completion of the scheme due to inadequate financial/ physical provisions, the modified administrative approval is issued with the approval of Program Steering Committee. It has a built in cushion of 15 percent in excess of Modified AA cost.

5.12 Technical Sanction of the Sub-Project (Works)

“**Technical Sanction (TS)**” means the detailed estimate prepared by the executing agency keeping in view technical feasibility. Technical Sanction to detailed cost estimates of sub-projects/schemes of PMU MSDP shall be accorded by the Director General Works (if he has been delegated such powers) so as to ensure that proposals are structurally sound and that the estimates are accurately calculated based on adequate data. In case, the Director General Works has not been delegated the powers of technical sanction, the Program Director may accord technical sanction on the advice of Director General Works.

While granting technical sanction to the detailed estimate, the Program Director or the Director General Works as the case may be, shall give proper attention to various details worked out from the drawings and specifications of the

work, as well as stability and economy in execution. Financial Review showing the comparison between provisions in the rough cost estimate and amount of technical sanction of same items is also attached to check whether the excess is within allowable limit or not.

Documents & Data: - Detailed estimate to be sanctioned by competent authority requires relevant information to be attached in the form of data, documents, detailed measurements worked out from drawings and cost abstract of items based on the specifications and rates analysis prepared on market rates. Documents attached depend on the nature of project/scheme and comprise the data mentioned at Para 5.6.1 above along with financial review and comparative statement of provisions in rough cost estimate and detailed cost estimate.

Revised Technical Sanction (RTS): - Detailed Estimate needs revision when during execution it is anticipated that cost of completion is to exceed the permissible limit of 5%. Revised detailed estimate is timely prepared incorporating the work done along with deviation statement for submission to competent authority to accord Revised Technical Sanction, provided that overall cost of the scheme continues to be within the limit of 15% over the Administrative Approval Cost. No excess is allowed over the cost of revised technical sanction. No work can be started until and unless technical sanction is issued.

CHAPTER VI
PRE-QUALIFICATION
PROCESS

CHAPTER VI: PRE-QUALIFICATION PROCESS

Procurement is a medium through which the private sector interacts with the public sector. If the interaction is based on the principles of fairness and equal opportunity, it will generate trust and confidence of the private sector in the public agencies. The confidence will manifest itself in greater participation of the private sector in the procurement activities of the Government.

For identifying contractors who have the capacity to perform complex or high value procurements, it is essential to first undertake a screening process which establishes the eligibility and qualification of the interested contractors to participate in the bidding process. The screening is done through pre-qualification process which ensures that the bidders are comparable entities, are legally established and are eligible to enter into a contract with PMU MSDP.

6.1 Cases Where Pre-Qualification is Applicable

The pre-qualification shall be undertaken by the PMU MSDP in following cases:

- (a) Contracts for large and complex works and related services where costs of preparing detailed bids are high;
- (b) Contracts to be let under turnkey, design and build and management contracts;
- (c) Expensive and technically complex equipment and works with a view to ensure that invitations to bid are extended only to those who have adequate capabilities, competence and resources.

The need for pre-qualification shall be determined by the Program Director on the recommendation/input of Procurement Section and the Director General Works. The Pre-qualification process and shortlisting of applicants is done by the Procurement Committee.

6.2 Basis for Pre-Qualification

The pre-qualification process comprises determination/verification of following:

- (a) Eligibility of Interested Bidders/applicants;
- (b) Qualification of Interested Bidders/applicants to participate in the bidding for the specific contract.

6.2.1 Eligibility

The eligibility of interested bidders/applicant is evidenced by the following documents:

- (a) Attested or notarized copy of certificate of incorporation or business registration;
- (b) Attested or notarized copy of national tax certificate or registration with tax authorities;

- (c) Attested or notarized copy of registration with Pakistan Engineering Council in the relevant category **where applicable**;
- (d) List of Directors (in case of a limited company); partners (in case of partnership) and proprietor (in case of sole proprietorship);
- (e) Declaration that the applicant is not debarred or black listed from participating in public procurements;
- (f) Declaration that the applicant does not have a conflict of interest in relation to the procurement;
- (g) Declaration that the applicant has not been convicted of a criminal offence relating to professional misconduct or making a false statement or misrepresentation during the last five years.

Exclusion of some interested Bidders: Competition may be restricted only in the following cases:

- a) As a matter of law or Government regulations, commercial relations are prohibited with the interested bidder's country by the federal government; or
- b) An interested bidder is blacklisted or debarred by any procuring agency, and the matter has been reported to the SPPRA.

Participation of Public Sector Enterprises: Government owned enterprises or institutions may participate only if they can establish that they are;

- a) legally and financially autonomous; and
- b) operate under commercial law;

However, where the government owned universities or research centers in the country are of a unique and exceptional nature, and their participation is critical to project implementation, they may be allowed to participate.

Enlistment and Registration: There shall be no enlistment or registration of contractors, suppliers and Consultants. However, registration with professional institutions in respective fields shall apply as required by the law.

Registration with Pakistan Engineering Council: Registration with Pakistan Engineering Council (PEC) is a mandatory eligibility requirement for interested bidders in case of procurement of works with contract value exceeding PRs. 2.5 million. The contractors are registered by the PEC under various categories. The interested contractors can participate in a procurement activity if the contract value does not exceed the financial limit prescribed for the category in which the Contractor is registered.

Pakistan Engineering Council registers the contractors in various **categories** listed below :-

Constructor's Category	Limit of construction cost of the project (Million PRs)
C-A	No Limit
C-B	Up to 2000
C-1	Up to 1000
C-2	Up to 500
C-3	Up to 250
C-4	Up to 100
C-5	Up to 30
C-6	Up to 15

As per the PEC By laws, the number of projects that the licensee can apply, tender for or operate shall be unlimited as long as construction and capital cost of each such project falls within the licensee's category. Where the contractor undertakes more than one project whose aggregate value exceeds the limit prescribed for his category, he shall report such fact to the PEC.

The license granted by the PEC expires on 31st day of December each year where-after the registered contractor is required to get his license renewed. The last date for submission of application of renewal is 31st day of March. Applications submitted after this date are subject to levy of a surcharge of 2% by the PEC.

6.2.2 Qualification

Qualification shall be determined by the Procurement Committee on the basis of capability, competence and resources of the applicants especially with regards to the following parameters:

- (a) Experience and past performance on similar assignments;
- (b) Capabilities with respect to manufacturing or construction facilities;
- (c) Financial Capability;
- (d) Capability in terms of human resources, equipment, plant and machinery;
- (e) Managerial capability;
- (f) Any other factor that is relevant to capability, competence or resources required for accomplishment of the assignment.

The applicant shall be required to furnish documentary evidence with regards to aforesaid parameters.

Qualification Criteria: Qualification criteria are designed to screen the bidders capable of performing the proposed contract. It shall not be used to restrict competition. Qualification criteria is designed keeping in view the size, complexity and technical requirements of the proposed procurement. It shall be limited to ascertaining capabilities

which are critical to the performance of contract.

The criteria shall very clearly be mentioned in the pre-qualification document and shall account for all the parameters listed at Para 7.2.2. The guidelines for preparing the qualification and scoring can be seen at Annex- D1 and D2.

6.3 Pre-Qualification Procedure

The pre-qualification process shall include following steps:

- (a) Preparation and Issuance of pre-qualification Notice
- (b) Preparation and Issuance of pre-qualification document
- (c) Opening of applications
- (d) Evaluation of applications
- (e) Announcement of Short listed applicants
- (f) Obtaining additional/ updated Information

6.3.1 Preparation and Issuance of Pre-qualification Notice

Preparation: The pre-qualification notice is issued by the Procurement Section and shall contain the following information (Annex- D3,):

- (a) Name, postal address, telephone number(s), fax number, e-mail address of PMU MSDP;
- (b) Brief description of the scheme/project;
- (c) Schedule of availability of pre-qualification documents, submission and opening of applications,
- (d) Place from where pre-qualification documents would be issued, submitted and opened;
- (e) Shortlisting criteria if it is not intended to issue the pre-qualification documents;
- (f) Name and contact details of focal person who can be contacted for seeking clarification if any;
- (g) Any other information that the procurement section considers appropriate.

Issuance/Publicizing: The notice shall appear in at least three widely circulated leading dailies of English, Urdu and Sindhi languages including their regional circulations with a response time of at least 15 days in case of NCB. The notice shall also be posted on the MSDP and SPPRA websites for at least 15 days in case of NCB. The Procurement Section shall be responsible for adequate publicity and posting of pre-qualification notice on websites.

6.3.2 Preparation and Issuance of Pre-qualification Documents

Preparation: The pre-qualification documents shall be prepared by the Procurement Committee with the assistance of Program Consultant and Director General Works and approved by the Procurement Committee. The document shall contain the following information:

- (a) Pre-qualification notice;
- (b) Brief description of the scheme/project; nature and quantities of goods; location of works or services; timetable for delivery or performance of contract;
- (c) Shortlisting criteria, scoring method etc. (Annex- D4 and D5);
- (d) Instructions for applicants for preparation and submission of pre-qualification information including any

standard forms, information and documentary evidence to be furnished by the applicant establishing its eligibility and qualification;

- (e) Instructions on labeling, sealing and submission of applications;
- (f) Information on evaluation methodology;
- (g) Information on announcement of results of shortlisting process;
- (h) Address, e-mail, telephone and fax numbers of the focal person who can be contacted for clarification if any.

Issuance: The pre-qualification documents shall be issued by the Procurement Section on equal opportunity basis. These shall be available for applicants from the date of publication of pre-qualification notice in newspapers.

The PMU MSDP may decide not to issue pre-qualification documents. In such case, the notice of pre-qualification shall include the scope of work; a clear set of requirements for pre-qualification and the evaluation criteria.

Cost: The Procurement Section may also fix a price for pre-qualification documents with the approval of Program Director which shall not exceed the cost of printing.

6.3.3 Opening of Applications

Immediately after the deadline for submission of bids, the Procurement Section shall convene a meeting of Procurement Committee with the approval of the Chairman of the Committee. The applications shall be opened by the Procurement Committee for evaluation.

6.3.4 Evaluation of Applications

The Procurement Committee shall examine each application separately and check if it fulfills the eligibility requirements and the shortlisting criteria as per the evaluation criteria. The committee may seek clarification in writing regarding the information submitted by applicants. The correspondence with the applicant shall be shared with all the applicants. It may also, where it deems appropriate, have the documents/information submitted by the applicants verified from the issuing authorities. In case the information is found to be wrong or incorrect in any material way or the applicant is found to be lacking in capability or resources to successfully perform the contract, the applicant shall not be prequalified.

The Procurement Committee shall prepare an evaluation report which shall explain in detail the status of each application- the eligibility and qualifications requirements that it fulfills and those which it does not fulfill. The result of evaluation shall be a pass or fail for the applicant. Based on analysis and findings of Committee, the list of short listed applicants will be drawn up and forwarded to the Program Director for approval and dissemination among applicants. The evaluation process may preferably be completed within a period of 15 days.

All applicants found capable of carrying out the assignments in accordance with the approved prequalification criteria shall be prequalified and invited to submit bids.

Minutes: The minutes of the Procurement Committee and the Evaluation Report shall be signed and dated by all Members of the Procurement Committee.

6.3.5 Announcement of Short listed Applicants

The Procurement Section shall promptly inform all the applicants about the results of short listing process. It shall also post the evaluation report on the website of MSDP and SPPRA. The Procurement Section, on written request of the applicant(s) communicate to the applicant(s) the reasons for not pre-qualifying them.

Only suppliers or contractors, who have been pre-qualified, shall be entitled to participate further in the procurement proceedings.

6.3.6 Obtaining Additional/ Updated Information

After pre-qualification, the short listed contractors may be asked by the Procurement Committee or the Procurement Section to provide additional or updated information such as:

- i. financial predictions for the current year and the following two years, including the effect of known commitments;
- ii. work commitments since prequalification;
- iii. latest litigation information; and
- iv. current status of critical equipment.

6.4 Disqualification of Suppliers, Contractors and Consultants

The Procurement Section on the recommendation of Procurement Committee and with the approval of Program Director shall disqualify a supplier, consultant or contractor (whether already pre-qualified or not) if it finds at any time that the applicant/ bidder has:

- a) Submitted information concerning his qualification and professional, technical, financial, legal or managerial competence as supplier, consultant or contractor, that is false, materially inaccurate or incomplete;
- b) Indulged in corrupt and fraudulent practices, as defined in Rule 2(1) (q) of SPP Rules 2010.

If a supplier, contractor or consultant is aggrieved by the decision of the Program Director PMU MSDP regarding disqualification, he may seek relief by filing a petition for redressal of his grievance as explained in Chapter XV of this Manual.

CHAPTER VII
OPEN
COMPETITIVE
BIDDING

CHAPTER VII: OPEN COMPETITIVE BIDDING

Open competitive bidding shall be the principal method of procurement.

7.1 National Competitive Bidding

National Competitive Bidding shall be the procedure wherein bidding is open only to interested national firms, companies or parties. International firms, companies or parties are not invited for the bidding. National Competitive Bidding shall be the principal method of procurement with an estimated cost below US \$ 10 million or equivalent in local currency.

PMU MSDP may opt for National Competitive Bidding for procurements with an estimated cost equivalent to US \$ 10 million or above, where the PMU MSDP is convinced that it is the most economical and timely way of procuring goods, works or services or which by their nature or scope are unlikely to attract foreign competition.

Use of NCB for contracts above US \$ 10 million would require prior approval of the **ACS Development Planning and Development Department** who shall record reasons and justifications for his decision.

7.2 International Competitive Bidding

International Competitive Bidding is open to all interested parties, firms or individuals, whether national or international except where as a matter of law or official regulations, commercial relations are prohibited with the interested bidder's country by the federal government. ICB shall be the default method of procurement for all procurements with an estimated cost equivalent to US \$ 10 million or above.

International Competitive Bidding for procurements below the estimated cost equivalent of US \$ 10 million is permissible, if the PMU MSDP is convinced that technological sophistication, technical expertise or professional capability of the satisfactory level is not available within the country and the best value for money cannot be obtained, if competition is restricted to the domestic companies, firms or parties.

Use of ICB for contracts below US \$ 10 million would require prior approval of the **ACS Development Planning and Development Department** who shall record reasons and justifications for his decision.

7.2 Procedures of open competitive bidding

The specific procedure of Procurement shall be approved by the Program Director. However, at the time of approval of Bidding Document, the Procurement Committee shall have the powers

to examine the appropriateness of the proposed procedure.

The following procedures shall be permissible for open competitive bidding;

7.2.1 Single Stage – One Envelope Procedure

Single Stage One Envelope Bidding Procedure shall be used as the standard bidding procedure for procurement of goods, works and services of simple and routine nature and where no technical complexity or innovation is involved;

- a. In Single Stage- One Envelope Procedure, the Notice Inviting Tenders and bidding documents contain the following eligibility criteria;
 - i. relevant experience;
 - ii. turn-over of at least last three years;
 - iii. registration with Income Tax, Sales Tax and Pakistan Engineering Council (where applicable);
 - iv. any other factor deemed to be relevant by the PMU MSDP;

However, no discriminatory or difficult condition shall be introduced. In ascertaining the discriminatory nature of any condition reference shall be made to the ordinary practices of that trade, manufacturing, construction business or service to which that particular procurement is related.

- b. Each bid shall comprise one single envelope containing the financial proposal and required information mentioned above. All bids received shall be opened and evaluated by the Procurement Committee in the manner prescribed in the Notice Inviting Tenders or bidding document.

7.2.2 Single stage – two envelope procedure

Single Stage Two Envelope Bidding Procedure shall be used where the bids are to be evaluated on technical and financial grounds and price is taken into account after technical evaluation;

- a. In a Single Stage Two Envelope Bidding Procedure, the bid shall comprise a single package containing two separate envelopes. Each envelope shall contain separately the financial proposal and the technical proposal;
- b. Envelopes shall be marked as “FINANCIAL PROPOSAL” and “TECHNICAL PROPOSAL” in bold and legible letters to avoid confusion;
- c. Initially, only the envelope marked “TECHNICAL PROPOSAL” shall be opened by the Procurement Committee;
- d. Envelope marked as “FINANCIAL PROPOSAL” shall be retained in the custody of the Procurement Section without being opened;
- e. Procurement Committee shall evaluate the technical proposal in a manner prescribed in advance, without reference to the price and reject any proposal which does not conform to the specified requirements;

- f. No amendments in the technical proposal shall be permitted during the technical evaluation;
- g. Financial proposals of technically qualified bids shall be opened by the Procurement Committee publicly at a time, date and venue, announced and communicated by the Procurement Section to the bidders in advance;
- h. Financial proposal of bids found technically non-responsive shall be returned un-opened to the respective bidders; and
- i. Bid found to be the lowest evaluated shall be recommended by the Procurement Committee and approved by the Program Director.

7.2.3 Two Stage Bidding Procedure

Two Stage Bidding Procedure shall be adopted in large and complex contracts where technically unequal proposals are likely to be encountered or where the PMU MSDP is aware of its options in the market but, for a given set of performance requirements, there are two or more equally acceptable technical solutions available to the PMU MSDP.

First Stage:

- a. Bidders are invited to submit, according to the required specifications, a technical proposal without price, which shall be subject to technical as well as commercial clarifications and adjustments;
- b. Technical proposal shall be evaluated by the Procurement Committee in accordance with the specified evaluation criteria and may be discussed with all the bidders together regarding any technical features that may require technical as well as commercial clarifications and adjustments;
- c. After such discussions, Procurement Committee may revise, delete, modify or add any aspect to the technical requirements or evaluation criteria, or it may add new requirements or criteria not inconsistent with SPP rules.
- d. The revisions, deletions, modifications or additions, however, shall be communicated by the Procurement Section to all the bidders equally at the time of invitation to submit final bids;
- e. Sufficient time is allowed to the bidders to prepare their revised bids by incorporating the agreed upon changes in the technical proposal and prepare fresh financial proposal. The response time shall not be less than fifteen days in the case of National Competitive Bidding and thirty days in the case of International

Competitive Bidding;

- f. The bidders not willing to conform their respective bids to the technical requirements prescribed in the bidding document may be allowed by the Procurement Committee to withdraw from the bidding without imposition of any penalty.

Second Stage

- a. Bidders submit the revised technical proposals along with financial proposals;
- b. The financial proposals of only those bidders whose original or revised technical proposals are found to be conforming to the agreed technical standards and requirements, are to be opened by the Procurement Committee at a time, date and venue announced and communicated to the bidders in advance;
- c. The revised technical proposals and the financial proposals are evaluated by the Procurement Committee and the bid found to be the lowest evaluated is recommended for approval by the Program Director;

7.2.4 Two Stage - Two Envelope Bidding Procedure

Two Stage Two Envelope Bidding Procedure shall be used where alternate technical proposals are possible.

First Stage

- a. The bid shall comprise a single package containing two separate envelopes. Each envelope shall contain separately the financial proposal and the technical proposal;
- b. Envelopes shall be marked as “FINANCIAL PROPOSAL” and “TECHNICAL PROPOSAL” in bold and legible letters to avoid confusion;
- c. Initially, only the envelope marked “TECHNICAL PROPOSAL” shall be opened by the Procurement Committee;
- d. Envelope marked as “FINANCIAL PROPOSAL” shall be retained in the custody of the Procurement Section without being opened;
- e. Technical proposal shall be discussed by the Procurement Committee with all the bidders or their representatives at the same time with reference to the technical requirements prescribed in the bidding documents;
- f. The bidders willing to meet the requirements of the PMU MSDP as stipulated in the bidding document and

whose bids have not already been rejected shall submit a revised technical proposal and supplementary financial proposal following these discussions.

- g. Sufficient time be allowed to the bidders to incorporate the agreed upon changes in the technical proposal and to prepare the required supplementary financial proposal.
- h. Bidders not willing to conform their technical proposal to the revised requirements of the PMU MSDP shall be allowed to withdraw their respective bids without forfeiture of their bid security;

Second Stage

- a. Revised technical proposal along with the original financial proposal and supplementary financial proposal is opened at a date, time and venue announced in advance by the PMU MSDP;
- b. Procurement Committee shall evaluate the whole proposal in accordance with the evaluation criteria and the bid found to be the lowest evaluated bid shall be accepted.

CHAPTER VIII

ISSUANCE OF NIT & BID DOCUMENTS

CHAPTER VIII: ISSUANCE OF NIT AND BID DOCUMENTS

Once the pre-bid activities (i.e. AA, TS, Availability of Funds) have been completed, bidding documents may be finalized and procurement process may be initiated. The procurement process is formally initiated through issuance of NIT and Bidding Documents unless the procurement is complex and expensive or is consultancy assignment. It is re-iterated that Complex and high value procurements shall require pre-qualification prior to issuance of NIT and bidding documents.

8.1 Preparation of Bidding Document

The bidding documents define the prospective relationship between the Program and the interested bidders. The bidding documents specify the procurement requirements in a legally binding manner. It is therefore, essential that the bid documents are prepared with due care and diligence.

The bidding documents have to provide sufficient information to bidders so as to enable them to prepare substantially responsive bids. The bidding documents can attract competition only if these are able to define the procurement requirement, specification, evaluation and qualification criteria in a clear, concise and unbiased manner.

The draft of bidding documents shall be prepared by the Procurement Section with the assistance of Program Consultants, Director General Works and the relevant sections. The Bidding documents shall be approved by the Procurement Committee.

Contents: The bidding document shall contain the following information:

- (a) **Invitation for Bidders:** This is Procurement Notice inviting potential bidders to submit their bids for the goods, works and services to be procured.
- (b) **Instructions To bidders (ITB)** for preparation of bids including standard forms to be submitted and documentary evidence to be furnished including:
 - Instructions regarding preparation and submission of responsive bids;
 - Qualification criteria, evaluation and award process;
 - Forms for tenders
 - Requirement of Bid Security and the form/amount of such security
 - Documents required as evidence of eligibility and qualification
 - Number of copies to be submitted with original tender
 - Instructions on sealing, packing, labeling and submission of bids
 - Information regarding Bid Validity
 - Instructions regarding alternative bids if these are permitted.

While customizing the Standard Bidding Documents, the standard ITB clauses may be left unchanged. Any changes or data or additional information may be specified in the Bid Data Sheet.

- (c) **Bid Datasheet(BDS)** containing a clear description of goods, works and services to be procured. This section needs to be filled and prepared carefully by the PMU. It specifies the parameters of the standard ITB such as amount, time, and address for the particular procurement and mentions any required changes in ITB. In case of difference in the ITB and Bid Data Sheet, it is the BDS which overrides the ITB.
- (d) **Relevant drawings and Bill of quantities:** To specify the actual requirements to the bidders, the bid document should include the necessary specification and drawings. Specification must be drafted to permit the widest possible competition and at the same time make a clear statement of the required standards of workmanship, standards of plant and other supplies, and performance requirements. The specification and drawings needs to be prepared by Procurement Section with the assistance of Program Consultants and DG (Works) and approved by the Procurement Committee. The Procurement Specialist MSDP shall check the specification to the extent that the specified specification serves the minimum requirement and no specific brand name is quoted.
- (e) **Detailed and unambiguous Evaluation Criteria and Methodology for Evaluation of Bids (including scores and weightages):** Standard formats for providing the qualification information by the bidder may be included. Evaluation criteria for each procurement may be prepared by the Procurement Section with the assistance of DG (Works) and Program Consultants and approved by the Procurement Committee.

The Evaluation Criteria shall list all the relevant information against which a bid is to be evaluated. Evaluation criteria shall relate to the subject matter of procurement and may include-

- i. the price;
- ii. the cost of operating, maintaining and repairing goods or works, the time for delivery of goods, completion of works or provision of services, the characteristics of the subject matter of procurement, such as the functional characteristics of goods or works and the environmental characteristics of the subject matter, the terms of payment and of guarantees in respect of the subject matter of procurement; and
- iii. where relevant, the experience, reliability and professional, financial and technical competence of the bidder and of the personnel to be involved in providing the subject matter of procurement. Requirement of personnel and equipment type and numbers should match the work nature and schedule for completion.
- iv. where considered necessary, the Procurement Section PMU MSDP may also specify trials, sample testing and other additional methods of technical evaluation of a bid.
- v. to the extent practicable, all non-price evaluation criteria shall be objective, unambiguous

- and quantifiable and form an integral part of the bidding documents.
- vi. The evaluation criteria may specify the minimum threshold required to qualify the bidder for the particular procurement. In addition to the standard qualification criteria, additional check such as calculation of Assessed Bid Capacity may be also used to ensure that the bidder is not overloaded and beyond his capacity due to ongoing contracts.
 - vii. where applicable, the relative scores or weights to be attached to each criterion shall also be specified in the bidding documents;

Failure to provide for an unambiguous evaluation criteria in the bidding documents shall amount to mis-procurement.

The Guidelines for preparing Evaluation Criteria may be seen at Annex- B2.

- (f) manner and place, date and time for submission of bidding documents;
- (g) manner, place, date and time of opening of bids;
- (h) **method** of procurement;
- (i) Information regarding procedure for award of Contract;
- (j) **General Conditions of Contract:** The General Conditions of Contract (GCC) includes the Standard contract conditions which shall be used to execute the contract. The SPPRA has prescribed standard GCC in its standard bidding document. The same GCC shall be adopted for all the projects/sub-projects in MSDP.
- (k) **Special Conditions of Contract (SCC):** This needs to be prepared carefully by the PMU to clarify or modify the provisions of General Conditions of contract. Any change or non-applicability of GCC clause has to be specified in the SCC. The provisions of SCC will override the GCC.
- (l) Information on **Price Adjustment** (if applicable);
- (m) Information on Mobilization Advance, Performance Security (amount and form) ;
- (n) manner in which tender price is to be assessed and computed, including information about tax liability;
- (o) **currency** in which tender price is to be formulated and expressed;
- (p) a copy of **integrity pact** to be signed by the parties (where applicable);

(q) **Schedule of Supply:** This needs to be carefully prepared in close coordination with the users. The schedule shall include the items and quantities, delivery locations and dates. As far as possible, the schedule shall also indicate the technical specification. For more clarity on structure of schedule (bill of quantities) and requirements a preamble to BOQ is necessary. The preamble shall clearly define what is required to be filled, how it should be filled, what if no unit rate is filled for specified quantity, how the provisional sum amount will be executed and paid, etc.

(r) any other information which is specified in regulations to be issued by the Authority.

SBDs: Since, SPPRA has notified the Standard Bidding Documents, these documents have to be used for procurement of goods, works, services and consultancy Services. However, these documents may have to be customized to meet the requirements of specific procurement. For the purpose, the Procurement Section may seek assistance from the program consultants if need be.

The following sections of the Standard Bidding Documents shall particularly require attention of the Procurement Section as these have to reflect the peculiar requirements and data pertaining to each procurement.

- (a) Bid Data Sheet
- (b) Specification
- (c) Evaluation Criteria
- (d) BoQs/ Schedule of Requirement
- (e) Special Conditions of Contract
- (f) Price Adjustment (if applicable) etc.

8.2 Issuance of NIT

All procurements of goods, works and services exceeding PRs one lac shall be launched with the issuance of notice inviting tender.

Contents: The Notice Inviting Tender shall be prepared by the Procurement Section and include the following information (Annex-E):

- (a) name, postal address, telephone number(s), fax number, e-mail address(if available) of PMU MSDP;
- (b) purpose and scope of the procurement;
- (c) schedule of availability of bidding documents, submission and opening of bids;
- (d) place from where bidding documents would be issued, submitted and would be opened;
- (e) amount and manner of payment of tender fee and bid security;
- (f) any other information that the PMU MSDP may deem appropriate to disseminate at this stage.

8.3 Publicizing the NIT

Up to PRs One Million: All NITs for Procurements over one hundred thousand rupees and up to one million rupees shall be advertised by timely notifications on the SPPRA and MSDP's website. These may also be advertised through print media if the PD PMU-MSDP considers it appropriate. The Procurement Specialist shall be responsible for publicizing the NIT as prescribed above;

Over PRs One Million: The NITs for Procurements exceeding PRs one million shall be advertised through publication in at least three widely circulated leading dailies of English, Urdu and Sindhi languages and posting on SPPRA and MSDP website. The Procurement Specialist shall be responsible for publicizing the NIT as prescribed above;

8.4 Response Time

The Program Director shall give due consideration to the scope, magnitude and nature of procurement, while deciding the response time. The response time shall be minimum 15 days in case of National Competitive Bidding and minimum 45 days in case of International Competitive Bidding.

Exceptions: Under following circumstances deviation from the requirements of publication and response time is permissible;

- (a) In cases of emergency, minimum response time may be reduced subject to the prior approval and reasons to be recorded by the Additional Chief Secretary (Dev.);
In cases where advertisement may result in disclosure of information, which is proprietary in nature or
- (b) Falls within the definition of intellectual property, which is available from a single source provided that the Additional Chief Secretary (Dev.) Planning and Development Department has granted approval for the waiver/deviation.

8.5 Issuance of Bidding Documents

The Procurement Section of MSDP shall ensure that the bidding documents are available to the interested bidders from the first day of publication of Notice Inviting Tender in the newspapers or hoisting on the website, as the case may be. The Procurement Section PMU MSDP shall provide the bidding documents to all interested bidders in accordance with the procedures and requirements specified in the Notice Inviting Tender. The bidding document shall also be hoisted on MSDP website.

Fee: The Procurement Section PMU MSDP may charge a fee for bidding documents, which shall not exceed the cost of preparation and printing. The fee shall not include any element of profit. The Procurement Section shall issue receipt for the fee received in lieu of sale of bidding document. Bidders may be required to submit a copy of receipt with their bid. Bidders may also be allowed to inspect the bidding document in the office of PMU-MSDP free of cost.

Procurement Section PMU-MSDP shall also allow the bidders to download the bidding documents from the MSDP website and to participate in the bidding process.

Provision of additional information on equal opportunity basis: Any information, that becomes necessary for bidding or for bid evaluation, after the invitation to bid or issue of the bidding documents to the interested bidders, shall be provided by the Procurement Section with the approval of Program Director in a timely manner and on equal opportunity basis. Where notification of such change, addition, modification or deletion becomes essential, such notification shall be made in a manner similar to the original advertisement.

8.6 Clarification of Bidding Documents

- (a) An interested bidder, who has obtained bidding documents, may request for clarification of contents of the bidding document in writing.
- (b) The Procurement Section PMU-MSDP shall respond to such queries in writing within three calendar days, provided they are received at least five calendar days prior to the date of opening of bid.
- (c) Clarification in response to a query by any bidder shall be communicated by the Section to all parties who have obtained bidding documents without identifying the source of clarification.
- (d) Where a request for clarification is received after the deadline prescribed for clarification in the bidding document, the Procurement Section may send a reply stating that the request was received after the last date for clarification requests and that therefore no response can be given.
- (e) Where the clarification is in response to a request from a bidder, the Procurement Section shall ensure that the response includes a description of the request, but without identifying the bidder who made the request. It shall also ensure that any extension to the bidding deadline is clearly stated, giving the time and date of the new deadline along with revised time and date for the tender opening.
- (f) Pursuant to a request for clarification, if the bidding documents are required to be amended, the corrigendum/addendum shall be prepared by the Procurement Section with the approval of procurement committee and shall be provided to all interested bidders on equal opportunity basis. All clarifications and corrigendum/addendum to NIT or bidding document shall be binding on the bidders and the PMU MSDP.
- (g) Where a pre-bid conference is to be held, formal issuance of clarification, modification or extension may be delayed until after the pre-bid conference is held. However, the Procurement Section must still prepare the clarification, modification or extension, as information will need to be provided at the pre-bid conference and a formal clarification, modification or extension must be issued after the conference.
- (h) In case of modification or amendment of bidding documents appropriate extension may be granted in the date of submission of bids on equal opportunity basis so as to enable the bidders to prepare bids keeping in view the amendment in the bidding document. The bidders who have already submitted the bids may be allowed to submit modified/revised bids.
- (i) If any extension to the bidding deadline has been given, the Procurement Section shall ensure arrangements for the receipt of tenders as per the revised schedule.

8.7 Site Visits

The program should always encourage that the interested bidders make site visit to assess the ground reality and then only prepare their bid. The management of any site visit will be determined by the nature and size of the site and the type of procurement envisaged. If arranged:

- (a) The specific date of site visit and tentative program to be explained in the NIT and bidding document.
- (b) A responsible officer from the Regional PMU/ Field office should lead the interested bidders and show the specific works and challenges associated with it.
- (c) Bidders should be given a comprehensive tour of the site, and should be allowed to view all facilities that are being provided by PMU MSDP.
- (d) Construction materials availability, social and environmental problem, law and order situation, climatic conditions, accessibility to site, working condition, could be the major points for discussions in such site visit.
- (e) The officer managing the site visit shall ensure that names of bidders who attend the site visit are recorded.
- (f) He/She shall collect/record in writing the queries of bidders and answer their queries. In view of the queries, if the Program Manager considers that there is a need to issue a clarification or addenda to the bidding documents, he may forward the proposal to the Procurement Section.

8.8 Pre-Bid Meeting

The Procurement Section may organize a pre-bid conference in order to brief the interested bidders or provide an opportunity to the interested bidders to seek clarifications.

- (a) Details and schedule of pre-bid conference shall be mentioned in the bidding documents and preferably in the notice inviting tender.
- (b) The conference shall be organized sufficiently early so as to enable the bidders to take into account the information received in preparing the bids.
- (c) Assistant Director Procurement shall ensure that arrangements are made in advance, including booking a meeting-room, availability of appropriate staff and an agenda for the conference, etc.
- (d) Procurement Specialist shall brief the relevant staff on the procedure for the pre-bid conference and/or site visit, including the responsibilities of each member, and anticipated questions and answers.
- (e) The management of the pre-bid conference will be determined by the agenda prepared by Assistant Director Procurement with the approval of Procurement Specialist. Typically, this might include opening remarks/welcome note, and a brief presentation by Procurement Specialist on the procurement

requirements. Finally, a question-answer session will be held before concluding the conference. Where requests for clarification have been received prior to the conference, these may be used to determine the agenda and prepare responses.

- (f) An attendance sheet be maintained by the Assistant Director Procurement for each procurement stating the bidder's name.
- (g) Minutes of the pre-bid conference containing the issues discussed and clarifications provided shall be prepared by the Assistant Director Procurement and circulated among all the bidders who are issued the bidding documents as well as posted on MSDP website. Such minutes or clarification are needed to be issued as addenda to the bidding documents only if such clarification or minutes change the provisions of the bidding documents and affect the preparation of bids.

8.9 Extension of Time Period for Submission of Bids

The Procurement Specialist may with the approval of Procurement Committee extend the deadline for submission of bids only, if one or all of the following conditions exist;

- (a) Fewer than three bids have been submitted and procurement committee is unanimous in its view that wider competition can be ensured by extending the deadline. In such case, the bids submitted shall be returned to the Bidders un-opened;
- (b) If the Program Director or the Procurement Committee is convinced that such extraordinary circumstances have arisen owing to law and order situation, strikes or a natural calamity that the deadline should be extended;

Assistant Director Procurement shall ensure that the advertisement of extension in time period for submission of bids is made in the same manner as the original advertisement.

8.10 Re-issuance of Bidding Documents

- a. Procurement Section may re-issue the bidding documents on the recommendation of Procurement Committee if material infirmity is observed in the bidding documents.
- b. While re-issuing tenders, the Procurement Committee may change the specifications and other contents of bidding documents, as deemed appropriate.
- c. Re-issuance shall require publicizing of the of re-issuance by the Procurement Specialist in three leading newspapers, MSDP website and SPPRA website with minimum response time of 15 days in case of NCB.
- d. The bidders issued the earlier bid document shall be provided the amended bid documents free of cost.

CHAPTER IX: SUBMISSION AND OPENING OF BIDS

The bidders shall submit the bids pursuant to the invitation for bid in accordance with the instructions contained in the bidding documents. Bidders shall be permitted to submit bids by hand or by mail. The Procurement Section will be responsible for receipt of bid envelopes and ensuring their safe custody. The following shall be ensured by the Procurement Section when receiving the envelopes:

- (a) A locked tender box is available for submission of bids by the bidders up to the deadline for submission of bids.
- (b) The tender box must be placed in a location accessible to the public during normal working hours. The box must be labeled with the procurement reference number, particularly where several tender boxes are being used simultaneously, for tenders closing at different times. It should be large enough to receive a substantial number of large documents. The opening or slit in the box should be large enough to allow passage to a large-sized document.
- (c) The tender box shall be sealed at the closing time of submission of bids;
- (d) The bid is submitted in a properly sealed envelope;
- (e) The envelope must bear the identity or reference number of the tender;
- (f) The bid envelope is received before the deadline for submission;
- (g) The bid envelopes received after deadline shall be returned unopened or marked "Late" and kept unopened;
- (h) Sufficient evidence be kept for the Bids that are received late;
- (i) On receipt of late bid shall, the date and time of receipt of bid envelope shall be recorded;
- (j) Where a bid is too large or bulky to be inserted in the tender box or the samples are required to be submitted separately, the receipt of the bid or the sample as the case may be shall be acknowledged by the Procurement Section. The Procurement Section shall arrange for security and preservation of samples;
- (k) The number and identity of Bids received is not disclosed before the opening of bids;

CHAPTER IX SUBMISSION AND OPENING OF BIDS

- (l) Seal the tender box slit at the precise date and time of the deadline for tendering.

- (m) At the time prescribed as deadline for submission of bids, the sealed tender box be taken to the location for the bid opening and handed over into the custody of the Procurement Committee. The tender box must not be opened or left unsupervised during the tender's closing and opening period.

- (n) If the bid envelope received through post is opened accidentally, the fact of accidental opening shall be recorded by the person who opened the envelope and immediately reported to the Program Director in writing. He shall further immediately seal the tender and place the envelope in tender box.

The PMU MSDP shall not be responsible for the loss or delay in delivery by the mail or courier.

9.1 Bid Security

- a. The PMU MSDP shall require the bidders to furnish a bid security not below one percent and not exceeding five percent of the bid price.
- b. The bid security shall remain valid for a period of 28 days beyond the validity period for bids, in order to provide the PMU MSDP reasonable time to act, if the security is to be called.
- c. Bid security may be prescribed as a percentage or a fixed amount but in either case it should be within the range of 1 to 5% of bid amount.
- d. The percentage (within this range) shall be determined keeping in view the value of contract and the cost to be incurred for furnishing bid security.
- e. The objective of asking for bid security is to avoid frivolous bids but it should not be so high as to discourage competition.
- f. The bid security shall be in the shape of pay order, demand draft or bank guarantee.
- g. Bid security shall be released to the unsuccessful bidders once the contract has been signed with the successful bidder or the bid validity period has expired. The conditions for forfeiture of bid security shall be specified in the bidding documents.

9.2 Bid Validity

- (a) The bidding document (approved by the Procurement Committee), keeping in view nature of procurement, shall prescribe the period during which the bid shall remain valid;

- (b) The bid validity period shall be specified in the bidding document. It shall not be more than 90 days in case of NCBs and 120 days in case of ICB;

- (c) Extension of bid validity may be allowed by Procurement Section subject to approval by the Program Director and for reasons to be recorded in writing;

- (d) If validity period has to be extended due to some slackness on the part of any official of PMU MSDP, the Program Director shall fix responsibility and initiate appropriate disciplinary action. After approval by the Program Director, the Procurement Section shall request in writing all bidders to extend the bid validity

period. Such request shall be made before the date of expiry of the original bid validity period;

- (e) In any case, the extension in bid validity period shall not be for more than one third of the original period of bid validity;
- (f) Where the bid evaluation is not finalized within the extended time, the bids shall stand cancelled and a fresh bidding process shall be initiated;
- (g) Whenever an extension of bid validity period is requested, a bidder shall have the right to refuse to grant such an extension and withdraw his bid and bid security shall be returned forthwith;
- (h) Bidders who agree to the extension of the bid validity period shall also extend validity of the bid security for the agreed extended period of the bid validity. Besides they shall neither be requested nor permitted to change the price or other conditions of their bids.

9.3 Modification of Bids

- a. Before the deadline for submission of bids, a bidder may modify or withdraw his bid. The request for change or withdrawal shall be submitted (in the locked tender box) by the bidder in writing in a separate envelope which shall bear the words “MODIFICATION OF BID” or “WITHDRAWAL OF BID” as the case may be in bold letters.
- b. After deadline for submission of bids, a bidder shall not be permitted to change or withdraw his bid.
- c. Changing the substance of Bid after the deadline for submission may result in debarment of the bidder by the Procurement Committee.

9.4 Opening of Bids

The SOP for opening of bids is given as under:

- (a) The date for opening of bids and the last date for the submission of bids shall be the same, as given in the bidding documents and in the Notice Inviting Tender.
- (b) In case, the two dates are different, the date and time, given in the bidding documents shall apply.
- (c) The bids shall be opened by Procurement Committee within one hour of the deadline for submission of bids;
- (d) A room be arranged for bid opening prior to the bid opening time. The Procurement Specialist shall ensure that appropriate resources, both physical and human, are available to manage the tender opening process in a smooth and efficient manner.
- (e) The head of the Procurement Committee shall ensure that the Members of committee understand their respective roles.

- (f) The head of Procurement Committee shall welcome bidders to the opening and request them all to sign the record of attendance. S/he should briefly explain the procedure to be followed, which is normally about opening of the sealed tender box, counting of all tenders, opening of tenders, reading out and recording of information, opportunity for bidders to ask questions, conclusion of the meeting, and removal of tenders for safe-keeping and evaluation.
- (g) The seal of the tender box should be first shown by the Procurement Specialist to those present and then be broken.
- (h) All bids shall be opened by a member of Procurement Committee publicly in the presence of all the bidders, or their representatives, who may choose to be present in person, at the time and place announced in the invitation to bid;
- (i) At first the bids marked with “Withdrawal”, “Modification” and “Substitution” in the outer envelope shall be checked /examined for sealed condition and then opened and readout. In case of withdrawal of bid by a bidder, the Procurement Committee shall return the bid envelope to the bidder unopened. In case of substitution bid also, the bidder’s substitution bid is opened and read out first, and original bid is not opened.
- (j) Only in case of modification of bid, the bidder’s both modification and original bid are opened, read out and recorded by the Procurement Committee. Both the original tender and modification should be stamped on key pages and signed or initialed by the chairperson as well as by all members of Procurement Committee. “Modifications” refer to bidders who, having submitted a first tender well in advance, have then modified the terms of their tender (e.g., as a result of an unexpected change in the price of a key manufacturing input) and have placed another envelope marked “Modification” into the tender box before the date and time of Bid Opening.
- (k) Subsequent upon counting the remaining tenders, each tender envelope should be marked by the Procurement Committee with a serial number starting with the number “1” corresponding to its number in the bid opening record..
- (l) The tenders be listed in numerical order. The tenders should then be opened, one at a time, and the relevant details read out and recorded as a line item against each serial number.
- (m) Each tender should be stamped on key pages and signed or initialed by the chairperson as well as by all the members of Procurement Committee. The chairperson shall also encircle the rates quoted by the bidders.
- (n) With the exception of late tenders, the Procurement Committee shall not make any comments regarding the acceptance or rejection of any tender. Any missing or incorrect document should be noted in the record of

bid opening, but not commented upon.

- (o) When all the timely received tenders have been opened, read out and recorded, the chairperson should allow bidders to ask questions, if any.
- (p) The chairperson should close the bid opening meeting, reminding bidders that they must not seek to influence the evaluation and that the Tender Evaluation Report will be announced in due course.
- (q) Copies of the tender opening record should be distributed to bidders upon request. The original record should be added to the procurement file.
- (r) All tenders should immediately be taken by the Procurement Specialist/ Assistant Director Procurement to a place of safe keeping until the Evaluation Committee is ready to meet. Any tender securities must also be kept securely.
- (s) Where tender openings for more than one tendering process are conducted at the same time, they must be conducted consecutively so that when one opening process is completed, recorded, and tenders removed, the next opening follows, so on and so forth.
- (t) The Chairman of the Procurement Committee shall read aloud and record the following on opening of bids:
 - i. The name of the bidder, single or a Joint Venture of firms ;
 - ii. Total amount of each bid, and of any alternative bids if they have been permitted;
 - iii. Discounts (conditional/unconditional), if any;
 - iv. Modifications to the Bid, if any;
 - v. Withdrawal of bids, if any;
 - vi. Discounts, if any;
 - vii. Presence or absence of Bid Security and its mount;
 - viii. Forms of Bid;
 - ix. Unit rates in the BOQ, corrections or deletions in unit rates or amount in BOQ. The corrections or overwriting is recorded as the final version in the bid. For example if the bidder has corrected the unit rate of item 101 to be “fifty” by deleting “forty” then the record should read like “ *unit rate of item 101 is corrected to be fifty, and signed and sealed*”. If requested by the bidders during the bid opening process, each of the unit rates in words to be read aloud and recorded.
 - x. Similar information on alternate bids, if any.

The Pre- bid opening information and Bid opening checklist may be seen at Annex- F1 and F2. The Bid opening check list is meant to ensure that all important aspects of the bid opening SOP have been complied with.

9.4.1 Minutes of the Bid Opening

The Procurement Committee shall issue the minutes of the opening of the tenders which shall be signed and dated

by all the members of the Committee. The minutes shall contain;

- (a) Over writing or cutting, if any;
- (b) Any discrepancy or missing document;
- (c) Names of all bidders whose bids are opened;
- (d) Presence or absence of bid security;
- (e) Total price of the bid, currency and discounts offered except where two envelope procedure is followed.
- (f) Summary information as per Annex- G2

CHAPTER XI
EVALUATION
OF BIDS

CHAPTER X: EVALUATION OF BIDS

Opening of Bids shall be followed by Evaluation of Bids. As prescribed in SPP Rules, all bids shall be evaluated by the Procurement Committee in accordance with the evaluation criteria and other terms and conditions set forth in the bidding documents. Under no circumstances, the Bid Evaluation Criteria can be altered after the opening of bids. This chapter discusses operating procedures and various stages in the evaluation process.

10.1 Principles of Evaluation

(a) After public opening, information concerning bids shall not be disclosed to any person not officially concerned with the evaluation process until the Bid Evaluation Report is publicized in terms of Rule 45 of SPP Rules.

(b) The Bid Evaluation shall be carried out by the Procurement Committee.

(c) The Bid Evaluation shall preferably be initiated without any unrealistic delay after the opening of bids.

10.2 Stages of Bid Evaluation

Bid Evaluation comprises following stages:

- (a) Preliminary Examination
- (b) Correction of Arithmetic Errors
- (c) Evaluation and Comparison of bids
- (d) Post Qualification
- (e) Preparation of Bid Evaluation Report

The Bid Evaluation Checklist may be seen at Annex- G1.

10.2.1 Preliminary Examination

Procurement Committee shall undertake preliminary examination immediately after opening of bids. Purpose of preliminary examination is to identify and reject bids that are incomplete, invalid or substantially non-responsive. Following checks should be applied:

- (a) *Verification*: Attention should be directed by the Procurement Committee towards deficiencies that, if accepted would give an unfair advantage to the bidder. Simple omissions or mistakes occasioned by human error should not be considered a sufficient ground for rejection of bid. However, the validity of the bid itself, for example its signature, must be valid, bonafide and affixed by the authorized representative. If the bidder is a joint venture, joint venture agreement shall be submitted.

All copies of the Bid shall be compared with the original and corrected accordingly. Thereafter, the original bid shall be kept in a secure place and copies used in

evaluation.

- (b) *Eligibility*: The eligibility shall be checked in accordance with Para 6.2.1 of this manual.
- (c) *Bid Security*: The Bid Security shall conform to the NIT and the bidding document and shall accompany the bid. If the bid security is in the shape of bank guarantee, it shall be consistent with the bid security form provided in the bidding document. Bid Security submitted by a joint venture shall be in the name of the joint venture.

Following shall be considered a major deviation:

- i. Submission of a copy of security,
- ii. Submission of security of an amount smaller than the amount prescribed;
- iii. Submission of security of a period shorter than the validity period prescribed in bidding documents.

Provided that if the security amount is short by less than 10% in value or the validity period is short by one or two days, these may be considered a minor deviation if the bidder makes them up in response to queries.

- (d) *Completeness*: Unless the bidding document specifically allows, a bid not offering all the required items shall be considered non-responsive. However, in works contracts missing prices for occasional work items are included in prices for closely related items elsewhere if such a provision exists in the preamble of the Bill of Quantities. Erasures, interlineation, additions, or other changes should be initialed by the bidder. Exceptions from bid conditions are acceptable if they are corrective, editorial or explanatory; otherwise, they should be treated as deviations. Missing pages in the original copy of the bid which affect the ranking of the Bidders may be a cause for rejection of the bid.

- (e) *Substantial Responsiveness*:

Major Deviations: Major deviations to the commercial requirements and technical specifications are a basis for the rejection of bids by the Procurement Committee. As a general rule, major deviations are those that if accepted, would not fulfill the purposes for which the bid is requested (e.g. a deviation that substantially affects the scope, quality or performance specified in the bidding document), or an omission which when corrected would prevent a fair comparison or affect the ranking of the bids that are compliant with the bidding documents. Examples of major deviations include:-

- i. A reservation that would limit the rights of PMU MSDP and obligations of the contractor as specified in the bidding document;
- ii. Stipulating price adjustment when fixed price bids were called for;
- iii. Failing to respond to specifications;
- iv. Failure to furnish manufacturer's authorization or quality certification where applicable;
- v. Failing to comply with mile-stones/critical dates provided in Bidding Documents;
- vi. Subcontracting contrary to the Conditions of Contract;

- vii. Refusing to bear important responsibilities and liabilities allocated in the Bidding Documents, such as performance guarantees and insurance coverage;
- viii. Taking exception to critical provisions such as applicable law, taxes, duties and dispute resolution procedures;
- ix. Deviations specified in the *Instructions to Bidder* requiring rejection of the bid.

The responsiveness of bid shall ordinarily be based on the contents of the Bid itself without recourse to extrinsic evidence. A Bid determined as substantially non-responsive will be rejected by the Procurement Committee and will not subsequently be made responsive by the Bidder by correction of the non-conformity. It may be noted that responsiveness is not solely an administrative verification but also a technical one. Further, non-responsiveness may lead to appeals and reviews. Therefore, reason for non-responsiveness shall be clearly stated.

Minor Deviations: A deviation which can be assigned a monetary value. This value would be added as an adjustment for evaluation purposes only during the detailed evaluation process. Consistency in examination shall be ensured. In case of deviation, it needs to be quantified to the extent possible to be qualified as minor. Similarly, minor omissions such as each page of the bid not signed, failing to initial one or more pages of supporting information, submission of less than the required number of bid copies should not be the cause for the bid to be non-responsive.

- (f) Following bids shall not be considered by the Procurement Committee:
- i. Thebidder has submitted more than one bid.
 - ii. It is submitted through fax, telex, telegram or e-mail.
 - iii. It is not accompanied with Bid Security.
 - iv. It is unsigned.
 - v. Its validity is less than specified.
 - vi. It is submitted for incomplete Scope of Work.
 - vii. Completion date is later than specified;
 - viii. Prices quoted are not firm during currency of the contract (except those prices where escalation/adjustments are permitted in the Conditions of Contracts);
 - ix. Material to be supplied does not meet the eligibility requirements;
 - x. Bid prices do not include the amount of taxes & duties;
 - xi. Bidder refuses to accept the arithmetic corrections;
 - xii. It is materially and substantially different from the conditions/specifications of Bidding Documents.

Results of preliminary examination shall be presented as per format specified in Tables at AnnexG3.

10.2.2 Detailed Examination of Bids

Only Responsive bids as a result of preliminary examination shall be examined in detail.

A. Technical Evaluation:

Once the preliminary examination has been completed, the Procurement Committee may undertake technical evaluation where applicable by comparing each bid with the technical requirements of the description of the works, goods or services in the bidding documents to ascertain the responsiveness. Technical evaluation shall determine whether or not the offered items meet the technical standards and performance characteristics defined in the bidding document.

Technical evaluation may include;

- (a) Conformity to specifications, standards, drawings, terms of reference without any reservation or material deviation;
- (b) Satisfactory understanding of the assignment as demonstrated by the methodology and design;
- (c) Availability of human and technical resources to manage the assignment;

Technical evaluation shall only be based on the characteristics and requirements specified in the bidding document.

B. Financial Evaluation:

- (a) *Correction for Arithmetical Errors*: The bid prices of responsive bids shall be corrected by the Procurement Committee for computational errors. The read-out bid prices and their corrections should be noted in AnnexG4. The corrections are considered binding on the bidder. Unusual or large corrections that could affect the comparative ranking of bids should be explained in footnotes.

If there is a discrepancy between unit price and total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected. If there is a discrepancy between the words and figures, the amount in words shall prevail. If there is a discrepancy between the total Bid Price entered in the Form of Bid and the total shown in Schedule of Prices Summary, the amount stated in the Form of Bid will be corrected with the Corrected Schedule of Prices.

- (b) *Correction for Provisional Sums*: Bids may contain provisional sums stipulated for contingencies etc.. As these sums are the same for all bids, they should be subtracted from the read out prices to allow for a proper comparison of bids in subsequent steps. However, provisional sums set aside for Day- work etc. where priced competitively, should not be included in the deductions (Annex-G4).
- (c) *Modifications and Discounts*: Bidders are allowed to submit, prior to bid opening, modifications to their original bid. The Procurement Committee shall fully reflect the impact of modifications in the examination and evaluation of the bids. These modifications may include either increases or discounts to the bid amounts that reflect last-minute business decisions. Discounts that are conditional on the simultaneous award to the same bidder of other contracts (cross-discounts) shall not be incorporated until the completion of evaluation of other contracts. The effect of unconditional discounts (or alternatively, increases) should be shown as in Annex-G5.

Any discount expressed in percent must be applied to the appropriate base specified in the bid (i.e., check to see if it applies to any provisional sums). Employer may reserve the right to consider the cross

discounts.

- (d) *Additions*: Omissions to the bid should be compensated for by adding the estimated costs of omitted items. Where items missing in some bids are present in others, average of the quoted prices could be used to compare competitors' bids. The cost determined should be expressed in the evaluation currency and shown in AnnexG5.
- (e) *Adjustments*: The Bidding Document specifies the factors that will be taken into account to calculate adjustment of bid price in the bid evaluation. The methodology used in evaluation of these factors should be precisely described in the bid evaluation report and should be fully consistent with the Bidding Document. Bonuses or additional credits that reduce the evaluated bid price will not be considered by the Procurement Committee in the bid evaluation unless specifically provided for in the Bidding Document. The value of adjustments shall be shown in Annex-G5.
- (f) *Monetary Adjustments for Minor Deviation*: As earlier discussed, bids with minor deviations may be considered substantially responsive; however, they may require a monetary cost adjustment for the purpose of comparison of bids. If a bid requires a faster payment than specified in the bidding documents, then adjustment may be calculated by the Procurement Committee using discounted cash flow with the prevailing commercial interest rates for the currencies of the bid. Similarly, if a bid provides for a completion that is beyond the date specified in the bidding documents but that is nonetheless technically acceptable to PMU MSDP, the time advantage given should be assessed and a penalty specified on the basis of rate of liquidated damages specified in the bidding documents.
- (g) *Conversion to Single Currency*: To facilitate evaluation and comparison quoted in different currencies, all Bid Prices expressed in various currencies shall be converted by the Procurement Committee to a single currency specified in the bidding document at the selling rate of exchange prevailing seven working days before the date of opening of the bids specified in the bidding documents, as notified by the State Bank of Pakistan;
- (h) *Domestic Preference*: While comparing the bids, the goods manufactured in Pakistan, will be granted a margin of preference in accordance with the applicable law.

Clarification from Bidders: During the course of technical and financial evaluation, the Procurement Committee may seek clarification from bidders in writing. As a consequence to the clarification, the bidder shall not be permitted to change the substance of bid or substantially alter anything which is critical to the evaluation of bids. The failure of a bidder to respond to the clarification may result in his disqualification.

10.2.3 Evaluation and Comparison of Bids

Only the bids determined to be substantially responsive will be evaluated and compared. In calculating the evaluated bid price, the Procurement Committee shall effect following adjustments:-

- i. Correction for errors as explained at Para 10.2.2.

- ii. excluding provisional sums and the provision for contingencies in the Summary Bill of Quantities, but including competitively priced Day work, etc.
- iii. Making an appropriate adjustment for any other acceptable variation or deviation as explained at Para 10.2.2. The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be taken into account in bid evaluation.

Ranking of Bids: Based on the calculation of evaluated bid price and comparison thereof, the Procurement Committee shall rank the bids. The lowest bid is ranked as number one, the second lowest as number two and so on.

Comparison of Bids with Cost Estimates: The evaluated bids submitted by the bidders shall be compared by the Procurement Committee with the original cost estimates. In case the lowest bidder's total bid price is higher than the original estimate, the procurement committee may re-check /assess if the bid is substantially high. This may lead to comparison of bidder's rates with rates of the recent contracts in similar locations, and a check on whether there is possibility of collusion among bidders. In case of significantly high rates, the Procurement Committee may decide to re-tender.

Unbalanced Bid: If the bid of the successful bidder is seriously unbalanced in relation to the PMU MSDP's estimate of the cost of work to be performed under the Contract, the Procurement Committee may require the bidder to furnish detailed price analysis for any or all items of the Bill of Quantities to demonstrate the internal consistency of those prices with the construction methods and schedule proposed.

After evaluation of the price analysis, the Procurement Committee may require that the amount of the Performance Security shall be such as to protect the PMU MSDP against financial loss in the event of default of the successful bidder under the Contract.

10.2.4 Evaluation of Package with more than one Lot

- a. In case of a single package with more than one lot, the bid evaluation shall be for each lot separately.
- b. When a bidder is lowest evaluated bidder in more than one lot then the bidder's capacity in terms of qualification requirements is checked as per requirement for both the lots.
- c. In case a bidder is found to be qualified for any one lot among two lots, then the Procurement Committee needs to check for the total package cost with possible alternative qualified bidders. The lowest total cost for overall package shall be calculated based on qualified and responsive bidder's combination for award of contract.

10.3 Post Qualification Determination

Once the evaluated bid price of all responsive bids is determined and ranked based on their evaluated bid price, the Procurement Committee needs to assess at first the lowest evaluated bidder's qualification information. The post qualification requirement for award shall be as specified in the bidding documents. For works contract the

qualification assessment involves checking of ability to meet the requirements for;

- i. Annual volume of construction work completed by the bidder as specified in bid data sheet (BDS).
- ii. Similar work experience of value as specified in the BDS.
- iii. Availability of the equipment as specified in BDS.
- iv. Availability of Contract manager/ Engineer as specified in the BDS.
- v. Availability of liquid asset with the bidder as specified in the BDS.
- vi. Assessed bid capacity of the bidders is also assessed to check if the bidder is overloaded with works beyond his capacity. If so, the basis for such evaluation needs to be incorporated in BDS.

To assess each of the above criteria, the Procurement Committee shall examine the qualification documents submitted by the bidder. If necessary, the details of historical data could be requested from the bidders. Such request from the bidders shall be in writing.

Joint Venture(JV) : Where the bidder is a joint venture, the following shall apply for evaluating the capacity of lead partner and other partners:

- i. Figures for each of the partners of a joint venture shall be added together to determine the bidder's compliance with the minimum qualifying criteria.
- ii. Each of its partners must meet at a minimum prescribed threshold.
- iii. The JV agreement shall be registered in province of Sindh as per legal requirements spelling out clearly joint and several responsibilities of the JV partners.

10.4 Bid Evaluation Report

Once the ranking of the responsive bids has been calculated and finalized by the Procurement Committee, it shall prepare a Bid Evaluation Report comprising following information. Ideally, the Bid Evaluation Report shall be prepared within 15 days of opening of bids.

- (a) A summary of bids received and opened;
- (b) Key dates and steps in the bidding process;
- (c) Results of preliminary examination to assess the responsiveness of bids;
- (d) Reasons why bids were declared unresponsive;
- (e) Details of any non-material deviations which were accepted, the way they were quantified and accounted for in the financial evaluation;
- (f) Technical Evaluation if any;
- (g) Evaluated price of each responsive bids showing any corrections, additions, adjustments, discounts and currency conversion;
- (h) Ranking of bids based on the evaluated Bid price;
- (i) Domestic preference applied if any;
- (j) Special evaluations if applicable;
- (k) Results of post qualification if any;
- (l) Names of bidders rejected due to qualification failure and reasons for rejection;

(m) Recommendation of award to the lowest evaluated responsive Bid.

Sample Bid Evaluation Reports can be seen at Annex- H1 to H4.

10.5 Publicizing the Bid Evaluation Report

The Procurement Committee shall immediately submit the Bid Evaluation Report to the Program Director. On receipt of the report, the Program Director shall satisfy himself that the recommendations are in accordance with SPP Rules and forward it to the Procurement Specialist for posting the report on the MSDP website and the SPPRA website and circulated among all the participating bidders. The report shall remain posted on SPPRA website for at least seven days before the contract could be awarded to the successful bidder.

10.6 Bid Evaluation Process and Confidentiality

During the bid evaluation period, the Procurement Committee shall strictly adhere to the following principles:

- i. Confidentiality of the bid evaluation process.
- ii. Rejection of any attempts or pressure to distort the outcome of the evaluation.
- iii. Preventing any action likely to lead to fraud and corruption.
- iv. Strictly applying only the evaluation and qualification criteria specified in the bidding documents.
- v. Clarification, and evaluation of bids and recommendations concerning awards shall not be disclosed to bidders or any other persons not officially concerned with this bid evaluation process until the publication of contract award.

It is recommended that the members of Procurement Committee shall not meet or have direct contact with the bidders who have participated. Any clarification required shall be in writing.

10.7 Cancellation of Bidding Process

- (a) The Procurement Section PMU MSDP may with the approval of Program Director may be cancel the bidding process at any time prior to the acceptance of a bid or proposal;
- (b) PMU MSDP shall incur no liability towards the bidders, solely by virtue of cancelling the bidding process;
- (c) The Procurement Specialist shall intimate the cancellation of bidding process promptly to all bidders and return bid security along with such intimation. The cancellation notice may also be posted on MSDP and SPPRA website;
- (d) Upon request by any of the bidders, the Procurement Section (with the approval of Program Director) shall communicate to such bidder, grounds for the cancellation of bidding process;
- (e) After cancellation, the Procurement Section PMU MSDP may re-invite the tenders if deemed necessary subject to approval by the Program Director.

Procedure:

- (a) The Procurement Committee or the Procurement Section may consider and examine the need to cancel

procurement proceedings where applicable and submit their recommendation with full justification to the Program Director for approval.

- (b) On approval by the Program Director, where no invitation document or notice has yet been issued, the Procurement Section shall ensure that all relevant staff is notified. No further action is required.

Where an invitation document or notice has been issued, the approval of the Program Director for cancellation be obtained as promptly as possible and bidders informed of cancellation so that bidders do not waste or spend further time or resources in the preparation of tenders or in maintaining bid securities.

- (c) For the purpose of adequately publicizing the cancellation, the Procurement Section shall prepare a Cancellation Notice and post on the MSDP website as well as SPPRA website and may also be published in newspapers. The notice should normally state the grounds for cancellation to avoid enquiries from the bidders.
- (d) The Cancellation Notice shall also be sent by post or email to the bidders to whom the bidding document has been issued. Besides, the tender box as well as other records of receipts be checked and all unopened tenders that have already been received be returned to the concerned bidders.
- (e) The PMU MSDP may also refund the fees paid by the bidders for purchase of bidding documents where cancellation is caused owing to involvement of certain factors on part of PMU-MSDP, such as inadequacy of funds, changes to the technical or contractual requirements, or due to a decision that the procurement is no longer required etc.
- (f) Where cancellation of proceedings is caused by malfeasance by the bidders (e.g., collusion etc.), refunding the fees may be inappropriate.

CHAPTER XI

AWARD OF CONTRACT

CHAPTER XI: AWARD OF CONTRACT

The Program Director has the Authority to approve the recommendations of the Procurement Committee for award of contract to the lowest evaluated responsive bidder. After examining the Bid Evaluation Report, the Program Director may make any of the following decisions:

- (a) Approve the recommendations;
- (b) Seek clarification from the Committee before taking any decisions;
- (c) Reject the recommendations if it is deemed that there is no scope for correction of recommendation for reasons to be recorded in writing.

The decision of Program Director to reject the bids shall be posted on the MSDP website while his decision to accept the recommendation shall be notified as under:

11.1 Notification of Contract Award

- i. Before the expiry of the Bid Validity period, the Procurement Section of MSDP shall with the approval of Program Director, notify the award of tender to the person who submitted the lowest evaluated responsive bid as per templates at Annex-J1 to J3.
- ii. It shall be ensured that at least seven days have elapsed since the hoisting of Bid evaluation report on the website of SPPRA.
- iii. The successful bidder shall be required to reply to the Bid award notice within a stipulated time frame that he has accepted the tender. If the successful bidder refuses to accept the award, his bid security shall be forfeited and the next bidder in ranking shall be considered for award of contract.
- iv. The evidence of dispatch of contract award such as proof of post, fax confirmation slip, etc. shall be kept by the Procurement Section on record. Moreover, the confirmation of receipt of the Notice of Award may be obtained and placed on record.

11.2 Acceptance of Single Bids

Even when only one bid is submitted, the bidding process may be considered valid by the Procurement Committee, if the bid was advertised in accordance with rules, and prices are comparable to the prices or rates of the last awarded contract or the market prices.

11.3 Publication of the Award of Contract

Within seven days of the award of contract, the Procurement Specialist shall arrange for publishing on the website of SPPRA and MSDP, identifying the bid through procurement identifying number, the form of contract and the Bill of Quantities or Schedule of Requirement as the case may be.

11.4 Debriefing

A bidder may ask the PMU MSDP for reasons for non-acceptance of his bid and may request for a debriefing meeting. The Procurement Section shall provide him thereasons for such non-

acceptance, either in writing or by holding a debriefing meeting. The requesting bidder shall bear all the costs of attending such a debriefing.

11.5 Bar on Negotiations

There shall be no negotiations with the bidder having submitted the lowest evaluated bid or with any other bidder except in case of certain specified methods for procurement of consultancy Services.

11.6 Procurement Contract

A procurement contract shall come into force when the Program Director and the successful bidder affix their signatures on the written contract. Such affixing of signatures shall take place within the time prescribed in the bidding documents.

Provided that where coming into force of a contract is contingent upon fulfillment of certain condition(s), the contract shall take effect from the date when such fulfillment takes place.

Procedure for preparation and Issuance of Contract Document:

The procedures apply to goods, works, routine services and consultancy services under the Open Tendering, Direct Tendering, Two-Stage Tendering, and the Request for Proposals. The Procurement Section shall act according to following steps/guidelines for issuing a contract document:

- a. Ensure that the Bid Evaluation Report is published/announced seven days prior to award acontract.
- b. Assemble the complete contract document including all necessary documents in the correct order. Ensure that the contract does not include any terms or conditions that vary from the bid successful bidder's bid.
- c. Obtain approval from the Project Director PMU MSDP for the contract document on the required format.
- d. Required number of copies of the approved contract may be made and the pages bound or secured in such a way that pages cannot be replaced or lost. The number of copies required shall be at least two; one for the supplier, and one for PMU-MSDP. An additional copy may also be provided to the Director Finance and Compliance Section.
- e. All copies of the contract shall be signed by the Project Director PMU MSDP.
- f. The supplier be sent all copies of the contract with a covering letter instructing the supplier to countersign all copies, retain one for his record, while returning all other signed copies to Program Director.

**CHAPTER XII
ALTERNATIVE
PROCUREMENT
METHODS**

CHAPTER XII: ALTERNATIVE PROCUREMENT METHODS

SPP Rules allow following alternative methods for procurement of goods, works and services namely:-

12.1 Petty Purchases

Petty purchases are procurements below the financial limit of twenty five thousand rupees. Such procurement shall be exempt from the requirements of bidding or quotation of prices.

It shall be ensured that the petty purchases are in conformity with the principles of procurement. The petty purchases shall be conducted by the Procurement Section with the approval of Program Director without involvement of Procurement Committee. Procurement Section shall carry out due diligence to ensure that the price paid for the procurement is in sync with the market price

Procedure:

- (a) Concerned Section shall prepare Procurement Requisition containing a written description of the goods, works or services including a technical description of the requirements.
- (b) On receipt of requisition, the Procurement Section shall seek approval of the procurement from the Program Director through the Director Finance and Compliance Section.
- (c) After approval, the Procurement Section shall identify the appropriate supplier and place order for supply of goods or services.
- (d) The Procurement Section shall ensure that an invoice is provided by the supplier.
- (e) The invoice is forwarded to the Director Finance and Compliance for payment.
- (f) Once payment is made, the goods or services are received by the Assistant Director Procurement.

12.2 Request for Quotations (RFQ)

Request for quotation is the method based on comparing price quotations obtained from at least three suppliers, contractors, and service providers, in the case of services other than consulting services, to assure competitive prices. Request inviting quotation may be posted on MSDP website and reflected in the Procurement Plan. The Procurement Section shall carry out due diligence to ensure that the price paid for the procurement is in sync with the market price;

Following are the pre-conditions for engaging in this method of procurement:

- (a) the cost of procurement is below the prescribed limit of one hundred thousand rupees and above twenty five thousand rupees;

- (b) the procurement has standard specifications;
- (c) the procurement is purchased from the supplier offering the lowest price;

Procedure:

- (a) The concerned section shall prepare the Procurement Requisition containing a written description of the goods, works or services including a technical description of the requirements, and the terms and conditions of the proposed contract.
- (b) On receipt of requisition, the Procurement Section shall seek approval of the procurement from the Program Director through the Director Finance and Compliance Section.
- (c) On approval, the Requests for quotations shall be prepared by the Assistant Director Procurement which shall indicate the description and quantity of the goods or specifications of works, as well as desired delivery, or completion time and place.
- (d) The Assistant Director Procurement shall identify at least three suppliers, obtain quotations and prepare a comparative statement. Quotations may be submitted by the suppliers by letter, facsimile or by electronic means.
- (e) The evaluation of quotations shall follow the same principles as applicable to open competitive bidding.
- (f) The Procurement Section shall obtain approval from the PD for the proposed supplier recommended on the basis of lowest bids as per comparative statement meeting the specification.
- (g) The Procurement Section shall prepare a Purchase order and forward it to the supplier.
- (h) It shall ensure that an invoice is provided by the supplier. The invoice shall be provided to the Director Finance and Compliance Section for payment.
- (g) On payment, the purchase is completed and the supplies are collected/ received by the Assistant Director Procurement.

12.3 Direct Contracting

This method means procurement from a single source without competition and shall only be applicable under any of the following conditions:

- (a) Standardization of equipment or spare parts, to be compatible with the existing equipment. In this case, the Additional Chief Secretary (Development) P&D Department being the Principal Accounting Officer shall certify in writing the compatibility of the equipment or spare part(s) to be procured;
- (b) The required item(s) is of proprietary nature and obtainable only from one source. In this case the Additional Chief Secretary (Development) P&D Department being the Principal Accounting Officer shall certify in writing the proprietary nature of the item(s) to be procured;
- (c) The contractor responsible for a process design requires the purchase of critical items from a particular supplier as a condition of a performance guarantee;
- (d) Where civil works are to be contracted and are a natural extension of an earlier or on-going job and it can be ascertained that the engagement of the same contractor will be more economical and will ensure compatibility of results in terms of quality of work. The direct procurement, however, shall not exceed 15% of the original/ongoing work and shall be procured at the same rate/price as original contract;
- (e) Where a change of supplier would oblige the PMU MSDP to acquire material having different technical specifications or characteristics and would result in incompatibility or disproportionate technical difficulties in operation and maintenance. The Additional Chief Secretary (Development) P&D Department shall certify in writing the compatibility of the materials to be procured;
- (f) When the price of goods and works and service related thereto, is fixed by Government or any other authority, agency or body duly authorized by the Government, on its behalf;
- (g) Purchase of locally manufactured motor vehicle from local manufacturers or their authorized agents at manufacturer's price;
- (h) In cases of emergency provided that the Additional Chief Secretary (Development) P&D Department, declares that a situation of emergency has arisen and reasons for making such a declaration have been recorded in writing.

Except in case of condition at (d), (f) and (g) above, the bid/price quoted by the sole bidder shall be evaluated by the Procurement Committee to ensure that it is in accord with the market price of the item. The letter of contract award and contract documents shall be posted on MSDP website.

Procedure:

- (a) Concerned Section shall prepare Procurement Requisition containing a written description of the goods, works or services including a technical description of the requirements and the terms and conditions of the proposed contract;

- (b) On receipt of requisition, the Procurement Section shall seek approval of the procurement from the Program Director through the Director Finance and Compliance Section.
- (c) After approval, the Procurement Section shall identify the appropriate supplier and place order for supply of goods, works or services.
- (d) The Procurement Section shall identify a supplier who is able to fulfill the requirements.
- (e) It shall prepare a note justifying the use of direct contracting for the procurement to be signed/approved by the Program Director or Additional Chief Secretary Development P&D Department as the case may be;
- (f) The Procurement Section shall send written description of the supplies to the sole supplier requesting a written offer.
- (g) The Procurement Section in case of clause (d), (f) and (g) of Para 12.3 and the Procurement Committee in case of clause (a), (b), (c), (e) shall evaluate supplier's offer to determine whether it meets the requirements and is reasonable and prepare an evaluation report, recommending whether the offer is in line with market prices and estimates and may be considered for contract award, or whether the procurement requirement should be cancelled or redefined.
- (h) The Procurement Section shall obtain approval from the Program Director for the proposed supplier and written offer and prepare a Purchase Order and forward it to the supplier. It shall ensure that the supplier provides an invoice and send the invoice provided by the supplier to the Director Finance and Compliance for payment.
- (i) On payment, the purchase is completed through receipt of Supplies by the Assistant Director Procurement.

12.4 Force Account

This means construction by the use of the PMU MSDP's own personnel and equipment and shall only be used for the works under the following conditions;

- (a) Quantities of work to be done cannot be defined in advance;
- (b) Works are small and scattered or in remote locations for which qualified construction firm(s) is unlikely to bid at reasonable prices;
- (c) Works are required to be carried out without disrupting ongoing operations;
- (d) In case of emergencies provided that the Additional Chief Secretary Development Planning and Development Department declares that a situation of emergency has arisen and he records the reasons for making such a declaration in writing.

12.5 Repeat Orders

This means procurement of additional quantities of the item(s) from the original contractor or supplier, where, the items originally envisaged for the project or scheme have been procured through open competitive bidding. The procurement through Repeat Orders shall not exceed 15% of the original contract amount and prices charged by the

supplier or contractor does not exceed the price agreed in the original contract.

In case of goods, Repeat Orders shall be permissible only within the same financial year, and in case of works, during the currency of the project(s) or scheme(s).

The proposal to issue a repeat contract shall be initiated by the concerned sectioned, analyzed by the Procurement Section and submitted to the Program Director for approval.

Table : Thresholds and Processes for Different Procurement Methods

Threshold	Authorized Person	Procurement Method	Process and Requirements
Up to PKR 25,000	Program Director	Petty Purchase	<ul style="list-style-type: none"> - Petty cash purchases - No formal requirement - Some price comparisons (i.e., different supplier prices or market prices) may be acquired, if required
PKR 25001–100,000	Program Director	Request for Quotations-Competitive Method	<ul style="list-style-type: none"> - Procurement requisition - Minimum 3 suppliers' written quotations - Comparative statement - Purchase order
PKR 100,001-1000,000	Program Director	Competitive Procurement (Award Recommended by Procurement Committee)	<ul style="list-style-type: none"> - Procurement requisition - Advertisement on SPPRA and PMU-MSDP websites - Issue NIT - Bid Evaluation and Comparative statement - Award of Contract - Purchase order/contract agreement - For direct contracting, adherence to Rules with written justification stating reasons to justify single quote (as part of the procurement requisition) and approval of ACS Dev.
PKR 1000,001 – above	Program Director	Competitive Procurement (Award recommended by Proc. Committee)	<ul style="list-style-type: none"> - Procurement requisition - Advertisement on SPPRA and PMU-MSDP websites and three widely circulated newspapers - Preparation of RFQ/bidding documents - Bid Evaluation - Procurement Committee recommends award of contract - Contract agreement - For direct contracting, adherence to rules with written note stating reasons to justify single quote (as part of the procurement requisition) and approval of ACS (Dev)

**CHAPTER XIII
PROCUREMENT
OF
CONSULTANCY
SERVICES**

CHAPTER XIII: PROCUREMENT OF CONSULTANCY SERVICES

Introduction:

“**Consulting Services**” means services of an advisory and intellectual nature provided by consultants using their professional skills

A “**Consultant**” is a professional who can:

- (a) Provide specialist advice or
- (b) Give technical assistance for making policies
- (c) Study, evaluate, design, organize and manage projects

It includes Consulting firms, Legal advisors, Engineering firms, Construction Managers, Management Firms, Procurement Agents, Inspection Agents, Auditors, Investment and Merchant banks, Universities, Research Institutions etc.

Consultants are used for effective and efficient allocation of resources by utilizing specialized services for limited time without any obligation of permanent employment. Consulting services may vary from simple routine tasks to highly specialized and complex assignments.

Consulting services requires meeting high standards of quality, being impartial, and demonstrating the highest ethical standards. Impartiality, together with creativity, is the most important characteristic of a good consultant. The consultant should have the ability to study alternatives and recommend solutions, technologies, and products in the best interest of the Program.

Consulting Services and Quality:

Quality of a Consultant is important to the program as their ability and creativity assists the program in achieving the goals in time, quality and within specified cost. Quality aspects of services provided by the consultants will find their way into program’s strategies, plans, decisions. Hence, while the procuring consulting services, quality is the determinant factor in selection of consultant.

13.1 Difference in Procurement of Goods/ Works and Consulting Services

Parameters	Goods/Works	Consulting Services
Basis for Responsiveness	Pre- defined Specifications	Qualification & Experience
Evaluation Criteria	Lowest Cost	Different
Tangibility	Yes	No
Negotiations	No	Yes (in some cases)
Shortlisting	Complex Works, Equipment	In all cases

Integrity Pact	10.0 Million	2.5 Million
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13.2 Principles of Procurement

Following are the underlying principles which shall be followed while undertaking procurement of Consulting Services:

- (a) Best Quality of Services
- (b) Economy & Efficiency
- (c) Equal Opportunity
- (d) Encouraging Local Talent
- (e) Transparency in Selection Process

In practice, each of the above principles may be followed depending on the type and complexity of the procurement. Demanding high quality of services may affect economy. Similarly, increasing transparency and competition may require detailed and time-consuming procedures that can impact efficiency and cost. So, depending on the objectives, Procurement Section with the approval of Program Director shall finalize and update the procurement plan and the selection method.

13.3 Conflict of Interest

A Consultant cannot be hired if there exist a conflict of interest. Civil Servant shall be hired only if:

- (a) he is on leave;
- (b) he was not employed with PMU MSDP for the last 6 months;
- (c) the hiring does not give rise to any conflict of interest.

13.4 Constitution of Consultant Selection Committee (CSC)

The consultant selection committee shall be headed by the Project Director and comprise:

- (a) Nominee of Finance Department (not below BS-18);
- (b) Nominee of Planning and Development Department (not below BS-18),
- (c) Procurement Specialist MSDP (to act as Secretary of the Committee);
- (d) A Technical Member (not below BS-18) from the relevant departments for consultation having adequate experience in the relevant field and
- (e) Upto two Co-opted members having adequate technical knowledge and experience in the relevant field, for providing technical input to the committee provided they have no conflict of interest in the procurement process . The co-opted members shall have no voting rights.

13.5 Quorum of CSC

The Program Director and nominees of Finance and Planning and Development Department shall constitute the quorum for conducting the business of Consultant Selection Committee. The decision shall be made by simple majority.

13.6 Functions of Consultant Selection Committee

The Consultant Selection Committee shall perform following functions:

- (a) Approval of RFP before issuance;

- (b) Short Listing of Consultants in accordance with criteria mentioned in Request for Expression of Interest;
- (c) Evaluation of Technical and Financial Proposals in accordance with criteria prescribed in RFP;
- (d) Recommendation for Award of Contract

The Procurement Section shall act as the Secretariat of the Consultant Selection Committee.

13.7 Steps in Selection Process of Consultancy Services

The procurement of consultancy services shall comprise following steps:

- (a) Preparation of Terms of Reference (TORs)
- (b) Preparation of Cost Estimates
- (c) Issue Request for Expression of Interest (REOI)
- (d) Shortlisting of Consultants
- (e) Issue Request for Proposal (RFP)
- (f) Submission of Technical & Financial Proposals
- (g) Evaluation of Technical Proposals
- (h) Evaluation of Financial Proposals & Selection of Successful Bidder and posting of Bid Evaluation Report on the website of MSDP and SPPRA
- (i) Contract Negotiations (if applicable)
- (j) Award & Signing of Contract

13.7.1 Preparation of TORs

The Terms of Reference shall contain the following information for the guidance of interested consultants:

- (a) Background Information
- (b) Aims and Objectives
- (c) Scope of Work
- (d) Consultancy and Expertise required
- (e) Outputs and Deliverables
- (f) Reports required during assignment life
- (g) Selection Method and Evaluation Criteria
- (h) Logistic and Support Facilities
- (i) Cost of Consultant Services and Payment Schedule

Guidelines for preparation of ToRs may be seen at Annex- K1

13.7.2 Preparation of Cost Estimates

- 1) The cost estimates prepared by the Procurement Section shall be based on the detailed terms of reference and program's assessment and estimation for the required assignment.
- 2) Past completed similar assignment or proposals from the consultants may be taken as example for the estimating the need for professional staff month, support staff, logistical support, and physical inputs (for example, vehicles, laboratory equipment).
- 3) While estimating for total services the costs shall be divided into two broad categories: (a) fee or remuneration and (b) reimbursable or out of pocket expenses. The total cost may be divided into foreign

and local costs if there is input of international consultants.

- 4) In general, the cost estimate is directly proportional to the requirement of TOR for a service.

13.7.3 Issuance of REOI

A Request for Expressions of Interest (EOI) will be issued by the Procurement Section in order to receive the background information about interested Applicants necessary to prepare a short-list of applicants to which, at a later date, the RFP will be issued.

The request for Expression of Interest shall be advertised by the Procurement Section in the same manner as the notice inviting tenders. Also refer Annex- K2

Contents

The REOI shall contain following information:

- (a) Name, postal address, telephone number(s), fax number, e-mail address (if available) of PMU MSDP;
- (b) Description and scope of the assignment;
- (c) Evaluation Criteria
- (d) Deadline of Submission
- (e) any other information that the PMU MSDP may deem appropriate to disseminate at this stage.

Whenever a Joint Venture, Consortium or Association (JVCA) arrangement between national and foreign firms would be thought to facilitate performance of high quality Services, the Request for Expressions of Interest should mention that such JVCA would be welcomed or encouraged by the PMU MSDP.

Publicizing the REOI

Up to PRs One Million: All REOs for procurements over one hundred thousand rupees and up to one million rupees shall be advertised by the Procurement Specialist through timely notifications on the SPPRA and MSDP's websites. These may also be advertised through print media if the PD PMU-MSDP considers it appropriate;

Over PRs One Million: The REOs for procurements exceeding PRs one million shall be advertised by the Procurement Specialist through publication in at least three widely circulated leading dailies of English, Urdu and Sindhi languages and posting on SPPRA and MSDP website.

Response Time:

The Procurement Specialist shall give due consideration to the scope, magnitude and nature of procurement, while deciding the response time. The response time shall be minimum 15 days in case of National Competitive Bidding and minimum 45 days in case of International Competitive Bidding.

Opening of Proposals:

- i. Expressions of Interest may be submitted by courier, mail, fax or e-mail.
- ii. There shall be no public opening for the Expressions of Interest.
- iii. The Procurement Specialist shall, immediately after the deadline specified in the advertisement for

Expressions of Interest, convene a meeting of the Consultant Selection Committee, for the purpose of opening the EoI and recording the names of all applicants and any other pertinent details thereof.

13.7.4 Shortlisting of Consultants

The shortlisting of consultants shall be undertaken by the Consultant Selection Committee and based on the eligibility requirements and evaluation requirements stipulated in the REOI.

Benefits of Shortlisting

- (a) Encourages consultants to prepare high quality proposals.
- (b) Increases the possibility of selecting most suitable consultants.
- (c) Facilitates a closer and meaningful evaluation of Technical Proposals.
- (d) Reduces time for evaluation of proposals.
- (e) Reduces the chances for extraneous influences.
- (f) Reduces the cost of business development of consulting houses which is part of consultants' overhead costs and ultimately chargeable to the clients.

Eligibility and Qualification Requirements:

Following eligibility requirements may be listed in the REOI.

- (a) Registration with the PEC where applicable.
- (b) Experience with similar project authorities and similarity/size of the projects.
- (c) Experience in the kind of services under consideration.
- (d) Volume of the consultant's services in terms of total number of staff-months. The specific input and the staff strength shall be sufficient to indicate that the firm would be able to handle the requirements of the project.
- (e) The expertise required for the project should be listed and the consultant should be advised to submit short CV's of their experts. These expert positions should preferably be limited to a maximum of 5. However list of entire related professional staff on the firm's roll should be part of the Application.
- (f) The staff should be judged on the basis of their experience on previous similar assignments.

It may also be seen whether the firm gained the specific experience as principal or as a subsidiary partner in the joint venture i.e. was its role primary or supporting for the particular features. Additionally, experience as individuals is not taken into consideration under the head experience of the firm. Each of the afore-given considerations must be assigned appropriate weightage matching their importance.

Evaluation Criteria:

There are two essential elements for judging the capability of any firm to perform credibly on a given project. These are its previous experience on similar projects and its professional staff having the specific expertise to meet its obligations during the assignment. It is essential that appropriate importance/weightage is assigned to each item. Following ratios are suggested:-

- (i) Experience of the firm **30 percent points**
- (ii) Quality of Personnel’s expertise **70 percent points**

The REOI shall also contain the minimum threshold score for the firms below which limit the firm will not be shortlisted. The threshold should be fixed at minimum of 60% -70% of the total points.

Evaluation of the Experience:

As a general guide it is proposed that the experience should be considered by the CSC under two heads i.e. specific experience and general experience.

Specific Experience: Weightage for specific experience may ordinarily be 70% of the total marks assigned to experience. For specific experience which is similar in magnitude and complexity, even one previous project is considered enough to inspire confidence in the firm’s capability. However, for the purpose of ranking of the firms for inclusion in the shortlist, a maximum of 3 to 5 projects should fetch full marks for the firm under specific experience. The experience for the first project should be nearly as much as the threshold score and the remaining projects should be awarded points in descending order, e.g.:-

- No. of Projects For Max. 5 Projects For Max. 3 Projects
- 1st Project 50 Percent 70 Percent
- 2nd Project 75 Percent 90 Percent
- 3rd Project 85 Percent 100 Percent
- 4th Project 95 Percent
- 5th Project 100 Percent-

General Experience: Similarly the general experience should also be considered subject to certain limit on numbers because after certain number, more projects may not add much to differentiate between the competitors. Weightage of general experience may ordinarily be 30% of the total marks or weight assigned to Experience. A maximum of 10 projects should be enough number to fetch full hundred percent points. A sample is proposed as follows:-

No of Projects	Proposed Criteria (%)
Min. 2	25
3-5	60
6-7	85
8-9	95
10	100

Other Factors

There are some other factors which may have a bearing on the overall proficiency of a firm in meeting its obligations later during the currency of the contract. For example, when training of Client's staff is a requirement on the project, the firms having previous experience and resources could be better placed to perform that part of the assignment. Similarly experienced office staff, financial capability as well as availability of equipment/software is useful for timely handling of critical issues. These and such other factors which differentiate between otherwise excellent firms may be considered as weighted qualifications.

Evaluation of Quality of Staff:

For the sake of assigning weightage to judge capability of the firm on the basis of expertise of its staff, the following steps may be adopted by the CSC:-

- (a) List the type of essential expertise required for the project.
- (b) The number of discipline- types included in the list should be the most important ones and be limited to a maximum of 5.
- (c) Assess the relative importance of each expertise viz-a-viz the requirements of the project.
- (d) Assign number of credit points to each expertise/the staff member nominated for that expertise.
- (e) Nominated experts should be evaluated on the basis of the following three items of qualification as demonstrated in their C.Vs:-

Academic Qualification	20-30%
Professional Experience	60-70% =A
Specific	80% *A
General	20% *A
Experience of Working Environment	10% =B
National	60% *B
International	20% *B
Local Area within the country (preference for Province/Language)	20% *B

Evaluation of applications should preferably be carried out individually by the CSC members on forms jointly developed by the committee and using the predetermined weightage award sub-criteria sample Forms for evaluation of experience. After finalization of the evaluation, each member should compile the grading list containing a summary of points- copy of which be submitted to the head of Consultant Selection Committee before a formal meeting is convened by him.

The templates which may be used for shortlisting may be seen at Annex-K3 to K6.

Finalization of Short List:

The consultant selection committee should hold a meeting to review the evaluation/grading carried out by the individual committee members. Since the members have evaluated the firms on the basis of well-defined criteria, hence, it has considerable advantage of organized discussion and consideration of those firms only which are

unanimous choice. The discussion will yield a more balanced grading of firms and finalization of the short-list.

Size of Shortlist: The short-list of prequalified consultants should not be excessively long. It may be remembered that longer short-lists tend to be self-defeating as the selected firms may decide that the chances of winning the assignment does not justify thorough preparation of their proposals.

Publicizing the Report of Shortlist: The Shortlist Report finalized by the Consultant Selection Committee containing the complete details of the scores obtained by the applicants and the basis thereof and the justification for rejection of those not shortlisted shall be posted on the MSDP and SPPRA websites and circulated among all the applicants by the Procurement Section with the approval of the Project Director.

13.7.5 Issue of RFP

Once the shortlisted firms have been identified; the Request for Proposal prepared by the Procurement Section shall be issued to the shortlisted consultants on equal opportunity basis. In preparation of RFP, the Procurement Section may seek assistance of the concerned section and the Program Consultants.

Contents: The RFP shall comprise the following information:

- (a) **The Letter of Invitation (LOI):** This is the letter to all the short listed consultants inviting to submit their technical and financial proposal. The letter should clearly state the last date, time, and place for submission of proposal as well as request the consultants to acknowledge the LOI and confirm their participation in submitting the proposal. A short listed consultant may excuse itself from submitting the proposal. The LOI shall mention the name and address of the PMU MSDP and shall also state its intention to enter into a contract for provision of consulting services and contain names of all the short listed firms.
- (b) **Instructions to Consultants:** The instructions to consultants shall contain all necessary information that would help them prepare responsive proposals and shall bring as much transparency as possible to the selection system.

It should clearly specify the selection procedure, information on the evaluation process, and indicate the evaluation criteria.

- (c) **Terms of Reference (TOR):** It shall define the objectives, goals and scope of the assignment unambiguously and list the deliverables, services and surveys necessary to carry out the assignment and expected outputs (for example, reports, data, maps, surveys), duration of assignment, institutional arrangements, the facilities and support to be provided to the consultant by the PMU MSDP etc. Terms of Reference are to be read along with the conditions mentioned in the Form of Contract. TOR for each service requirement shall be prepared by the person(s) or the section who knows the requirement of the assignment in detail. A TOR shall facilitate the consultants' in preparing responsive, creative, and cost effective proposals. If required, a person or firm having expertise of the area/discipline may be engaged by the project to prepare a TOR.

If transfer of knowledge or training is an objective, it should be specifically outlined along with details of number of staff to be trained, and so forth, to enable consultants to estimate the required resources.

(d) **Form of Contract:** It is draft contract agreement and contains general and special conditions of contract including but not limited to:

- i. Payment Provisions
- ii. Price Adjustment
- iii. Staff Substitutions
- iv. Professional Liability
- v. Settlement of Disputes

(e) **Evaluation Criteria**

- i. Specialization: Consultants' specialized skills and access to particular technologies related to the assignment;
- ii. Experience: Consultants' experience and past performance on similar contracts or assignments and in similar geographical conditions;
- iii. Financial Capability: Financial capability of the consulting firms may be evaluated with a view to ensuring that they can complete the assigned task in a timely manner;
- iv. Understanding of the assignment: Consultant's understanding of the assignment is a very important consideration for evaluation;
- v. Methodology: Methodology proposed by the consultants shall be evaluated for its innovativeness and soundness
- vi. Quality Management (large and complex assignments): Availability of a well-established Quality Management system may be taken into account for large and complex assignments.

Each criterion shall be marked on a scale of 1 to 100 and proposed weights shall be disclosed for each criterion in the RFP. It may be also necessary to further sub divide each criteria. Weight age of criteria and sub-criteria mainly depends upon the nature and complexity of the assignment.

(f) **Type of Contract:** The Procurement Section PPMU MSDP may use one of the following types of contract:

- i. **Lump sum contract** shall be used mainly for assignments in which the contents, duration of the services and the required output are unambiguously defined. e.g. simple feasibility studies, environmental studies, detailed design of standard or common structures, preparation of data processing systems. Payments are linked to outputs such as reports, drawings, bills of quantities, bidding documents, and software programs. Lump sum contracts are easy to administer because payments are linked to clearly specified outputs.
- ii. **Time based contract** shall be used when it is difficult to define the scope and the length of services. This type of contract is widely used for complex studies, supervision of construction, advisory services, and most training assignments where it is difficult to define the scope and the length of services. Payments are based on hourly, daily, weekly, or monthly rates for staff and on

- reimbursable items using actual expenses and/or agreed unit prices.;
- iii. **Hourly or daily rates contract** shall be used for small projects, especially when the assignment is for less than a month; and
 - iv. **Retainer and/or Contingency (Success) Fee Contract:** This type of contracts is widely used when consultants are preparing companies for sale or mergers, notably in privatization operations. The remuneration of the consultant includes a retainer and a success fee, the latter being normally expressed as a percentage of the sale price of the assets.
 - v. **Percentage Contract:** This type of contracts are commonly used for architectural services, procurement and inspection agents. Percentage contracts directly relate the fees paid to the consultant to the estimated or actual Program construction cost, or the cost of the goods procured or inspected.
 - vi. **Indefinite Delivery Contract (Price Agreement):** This type of contract is used when the Program requires specialized services from the consultants “on call” intermittently which cannot be defined in advance. These are commonly used to retain “advisers” for implementation of complex projects, expert adjudicators for dispute resolution panels, institutional reforms, procurement advice, technical troubleshooting etc. normally for a period of a year or more.
 - vii. Any other contract, based on combination of the above types of contracts, including out of pocket expenses, where required.

(g) **Special provisions:** The Procurement Section may specify any other requirement related to the assignment or contract, where required.

Since, SPPRA has developed the Standard Document for RFP for selection of consultants, the Procurement Section PMU MSDP shall customize the SPPRA Standard documents in accordance with its requirement with the assistance of concerned section. The Procurement Section shall invite the interested consultants to submit their technical and financial proposals in separate sealed envelopes. The invitation shall mention the deadline for submission of proposals. Consultants shall be given adequate time in which to prepare their proposals which shall not be less than 15 days for National Competitive Bidding and 45 days for international competitive bidding.

13.7.6 Submission and opening of Proposals

- i. After receiving the RFP, the consultants are required to acknowledge the receipt of RFP and reconfirm that they intend to submit their proposal.
- ii. If they do not intend to participate in proposal submission, the Consultant should inform the Procurement Section in writing.
- iii. Depending upon the number of remaining consultants invited to participate, the Procurement Section may with the approval of the Procurement Committee add consultants to the short list keeping in view the order of their ranking in the shortlist.
- iv. The Procurement Section may organize a pre-proposal meeting with the short listed consultants for clarification purposes. It is recommended that any clarification required to the consultants be requested in writing and the Procurement Section shall provide the necessary clarifications in writing to all the consultants.

- v. The proposals received by the Procurement Section be recorded properly stating the name of consultants, submitted date and time, receiving person etc. as per the bid submission format.
- vi. The proposals to be checked by the Procurement Section for the name of assignment, whether technical or financial and condition (sealed or not).
- vii. No amendments to the technical or financial proposal shall be accepted after the deadline.
- viii. The Technical proposal envelopes shall be opened by the Consultant Selection Committee.
- ix. The Financial proposals shall remain sealed until they are opened publicly by the Consultant Selection Committee.

13.7.7 Technical Proposals

In the Technical proposal, the consultants are required to describe their understanding of the Program and how they are going to complete the services. It is the important to evaluate the quality of proposal. Depending upon the nature of job and amount of services required, there could be a requirement for Full Technical Proposal (FTP) or use of Small Technical Proposal (STP).

The FTP is the most detailed format of technical proposal and comprises following seven sections and offers consultants the possibility of describing their proposed methodology without limit to the number of pages:

- i. Brief description of the consultants' organization and experience.
- ii. Consultants' comments on the TOR and on counterpart staff and facilities.
- iii. Description of the technical approach and methodology, work plan, organization and staffing required to perform the assignment.
- iv. Proposed professional staff.
- v. Estimates of the staff input.
- vi. Curriculum vitae (CVs) of the professional staff.

Description of the proposed methodology and staffing for training, if the training is a specific component of the assignment.

13.7.8 Evaluation of Technical and Financial Proposals¹³

Technical Evaluation:

- a) The evaluation of the proposals shall be carried out by the CSC in two stages: first the quality and then the cost. The financial proposals shall not be opened until the technical evaluation is complete.
- b) The evaluation shall be strictly based on the criteria/ sub criteria and scoring prescribed in the RFP document.

¹³Please refer to the template at Annexures H4, H4 (1), H4(2), H4 (2A), H4 (2B), H4 (3) and H4 (4).

- c) A proposal shall be considered unresponsive and may be rejected by the CSC, if it does not respond to important aspects of the TOR or it fails to achieve a minimum technical score specified in the RFP.
- d) At the end of the evaluation process, the Consultant Selection Committee shall prepare a Technical Evaluation Report containing details of evaluation process and results of individual scores as well as total scores achieved by each proposal. The report shall also identify those consultants who secured more than the required threshold for opening the financial proposal.
- e) The report shall be hoisted by the Procurement Section on MSDP and SPPRA websites and circulated among all the participating consultants.
- f) The financial proposals of consultant who could not score the minimum threshold shall be returned by the Procurement Section un-opened.

Financial Evaluation:

- a) Once the Technical Evaluation is approved, financial proposals of consultants who scored more than the minimum required threshold is opened by the CSC in public.
- b) The opening date shall be fixed by allowing sufficient time for the consultants to attend the opening.
- c) The name of the consultant, the technical scores, and the proposed prices shall be read aloud and recorded when the financial proposals are opened.
- d) The financial evaluation shall follow the same procedure and principles as laid down in Para 10.2.2. The Final Bid Evaluation Report shall be prepared as per Para 10.4.

13.7.9 Contract Negotiations

- a) Where the method of consultant selection allows negotiation with the successful consultant, the CSC may negotiate with the highest ranked bidder regarding methodology, work plan, staffing and special conditions of the contract.
- b) Substitution of key staff, however, shall not be permitted unless both parties agree that undue delay in selection process makes such substitution unavoidable.
- c) Similarly, negotiations shall not seek changes in the rates quoted by the bidder (except quality based selection method where there was no competition on price).
- d) In case of failure of negotiations, the second ranked bidder may be invited as per the evaluation report.
- e) If it is established that key staff were included in the proposal without confirming their availability, the firm may be disqualified. And the selection process could go to the next ranked firm after due approval process.

Procedure:

- (a) The successful bidder may be invited for negotiations/discussions proposing the time, date and location for this process. The invitation letter may state that the bidder's tender has been evaluated as the successful tender, but it is important that no contractual commitment is made to the bidder i.e., the letter must not make any reference to the tender being accepted or a contract being awarded.
- (b) The negotiations should begin by reviewing the bidding document, the tender from the successful bidder, and the Bid Evaluation Report.
- (c) Areas may be identified where negotiations/discussions are required. For each area, identify objectives that PMU-MSDP wishes to achieve. Where possible, quantify these objectives and set maximum and minimum negotiating/discussing parameters.
- (d) The Consultant Selection Committee shall prepare a record of the negotiations/discussions and make recommendations on how to proceed further.
- (e) Procurement Section shall seek approval from the Program Director PMU MSDP for the recommendations and proceed as appropriate where the recommendation is for further negotiations/discussions with the successful bidder or with the next lowest evaluated responsive bidder.

13.7.10 Contract Award and Signing of Contract

Chapter X1 of this Manual shall apply mutatis mutandis to the procurement of consultancy services.

13.8 Methods for Selection of Consultants

The selection method shall be determined by the Procurement Section with the approval of Program Director prior to issuance of the Request for Proposals from interested consultants. The Procurement Section may adopt one of the following methods for selection of consultants with the approval of Program Director, keeping in view nature of the assignment. For adoption of any method other than least cost method the Program Director shall record reasons in writing.

13.8.1 Least Cost Selection Method

This method shall be adopted for assignments of standard or routine nature where well-established practices and standards exist such as audits, architectural and engineering designs of non-complex Works etc.

Procedure:

- (a) A Request for Expressions of Interest (EOI) is advertised by Procurement Section to invite interested Applicants. Subsequent to submission of applications, the Consultant Selection Committee shall prepare a shortlist of applicants as per prescribed short listing/evaluation criteria;
- (b) A Request for Proposals (RFP) is prepared by Procurement Section with the approval of Procurement Selection Committee and sent to short-listed Consultants selected following the Evaluation of proposals received pursuant to EoI;
- (c) After receiving the Proposals, the Consultant Selection Committee (CSC) shall again meet to evaluate the Proposals;
- (d) Financial proposals of only technically qualified firms shall be opened by the CSC.
- (e) The firm with the lowest quoted cost or bid shall be selected.

13.8.2 Quality Based Selection Method

This method is used only in case of highly specialized, innovative and complex assignments, where quality is the only factor taken into consideration.

Procedure:

- (a) A Request for Expressions of Interest (EOI) is advertised to invite interested Applicants in order to prepare a shortlist of Applicants. Subsequent to submission of applications, the Consultant Selection Committee shall prepare a shortlist of applicants as per prescribed short listing/evaluation criteria;
- (b) A Request for Proposals (RFP) is prepared by Procurement Section with the approval of the Consultant Selection Committee and sent to short-listed Consultants selected following the Evaluation of proposals received pursuant to EoI;
- (c) After receiving the Proposals, the Consultant Selection Committee (CSC) shall again meet to evaluate the Proposals;
- (d) In Quality Based Selection method the technical proposal which attains the highest score according to the criteria mentioned in the bidding documents shall be selected by the CSC without any consideration for cost.
- (e) The selected firm shall be asked to submit its financial proposal and invited to negotiate the financial proposal and the contract.

13.8.3 Quality and Cost Based Selection Method

This method is used only where the Terms of Reference are well-defined and quality is of prime consideration, while cost is a secondary consideration. The firm which attains the highest combined weighted technical and financial score according to the criteria mentioned in the bidding documents shall be selected.

Procedure:

- (a) A Request for Expressions of Interest (EOI) is advertised by the Procurement Section to invite interested Applicants in order to prepare a shortlist of Applicants. Subsequent to submission of applications, the Consultant Selection Committee shall prepare a shortlist of applicants as per prescribed short listing/evaluation criteria;
- (b) A Request for Proposals (RFP) is prepared by Procurement Section with the approval of Consultant Selection Committee and sent to short-listed Consultants selected following the Evaluation of proposals received pursuant to EoI;
- (c) After receiving the Proposals, the Consultant Selection Committee (CSC) shall meet to evaluate the Proposals;
- (d) The evaluation of Proposals shall be carried out by the CSC in two (2) stages in the following manner -
 - i. the Technical Proposals shall be evaluated;
 - ii. the financial Proposals of technically responsive Proposals shall be opened in the presence of the applicants or their representatives who wish to attend;
- (e) Combined evaluation of Technical and Financial Proposals shall follow and the applicant with the winning Proposal will be invited to negotiations.

13.8.4 Direct Selection Method

This method may be used only in exceptional cases where any of the following conditions exists:

- a) For tasks which are natural continuation of previous assignment and where continuity of technical services

is required provided that –

- i. the initial assignment was performed satisfactorily; and
 - ii. the need for such downstream assignment was anticipated in the initial Request for Proposal.
-
- b) For assignments worth less than rupees one hundred thousand;
 - c) In cases of emergency
 - d) Where only one consultant is qualified or has experience of exceptional worth.

If the initial assignment was not awarded on a competitive basis or if the additional assignment is substantially larger in value, a competitive process shall be followed and in such cases the consultant carrying out the initial work shall not be excluded from consideration provided it expresses interest.

Procedure:

- i. The Procurement Section shall issue the RFP or TOR (as approved by the Consultant Selection Committee) to the selected consultant and shall be requested to submit a Technical and Financial Proposal.
- ii. Upon the receipt of proposals, negotiations shall be held between the Consultant Selection Committee and the selected consultant and all aspects of its Proposal, whether technical or financial, shall be discussed together in order to reach an agreement.

13.8.5 Fixed Budget

This method is used only when all of the following conditions exist:

- (a) Assignment is simple;
- (b) Can be precisely defined;
- (c) Budget is fixed;

Procedure:

The Procedures to be followed for the Fixed Budget Method shall be the same as for the Quality and Cost Based Method, with the following exceptions, namely -

- i. A Request for Expressions of Interest (EOI) is advertised by Procurement Section to invite interested Applicants. Subsequent to submission of applications, the Consultant Selection Committee shall prepare a shortlist of applicants as per prescribed short listing/evaluation criteria;
- ii. The RFP approved by the CSC shall be issued by the Procurement Section to the short listed consultants which shall indicate the available budget excluding taxes and ask the Applicants to provide, in separate envelopes, their best Technical and Financial Proposals within the budget. The TOR shall be as complete as possible to make sure that the budget is sufficient for the Consultants to perform the expected tasks;
- iii. The RFP shall require the applicants to provide breakdowns of their costs for the different activities with a provision that Applicants who decline to provide the breakdown risk the rejection of their Proposals;
- iv. Following the opening of Proposals, all Proposals that exceed the indicated budget shall be rejected by the CSC and the applicant who has submitted the highest ranked Technical Proposal among the rest shall be

selected and invited to negotiate the contract.

13.8.6 Design Contest

This method is used only for projects where aesthetic aspects and technical characteristics are of prime considerations such as a monument, research centre, office headquarters or transportation terminal. The consultants are invited to submit a financial proposal and present a plan or design for the project based on a concept or criteria provided by it.

Procedure:

- i. The Procurement Section PMU MSDP shall widely advertise the Design Contest and invite Expressions of Interest from firms that believe themselves qualified.
- ii. Subsequent to submission of applications, the Consultant Selection Committee shall prepare a shortlist of applicants as per prescribed short listing/evaluation criteria;
- iii. The Procurement Section PMU MSDP shall send the short-listed applicants a Request for Design Proposal approved by the Procurement Committee including a letter of invitation and project information to proponents including a data sheet to address specific features and a TOR composed of the design criteria, and other data as relevant.
- iv. Evaluation criteria may include innovation, aesthetic content, adequate blending with the surroundings, efficient use of the available space, attractiveness for the potential users, incorporation of energy savings and other environmental friendly considerations, revenue generation potential, if any, and estimated construction cost.
- v. Each short-listed applicant shall present its sealed proposal containing the preliminary conceptual design and related cost estimate responding to the request for design Proposal Documents.
- vi. Upon receipt of the Proposals, the Consultant Selection Committee shall proceed with the evaluation of the proposed designs in accordance with the broad evaluation criteria spelled out in the Request for Design Proposals and submit the Evaluation Report;
- vii. The selection of highest ranked design, shall be followed by detailed engineering design, Bill of Quantities, Technical Specifications and Tender Documents and a Contract for supervision of the construction.
- viii. The winning Consultant shall be asked to submit Financial Proposal and will then be invited to negotiate the contract if the Technical Proposal proves acceptable.
- ix. The Request for Design Proposal Document may provide for awarding a prize to the successful consultant which may consist of the Contract for the subsequent design phase(s) of the project plus a pre-determined monetary award,

- x. The standard Request for Proposal Document may need to be adjusted to suit the specific requirements of the competition.

13.8.7 Consultant's Qualifications Selection Method

This method apply only to small consultancies for which the cost of a full-fledged selection process would not be justified such as:

- a. brief evaluation studies at critical decision points of projects (review of alternative solutions with large downstream effects);
- b. executive assessment of strategic plans;
- c. high level, short-term legal expertise; and
- d. participation in project review expert panels.

The Consultant Selection Committee shall select the consultants with the best possible qualifications, since very small assignments may be very important and could be highly specialized advisory Services with a limited scope and duration. It shall not disregard quality while aiming to reduce the cost and time needed to hire a Consultant.

Procedure:

- i. A Request for Expressions of Interest (EOI) is advertised by Procurement Section to invite interested Applicants. Subsequent to submission of applications, the Consultant Selection Committee shall select the successful consulting firm at the stage of Expression of Interest on the basis of criteria mentioned in the Request for Expression of Interest.
- ii. The selected firm is asked to submit a technical and financial proposal, in single envelope, and then invited to negotiate the contract.

13.8.8 Selection Process of Individual Consultants

This method is adopted only if all or any of the following conditions exist:

- (a) The scope of work is such that teams of personnel are not required;
- (b) No additional professional support is required;
- (c) The experience and qualifications of the individual are the paramount requirement.

A large number of individuals shall not be employed to carry out a wider task if coordination, administration or collective responsibility becomes difficult and hiring of firm(s) would become more convenient

Individual consultants may not be required to submit proposals, and may be selected on the basis of the evaluation of their curriculum vitae. Interviews may be set up for selection under this method.

Procedure:

- i. Individual consultants may be selected following an EOI advertisement issued by the Procurement Section

through comparison of qualifications and experience of the candidates who have expressed interest in the assignment;

- ii. Individuals shall demonstrate in their CVs or response to the EOI that they meet the required qualifications and experiences and are fully capable of carrying out the assignment.
- iii. The capability of individuals shall be judged by the CSC on the basis of academic background, experience in the field of assignment, and as appropriate, knowledge of the local conditions, as well as language and culture.
- iv. Following the completion of the evaluation of the applicants' qualifications, the Consultant Selection Committee may invite the shortlisted applicants for interviews and the selected applicant will then be invited to negotiate fees or remuneration, reimbursables, the inputs available from the PMU MSDP etc., and subsequently to sign the Contract.
- v. In order to select the most suitable candidate efficiently within a reasonable budget, the Consultant Selection Committee may prepare a list of alternate candidates in order of priority.

With prior approval of the Program Director, individual consultant may be employed by the Procurement Section without EOI advertisement in the following conditions, namely –

- i. if the assignment is a continuation of the previous and does not exceed by 15% of the original contract;
- ii. if it becomes necessary to accomplish the assignment on urgent basis due to emergency;
- iii. in the case of assignment when only one (1) individual is considered as qualified consultant.

13.9 Miscellaneous Provisions:

13.9.1 Association between Consultants:

- a) The consultants shall be free to associate with other firms (national or international) to complement their respective areas of expertise; to increase the technical responsiveness of their proposals and make larger pools of experts available; to provide better approaches and methodologies; and, in some cases, to offer lower prices.
- b) An association of consultants can take either in the form of a joint venture (also referred as “consortium” and “association”) or a subcontract (sub consultancy).
- c) Under a joint venture, only one entity, either through the lead consultant or by forming a legal juridical person, shall be responsible to the Government for execution of the entire assignment.
- d) Under Joint Venture (JV), each partner needs to be reasonably qualified to take over the responsibilities and role of any of the partners in case one of them fails to perform or withdraws.
- e) When expressing interest the consultants shall indicate whether they are expressing such interest alone or in association (for example, joint venture or sub consultancy).
- f) In general, the short listed firms are not allowed to associate among themselves as this will reduce the competition. A short listed firm shall submit only one proposal, either individually as a proponent or as a partner in a joint venture.

- g) No short listed firm (individual or any partner of JV firms) can be a sub consultant for another short listed firm while submitting a proposal for the same services.
- h) A short listed firm (individual or any partner of JV firms) which takes part in more than one proposal will lead to disqualification of all the proposals in which the firm participates. However, non-short listed firms may take part in more than one proposal as sub consultants.

Firms entering into a joint venture are not required to provide their joint venture agreement when they submit their expressions of interest and the proposal, but must have a letter of intent indicating their intent to form a joint venture if awarded the contract.

13.9.2 Intellectual Property Rights: All documents, reports, designs, research work and all deliverables prepared by the consultant shall become and remain the property of the PMU MSDP. Any restrictions on the future use of these documents and software by the consultant shall be specified in the conditions of the contract.

13.9.3 Professional Liability of Consultants:

- (a) The consultant selected and awarded a contract shall be liable for consequence of omissions or commissions on his or their part. The extent of liability of consultant shall be incorporated in the contract, and in no case, shall be less than the remuneration, excluding out of pocket expenses, nor shall the liability exceed twice the amount of remunerations;
- (b) Procurement Section PMU MSDP may demand insurance on part of the consultant to cover its liability as stated above, and necessary costs shall be borne by the consultant;
- (c) The consultant shall be liable for all losses or damages suffered by the PMU MSDP on account of any misconduct by the consultant in performing the consulting services.

SECTION III

CHAPTER XIV: CONTRACT ADMINISTRATION

Introduction: Contract Administration comprises the following activities:

- (a) Preparation of Contract Documentation;
- (b) Monitoring contract implementation;
- (c) Managing contract variations;
- (d) Managing amendments to the contract if any;
- (e) Cancellation and termination of contract.

Weak contract administration may lead to:

- (a) Substantial losses to the procuring agencies;
- (b) Delivery of works or goods of substandard quality;
- (c) Contract variations which may have the effect of increase in agreed costs;
- (d) Weak payment controls leading to payments in excess of contract ceilings.

14.1 Objectives of Contract Management

- a) A procurement contract is a written agreement between the PMU MSDP and the contractor, supplier or the consultant. It lays down the obligations of the parties.
- b) The Contractor is required to perform the contract and deliver the goods, works or services as per the specification while it is the responsibility of the PMU MSDP to make timely payments for the goods, works or services received.
- c) The primary objective of managing the contract is to protect the interest of the parties. From PMU MSDP's perspective, effective contract management brings value for money.

14.2 Contract File

Immediately after signing of the contract, the contract file is opened by the Procurement Section.

The file shall contain the following documents:

- (a) Signed original copy of contract agreement;
- (b) Copy of performance security;
- (c) Signed amendments to the contract if any;
- (d) Correspondence between the parties;
- (e) Progress reports;
- (f) Minutes of meeting of project team;
- (g) Payment record;
- (h) Any other relevant information.

14.3 Responsibilities for Contract Management

The Program Director PMU MSDP shall specifically assign the responsibility of contract management to an officer for each contract. The contract administrator shall exercise due care in vigilance and perform functions as provided in the conditions of contract on behalf of PMU MSDP.

Contract Administrator shall measure the quality and quantities and issue requisite certifications in this regard. Where measurements have been undertaken by the consultant especially hired for the purpose, the Contract Administrator may verify the measurements and other reports furnished by the consultant.

The responsibilities of the Contract Administrator shall be as under:

- (a) Monitoring the performance of the contractor. He shall prepare a contract implementation plan showing key milestones i.e., dates for mobilization, deliveries or completion of certain deliverables or sections of work, and PMU-MSDP's obligations such as providing access to worksites and payment or approval of reports.
- (b) To ensure that the contractor performs the contract in accordance with the terms and conditions of the contract. Where the contractor fails to fulfill his obligations, the Contract Administrator shall report to the Program Director and take necessary corrective measures.
- (c) To assist Procurement Section in ensuring that the contractor submit all the documents as required by bidding documents; contract agreement and applicable law.
- (d) To liaise with Procurement Section and Finance and Compliance Section to ensure that the contractor is paid in accordance with the conditions of contract;
- (e) To ensure that there is adequate cost, quality and time control;
- (f) To manage the handing over or acceptance process;
- (g) Making recommendations for contract termination;
- (h) Ensuring that the contract is complete and retention money has been paid before closing the contract file;
- (i) Recommend discharge of performance guarantee;
- (j) Assist the Procurement Section in ensuring that the documentation of contract is complete in all respects.

Administration of Sub-Contract: Administration of sub-contract shall be the responsibility of the contractor. The Contract Administrator shall, however, monitor the management of sub-contract by the contractor. The Contract Administrator may manage the sub-contract where:

- (a) There is risk of undue cost or delay;
- (b) Successful completion of main contract is threatened.

14.4 Contract Administration Plan

The Contract Administrator shall prepare a plan for the management of the contract. It shall contain the following

information:

- (a) Background Information
- (b) Contract Administration Team
- (c) Details of Contractor
- (d) Scope of Contract Administration
- (e) Contract Duties and Responsibilities
- (f) Communication Channels
- (g) Review and Reporting requirements
- (h) Activities and Timelines
- (i) Any other relevant information.

14.5 Risk Management

Following are the potential risks which require special attention during Contract Administration:

- (a) Late deliveries;
- (b) Inferior Quality;
- (c) Excess payment
- (d) Payment for work not done.

Following are the possible sources of risk which require timely corrective actions:

- (a) Incomplete or incorrect specifications;
- (b) Poor communication;
- (c) Contractor lacking sufficient resources;
- (d) Production problems;
- (e) Absence of shipment details;
- (f) Inflation trends;
- (g) Under-estimation of costs by the contractor;
- (h) Unexpected events.

Any identified risk shall be isolated and addressed before it is too late.

14.6 Amending a Contract

Contract variations and amendments to a contract during the course of execution are high risk areas and may be avoided. In cases where it is justified and is in the interest of the project or is unavoidable, amendment to the contract may be deliberated and recommended by a committee constituted by the Program Director for the purpose. The committee shall include the DG Works and at least one member from a department or organization other than PMU MSDP. A contract amendment or variation may increase or decrease the value of the procurement. However, an increase in quantity should not exceed 15% of the original contract.

The procurement contract need not be amended in issuing a variation order or making price adjustment in accordance with terms and conditions of contract.

Detailed steps for amending the Contract are as follows:

- (a) Identification of need for contract amendment(s). This will normally be done by the Contract

Administrator. A contract amendment is required where PMU-MSDP wants to change the terms or conditions of the contract e.g., delivery or completion period, technical description of the goods, works or services, quantity of an item purchased etc.

- (b) After consideration of the proposed amendment by the relevant committee constituted for the purpose, the Program Director may approve such amendment if so proposed by the committee.
- (c) After approval by the Program Director, the Procurement Section shall prepare the required number of copies of draft amendments to the contract. The number of copies required must be at least three (one for the supplier, one for Procurement Section and one for Finance and Compliance Section).
- (d) Financial impact of the amendment if any shall be got approved from the Program Steering Committee.
- (e) All copies of contract amendments shall be signed by the Program Director PMU-MSDP and sent to the supplier with a covering letter instructing him to sign and return all copies while retaining one for his record.

14.7 Variation Order:

Unless otherwise provided for in the procurement contract, if the circumstances that could not be foreseen at the time of signing of contract arise in the course of implementation of the contract, the Program Director may on the recommendations of Director General (Works) and for reasons to be recorded in writing issue a variation order for a variation of up to fifteen percent of the contract amount;

- (2) The variation order under Sub-section (1) shall be issued in the following manner:-
 - a) The basic nature or scope of the contract shall not change,
 - b) Budget for the additional expenditure is available;
 - c) Approval of the Program Director has been obtained.

14.8 Force Majeure

The conditions of contract shall stipulate that failure on the part of the parties to perform their obligations under the contract will not be considered a default if such failure is the result of an event of force majeure as defined in the conditions of contract.

14.9 Arbitration

During contract administration, disputes between the parties to the contract shall be settled by arbitration. The method of arbitration shall be provided in the procurement contract which shall be consistent with the applicable laws of Pakistan.

14.10 Contract Review Reports

Review meetings with the consultant and the contractor helps in smooth execution of the contract and managing

contract risks. After the meeting a report shall be prepared by the Contract Administrator and shared with all concerned including the Contractor.

14.11 Inspection and Acceptance

Inspection and Acceptance of Goods, Works and Services is the final step of Procurement Cycle. It is the responsibility of the Program Director to ensure that the procurement is duly checked and verified before its acceptance.

14.11.1 Technical Inspection

Technical inspection may be undertaken at any or all of the following stages:

- (a) During manufacture or construction;
- (b) Prior to shipment
- (c) On deliver or completion.

The contract administrator may observe the tests conducted by the contractor or sub-contractor; conduct inspection or hire third party to conduct tests/inspection.

14.11.2 Final Acceptance

The final acceptance shall be subject to inspection and certification by the inspection committee. The inspection committee shall ensure that;

- (a) Correct quantity has been received;
- (b) The procurement meets the technical standards;
- (c) It has been delivered on time. Any delays shall be noted and action proposed;
- (d) The deliverables have been received;
- (e) Required manuals and documentation has been received.

After inspection the inspection committee shall issue interim or final completion certificate (Annex-M). In case of low value procurements up to PRs one lac, the functions of inspection committee shall be undertaken by the Procurement Specialist.

14.11.3 Treatment of Partial Supplies

In case the partial deliveries are not envisaged in the bidding document, these may be treated as follows:

- (a) Record and accept the partial supplies meeting the prescribed specifications and allow pro-rata payment;
- (b) Reject the supplies and treat it as a breach of contract.

Since, rejection may lead to appeal or litigation, the PMU MSDP shall consider the following before rejecting the delivery:

- (a) That the partial delivery or delay is not the result of any act or omission on the part of PMU MSDP;
- (b) It is not the result of any unforeseeable event or force majeure.

To avoid inconvenience, the contract agreement shall contain a clear provision in this regard.

14.12 Payment to Contractor

Program Director, Procurement Section and the Finance and Compliance Section shall ensure payments to suppliers,

consultants and contractors against their invoices or running bills within the time given in the conditions of the contract. Any unnecessary delay shall be noted and corrective measures may be taken. It may be realized that delayed payments may give rise to a claim of interest payments and attract accountability of officials responsible for unexplained delays. The record of payments for each contract shall be maintained as per template at Annex-N.

14.13 Closing of Contract

- (a) Except for defect liability or maintenance by the supplier, consultant or contractor, as specified in the conditions of contract, performance of the contract shall be deemed close on the issue of overall delivery certificate, certificate of completion of deliverables, or taking over certificate which shall be issued by the Procurement Section on the recommendation of DG Works and the Contract Administrator and subject to approval of Program Director within thirty days of final taking over of goods or receiving the deliverables or completion of works enabling the supplier or contractor to submit final bill and the PMU MSDP to carry out any inspection of goods, works or services related thereto, as provided in the contract agreement and auditors to do substantial audit.
- (b) In case of defect liability or maintenance periods, defect liability certificate shall be issued by the Procurement Section with the approval of Program Director within thirty days of the expiry of the said period enabling the supplier or contractor to submit the final bill.

Procedure:

Detailed procedure for closing of contract is as follows:

- a. The contracts shall be closed well in time, thereby complying with the stipulated deadlines.
- b. The Contract Administrator and the Procurement Section shall ensure that all contractual obligations, warranty and defect liability periods have been completed.
- c. The Program Director shall review the contract and the procurement file to check that the contract is, in fact, complete.
- d. The contract file is closed and archived by the Procurement Section.

14.14 Contract Close out Review

In case of large contracts it is advisable to carry out the contract close out review. This review may comprise the following:

- (a) Timeliness of contract performance;
- (b) Cost Performance;
- (c) Quality Performance;
- (d) Operational efficiency;
- (e) Contractors performance;
- (f) Payment performance.

After the review a brief report may be prepared which may provide guidance for future procurements.

CHAPTER XV
GRIEVANCE
REDRESSAL
MECHANISM

CHAPTER XV: GRIEVANCE REDRESSAL MECHANISM

15.1 First Tier Complaint Redressal

The Program Director shall with the approval of ACS Development constitute a committee for complaint redressal comprising odd number of persons, with appropriate powers and authorizations, to address the complaints of bidders that may occur during the procurement proceedings.

The committee shall be headed by an official at least one rank senior to the head of the procurement committee and shall include the following;

- i. A representative of the Accountant General, Sindh
- ii. An independent professional from the relevant field concerning the procurement process in question, to be nominated by the Program Director.

Any bidder being aggrieved by any act or decision of the PMU MSDP during procurement proceedings may lodge a written complaint after the decision causing the grievance has been announced;

The Complaint Redressal Committee upon receiving a complaint from an aggrieved bidder may, if satisfied;

- i. Prohibit the procurement committee from acting or deciding in a manner, inconsistent with the SPP Rules and regulations made thereunder;
- ii. Annul in whole or in part, any unauthorized act or decision of the procurement committee; and
- iii. Reverse any decision of the procurement committee or substitute its own decision for such a decision.;

The Complaint Redressal Committee shall not make any decision to award the contract.

The Committee shall announce its decision within seven days. The Procurement Section shall communicate the decision to the bidder and SPPRA within three working days. In case of failure of the Committee to decide the complaint, the contract shall not be awarded. Mere fact of lodging of a complaint shall not warrant suspension of the procurement proceedings.

15.2 Operational Systems in PMU for Handling Complaints

The following systems may be set up to handle complaints of aggrieved bidders:

- i. The Procurement Section shall record all incoming grievances or complaints;
- ii. The Procurement Section shall respond to all complaints, received from any source, within two weeks of receipt with a copy to SPPRA;

The Program Director may dedicate a telephone 'hotline', dedicated email address and PO Box for receiving complaints, if any. Such communication lines shall be adequately publicized;

- iii. Public to be encouraged through MSDP website to provide information of any misconduct, misappropriation and grievance ;
- iv. Anonymity of informants may be enforced.
- v. Monthly reports prepared by the Procurement Section shall report the status of investigations on complaints.

15.3 Second Tier Complaint Redressal

A bidder not satisfied with decision of the Program's Complaint Redressal Committee may lodge an appeal to the Chief Secretary through SPPRA, who shall refer the matter to a review panel constituted by the SPPRA.

A bidder may file an appeal to the Chief Secretary provided that the bidder has exhausted his complaint to the Program's Complaint Redressal Committee; and that he has not withdrawn the bid security deposited by him during the procurement process.

The bidder must submit the appeal to the Chief Secretary with the following documents:

- i. A letter stating his wish to appeal to the Review Panel and the nature of complaint;
- ii. A copy of the complaint earlier submitted to the Complaint Redressal Committee of the Department and all supporting documents in a sealed envelope; and
- iii. Non-refundable complaint registration fee in the form of a Pay Order in favour of the Authority in the amount specified below:

Contract Value	Registration Fee
Less than Rs. 10 Million	Rs. 30000
Between Rs. 10 Million and 50 Million	Rs. 50000
Between 50 Million and 100 Million	Rs. 100000
Above Rs. 100 Million	Rs. 200000

Upon receipt of an appeal and registration fee, the Chief Secretary shall select a Review Panel to examine the complaint. Simultaneously, the SPPRA shall inform the bidder and the Program Director of the action taken by the Chief Secretary.

Proceedings before the Review Panel: On receipt of reference from the Chief Secretary, the Chairperson of the Review Panel shall convene a meeting of the review panel within five working days. Unless the Review Panel recommends dismissal of the complaint for being frivolous, the Review Panel may:

- i. Propose rejection of the complaint, stating its reasons. In such case, the complainant will lose bid security;
- ii. State the rules or principles that govern the subject matter of the complaint;
- iii. Point out the infirmities and breach of rules and regulations by the PMU MSDP;
- iv. Suggest annulment in whole or in part of a non-compliant act or decision of PMU MSDP, other than any act or decision bringing the procurement contract into force;
- v. If the PMU MSDP is in breach of its obligations under the SPPRA Act, Rules or Regulations, suggest the payment of compensation by the officer(s) responsible for mis-procurement for cost incurred by the bidder on preparation of bid, including the cost of the complaint registration fee paid by the complainant; or
- vi. Recommends that the procurement proceedings may be terminated, in case the procurement contract has not been signed.

It shall be mandatory for both, the complainant and the Program Director to appear before the Review Panel as and when called and produce documents, when so required. The Review Panel shall issue the notice of appearance to the Program Director who shall attend the proceedings along with relevant record.

In case the complainant fails to appear twice, despite service the reference may be decided ex-parte. The Review Panel shall hear the parties and give its recommendations to the SPPRA within thirty days of receipt of reference. In case, more time is required, the Review Panel may seek extension from the Chief Secretary through the SPPRA enumerating the reasons for delay.

The SPPRA shall submit the recommendations of Review Panel to the Chief Secretary who shall decide the appeal keeping in view the recommendations of the Review Panel. The Chief Secretary may refer the matter back to the Review Panel, if there is some ambiguity or vagueness in the recommendations and a clarification is to be sought. The Review Panel shall clarify the matter within seven calendar days, following which the Chief Secretary would decide the matter.

The decision of the Chief Secretary shall be final and the PMU MSDP shall act upon such findings. After the decision has been issued, the complaint and the decision shall be hoisted by the SPPRA on its website within three working days.

15.4 Constitution of Review Panel

The SPPRA shall maintain a list of Review Panelists for the purpose of reviewing a bidder's complaint. The Panelist shall be appointed on such terms and conditions as the SPPRA may from time to time notify with the approval of the Chief Secretary.

The List of Specialists shall be formed from among:

- i. Persons who have been legal professionals;
- ii. Persons who have been senior officers in the service of the Government with experience in the procurement

area, and

- iii. Persons from a list of specialists with experience in the relevant field.

The Specialists shall be grouped into a number of Review Panels, each with anominated Chairperson, both as approved by the Chief Secretary. Each panel shall have a minimum of 3 Members and up to 2 co-opted Members on a case-by-case basis depending upon the nature of the complaint.

15.5 Matters not subject to Appeal or Review

The following actions of the PMU MSDP shall not be subject to the appeal or review:

- (a) Selection method adopted by the procurement committee;
- (b) Decision by the PMU MSDP to cancel the bidding process.

15.6 Mis-procurement

Misprocurement is defined as the Public procurement undertaken in contravention of any provision of Sindh Public Procurement Act, 2009, any rule, regulation, order or instruction made thereunder or any other law relating to public procurement.

- (a) In case it is established that the procurement has been undertaken in violation of SPPRA Act or rules and regulations made thereunder, the Program Director shall recommend the matter to the Additional Chief Secretary (Development) Planning and Development Department for declaring the case to be one of mis-procurement.
- (b) Alternatively, the SPPRA may take notice of any violation of provisions of the Act, Rules, Regulations, orders, instructions or any other law relating to public procurement and advise the Program Director to recommend the matter to the Additional Chief Secretary (Development) Planning and Development Department for declaring the case to be one of mis-procurement.
- (c) The SPPRA may on the orders of the Chief Secretary pursuant to the recommendations of the Review Panel, notify the procurement proceedings to be a case of mis-procurement.
- (d) On declaration of mis-procurement, any of the following actions shall be taken:
 - i. In case the contract has not been awarded, bid shall be eliminated from procurement proceedings, or procurement proceedings shall be declared null and void, and the whole process shall be carried out afresh; and a case shall be registered under the Sindh Enquiries and Anti-Corruption Act, 1991 (Sindh Act No. IV of 1992) and the Rules made thereunder against the staff of the PMU MSDP held responsible for the mis-procurement.
 - ii. In case the contract has been awarded, a case shall be registered under the Sindh Enquiries and Anti-Corruption Act, 1991 (Sindh Act No. IV of 1992) and the Rules made thereunder against the staff of the PMU MSDP responsible for the mis-procurement. In addition, compensation shall be

paid to the aggrieved bidder by the staff responsible for mis-procurement for the cost incurred on preparation of bid, including the cost of the complaint registration fee paid by the complainant.

15.7 Black Listing and Debarment of bidders and suppliers:

(1) The Program Director PMU MSDP may pass orders to black list or debar an interested bidder or supplier from participation in procurement on the following grounds –

- a) supplying false information in the process of submitting a bid or prequalification application;
- b) collusion between the bidders or a bidder and a public official concerning the formulation of any part of the bidding documents or during the bidding process;
- c) obstruction by a supplier with the participation of competing bidders;
- d) involvement in corrupt and fraudulent practices while obtaining or attempting to obtain a procurement contract;
- e) conviction for an offence related to corruption, dishonesty, fraud, criminal mis-appropriation or forgery in his professional activity or for causing loss of life or property or for causing a threat to public health.
- f) final decision by a court or tribunal of competent jurisdiction that the contractor or supplier is guilty of tax evasion;
- g) willful failure to perform in accordance with the terms of one or more than one contract;
- h) failure to remedy underperforming contracts, as identified by the PMU MSDP, where underperforming is due to the fault of the contractor, supplier or consultant;

(2) Black Listing or debarment of a bidder or supplier under subsection (1) shall not be effected unless the Program Director PMU MSDP –

- a) gives reasonable notice to the bidder or supplier of the basis for the proposed action; and
- b) gives reasonable opportunity to the bidder or supplier to respond to the proposed action.

(3) The barring action shall be duly publicized and posted on website of Authority as well as website of the PMU MSDP.

(4) Subject to procedure described in regulations; the debarred bidder may request the Review Board to review his debarment. The Review Board may confirm, vary or set aside the debarment order passed by the Program Director.

15.8 Integrity Pact

Procurements exceeding PRs. 10 million for goods and works, and PRs. 2.5 million for services shall be subject to an integrity pact between the Program Director PMU MSDP and the suppliers or contractors or consultants as per format at Annex- A.

15.9 Transparency and Anti-Corruption Measures

- a) Disclosure of information and transparency of process is a key element in reducing opportunities for corruption and leakage of funds.
- b) The Program shall ensure that civil society has access to information regarding the Program and procurement opportunities.
- c) The PMU should commit to address instances of fraud or corruption and to take appropriate action whenever any bidder or staff member is found to have engaged in a fraudulent or corrupt practice.
- d) Allegations or complaints of bid-rigging or collusion in the procurement process, or any suspicions of fraud or corruption may be referred by the Program Director or the ACS Development to the Enquiries and Anti-Corruption Establishment with the approval of Provincial Steering Committee.

**SECTION IV
ANNEXURES
AND
TEMPLATES**