

Chapter 2: Need assessment, formulation of Specifications and Procurement Planning

2.1 Need Assessment

2.1.1 Procurements should be initiated only based on an indent from the user Department. The authority in the user Department initiating the indent for procurement shall first determine the need (including anticipated requirement) for the subject matter of the procurement. Description and Specification of Need assessment is of fundamental importance in ensuring value for money, transparency, competition and level playing field in procurement. The user Department shall maintain all documents relating to the determination and technical/financial/budgetary approvals of the need for procurement. During need assessments, the following matters are decided to comply with the 'Procurement Guidelines':

- i) **The expression/description of the need** keeping in view the Value for Money (VfM) and to ensure wide competition. Therefore to the extent practicable it should be:
 - a) Unambiguous, complete, using common terminology prevalent in relevant trade;
 - b) In accordance with the guidelines prescribed if any in this regard;
 - c) Except in case of proprietary purchase from a selected single source, reference to brand names, catalogue numbers or other details that limit any materials or items to specific manufacturer(s) should be avoided as far as possible. Where unavoidable, such item descriptions should always be followed by the words "or substantially equivalent".
- ii) **Method of satisfying it** (owning/leasing/hiring/outsourcing or through Public Private Partnership (PPP), and so on) may be determined as per policies declared in this regard or based on a techno-economic evaluation (using life cycle cost, if feasible) of various alternative methods of satisfaction of the need and compatibility and inter-operability with existing infrastructure or systems.
- iii) The quantity of the subject matter of procurement, commensurate with economy:

- a) Care should be taken not to make unnecessary procurements much in advance of actual requirements, if such procurement is likely to be unprofitable to the Government, coupled with unwarranted inventory-carrying cost. Where sales, consumption or usage limits of requirements have been laid down by the Competent Authority (CA), the officer signing the indent should also certify that the prescribed scales or limits are not exceeded. The authority preparing the indent shall neither package nor divide its procurement or take any other action so as to limit competition among potential bidders or to avoid its obligations under 'Procurement Guidelines'. Provided that in the interest of efficiency, economy, timely completion or supply, wider competition or access to MSEs, a indenting or procuring authority may, for reasons to be recorded in writing, divide its procurement into appropriate packages, or club requirements of other users for procurement. Some requirements e.g. IT Systems may have elements of Goods, Works and Services. It could be either sliced into of Goods, Works and Services elements or combined into a package. Such decisions for slicing or packaging should be based on technical and VfM considerations. It is also necessary to round off the calculated quantity to the nearest wagon load/truck load/package to economise on transportation; and
- b) Units of quantity are a very important parameter. Some items may be manufactured in metric tons but may be used in units of numbers or units of lengths (for example, steel sheets/structural). For the sake of transparency, it is important to buy an item in units of manufacture. For example, it is better to buy steel/structural in units of weight since it has a tolerance in weight per unit of length; this usually works to the disadvantage of the buyer if it is bought in units of length. The buying and issuing units of an item may be different – but should be standardised.
- c) **Time-schedule and place** of product/work/service delivery: Need assessment and generation of indent for procurement should be done sufficiently in advance of the time when goods are required. Delays in need assessment have adverse impact on the value for money and transparency. Great care is required to be exercised in filling up realistic dates for the requirement of material. The procuring entity should be allowed time in

accordance with the establishment lead times. In urgent cases, the procuring entity may entertain indents providing shorter periods but such urgencies should be approved by the authority empowered to grant administrative approval for the indent and must be accompanied by proper justification.

d) **Formulation of Specification** to ensure value for money, transparency, level playing field and ensuring widest competition. This is further detailed in subsequent para.

e) **Estimation of Cost:**

1. The estimated cost in the indent is a vital element in various procurement processes, approvals and establishing reasonableness of prices at the time of evaluation of the bids. Therefore, it should be worked out in a realistic and objective manner. The prevailing market price ascertained through a market survey or budgetary quotations from one or more prospective suppliers or published catalogues/Maximum Retail Price (MRP) printed on the item is the main source for establishing the estimated cost of items for which there no historic data available. It may be noted that MRPs usually include significant margins for distributors, wholesalers and retailers;

2. For equipment/craft which are uniquely custom-built to buyer's specifications, the best way to get a fair assessment of costs is by obtaining budgetary quotes from potential parties. Ideally, there should be three quotes. However, there is need to have a time schedule for receipt of quotes to ensure some timeframe for this activity. Thus:

a) An attempt should be made to obtain as many budgetary quotes as possible from reputed/potential firms and a time of 21 (twenty-one) days be indicated therefore. In the event of receipt of less than three budgetary quotes, two extensions of up to 10 (ten) days each may be considered; and

b) In the event of non-availability of three quotes within the above extended period, the estimates should be prepared on the basis of the number of budgetary quote(s) received, which may even be one; and where more than one budgetary quote is received, the estimate should

- be framed on an average of the quotes which will reduce variations and fluctuations;
3. Other methods for establishing the estimated cost in the indent and tender evaluation are:
- a) Estimated rate in past indents of the same goods;
 - b) Last purchase price of this or similar or nearly equivalent requirements;
 - c) Costing analysis based on costs of various components/raw materials of the item;
 - d) Rough assessment from the price of the assembly/machine of which the item is a part or vice versa;
 - e) Through the internal or external expert costing agencies; and
 - f) As a last resort, rough assessment from the opportunity cost of not using this item at all;
- iv) These methods are not mutually exclusive and can be supplemented with escalations to cater for inflation, price increases of raw materials, labour, energy, statutory changes, price indices, and so on, to make them usable in conditions prevailing currently. In case of foreign currencies, the rate should be reduced to a common denomination of Indian Rupees. Price indices can be obtained from the following websites. Some may require prior free registration and some paid subscription:
- a) For price indices of indigenous items:
<http://www.eaindustry.nic.in/home.asp.in> (Ministry of Industry);
 - b) For metals and other minerals: <http://www.mmronline.com/> or
<http://www.metalprices.com/index.asp> or
<http://www.asianmetal.com/>;
 - c) For price trends of nonferrous details; London Metal Exchange - <https://www.lme.com/> gives price trends of nonferrous details, which often show volatile trends;
 - d) Other useful sites: <http://www.tradeintelligence.com/> and
<http://www.cmie.com/>. (Centre for Monitoring Indian Economy);

- e) For price trends of different countries:
<http://www.imf.org/external/pubs/ft/weo/2015/01/> (International Monetary Fund) and
- f) For organisation/chambers of commerce such as the (Indian Electrical and Electronics Manufacturer's Association):
www.ieema.org;

2.2 Formulation of Technical specifications (TS)

2.2.1 The procuring authority should ensure that specifications are developed to ensure VfM, level playing field and wide competition in procurement [Rule 173 (ix) of GFR 2017]. The TS constitute the benchmarks against which the procuring entity will verify the technical responsiveness of bids and, subsequently, evaluate the bids. Therefore, well-defined TS will facilitate the preparation of responsive bids by bidders as well as examination, evaluation and comparison of the bids by the procuring entity. It would also help in ensuring the quality of the supplied goods. The procuring authority should ensure that the specification should:

- i) Provides a level playing field and ensures the widest competition; and
- ii) Be unambiguous, precise, objective, functional, broad based/generic, standardised (for items procured repeatedly) and measurable. TS should be broad enough to avoid restrictions on workmanship, materials and equipment commonly used in manufacturing similar kinds of goods;
- iii) Set out the required technical, qualitative and performance characteristics to meet just the bare essential needs of the procuring entity without including superfluous and non-essential features, which may result in unwarranted expenditure;
- iv) Normally be based on standards set by the Bureau of Indian Standards (BIS), wherever such standards exist. Preference should be given to procure the goods which carry the BIS mark. In the absence of BIS standards, TS may be based on the relevant International standards. Provided that an indenting authority may, for reasons to be recorded in writing, base the TS on equivalent international standards even in cases where BIS standards exist. For any deviations from Indian standards or for any additional parameters for

better performance, specific reasons for deviations/modifications should be duly recorded with the approval of the CA. Where the technical parameters are only marginally different, Indian standards may be specified and the Departmental specifications could cover only such additional details as packing, marking, inspection, and so on, as are specially required to be complied for a particular end use;

- v) All dimensions incorporated in the specifications shall be indicated in metric units. If due to some unavoidable reasons, dimensions in FPS units are to be mentioned, the corresponding equivalents in the metric system must also be indicated.
- vi) Comply with sustainability criteria and legal requirements of environment or pollution control and other mandatory and statutory regulations, or internal guidelines, if any, applicable to the goods to be purchased;
- vii) Make use of best practices. examples of specifications from successful similar procurements in the other organisations or sector may provide a sound basis for drafting the TS;
- viii) Commensurate with VfM, avoid procurement of obsolete goods and require that all goods and materials be new, unused and of the most recent or current models and that they incorporate all recent improvements in design and materials, unless provided for otherwise in the bidding documents;
- ix) Should have emphasis on factors such as efficiency, optimum fuel/power consumption, use of environmental-friendly materials, reduced noise and emission levels, low maintenance cost, and so on. Government of India has set up the Bureau of Energy Efficiency (BEE) (<http://www.bee-india.nic.in>) on March 1, 2002 under the provisions of the Energy Conservation Act, 2001, with the primary objective of reducing the energy intensity of the Indian economy. The Bureau initiated the Standards & Labelling Programme for equipment and appliances in 2006 to provide the consumer an informed choice about the energy saving and thereby the cost saving potential of the relevant marketed product. The scheme is invoked for 21 equipment/appliances, i.e. Room Air Conditioners, RAC(Cassette, Floor Standing Tower, Ceiling, Corner AC), Tubular Fluorescent Tube Lights, Frost

Chapter 3: Supplier Relationship Management

Free Refrigerators, Distribution Transformers, Direct Cool Refrigerator, Electric storage type geyser, Color TVs, Induction Motors, Ceiling fans, Agricultural pump sets, LPG stoves, Washing machine, Laptops, Ballast, Office automation products, Solid State Inverter, Diesel Engine Driven Monoset Pumps for Agricultural Purposes, Diesel Generator, Inverter AC and LED Lamps. Of which the first 8 products have been notified under mandatory labelling since 7th January, 2010. The other appliances are presently under voluntary labelling phase. The energy efficiency labelling programs under BEE are intended to reduce the energy consumption of appliance without diminishing the services it provides to consumers. More the stars higher the efficient is the appliance. The threshold ratings prescribed by the Ministry of Finance are:

Appliance	Threshold Star Rating
Split Air conditioners	5 Star (under normal conditions where annual usages are expected to be more than 1000 Hrs) 3 Star (where usage of AC is limited e.g. in conference rooms)
Frost Free Refrigerators	4 Star
Ceiling Fans	5 Star
Water Heaters	5 Star

We should try to build either the BEE Star rating where applicable and minimum energy efficiency where such star ratings are not yet available, into the TS (in accordance with *Rule 173 (xvii) of GFR 2017*). *Such benchmarking illustrates use of neutral and dependable benchmarking in procurement of sustainable environmentally favourable goods by way of appropriately formulated Technical Specifications.* In a similar fashion, other Type III Eco-labels as per ISO 14020 or voluntary Environmental Standard can be used for specifying environmental sustainability criteria.

- x) **Discourage procurement involving evaluation of samples:** According to the existing guidelines on public procurement of goods, purchase in

accordance with a sample should not be usually undertaken. Calling³¹ for a sample along with the tender and deciding on the basis of evaluation of the sample may NOT be done. In certain specifications, there may be a built-in sample clause. Usually such clauses are stipulated to illustrate indeterminable characteristics such as shade/ tone, make-up, feel, finish and workmanship, and so on. In some specifications, there may not be a sample clause but such indeterminable characteristics are left to be agreed to between the seller and buyer. One way to procure/indigenise certain spares whose drawings/specifications are not available is to procure in accordance with an available sample of the part. In such cases, supply must be in conformity with an agreed reference sample in such respects only, whereas for the remaining characteristics it must be in conformity with the laid down drawings/specifications. Procurement of such items should be decided on the basis of detailed specifications/drawings and no sample should be called for or evaluated along with the bids. If desired, a purchaser's reference sample may be displayed for prospective tenderers to illustrate the desired indeterminable characteristics, which final supplies from successful bidder(s) will have to meet in addition to the specifications/drawings. If required, in addition to the purchaser's reference sample, the provision for the submission of a pre-production sample matching the purchaser's sample by successful bidder(s) may be stipulated for indeterminable characteristics, before giving clearance for bulk production of the supply. The Indent for items which are to be procured in accordance with a sample must be accompanied with three sealed samples as far as possible;

2.2.2 Essential Technical particulars

The essential Technical particulars to be specified in the tender document shall include the following to the extent applicable for a particular purchase:

- i) Scope of supply and, also, end use of the required goods;
- ii) All essential technical, qualitative, functional, environmental and performance characteristics and requirements (such as material composition, physical,

³¹CVC's circular: 2EE-1-CTE-3 dated 15 October 2003, URL: <http://cvc.gov.in/eecte32k3.pdf>

Chapter 3: Supplier Relationship Management

dimensions and tolerances, workmanship and manufacturing process wherever applicable; test schedule; if any), including guaranteed or acceptable maximum or minimum values, as appropriate. Whenever necessary, the user may include an additional format for guaranteed technical parameters (as an attachment to the bid submission sheet), where the bidder shall provide detailed information on such technical performance characteristics in reference to the corresponding acceptable or guaranteed values;

- iii) Drawings;
- iv) Requirement of the BIS mark, where applicable, mentioning all parameters where such a specification provides options;
- v) Requirement of an advance sample, if any, at the post contract stage before bulk production;
- vi) Special requirements of preservation, packing and marking, if any;
- vii) Inspection procedure for goods ordered and criteria of conformity;
- viii) Requirements of special tests or type test certificate or type approval for compliance of statutory requirements with reference to pollution, emission, noise, if any;
- ix) Other additional work and/or related services required to achieve full delivery/completion, installation, commissioning, training, technical support, after-sales service and Annual Maintenance Contract (AMC) requirements, if any;
- x) Warranty requirements;
- xi) Qualification criteria of the bidders, if any; and
- xii) Any other aspects peculiar to the goods in question such as shelf life of the equipment, and so on.

2.2.3 Need Assessment and Technical Specification - Risks and Mitigations

<i>Risk</i>	<i>Mitigation</i>
Need is either artificially created or exaggerated , with the intention to channel benefits to an individual or an organisation. For example, demand is created for a good that is not needed simply to benefit the company's owner.	Keep records and involve stakeholders: Records of decision making and data used should be kept. Involve procurement and finance functions at this stage also. End user and stakeholder consultations should be

	part of the process.
Delays in Assessment of Need and generation of Indent for Procurement , may lead to shortcut procurement procedures that dilutes transparency and prevent achievement of value for money. It may also lead to delays in delivery of goods.	Need assessment should be done sufficiently in advance of the time when goods are required. In case of urgent requirements, the urgency certificate should be approved by authority empowered to grant administrative approval for the indent, recording justification – why the need could not be formulated earlier.
The estimate of the costs may be inadequate. This may lead to inadequate response from the bidders and may delay finalisation of procurement. It may also adversely affect the quality of supplies.	Estimates of procurement should be prepared with due diligence, keeping in view inflation, technology changes, profit margins etc.
Need Description/ Specifications involving subjectivity: Procurements where samples are asked to be submitted along with the offer and the evaluation is based on the subjective evaluation of samples – may lead to allegations of corruption.	If required, a stock sample for indeterminable parameters such as, shade/tone, size, make-up, feel, finish and workmanship, may be displayed during procurement to which the offers must conform. If necessary, provide for submission of an advance sample by successful bidder(s) before giving clearance for bulk production of the supply.
Need Description/ Specifications and terms of reference are disproportionate to the need identified or made to tilt in favour one or a group of vendor(s) or contractor(s) to artificially restrict competition.	Use a formal market discovery tool: Pre-bidconference and/ or well publicised EoI may be used for discovery of the market. Otherwise, encourage and invite comments on the technical and commercial conditions in the bid document or hold pre-bid conference.
Asymmetric dissemination of vital need information: Dialogue for determining solutions available in the market is held only with selected prospective bidders, giving them undue advantage in preparing for the bidding. Selected prospective bidders get access to inside information not disclosed or disclosed late to others.	

2.3 Obtaining Technical, Administrative and Budgetary Sanctions/ Approvals and signing of Indents

Procuring Entities may lay down a schedule of powers for administrative and budgetary approval of indents generated for procurement of goods (Please refer to

Annexure 2C for suggested Structure of SoPP). Before granting such approvals, it should be certified that funds in the budget are available and liability for this indent is noted against the total available budget. In case the time schedule of delivery is urgent (or shorter than usual lead-time) an urgency certificate should be recorded justifying the urgency. The indenting authority may submit an indent in form of a Purchase Requisition (Annexure 3) to the procuring entity, giving it adequate time for procurement. Indenters should monitor the progress of the Indents submitted by them. For this purpose, a register may be maintained in the format provided in Annexure 4A. On receipt in the procuring authority, progress of such Indents should be monitored for which a register may be maintained in the format provided in Annexure 4B.

2.4 Procurement Planning

2.4.1 After receipt of the Indent, the procuring entity should take following decisions to initiate procurement, to ensure conformity to the Procurement Guidelines:

- i) Within 10 (Ten) working days of receipt of the indent from the user Department, the procuring authorities should critically review the description and TS enclosed with the indent for completeness/approvals/funding, VfM and possibility of the widest competition and seek clarifications from the indenting officer, if needed, before initiating such procurement;
- ii) **Reassessment of the quantity and appropriate aggregation of quantities of various users:** The procuring authority shall normally neither package nor divide its procurement or take any other action so as to limit competition among bidders or to avoid the necessity of obtaining the sanction of higher authority required with reference to the estimated value of the total demand (*Rule 157 of GFR 2017*). Provided that in the interest of efficiency, economy, timely completion or supply, wider competition or access to MSEs, a procuring authority may, for reasons to be recorded in writing, divide its procurement into appropriate packages, or club requirements of other users for procurement. Packaging of the contract and procurement planning should be done keeping in view the availability and possibility of eliciting the interest of the qualified firms; effective competition for the type and size of the contract; and access to MSEs. For example for a particular contract, material to be

procured may constitute more than 50 (fifty) per cent of the total cost of works or there are services which are a mix of consultancy services with substantial element of goods, such as procurement of an IT system. Such procurement could be done as a single composite contract comprising all components or divided into separate contracts for each category of procurement. In all such situations, the dominant aspect of the requirement and value for money aspects of a composite all-inclusive contract versus dividing the contract into respective categories should be carefully examined at the time of Need assessment/ Procurement Planning. This is a crucial stage of decision-making in procurement planning for a better outcome and for VfM considerations;

- iii) Determine and declare in documents, any limitation on participation of bidders as per the Government's procurement policy regarding preference to certain sections of industry, if any. The procuring entity shall not establish any requirement aimed at limiting participation of bidders in the procurement process that discriminates against or amongst bidders or against any category thereof except to lay down a reasonable and justifiable eligibility or pre-qualification criteria for the bidders;
- iv) Selection of a system of bidding (single/two stage; single/two bids; suitability for e-procurement or reverse auction);
- v) Select the mode of procurement (open tenders, limited tenders, single tenders, and so on);
- vi) Decisions on the timeframe for completing various stages of procurement, which should be declared in the pre-qualification/bidder registration or bidding documents. The procuring entity should endeavour to adhere to the time limit so decided and record reasons for any modification of such limits; and
- vii) Integrated procurement plan should be prepared for goods, works and services for the ensuing financial year based on the latest cost estimates, and realistic time schedule for procurement activities and contract implementation and thus schedule and stagger the procurements over the year with a view to ensure an even load on the procuring entity and the market and also to co-ordinate matching procurements of Goods, Works and Services for a project;

Chapter 3: Supplier Relationship Management

2.4.2 The procuring entity may publish information regarding the planned procurement activities for the forthcoming year or years on the central public procurement portal and website/ e-Procurement portal used by the procuring entity with a caveat that such publication shall not be construed as initiation of a procurement process and cast any obligation on the procuring entity to issue the bidding document or confer any right on prospective bidders.

2.4.3 Procurement Planning - Risks and Mitigations	
<i>Risk</i>	<i>Mitigation</i>
Procurement Planning	
Packaging, bundling and slicing of requirement is done to avoid open competition or reduce competition. Or it is too large to make it difficult for MSEs to participate. Possible clubbing/collaboration among different units having the same needs are not explored.	Lay down a clear policy for packaging and bundling of requirements. In large packages, the affordability of EMD and resultant restriction on competition may be kept in view and bidders may be allowed to bid for slices of the package by depositing proportional EMD.

Chapter 3: Supplier Relationship Management

3.1 Supplier Relationship Management

Supplier Relationship Management comprises the following functions:

- i) Ensuring compliance of suppliers to the Code of Integrity for Public Procurement and Integrity Pact (CIPP) if stipulated in Bid Documents;
- ii) Holiday listing; removal from the list of registered suppliers and banning/debarment of firms; and
- iii) Development of new sources and registration of suppliers.

3.2 Code of Integrity for Public Procurement (CIPP)

3.2.1 Public procurement is perceived to be prone to corruption and ethical risks. To mitigate this, the officials of Procuring Entities involved in procurement and the bidders/ suppliers must abide by the following Code of Integrity for Public Procurement (CIPP). All Procuring officials may be asked to sign declarations to this effect periodically and in various Procurement decisions (including Need Assessment). The bidders/ suppliers should be asked to sign a declaration about abiding by a Code of Integrity for Public Procurement in registration applications and in bid documents, with a warning that, in case of any transgression of this code, its name is not only liable to be removed from the list of registered suppliers, but it would be liable for other punitive actions such as cancellation of contracts, banning and blacklisting or action in Competition Commission of India, and so on.

(Rule 175 of GFR 2017)

3.2.2 **Code of Integrity for Public Procurement:** Procuring authorities as well as bidders, suppliers, contractors and consultants should observe the highest standard of ethics and should not indulge in the following prohibited practices, either directly or indirectly, at any stage during the procurement process or during execution of resultant contracts:

- i) **“Corrupt practice”:** making offers, solicitation or acceptance of bribe, rewards or gifts or any material benefit, in exchange for an unfair advantage in

the procurement process or to otherwise influence the procurement process or contract execution;

- ii) **“Fraudulent practice”**: any omission or misrepresentation that may mislead or attempt to mislead so that financial or other benefits may be obtained or an obligation avoided. This includes making false declaration or providing false information for participation in a tender process or to secure a contract or in execution of the contract;
- iii) **“Anti-competitive practice”**: any collusion, bid rigging or anti-competitive arrangement, or any other practice coming under the purview of The Competition Act, 2002, between two or more bidders, with or without the knowledge of the procuring entity, that may impair the transparency, fairness and the progress of the procurement process or to establish bid prices at artificial, non-competitive levels;
- iv) **“Coercive practice”**: harming or threatening to harm, persons or their property to influence their participation in the procurement process or affect the execution of a contract;
- v) **“Conflict of interest”**: participation by a bidding firm or any of its affiliates that are either involved in the consultancy contract to which this procurement is linked; or if they are part of more than one bid in the procurement; or if the bidding firm or their personnel have relationships or financial or business transactions with any official of procuring entity who are directly or indirectly related to tender or execution process of contract; or improper use of information obtained by the (prospective) bidder from the procuring entity with an intent to gain unfair advantage in the procurement process or for personal gain; and
- vi) **“Obstructive practice”**: materially impede the procuring entity’s investigation into allegations of one or more of the above mentioned prohibited practices either by deliberately destroying, falsifying, altering; or by concealing of evidence material to the investigation; or by making false statements to investigators and/or by 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 by impeding the procuring entity's rights of audit or access to information;

3.2.3 **Obligations for Proactive Disclosures**

- i) Procuring authorities as well as bidders, suppliers, contractors and consultants, are obliged under Code of Integrity for Public Procurement to suo-moto proactively declare any conflicts of interest (coming under the definition mentioned above – pre-existing or as and as soon as these arise at any stage) in any procurement process or execution of contract. Failure to do so would amount to violation of this code of integrity; and
- ii) Any bidder must declare, whether asked or not in a bid document, any previous transgressions of such a code of integrity with any entity in any country during the last three years or of being debarred by any other procuring entity. Failure to do so would amount to violation of this code of integrity.
- iii) To encourage voluntary disclosures, such declarations would not mean automatic disqualification for the bidder making such declarations. The declared conflict of interest may be evaluated and mitigation steps, if possible, may be taken by the procuring entity. Similarly voluntary reporting of previous transgressions of Code of Integrity elsewhere may be evaluated and barring cases of various grades of debarment, an alert watch may be kept on the bidder's actions in the tender and subsequent contract.

3.2.4 Punitive Provisions: Without prejudice to and in addition to the rights of the procuring entity to other penal provisions as per the bid documents or contract, if the procuring entity comes to a conclusion that a (prospective) bidder/supplier, directly or through an agent, has violated this code of integrity in competing for the contract or in executing a contract, the procuring entity may take appropriate measures including one or more of the following:

- i) if his bids are under consideration in any procurement
 - a) Forfeiture or encashment of bid security
 - b) calling off of any pre-contract negotiations, and;
 - c) rejection and exclusion of the bidder from the procurement process

Chapter 3: Supplier Relationship Management

- ii) if a contract has already been awarded
 - a) Cancellation of the relevant contract and recovery of compensation for loss incurred by the procuring entity,;
 - b) Forfeiture or encashment of any other security or bond relating to the procurement;
 - c) Recovery of payments including advance payments, if any, made by the procuring entity along with interest thereon at the prevailing rate;
- iii) Provisions in addition to above:
 - a) Removal from the list of registered suppliers and banning/debarment of the bidder from participation in future procurements of the procuring entity for a period not less than one year;
 - b) In case of anti-competitive practices, information for further processing may be filed under a signature of the Joint Secretary level officer, with the Competition Commission of India;
 - c) Initiation of suitable disciplinary or criminal proceedings against any individual or staff found responsible.

3.2.5 Conduct of Public Servants in Public Procurement - Risks and Mitigations	
<i>Risk</i>	<i>Mitigation</i>
<p>Hospitality: Hospitality (including facilitation of travel, lodging, boarding and entertainment during official or unofficial programs) from suppliers may tend to cross the limits of ethical/ occasional/ routine/modest/ normal business practice. Officials sent to firm's premises for inspections/ meetings may mistakenly presume entitlement to hospitality from the firm, even if other arrangements are available at the location.</p>	<p>Hospitality must never be solicited, directly or indirectly. The frequency, scale and number of officials availing hospitality should not be allowed to identify the recipient in a public way with any particular contractor, supplier or service provider or raise doubts about its neutrality. It should not involve significant travel, overnight accommodation or trips abroad. Particular care should be taken in relation to offers of hospitality from firms (say participating in current or imminent tenders or its execution) who stand to derive a personal or commercial benefit from their relationship with the recipient.</p>
<p>Gifts: Gifts from suppliers may tend to cross the limits of ethical/ occasional/ routine/modest/ normal business</p>	<p>Gifts must never be solicited, directly or indirectly. An official should not accept and retain gifts more valuable than the limit as</p>

3.2.5 Conduct of Public Servants in Public Procurement - Risks and Mitigations	
<i>Risk</i>	<i>Mitigation</i>
practice, especially on festive season. Since the value of the gift may not be known to the recipient, it may cause inadvertent violation of Conduct rules.	laid down in the conduct rules. Cash, gift cheques or any vouchers that may be exchanged for cash may not be accepted regardless of the amount. Particular care should be taken in relation to gifts from firms (say participating in current or imminent tenders or its execution) who stand to derive a personal or commercial benefit from their relationship with the recipient. Any gift received inadvertently in violation of above, must immediately either be returned or else reported and deposited in Toshakhana/ Treasury.
Private Purchases from Official Suppliers: Procuring Officials may mistakenly consider it innocuous to seek discounts in private procurements from suppliers having official dealings or its associates (especially from Rate Contract holders).	Officials involved in Public Procurement must never indulge in any non-official pecuniary transaction with the contractors, suppliers or service providers with whom they have official dealings; including seeking or accepting special facilities or discounts on private purchases (particularly same items which are being ordered officially on rate contracts).
Sponsorship of Events: Procuring Officials may mistakenly consider it innocuous to seek financial favours (donations, advertisements for souvenirs, and contributions in cash or kind) in relation to sponsoring of cultural, social, charitable, religious, or sporting events, in the false belief that since he/she is personally not benefitted, it would not be a violation of CIPP.	Officials involved in Public Procurement must never indulge in any non-official pecuniary transaction with the contractors, suppliers or service providers with whom they have official dealings; including soliciting of sponsorship for unofficial and private cultural, social, sporting, religious, charitable or similar organisations or events.

3.3 Integrity Pact (IP)

The Pre-bid Integrity Pact is a tool to help Governments, businesses and civil society to fight corruption in public contracting. It binds both buyers and sellers to ethical conduct and transparency in all activities from pre-selection of bidders, bidding and contracting, implementation, completion and operation related to the contract. This removes insecurity of Bidders, that while they themselves may abjure Bribery, but their competitors may resort to it and win contract by unfair means.

Ministry of Finance, Department of Expenditure have mandated ³² Ministries/ Departments and their attached/ subordinate offices (including autonomous bodies) to incorporate Integrity Pact by, depending on the nature of procurements/ contracts above a threshold value. The nature of procurement and threshold of value is to be decided by the Ministries/ Departments with approval of the Minister in charge. As guidance, the threshold should be such as to cover bulk (80-90% - eighty to ninety percent by value) of its procurement expenditure.

“The pact essentially envisages an agreement between the prospective vendors/bidders and the buyer, committing the persons/officials of both sides, not to resort to any corrupt practices in any aspect/stage of the contract. Only those vendors/bidders, who commit themselves to such a Pact with the buyer, would be considered competent to participate in the bidding process. In other words, entering into this Pact would be a preliminary qualification. The essential ingredients of the Pact include:

- 1) Promise on the part of the Procuring Entity to treat all bidders with equity and reason and not to seek or accept any benefit, which is not legally available;
- 2) Promise on the part of bidders not to offer any benefit to the employees of the Procuring Entity not available legally and also not to commit any offence under Prevention of Corruption Act, 1988 or Indian Penal Code 1860;
- 3) Promise on the part of Bidders not to enter into any undisclosed agreement or understanding with other bidders with respect to prices, specifications, certifications, subsidiary contracts, etc;
- 4) Undertaking (as part of Fall Clause) by the Bidders that they have not and will not sell the same material/ equipment at prices lower than the bid price;
- 5) Foreign bidders to disclose the name and address of agents and representatives in India and Indian Bidders to disclose their foreign principals or associates;
- 6) Bidders to disclose the payments to be made by them to agents / brokers or any other intermediary;

³²OM No.14(12)/ 2008- E-II(A) dated 19th July 2011

- 7) Bidders to disclose any past transgressions committed over the specified period with any other company in India or Abroad that may impinge on the anti corruption principle;
- 8) Integrity Pact lays down the punitive actions for any violation;
- 9) **Integrity Pact (IP) would be implemented through a panel of Independent External Monitors (IEMs):** shall be appointed by the organization in consultation with Central Vigilance Commission. Names and contact details of the Independent External Monitor(s) should be listed in Notice Inviting Tender (NIT). The IEM would review independently and objectively, whether and to what extent parties have complied with their obligations under the Pact. Government of India organizations and Public Sector Undertakings desirous of implementing Integrity Pact are required to select at most three persons (below the age of 70 (seventy) years) of high integrity and reputation as Independent External Monitors (IEM) after due diligence and forward to the CVC for its approval. Only those officers of Government of India Departments or Public Sector Undertakings, who have retired from top management positions, would be considered for appointment as IEM, provided they are neither serving or retired from the same organization. Eminent persons, retired judges of High/ Supreme Courts, executives of private sector of considerable eminence could also be considered for functioning as Independent External Monitors. The appointment of Independent External Monitors would be for an initial period of three years and could be extended for another term of two years (maximum tenure of five years). Names and contact details of the Independent External Monitor(s) should be listed in Notice Inviting Tender (NIT).
- 10) **In tenders meeting the criteria of threshold value/ nature of procurement:** Integrity Pact clause and format should be included in the Bid Documents. Each page of such Integrity pact proforma would be duly signed by Purchaser's competent signatory. All pages of the Integrity Pact are to be returned by the bidder (along with the technical bid) duly signed by the same signatory who signed the bid, i.e. who is duly authorized to sign the bid and to make binding commitments on behalf of his company. Any bid not accompanied by Integrity Pact duly signed by the bidder shall be considered to be a non-responsive bid and shall be rejected straightway.

11) **Role / Functions of IEMs:** The Monitors would not be subject to instructions by the representatives of the parties and should perform their functions neutrally and independently. They would review independently and objectively, whether and to what extent parties have complied with their obligations under the Integrity Pact. For this purpose, they would have access to all contract documents / books of accounts of the bidders in case of any allegation of violation of any provisions of the Integrity Pact or payment of commission, whenever required. The IEMs will have the option to participate in such meetings among the parties related to the project provided such meetings could have an impact on the contractual relations between the parties. Ideally all IEMs of an organization should meet once every two months to take stock of ongoing tendering process. The IEMs would examine all complaints received by them and give their recommendations / views to the designated officer of the Procuring Entity, at the earliest. The Monitors would also inform the Procuring Entity, if they notice or have reason to believe, a violation of the Integrity Pact. They may also send their report directly to the Central Vigilance Commission, in case of suspicion of serious irregularities requiring legal/ administrative action. At least one IEM would be invariably cited in the NIT. However for ensuring the desired transparency and objectivity in dealing with the complaints arising out of any tendering process, the matter should be examined by the full panel of IEMs, who would look into the records, conduct an investigation, and submit their joint recommendations. The recommendations of IEMs would be in the nature of advice and would not be legally binding. IEMs may not be equated with consultants in the Procuring Entity. Their role is independent in nature and the advice once tendered would not be subject to review. The role of the Chief Vigilance Officer (CVO) of Procuring Entity shall remain unaffected by the presence of IEMs. A matter being examined by the IEMs can be separately investigated by the CVO, if a complaint is received by him or directed to him by the CVC. As per para 5.13 of CVC OM No. 05/01/22 issued vide letter No. 015/VGL/091 dated 25.01.2022, in the event of any dispute between the management and the contractor relating to those contracts where Integrity Pact is applicable, in case, both the parties are agreeable, they may try to settle dispute through mediation before the panel of IEMs in a time bound manner. If required, the organizations may adopt any mediation rules for this purpose. In case, the dispute remains unresolved even after mediation by the

panel of IEMs, the organization may take further action as per the terms & conditions of the contract.

3.4 Development of New Sources and Registration of Suppliers

3.4.1 Ensuring an up-to-date and current list of registered, capable and competent suppliers facilitates efficiency, economy and promotion of competition in public procurement, especially where open tendering is not resorted to. The list may be referred to while floating a limited tender/local purchase/direct contracting. For such tenders, it may be possible to skip bidder qualification so as to avoid unnecessary repetition/duplication of records thereby saving time, especially in the case of emergency procurement. *For goods and services not available on GeM*, Head of Ministry/ Department may also register suppliers of goods and services which are specifically required by that Department or Office, periodically. Registration of the supplier should be done following a fair, transparent and reasonable procedure and after giving due publicity. Such registered suppliers should be boarded on GeM as and when the item or service gets listed on GeM. The list of registered suppliers for the subject matter of procurement be exhibited on websites of the Procuring Entity/ their e-Procurement portals.]³³.

3.4.2 Ministries / Departments with a significant volume of procurements may follow their own policies and procedures for registration of vendors, if already existing. The policies and procedures for registration described below is for guidance of Ministries/ Departments, who do not have their own laid down policies/ procedures for registration. The Ministry/ Department shall notify the authorities competent to deal with the applications and grant registrations, along with their jurisdictions. The appellate authority shall be at least one level above the registering authority or as designated by the Ministry/ Department.

3.4.3 All Ministries/ Department may use such lists prepared by other Ministries / Departments as and when necessary. Registered suppliers are ordinarily exempted from furnishing earnest money deposit/bid security with their tenders in tenders for items, and Monetary Limits for which they are registered. The list of registered

³³ Amended vide DoE OM No. F.1/26/2018-PPD dated 02.04.2019.

suppliers for the subject matter of procurement be exhibited on the Central Public Procurement Portal and websites of the Procuring Entity/ e-procurement/ portals.

3.4.4 Categories for Registration

In case of procurement of goods, the Administrative Department shall register firms as suppliers of goods in different trade groups of goods in the following broad categories:

- i) Manufacturers, who supply indigenous items;
- ii) Agents/distributors of such manufacturers, who desire to market their production only through their agents;
- iii) Foreign manufacturers with/without their accredited agent in India;
- iv) Stockists of imported spares or other specified items; and
- v) Suppliers of imported goods as are having regular arrangement with foreign manufacturers.

3.4.5 One of the main prerequisites for registration as a manufacturer is that the firm should possess its own in-house testing facilities. In case of MSE units, the firm need not have its own testing facilities but regular arrangements with other reputed Government or Government-approved or private agencies in its area for testing of products. Before the manufacturer is included in the list of registered suppliers, Procuring Entity shall verify the bona fides and standing of the firm. Procuring Entity may also seek assistance from the inspection wing of other inspecting agencies. In case of firms having an established quality maintenance system with ISO 9001- 2000 certification (latest version) by authorised agencies, Procuring Entity may consider registration of such firms without carrying out capacity assessment.

3.4.6 Grades (Monetary Limits) for Registration

Registration should be done by grading the firms (Grade A, B, and so on) on their capability for executing contract orders of different monetary limits in the relevant category of requirements. The monetary limits should be carefully fixed keeping in view the banker's reports, capacity and capability of the firm and other financial information indicated in the balance sheets, profit and loss statements:

- i) Grade-A: Rs. 25 (Rupees twenty-five) lakh and above;
- ii) Grade B: Rupees five lakh to Rs.25(Rupees twenty-five) lakh; and
- iii) Grade C: Rupees One lakh and up to Rupees five lakh

3.4.7 The firms that are registered for supply of orders valued above Rupees five lakh should invariably be manufacturers or their authorised agents. Procuring Entity shall register the manufacturers and not agents or middlemen. A sole selling agent/authorised agent could be considered for registration, subject to the condition that Procuring Entity is satisfied that he is the sole selling agent of manufacturers, and financial and technical capabilities of the manufacturers are ascertained by Procuring Entity. The availability of a suitable arrangement with the sole selling agent for after-sales service shall also be ensured and Procuring Entity shall also satisfy itself that a valid legal agreement exists between the applicant unit and its sole selling agent, during the period for which he is registered.

3.4.8 **Procedure for Registration:** The procedure to be adopted in this regard by the Central Purchase Organization or by any Ministry / Department in case it desires to register suppliers of goods which are exclusively needed by it. Registration of suppliers should be done ensuring fundamental principles of public procurement in view (especially the transparency principle - transparency, fairness, equality, competition and appeal rights) with the approval of CA after carefully assessing and verifying credentials, capability, quality control systems, past performance, after-sales service facilities, financial background, and so on, of the supplier/contractor/ service provider(s):

- i) Registration of the suppliers should be done following a fair, transparent and reasonable procedure and after giving due publicity. Details of the procedure for registration of new firms may be uploaded on the website and also published in the form of a booklet for information of the suppliers. Timeframes and criteria for registration of new suppliers may be clearly indicated;
- ii) Possible sources for any category/group of requirements can be identified based on internal and external references. Data of new suppliers can be obtained from the response received from suppliers, open tender advertisements, pre-qualification bids, Expression of Interest (EoI), against various enquiries on the website, dedicated websites, exhibitions, buyer-seller meets, various publications of NSIC , Development Commissioner of the Small Industries Service Institute, BIS, trade journals, and so on. The e-procurement portal does pre-registration of suppliers online. Such data can be a source of information on prospective suppliers;

Chapter 3: Supplier Relationship Management

- iii) New supplier(s) may be considered for registration at any time, provided they fulfil all the required conditions. For any larger scale or critical registration or development of new suppliers, Procuring Entity should call for EoI by publicising its need for development of sources. The stages to be followed together with the applicable guidelines for EoI have been detailed in Chapter 5;
- iv) While registering the firms, an undertaking may be obtained from them that they will abide by the CIPP enclosed with the application with a clear warning that, in case of transgression of the code of integrity, their names are likely to be deleted from the list of registered suppliers, besides any other penalty or more severe action as deemed fit; and
- v) Along with the new/renewal application for registration, the suppliers should also be asked to declare that, if awarded a contract in any LTE in which they participate, they bind themselves to abide by the Procuring Entity's General Conditions of Contract (GCC). Such GCC should be part of the application.
- vi) **Eligibility**
 - a) Any firm, situated in India or abroad, which is in the business of providing goods/works/services of specified categories of interest, shall be eligible for registration;
 - b) Where registration is granted based on partly outsourced arrangements/ agreements, it shall be the responsibility of the registered unit, to keep such arrangements/agreements renewed/alive at all times, to keep their registration valid for the period for which it has been granted. Any failure in this regard may make the registration null and void ineffective retrospectively from any such dates which the registering authority considers appropriate;
 - c) Suppliers should possess valid Digital Signature Certificate (DSCs) Class III with the company name at the time of registration/ renewal, so as to enable them to participate in e-procurements
 - d) Firm, against whom punitive action has been taken, shall not be eligible for re-registration during the currency of punitive action. Registration

requests may not be entertained from such firms, stakeholders of whom have any interest in deregistered/banned firms;

- e) The application form, complete in all respects and accompanied with the requisite processing fee and prescribed documents shall be submitted by the firms to the registering authority. The registration application form, duly filled-in, when received from the firms shall be scrutinised carefully for assessing the capacity and capability of the firms including credentials, manufacturing capability, quality control system, past performance, after-sales service facilities, financial background, and so on, of the applicant. References shall be made to other firms of standing of whom the applicant firm claims to be a supplier/contractor. Likewise, the applicant firm's bankers may also be requested to advice about the financial standing of the firm. Registration of suppliers should be done with the approval of CA.
- f) In cases where the firm is not considered capable and registration cannot be granted, the concerned authority shall communicate the deficiencies and shortcomings direct to the firms under intimation to the appellate authority. Where a request for re- verification and review is made by the firm, along with any fee as prescribed and within the period prescribed by the Department, review shall be undertaken. Requests for re-verification after expiry of the said period would be treated as a fresh application and processing fee, if any prescribed, charged accordingly;
- g) Registration should be for specific trade groups of goods/works/services. For this purpose, all goods/ works/services should be divided into trade groups and the information published on the relevant portals/ websites;
- h) It should be mentioned in the letter of registration that the registration is valid for a period of one to three years and would be considered for extension based (on application by the supplier/contractor/service provider) on satisfactory performance of the firm. However, the registration would be initially treated as provisional and it would be

Chapter 3: Supplier Relationship Management

treated as confirmed only after the firm has satisfactorily executed one order of the relevant category and value from Procuring Entity. The extension of validity of registration is not a matter of right and Procuring Entity reserves the right not to extend such registration without assigning any reason. New supplier(s) may also be considered for registration at any time, provided they fulfil all the required conditions;

- i) All registered suppliers should be allocated a unique registration number. Once the firms are registered, a circular shall be issued by the registration authority indicating the names and addresses of the registered suppliers with details of the requirements and monetary value they will supply as well as the validity period, and so on, for which they are registered. The list of registered suppliers for the subject matter of procurement be exhibited on the Central Public Procurement Portal and websites of the Procuring Entity/ e-Procurement/ portals;
- j) Within the monetary limits so prescribed, as also for the category of registration, the registered firm may be exempted from depositing the Earnest Money Deposit (EMD). In other categories and higher monetary limits, the supplier would be treated as any unregistered supplier and not be entitled to the privileges of a registered supplier. The monetary limit or category, so laid down, does not, however, debar a firm from getting orders in excess of the monetary limit or for other categories, provided the Procuring Entity is satisfied about the capacity and capability of the firm but a requisite security deposit should be obtained, as is being done in the case of unregistered firms;
- k) Performance and conduct of every registered supplier is to be watched by the concerned Department. Procuring Entity should also reserve the right to remove firms who do not perform satisfactorily, even during the validity of registration (after giving due opportunity to the supplier to make a representation) if they fail to abide by the terms and conditions of the registration or fail to execute contracts on time or supply substandard goods or make any false declaration to any Government

agency or for any ground which, in the opinion of the Government, is not in public interest;

- I) Procuring Entity shall retain its option to reassess firms already registered, at any later date, to satisfy itself about the current financial soundness/credit worthiness, facilities available, and so on. Thereafter, Procuring Entity may decide to retain them as registered suppliers for the requirements and monetary limit earlier considered or with necessary changes as deemed fit. In case of adverse reports from the team of Procuring Entity officers who reassess the firm, Procuring Entity shall delete such firm from the registered suppliers list;

(Rule 150 of GFR 2017)

3.4.9 Empanelment of contractors: Public authorities may empanel/ register contractors of those specific goods and services which are required by them regularly. Performance of such empanelled contractors should be reviewed periodically. The list of registered contractors shall be updated on a regular basis. The category/ class of contractors may be upgraded/ downgraded or contractors may be de-listed based on their performance. Empanelment of contractors shall be done in a fair and equitable manner, preferably online after giving due publicity.

3.5 Debarment of Suppliers

3.5.1 Registration of suppliers and their eligibility to participate in Procurement Entity's procurements is subject to compliance with Code of Integrity for Public Procurement and good performance in contracts. Rule 151 of General Financial Rules (GFR), 2017 states the following regarding the 'Debarment from Bidding':-

- i. A bidder shall be debarred if he has been convicted of an offence-*
 - (a) under the Prevention of Corruption Act, 1988; or*
 - (b) the Indian Penal Code or any other law for the time being in force, for causing any loss of life or property or causing a threat to public health as part of execution of a public procurement contract.*
- ii. A bidder debarred under sub-section (i) or any successor of the bidder shall not be eligible to participate in a procurement process of any procuring entity for a period not exceeding three years commencing from the date of*

debarment. Department of Commerce (DGS&D) will maintain such list which will also be displayed on the website of DGS&D as well as Central Public Procurement Portal.

- iii. A procuring entity may debar a bidder or any of its successors, from participating in any procurement process undertaken by it, for a period not exceeding two years, if it determines that the bidder has breached the code of integrity. The Ministry/Department will maintain such list which will also be displayed on their website.*
- iv. The bidder shall not be debarred unless such bidder has been given a reasonable opportunity to represent against such debarment*

3.5.2 Since, DGS&D had been wind up on 31.10.2017, PPD, DoE did consultations on the issue of Debarment with major procuring Ministries/ Departments and issued the following 'Debarment Guidelines' in suppression to all earlier instructions on this subject³⁴.

3.5.3 Guidelines on Debarment of firms from Bidding

1. The guidelines are classified under following two types:-
 - i) In cases where debarment is proposed to be limited to a single Ministry, the appropriate Orders can be issued by that Ministry itself, thereby banning all its business dealing with the debarred firm.
 - ii) Where it is proposed to extend the debarment beyond the jurisdiction of the particular Ministry i.e. covering to all central Ministries/ Departments, the requisite Orders shall be issued by Department of Expenditure (DoE), Ministry of Finance (MoF).

Definitions

- a) Firm: The term 'firm' or 'bidder" has the same meaning for the purpose of these Guidelines, which includes an individual or person, a company, a cooperative society, a Hindu undivided family and an association or body of persons, whether incorporated or not, engaged in trade or business.

³⁴Notified vide OM No. F.1/20/2018-PPD issued by Department of Expenditure dated 02.11.2021

- b) Allied firm: All concerns which come within the sphere of effective influence of the debarred firms shall be treated as allied firms. In determining this, the following factors may be taken into consideration:
1. Whether the management is common;
 2. Majority interest in the management is held by the partners or directors of banned/ suspended firm;
 3. Substantial or majority shares are owned by the banned/ suspended firm and by virtue of this it has a controlling voice.
 4. Directly or indirectly controls, or is controlled by or is under common control with another bidder.
 5. All successor firms will also be considered as allied firms.

The terms “banning of firm”, ‘suspension’, ‘Black-Listing’ etc. convey the same meaning as of “Debarment”.

2. Debarment by a Single Ministry/ Department

Orders for Debarment of a firm(s) shall be passed by a Ministry/ Department/organizations, keeping in view of the following:

- i) A bidder or any of its successors may be debarred from participating in any procurement process for a period not exceeding two years.
- ii) Firms will be debarred if it is determined that the bidder has breached the code of integrity as per Rule 175 of GFRs 2017. (Refer to para 3.2 of this Manual for further reading on Code of Integrity).
- iii) A bidder can also be debarred for any actions or omissions by the bidder other than violation of code of integrity, which in the opinion of the Ministry/Department, warrants debarment, for the reasons like supply of sub-standard material, non-supply of material, abandonment of works, sub-standard quality of works, failure to abide “Bid Securing Declaration” etc.
- iv) It shall not be circulated to other Ministries/ Departments. It will only be applicable to all the attached/ subordinate offices, Autonomous bodies, Central Public Sector Undertakings (CPSUs) etc. of the Ministry/ Department issuing the debarment Order.
- v) The concerned Ministry/ Department before issuing the debarment order against a firm must ensure that reasonable opportunity has been given to the

concerned firm to represent against such debarment (including personal hearing, if requested by firm).

- vi) Secretary of Ministry/Department may nominate an officer at the rank of Joint Secretary/Additional Secretary as competent authority to debar the firms.
- vii) Ministry/ Department that issued the order of debarment can also issue an Order for revocation of debarment before the period of debarment is over, if there is adequate justification for the same. Ordinarily, the revocation of the Order before expiry of debarred period should be done with the approval of Secretary concerned of Ministry/Department.
- viii) The Ministry/Department will maintain list of debarred firms, which will also be displayed on its website.
- ix) Debarment is an executive function and should not be allocated to Vigilance Department.

3. It is possible that the firm may be debarred concurrently by more than one Ministry/ Department. Ministries/ Departments at their option may also delegate powers to debar bidders to their CPSUs, Attached Offices/ Autonomous Bodies etc. In such cases, broad principles for debarment in para 2 as above are to be kept in mind. Debarment by such bodies like CPSUs etc. shall be applicable only for the procurements made by such bodies. Similarly, Government e-Marketplace (GeM) can also debar bidders up to two years on its portal. In case of debarments done by CPSUs, revocation of the debarment orders before expiry of debarred period should be done only with the approval of Chief Executive Officer of concerned CPSUs etc.

4. **Debarment across All Ministries/ Departments**

- i) Where a Ministry/ Department is of the view that business dealings with a particular firm should be banned across all the Ministries/ Departments by debarring the firm from taking part in any bidding procedure floated by the Central Government Ministries/ Departments, the Ministry/ Department concerned, should after obtaining the approval of the Secretary concerned, forward to DoE a self-contained note setting out all the facts of the case and the justification for the proposed debarment, along with all the relevant papers and documents. DoE will issue the necessary orders after satisfying itself that proposed debarment across all the Ministries/ Departments is in accordance

with Rule 151 of GFRs, 2017. This scrutiny is intended to ensure uniformity of treatment in all cases.

- ii) The firm will remain in suspension mode (i.e. debarred) during the interim period till the final decision taken by DoE, only in the Ministry/ Department forwarding such proposal.
- iii) Ministry/ Department before forwarding the proposal to DoE must ensure that reasonable opportunity has been given to the concerned firm to represent against such debarment (including personal hearing, if requested by firm). If DoE realizes that sufficient opportunity has not be given to the firm to represent against the debarment, such debarment requests received from Ministries/ Departments shall be rejected.
- iv) DoE can also give additional opportunity, at their option, to firm to represent against proposed debarment. DoE can also take suo-moto action to debar the firms in certain circumstances.
- v) No contract of any kind whatsoever shall be placed on the debarred firm, including its allied firms by any Ministries/ Departments/ Attached/Subordinate offices of the Government of India including autonomous body, CPSUs etc. after the issue of a debarment order.
- vi) DoE will maintain list of such debarred firms, which will be displayed on Central Public Procurement Portal.

5. Revocation of Orders

- i) An order for debarment passed shall be deemed to have been automatically revoked on the expiry of that specified period and it will not be necessary to issue a specific formal order of revocation.
- ii) A debarment order may be revoked before the expiry of the Order, by the competent authority, if it is of the opinion that the disability already suffered is adequate in the circumstances of the case or for any other reason.

6. Other Provisions (common to both types of debarment)

- i) No contract of any kind whatsoever shall be placed to debarred firm including its allied firms after the issue of a debarment order by the Ministry/ Department. Bids from only such firms shall be considered for placement of contract, which are neither debarred on the date of opening of tender (first bid, normally called as technical bid, in case of two packet/two stage bidding) nor

debarred on the date of contract. Even in the cases of risk purchase, no contract should be placed on such debarred firms.

- ii) If case, any debar firms has submitted the bid, the same will be ignored. In case such firm is lowest (L-1), next lowest firm shall be considered as L-1. Bid security submitted by such debarred firms shall be returned to them.
- iii) Contracts concluded before the issue of the debarment order shall, not be affected by the debarment Orders.
- iv) The Debarment shall be automatically extended to all its allied firms. In case of joint venture/ consortium is debarred all partners will also stand debarred for the period specified in Debarment Order. The names of partners should be clearly specified in the “Debarment Order”.
- v) Debarment in any manner does not impact any other contractual or other legal rights of the procuring entities.
- vi) The period of debarment shall start from the date of issue of debarment order.
- vii) The Order of debarment will indicate the reason(s) in brief that lead to debarment of the firm.
- viii) Ordinarily, the period of debarment should not be less than six months.
- ix) In case of shortage of suppliers in a particular group, such debarments may also hurt the interest of procuring entities. In such cases, endeavour should be to pragmatically analyze the circumstances, try to reform the supplier and may get a written commitment from the supplier that its performance will improve.
- x) All Ministries/ Departments must align their existing Debarment Guidelines in conformity with these Guidelines. Further, bidding documents must also be suitably amended, if required.

3.5.4 Safeguarding Procuring Entity’s Interests during debarment of suppliers:

Suppliers are important assets for the procuring entities and punishing delinquent suppliers should be the last resort. It takes lot of time and effort to develop, register and mature a new supplier. In case of shortage of suppliers in a particular group of materials/equipment, such punishment may also hurt the interest of Procuring Entity. Therefore, views of the concerned Department may always be sought about the repercussions of such punitive action on the continuity of procurements. Past

records of performance of the supplier may also be given due weightage. In case of shortage of suppliers and in cases of less serious misdemeanours, the endeavour should be to pragmatically analyse the circumstances, reform the supplier and get a written commitment from the supplier that his performance will improve. If this fails, efforts should be to see if a temporary debarment can serve the purpose.

(Rule 151 of GFR 2017)

3.6 Compulsory Enlistment of Indian Agents

Ministries/ Departments if they so require, may enlist Indian agents, who desire to quote directly on behalf of their foreign principals³⁵. *(Rule 152 of GFR 2017)*

³⁵Rule 52 of GFR, 2017 amended vide OM No. F.26/2/2016-PPD issued by Department of Expenditure dated 25.07.2017.

Chapter 4: Modes of Procurement and Bidding Systems

4.1 Modes of Procurement

Offers from prospective bidders in public procurement must be invited according to a procedure that achieves a balance between the need for the widest competition, on one hand, and complexity of the procedure, on the other hand. Different modes of procurement and bidding systems are used to suit various procurement circumstances to achieve this balance. There are laid down procedures for delegation of powers of procurement to various competent authorities under different modes as shown in DPFR. Each procuring entity may also publish its own Schedule of Procurement Powers (SoPP) delegating such powers within the entity.

However, as mentioned in Para 1.3 (Applicability of this Manual), for procurements financed by Loans/Grants extended by International Agencies, like the World Bank, Asian Development Bank etc., the procurement procedures, as finalized and incorporated in the Articles of Agreements with such agencies for relevant Loans/grants after consideration and approval of the Ministry of Finance are to be followed.

The various modes of procurement that can be used in public procurement are:

1) Open Tenders

- a) Open Tender Enquiry (OTE); and
- b) Global Tender Enquiry (GTE)

2) Procurement through Selected Suppliers

- a) Limited Tender Enquiry - LTE (up to Rs. 25 (Rupees twenty-five) lakh);
and
- b) Special Limited Tender Enquiry (SLTE above Rs. 25 (Rupees twenty-five) lakh under special circumstances)

3) Nomination Basis Tenders

- a) Proprietary Article Certificate (PAC); and
- b) Single Tender Enquiry (STE) without PAC

4) Procurements without Calling Tenders

- a) Direct Procurement without Quotation;
- b) Direct Procurement by Purchase Committee;

5) Mandatory Procurement of Goods and Services for Goods or Services available on GeM

(Rule 158 of GFR 2017)

4.2 Open Tender Enquiry(OTE)

4.2.1 In OTE, an attempt is made to attract the widest possible competition by publishing the NIT simultaneously on the designated websites. This is the default mode of procurement and gives the best value for money but the procedure is relatively complex and prolonged. *The systemic cost of this procedure may be high enough to be unviable for smaller value procurements.* OTE procedures through e-procurement or through traditional tendering should be adopted in the following situations:

- i) Procurements exceeding the threshold of Rs. 25 lakh (Rupees Twenty Five Lakh);
- ii) All common use requirements with clear technical specifications;
- iii) For requirements that are ordinarily available in the open market but it is necessary to evaluate competitive offers to decide the most suitable and economical option available; and
- iv) When requirements are not available from known sources or sources are presently limited and need to be broad based. In such situations, even for procurements below Rs. 25 (Rupees twenty-five) lakh, OTE mode may be used, if warranted.

(Rule 161 of GFR 2017)

4.2.2 Terms and Conditions

- i) Bidders already registered are also free to participate;
- ii) Advertisement in such cases should be given on Central Public Procurement Portal (CPPP) at www.eprocure.gov.in and on GeM. An organisation having its own web site should also publish all its advertised tender enquiries on the web site. The procuring entity should also post the complete bidding

Chapter 4: Modes of Procurement and Bidding Systems

document in its web site and on CPPP to enable prospective bidders to make use of the document by downloading from the web site. The advertisements for invitation of tenders should give the complete web address from where the bidding documents can be downloaded. In order to promote wider participation and ease of bidding, no cost of tender document may be charged for the tender documents downloaded by the bidders.; and

- iii) The sale/ availability for downloading of tender documents against NIT should not be restricted and should be available freely. Tender documents should preferably be sold/ available for download up to the date of opening of tenders.
- iv) The tender documents should be prepared on the basis of the relevant approved SBD for the category of procurement. Further details on preparing tender documents are provided in Chapter 6.
- v) The procuring entity shall maintain proper records about the number of tender documents sold, list of parties to whom sold, details of the amount received through sale and, also, the number of unsold tender documents, which are to be cancelled after the opening of the tenders.

4.2.3 OTE - Risks and Mitigations	
Risk	Mitigation
<p>Since the crux of this mode of procurement is attracting bids from all possible prospective bidders. The risk is that this may not be achieved, even after incurring extra cost of open tendering. This could be due to</p> <ul style="list-style-type: none"> • Insufficient publicity; • Hindrances in availability of bid documents; • insufficient time for bid preparation; or • Due to onerous cost of bid-documents or EMD 	<p>It should be ensured that the NIT on the website is easily searchable and visible, not hidden under layers of clicks. The matter should not be left entirely to the website or media publicity alone. Due diligence should be done to locate likely bidders (including past bidders) and their attention should be drawn through SMS/mail/email. All registered vendors/contractors (in particular past successful vendors/contractors) should be given intimation about forthcoming tenders via SMS/mail/ email.</p> <p>Further a limited or open tender which results in only one effective offer shall be treated as a single tender enquiry situation, with relevant powers of approval etc.</p> <p>It should be also ensured that there is no impediment to issue/access of bid documents.</p> <p>The due date fixed for opening of the tender shall</p>

4.2.3 OTE - Risks and Mitigations	
Risk	Mitigation
	<p>be minimum 21 (twenty-one) days from the date of advertisement which may vary, taking into account the nature of material called for and delivery requirements. The due date may be subsequently extended with the approval of the CA, only if it is felt necessary to have better competition.</p> <p>The tender documents, shall be priced minimally (if at all priced, refer Para 5.2.1 Cost and Availability of Tender Documents) keeping in view the value of the tender as also the cost of preparation and publicity of the tender documents.</p> <p>EMD should be sufficient to ensure that bidders honour their bids but at the same time should not be large enough to reduce competition.</p>
Lack of clarity in description/ specification of requirement or undue stringency in qualifying criteria or other conditions	Mitigations of such risks can be addressed at the time of need assessment and procurement planning (please refer to Chapter 2), so as to attract adequate competition.

4.3 Global Tender Enquiry(GTE)

4.3.1 GTE is similar to OTE but, through appropriate advertising and provision for payment in Foreign Currencies through Letter of Credit, it is aimed at inviting the participation of inter-alia foreign firms. *The point of balance between VfM and cost/ complexity of procedure is further aggravated as compared to OTE. Development of local industry also needs to be kept in mind. Hence, it may be viable only in following situations:*

- i) Where Goods of required specifications/quality are not available within the country and alternatives available in the country are not suitable for the purpose;
- ii) Non-existence of a local branch of the global principal of the manufacturer/vendors/ contractors;
- iii) Requirement for compliance to specific international standards in technical specifications; and

Chapter 4: Modes of Procurement and Bidding Systems

- iv) Absence of a sufficient number of competent domestic bidders likely to comply with the required technical specifications, and in case of suspected cartel formation among indigenous bidders.

(Rule 161 of GFR 2017)

4.3.2 Terms and Conditions

- i) Advertisement in such cases should be given on Central Public Procurement Portal (CPPP) at www.eprocure.gov.in and on GeM. An organisation having its own web site should also publish all its advertised tender enquiries on the web site. The procuring entity should also post the complete bidding document in its web site and on CPPP to enable prospective bidders to make use of the document by downloading from the web site. The advertisements for invitation of tenders should give the complete web address from where the bidding documents can be downloaded. In order to promote wider participation and ease of bidding, no cost of tender document may be charged for the tender documents downloaded by the bidders.; and
- ii) The sale/ availability for downloading of tender documents against NIT should not be restricted and should be available freely. Tender documents should preferably be sold/ available for download upto the date of opening of tenders; and
- iii) The tender documents, shall be priced minimally (if at all priced, refer Para 5.2.1 Cost and Availability of Tender Documents) keeping in view the value of the tender as also the cost of preparation and publicity of the tender documents;
- iv) GTE tender documents must be in English and the price should be asked in Indian Rupees or US Dollars or Euros or Pound Sterling or Yen or in currencies under the Reserve Bank of India's notified basket of currencies;
- v) GTE tender documents must contain technical specifications which are in accordance with national requirements or else based on an international trade standard;
- vi) In such cases e-procurement may not be mandatorily insisted upon.
- vii) The due date fixed for opening of the tender shall be minimum four weeks from the date of advertisement which may vary taking into account the nature of material called for as well as the time required to prepare the bids. The due

date may be subsequently extended with the approval of the CA only to promote better competition and also considering account delivery requirement; and

viii) Relevant INCOTERMS should be included in the tender.

4.3.3 No Global Tender Enquiry (GTE) up to Rs. 200 crores³⁶ shall be invited or such limit as may be prescribed by the Department of Expenditure from time to time. In exceptional cases where the Ministry or Department feels that there are special reasons for inviting GTE, for tenders below such limit, it may record its detailed justification and seek prior approval for relaxation from the Competent Authority specified by the Department of Expenditure.

- a) The proposal for approval shall be submitted by Administrative Ministry with the concurrence of Financial Advisor and approval of Secretary concerned. The proposals submitted by individual offices/ organisation (e.g. autonomous bodies, Central Public Sector Undertakings and subordinate offices of Central Government etc.) will not be entertained.
- b) The proposals shall be submitted along with duly filled format³⁷ (placed at Annexure-2D).

4.3.4 Before sending the proposals for approvals of the Global Tenders, following is to be ensured:-

- a) Domestic open tender must be floated to identify the domestic manufacturers/ service providers for the items/ services for which approval is being sought for issuance of Global Tenders. In case, if the Ministry/ Department has not floated a domestic open tender after 15.05.2020 for the items to be procured through GTE, such proposals will not be entertained. The proposal must contain the details of domestic open tenders, issued after 15.05.2020. These details shall cover tender number, date of opening, number of offers received, details of offers received, reasons why domestic suppliers were not considered etc.

³⁶Rule 161 of GFR, 2017 Amended vide DoE OM No. F.12/17/2019-PPD dated 15.05.2020.

³⁷Issued by Cabinet Secretariat vide ID No. 213/2/1/2020-C,A,IV dated 06.10.2020

Chapter 4: Modes of Procurement and Bidding Systems

- b) The proposal must contain the details of deliberations with DPIIT/ relevant industrial bodies for identification of domestic manufacturers/ service providers.
- c) The 3/5-year procurement plan as mandated by Public Procurement (Preference to Make in India) (PPP-MII) order issued by DPIIT must be published on website, before forwarding proposals for the purpose of procurement through GTE. Web-link of published procurement plan should be provided in proposal.

4.3.5 Exemptions/ Clarifications

- a) For procurement of specialised equipments required for research purposes, and spares and consumables, for such equipments up to Rs. 200 crore for the use of Educational and Research Institutes, Secretary of Ministry/ Department concerned shall be the competent authority to approve issue of Global Tender Enquiries for such requirements subject to fulfilment of conditions as laid down in para 4.3.6 below. The equipment should be of specialized nature required for research purposes and not the routine equipment used in offices³⁸.
- b) On procurement of spare parts of the equipments/ Plants & Machinery etc. on nomination basis from Original Equipments Manufacturers (OEMs) or Original Equipment Suppliers (OES) or Original Part Manufacturers (OPMs) as no competitive tenders are invited in such cases³⁹.
- c) On procurement of services like Annual Maintenance Contract (AMC) and auxiliary/ add-on components for existing equipments/ Plant & Machinery etc. , which are procured from OEM/ OES/ OPM on nomination basis, as no competitive tenders are invited in such cases⁴⁰.
- d) Where procuring entities need to issue GTEs to fulfil contractual commitments/ obligations entered by them before 15.05.2020 i.e. bid has been submitted by them to their clients before 15.05.2020. similarly, where

³⁸Notified vide OM No. 4/1/2021-PPD issued by Department of Expenditure dated 11.06.2021)

³⁹Notified vide OM No. 12/17/2019-PPD issued by Department of Expenditure dated 29.10.2020

⁴⁰Notified vide OM No.F.4/1/2021-PPD issued by Department of Expenditure dated 01.09.2021

procuring entities need to issue GTEs in view of existing collaboration agreements entered by them with foreign suppliers before 15.05.2020⁴¹.

- e) Based on the reference received from Ministry of Health & Family Welfare (MoHFW), GTE can be floated for 128 Medical Devices (placed at Annexure-2E). The exemptions is provided for such items till 31.03.2023. MoHFW will review domestic availability of these items at the end of 2022, keeping in view the Production Linked Incentive (PLI) scheme etc. launched by Department of Pharmaceuticals in Medical Devices and other relevant factors, in consultation with Department of Expenditure⁴².
- f) For projects funded by Multilateral Development Banks (MDBs like The World Bank, Asian Development Bank etc.)/ Bilateral Funding Agencies (BFAs), where the procurement is governed by the conditions negotiated in the loan agreement, and where the project executing agencies from time to time further award works to various Autonomous Bodies (ABs)/ Central Public Sector Enterprises (CPSEs) etc., the Secretary of the Ministry/ Department responsible for execution of such project shall be the Competent Authority for approval for issuance of GTEs by such Autonomous Bodies/ CPSEs etc⁴³.
- g) Exemption to semiconductor..

4.3.6 [Refer to para 4.3.5 (a) above]

4.3.6.1 Educational, Research institutions and other units will make full efforts towards reducing of imports in following manner. This will result in substantial effects both within the institutions and also through impact on the eco-system:-

- a) Identification of equipment being procured time and again from abroad, and help developing them in India by identifying potential manufacturers and providing them technical help and expertise for developing the equipment. This programme will be coordinated by the Empowered Technology Group (constituted by Cabinet and chaired by the Principal Scientific Advisor (PSA).
- b) Efforts to promote technology transfer through agreements or to encourage technological collaboration with foreign manufacturing in India at the Start-ups set up in Research Parks.

⁴¹Notified vide OM No. 4/1/2021-PPD issued by Department of Expenditure dated 12.03.2021

⁴²Notified vide OM No. F.4/1/2021-PPD issued by Department of Expenditure dated 06.01.2022

⁴³Notified vide OM No. F.7/12/2021-PPD-I issued by Department of Expenditure dated 27.07.2021

- c) Sharing and updating of information about the availability of research equipment across various Indian Institutes on a single portal (the I-STEM⁴⁴ portal has been developed for this purpose) so that those can be utilized by the needy institutes.
- d) Without compromising quality, Institutes should indicate alternative/ equivalent technical specifications that could suit their requirement, so that there are more chances of local manufacturers participate in the tendering process.
- e) Regular interaction between academia and Indian industry organizations at the level of the institution about the requirement of equipment of foreign origin and for encouraging the domestic manufacturing.
- f) Regular requirement of proprietary/ non-proprietary research consumables may be assessed and domestic alternatives are explored for use.
- g) A national level programme for indigenous development of scientific equipment be initiated by the Office of PSA.
- h) Without compromising quality, institutes should be flexible with specifications so that domestic manufactures are encouraged to meet requirements.

4.3.6.2 Guidelines for resorting to GTE

- a) Market assessment should be done by the concerned institution, as certified by the Head of the Institution. Only after no Indian manufacturer is found, a GTE should be issued.
- b) In case no Indian manufacturer/ suppliers are found, procurement may be done, through GTE, subject to compliance of provisions of GFR and requirement of procurement through GeM.
- c) DEAN (R&D) or an appropriate authority within the institute will issue certificates as per para 4.3.6.3 below, before inviting GTE. As a reporting matter in the Board of Governors, such certificates should be tabled, and also shared with Office of the PSA, DPIIT and concerned Administrative Ministry.
- d) The information about the procurement of equipment should be shared across various Educational and Research Institutes, through the I-STEM portal, already established for this purpose by the PSA's office. This will allow the equipment to be used by other institutions too, for research purposes.

⁴⁴<https://www.istem.gov.in/>

- e) Analyze the equipment being procured time and again from abroad, and help developing them in India by identifying potential manufacturers and providing them technical assistance and expertise for developing the equipment. Half yearly reports on this action to be shared by the Institutes with the Office of the PSA, DPIIT and concerned Administrative Ministry/ A national level scheme will also be initiated by the Office of PSA for indigenous development of scientific equipment.
- f) Preference to local suppliers over foreign supplier as per the existing Government of India guidelines, should be observed as applicable.

4.3.6.3 Certificates to be issued

- a) Confirmation of non-availability in India of particular equipment/ consumables of foreign origin through GeM and other sources.
- b) Certification that locally available alternatives with equivalent specifications are not suitable for research purposes.
- c) The non-availability of such equipment for research purposes with nearby research institutes or within the institute.
- d) Certification of the requirement of proprietary items of foreign origin for research purposes (where applicable).

4.3.7 GTE - Risks and Mitigations	
Risks	Mitigations
Risks are same as in OTE	Same mitigation as in case of OTE also applies here.
Moreover, publicity may not reach targeted foreign bidders	NIT should also be sent to commercial attachés in foreign embassies in India and to Indian embassies in relevant foreign countries for inviting the attention of likely foreign bidders. The selection of the embassies will depend on the possibility of availability of the required goods in such countries.
Involvement of agents of foreign bidders in GTE procurements is also a major risk area	Procurements should preferably be made directly from the manufacturers. Either the agent on behalf of the foreign principal or the foreign principal directly could bid in a tender, but not both. Further, in cases where agents participate in a tender on behalf of one manufacturer, they should not be allowed to quote on behalf of another manufacturer along with the first manufacturer. Commissions and scope of services to/by the agents should be explicit and transparent in the

4.3.7 GTE - Risks and Mitigations	
Risks	Mitigations
	bids/contracts

4.4 Limited Tender Enquiry(LTE)

4.4.1 LTE is a restricted competition procurement, where a preselected list of vendors is directly approached for bidding; bids from uninvited bidders are treated as unsolicited and are normally not entertained, except in special circumstances. *This mode provides a short and simple procedure, but may not provide as good a VfM as in case of open tendering – still a good balance for procurements below a threshold. LTE procedures should be default mode of procurement when the estimated value of procurement is between Rs. 2.5lakh to Rs. 25 lakh (Rupees two and a half Lakh to Twenty-five Lakh).* The bidding documents should be simple normally consisting a single page with terms and conditions printed overleaf.

(Rule 162 of GFR 2017)

4.4.2 Terms and Conditions

- i) Copies of the bidding documents should be sent free of cost (except in case of priced specifications/ drawings) directly by speed post/courier/e-mail to firms which are registered vendors/ contractors. Further, Procuring Entity should also mandatorily publish its limited tender enquiries on Central Public Procurement Portal (CPPP). Apart from CPPP, the organisations should publish the tender enquiries on the Department's or Ministry's web site.
- ii) A simplified single Page Bid Document (Annexure 5) should be used, instead of a detailed Bid Document. The minimum number of bidders to whom LTE should be sent is more than three. In case less than three approved vendors/contractors are available, LTE may be sent to the available approved vendors/contractors with approval of the CA, duly recording the reasons. The

requirement should then be marked for development of more sources by the Supplier Registration section.

4.4.3 LTE - Risks and Mitigations	
Risk	Mitigation
Major risk in this mode is that the demand may be artificially split to avoid OTE or higher level approvals	The e-procurement portal maybe programmed to raise an alert if the same item is attempted to be procured through LTE repeatedly. Audit should take up a larger percentage of cases in LTE for review.
There is a risk that LTE may not attract sufficient number of bids and sometimes there may be a single acceptable offer. This may be because of an insufficient database of registered/known vendors. It could also be due to bid documents not reaching the targeted bidders – intentionally or otherwise. It could also be due to bidders not getting adequate time for submission of bids. On the other hand, unsolicited bidders may also quote – causing a transparency dilemma about consideration of such offers.	Maintenance of list of registered suppliers is a sine-qua-non for LTE. The List of registered vendors needs to be reviewed perpetually to ensure adequate number of qualified suppliers To ensure sufficient response, in addition to mails/emails to selected vendors, web-based publicity should be given for limited tenders, with suitable clarifications that unsolicited bids shall not be considered. Further a limited or open tender which results in only one effective offer shall be treated as a single tender enquiry situation, with relevant powers of approval etc. Adequate time should be given for submission of quotes, which should not be less than three weeks. A longer period (six weeks) could be given in case of import of the materials and, in complex cases, if justifications are given and allowed.
There is also a risk that the selection of vendors may not be transparent. At the evaluation stage, some invited bidders may be passed over on grounds of being ineligible/unreliable.	All major procuring Departments must keep a list of registered bidders for use in restricted bidding. Suppliers or contractors should be selected in a non-discriminatory manner. All past successful vendors/bidders should invariably be invited. In case it is proposed to exclude any registered/approved vendor/ contractor from being shortlisted for inviting LTE, detailed reasons, such as failure in supply, should be duly recorded and approval of the CA be taken before exclusion. The selection of bidders

4.4.3 LTE - Risks and Mitigations	
Risk	Mitigation
	should be with due diligence, to ensure that bidders who do not meet eligibility criteria do not get shortlisted. At the evaluation stage, in LTE, passing over of a duly shortlisted bidder on grounds of poor past performance or eligibility may raise questions about transparency.

4.5 Special Limited Tender Enquiry for Procurements More than Rs. 25 (Rupees twenty-five) Lakh

4.5.1 LTE mode, even for values higher than Rs. 25lakh (Rupees Twenty-five Lakh) (*Rule 162 of GFR 2017*), where normally OTE should have been done, is permissible in certain special circumstances as follows. Powers to sanction procurement on LTE basis in such special cases may be laid down in SoPP based on a certificate of urgency signed by the indenter. *This mode has the merit of being quicker but VfM obtained may be less than in case of OTE; hence it should be restricted to rare situations:*

- i) The competent authority in the Ministry / Department certifies that there is an existing or prospective urgency for operational or technical requirements and any additional expenditure involved by not procuring through advertised tender enquiry is justified in view of urgency. The Ministry/Department should also put on record the nature of the urgency and reasons why the procurement could not be anticipated earlier.
- ii) There are sufficient reasons, to be recorded in writing by the competent authority, indicating that it will not be in public interest to procure the goods through advertised tender enquiry.
- iii) The sources of supply are definitely known and possibility of fresh source(s) beyond those being tapped is remote.
- iv) Nature of items to be procured is such that pre-verification of competence of firm is essential, hence requires registration of firms.; and
- v) Government policy designates procurement from specific agencies.

4.5.2 Terms and Conditions

- i) The tendering process would be same as in the case of a normal LTE described above. However, the bidding documents are more detailed as in the case of OTE; and
- ii) The indenter should certify that there is an existing or prospective urgency for operational or technical requirements and any additional expenditure involved by not procuring through an advertised tender enquiry is justified in view of urgency. The indenter should also put on record the nature of the urgency and reasons why the procurement could not be anticipated.

4.5.3 SLTE - Risks and Mitigations	
<i>Risk</i>	<i>Mitigation</i>
Risks as applicable in both LTE and OTE are also applicable here. In addition there is a risk that this mode may be used unjustifiably to avoid open tendering (OTE).	All mitigation strategies of LTE and OTE would apply here also. In addition the systems of checks and balances should be tighter by way of enhanced and severely restricted delegation of powers in this regard for certification of urgency and approval of this mode of procurement. A system of reports from the authority signing the urgency certificate and post facto review of utilisation of received goods/works/services to tackle the expressed urgency may be laid down. Audit should take up the bulk of such cases for review to judge the genuineness of urgency certification.

4.6 Proprietary Article Certificate

4.6.1 In procurement of goods, certain items are procured only from Original Equipment Manufacturers (OEMs) or manufacturers having proprietary rights (or their authorised dealers/stockists) against a PAC certificate (Annexure 6) signed by the appropriate authority. Once a PAC is signed at the designated level as per SoPP, the powers of procurement are the same as in normal conditions as per the delegation of powers. *This mode may be shortest but since it may provide lesser VfM as compared to LTE/OTE and also strains the transparency principle, it should be used only in justifiable situations.*

(Rule 166 of GFR 2017)

4.6.2 Terms and Conditions

- i) Users should enclose, with their Indent, a PAC certificate indicating the justification and approval at the appropriate level as per DPFR/ SoPP, for sourcing an item from OEM or PAC firms or their authorised agents;
- ii) Proprietary items shall be purchased only from a nominated manufacturer or its authorised dealer as recorded in the PAC certificate;
- iii) In certain unavoidable cases, the procuring authority may have no alternative but to waive payment of EMD/SD for procurement on a proprietary basis;
- iv) To the extent feasible, the firm may be asked to certify that the rates quoted by them are the same and not higher than those quoted with other Government, public sector or private organisations;
- v) In case of PAC/single tender procurements⁴⁵:
 - a) Reports relating to such awards should be submitted to the Ministry every quarter;
 - b) Internal audit may be required to check at least 10 (ten) per cent of such cases; and
 - c) Details of such contracts should be published on the website of the Procuring Entity.

4.6.3 PAC - Risks and Mitigations	
<i>Risk</i>	<i>Mitigation</i>
There is a risk that this mode may get used unjustifiably to restrict competition. Such risks get aggravated, in case of secrecy about such procedures as alternative vendor/contractors may not even come to know about such opportunities	The delegation of powers should be restricted for signing of PAC. Audit may take-up 10 (ten) per cent of cases of PAC procurements for review. Even in PAC procurements the NIT and the Award of Contract should be put on the website of CPPP and Procuring Entity.
Once approved, there is a risk of a nexus getting developed and the mode may continue to be used for many years,	No item should be procured on PAC basis for more than three years, after which a mandatory OTE mode may be

⁴⁵<http://cvc.nic.in/005crd19.pdf>; <http://cvc.nic.in/OfficeOrderNo23-7-07.pdf>;
<http://cvc.gov.in/Transparency20052010.pdf>

4.6.3 PAC - Risks and Mitigations	
Risk	Mitigation
without fresh application of mind	used, to test the market
The bidder may charge a price higher than the market	The firm should be asked to accept a “fall clause” undertaking that, in case it supplies or quotes a lower rate to other Governments, public sector or private organisations, it would reimburse the excess. Negotiations may be called for to get prices reduced

4.7 Single Tender Enquiry (STE) without a PAC

4.7.1 A tender invitation to one firm only without a PAC certificate is called a single tender. *This mode may be shortest but since it may provide lesser VfM as compared to LTE/OTE and may also strain the transparency principle, it should be resorted to only under following conditions:*

- i) In a case of existing or prospective emergency relating to operational or technical requirements to be certified by the indenter, the required goods are necessarily to be purchased from a particular source subject to the reason for such decision being recorded and approval of the competent authority obtained.
- ii) For standardization of machinery or components or spare parts to be compatible to the existing sets of machinery/equipment (on the advice of a competent technical expert and approved by the competent authority), the required goods are to be purchased only from a selected firm.

(Rule 166 of GFR 2017)

4.7.2 Terms and Conditions

- i) The reasons for a STE and selection of a particular firm must be recorded and approved by the CA as per the delegation of powers laid down at in DPFR/SoPP, prior to single tendering. Unlike in PAC, powers of procurement of STE are more restricted; and
- ii) Other terms and conditions of PAC procurement mentioned above would also apply in this case.

Chapter 4: Modes of Procurement and Bidding Systems

- iii) All works/purchase/ consultancy contracts awarded on nomination basis should be brought to the notice of following authorities for information-
- (a) The Secretary, in case of ministries/departments.
 - (b) The Board of directors or equivalent managing body, in case of Public Sector Undertakings, Public Sector Banks, Insurance companies, etc;
 - (c) The Chief Executive of the organisation where such a managing body is not in existence.
1. The report relating to such awards on nomination basis shall be submitted to the Secretary/Board/Chief Executive /equivalent managing body, every quarter.
 2. The audit committee or similar unit in the organisation may be required to check at least 10% of such cases.

4.7.3 STE - Risks and Mitigations	
<i>Risk</i>	<i>Mitigation</i>
Same but more heightened risks than PAC are present in this mode. Selection of a single vendor may be non-transparent and unjustified	Same mitigation strategies as in the case of PAC should apply. Procurements on a STE basis should be made from reputed firms after determining reasonableness of rates. Powers of procurement of STE should be severely restricted.

4.8 Drawals against Rate Contract (RC)/Framework Contract (FC)

- a) 4.8.1 RC is essentially a price agreement with the vendors/contractors at a specified price and terms and conditions during the period covered by the RC. No quantity is mentioned nor is any minimum commitment guaranteed in the RC. RC is most frequently used in procurement of goods, but can as well be used mutadis mutandis in works, services and consultancy – where it is commonly known as a Framework Contract (FC). *For appropriate items (please see para 4.8.3 below), drawals against an existing RC exploits the power of collaboration/ clubbing of numerous small and frequent requirements and thus provides best VfM along with a simple and quick procedure.* However, entering into a new RC may have the same procedural complexity,

prolonged timeframe and systemic cost as in OTE, which may not be viable for low volumes. In view of Government e Marketplace (please see para 4.17 below) coming into operation, Rate Contract is not required to be executed for common use items like computers, printers, photocopiers, paper and stationary, other office items like furniture, bottled water etc., which are being placed on GeM and will now be applicable only for specialized and engineering items which are not available on GeM, and are identified as common use items and are needed on recurring basis by various Central Government Ministries or Departments..

4.8.2 Rate Contracts - Risks and Mitigations	
Risk	Mitigation
<p>Rate contract is not a right mode of procurement for critical, strategic and vital requirements, since the buyer – seller relationships is tripartite and the timely supply of requirements and penalties thereof can be so strictly enforced as in other modes of procurements. Moreover the RC holder is more beholden to the Central Purchase Organisation than to end-customer.</p> <p>In situations of items with inadequate annual or seasonal capacities in market, the RC holders may dump material on Procuring entity at wrong seasons and starve them in working seasons. This happens in say Cement, when Government Buyers are likely to be saddled with huge supplies during rainy season, but RC holders may divert bulk of supplies to private market in working season.</p> <p>RC Purchase is not suitable for requirements of dynamic Technological and price changes e.g. PCs, Laptops, Tablets, Servers, Mobile Phones – where the price of older models may crash as soon as a model is announced. RC holders may slow down supplies initially, but dump supplier when prices crash in the market.</p>	<p>RCs may be avoided for critical/ strategic and vital requirements. Central Purchase Organisation may also tighten up enforcement of delivery performance and penalties thereof.</p> <p>For seasonal and short-supply items CPO may monitor and provide clauses to prevent dumping and starving of supplies.</p> <p>In Technologically fast changing products, CPO may keep watch on the market prices and renegotiate prices as soon as market prices fall significantly due to new arrivals.</p>

4.8.2 Rate Contracts - Risks and Mitigations	
Risk	Mitigation
The existence of RCs may not be adequately made known to possible users. Moreover, the reverse risk is that many different offices may keep procuring the same item independently, thus missing the potential benefits of bulk prices and simplified processes if such items were brought under an RC	The descriptions, specifications and other salient details of all RC appropriately updated, should be available on the website of DGS&D and Procuring Entity as well as the e-Procurement portal. The e-procurement system should be able to offer alerts about availability of RC, if an attempt is made to float a tender for the same item. To derive benefit from bulk prices in RC, all offices should furnish to the RC agency, their annual requirement of items to enable finalising of RCs after inviting quotations. DGS&D may also extract information from e-procurement portals.
RC procurements are at risk of being ordered in excess of actual requirements, since the procurement scrutiny may not be as intense as in case of other modes of procurements.	The quantity being ordered should be subject to the same level of scrutiny as in other modes of procurement to ensure that there is no abnormal unexplainable trend in procurement.
Wherever there are parallel RCs for the same item from a number of firms, there may be intense and often unhealthy lobbying (including corrupt practices) from them to seek orders.	<p>Departments must put in place adequate guidelines to handle RC procurements, including a transparent system of choosing the RC holders by rotation in a transparent manner in case of parallel RCs. The delegation of powers in this regard should also be restricted keeping these risks in view. A suggest guidelines is given below:</p> <p>1 For selecting the DGS&D Rate contract holders for ordering, following factors may be kept in view:</p> <ul style="list-style-type: none"> (i) The Rate Contract Price; (ii) The past performance of firm with reference to their capacity, quality of supplies as well as timely delivery of the goods; (iii) The delivery date committed by the firm with respect to the deli very requirement of the Procuring Entity; (iv) The proximity of the rate contract holder wherever the proximity is

4.8.2 Rate Contracts - Risks and Mitigations	
Risk	Mitigation
	<p>considered crucial for timely delivery, ease of progressing and from the point of view of logistics and contract management etc.; and</p> <p>(v) The need for reputed brands in the case of sensitive, critical and selective applications.</p> <p>(vi) In case of number of firms meeting such criteria, orders may be split or rotated in a transparent manner.</p> <p>2. The Procuring Entity should maintain suitable records of RC firms for past performance in respect of timely delivery and quality.</p> <p>3. Wherever, there are failures against the rate contract in terms of timely delivery and quality of goods, such failures should be reported to DGS&D and direct alternate procurement action may be taken in order to ensure timely availability of quality materials to meet the needs of the Procuring Entity.</p>

4.9 Direct Procurement without Quotation

4.9.1 Direct procurement of goods without formal quotations is normally done for the smallest value procurements. This is also called petty purchase. It should be used for off-the-shelf goods of simple and standard specifications and when the required goods (of required specification or within required delivery period etc.) are not available on GeM⁴⁶. However, it is mandatory for a buyer to generate a “GeM Availability Report and Past Transaction Summary” (GeMAR&PTS)⁴⁷ with a unique ID on GeM portal using his login credentials on GeM for procurement outside GeM. *The procedure is the simplest and quickest but VfM may be poor; hence it is suitable only in very low value, urgent and simple requirements in the following situations:*

⁴⁶As stipulated in Department of Expenditure OM No. 6/1/2018-PPD dated 19.01.2018

⁴⁷Notified vide OM No. F.6.18.2019-PPD issued by Department of Expenditure dated 11.06.2021.

Chapter 4: Modes of Procurement and Bidding Systems

- i) Procurements do not exceed the threshold (for each requirement) of Rs. 25,000 (Rupees Twenty-five Thousand) for each case;
- ii) The requirement is urgent but was not covered in the procurement plan; and
- iii) The requirement is for off-the-shelf goods of simple and standard specifications. Examples of procurement are day-to-day needs of the office and field units, and so on.

(Rule 154 of GFR 2017)

4.9.2 Terms and Conditions

- i) The competent officer of the procuring entity can initiate and complete this purchase after diligent enquiries from the market and filling the certificate prescribed (Annexure 7). Such powers to a limited extent can also be given to various user sections for operational needs.
- ii) Normally an imprest amount (with facilities for cheque payments) sufficient for two months' estimated procurements can be sanctioned for such officers to handle such procurements. The imprest amount can be recouped on monthly basis by submission of expense vouchers.
- iii) In a summary form, records should be kept of the vendors/contractors approached and prices indicated by them.
- iv) Selection of seller by diligent market enquiry is of essence of this mode of procurement.
- v) In larger cities, the presence of reputed Shopping Malls may also be included in the market survey. Reputed internet shopping portals may also be explored.

4.9.3 Direct Procurement without Quotations - Risks and Mitigations	
<i>Risk</i>	<i>Mitigation</i>
The main risk is splitting of demand to avoid higher approvals or higher modes of procurements.	Supervisors should carry out periodic review of such procurements to ensure that the demand is not split into small quantities for the sole purpose of avoiding the necessity of getting an approval from the higher authority required for sanctioning the purchase of the original demand or for avoiding LTE or OTE mode of procurement. An annual review of such procurements shall be

4.9.3 Direct Procurement without Quotations - Risks and Mitigations	
<i>Risk</i>	<i>Mitigation</i>
	<p>carried out to ensure that future anticipated requirements are clubbed and procured through LTE/ OTE/ RC.</p> <p>To keep a better control, an annual ceiling may be fixed for each office for such a mode of procurement say Rupees five Lakh for each office per year Each office should maintain records to monitor such limits</p>
<p>Over a period of time intentionally or otherwise, the due diligence of enquiries from market may degenerate into a mechanical obtaining of quotations, leading to development of nexus and crony suppliers. Vendor selection may actually be manipulated with fake supporting vouchers. Since such small value materials do not undergo accounting and inventory control, the risk of development of a nexus, leakages and fake procurements and payments are there. The same set of vendors may get patronised repeatedly for a wide variety of requirements. Since only cursory visual inspections are done, quality may be at risk.</p>	<p>Supervisors should cross check a percentage of cases in the market for prices, fake vouchers, and so on. Supervisors should also check that the same vendor(s) is not being patronised repeatedly. For the sake of transparency, payments should be made by cheque or through Electronic Clearance Service except that cash payment may be allowed up to Rs. 5,000 (Rupees Five thousand). Staff involved with such procurements should not continue in the same role for long and should be rotated frequently.</p>

4.10 Direct Procurement by Purchase Committee

4.10.1 This mode of procurement is used for procurements valued above Rs. 25,000/- (Rupees Twenty-five Thousand) and upto Rs. 2,50,000 (Rupees Two Lakh Fifty Thousand) only on each occasion. It is made by a local purchase committee constituted by HOD only in case when a certain item is not available on the GeM portal (of required specification or within required delivery period etc.)⁴⁸. However, it is mandatory for a buyer to generate a “GeM Availability Report and Past Transaction Summary” (GeMAR&PTS)⁴⁹ with a unique ID on GeM portal using his login credentials on GeM for procurement outside GeM. This mode of procurement is

⁴⁸As stipulated in Department of Expenditure OM No. 6/1/2018-PPD dated 19.01.2018

⁴⁹Notified vide OM No. F,6,18,2019-PPD issued by Department of Expenditure dated 11th June, 2021.

described in parlance of procurement of goods; however, in principle, it is equally applicable to contingency expenditure on small works/services also. *This procedure is slightly more complex and is likely to provide better VfM than direct procurement without quotation and hence is suitable for marginally higher thresholds*

(Rule 155 of GFR 2017)

4.10.2 Terms and Conditions

- i) The controlling ministry may lay down an annual ceiling value per office/unit for such procurements;
- ii) In case of emergency procurement, facility of withdrawing requisite advance cash amount and its subsequent accountal may also be considered.
- iii) This is intended to be fast track, simple mode of procurement. The committee will survey the market to ascertain the reasonableness of rate, quality and specifications and identify the appropriate supplier.
- iv) Selection of suitable product and supplier by actual market survey (not by calling of tenders like a mini LTE) is of essence of this mode.
- v) Before recommending placement of the purchase order, members of the committee will jointly record the certificate prescribed (Annexure 8); and
- vi) In larger cities, the presence of reputed Shopping Malls may also be included in the market survey. Reputed internet shopping portals may also be explored.

4.10.3 Direct Procurement by Purchase Committee - Risks and Mitigations	
<i>Risk</i>	<i>Mitigation</i>
Risks are the same as in the case of direct procurement without quotation mentioned above, with mitigation due to involvement of three members. Over a period of time intentionally or otherwise, the due diligence of enquiries from market may degenerate into a system of floating and obtaining of limited tenders, leading to delays, development of nexus and crony suppliers.	Mitigation strategies are also the same as in direct procurement without quotation.

4.11 Purchase through Central Purchase Organisation or other Organizations

4.11.1 Departments/ Organisations, who have not built-up their own infrastructure for purchase, may place their indents on its behalf with the approval of its Secretary on other Canalized agencies authorised by the Government or other Government Ministries/ Departments, if mutually agreed. *Procurements by such agencies would have to conform to these Procurement Guidelines.* Possibilities of other Ministries/ Departments or Sister Organisations having spare-able quantities of required material may be explored. In such cases Indents can be placed on them for supply of requirements, at mutually agreed terms.

4.11.2 Terms and Conditions

- i) Usual formalities for Preparation, Budgetary Provisions and approval/ signing of Indents
- ii) The Indent in such cases, in the format prescribed by such Organisations, should be signed by an officer to whom such powers have been delegated.
- iii) FA of the Department may sign a declaration about availability and reserving of Budgetary provisions required
- iv) Modalities of Procurement, Inspection, Tracking of Supplies and Payment may be settled with the Organisation

4.11.3 Purchase through CPO - Risks and Mitigations	
Risk	Mitigation
Since it is a purchase by a third party, the Indent must be detailed and self-sufficient to ensure all Technical and Commercial requirements.	Mitigation strategies are to ensure vetting and certificates from technical, finance and procurement wing about completeness of Indent, before despatch. In critical and large procurements, liaison may be maintained with the procuring organisation.
There is also a risk of delays in finalisation of contract by the Procuring Entity, which may not be responsive to indenting organisations urgencies, especially if procurement involves clubbing of Indents from a number of organisations.	To mitigate such risk liaison may be maintained with the Procuring Entity. In case abnormal delay is taking place, small procurement to tide over urgencies may be made directly.
Another risk is that the Supplier may not	To mitigate this, proper commercial

4.11.3 Purchase through CPO - Risks and Mitigations	
<i>Risk</i>	<i>Mitigation</i>
feel answerable to the Indenter and may not be responsive towards delivery, quality and after sales support. If problems arise, it may require a dilatory tripartite correspondence.	clauses may be included in the Indent to ensure responsiveness of supplier to the Indentor. Liaison with Procuring Organisation would also mitigate such risks.

4.12 Bidding Systems

Bidding systems are designed to achieve an appropriate balance between the countervailing needs for Right Quality, Right Source and the Right Price under different complexities/ criticality of Technical requirements and value of procurements. In certain critical and complex requirements, the technical and financial capability of Source of supply becomes an important determinant for value for money. Depending on the complexity and criticality Technical of requirement, Criticality of capability of Source and value of procurement, following types of bidding systems may be used.

4.13 Single Stage Bidding System

In single stage bidding, all bids are invited together in a single envelope or in multiple envelopes system. This bidding system is suitable where technical requirement are simple or moderate; capability of source of supply is not too crucial and the value of procurement is not too high;

4.13.1 Single Stage Single Envelop System: Where qualitative requirements and technical specifications are clear; capability of source of supply isn't critical and value of procurement is low or moderate, the single envelop system, where eligibility, technical/commercial and financial details are submitted together in the same envelop may be followed. This is the simplest and the quickest bidding system and should be the default system of bidding. The lowest responsive priced bid that meets the eligibility criteria, technical and commercial requirements laid down in the bid documents is declared as successful.

4.13.2 Single Stage Two Envelops System (Two Bid System) (Rule 163 of GFR 2017):In technically complex requirements but where capability of source of supply is

still not crucial and value of procurement is not low, a two envelop system may to be followed.

- i) The tenderers should be asked to bifurcate their quotations in two envelops. The first envelop, called the techno-commercial bid, contains the eligibility, technical quality and performance aspects, commercial terms and conditions and documents sought in the tender, except the price and relevant financial details. In the second envelop, called the financial bid, the price quotation along with other financial details are submitted. Both the envelops are to be submitted together in a sealed outer envelope;
- ii) If required, Technical specification and techno-commercial conditions should be modified, in a pre-bid conference in the two envelop tender and it would be desirable not to invite fresh financial bids after opening of the techno-commercial bids;
- iii) The techno-commercial bids are to be opened in the first instance on the bid opening date and time, and scrutinised and evaluated by the TC with reference to parameters prescribed in the tender documents and responsive, eligible and technically compliant bidders are decided;
- iv) Thereafter, in the second instance, the financial bids of only the techno-commercially compliant offers (as decided in the first instance above) are to be opened on a pre-announced date and time for further scrutiny, evaluation, ranking and placement of contract. The financial bids of technically non-compliant bidders should be returned unopened to the respective bidders by registered acknowledgement due/reliable courier or any other mode with proof of delivery. In e-Procurement, financial bids of technically non-compliant offers would not get opened;

4.13.3 Single Stage Multiple Envelops System with pre-qualification: As discussed below, where the procurement is moderately complex and the time, effort and money required from the bidder to participate in a tender is not very high, instead of a separate stage of Pre-Qualification bidding (as described below, a clear-cut, fail-pass qualification criteria can be asked to be submitted as the first (additional) envelop in a three envelop single stage bidding, so that a bidder's risk of having his bid rejected on grounds of qualifications is remote if due diligence is

exercised him. Strictly speaking, this is not a pre-qualification but a Post-qualification of bidders. In the first instance on the bid opening date only the PQB envelopes (also containing the EMD and other eligibility documents) are opened and evaluated to shortlist the responsive bidders who pass the Pre-qualification. Rest of procedure is same as two envelop system for only qualified bidders. Rest two envelopes of unqualified bidders are returned unopened to the respective bidders by registered acknowledgement due/reliable courier or any other mode with proof of delivery;

4.13.4 Pre-qualification Bidding (PQB)

i) In complex technical requirements where capability of source of supply is crucial (for example in procurement of complex machinery and equipments), for the successful performance of the contract, besides considering techno-commercial suitability, it is necessary to ensure that competition is only among bidders with requisite capabilities matching the challenges of the task. In case bidders with inadequate capability are allowed to compete, the better qualified bidders would be eliminated since their bid price is likely to be higher commensurate with their higher capability infrastructure. Such situations a separate stage of PQB bidding system may be considered (or single stage multiple envelop bidding – please refer para above). In PQB stage, competent qualified tenderers are shortlisted by using a Pre-qualification Criterion (PQC – for example, i) past experience of similar contracts, ii) performance capability and iii) financial strength) prior to the issue of the bid document exclusively to shortlisted bidders in the second stage. Pre-qualification Bids (PQBs) should meet the norms of transparency, fairness and maintenance of competition. *Since PQB system may strain the transparency principle and there is heightened risk of cartelization among shortlisted bidders, PQB should be done only as an exception under specified circumstances. It should not be a routine/ normal mode of procurement of goods and an eligibility criteria clause as part of single/two envelop/cover tendering should suffice in normal/ routine situations. PQB bidding as a separate stage is contraindicated in the following circumstances:*

- a) Where procurement can be done through limited tender enquiries;
- b) Where the Procuring Entity has at least three registered bidders of the category and grade matching tendered scope of procurement and financial limit;

- c) Where the requirement is technically and commercially simple enough that pre-qualification of the bidder is not crucial for the performance of the contract, for example, Commercially Off The Shelf (COTS) requirements; and
 - d) Where the procurement is moderately complex and the time, effort and money required from the bidder to participate in a tender is not very high. A clear-cut, fail-pass post-qualification criteria can be specified in a three envelop single stage bidding (instead of two stage bidding), so that a bidder's risk of having his bid rejected on grounds of qualifications is remote if due diligence is exercised him.
- ii) **Pre-qualification Criteria:** PQC should be unrestrictive enough so as not to leave out even one capable vendor/contractor. Otherwise, it can lead to higher prices of procurement/works/services. However, on the other hand, these criteria should be restrictive enough so as not to allow even one incapable vendor/contractor and thus vitiate fair competition for capable vendors/contractors to the detriment of the buyer's objectives. A misjudgement in either direction may be detrimental. Certain guidelines⁵⁰ regarding the framing of PQC have been laid down. A sample PQC is given in Annexure 9. Due consideration should be given while framing PQC, to its effect on adequacy of competition. To encourage MSEs, past successful bidders, a call may be taken – whether PQC should apply to full quantity/packages or be proportional to part quantity/package quoted by a bidder. In case requirement is suddenly a multiple times the past procurements, blind adoption of past PQCs may lead to disqualification of successful past vendors leading to inadequate competition. PQC should therefore be carefully decided for each procurement with the approval of CA for acceptance of the tender. It should be clarified in the PQB documents that bidders have to submit authenticated documents in support of eligibility criteria.
- iii) **Advertisement and Notification:** The invitation for PQB shall be processed (advertised, bid document preparation, publicity and evaluation, and so on) in the

⁵⁰ <http://cvc.nic.in/six.pdf>

same manner as a normal GTE or OTE (as the situation calls for) tender, ensuring the widest possible coverage. The PQC and evaluation criterion should be notified clearly in the PQB documents. The PQB documents should also indicate a complete schedule of requirements for which this PQB is being done, including approximate likely quantities of requirements. A minimum period of 45 (forty-five) days may be allowed for the submission of PQBs. In the case of urgency, duly approved by CA, the time limit may be reduced to 30 (thirty) days.

- iv) **Evaluation:** At least in high value and critical procurements, the credentials regarding experience and past performance, submitted by the successful bidder, may be verified as per eligibility criteria, as far as reasonably feasible, from the parties for whom work has been claimed to be done. The procuring entity shall evaluate the qualifications of bidders only in accordance with the PQC specified and shall give due publicity to the particulars of the bidders that are qualified on the relevant portals/ websites.
- v) **Subsequent Procurement Tender:** The pre-qualification shall be valid for such period as may be specified in the pre-qualification document and for a single subsequent procurement within this period, except when it is determined that engaging in fresh pre-qualification shall not result in enhanced competition. During the period of such validity, the procuring entity shall invite bids for procurement (Request for Proposals – RfP) from pre-qualified bidders and all other bids may be treated as unsolicited offers which are normally rejected. In case bids are not invited within such a period, fresh pre-qualification shall be done. It is desirable that the time gap between the pre-qualification approval and floating of the linked main procurement tender is less than six months.

4.13.5 Pre-Qualification Bidding –Risks and Mitigations:	
<i>Risk</i>	<i>Mitigation</i>
Pre-qualification criteria: PQB has the potential of getting misused or being applied without considering the restrictive nature of competition. PQC should be relevant to the quality requirements and neither is very stringent nor very lax to restrict/facilitate the entry of bidders. These criteria should be clear, unambiguous,	Lay down criteria when prequalification in single stage or two stage bidding is warranted. Also lay down model PQC criteria for different types of procurements.

4.13.5 Pre-Qualification Bidding –Risks and Mitigations:	
Risk	Mitigation
exhaustive and yet specific. Also, there should be fair competition.	
Dangers of Anti-competitive bidding: Since in a two stage PQB, shortlisted bidders are announced, there is heightened possibility of these bidders forming a cartel and quoting anti-competitive prices in the second stage of bidding.	Two stage PQB should be done only in appropriately justified situations. Alternatively Single Stage multiple envelop system may be used for prequalification, in which chances of anti-competitive behaviour and time-taken is significantly lesser.
Two Stage PQB is a time-consuming process.	
Contentious and Disputes: Both the successful and unsuccessful bidders tend to view PQB process as a means for creating rights/ privileges/ entitlement for them by way of hair-splitting, contentious or viciously legalistic interpretations of PQC criteria, disregarding the very rationale of the PQB and PQC.	In the PQC a caveat against such tendencies may be included, asserting the right of procuring agency to interpret the PQC on common usage of terminologies and phrases in public procurement instead of legalistic and hair-splitting judgements and that their decision in this regard would be final.

4.14 Two Stage Bidding - Expression of Interest Tenders – Market Exploration

4.14.1 There are instances where the equipment/ plant to be procured is of complex nature and the procuring organization may not possess the full knowledge of either the various technical solutions available or the likely sources for such products in the market. To meet the desired objectives of a transparent procurement that ensures value for money simultaneously ensuring upgradation of technology & capacity building- it would be prudent to invite a two-stage Expression of Interest (EoI) Bids and proceed to explore the market and to finalise specifications based on technical discussions/presentations with the experienced manufacturers/suppliers in a transparent manner. Expression of Interest (EoI) bids may be invited in following situations:

- i) It is not feasible for the procuring entity to formulate detailed specifications or identify specific characteristics for the subject matter of procurement, without receiving inputs regarding its technical aspects from bidders;

Chapter 4: Modes of Procurement and Bidding Systems

- ii) The character of the subject matter of procurement is subject to rapid technological advances or market fluctuations or both;
- iii) The procuring entity seeks to enter into a contract for the purpose of research, experiment, study or development, except where the contract includes the production of requirements in quantities sufficient to establish their commercial viability or to recover research and development costs; or
- iv) The bidder is expected to carry out a detailed survey or investigation and undertake a comprehensive assessment of risks, costs and obligations associated with the particular procurement.

(Rule 164 of GFR 2017)

4.14.2 The procedure for two stage bidding shall include the following, namely:

- i) In the first stage of the bidding process, the procuring entity shall invite EoI bids containing the broad objectives, technical and financial eligibility criteria, terms and conditions of the proposed procurement etc without a bid price. On receipt of the Expressions of Interest, technical discussions/presentations may be held with the short-listed manufacturers/suppliers, which are prima facie considered technically and financially capable of supplying the material or executing the proposed work, giving equal opportunity to all such bidders to participate in the discussions. During these technical discussions stage the procurement agency may also add those other stakeholders in the discussions who could add value to the decision making on the various technical aspects and evaluation criteria. Based on the discussions/ presentations so held, one or more acceptable technical solutions could be decided upon laying down detailed technical specifications for each acceptable technical solution, quality benchmarks, warranty requirements, delivery milestones etc. in a manner that is consistent with the objectives of the transparent procurement. At the same time care should be taken to make the specifications generic in nature so as to provide equitable opportunities to the prospective bidders. Proper record of discussions/presentations and the process of decision making should be kept;

- ii) In revising the relevant terms and conditions of the procurement, if found necessary as a result of discussions with the shortlisted bidders, the procuring entity shall not modify the fundamental nature of the procurement itself;
- iii) In the second stage of the bidding process, the procuring entity shall invite bids from all those bidders whose bids at the first stage were not rejected, to present final bid with bid prices in response to a revised set of terms and conditions of the procurement; and
- iv) Any bidder, invited to bid but not in a position to supply the subject matter of procurement due to modification in the specifications or terms and conditions, may withdraw from the bidding proceedings without forfeiting any bid security that he may have been required to provide or being penalised in any way, by declaring his intention to withdraw from the procurement proceedings with adequate justification.
- v) If the procuring entity is of the view that after EoI stage, there is likelihood of further participation by many more bidders and to avoid getting trapped into a legacy technology, the second stage bidding may not be restricted only to the shortlisted bidders of EoI stage and it may be so declared in the EoI document ab-initio. Thereafter in the second stage, normal OTE/ GTE bidding may be done. Such variant of EoI called 'Non-committal' EoI.

4.14.3 **Invitation of EoI Tenders:** In EoI tenders, an advertisement inviting expression of interest should be published. The invitation to the EoI document should contain the following information:

- i) A copy of the advertisement;
- ii) **Objectives and scope of the requirement:** This may include a brief description of objectives and broad scope of the requirement. It may also include the validity period of empanelment;
- iii) **Instructions to the bidders:** This may include instructions regarding the nature of supply, fees for empanelment (if any), last date of submission, place of submission and any other related instructions;

- iv) **Formats for submission:** This section should specify the format in which the bidders are expected to submit their EoI;
- v) The EoI document should be made available to the interested bidder as a hard copy as well as on its website in a downloadable form; and
- vi) **Eligibility criteria:** The invitation to EoI should clearly lay down the eligibility criteria, which should be applied for shortlisting. Supporting documents required need to be clearly mentioned. An example of EoI eligibility criteria is shown in Table 1. However, appropriate eligibility criteria have to be designed, keeping in mind the specific objectives of the EoI.

Table 1: An example of EoI eligibility criteria

Criteria	Sub-criteria	Weightage*	Break-up of Weightage
Past experience of the firm with similar requirements		A*	
Financial strength of the vendor		B*	
	Turnover figures of the last three years		B1*
	Net profit figures of the last three years		B2*
Quality accreditations, licensing requirements		C*	
Manufacturing capabilities/tie-ups		D*	
After-sales support infrastructure		E*	
Product support		F*	

* Weightage (out of 100) should be pre-decided and declared in EoI documents by the CA based on assessment of the required profiles of the potential bidders. The marking/grading scheme for allotting marks (out of 100) for various parameters should also be laid down.

4.14.4 Evaluation of EoI: The bidders should be evaluated for shortlisting, inter-alia, based on their past experience of performance in a similar context, financial strength and technical capabilities, among others. Each bidder should be assigned scores based on the sum of marks obtained for each parameter multiplied by the weightage

assigned to that parameter. All bidders who secure the minimum required marks (normally 60 (sixty) per cent) should be shortlisted. The minimum qualifying marks should be specified in the EoI document. Alternatively, instead of weighted evaluation, the EoI document may specify a 'fail-pass criteria' with the minimum qualifying requirement for each of the criteria, such as minimum years of experience, minimum number of assignments executed and minimum turnover. Under such circumstances, all bidders who meet the minimum requirement, as specified, should be shortlisted. The short list should normally comprise at least four firms.

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

4.15 Electronic Procurement (e-Procurement)

It is mandatory for Ministries/ Departments to receive all bids through e-procurement portals in respect of all procurements. Ministries/ Departments which do not have a large volume of procurement or carry out procurements required only for day-to-day running of offices and also have not initiated e-procurement through any other solution provided so far may use e-procurement solution developed by NIC. Other Ministries/ Departments may either use e-procurement solution developed by NIC or engage any other service provider following due process⁵¹. In individual cases where national security and strategic considerations demands confidentiality, Ministries/ Departments may exempt such cases from e-procurement after seeking approval of concerned Secretary and with concurrence of Financial Advisers. In case of tenders floated by Indian Missions Abroad, Competent Authority to decide the tender may exempt such case from e-procurement. National Informatics Centre (NIC) has an e-Procurement portal called Government e-Procurement of NIC (GePNIC). There are other service providers in Public Sector (e.g. MSTC) and Private sector which can be utilized for e-Procurement. Details about the process of e-procurement are available

⁵¹ Rule 160 (iii) of GFR, 2017 stating that the condition for mandatory e-procurement will not apply to procurements made by Ministries / Departments through DGS&D rate contracts has been deleted vide OM No.F.1/26/2018-PPD issued by Department of Expenditure dated 02.04.2019

from the service providers. *Appendix 3 also gives such generic details of the e-Procurement process.(Rule 160 of GFR 2017)*

4.16 Electronic Reverse Auction (RA)

Electronic Reverse Auction is a type of auction (classified as dynamic procurement method) where the starting price, bid decrement, duration of auction, maximum number of automatic extensions are announced before start of online reverse auction. If required, RA may be preceded by an e-Procurement stage of eligibility/PQB to shortlist competent bidders who would be allowed to participate in the RA. The shortlisted bidders can after the start of RA start bidding online in an iterative process wherein the lowest bidder at any given moment can be displaced by an even lower bid of a competing bidder, within the duration of the RA. If a new lower bid is received within last few minutes (say two minutes) of closing time, the closing time may get automatically extended by few minutes (say five minutes) for others to respond. Maximum number of such extensions may be stipulated (say five). The most favourable bid at the end of stipulated / extended time is declared as successful. While permitting use of RA, CVC has asked the Departments/organisations to themselves decide on reverse auction for purchases or sales and work out the detailed procedure in this regard⁵². It has, however, to be ensured that the entire process is conducted in a transparent and fair manner. A procuring entity may choose to procure a subject matter of procurement by the electronic reverse auction method, if:

- i) Items for Reverse Auction may be selected carefully. Items of strategic, critical and vital nature, items in short supply in market and where there are only a few suppliers are not good candidates for reverse auction. Items in the nature of commodities, Commercially-off-the-shelf items, items having large number of suppliers and high value procurements may be more amenable to reverse auction;
- ii) It is feasible for the procuring entity to formulate a detailed description of the subject matter of the procurement;

⁵² <http://cvc.gov.in/ord46903.pdf>

- iii) There is a competitive market of bidders anticipated to be qualified to participate in the electronic reverse auction, so that effective competition is ensured;
- iv) The criteria to be used by the procuring entity in determining the successful bid are quantifiable and can be expressed in monetary terms;
- v) In cases where pre-qualification of bidders is considered necessary, reverse auction may be carried out after a separate PQB (electronic or otherwise) among the successful bidders only.

4.16.1 Subject to more detailed guidelines in the category-specific manual or other guidelines, the procedure for electronic reverse auction shall include the following, namely:

- i) The procuring entity shall solicit bids through an invitation to the electronic reverse auction to be published or communicated in accordance with the provisions similar to e-procurement; and
- ii) The invitation shall, in addition to the information as specified in e-procurement, include details relating to:
 - a) Access to and registration for the auction;
 - b) Opening and closing of the auction;
 - c) Norms for conduct of the auction; and
 - d) Any other information as may be relevant to the method of procurement.

(Rule 167 of GFR 2017)

4.17 One Stop Government e-Marketplace (GeM)

4.17.1 An online marketplace (or e-commerce marketplace) is a type of e-commerce site where product or services are offered by a number of sellers and all the buyers can select the product/ services offered by any one of the seller, based on his own criteria. In an online marketplace, Purchaser's transactions are processed by the marketplace operator and then product/ services are delivered and fulfilled directly by the participating retailers. Other capabilities might include auctioning (forward or reverse), catalogues, ordering, posting of requirements by Purchasers, Payment gateways etc. In general, because online marketplaces

aggregate products from a wide array of providers, selection is usually wider, availability is higher, and prices are more competitive than in vendor-specific online retail stores.

4.17.2 Ministry of Commerce has developed an online Government e-Market Place for common use goods and services. The procurement process on GeM is end to end from placement of supply order to payment to suppliers. This is to ensure better transparency and higher efficiency. All the process will be electronic and online. The Procurement of Goods and Services by Ministries or Departments is mandatory for Goods or Services available on GeM as per Rule 149 of GFR, 2017.

4.17.3 **Products and services are listed on GeM by various suppliers as on other e-Commerce portals:** The registration of suppliers on GeM is online and automatic based on PAN, MCA-21, Aadhar authentication etc. The suppliers offer their products on GeM and the Government buyer are able to view all the products as well as compare them. Tools of reverse bidding and e-auction are also available which can be utilised for the procurement of bulk quantities.

4.17.4 **Demand Aggregation:** The best prices to a user can be available if same requirement demands of various organizations are aggregated. This acts as an incentive for the supplier to quote their best price. For the same products, the demand of various Govt. Departments can be clubbed together and reverse auction done on the basis of aggregated demand which will provide the best prices to the Govt. Department.

4.17.5 **Authority of procurement through GeM:** Procurement through GeM has been authorised as per GFR, 2017 Rule 149:-

“Government e-Market Place (GeM): Government of India has established the Government e-Marketplace (GeM) for common use Goods and Services. GeM SPV will ensure adequate publicity including periodic advertisement of the items to be procured through GeM for the prospective suppliers. The Procurement of Goods and Services by Ministries or Departments will be mandatory for Goods or Services available on GeM. The credentials of suppliers on GeM shall be certified by GeM

SPV. The procuring authorities will certify the reasonability of rates. The GeM portal shall be utilized by the Government buyers for direct on-line purchases as under⁵³:-

- i) *Up to {Rs.25,000/-}⁵⁴ through any of the available suppliers on the GeM, meeting the requisite quality, specification, and delivery period (in case of procurement of Automobiles only the ceiling of direct purchase will be Rs.30 lakh instead of Rs. 25,000/-⁵⁵);*
- ii) *Above Rs.25,000/- and up to Rs.5,00,000/- through the GeM Seller having lowest price amongst the available sellers (excluding Automobiles where current limit of 30 lakh will continue), of at least three different manufacturers, on GeM, meeting the requisite quality, specification, and delivery period. The tools for online bidding and online reverse auction available on GeM can be used by the Buyer even for procurements less than Rs 5,00,000.*
- iii) *Above Rs.5,00,000/- through the supplier having lowest price meeting the requisite quality, specification, and delivery period after mandatorily obtaining bids, using online bidding or reverse auction tool provided on GeM (excluding Automobiles where current limit of 30 lakh will continue).⁵⁶*
- iv) *The invitation for the online e-bidding/reverse auction will be available to all the existing Sellers or other Sellers registered on the portal and who have offered their goods/services under the particular product/service category, as per terms and conditions of GeM.*
- v) *The above mentioned monetary ceiling is applicable only for purchases made through GeM. For purchases, if any, outside GeM, relevant GFR Rules shall apply.*
- vi) *The Ministries/Departments shall work out their procurement requirements of Goods and Services on either "OPEX" model or "CAPEX" model as per their requirement/suitability at the time of preparation of Budget Estimates (BE) and*

⁵³Amended vide DoE OM No. F.1/26/2018-PPD dated 02.04.2019.

⁵⁴ In case of procurement of Automobiles only, the ceiling of direct purchase will be Rs. 30,00,000/- instead of Rs. 25,000/-.
Refer DoE OM No. F.1/26/2018-PPD dated 09.08.2021.

⁵⁵Notified vide OM No. F.1/26/2018-PPD dated 9th August, 2021.

⁵⁶ Amended vide DoE OM No. F.1/26/2018-PPD dated 02.04.2019.

shall project their Annual Procurement Plan of goods and services on GeM portal within 30 (thirty) days of Budget approval.

- vii) The Government Buyers may ascertain the reasonableness of prices before placement of order using the Business Analytics (BA) tools available on GeM including the Last Purchase Price on GeM, Department's own Last Purchase Price etc.*
- viii) A demand for goods shall not be divided into small quantities to make piecemeal purchases to avoid procurement through L-1 Buying / bidding / reverse auction on GeM or the necessity of obtaining the sanction of higher authorities required with reference to the estimated value of the total demand.”*

It may be noted that . itis the responsibility of the Procuring Entity to do due diligence for ensuring reasonableness of rates.

4.17.6 GeM Portal: <https://gem.gov.in>. Detailed instructions for user organization registration, supplier registration, listing of products, terms and conditions, online bidding, reverse auction, demand aggregation, call centre, etc. are available on this portal.

4.17.7 Payment Procedure in GeM: The payment procedure in GeM is governed by O.M. No. F.26/4/2016-PPD dated 23rdJanuary, 2020⁵⁷ issued by D/o. Expenditure, M/o. Finance, New Delhi. The following procedures are prescribed for making payments to the Sellers/ Service Providers in GeM which shall be complied and adhered to by all concerned for different type of contracts such as:

- a. Supply of Goods & Services
 - b. Supply, Installation, Testing and Commissioning of Goods
 - c. Supply, Installation, Testing, Commissioning of Goods and Training of operators and providing Statutory Clearances required (if any)
- i) In respect of contracts for Supply of Goods, 100% payment including GST should be made after receipt and acceptance of Goods and generation of

⁵⁷Accessible from https://doe.gov.in/sites/default/files/Procedures%20for%20payments%20for%20Goods-Services%20to%20sellers-%20service%20providers%20in%20Government%20e-Marketplace%20%28GeM%29%20-%20through%20PFMS%20and%20by%20non-PFMS%20Agencies-Entities%20%28NPAE%29_1.pdf

“Goods CRAC” (Consignee Receipt and Acceptance Certificate) subject to recoveries, if any, either on account of short supply and Liquidated Damages etc. for delay in supply.

- ii) In respect of contracts for Services, payment should be made as per periodicity defined in the contract i.e. Monthly, Quarterly or any other pre-defined payment periodicity. 100% payment including GST for the particular payment cycle should be made after receipt and acceptance of the Services and generation of “Service CRAC” (Consignee Receipt and Acceptance Certificate) subject to recoveries, if any, either on account of short supply, SLA (Service Level Agreement) deviations and Liquidated Damages for delay in supply etc.
- iii) In respect of contracts for Supply, Installation, Testing, Commissioning of Goods and Training of operators etc. the complete cost break-up indicating Basic price, GST, Installation and commissioning charges, Incidental Services, training etc. is to be indicated separately in the bid. In order to cater to installation intensive products, the different configurable payment terms will have to be incorporated in GeM functionalities (depending upon the quantum of installation and turnkey work required).
 - a. First Milestone - On delivery of goods: 80 to 90% payment (lower initial payment if installation scope is very extensive) of the basic price of Goods along with 100% GST on the Goods Price but excluding installation, testing and commissioning and other charges should be paid after receipt Goods and generation of “Delivery CRAC for initial payment”. This will be issued after physical verification of quantity only but without commitment about quality or functionalities etc. which would be verified after installation/ commissioning etc. While creating the bid, Buyer shall have functionality to define the percentage of payment linked with delivery of Goods.
 - b. Second Milestone - On Acceptance after installation, testing and commissioning : Balance 10 % to 20% payment of the basic price of Goods and 100% charges for installation, testing and commissioning and other charges along with GST on these charges should be paid

after installation and final Acceptance of Goods and generation of “Installation CRAC” to be issued by the End User/ Consignee. Recoveries, if any, either on account of short supply and Liquidated Damages etc. for delay in supply and I or installation etc. shall be made from the payment due under this milestone. While creating the bid, Buyer shall have functionality to define the deliverables in this milestone and the percentage of payment linked with this milestone.

- c. Third (and subsequent) milestones - Payment of Incidental Costs: 100% Payment related to Incidental costs at consignee site towards Incidental Services (such as providing training, or other work/ service as per scope defined in the contract), to be paid on submission of “Final CRAC” by the End User / Consignee. While creating the bid, Buyer shall have functionality to define the deliverables in this milestone. In exceptional cases, Buyer may choose to split this milestone as required.
- iv) In case of contracts for Supply, Installation, Testing, Commissioning of Goods bundled with one or more Services such as Comprehensive Maintenance, Human Resource hiring for pre-defined time periods etc., the payments for Goods shall be governed by Para (iii) above while payment for Services shall be Governed as per Para (ii) above.
- v) In case of Milestone Based Payments, separate timelines / delivery periods for each milestone will be provided. In case of supply and installation contracts, the delivery period may be specified by filling up the blanks as under:
 - a. First Milestone - For delivery of goods at site:-----days/ months from date of issue of contract with provision for staggered / multiple delivery period for same consignee.
 - b. Second milestone - Installation, Testing and Commissioning etc. of goods: -days / months from the date of handing over of site complete in all respect as per contract.
 - c. Third (and subsequent) milestones - Incidental Services etc.: - days after installation and commissioning.

vi) The payments on GeM are primarily categorized under two heads i.e. through PFMS or GeM Pool Account. The detailed instructions for both type of payment system are as under:

A. Payments through PFMS:

1. The Central Government Buyer i.e. the concerned Programme Division or Administrative Unit in a Ministry/ Department will place the Contract online after taking prior approval of the Competent Authority for procuring a particular Good or Service. Inter-alia, the Contract form will also contain the following fields including fields required for payment related processes:

- a) Administrative approval of the Competent Authority indicating the designation of the approving authority,
- b) Approval of Competent Financial Authority indicating designation of the officer;
- c) Whether IFD concurrence required? (Yes/No)
- d) If yes, then IFD Diary No. & Date
- e) Budget Head of Account and Year, Major/Minor/Sub-head/Detailed Head/Object Head as in Detailed Demands for Grants.
- f) Budget availability as on date (Yes/No)
- g) Amount (Contract Value)) Rs (Budget to be blocked)
- h) If expenditure is committed for more than a year, the year-wise details (portal should generate a Liability Register for recording multi-year payment commitments, the format for which is prescribed in Rule 53 of the GFR)

2. When these fields are duly captured, the Buyer will be in a position to place the Contract online. The GeM portal will generate a Sanction Order and the Contract which will be digitally/e-signed by the Buyer. These documents duly digitally/e-signed by the Buyer will be made available online to the concerned DDO and PAO or Paying Authority as defined in the contract and Seller/ Service Provider. The DDO and PAO/Paying Authority shall have access to the Contract online in order to ensure that the Bill is generated at the stage of payment in accordance with the contractual provisions.

3. The GeM portal will send the Sanction Order details to PFMS.

4. On issue of Sanction order and placing the Contract for goods, the full amount required from the relevant Budget Head should be blocked in the PFMS. In cases of Services, amount should be blocked for one payment cycle as defined in the contract. Before releasing payment for any cycle, the funds required for the next payment cycle should be blocked so as to ensure availability of payable funds for the next payment cycle. Blocked fund will be treated as accrued expenditure by PFMS for the financial year in question and it will not be withdrawn for any other purpose other than the one for which the amount is Blocked. In order to alleviate the operational issues as well as to ensure optimum utilization of available funds, the following additions⁵⁸ are made in para 9.7.7 (vi) (A) (4)

- a. The provision of fund blocking equivalent to full contract value is applicable only for contracts with delivery periods of up to 20 days. For contracts with longer delivery periods, fund blocking of appropriate amounts shall be initiated at a date 20 days prior to expected delivery date or on the date of invoice generation by the Seller in GeM whichever is earlier. In case of non-availability of required funds at that point of time, both buyer and seller shall be alerted, and the Buyer, the HoD, the DDO/ PAO and finally up to AS&FA of concerned Ministry/ Department shall be alerted by email and SMS by GeM. On failure in making available the required funds in the appropriate head of account within 10 days, seller has right to decline supply and to seek contract cancellation without any administrative action against the seller. Also, in such a case, any delay in delivery by the seller will also become exempt from the provision of Liquidated Damages.
- b. Functionality to un-block the blocked funds in exceptional cases/ emergency cases with some validations: Head of Department (HoD) of the organization on GeM can unblock certain % of blocked funds of a contract (may be upto 100%) with the approval of associated finance of the Ministry/ Department or the CPSE in exceptional cases/ emergency cases after giving a clear undertaking that he will ensure timely

⁵⁸ Notified vide OM No. F.6/18/2019.PPD issued by Department of Expenditure dated 29.12.2020

availability of funds and unblocking will not lead to delay payments to sellers. However, such unblocking will not allowed if the seller has already raised an invoice (before 1st March of Financial Year).

- c. **Funds for the relevant financial year should be blocked only if the delivery period is such that the delivery is scheduled before the 1st of March of that financial year.** If the delivery is scheduled in March of that financial year or scheduled in the next financial year then fund blocking is optional for buyer in current financial year and mandatory only in the next financial year in the 1st week of April.

5. Should it be necessary to amend the Contract, such Amendment in the Contract with due approval of the Competent Authority and acceptance of the Seller/Service Provider (wherever required) shall be made available to the Seller /Service Provider/DDO/PAO/Paying Authority on the GeM portal.

6. Similarly, in the event of complete/ partial cancellation of the Contract the information would be made available to the Seller/Service Provider, DDO and PAO on the GeM portal. In that event, funds so blocked earlier would be released to the extent of cancelled amount.

7. The Programme Division/Administrative Unit in the Ministries/Departments shall periodically review the blocked budget to ensure that funds are utilized within the same financial year.

8. The Performance Security (if any) would be obtained from the Seller/Service Provider as per Contract, and their details would be reflected on the GeM portal by the Buyer.

9. Provisional Receipt of Stores on GeM:

- a. On dispatch of Goods, the Seller would enter the Dispatch Details and date of Dispatch and will upload documentary evidence of Dispatch against each consignment on GeM Portal. All these documents and details shall be shown to the Consignee on his dashboard and shall also be notified to the consignee on his e-mail and on his registered mobile number.

Chapter 4: Modes of Procurement and Bidding Systems

- b. The Seller shall prepare an electronic Invoice, digitally/e-signed, on GeM portal and shall submit the same on-line to the Buyer. GeM portal will send an SMS/ email alert to the Buyer, on submission of Invoice. This Invoice will contain mode of dispatch of goods, dispatched/delivered quantity with date and all inclusive price claimed based on digitally/e-signed Contract. In case Services are procured, the required data as per Contract may be incorporated in the Invoice.
- c. After actual delivery of goods at consignee destination/ milestone achievement (such as completion of installation/ commissioning or training etc. as defined in the contract)/ service delivery, Seller would enter the actual date of delivery/ milestone achievement/ Service Log-sheet (as applicable) and will upload documentary evidence for the same duly digitally signed / e-signed. All these documents and details shall be shown to the Consignee on his dashboard and shall also be notified to the consignee on his e-mail and on his registered mobile number. In case of Services Contracts, the Service Provider will fill up the required data as per the contract (such as log sheets and /or Invoice etc duly digitally signed/ e-signed).
- d. Immediately upon above entry by Seller I Service Provider regarding delivery of goods/ milestone achievement/ service delivery, an alert will be flashed on the Dashboard of the consignee and an email and an SMS Alert will be sent to Consignee informing that consignee has to mandatorily acknowledge receipt of stores/ milestone achievement/ service delivery through generation of PRC on GeM. The Buyer/Consignee should receive the Goods/Services and issues an online Provisional Receipt Certificate (PRC), within 48 hours, on 'said to contain basis' on the GeM portal with his/her digital signature / e-sign, mentioning the date of Receipt. (From this date of receipt mentioned in PRC, the period of ten (10) days for consignee's/buyer's right of rejection and return policy would be applicable unless otherwise specified in a particular contract)
- e. In case the consignee does not issue PRC within 48 hrs from entry of delivery of goods/ milestone achievement/ service delivery by Seller/

Service Provider, an alert will be flashed on the dashboard of the consignee and an email and an SMS Alert will be sent to Consignee and Buyer informing that consignee has to mandatorily acknowledge receipt of stores/ milestone achievement/ service delivery through generation of PRC on GeM.

- f. After expiry of 72 hrs. from the first alert, another alert will be flashed on the dashboard of the Consignee, Buyer including HoD and an email along with an SMS Alert to Consignee , Buyer, HoD informing that consignee has to mandatorily acknowledge receipt of stores/ milestone achievement/ service delivery through generation of PRC on GeM and if the time limit of 96 hrs expires from the date of delivery of goods/ milestone achievement/ service delivery as per entry made by Seller/ Service provider and if the consignee does not acknowledge receipt of stores/ milestone achievement/ service delivery by generating PRC or disputes the same by rejecting receipt, it would be presumed that goods have been delivered/milestone achievement I service delivery has been made to consignee and PRC will be auto generated by the system (Deemed PRC).
- g. However, if the consignee does not issue PRC within 96 hrs from delivery of goods/ milestone achievement/ service delivery as per entry made by Seller/ Service provider ,GeM System/Portal would auto generate unsigned PRC considering the date of delivery of goods/ milestone achievement/ service delivery as indicated by the seller as deemed date of receipt for issuance of PRC. GeM portal shall also send periodic notifications every 24 hrs. to the Consignee, Buyer and the HoD about issuance of auto generated Deemed PRC for next 48 hrs.
- h. In case the PRC is auto-generated, the consignee shall have the provision on GeM to respond back within 48 hrs, if the goods have not been received or short received recommending to cancel or amend/correct the date of receipt/ quantity in the auto-generated Deemed PRC. In case nothing is reported/ corrected by consignee on the system, it will be presumed that the consignee has nothing to say

and the auto-generated Deemed PRC will be considered as final for all purposes.

- i. If it is found at any stage that seller/ service provider has sent/ uploaded wrong information on GeM, based on which PRC has been wrongly auto generated, the seller/ service provider will be dealt severely and should be debarred by GeM for three years.

10. Consignee Receipt and Acceptance of Stores on GeM:

After issue of PRC/ Deemed PRC, the system will start sending an alert on the Dashboard of the consignee and an email and an SMS Alert will be sent as per escalation matrix specified below to issue the CRAC within 10 days:

- a. Level 1 - Upto 3 days - Consignee
- b. Level 2-4 and 5th day - Consignee and Buyer
- c. Level 3 - 6 to 10th day - Consignee, Buyer, HOD

After verification including assessment of quality and quantity of goods /verification of completion of all deliverables defined in the milestone/ completion of service for the defined period, the Consignee(s) will issue an on-line digitally/e-signed Consignee's Receipt & Acceptance Certificate (CRAC) (Goods CRAC/Service CRAC/ Delivery CRAC/ Installation CRAC/ Final CRAC as the case may be) (within 10 days (unless otherwise specified in a particular contract) of date of receipt indicated in PRC/deemed date of receipt as indicated in Deemed PRC. The CRAC would clearly indicate the Order quantity/ milestone achievement/ service delivery, rejected quantity/ unacceptable milestone achievement /unacceptable service delivery (if any, with reasons for rejection including shortages/damaged/unaccepted quality), quantity/ milestone achievement/ service delivery accepted and cleared for payment. However, if the consignee does not issue CRAC within 10 days (unless some other time line is specified in a particular contract for issue of CRAC), on 11th day from the date of receipt/ deemed date of receipt of quantity/ milestone achievement / service delivery as indicated in PRC, GeM System/Portal would auto generate unsigned CRAC which, backed with digitally/e-signed PRC or deemed PRC based on Seller Evidence for the corresponding quantity/ milestone achievement/ service delivery shall be taken as deemed acceptance for payments in lieu of the requirement of digitally/e-signed CRAC. This will be made available on GeM to the Buyer/ Seller

and also the concerned DDO (if applicable) and PAO/Paying Authority. The GeM portal would generate a unique serial number for CRAC relating to concerned DDO (if applicable) & PAO/Paying Authority, so that the payments are made seriatim.

In case the CRAC is auto-generated, the consignee shall have the provision on GeM to cancel or amend the auto-generated CRAC within 72 hrs, if the goods have not been accepted or found defective/ short received. In case nothing is corrected by consignee on the system, it will be presumed that the consignee has nothing to say and the auto-generated CRAC will be considered as final for all purposes including payments.

11. After generation of CRAC, the Buyer shall prepare 'Payment advice' on GeM Portal, indicating any contractual deductions such as penalties for violation of Service Level Agreement (as applicable)/Liquidated Damages for delayed supplies/ milestone achievement/ service delivery etc. which will be used by GeM portal to compute the net amount payable for the accepted quantity/milestone achievement/service delivery after factoring in the contractual deduction(s) and generate claims for payments digitally/e-signed by the Buyer. This claim for payment shall be made available to the DDO on GeM Portal and the requisite data will also be pushed online in the PFMS. DDO will log into PFMS and generate the Bill against the said claims and forward the same to the PAO/Paying Authority for payment, after deducting any statutory deductions including TDS as applicable.

12. It is obligatory to make payments without any delay for purchases made on GeM. In no case should it take longer than the prescribed timelines. The timelines after Consignee Receipt and Acceptance Certificate (CRAC) issued on-line and digitally/e-signed by consignee, will be two (2) working days for Buyer, one (1) working day for concerned DDO and two (2) working days for concerned PAO for triggering payment through PFMS for crediting to the supplier's account. In case of return of Bills by PAO/Paying authority, the discrepancies should be addressed by concerned Buyer/DDO within one working day and thereafter on re- submission of Bill the PAO should also not take more than one (1) working day for triggering payment to the Seller/ service provider Any matter needing a resolution will be escalated to the next higher level in each agency (Buyer, DDO and PAO) where the matter should be resolved within 24 hours. In the entire process, time taken for payment should not exceed ten (10) days including holidays

13. After online pre-check of all relevant documents, PAO/Paying Authority shall debit the Government account, releasing the corresponding payment through PFMS/ to be credited into the bank account of the Seller/service Provider. The payment so released shall be credited to the Seller/Service Provider account within 24 hours (excluding public holidays), by the Bank. SMS alerts shall be sent to the Seller/Service Provider and Buyer after the payment is authorized by PAO and also after the confirmation of the payment by the Bank. The payment authorization as well as payment confirmation details shall be shared by PFMS on the GeM portal. The PAO/Paying Authority and DDO shall comply with the provisions of General Financial Rules for budget implementation.

14. In case of return of Bill, if necessary by PAO/Paying Authority, it should be made online with all queries/discrepancies/reasons for rejections indicated in one go with the approval of competent authority, to the DDO/Buyer for the needful corrections at their end.

15. The DDO shall also be responsible for issuing TDS certificate (as per Income Tax Act, 1961 amended from time to time) to the Seller after release of the payment to the Seller/Supplier. The DDO shall also be responsible for deduction of TDS on GST as per GST provisions and to deposit the same with the Govt, as per GST rules and issue Form GSTR 7A to the person whose TDS has been deducted.

16. GeM System/Portal would also have on-line provisions for generating supplementary Invoice(s) for claim/refund of statutory changes in Duties and taxes, if any, as above. A provision for all types of refunds/claims should be available on-line through PFMS.

17. In terms of the provisions of the Information Technology Act 2000 as amended from time to time, digitally/e-signed online documents generated on GeM shall be treated at par with ink-signed documents for release of payment to the Seller/Service Provider and no ink signed paper/documents shall be demanded/insisted.

18. The multi-year liabilities so created as referred to in Para 4.17.7 (vi) (A) (1) (h) above shall be reviewed regularly by the Programme Division/Administrative unit in consultation with the Financial Adviser. The consolidated information on the total committed liabilities, year-wise, shall be submitted by the Financial Adviser to the Budget Division, Department of Economic Affairs, Ministry of Finance for suitably

reflecting in the Budget Estimates for the relevant financial year and in the Medium Term Expenditure Framework (MTEF).

19. For all contracts placed through GeM, the payment through PFMS to all Sellers/ Service Providers must be released online only against electronic bill generated on GeM. No offline payment should be made in such cases to avoid double payment. Only in exceptional cases such as non-availability of the GeM platform or long shutdown of internet services at Buyer location or similar force majeure conditions, such off-line payments can be resorted to subject to the condition that immediately after resolution of the problem, necessary entries would be made on-line in GeM portal to obviate the possibility of double payment.

B. Payment for Non-PFMS Agencies/ Entities (NPAE)

1. Non-PFMS Agency/ Entity (NPAE) is a Government of India (GoI) not using PFMS for its payments of transactions and having their own payment system for making payments against contracts placed for goods/services placed by the NPAE on GeM. All NPAE shall open & operate a special purpose account namely GeM Pool Account for the purpose of ensuring prompt payment to Seller/Service Provider of GeM who supply Goods/ Services to the NPAE through GeM.

2. Accordingly, all the Organisations/ Departments including CPSUs, Municipalities, Educational Institutions, Autonomous bodies, Societies, etc. not operating through PFMS shall be covered under these instructions. These organisations are hereby directed to open, operationalize and operate a GeM Pool Account (GPA) for all procurement. GPA is a special purpose bank account (interest bearing savings/current Account) opened, operated and controlled exclusively by each NPAE. GeM Pool Account shall be mandatory for all procurement irrespective of value. The GeM Pool Account shall be opened, operated and controlled exclusively and completely by the buyer entity/agency subject to certain restrictions on withdrawals of funds as explained in succeeding paragraphs .The Account shall carry interest applicable to savings/ current account. Such account shall be opened in any scheduled bank having already integrated the pool account with GeM.

3. The following are the core elements of GPA that should be incorporated during the opening and operations/ procurement stages:

Chapter 4: Modes of Procurement and Bidding Systems

- a. The NPAE will open the GPA (as a savings or current account) which will be utilized by buyer through the online integration of Bank with the platform owned and maintained by GeM SPV, as per Service Level Agreement (SLA), and solely for procurement of goods and services on GeM.
- b. The terms and conditions of procurement on GeM will be part of the operations agreement between the bank and the NPAE.
- c. The role of the bank will be limited to ensuring operations of the account on the instruction of the NPAE through the authorized NPAE nodal officer for GeM/ buyer.
- d. Real time details of all operations of the account will be shared by the bank, in a mutually accepted format (to be amended from time to time) with the NPAE, only through the GeM Platform.
- e. Once a sub-account/ transaction specific account is credited with an amount, the NPAE cannot withdraw this amount, apart from transfer to the designated Seller/Service Provider, till such a time that the transaction is live.
- f. Any withdrawal/transfer by the NPAE from this account, except for payment to the Seller I Service Provider, would be permitted in the following conditions.
 1. Order cancellation
 2. Order rejection
 3. Refund

All the above situations would first be required to be enabled/ flagged on the GeM Platform for the NPAE to be able to act accordingly.

4. While procuring goods & services through GeM, the NPAEs should credit 100% of the projected Contract Value in case of Goods Contract in their GeM Pool Account before award of contract. In cases of Services, amount should be credited for one payment cycle as defined in the contract and before releasing payment for any cycle, the funds required for the next payment cycle should be credited so as to ensure availability of payable funds for the next payment cycle. Payment so credited will not

be withdrawn for any other purpose other than the one for which the amount is credited into GeM Pool Account.

5. After placement of contract on GeM, the process for PRC and CRAC will be same for NPAE category also as indicated in Para 4.17.7 (vi) (A) (9) above regarding Provisional Receipt of Stores on GeM and Para 4.17.7 (vi) (A) (10) Consignee Receipt and Acceptance of Stores on GeM for PFMS Buyers.

6. After issue of CRAC, NPAE Nodal Officer shall issue an advice without delay to the bank to release actual amount payable to Seller/ Service Provider as per terms of contract from the GeM Pool Account. On authorization, the bank should transfer the prescribed amount to the Seller/Service Provider supplier mapped in the transaction.

7. In case of a Service level agreement (SLA) breach on the part of the NPAE in terms of payments to the Seller/Service Provider, GeM will intimate the buyer and bank of the same. Post such intimation, and non-action on the part of the NPAE with respect to payment transfer, bank will release payments for the delivery of goods at consignee destination/ milestone achievement (such as completion of installation/ commissioning or training etc. as defined in the contract)/ service delivery as notified in the terms and conditions of procurement on GeM to the Seller/ Service Provider mapped in the transaction. Such a provision is required to be incorporated in GPA and should be considered as a standing instruction from the NPAE to the bank. The residual amount cannot be withdrawn/ transferred by the NPAE, in such cases.

8. In case, even after 10 days of issue of Consignee receipt and acceptance certificate (CRAC)/ auto generated CRAC , the buyer has not initiated the payment process through the GeM platform, a payment trigger will be automatically generated for payment equivalent to 80% of the corresponding quantity/ milestone achievement/ service delivery deduced by the system as per CRAC. Simultaneously intimation will be sent to the HoD, buyer and NPAE Nodal officer for GeM, regarding the release of payment, at their risk and cost in line with the terms and condition (T&C) and SLA of procurement on GeM. The residual payment of 20% is to be processed by the buyer within 35 days after adjusting for any statutory deduction and damages, failing which after 35 days, the same will be released to the Seller/ Service

Chapter 4: Modes of Procurement and Bidding Systems

Provider automatically through an alert to the bank by the GeM Platform, after statutory deductions and any system know deductions.

9. Unutilized funds after closure of the Contract and interest accrued on the credited amount will be at the disposal of nominated NPAE Nodal officer, who may advise banker for further action as deemed fit.

10. The Steering Committee on GeM of each Ministry should monitor the implementation of these instructions regarding operationalization of GeM Pool Account.

11. Ministries/ Departments of Government of India are accordingly requested to issue necessary instructions to all Non-PFMS Agencies/ Entities under their control.

vii) In case any Non PFMS Agency/ Entity decides with the approval of their Competent Authority to have integration of their on-line payment Systems with functionality for Blocking of Funds etc. as per PFMS system of payments, the Payment procedures outlined for PFMS in Para 4.17.7 (vi) (A) shall be mutatis mutandis applicable to them.

viii) Currently, for unlocking of funds, especially during the fag end of the financial year, buyers need to send emails etc. to GeM. Thereafter, GeM manually unlocks the payments. GeM will automate this whole process.

4.17.8 It is mandatory for a buyer to generate a “GeM Availability Report and Past Transaction Summary” (GeMAR&PTS)⁵⁹ with a unique ID on GeM portal using his login credentials on GeM for procurement outside GeM (for example for procurement through Central Public Procurement Portal). The Past Transaction Summary will be provided, where available. “GeMAR&PTS” shall be a pre-requisite for arriving at a decision by the competent authority for procurement of required goods and services by floating a bid outside GeM and its unique ID would be required to be furnished on the publishing portal along with the tender proposed to be published.

4.17.9 Purchase of goods without quotation can be resorted for value upto Rs. 25,000/-only on each occasion may be made without inviting quotations or bids on

⁵⁹Notified vide OM No. F.6.18.2019-PPD issued by Department of Expenditure dated 11th June, 2021.

the basis of a certificate to be recorded by the competent authority, only when the required goods are not available on GeM.

4.17.10 In case a certain item is not available on the GeM portal,⁶⁰Purchase of goods costing above [Rs.25,000 (Rupees twenty five thousand only) and upto Rs.2,50,000/- (Rupees two lakh and fifty thousand only)] on each occasion may be made on the recommendations of a duly constituted Local Purchase Committee consisting of three members of an appropriate level as decided by the Head of the Department. The committee will survey the market to ascertain the reasonableness of rate, quality and specifications and identify the appropriate supplier and will jointly record a certificate before placement of the purchase order.

4.17.11 Where an item is available on GeM and Ministry/ Department/ Organization wants to buy outside the GeM in view of any compelling circumstances, the approval of Standing Committee of GeM (SCoGeM) and Secretary concerned shall be required⁶¹

⁶⁰ Inserted vide OM No. F.1,26/2018-PPD dated 02,04,2019.

⁶¹ Refer OM No F,6/15/2018-PPD issued by Department of Expenditure dated 5th February 2020.

Chapter 5: Preparing bid documents, publication, receipt and opening of bids

5.1 Preparation of Bid Documents

5.1.1 The text of the bid document should be self-contained and comprehensive without any ambiguity. All essential information, which a bidder needs for sending responsive bid, should be clearly spelt out in the bidding document in simple language. This will also enable the prospective bidders to formulate and send their competitive bids with confidence. A carefully prepared tender document avoids delays and complaints. Hence, it is worth spending time and effort on this even in cases of urgency.

Bid documents should be based on SBDs relevant for the value range and the category of procurement. SBD for e-procurement would be slightly different from the traditional SBD. To ensure uniformity, the standard provisions in most sections of the SBD/ SRfPD are to be used unaltered. Any modification to suit a unique requirement of the specific procurement in these documents is to be done through variable sections such as Special Instructions to Bidders or special conditions of contract (these variable sections may have different nomenclatures in some organisations). Department of Expenditure has issued Model Tender Documents for Procurement of Goods⁶² and Procurement of Non-Consultancy Services⁶³ on 29th October 2021.

In case of a limited tender, instead of a full set of SBD, only a machine numbered tender form (refer Annexure 5) is used as the tender document, after filling up the name of the vendor and details of requirements. It has the “terms and conditions of tender” printed on the obverse side. In any case, all registered vendors, who normally are invited to quote in such limited tenders, have already acknowledged acceptance of “general conditions of contract” as part of the registration application,

⁶² Accessible from

<https://doe.gov.in/sites/default/files/Model%20Tender%20Document%20for%20Procurement%20of%20Goods%20%28pdf%29.pdf>

⁶³ Accessible from <https://www.doe.gov.in/sites/default/files/Model-Tender-Document-for-Procurement-of-Non-Consultancy-Services.pdf>

which are applicable to such procurements, in additions to “terms and conditions of tender” on the obverse of tender form. If necessary, specifications and drawings or any other document may be enclosed with the limited tender form.

While SBDs would be complete in themselves and may be slightly different for various categories of procurements, these must necessarily address the following essential aspects:

- i) Description of the subject matter of procurement, its specifications including the nature, quantity, time and place or places of delivery;
- ii) Limitation or preference for participation by bidders in terms of the Government policies;
- iii) The criteria for eligibility and qualification to be met by the bidder (the eligibility criteria should take care of the supplier’s eligibility to receive such a Government contract. The qualification criteria should take care of the supplier’s past performance, experience, technical competence and production capacity of the subject goods, financial strength to handle the contract successfully, compliance with environmental protection regulations/ Environment Management System and so on);
- iv) There are no such qualifications for the bidders that would be advantageous to the foreign manufactured goods at the cost of domestically manufactured goods.
- v) The procedure as well as date, time and place for obtaining, submitting and opening of the bids;
- vi) Terms of delivery/completion;
- vii) Suitable provisions for enabling a bidder to question the bidding conditions, bidding process and/or rejection of its bid. These provisions should include a time frame in which procuring entity will address the bidder’s questions; (Rule 173 (iv) of GFR 2017).
- viii) Criteria for determining the 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, most advantageous (lowest/highest as the case may be) bidder should be clearly indicated in the

bidding documents. SBDs should include a clause that “if a firm quotes NIL charges/consideration, the bid shall be treated as unresponsive and will not be considered”;

- ix) Suitable provision for settlement of disputes, if any, emanating from the resultant contract, should be kept in the bidding document; (Rule 173 (v) of GFR 2017) and
- x) Essential terms of the procurement contract including a suitable clause mentioning that the resultant contract will be interpreted under Indian laws (*Rule 173 (vi) of GFR 2017*)
- xi) **Tender Documents** :
 - a) The tender document is the fundamental document in the public procurement process as after award of the contract it becomes part of the contract agreement. All necessary provisions governing the contract should be clearly provided in the tender document. Examples are technical specifications, drawings, commercial terms and conditions including time period, inspection, payment terms, obligations of the procuring entity and the suppliers timeframe/ milestones, tax implications, compliance framework for statutory and other norms, dispute resolution. Provisions/ clauses in the tender document should be clear to avoid differences in interpretation and possible time overrun, cost overrun and quality compromises. Model Tender Documents issued by the DoE may be used, with due customisation.
 - b) In tenders containing General Conditions of Contract (GCC), additional/ special conditions to be incorporated in the tender document, shall be need based and specific. The GCCs should not be altered and changes, if any, in conditions of contract should only be made through the Special Conditions of Contract.
 - c) Procuring entities may issue instructions regarding appropriate delegation of authority for variations and changes in the scope of the contract.
 - d) Provision of price variation, wherever considered appropriate, as well as methodology for calculation of the same shall be clearly stipulated in the tender document.
 - e) Technical and Financial eligibility Criteria for the bidders are important in the public procurement process. They shall be clear and fair, having regard to the

specific circumstances of the procurement. Appropriate parameters should be prescribed in the eligibility criteria for bidders, to enable selection of the right type of bidders in public interest, balancing considerations of quality, time and cost.

- f) Open online tendering should be the default method to ensure efficiency of procurement. Public authorities should also keep the experience criteria broad based so that bidders with experience in similar nature of items/ goods can participate.
- g) Pre-bid conference may be conducted for large value tenders by Procuring Entities. The Place and time of pre-bid conferences should be mentioned in the tender document and/ or publicized through the website of the procuring entity and/ or through newspaper publication.

5.1.2 Contents of Tender Documents (*Rule 168 of GFR 2017*)

The main sections of the SBD are:

- i) Notice Inviting Tender (NIT);
- ii) Instructions to Bidders (ITB);
- iii) Appendix to Instructions to Bidders (AITB) (instead of modifying ITB, it is better to have information specific to a procurement as a separate section);
- iv) Eligibility and qualification criteria;
- v) Schedule of requirements
- vi) Technical specifications (including Drawings) and Quality Assurance (Inspections and Tests);
- vii) General Conditions of Contract (GCC);
- viii) Special Conditions of Contract (SCC) (instead of modifying GCC every time, it is better to have it as a separate section); and
- ix) Standard formats, including Bid Cover letter, price schedules, bank guarantees and contract format.

A reading of the sections of the tender document will make the purpose and instructions clear. However, some broad guidelines for preparing bid documents are provided in the subsequent paragraphs.

5.1.3 Notice Inviting Tender

The model NIT format in SBD should be used for publishing the tender notice. To ensure competition, attention of all likely tenderers, for example, registered suppliers, past suppliers and other known potential suppliers, should be invited to the NIT through email/SMSs/ letters. In e-procurement, the website may be programmed to generate these alerts automatically.

The Notice Inviting Tender (NIT) is crucial for attracting wide competition in the tender. The model NIT format in SBD should be used for publishing the tender notice. The NIT should be brief but must contain sufficient detail for a prospective bidder to decide whether to participate in the tender or not and, if he decides to participate, how to go about it. To ensure competition, attention of all likely tenderers, for example, registered vendors, past suppliers and other known potential suppliers, should be invited to the NIT through email/ SMSs/ letters. In e-procurement, the website may be programmed to generate these alerts automatically. NIT should be published as per the current policy of Procuring Entity in this regard (Please refer to chapter 4 for details).

In case of procurement through a limited tender, the NIT may be uploaded on CPPP Portal and Procuring Entity's website with a note saying:

"This notice is being published for information only and is not an open invitation to quote in this limited tender. Participation in this tender is by invitation only and is limited to the selected Procuring Entity's registered suppliers. Unsolicited offers are liable to be ignored. However, suppliers who desire to participate in such tenders in future may apply for registration with Procuring Entity as per procedure."

Printouts of the tenders published on the website should be collected and kept on record as a proof of publicity. The complete details of the dates, on which advertisements actually appeared on the website, should be indicated while sending cases to higher authorities.

5.1.4 Information to Bidders (ITB) and AITB

ITB contain all relevant information as well as guidance to the prospective tenderers regarding all aspects of obtaining tender documents, and preparing and submitting a responsive bid. It also mentions the process of establishing the eligibility of the

tenderer as well as evaluation and comparison of tenders and award of contract. ITB should not contain information on processes after the announcement of the award which should be covered in GCC, for example, the arbitration clause, resolution of disputes, and so on. Instead of modifying ITB every time, any changes warranted by special circumstances may be indicated with the prior approval of CA on a separate Appendix to ITB (AITB) and ITB may be included unchanged in every tender document. It should also to be indicated therein that the provisions in the AITB will supersede the corresponding provisions in the ITB.

Important clauses of ITB/ AITB which may require attention and action are:

i) **Purchase Preference Policies**

If the purchaser intends to give a purchase preference in line with current Government policies, this fact must be declared in the ITB/AITB and in NIT as well.

ii) **Clarification of Tender Documents**

A prospective bidder requiring clarification on the tender documents may notify to Procuring Entity in writing, well before the due date of submission of bids, and a response will be sent in writing to the clarifications sought prior to the date of opening of the tenders. Copies of the query and clarification shall be sent to all prospective bidders who have received the tender documents.

iii) **Amendment of Tender Documents (*Rule 173 (iii) of GFR 2017*)**

At any time prior to the date of submission of bids, the purchaser may, whether at his own initiative or in response to a clarification sought by a prospective bidder, amend bid documents by issuing a corrigendum. The corrigendum shall be notified in writing by registered post/speed post/courier/email to all known prospective bidders. Copies of such amendments are also to be prominently attached in the unsold sets of the tender documents (which are available for sale), including the tender documents uploaded on the website. When the amendment/modification changes the requirement significantly and /or when there is not much time left for the tenderers to respond to such amendments, and prepare a revised tender, the time and date of submission of tenders are also to be extended suitably, along with suitable changes in the corresponding timeframes for

receipt of the tender, tender validity period, and so on, and validity period of the corresponding EMD/bid security. Depending on the situation, such an amendment may also need fresh publication adopting the same procedure as for publication of the original tender enquiry.

iv) **Bid Validity**

2.3.1 A bid shall remain valid for the period mentioned in the ITB/ AITB [normally 75 (seventy-five) days for OTE and 90 (ninety) days for GTE]. In exceptional circumstances, the consent of the bidder may be requested in writing for an extension to the period of bid validity. Such requests should preferably be made much before the expiry of the bid validity. The bid security provided shall also be suitably extended. A bidder accepting the request and granting extension shall not be permitted to modify his bid. Reasons for seeking extension of bid validity should be recorded by the procuring officers at the time of taking such decisions itself.

v) **Sealing and Marking of Tenders**

The tender document is to indicate the total number of tender sets (for example, in duplicate or in triplicate, and so on) required to be submitted. The tenderer is to seal the original and each copy of the tender in separate envelopes, duly marking the same as "original", "duplicate," and so on, and also printing the address of the purchase office and the tender reference number on the envelopes. Further, the sentence "NOT TO BE OPENED" before (due date and time of tender opening) is also to be printed on these envelopes. The inner envelopes are then to be put inside a bigger outer envelope, which will also be duly sealed marked, and so on, as above. If the outer envelope is not sealed and marked properly as above, the purchaser will not assume any responsibility for its misplacement, premature opening, late opening, and so on. All the above instructions are to be suitably incorporated in the tender documents.

vi) **Withdrawal, Substitution and Modification of Tenders**

The tenderer, after submitting the tender, is permitted to withdraw, substitute or modify the tenders in writing without forfeiture of Bid Security/ EMD, provided these are received duly sealed and marked like the original tender,

up to the date and time of receipt of the tender. Any such request received after the prescribed date and time of receipt of tenders will not be considered. No bid may be withdrawn in the interval between the deadline for submission of bids and expiration of the period of bid validity. Withdrawal of a bid during this period will result in forfeiture of the bidder's bid security (EMD) and other sanctions.

vii) **Eligibility/Evaluation/Qualification Criteria**

If it is intended to use eligibility/evaluation/qualification criteria to evaluate a tender and determine whether a tenderer has the required qualifications, this point may be clearly specified in NIT, ITB/AITB or as a separate section of the tender document. The bidder has to ensure that he provides convincing proof of having fulfilled these criteria. *Any criteria not specified in the tender cannot be used for evaluation or qualification.*

The condition of prior turnover and prior experience may be relaxed for Startups (as defined by Department of Industrial Policy and Promotion) subject to meeting of quality & technical specifications and making suitable provisions in the bidding document (*Rule 173 (i) of GFR 2017*). As per Department of Expenditure's OM No.F.20/2/2014-PPD dated 20.09.2016, relaxation regarding the prior turnover and prior experience is applicable **only to all startups** recognized by Department of Industry & Internal Trade (DPIIT) subject to meeting of quality and technical specifications. Startups may be MSMEs or otherwise.

Prequalification/ Post Qualification (PQ) shall be based entirely upon the capability and resources of prospective bidders to perform the particular contract satisfactorily, taking into account their experience and past performance, capabilities with respect to personnel, equipment and manufacturing facilities, financial standing. The quantity, delivery and value requirement shall be kept in view, while fixing the PQ criteria. No bidder should be denied prequalification/post qualification for reasons unrelated to its capability and resources to successfully perform the contract.

viii) **OEM/Authorised Dealer/Agents of Supplier**

Except in case of Commercially-Off-the-Shelf (COTS) items, when a firm sends quotation for an item manufactured by some different company, the firm is also required to attach, in its quotation, the manufacturer's authorisation certificate and also manufacturer's confirmation of extending the required warranty for that product as per formats given in SBD. This is necessary to ensure quotation from a responsible party offering genuine product, also backed by a warranty obligation from the concerned manufacturer. In the tender, either the manufacturer or its authorised dealer can be considered as valid bidders.

In case of large contracts, especially capital equipment, the manufacturer's authorisation must be insisted upon on a tender specific basis, not general authorisation/dealership, by so declaring in the bid documents clearly.

In cases where the manufacturer has submitted the bid, the bids of its authorised dealer will not be considered and EMD will be returned.

And in case of violations, both infringing bids will be rejected.

ix) **Conflict of Interest among Bidders/ Agents**

A bidder shall not have conflict of interest with other bidders. Such conflict of interest can lead to anti-competitive practices to the detriment of Procuring Entity's interests. The bidder found to have a conflict of interest shall be disqualified. A bidder may be considered to have a conflict of interest with one or more parties in this bidding process, if:

- a) they have controlling partner (s) in common; or
- b) they receive or have received any direct or indirect subsidy/ financial stake from any of them; or
- c) they have the same legal representative/agent for purposes of this bid;
or
- d) they have relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the bid of another Bidder; or
- e) Bidder participates in more than one bid in this bidding process. Participation by a Bidder in more than one Bid will result in the

disqualification of all bids in which the parties are involved. However, this does not limit the inclusion of the components/ sub-assembly/ Assemblies from one bidding manufacturer in more than one bid.

- f) In cases of agents quoting⁶⁴ in offshore procurements, on behalf of their principal manufacturers, one agent cannot represent two manufacturers or quote on their behalf in a particular tender enquiry. One manufacturer can also authorise only one agent/dealer. There can be only one bid from the following:
1. The principal manufacturer directly or through one Indian agent on his behalf; and
 2. Indian/foreign agent on behalf of only one principal.
- g) a Bidder or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the contract that is the subject of the Bid;
- h) In case of a holding company having more than one independently manufacturing units, or more than one unit having common business ownership/management, only one unit should quote. Similar restrictions would apply to closely related sister companies. Bidders must proactively declare such sister/ common business/ management units in same/ similar line of business.

x) **Schedule of Requirements**

This section comprises the list of goods and delivery schedule. If there is no separate TS, then TS, quality assurance and inspections may also be included here. If the tender contains a number of schedules of requirements, it must be clarified, whether evaluation of eligibility/qualifications/financial bids would be on a schedule by schedule basis or on the basis of a total of all schedules put together.

xi) **Quotation Received from Dealers/Agents for Items not Manufactured by Them**

⁶⁴ CVC (CTE) No.12-02-6-CTE/SPI (1)-2, dated January 13, 2012 refers to this.

When a firm sends a quotation for an item manufactured by a different company, the firm is also required to attach in its quotation that manufacturer's authorisation certificate and also manufacturer's confirmation of extending the required warranty for that product (in addition to the tenderers' confirmation to the required warranty). If the firm is an authorised agent/dealer of that manufacturer, certified documentary evidence to this effect is to be attached along with the quotation. This is necessary to ensure a quotation from a responsible party offering the genuine product, also backed by a warranty obligation from the concerned manufacturer.

xii) **Special Conditions in GTE Procurements**

- a) **Currency of Bidding:** In GTE tenders, the Foreign Bidders are allowed to quote price (and get paid) in RBI's notified basket of foreign currencies - US Dollar or Euro or Pound Sterling or Yen etc., in addition to the Indian Rupees - except for expenditure incurred in India (including agency commission if any) which should be stated in Indian Rupees. Indian Bidders are to quote in INR only.
- b) **Agency Commission:** The amount of Agency Commission, (normally not exceeding five percent) payable to the Indian Agent should not be more than what is specified in the Agency agreement (a certified copy should be submitted along with the bid) between the bidder and the Indian Agent. The Indian Agent will be required to submit a certificate along with their Agency Commission bill, confirming that the amount claimed as Agency Commission in the bill has been spent/will be spent, strictly to render services to the foreign Principal, in terms of the Agency Agreement. The Purchaser or their authorized agencies and/or any other authority of the Government of India shall have rights to examine the books of the Indian Agent and defects or misrepresentations in respect of the afore indicated confirmation coming to light during such examinations will make the foreign Principal (i.e. the Contractor) and their Indian Agent liable to be banned/suspended from having business dealings with the Purchaser, following laid down procedures for such banning/suspension of business dealings.

- c) **Delivery Terms:** The delivery terms are to be expressed in terms of Incoterms. As per the revised policy⁶⁵ of the Government, all Public Procurement import contracts involving (Ocean freight of dry or liquid bulk cargoes) are to be finalized only on FOB (Free on Board)/ FAS (Free Alongside Ship) basis and in case of any departure there-from, prior approval of the concerned administrative Ministry/ Department may be obtained. However imports involving ocean freight of general liner: cargoes, project cargoes, heavy lift, container, break bulk cargoes etc. can now be made on FOB (Free on Board)/ FAS (Free Alongside Ship) or CFR (Cost & Freight)/ CIF(Cost, Insurance & Freight) basis. All importing Government Departments/ PSUs are now allowed to make their own shipping arrangements with out needing to route their requirements through Chartering Wing of Ministry of Shipping. As per the extant directive of the Government, airlifting of imported goods from abroad will be done only through the national carrier, that is, Air India, wherever applicable. However, before processing any contract involving import of goods through air, contemporary instructions in this regard may be ascertained and followed; and
- d) **Insurance:** Wherever necessary, the goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the contract. If considered necessary, the insurance may be done for coverage on an "all risks" basis including war risks and strike clauses. The amount to be covered under insurance should be sufficient to take care of the overall expenditure to be incurred by the purchaser for receiving the goods at the destination. Insurance of imported goods/equipment would need to be arranged on a very selective basis and only for cases where the value of individual shipment is expected to be in excess of Rupees five crore. Procuring Entities who are

⁶⁵ <http://shipping.nic.in/showfile.php?lid=2098>

entering into large number of imports contracts, may enter into annual Insurance arrangements for all imports during the year with Insurance Companies, instead of insurance for each individual imports separately on the basis of “Open Cover (all Risk)”. Where delivery of imported goods is required by the purchaser on Cost Insurance and Freight/Carriage and Insurance Paid (CIF/CIP) basis, the supplier shall arrange and pay for marine/air insurance, making the purchaser the beneficiary. Where delivery is on Free On Board/ Free Alongside Ship (FOB/FAS) basis, marine/air insurance shall be the responsibility of the purchaser

5.1.5 General and Special Conditions of the Contract

The GCC to be used for contracting for procurement are provided in Procuring Entity’s SBD. GCC covers all information on aspects after the announcement of the tender award till the closure of the contract and dispute resolution. It should not cover any aspect up to announcement of award. Instead of modifying the GCC every time, any changes warranted by special circumstances may be indicated in a separate SCC with the prior approval of the CA and GCC may be included unchanged in every tender document. It is also to be indicated therein that the provisions in the SCC will supersede the corresponding provisions in the GCC.

5.1.6 Submission Formats

This section contains the relevant forms for tender submission: various declarations by tenderer, formats for the bank guarantee, price schedule forms, exception and deviation forms, contract forms and manufacture’s authorisation form, and so on.

5.1.7 Mandatory e-Publishing of Tenders (*Rule 159 of GFR 2017*)

It is mandatory for all Ministries/Departments of the Central Government, their attached and subordinate offices and autonomous/statutory bodies to publish their tender enquiries, corrigenda thereon and details of bid awards on the Central Public

Procurement Portal (CPPP)⁶⁶. These instructions apply to all Tender Enquiries, Requests for Proposals, Requests for Expressions of Interest, Notice for pre Qualification/ Registration or any other notice inviting bids or proposals in any form whether they are advertised, issued to limited number of parties or to a single party. These instructions would not apply to Purchase of goods without quotations or Purchase of goods by purchase committee.

Individual cases where confidentiality is required, for reasons of national security, would be exempted from the mandatory e-publishing requirement. The decisions to exempt any case on the said grounds should be approved by the Secretary of the Ministry/ Department with the concurrence of the concerned Financial Advisor. In the case of autonomous bodies and Statutory bodies' approval of the head of the body with the concurrence of the head of the finance should be obtained in each such case. Statistical information on the number of cases in which exemption was granted and the value of the concerned contract should be intimated on a Quarterly basis to the Ministry of Finance, Department of Expenditure.

5.2 Receipt and Custody of Tenders

5.2.1 Cost and Availability of Tender Documents

Tender documents should preferably be sold or available for download up to date of opening of tenders and this should be clearly indicated in the documents. The organisation should also post the complete tender document in the website and permit prospective tenderers to make use of the document downloaded from the website.

The tender document fee should be as low as possible considering the cost/effort of preparing documents. *In order to promote wider participation and ease of bidding, no cost of tender document may be charged for the tender documents downloaded by the bidders.* The procuring Entity may decide not to take any charges for the tender documents, in view of prevalence of e-publishing/ downloading of tender documents. The cost of the tender document is to be submitted to the authority nominated therein by the prospective tenderer in the form of a demand draft /banker's

⁶⁶Need for publishing of contract award for procurements made through DGS&D Rate Contracts or through any other Central Procurement Organizations (CPOs) stated under Rule 159 (iv) of GFR, 2017 has been deleted vide OM No.F.1/26/2018-PPD issued by Department of Expenditure dated 02.04.2019

cheque/pay order. Firms that are eligible for exemption from the tender document fee such as MSEs, Procuring Entity registered units (for relevant items and monetary limit) have to submit/upload scanned copy of documents in support of this exemption. Although the Procuring Entity is the best judge to decide or waive the document cost, following table could be used as a starting point:

Suggested Cost of Tender Documents in OTE, GTE Tenders (Normally in STE/ PAC/ LTE, no cost is charged)	
Estimated Value of Tender	Tender Document Cost
Below Rs 25 Lakh	Rs. 500
Rs 25 Lakh to Rs 2 Crore	Rs. 1,500
Rs 2 Crore to Rs. 25 Crore	Rs. 2,500
Rs 25 Crore to Rs. 50 Crore	Rs. 5,000
Above Rs 50 Crore	To be decided on case to case basis

5.2.2 Pre-bid Conference(Rule 173 (x) of GFR 2017)

In case of turnkey contract (s) and facilities of a special nature for procurement of sophisticated and costly equipment, large works and complex consultancy assignments, a suitable provision is to be kept in the bidding documents for one or more pre-bid conference for clarifying issues/clearing doubts, if any, about the specifications and other allied technical/commercial details of the plant, equipment and machinery projected in the bidding document and for ensuring that the technical requirements provide a level playing field. The date, time and place of the pre-bid conference should be indicated in the tender enquiry document. Bidders should be asked to submit written queries in advance of the conference. After the conference, the techno-commercial requirements may be revised if considered necessary by way of issue of a formal corrigendum (mere minutes of the meeting of pre-bid conference would not suffice) and shared with all the bidders who purchase or have purchased the bid documents.

5.2.3 Extension of Tender Opening Date

Sometimes, situations may arise necessitating modification of the tender documents already issued (LTE case) or already put on sale (OTE case). Also, after receiving the documents, a tenderer may point out some genuine mistakes necessitating amendment in the tender documents. In such situations, it is necessary to

amend/modify the tender documents suitably prior to the date of submission of bids. Copies of such amendment / modification should be simultaneously sent to all the selected suppliers by registered/speed post/courier/e-mail in case of LTE. In case of OTE, the copies of such amendment / modification are to be simultaneously despatched, free of cost, by registered/speed post/courier/e-mail, to all the parties who have already purchased the tender documents and copies of such amendments are also to be prominently attached in the unsold sets of the tender documents (which are available for sale), including the tender documents for downloading put on the CPPP and Procuring Entity's own website.

When the amendment/ modification changes the requirement significantly and/or when there is not much time left for the tenderers to respond to such amendments, and prepare revised tender, the time and date of submission of tenders are also to be extended suitably, along with suitable changes in the corresponding time-frames for receipt of tender, tender validity period etc and validity period of the corresponding EMD/bid security. Depending on the situation, such an amendment may also need fresh publication adopting the same procedure as for publication of the original tender enquiry.

5.2.4 Sealing, and Marking of Bids by Bidders

The tender document is to indicate the total number of tender sets (e.g., in duplicate or in triplicate etc.) required to be submitted. In case of two envelop bidding system, the techno-commercial bid and financial bid should be sealed by the tenderer in separate covers duly marking these as 'Techno-commercial Bid' and 'Financial Bid' and marked these with the address of the purchase office and the tender reference number on the envelopes. Further, the sentence "NOT TO BE OPENED" before..... (due date & time of tender opening) are also to be put on these envelopes and these sealed covers are to be put in a bigger cover which should also be sealed and duly super scribed in a similar manner. In case bids are asked in a number of copies, the tenderer is to seal the original and each copy of the tender in separate envelopes, duly marking the same as "original", "duplicate" and so on and also marking these as mentioned above. The inner envelopes are then to be put in a bigger outer envelope, which will also be duly sealed marked etc. as above. If the outer envelope is not sealed and marked properly as above, the purchaser will not assume any responsibility for its misplacement, premature opening, late opening etc.

These details regarding the submission of bids should also form a part of the ITB and AITB in the tender documents; all the above instructions are to be suitably incorporated in the tender documents.

5.2.5 Submission, Receipt and Custody of Tenders

In e-procurement, all tenders uploaded by tenderers are received, safeguarded and opened online on the portal. In offline tenders, receipt and custody of bids shall be done in a transparent manner to maintain the credibility of the process. The following guidelines should be adhered to for receipt and custody of bids:

- 1) The procuring entity shall maintain tender boxes for receiving the bids at suitable locations which would facilitate security and easy access to bidders. If required, Tender boxes should be separate for each day of the week of tender opening and should be sealed by the Bid Opening Committee (BOC) of the day. The tender box shall have two locks. Key of one lock will be with the head of the office and the other key with the official nominated by him;
- 2) Bids received by courier shall be deposited in the tender box by the Dispatch Section till the date and time of bid opening. Bids sent by telex, cable or facsimile are to be ignored and rejected.; and
- 3) For bulky/oversized bids which cannot be dropped into tender boxes, the officials authorised to receive such bids shall maintain proper records and provide a signed receipt with date and time to the bearer of the bid. He will also sign on the cover, duly indicating the date and time of receipt of the tender(s). Names and designations of at least two such authorised officers should be mentioned in the bid documents

5.2.6 Withdraw/ Amendments / Modifications to Bids by Bidders

The tenderer, after submitting its tender, is permitted to withdraw/ alter/modify its tender so long such withdrawal/ alterations/ modifications are received duly sealed and marked like original tender, up to the date & time of receipt of tender. Any withdrawal/ amendment/ modification received after the prescribed date & time of receipt of tenders are not to be considered.

5.3 Procedures to be followed during Bid Opening

Immediately after the deadline for bid submission, procuring entity shall proceed to the bid opening. In e-procurement, bids are opened online as detailed in Appendix 3. In offline tenders, the BOC shall comprise one officer each from the procuring entity and Associated/ integrated Finance.

- i) The authorised representatives of bidders, who intend to attend the tender opening in OTE/ GTE/ SLTE are to bring with them letters of authority from the corresponding bidder. The prescribed format for the letter of authority for attending the bid opening should be given in the bidding document. All bid-opening activities should be carried out demonstrably before such a gathering. The prescribed format for the bid opening attendance sheet and report are given at Annexure 10;
- ii) At a prescheduled date and time, the BOC of the day should get the particular tender box opened, after ensuring and demonstrating that the seal on the box has not been tampered with. All bids should be collected from the tender box. Bids for tenders not opening on that day should be put back into the box and the box resealed. Sometimes, there would be tenders dropped wrongly into this tender box. Such wrongly dropped tenders with appropriate endorsement should be put into the appropriate box or sent to the Tender Committee (TC) concerned, if the date of opening is over. The bids for different tenders opening on the day (including oversized bids, which were submitted to designated officers) should be sorted, and a count for each tender should be announced and recorded, particularly noting any modifying/altering/withdrawal of bids. BOC should ensure and demonstrate that bid envelopes are duly sealed and untampered. Late bids should be separately counted but kept aside and not opened. In the case of an advertised tender enquiry or limited tender enquiry, late bids (that is, bids received after the specified date and time for receipt of bids) should not be considered (Rule 165 of GFR 2017);
- iii) After opening, every tender shall be numbered serially (say 3/14 – if it is the third bid out of 14 total), initialled, and dated on the first page by the BOC. Each page of the price schedule or letter attached to it shall also be similarly initialled, particularly the prices, delivery period, and so on, which shall also be circled and initialled along with the date. Any other page containing significant information should also be dealt with similarly. Blank tenders, if any, should be

marked accordingly by the BOC. The original (and duplicate, if any) copies in a tender set are to be marked accordingly by the BOC;

- iv) Erasure/cutting/overwriting/use of whitener/columns left unfilled in tenders, if any, shall be initialled along with date and time and numbered by the officials opening the tenders and total number of such noticed alterations (or the absence of any alteration) should be explicitly marked on the first page of the bid. Wherever quantity/amount is written only in figures, the BOC should write them in words. All rebates/discounts should be similarly circled, numbered and signed. In the absence of any alteration/overwriting/whitener/ blanks, the remark “no corrections noted” should be written. Similarly, the absence of discounts should be marked with “no discounts noted;”
- v) The BOC is to announce the salient features of the tenders such as description and specification of the goods, quoted price, terms of delivery, delivery period, discount, if any, whether EMD furnished or not, and any other special feature of the tender for the information of the representatives attending the tender opening. No clarifications by tenderers should be entertained or allowed to be recorded during the bid opening. It should be understood that BOC has no authority to reject any tender at the tender opening stage;
- vi) Proper sealing and codification need to be done on samples as well for samples which accompany the bid. These should be kept for reference under lock and key. Details should be recorded in the sample register maintained in the opening section. Documents related to money should be noted in the bid opening report/register and handed over to the Finance Section for safe custody and monitoring; and
- vii) A bid opening report containing the names of the tenderers (serial number wise), salient features of the tenders, as read out during the public opening of tenders, will be prepared by the tender opening officers, and duly signed by them along with the date and time. The tenders that have been opened, list of the representatives attending the tender opening, and bid opening report are to be handed over to the nominated purchase officer and an acknowledgement obtained for him.

5.4 Bidding Process- Risks and Mitigations	
Risk	Mitigation
Exceptions to an open bidding process are abused, leading to single source processes.	Rigorously follow the conditions under which open tendering can be dispensed with.
When short lists are used , the process of preparation of short lists may be non-transparent and all eligible firms may not be included and some ineligible firms may get included.	Registration of bidders/contractors: All major procuring Departments must keep a list of registered bidders for use in restricted bidding. Publicise even restricted bids on your website. Bidders for LTE/ SLTE may be transparently selected with the approval of CA.
Pre-qualification criteria: PQB has the potential of getting misused or being applied without considering the restrictive nature of competition. PQC should be relevant to the quality requirements and neither be very stringent nor very lax to restrict/facilitate the entry of bidders. These criteria should be clear, unambiguous, exhaustive and yet specific. Also, there should be fair competition.	Lay down criteria when two stage bidding is warranted. Also lay down model PQC criteria for different types of procurements.
Invitation to tender (an open bid) is not well publicised or gives insufficient time, thereby restricting the number of bidders that participate.	Publicity and adequate time for bid submission must be ensured. Require a higher level approval for short bid submission period.
Evaluation criteria are not set from the beginning or are not objective or not clearly stated in the bid documents, thereby making them prone to being abused.	Objective, relevant and clearly stated evaluation criteria must be specified in the bid document.