

## **9. PROCEDURE FOR ADVANCE & PART PAYMENTS**

**9.1 Advance payment to supplier(Rule 159) :** (1) Ordinarily, payments for services rendered or supplies made should be released only after the services have been rendered or supplies made. However, it may become necessary to make advance payments in the following types of cases:-

- (i) Advance payment demanded by firms holding maintenance contracts for servicing of Air-conditioners, computers, other costly equipment, etc.
- (ii) Advance payment demanded by firms against fabrication contracts, turn-key contracts etc.

Such advance payments should not exceed the following limits:

- (i) Thirty per cent. of the contract value to private firms;
- (ii) Forty per cent. of the contract value to a State or Central Government agency or a Public Sector Undertaking; or
- (iii) in case of maintenance contract, the amount should not exceed the amount payable for six months under the contract. Ministries or Departments of the Central Government may relax, in consultation with their Financial Advisers concerned, the ceilings (including percentage laid down for advance payment for private firms) mentioned above. While making any advance payment as above, adequate safeguards in the form of bank guarantee etc. should be obtained from the firm.

**(2) Part payment to suppliers :** Depending on the terms of delivery incorporated in a contract, part payment to the supplier may be released after it despatches the goods from its premises in terms of the contract.

**9.2 Transparency, competition, fairness and elimination of arbitrariness in the procurement process (Rule 160.) :** All government purchases should be made in a transparent, competitive and fair manner, to secure best value for money. This will also enable the prospective bidders to formulate and send their competitive bids with confidence. Some of the measures for ensuring the above are as follows:-

- (i) the text of the bidding document should be self-contained and comprehensive without any ambiguities. All essential information, which a bidder needs for sending responsive bid, should be clearly spelt out in the



bidding document in simple language. The bidding document should contain, inter alia;

(a) the criteria for eligibility and qualifications to be met by the bidders such as minimum level of experience, past performance, technical capability, manufacturing facilities and financial position etc.;

(b) eligibility criteria for goods indicating any legal restrictions or conditions about the origin of goods etc which may required to be met by the successful bidder;

(c) the procedure as well as date, time and place for sending the bids;

(d) date, time and place of opening of the bid;

(e) terms of delivery;

(f) special terms affecting performance, if any.

(ii) Suitable provision should be kept in the bidding document to enable a bidder to question the bidding conditions, bidding process and/ or rejection of its bid.

(iii) Suitable provision for settlement of disputes, if any, emanating from the resultant contract, should be kept in the bidding document.

(iv) The bidding document should indicate that the resultant contract will be interpreted under Indian Laws.

(v) The bidders should be given reasonable time to send their bids.

(vi) The bids should be opened in public and authorised representatives of the bidders should be permitted to attend the bid opening.

(vii) The specifications of the required goods should be clearly stated without any ambiguity so that the prospective bidders can send meaningful bids. In order to attract sufficient number of bidders, the specification should be broad based to the extent feasible. Efforts should also be made to use standard specifications which are widely known to the industry.

(viii) Pre-bid conference : In case of turn-key contract(s) or contract(s) of special nature for procurement of sophisticated and costly equipment, a suitable provision is to be kept in the bidding documents for a pre-bid conference for clarifying issues and clearing doubts, if any, about the specifications and other allied technical details of the plant, equipment and machinery projected in the bidding document. The date, time and place of



pre-bid conference should be indicated in the bidding document. This date should be sufficiently ahead of bid opening date.

(ix) Criteria for determining responsiveness of bids, criteria as well as factors to be taken into account for evaluating the bids on a common platform and the criteria for awarding the contract to the responsive lowest bidder should be clearly indicated in the bidding documents.

(x) Bids received should be evaluated in terms of the conditions already incorporated in the bidding documents; no new condition which was not incorporated in the bidding documents should be brought in for evaluation of the bids. Determination of a bid's responsiveness should be based on the contents of the bid itself without recourse to extrinsic evidence.

(xi) Bidders should not be permitted to alter or modify their bids after expiry of the deadline for receipt of bids.

(xii) Negotiation with bidders after bid opening must be severely discouraged. However, in exceptional circumstances where price negotiation against an ad-hoc procurement is necessary due to some unavoidable circumstances, the same may be resorted to only with the lowest evaluated responsive bidder.

(xiii) In the rate contract system, where a number of firms are brought on rate contract for the same item, negotiation as well as counter offering of rates are permitted with the bidders in view and for this purpose special permission has been given to the Directorate General of Supplies and Disposals (DGS&D).

(xiv) Contract should ordinarily be awarded to the lowest evaluated bidder whose bid has been found to be responsive and who is eligible and qualified to perform the contract satisfactorily as per the terms and conditions incorporated in the corresponding bidding document. However, where the lowest acceptable bidder against ad-hoc requirement is not in a position to supply the full quantity required, the remaining quantity, as far as possible, be ordered from the next higher responsive bidder at the rates offered by the lowest responsive bidder.

(xv) The name of the successful bidder awarded the contract should be mentioned in the Ministries or Departments notice board or bulletin or web site



and accountability in the system. To achieve the same, the following keys areas should be addressed :-

- (i) To reduce delay, appropriate time frame for each stage of procurement should be prescribed by the Ministry or Department. Such a time frame will also make the concerned purchase officials more alert.
- (ii) To minimise the time needed for decision making and placement of contract, every Ministry/Department, with the approval of the competent authority, may delegate, wherever necessary, appropriate purchasing powers to the lower functionaries.
- (iii) The Ministries or Departments should ensure placement of contract within the original validity of the bids. Extension of bid validity must be discouraged and resorted to only in exceptional circumstances.
- (iv) The Central Purchase Organisation (e.g. DGS&D) should bring into the rate contract system more and more common user items which are frequently needed in bulk by various Central Government departments. The Central Purchase Organisation (e.g. DGS&D) should also ensure that the rate contracts remain available without any break.

#### **9.4 Buy-Back Offer (Rule 162.):**

When it is decided with the approval of the competent authority to replace an existing old item(s) with a new and better version, the department may trade the existing old item while purchasing the new one. For this purpose, a suitable clause is to be incorporated in the bidding document so that the prospective and interested bidders formulate their bids accordingly. Depending on the value and condition of the old item to be traded, the time as well as the mode of handing over the old item to the successful bidder should be decided and relevant details in this regard suitably incorporated in the bidding document. Further, suitable provision should also be kept in the bidding document to enable the purchaser either to trade or not to trade the item while purchasing the new one.

### **10. PROCUREMENT OF SERVICES**

10.1 The Ministries or Departments may hire external professionals, consultancy firms or consultants (referred to as consultant hereinafter) for a specific job, which is well defined in terms of content and time frame for its completion or outsource certain services. (Rule 163.)



10.2 This chapter contains the fundamental principles applicable to all Ministries or Departments regarding engagement of consultant(s) and outsourcing of services. Detailed instructions to this effect may be issued by the concerned Ministries or Departments. However, the Ministries or Departments shall ensure that they do not contravene the basic rules contained in this chapter. **(Rule 164.)**

**10.3 Identification of Work/Services required to be performed by Consultants(Rule 165.) :** Engagement of consultants may be resorted to in situations requiring high quality services for which the concerned Ministry/ Department does not have requisite expertise. Approval of the competent authority should be obtained before engaging consultant(s).

**10.4 Preparation of scope of the required work/service(Rule 166.) :** The Ministries/Departments should prepare in simple and concise language the requirement, objectives and the scope of the assignment. The eligibility and prequalification criteria to be met by the consultants should also be clearly identified at this stage.

**10.5 Estimating reasonable expenditure ( Rule 167.):** Ministry or Department proposing to engage consultant(s) should estimate reasonable expenditure for the same by ascertaining the prevalent market conditions and consulting other organisations engaged in similar activities.

**10.6 Identification of likely sources (Rule 168):**

(i) Where the estimated cost of the work or service is upto Rupees twenty-five lakhs, preparation of a long list of potential consultants may be done on the basis of formal or informal enquiries from other Ministries or Departments or Organisations involved in similar activities, Chambers of Commerce & Industry, Association of consultancy firms etc.

(ii) Where the estimated cost of the work or service is above Rupees twenty-five lakhs, in addition to (i) above, an enquiry for seeking 'Expression of Interest' from consultants should be published in at least one national daily and the Ministry's web site. The web site address should also be given in the advertisements. Enquiry for seeking Expression of Interest should include in brief, the broad scope of work or service, inputs to be provided by the Ministry or Department, eligibility and the pre-qualification criteria to be met by the consultant(s) and consultant's past experience in similar work or service. The consultants may also be asked to send their comments on the



objectives and scope of the work or service projected in the enquiry. Adequate time should be allowed for getting responses from interested consultants

**10.7 Short listing of consultants(Rule 169.) :** On the basis of responses received from the interested parties as per **Rule 168 above**, consultants meeting the requirements should be short listed for further consideration. The number of short listed consultants should not be less than three.

**10.8 Preparation of Terms of Reference (TOR) (Rule 170):** The TOR should include

- (i) Precise statement of objectives;
- (ii) Outline of the tasks to be carried out;
- (iii) Schedule for completion of tasks;
- (iv) The support or inputs to be provided by the Ministry or Department to facilitate the consultancy.
- (vi) The final outputs that will be required of the Consultant;

## **11. PREPARATION OF REQUEST FOR PROPOSAL(RFP)**

**11.1 Preparation and Issue of Request for Proposal (RFP) (Rule 171):** RFP is the document to be used by the Ministry/34Department for obtaining offers from the consultants for the required work/service. The RFP should be issued to the shortlisted consultants to seek their technical and financial proposals. The RFP should contain :

- (i) A letter of Invitation
- (ii) Information to Consultants regarding the procedure for submission of proposal .
- (iii) Terms of Reference (TOR).
- (iv) Eligibility and pre-qualification criteria incase the same has not been ascertained through Enquiry for Expression of Interest.
- (v) List of key position whose CV and experience would be evaluated.



(vi) Bid evaluation criteria and selection procedure.

(vii) Standard formats for technical and financial proposal.

(viii) Proposed contract terms.

(ix) Procedure proposed to be followed for midterm review of the progress of the work and review of the final draft report.

**11.2 Receipt and opening of proposals(Rule 172.) :** Proposals should ordinarily be asked for from consultants in 'Twobid' system with technical and financial bids sealed separately. The bidder should put these two sealed envelops in a bigger envelop duly sealed and submit the same to the Ministry or Department by the specified date and time at the specified place. On receipt, the technical proposals should be opened first by the Ministry or Department at the specified date, time and place.

**11.3 Late Bids (Rule 173.):** Late bids i.e. bids received after the specified date and time of receipt, should not be considered.

**11.4 Evaluation of Technical Bids (Rule 174.):** Technical bids should be analysed and evaluated by a Consultancy Evaluation Committee (CEC) constituted by the Ministry or Department. The CEC shall record in detail the reasons for acceptance or rejection of the technical proposals analysed and evaluated by it.

**11.5 Evaluation of Financial Bids of the technically qualified bidders(Rule 175.):** The Ministry or Department shall open the financial bids of only those bidders who have been declared technically qualified by the Consultancy Evaluation Committee as per **Rule 174** above for further analysis or evaluation and ranking and selecting the successful bidder for placement of the consultancy contract.

**11.6 Consultancy by nomination (Rule 176):** Under some special circumstances, it may become necessary to select a particular consultant where adequate justification is available for such single-source selection in the context of the overall interest of the Ministry or Department. Full justification for single source selection should be recorded in the file and approval of the competent authority obtained before resorting to such single-source selection.



**11.7 Monitoring the Contract (Rule 177):** The Ministry/Department should be involved throughout in the conduct of consultancy, preferably by taking a task force approach and continuously monitoring the performance of the consultant(s) so that the output of the consultancy is in line with the Ministry /Department's objectives.

## **12. OUTSOURCING OF SERVICES**

**12.1 Outsourcing of Services(Rule 178) :** A Ministry or Department may outsource certain services in the interest of economy and efficiency and it may prescribe detailed instructions and procedures for this purpose without, however, contravening the following basic guidelines.

**12.2 Identification of likely contractors (Rule 179.) :** The Ministry or Department should prepare a list of likely and potential contractors on the basis of formal or informal enquiries from other Ministries or Departments and Organisations involved in similar activities, scrutiny of 'Yellow pages', and trade journals, if available, web site etc.

**12.3 Preparation of Tender enquiry (Rule 180):** Ministry or Department should prepare a tender enquiry containing, inter alia:

- (i) The details of the work or service to be performed by the contractor;
- (ii) The facilities and the inputs which will be provided to the contractor by the Ministry or Department;
- (iii) Eligibility and qualification criteria to be met by the contractor for performing the required work/service;and
- (iv) The statutory and contractual obligations to be complied with by the contractor.

### **12.4 Invitation of Bids (Rule 181):**

**(a)** For estimated value of the work or service upto Rupees ten lakhs or less : The Ministry or Department should scrutinise the preliminary list of likely contractors as identified as per **Rule 179** above, decide the prima facie eligible and capable contractors and issue limited tender enquiry to them asking for their offers by a specified date and time etc. as per standard



practice. The number of the contractors so identified for issuing limited tender enquiry should not be less than six.

(b) For estimated value of the work or service above Rupees ten lakhs: The Ministry or Department should issue advertised tender enquiry asking for the offers by a specified date and time etc. in at least one popular largely circulated national newspaper and web site of the Ministry or Department.

**12.5 Late Bids (Rule 182.):** Late bids i.e. bids received after the specified date and time of receipt, should not be considered.

**12.6 Evaluation of Bids Received . (Rule 183.):** The Ministry or Department should evaluate, segregate, rank the responsive bids and select the successful bidder for placement of the contract

**12.7 Outsourcing by Choice(Rule 184) :** Should it become necessary, in an exceptional situation to outsource a job to a specifically chosen contractor, the Competent Authority in the Ministry or Department may do so in consultation with the Financial Adviser. In such cases the detailed justification, the circumstances leading to the outsourcing by choice and the special interest or purpose it shall serve shall form an integral part of the proposal.

**12.8 Monitoring the Contract :** The Ministry or Department should be involved throughout in the conduct of the contract and continuously monitor the performance of the contractor. **(Rule 185.)**

### **13. CONTINGENT & MISCELLANEOUS EXPENDITURE**

**13.1** Rules relating to contingent expenditure are available at Rule 13 of the Delegation of the Financial Powers Rules, 1978 and Rules 96 to 98 of the Government of India (Receipts and Payments) Rules, 1983. **(Rule 290.)**

**13.2 Permanent Advance or Imprest (Rule 291.) :** Permanent advance or Imprest for meeting day to day contingent and emergent expenditure may be granted to a government servant by the Head of the Department in consultation with Internal Finance Wing, keeping the amount of advance to the minimum required for smooth functioning. Procedures for maintenance of permanent advance or imprest are available in para 10.12 of the Civil Accounts Manual, Volume.I.

**13.3 Advances for Contingent and Miscellaneous purpose (Rule 292.) :**



(1) The Head of the Office may sanction advances to a Government Servant for purchase of goods or services or any other special purpose needed for the management of the office, subject to the following conditions:-

(i) The amount of expenditure being higher than the Permanent Advance available, cannot be met out of it.

(ii) The purchase or other purpose can not be managed under the normal procedures, envisaging post procurement payment system.

(iii) The amount of advance should not be more than the power delegated to the Head of the Office for the purpose.

(iv) The Head of the Office shall be responsible for timely recovery or adjustment of the advance.

(2) The adjustment bill, along with balance if any, shall be submitted by the government servant within fifteen days of the drawal of advance, failing which the advance or balance shall be recovered from his next salary(ies).

13.4 The Ministry or Department may sanction the grant of an advance to a Government Pleader in connection with law suits, to which Government is a party, up to the maximum limit of Rupees five thousand at a time. The amount so advanced should be adjusted at the time of settlement of Counsel's fee bills. (Rule 293.)

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