

**PROCUREMENT MANUAL
FOR
UTTARAKHAND RURAL WATER SUPPLY & SANITATION PROJECT**

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ABBREVIATIONS AND ACRONYMS

BIS	Bureau of Indian Standards
BOQ	Bill of Quantities
CAG	Comptroller & Auditor General
CAP	Capacity Action Plan
CQS	Consultant's Qualification Selection
DGS&D	Directorate General Suppliers & Disposals
DPMU	District Project Management Unit
DPR	Detailed Project Report
DWSC	District Water & Sanitation Committee
DWSM	District Water & Sanitation Mission
ESR	Elevated Storage Reservoir
FBS	Fixed Budget Selection
FOR	Free on Rail
GoUA	Government of Uttarakhand
GO	Government Order
GP	Gram Panchayat
ICB	International Competitive Bidding
IEC	Information Education & Communication
ITC	Instruction to Consultants
ITO	Invitation to Quote
ITQ	Invitation to Quote
LCB	Limited Competitive Bidding
LCS	Least Cost Selection
LOI	Letter of Invitation
MVS	Multi Village Schemes
MVSLC	Multi Village Scheme Level Committee
NCB	National Competitive Bidding
NGOs	Non Government Organizations
O&M	Operations & Maintenance
PMU	Project Management Unit
PRI	Panchayati Raj Institution
PSC	Procurement Sub-Committee
QBS	Quality Based Selection
QCBS	Quality & Cost Based Selection
RC	Rate Contract
RFP	Request for Proposal
RWSS	Rural Water Supply & Sanitation
SC	Schedule Caste

SO	Support Organization
SSS	Single Source Selection
ST	Schedule Tribe
SVS	Single Village Schemes
SWSM	State Water & Sanitation Mission
TOR	Terms of Reference
TRC	Technical Review Committee
UJN	Uttarakhand Jal Nigam
UJS	Uttarakhand Jal Sansthan
UP	Uttar Pradesh
UWSSC	User Water & Sanitation Sub-Committee

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PREFACE

PROCUREMENT MANUAL FOR

Uttarakhand RURAL WATER SUPPLY & ENVIRONMENTAL SANITATION PROGRAM (UARWSES)

This procurement manual has been prepared by the Project Management Unit (PMU) for providing guidance to various institutions in Implementation, to understand various concepts related to procurement for the Rural Water Supply & Environmental Sanitation Program of the Government of **Uttarakhand**. It describes the methods, procedures and arrangements for procurement at village level institutions, Project Management Unit, District Project Management Units & Sector Institutions.

The manual is a dynamic document and may be improved by the Procurement Cell of PMU as and when required as learning accumulates within the project. All participants in the Uttarakhand Rural Water Supply & Environmental Sanitation Program (UARWSES) are encouraged to share their learning and experiences of the project implementation so as to improve the proposed arrangements made to attain the project objectives. Modifications to the Manual shall be made as and when required, in consultation with the World Bank.

The manual is organized into different Chapters covering general information related to procurement of goods, works & services and covers community procurement including procurement by GPs/UWSSCs as also procurement by other organizations.

CHAPTER- I

INTRODUCTION

1.1 GENERAL

State of Uttarakhand was carved out of State of Uttar Pradesh and established in Nov. 2000 as a separate State. The State covers a total area of 53,484 sq. kms inhabited by 8,489,349 male & female population as per 2001 census. Out of this 6,310,275 are living in rural areas of 16,826 revenue villages. With an aim to provide access to safe and protected drinking water and sanitation facilities to rural communities, the Govt. of Uttarakhand has planned to launch Swajal Panch Pariyojana under Rural Water Supply and Sanitation Sector, subsequent to successful completion of Swajal-I project. Government of Uttarakhand proposes a Sector Wide Approach, under single sector policy of State investment..

Rural Water Supply and Sanitation Schemes shall be designed based on demand responsive participatory approach involving beneficiary rural communities from planning to execution and post execution stage.

1.2 OBJECTIVE

Under the aforesaid background and scenario, the Procurement Manual has been prepared setting forth the procedures and guidelines for procurement of works, goods and services by the program partners, conducive to the program environment.

1.3 SCOPE OF THE MANUAL

Manual contains procedures to be followed for procurement of goods, works, and services at different levels. However special emphasis is laid on community procurement where all procurements related to execution of Single Village Schemes shall be done. Sample drafts of tender notice, Invitation to Quote (ITQ)/Bid, contract formats, market survey format, format for keeping accounts of material, performance security format, bank guarantee format, supply order format and work order formats etc. are given in the Manual. Checks and controls required to maintain transparency in the procurement process have been covered and as far as permissible, clauses for exercising in-built checks and controls have been inserted either by fixing value threshold of tenders at different levels of stakeholder or by limiting the rates of works and goods exceeding Standard Schedule of Rates. Panchayati Raj Account code, State Financial Rules and World Bank Guidelines relating to procurement have been kept in view in preparation of draft proposals.

1.4 LIMITATIONS OF THE MANUAL

The Manual is limited to the efficient use by all stake holders of the project; like the Project Management Unit, State Water & Sanitation Mission (SWSM), Uttarakhand Jal Nigam (UJN), Uttarakhand Jal Sansthan (UJS), District Project Management Unit, District Water & Sanitation Mission (DWSM), Zila Panchayats, Block Panchayats, Gram Panchayats/ User

Committees and their Support Agencies, consistent with the principles and policies applicable to the program implementation framework and acceptable procedures governing the procurement arrangements of funding partners.

The Manual shall be a reference tool for the project partners and related agencies. The procedures and guidelines for procurement of goods, works and services are however, subject to modifications, with the approval of the State Government and the funding partners.

1.5 REFERENCE TO THE WORLDBANK/IDA

The terms “World Bank’ or ‘Bank’ used in manual also include “International Development Association (IDA)” and wherever any clearance requirements or other references have been made, the same would imply to the IDA as well.

PROCUREMENT POLICY, PLAN AND STRATEGY

2.1 GENERAL

The aim of procurement is to obtain right quality of works, goods or services at reasonable and competitive prices, giving equal opportunities to those individuals/companies/firms/manufacturers/builders who are capable of delivering the goods, works and services. Procurement policy also needs to provide incentive and encouragement for development of national institutions, consultancy firms, manufacturers, contractors etc. Following are the main principles universally accepted and followed:

- ② Need for economy and efficiency
- ② Need for high quality services
- ② Fair opportunity to all eligible bidders
- ② Development of domestic contracting, manufacturing and consulting firms
- ② Transparency in the procurement process

2.2 PROCUREMENT PLAN

Procurement plans/ schedules including the description of goods, works and services to be procured along with their value and consistent with technically and administratively approved estimate, are required to be prepared for the first and subsequent years, in accordance with the budgetary provisions. The actual procurement is to follow the approved plans.

During preparation of the procurement plans/ schedules, packaging should be appropriately done. Items of similar nature, which can be supplied by same set of firms, should be packaged together to achieve economies of scale. They should be evaluated on slice cum package basis after taking into account cross discounts offered. Aggregate value of total package will form the basis for determining the procurement method as well as the review requirement of the World Bank.

2.3 METHODS OF PROCUREMENT

Following methods will be used based on the value and nature of purchase:-

(a) Goods, Works and Services (Other than Consultancy Services):

- ② International Competitive Bidding (ICB)
- ② National Competitive Bidding (NCB)
- ② Limited Competitive Bidding (LCB)
- ② Shopping
- ② Direct Contracting

(b) Consultancy Services:

- ② Quality and Cost - Based Selection (QCBS)
- ② Quality - Based Selection [QBS]

- ② Selection Under a Fixed Budget (FBS)
- ② Least - Cost Selection [LCS]
- ② Selection Based on the Consultants' Qualification (CQS)
- ② Single Source Selection (SSS)
- ② Selection of Individual Consultants

(c) Labour skilled / non skilled:

- ② On daily wages (muster roll)

(d) Community Procurement:

- ② Through market survey (Shopping)
- ② Through GP/ Beneficiary committee

2 INTERNATIONAL COMPETITIVE BIDDING (ICB) AND SELECTION OF CONSULTANTS FOR SERVICES WHERE FOREIGN CONSULTANTS ARE INVOLVED

In case of any ICB procurement, World Bank guidelines and Standard Bidding Documents/ Standard Request for Proposal as applicable will be followed.

3 DELEGATION OF AUTHORITY

Particulars	Value	Competent Authority
Appraisal & Approval of DPR	Upto Rs. 50 lakhs	DWSC/DWSM
	More than Rs. 50 lakhs and upto Rs. 100 lakhs	SWSM
	More than Rs. 100 lakhs and upto Rs. 500 lakhs	Department of Drinking Water & Finance, GoUA
	More than Rs. 500 lakhs	Finance Expenditure Committee, GoUA
Approval for variation in rates at the time of procurement of individual items in DPR	If the rates are increased upto 10%	DWSC/DWSM
	If the rates are increased more than 10%	SWSM
Procurement approval for Goods, Works & Services (other than consultancy services)	Upto Rs. 5,00,000/-	DWSM/DWSC
	Upto Rs. 50,00,000/-	SWSM
	More than Rs. 50,00,000/-	Finance Committee, SWSM
Procurement approval for Consultancy Services	Upto Rs. 5,00,000/-	DWSM/DWSC, if any
	Upto Rs. 50,00,000/-	SWSM
	More than Rs. 50,00,000/-	Finance Committee, SWSM

4 PROCUREMENT AUDIT

Procurement audit refers to post auditing of procurement files and documents relating to contracts for procurement of goods, works and consultancy services. It will be conducted by an independent agency along with financial audit. The TOR of financial audit will include sufficient points to cover issues on procurement by all stakeholders. Procurement audit is basically carried out to ascertain whether the procurement procedures were correctly and completely followed, both in letter and spirit. It brings out omissions/commissions and lapses, whether on account of poor or inadequate understanding of the procedures or wilful negligence including likely fraud/ corruption evidenced during the audit. The report and observations of procurement audit therefore, also serve as a guide for taking remedial measures to streamline and improve the procurement system. The TOR for the financial and procurement audit will be required to be cleared with the World Bank before hiring the agencies.

Various audits will be carried out in the following manner:

Internal Audit

1. Internal procurement audit, as is the case with the internal financial management audit, is the responsibility of the Internal Audit Unit. In States where an internal audit team is not available, and with a view to strengthen the in-house internal audit system, qualified Chartered Accountant firms will be engaged for carrying out the internal audit function.
2. The internal audit of all district and sub-district entities shall be conducted at least once in a period of three years.
3. The audit will involve review of procurement procedures adopted for civil works, goods and consultancy services, by the internal auditors (or by chartered accountants as per a specified TOR) and it shall be ensured that the correct procurement procedure is followed for each procurement. Further it shall be ensured that records of all procurement arrangements, works, purchase orders, invoices, receipts, stock registers, etc., are properly maintained, duly linked and retained.
4. The internal audit report shall be placed before the State Executive Committee. Discrepancies noticed in the Internal Audit shall be reported to the State Project Director for taking necessary remedial measures.

Audit by the Chartered Accountant Firm

The State Project Director shall cause the annual accounts of the DWSSM to be prepared and approved by the governing body by a date not later than June 30. He shall have the accounts audited annually by a chartered accountant appointed for the purpose by the Executive Committee in accordance with the provisions of the Societies Registration Act applicable to the State.

The TOR of the chartered accountant firm to be hired by the State will include a procurement

audit. In particular, while conducting the procurement audit the consultants will report on the issues listed below. The audit itself however, is not limited to these points only.

PROCUREMENT AUDIT CHECKLIST

1. Whether the procurement plan was prepared?
2. Whether the procurement was made as per the procurement plan?
3. Whether the method adopted for procurement was as per the threshold limits given in the procurement manual?
4. Whether the procurement sub-committee was constituted and involved in the procurement procedure?
5. Whether the overall procurement was done within a reasonable time?
6. Whether there was any avoidable delay at any stage/ stages of the procurement process?
7. Whether the necessary approval was taken from appropriate authority wherever required?
8. Whether proper and adequate documents relating to procurement were maintained?
9. Whether the technical and financial evaluation was done properly and in a fair manner?
10. Whether the contracted firm, supplied the goods or executed the work as per the quality, quantity and price agreed upon?
11. Whether the goods were supplied or works executed in time and properly recorded in stock books/ works registers after inspection?
12. Whether the payment was made to the supplier/ contractor in time? If not, reasons for delay.

External Audit

Audit by the Comptroller and Auditor General of India:

The accounts of the Society and the procurement compliance of the Society shall be subject to the provisions of the Comptroller and Auditor General (CAG) of India (All documents, list of duties, schedule of powers, conditions etc. are required to be retained by the project's implementing agencies and made available whenever required)

In addition, the Ministry of Water shall cause a post review of the contracts awarded for procurement of goods, works and services by the program implementing agencies at all levels on a random basis. For this purpose, the GOUA shall hire the services of an independent firm. TOR issued for engagement of the firm, will be reviewed annually. All documents relating to the award of contracts will be provided to the firm, which may select any 2-3 purchase items/works executed and do a thorough review of the procurement procedures followed, assess violations, if any, and physically verify items purchased/works executed.

GOUA will share all reports of the above-mentioned external audits with the Bank through the Review Missions.

Cases of non-compliance will be reported to the relevant authorities for necessary remedial actions.

In addition, the World Bank will carry out its own post review of contracts.

5 MISPROCUREMENT

The Bank does not finance expenditures for goods, works and consultancy services, which have not been procured/ contracted in accordance with the agreed provisions of the financing agreement and as further elaborated in Procurement Plan agreed with the Bank. In such cases, the Bank will declare misprocurement and it is the policy of the Bank to cancel that portion of credit allocated to the goods, works, and consultancy services that have been misprocured. The Bank may, in addition, exercise other remedies provided for under the Financing Agreement. Even when the contract is awarded after obtaining “no objection” from the Bank, the Bank may still declare misprocurement, if it concludes that the “no objection” was issued on the basis of incomplete, inaccurate, or misleading information furnished by the Borrower or the terms and conditions of the contract had been modified without Bank’s prior approval.

6 COMPLAINT HANDLING MECHANISM

In order to deal with the complaints received from contractors/suppliers effectively, a complaint handling mechanism is available at both the national and state level. On receipt of complaints, immediate action is initiated to redress grievances. All complaints are dealt with at levels higher than those at which the procurement process is being undertaken. Complaints and the allegations made in the complaints are thoroughly enquired into and if found correct, appropriate remedial measures are taken by the appropriate authorities.

In cases where an individual staff is found responsible, suitable disciplinary proceedings are to be initiated against such staff under the Civil Services Conduct Rules at national level or the Classification, Control and Appeals Rules at the State Level. The receipt of any illegal gratification by staff is to be considered as misconduct and results in disciplinary proceedings against such staff, in addition to penalties under the law.

The existing provisions under the law, the discipline and appeal rules and the directives of the Central Vigilance Commission are to be strictly followed in dealing with the complaints of contractors/suppliers.

If a bidder complains to the Bank, the Bank may examine the complaint in consultation with the project authorities. The Bank may also require a bidder to be debriefed, if the bidder wishes to ascertain the grounds on which its bid was not selected.

7 FREQUENCY OF PROCUREMENT SUPERVISION MISSION PROPOSED

Procurement supervision shall, generally, be part of the Bank’s periodic Supervision/ Review missions, and will be undertaken once every six months.

PROCUREMENT OF CONSULTANCY SERVICES

3.1 GENERAL

Services are defined as providers of systematic organized activities that may carry out a training programme, workshop, IEC activities, feasibility studies, environmental studies, detailed design of structures, preparation of technical schemes, preparation of data, construction supervision of engineering works, advisory services etc.

Following considerations are generally followed in designing the procedures and guidelines for procurement of various services as described above.

- I. Quality
- II. Economy and efficiency
- III. Opportunity to qualified experts
- IV. Encourage and develop national/ local consultants
- V. Transparency in selection process

The employer should first assess the need of assignment and then prepare the Terms of Reference and estimated cost consistent with objectives of the assignment so that cost of assignment may be estimated considering the fee and remuneration of specialist & support staff on man-months basis, reimbursable costs and miscellaneous expenses.

3.2 CONTRACT TYPES FOR PROCUREMENT OF CONSULTANCY SERVICES

Three types of contracts are currently in use for contracting services of Consultants as described below:

- a) A lump sum contract for assignments where scope of work, duration of work are clearly defined. Payment is indicated to be made upon delivery of outputs as specified. Such contracts are suitable for feasibility studies, detailed design of civil structures etc.
- b) Time based: Assignments like construction supervision of engineering works, training assignments, advisory services etc. where scope of work and duration could not be defined are contracted on time-based type of contract where payment is decided to be made at hourly, daily or monthly rates plus reimbursable expenses using actual expenses or agreed upon unit prices.
- c) Percentage contract: Architectural services, engineering services, procurement services etc are suitable to be contracted on percentage basis where payment is agreed upon with the consultants to be paid at certain percentage of the actual cost of the project or goods as per market norm or standard practice of the industry.

3.3 STEPS FOR HIRING OF CONSULTANTS

Steps taken for hiring of consultants under different methods are explained in the following paras and also listed in **Appendix-III**. World Bank guidelines for procurement of consultancy services will be referred for details and the Bank's standard bidding documents shall be used for hiring of consultancy services.

3.4 PROCEDURE FOR PROCUREMENT OF CONSULTANCY SERVICES UNDER DIFFERENT METHODS

3.4.1 Quality and Cost-Based Selection (QCBS)

(i) The Selection Process

QCBS uses a competitive process among short-listed firms that takes into account the quality of the proposal and the cost of the services in the selection of the successful firm. Cost as a factor of selection shall be used judiciously. The relative weight to be given to the quality and cost shall be determined for each case depending on the nature of the assignment.

The selection process shall include the following steps:

- (a) preparation of the TOR;
- (b) preparation of cost estimate and the budget;
- (c) advertising;
- (d) preparation of the short list of consultants;
- (e) preparation and issuance of the RFP [which should include: the Letter of Invitation (LOI); Instructions to Consultants (ITC); the TOR and the proposed draft contract];
- (f) receipt of proposals;
- (g) evaluation of technical proposals: consideration of quality;
- (h) public opening of financial proposals;
- (i) evaluation of financial proposal;
- (j) final evaluation of quality and cost; and
- (k) negotiations and award of the contract to the selected firm.

(ii) Terms of Reference (TOR)

The Borrower (i.e. State Water and Sanitation Mission/Project Management Unit/Uttarakhand Jal Nigam/Uttarakhand Jal Sansthan/District Water and Sanitation Mission or any other implementing agency under Department of Drinking Water, as the case may be) shall be responsible for preparing the TOR for the assignment. TOR shall be prepared by a person(s) or a firm specialized in the area of the assignment. The scope of the services described in the TOR shall be compatible with the available budget. TOR shall define clearly the objectives, goals, and scope of the assignment and provide background information (including a list of existing relevant studies and basic data) to facilitate the consultants' preparation of their proposals. If transfer of knowledge or training is an objective, it should be specifically outlined along with details of number of staff to be trained, and so forth, to enable consultants to estimate the required resources. TOR shall list the services and surveys necessary to carry out the assignment and the expected outputs (for example, reports, data, maps, surveys). However, TOR should not be too detailed and inflexible, so that competing consultants may propose their own methodology and staffing. Firms shall be encouraged to comment on the TOR in their proposals. The borrower's and consultants' respective responsibilities should be clearly defined in the TOR.

(iii) Cost Estimate (Budget)

Preparation of a well-thought-through cost estimate is essential if realistic budgetary resources are to be earmarked. The cost estimate shall be based on the Borrower's assessment of the resources needed to carry out the assignment: staff time, logistical support, and physical inputs (for example, vehicles, laboratory equipment). Costs shall be divided into two broad categories: (a) fee or remuneration (according to the type of contract used) and (b) reimbursables, and further divided into foreign and local costs. The cost of staff time shall be estimated on a realistic basis for foreign and national personnel.

(iv) Advertising

For all projects the Borrower is required to prepare and submit to the Bank a draft General Procurement Notice. The Bank will arrange for its publication in UNDB online and in the dgMarket. To obtain expressions of interest, the Borrower shall advertise a request for expressions of interest for each contract for consulting firms in the national gazette or a national newspaper or in an electronic portal of free access. In addition, contracts expected to cost more than US\$ 200,000 shall be advertised in *UNDB online* and in *dgMarket*. Borrowers may also advertise requests for expressions of interest in an international newspaper or a technical magazine. The information requested should be the minimum required to make a judgment on the firm's suitability and not be so complex as to discourage consultants from expressing interest. Not less than 14 days from date of posting on UNDB online shall be provided for responses, before preparation of the short list.

(v) Short List of Consultants

The Borrower is responsible for preparation of the short list. The Borrower shall give first consideration to those firms expressing interest that possess the relevant qualifications. Short lists shall comprise six firms with a wide geographic spread, with no more than two firms from any one country and at least one firm from a developing country, unless qualified firms from developing countries are not identified. The Bank may agree to short lists comprising a smaller number of firms in special circumstances, for example, when only a few qualified firms have expressed interest for the specific assignment or when the size of the contract does not justify wider competition. For the purpose of establishing the short list, the nationality of a firm is that of the country in which it is registered or incorporated and in the case of Joint Venture, the nationality of the firm appointed to represent the Joint Venture. The Bank may agree with the Borrower to expand or reduce a short list; however, once the Bank has issued a 'no objection' to a short list, the Borrower shall not add or delete names without the Bank's approval. Firms that expressed interest, as well as any other firm that specifically so requests shall be provided the final short list of firms.

The short list may comprise entirely national consultants (firms registered or incorporated in the country), if the assignment is below the ceiling (or ceilings) established in the Procurement Plan approved by the Bank, a sufficient number of qualified firms is available for having a short list of firms with competitive costs, and when competition including foreign consultants is prima facie not justified or foreign consultants have not expressed interest. These amounts will be used in Bank lending operations supporting sector Wide Approaches (SWAs in which government and/or donor funds are pooled) as the threshold below which short lists will be composed entirely of national firms selected under procedures agreed with the Bank. However, if foreign firms express interest, they shall be considered.

The short list should preferably comprise consultants of the same category, similar capacity, and business objectives. Consequently, the short list should normally be composed of firms of similar experience or of not-for-profit organizations (NGOs, Universities, UN Agencies, etc.)

acting in the same field of expertise. If mixing is used, the selection should be made using Quality-Based Selection (QBS) or Selection Based on the Consultants' Qualifications (CQS) (for small assignments). The short list shall not include Individual Consultants.

(vi) Preparation and Issuance of the Request for Proposals (RFP)

The RFP shall include (a) a Letter of Invitation, (b) Information to Consultants, (c) the TOR, and (d) the proposed contract. Borrowers shall use the applicable standard RFPs issued by the Bank with minimal changes, as necessary to address project specific conditions. Borrowers shall list all the documents included in the RFP. The Borrower may use an electronic system to distribute the RFP, provided that the Bank is satisfied with the adequacy of such system. If the RFP is distributed electronically, the electronic system shall be secure to avoid modifications to the RFP and shall not restrict the access of short-listed consultants to the RFP.

(vii) Letter of Invitation (LOI)

The LOI shall state the intention of the Borrower to enter into a contract for the provision of consulting services, the source of funds, the details of the client and the date, time, and address for submission of proposals.

(viii) Instructions to Consultants (ITC)

The ITC shall contain all necessary information that would help consultants prepare responsive proposals, and shall bring as much transparency as possible to the selection procedure by providing information on the evaluation process and by indicating the evaluation criteria and factors and their respective weights and the minimum passing quality score. The ITC shall indicate an estimate of the level of key staff inputs (in staff time) required of the consultants or the total budget, but not both. Consultants, however, shall be free to prepare their own estimates of staff time to carry out the assignment and to offer the corresponding cost in their proposals. The ITC shall specify the proposal validity period, which should be adequate for the evaluation of proposals, decision on award, Bank review, and finalization of contract negotiations. A detailed list of the information that should be included in the ITC is provided in the Bank Guidelines for Selection and Employment of Consultants.

(ix) Contract

The Bank Guidelines describe the most common types of contracts. Borrowers shall use the appropriate Standard Form of Contract issued by the Bank with minimum changes, acceptable to the Bank, as necessary to address specific project issues. Any such changes shall be introduced only through Contract Data sheets or through Special Conditions of Contract included in the Bank's Standard Form. These forms of contract cover the majority of consulting services. When these forms are not appropriate (for example, for preshipment inspection, procurement services, training of students in universities, advertising activities in privatization, or twinning) Borrowers shall use other contract forms acceptable to the Bank.

(x) Receipt of Proposals

The Borrower shall allow enough time for the consultants to prepare their proposals. The time allowed shall depend on the assignment, but normally shall not be less than four weeks or more than three months (for example, for assignments requiring establishment of a sophisticated methodology, preparation of a multidisciplinary master plan). During this interval, the firms may request clarifications about the information provided in the RFP. The Borrower shall provide these clarifications in writing and copy them to all firms on the short

list (who intend to submit proposals). If necessary, the Borrower shall extend the deadline for submission of proposals. The technical and financial proposals shall be submitted at the same time. No amendments to the technical or financial proposal shall be accepted after the deadline. To safeguard the integrity of the process, the technical and financial proposals shall be submitted in separate sealed envelopes. The technical envelopes shall be opened immediately by a committee of officials drawn from the relevant departments (technical, finance, legal, as appropriate), after the closing time for submission of proposals. The financial proposals shall remain sealed and shall be deposited with a reputable public auditor or independent authority until they are opened publicly. Any proposal received after the closing time for submission of proposals shall be returned unopened.

Borrowers may use electronic systems permitting consultants to submit proposals by electronic means, provided the GoUA and the World Bank are satisfied with the adequacy of the system, including, inter alia, that the system is secure, maintains the confidentiality and authenticity of proposals submitted, uses an electronic signature system or equivalent to keep consultants bound to their proposals, and only allows proposals to be opened with due simultaneous electronic authorization of the consultant and the Borrower. In this case, consultants shall continue to have the option to submit their proposals in hard copy.

(xi) Evaluation of Proposals: Consideration of Quality and Cost

The evaluation of the proposals shall be carried out in two stages: first the quality, and then the cost. Evaluators of technical proposals shall not have access to the financial proposals until the technical evaluation, is concluded. Financial proposals shall be opened only thereafter. The evaluation shall be carried out in full conformity with the provisions of the RFP.

(xii) Evaluation of the Quality

The Borrower shall evaluate each technical proposal (using an evaluation committee of three or more specialists in the sector), taking into account several criteria: (a) the consultant's relevant experience for the assignment, (b) the quality of the methodology proposed, (c) the qualifications of the key staff proposed, (d) transfer of knowledge, if required in the TOR, and (e) the extent of participation by nationals among key staff in the performance of the assignment. Each criterion shall be marked on a scale of 1 to 100. Then the marks shall be weighted to become scores. The following weights are indicative. The actual percentage figures to be used shall fit the specific assignment and shall be within the ranges indicated below, except with the approval of the Bank. The proposed weights shall be disclosed in the RFP.

Consultant's specific experience:	0 to 10 points
Methodology:	20 to 50 points
Key personnel:	30 to 60 points
Transfer of knowledge:	0 to 10 points
Participation by nationals:	0 to 10 points
Total:	100 points

The Borrower shall normally divide these criteria into sub-criteria. For example, sub-criteria under methodology might be *innovation* and *level of detail*. However, the number of sub-criteria should be kept to the essential. The Bank recommends against the use of exceedingly detailed lists of sub-criteria that may render the evaluation a mechanical exercise more than a professional assessment of the proposals. The weight given to experience can be relatively modest, since this criterion has already been taken into account when short-listing the

consultant. More weight shall be given to the methodology in the case of more complex assignments (for example, multidisciplinary feasibility or management studies).

Evaluation of only the key personnel is recommended. Since key personnel ultimately determine the quality of performance, more weight shall be assigned to this criterion if the proposed assignment is complex. The Borrower shall review the qualifications and experience of proposed key personnel in their *curricula vitae*, which must be accurate, complete, and signed by an authorized official of the consulting firm and the individual proposed. The individuals shall be rated in the following three sub-criteria, as relevant to the task:

- (a) general qualifications: general education and training, length of experience, positions held, time with the consulting firm as staff, experience in developing countries, and so forth;
- (b) adequacy for the assignment: education, training, and experience in the specific sector, field, subject, and so forth, relevant to the particular assignment; and
- (c) experience in the region: knowledge of the local language, culture, administrative system, government organization, and so forth.

Borrowers shall evaluate each proposal on the basis of its responsiveness to the TOR. A proposal shall be considered unsuitable and shall be rejected at this stage if it does not respond to important aspects of the TOR or it fails to achieve a minimum technical score specified in the RFP.

At the end of the process, the Borrower shall prepare a Technical Evaluation Report of the “quality” of the proposals and in case of contracts subject to prior review, submit it to the Bank for its review and no objection. The report shall substantiate the results of the evaluation and describe the relative strengths and weaknesses of the proposals. All records relating to the evaluation, such as individual mark sheets, shall be retained until completion of the project and its audit.

(xiii) Evaluation of Cost

After the evaluation of quality is completed and the Bank has issued its no objection, the Borrower shall inform the consultants who have submitted proposals, the technical points assigned to each consultant and shall notify those consultants whose proposals did not meet the minimum qualifying mark or were considered non-responsive to the RFP and TOR that their financial proposals will be returned unopened after the signature of the contract. The Borrower shall simultaneously notify the consultants that have secured the minimum qualifying mark, the date, time, and place set for opening the financial proposals. The opening date shall be defined allowing sufficient time for consultants to make arrangements to attend the opening of the financial proposals. The financial proposals shall be opened publicly in the presence of representatives of the consultants who choose to attend (in person or online). The name of the consultant, the technical points, and the proposed prices shall be read aloud (and posted online when electronic submission of proposals is used) and recorded when the financial proposals are opened. The Borrower shall also prepare the minutes of the public opening and a copy of this record shall be promptly sent to all consultants who submitted proposals.

The Borrower shall then review the financial proposals. If there are any arithmetical errors, they shall be corrected. For the purpose of comparing proposals, the costs shall be converted to a single currency selected by the Borrower (local currency or fully convertible foreign

currency) as stated in the RFP. The Borrower shall make this conversion by using the selling (exchange) rates for those currencies quoted by an official source (such as the Central Bank) or by a commercial bank or by an internationally circulated newspaper for similar transactions. The RFP shall specify the source of the exchange rate to be used and the date of that exchange rate, provided that the date shall not be earlier than four weeks prior to the deadline for submission of proposals, nor later than the original date of expiration of the period of validity of the proposal.

For the purpose of evaluation, “cost” shall exclude local identifiable indirect taxes on the contract and income tax payable to the country of the Borrower on the remuneration of services rendered in the country of the Borrower by non-resident staff of the consultant. The cost shall include all consultant’s remuneration and other expenses such as travel, translation, report printing, or secretarial expenses. The proposal with the lowest cost may be given a financial score of 100 and other proposals given financial scores that are inversely proportional to their prices. Alternatively, a directly proportional or other methodology may be used in allocating the marks for the cost. The methodology to be used shall be described in the RFP.

(xiv) Combined Quality and Cost Evaluation

The total score shall be obtained by weighting the quality and cost scores and adding them. The weight for the “cost” shall be chosen, taking into account the complexity of the assignment and the relative importance of quality. Except for the type of services specified in paras 3.4.2 to 3.4.7, the weight for cost shall normally be 20 points out of a total score of 100. The proposed weightings for quality and cost shall be specified in the RFP. The firm obtaining the highest total score shall be invited for negotiations.

(xv) Negotiations and Award of Contract

Negotiations shall include discussions of the TOR, the methodology, staffing, Borrower’s inputs, and special conditions of the contract. These discussions shall not substantially alter the original TOR or the terms of the contract, lest the quality of the final product, its cost, and the relevance of the initial evaluation be affected. Major reductions in work inputs should not be made solely to meet the budget. The final TOR and the agreed methodology shall be incorporated in “Description of Services,” which shall form part of the contract.

The selected firm should not be allowed to substitute key staff, unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet the objectives of the assignment. If this is not the case and if it is established that key staff were included in the proposal without confirming their availability, the firm may be disqualified and the process continued with the next ranked firm. The key staff proposed for substitution shall have qualifications equal to or better than the key staff initially proposed.

Financial negotiations shall include clarification of the consultants’ tax liability in the Borrower’s country (if any) and how this tax liability has been or would be reflected in the contract. As Lump-Sum Contracts payments are based on delivery of outputs (or products), the offered price shall include all costs (staff time, overhead, travel, hotel, etc.). Consequently, if the selection method for a Lump-sum contract included price as a component, this price shall not be negotiated. In the case of Time-based Contracts, payment is based on inputs (staff time and reimbursables) and the offered price shall include staff rates and an estimation of the amount of reimbursables. When the selection method includes price

as a component, negotiations of staff rates should not take place, except in special circumstances, like for example, staff rates offered are much higher than typically charged rates by consultants for similar contracts. Consequently, the prohibition of negotiation does not preclude the right of the Borrower to ask for clarifications, and, if fee are very high, to ask for change of fees. Reimbursable are to be paid on actual expenses incurred at cost upon presentation of receipts and therefore are not subject to negotiations. However, if the Borrower wants to define ceilings for unit prices of certain reimbursable (like travel or hotel rates), they should indicate the maximum levels of those rates in the RFP or define a per diem in the RFP.

If the negotiations fail to result in an acceptable contract, the Borrower shall terminate the negotiations and invite the next ranked firm for negotiations. The consultant shall be informed of the reasons for termination of the negotiations. Once negotiations are commenced with the next ranked firm, the Borrower shall not reopen the earlier negotiations. After negotiations are successfully completed and the Bank has issued its no objection to the initialed negotiated contract, the Borrower shall promptly notify other firms on the short list that they were unsuccessful.

(xvi) Publication of the Award of Contract

After the award of contract, the Borrower shall publish in UNDB online and in dgMarket (a) the names of all consultants who submitted proposals; (b) the technical points assigned to each consultant; (c) the evaluated prices of each consultant; (d) the final point ranking of the consultants; (e) the name of the winning consultant and the price, duration, and summary scope of the contract. The same information shall be sent to all consultants who have submitted proposals.

(xvii) Debriefing

In the publication of contract award referred to in above paragraph the Borrower shall specify that any consultant who wishes to ascertain the grounds on which its proposal was not selected, should request an explanation from the Borrower. The Borrower shall promptly provide the explanation as to why such proposal was not selected, either in writing and/or in a debriefing meeting, at the option of the consultant. The requesting consultant shall bear all the costs of attending such a debriefing.

(xviii) Rejection of All Proposals, and Reinvitation

The Borrower will be justified in rejecting all proposals only if all proposals are non-responsive because they present major deficiencies in complying with the TOR or if they involve costs substantially higher than the original estimate. In the latter case, the feasibility of increasing the budget, or scaling down the scope of services with the firm should be investigated in consultation with the Bank. Before all the proposals are rejected and new proposals are invited, the Borrower shall notify the Bank, indicating the reasons for rejection of all proposals, and shall obtain the Bank's no objection before proceeding with the rejection and the new process. The new process may include revising the RFP (including the short list) and the budget. These revisions shall be agreed upon with the Bank.

(xix) Confidentiality

Information relating to evaluation of proposals and recommendations concerning awards shall not be disclosed to the consultants who submitted the proposals or to other persons not officially concerned with the process, until the award of contract.

3.4.2 OTHER METHODS OF SELECTION

General

This section describes the selection methods other than QCBS, and the circumstances under which they are acceptable. All the relevant provisions of Section on (QCBS) shall apply whenever competition is used.

3.4.3 Quality-Based Selection (QBS)

QBS is appropriate for the following types of assignments:

- (a) complex or highly specialized assignments for which it is difficult to define precise TOR and the required input from the consultants, and for which the Borrower expects the consultants to demonstrate innovation in their proposals (for example, country economic or sector studies, multisectoral feasibility studies, design of a hazardous waste remediation plant or of an urban master plan, financial sector reforms);
- (b) assignments that have a high downstream impact and in which the objective is to have the best experts (for example, feasibility and structural engineering design of such major infrastructure as large dams, policy studies of national significance, management studies of large government agencies); and
- (c) assignments that can be carried out in substantially different ways, such that proposals will not be comparable (for example, management advice, and sector and policy studies in which the value of the services depends on the quality of the analysis).

In QBS, the RFP may request submission of a technical proposal only (without the financial proposal), or request submission of both technical and financial proposals at the same time, but in separate envelopes (two-envelope system). The RFP shall provide either the estimated budget or the estimated number of key staff time, specifying that this information is given as an indication only and that consultants shall be free to propose their own estimates.

If technical proposals alone were invited, after evaluating the technical proposals using the same methodology as in QCBS, the Borrower shall ask the consultant with the highest ranked technical proposal to submit a detailed financial proposal. The Borrower and the consultant shall then negotiate the financial proposal²⁸ and the contract. All other aspects of the selection process shall be identical to those of QCBS, including the publication of the Award of Contract as described in above paragraphs except that only the price of the winning firm is published. If consultants were requested to provide financial proposals initially together with the technical proposals, safeguards shall be built in as in QCBS to ensure that the price proposal of only the selected firm is opened and the rest returned unopened, after the negotiations are successfully concluded.

3.4.4 Selection under a Fixed Budget (FBS)

This method is appropriate only when the assignment is simple and can be precisely defined and when the budget is fixed. The RFP shall indicate the available budget and request the consultants to provide their best technical and financial proposals in separate envelopes, within the budget. TOR should be particularly well prepared to make sure that the budget is sufficient for the consultants to perform the expected tasks. Evaluation of all technical proposals shall be carried out first as in the QCBS method. Then the price proposals shall be opened in public and prices shall be read out aloud. Proposals that exceed the indicated

budget shall be rejected. The Consultant who has submitted the highest ranked technical proposal among the rest shall be selected and invited to negotiate a contract. The publication of the Award of Contract shall be as described in para 3.4.1(xvi).

3.4.5 Least-Cost Selection (LCS)

This method is only appropriate for selecting consultants for assignments of a standard or routine nature (audits, engineering design of noncomplex works, and so forth) where well-established practices and standards exist. Under this method, a “minimum” qualifying mark for the “quality” is established. Proposals, to be submitted in two envelopes, are invited from a short list. Technical proposals are opened first and evaluated. Those securing less than the minimum qualifying mark are rejected, and the financial proposals of the rest are opened in public. The firm with the lowest price shall then be selected.

Under this method, the minimum qualifying mark shall be established, understanding that all proposals above the minimum compete only on “cost.” The minimum qualifying mark shall be stated in the RFP.

3.4.6 Selection Based on the Consultants’ Qualifications (CQS)

This method may be used for small assignments for which the need for preparing and evaluating competitive proposals is not justified. In such cases, the Borrower shall prepare the TOR, request expressions of interest and information on the consultants’ experience and competence relevant to the assignment, establish a short list, and select the firm with the most appropriate qualifications and references. The selected firm shall be asked to submit a combined technical-financial proposal and then be invited to negotiate the contract.

The Borrower shall publish in UNDB and in dgMarket the name of the consultant to which the contract was awarded, and the price, duration and scope of the contract. This publication may be done quarterly and in the format of a summarised table covering the previous period.

3.4.7 Single-Source Selection (SSS)

Single-source selection of consultants does not provide the benefits of competition in regard to quality and cost, lacks transparency in selection, and could encourage unacceptable practices. Therefore, single-source selection shall be used only in exceptional cases. The justification for single-source selection shall be examined in the context of the overall interests of the Borrower and the project, and the Bank’s responsibility to ensure economy and efficiency and provide equal opportunity to all qualified consultants.

Single-source selection may be appropriate only if it presents a clear advantage over competition: (a) for tasks that represent a natural continuation of previous work carried out by the firm (see next paragraph), (b) in emergency cases, such as in response to disasters and for consulting services required during the period of time immediately following the emergency, (c) for very small assignments (less than Rs. 10,00,000), or (d) when only one firm is qualified or has experience of exceptional worth for the assignment.

When continuity for downstream work is essential, the initial RFP shall outline this prospect, and, if practical, the factors used for the selection of the consultant shall take the likelihood of continuation into account. Continuity in the technical approach, experience acquired, and continued professional liability of the same consultant may make continuation with the initial consultant preferable to a new competition subject to satisfactory performance in the initial assignment. For such downstream assignments, the Borrower shall ask the initially selected

consultant to prepare technical and financial proposals on the basis of TOR furnished by the Borrower, which shall then be negotiated.

If the initial assignment was not awarded on a competitive basis or was awarded under tied financing or if the downstream assignment is substantially larger in value, a competitive process shall normally be followed in which the consultant carrying out the initial work is not excluded from consideration if it expresses interest. The Bank will consider exceptions to this rule only under special circumstances and only when a new competitive process is not practicable.

*Various formats, steps and time taken for different method of procurement of consultancy services are described in **Appendix III**.*

3.5 PROCUREMENT OF SERVICES OF INDIVIDUAL CONSULTANT

Individual consultants are employed on assignments for which (a) teams of personnel are not required, (b) no additional outside (home office) professional support is required, and (c) the experience and qualifications of the individual are the paramount requirement. When coordination, administration, or collective responsibility may become difficult because of the number of individuals, it would be advisable to employ a firm.

Individual consultants are selected on the basis of their qualifications for the assignment. Consultants shall be selected through comparison of qualifications of at least three candidates among those who have expressed interest in the assignment or have been approached directly by the Borrower. Individuals considered for comparison of qualifications shall meet the minimum relevant qualifications and those selected to be employed by the Borrower shall be the best qualified and shall be fully capable of carrying out the assignment. Capability is judged on the basis of academic background, experience, and, as appropriate, knowledge of local conditions such as local language, culture, administrative system and government organization.

From time to time, permanent staff or associates of a consulting firm may be available as individual consultants. In such cases, the conflict of interest provisions described in the Bank's guidelines shall apply to the parent firm.

Individual consultants may be selected on a sole source basis with due justification in exceptional cases such as: (a) tasks that are a continuation of previous work that the consultant has carried out and for which the consultant was selected competitively; (b) assignments with total expected duration of less than six months; (c) emergency situations resulting from natural disasters; and (d) when the individual is the only consultant qualified for the assignment.

For hiring of consultant job description, qualification and experience required and terms of engagement should be finalized. The consultants for the assignment must be called through advertisement in the newspaper. Individual should meet all relevant qualifications and should be fully capable of carrying out the assignment. The qualified individuals will be called for interview/discussions prior to offering the assignment. Based on the above a list of candidates shall be prepared for each assignment separately and the top listed candidate shall be offered the job.

3.6 PROCUREMENT OF SERVICES OF NGO

SHORTLISTING OF NGOS

Short listing of NGOs shall be based on the criteria given below:

Regulatory requirement

- NGO should be validly registered under Societies Registration Act of the Government or have other corporate status.
- NGO should be validly registered to work in the particular geographic locality
- NGO's Article of Association or Bye laws permit, operation in the project sector
- NGO should be non political
- Should not have been blacklisted by the Central Social & Welfare Board (CSWB) or Council for the Advancement of Peoples Action & Rural Technology (CAPART) or by Central or any State Governments in India.

Human and physical measures

- Committed leadership at the top supported by adequate service level leadership
- Existence of adequate skilled staff in relation to needs of the assignment
- NGO should have necessary physical resource base like accessible office space, vehicles, communication facilities and so on.

Community Sensitivity

- NGO should have prior experience of community development activities and mobilization
- NGO should have sufficient understanding of local problems and are sensitive to issues concerning women and weaker sections of society
- Should have keen understanding and should be sensitive to works related to environment
- Should have excellent communication skill

Financial Capacity

- Should have required financial strength and stability
(Last three years turn over and audited balance sheet should be examined)
 - Should have facilities to maintain separately, records and accounting of funds allocated for the assignment.

Relevant Sectoral and operational experience

- Should have prior experience in related sectors
- Should have adequate experience in Participatory Rural Appraisal
- Must have been functioning for least three years in the similar type of assignments.

RFP should be issued to short listed NGOs and their bids are obtained for the concerned services. Technical and Financial Proposals are evaluated and contract agreement signed after following the same procedure as for other consultants. Where large areas are involved for conducting IEC and community mobilization the requirement of number of NGOs may fall short of their availability. In such cases single source selection method may be used with prior approval of the Bank .

PROCESS DESCRIPTION OF MODES OF PROCUREMENT

4.1 PROCUREMENT PLAN AND PROCEDURES

Before undertaking procurement, specific budget provision should be available for meeting the expenditure in the financial year in which it is to be incurred.

A) PROCUREMENT PLAN

- ② Preparation of a procurement plan is an essential requirement. Procurement plan covering civil works, equipment, goods, consultancy services and resource support shall be prepared on a firm basis for the first year of the program and on a tentative basis for the subsequent years.
- ② Procurement plan shall be prepared every year for proper monitoring and execution.
- ② Procurement plan shall be prepared contract wise.
- ② Method of purchase shall be based on the aggregate value of the package/lots, urgency of the demand, type of goods/services and availability of different sources of supply etc.
- ② Limit of aggregate value of package/lots applicable to the particular procurement procedure shall be strictly adhered to.
- ② It shall be ensured that the procurement is based strictly on actual need.

B) PROCUREMENT STEPS

The procurement procedure for procurement of goods and works broadly consists of the following Steps:

Assessment of requirements

PROCUREMENT STEPS

4.2 FORECASTING: ASSESSMENT OF THE REQUIREMENT

Bulk requirement of the stores for State level/district level should be assessed prior to the beginning of the financial year. In order to obtain competitive prices, procurement action should be initiated in accordance with the purchase procedures. While forecasting the requirement, following factors should be considered:

- Average time period required in complete procurement cycle (2 to 3 months). Longer procurement cycle in exceptional circumstances
- The trends in usage at the time of requirement.
- Current stock of the store, where the stock is located, when is the product due to reach the expiry date and what is the projected time scale for distribution.
- Storage capacity for receiving the bulk consignment. In case the storage capacity is limited, it would be necessary that the procurement/supply of commodities is phased over time rather than being received as a single consignment.
- List of consignees and their storage capacity.
- The problems if any, encountered with the procurement and distribution in the past.

Consolidating several program procurement requirements can offer potential savings through price discounts and reduces the purchaser's administrative cost associated with having to process multiple bids and contracts.

4.3 PROCUREMENT STRATEGY

It is important to agree on the procurement strategy before initiating tendering. For civil works, options like work contract on lump-sum basis or based on bill of quantities can be explored. The procurement strategy should cover:

- Key objectives of the procurement for the project;
- Chosen procurement option;
- Chosen procurement route (Open, Restricted, Single Source)
- Key milestones (check that enough time is allowed)
- Key documents e.g. requirement specifications.

Key factors influencing the procurement strategy relate to the degree of complexity, innovation and uncertainty about the requirement, together with the time needed to achieve a successful outcome.

4.4 MODE OF PROCUREMENT

The methods of procurement normally followed are:-

- i. Global tender / International Competitive Bidding (ICB)
- ii. Open Advertised tender / National Competitive Bidding (NCB)
- iii. Limited Tender/Limited Competitive Bidding (LCB)
- iv. Shopping
- v. Single tender/Direct Contracting
- vi. Procurement of Civil Works through PRIs

Slicing/packaging/lots shall be appropriately reviewed to avoid fragmentation to the extent practicable. Whenever bids are invited concurrently for several contracts in a package and cross discounts are invited, the aggregate value of the total package will form the basis to determine the procurement method as well as the review requirement.

4.4.1 GLOBAL TENDER/ INTERNATIONAL COMPETITIVE BIDDING (ICB)

This method is generally adopted where the supplies need import and foreign firms are expected to participate irrespective of the value. In case of RWSS procurement this method is adopted where the estimated value of procurement is more than US \$ 200,000 for goods and US \$ 10,000,000 for works.

REQUIREMENT

- For projects that include ICB, the Borrower is required to prepare and submit to the Bank a draft General Procurement Notice. The Bank will arrange for its publication in the UNDB online and in the dgMarket.
 - Apart from wide publicity nationally, invitation to bid shall also be published in UNDB online and in dgMarket and shall be forwarded to Embassies and trade representatives of the countries of likely suppliers/contractors of the goods and works and also to those who have expressed interest in response to the general procurement notice
 - Use of Standard Bidding Documents.
 - Sale of bidding documents should start only after publication of invitation to bid
 - Bidding period should be 45 to 90 days from the date of start of the sale of bidding document
- Other procedure for global tender/ ICB will broadly be as specified in the Standard Bidding Documents and Procurement Guidelines of the Bank.

4.4.2 OPEN ADVERTISED TENDER/ NATIONAL COMPETITIVE BIDDING (NCB)

- i. Open Tender is the competitive bidding procedure normally used for public procurement in the country and may be the most efficient and economic way of procuring goods or works. The procedures shall provide for adequate competition in order to ensure reasonable prices. The method to be used in the evaluation of tenders and the award of contracts shall be made known to all bidders and shall not be applied arbitrarily.
- ii. Open Tender is adopted normally where the contract value is more than US \$ 50,000 for goods and works in case of RWSS procurement.
- iii. Civil works, and also goods, could be procured under contracts awarded in accordance with the procedures prescribed under open tenders.
- iv. Various steps involved in procurement under open tender procedure have been enumerated in para 4.1 (B).

v. Notification/Advertising: Timely notification of bidding opportunities is essential in competitive bidding:

- (a) Invitation to bid shall be published in at least one English newspaper with nation wide circulation and one regional language daily. If the advertisement is for more than one item, it should also be indicated whether the evaluation would be item-wise or as a package. The advertisement should also be placed on the website of the department.
- (b) If it is a condition in the invitation for tender that Earnest Money is to be deposited by the supplier/contractor, the bid of a supplier/contractor not complying with this requirement, shall be rejected. For deposit of Earnest Money, the existing State's procedure may be followed.
- (c) Earnest Money shall be decided, taking into account all the items in a package. Once it is decided that the contract is for a package, the Earnest Money for that package is to be indicated and will not be changed according to each item subsequently.
- (d) The last date for receipt of tender shall be the day following the date for close of the sale of tender documents.
- (e) Tendering period shall not be less than 30 days from the date of start of sale of tender documents.
- (f) Tenders can be sold from different places but shall be received at one place only. Tenders should normally be opened half an hour after the deadline for submission.

vi. Tender Documents: Sample tender documents to be used under the World Bank aided projects are enclosed for reference for different varieties of works. These documents are complete in themselves and can be used after slight changes according to the requirement of procuring units. Sale of tender document should begin only after the publication of notification for tender in the newspapers. The tender documents shall furnish all information necessary for a prospective bidder to prepare its bid for the goods and works to be provided. Tender documents should be made available to all bidders regardless of their registration status.

Clarity of Tender Documents: Tender documents shall clearly and precisely specify the work to be carried out, location of the work, goods to be supplied, place of delivery or installation, schedule for delivery or completion, technical specifications, minimum performance requirement, warranty and maintenance requirements, and method of evaluation. The basis for tender evaluation and selection of the lowest technically suitable and responsive bidder shall be clearly outlined in the instructions to tenderers.

Tender documents should state clearly whether the bid prices will be fixed or price adjustments will be allowed to reflect any changes in major cost components of the contract.

- vii. **Standards and Technical Specifications:** The implementing agency shall specify the generally accepted standards of technical specifications. Unbiased technical specifications shall be prepared with no mention of brand names and catalogue numbers. In case the item to be procured is not covered under BIS and specifications are to be framed, specifications may be prepared by a committee of experts associating the trade, if required. The functional performance, design, quality, packaging and additional requirements should be clearly spelt out in the specifications. The specifications should be generic and should not appear to favour a particular brand or supplier. Technical specifications, bill of quantities and civil drawings should be prepared before tendering. Specifications for the articles to be procured should be drawn up in every case with clarity. No deviations from the specifications after opening of tender should be allowed.
- viii. **Validity of Tender:** Bidders shall be required to submit tender valid for the period specified in the tender documents. Normally, the bid validity period shall not exceed 90 days.
- ix. **Earnest Money:** Earnest Money of normally 2% of the estimated cost of the item or works shall be the appropriate amount, which should be indicated, as a specific amount. The earnest money shall be in the form of a demand draft/ banker's cheque/ bank guarantee from a scheduled bank, which should be valid for 45 days beyond the validity period of the tender. The earnest money of unsuccessful bidders shall be refunded soon after the final acceptance of tender. The earnest money shall be forfeited in the event of withdrawal of the tender within the original validity or if the successful bidder fails to execute necessary agreement within the period specified.
- x. **Pre-bid Conference:** A pre-bid conference (date/ venue to be indicated in the bid documents) may be arranged if required, wherein potential bidders may meet the purchaser, copy of minutes of the pre-bid conference should also be supplied along with the bid document sold to the parties purchasing the documents subsequent to the pre-bid conference.
- xi. **Terms and Methods of Payment:** Payment terms shall be in accordance with the specific goods and works. Tender documents should specify the payment method and terms offered.
- xii. **Conditions of Contract:** The contract documents shall clearly define the scope of work to be performed, the goods to be supplied, the rights and obligations of the implementing agency and of the supplier or contractor and the functions and authority of the engineer, architect or construction manager,

(if one is employed by the implementation agency) in the supervision and administration of the contract. Special conditions related to specific items/ cases should be clearly included in the tender documents.

- xiii. **Performance Security Deposit:**
- a. Tender document for works and goods shall require security in an amount sufficient to protect the implementation agency in case of breach of contract by the contractor. This shall be in the form of a bank guarantee or any other instrument specified in the tender document. The amount of performance guarantee shall normally be 5 % of contract price valid upto 28 days after the date of expiry of defects liability period/ warranty period, as applicable.
 - b. The performance security deposit shall be refunded within one month of the completion of supply of goods/works or expiry of guarantee/warranty/defect liability period (as mentioned above).
 - c. The performance security deposit shall be forfeited in case any terms and conditions of the contract are infringed or the bidder fails to make complete supply satisfactorily or complete the work within the delivery/ completion period.
- xiv. **Retention Money:** In contracts for works, normally 5-10 % of contract price shall be recovered as retention money. 50 % of such retention money shall be retained till completion of the whole of the works and 50 % shall be retained till the end defects liability period.
- xv. **Liquidated Damages:** Provision for liquidated damages shall be included in the conditions of contract to guard against delays in delivery of goods or completion of works.
- xvi. **Tender Opening:** The time for tender opening should not be more than half an hour after the deadline for submission of bids

Tenders shall be opened in public. The bidders or their representatives shall be allowed to be present at the time of opening of bids. All tenders received should be opened. No bid should be rejected at bid opening time except for late tenders. Late tenders shall be returned to the bidders unopened. The name of the bidder and total amount of each bid along with important conditions like excise duty, sales tax, delivery terms, delivery period, special conditions, if any, shall be read out at the time of bid opening. Spot comparative statement (minutes of bid opening) shall be prepared by the bid opening officials and should be signed.

xvii. **Confidentiality:** After the public opening of tenders, information relating to the examination, clarification, and evaluation of tenders and recommendations concerning awards shall not be disclosed to bidders or other persons not officially concerned with this process until the successful bidder is notified of the award of the contract.

xviii. **Examination of tenders:**

- a. The implementing agency shall ascertain whether the tenders
 - i. Meet the eligibility requirements specified;
 - ii. Have been properly signed;
 - iii. Are accompanied by the required earnest money valid for the period specified in the tender documents;
 - iv. Are substantially responsive to the tender documents; and
 - v. Have the technical and financial capability to successfully execute the contract. For ensuring technical and financial capacity, a minimum turnover requirement and specific experience requirement should be prescribed in bid documents.
 - vi. Are otherwise generally in order.

- b. If a bid is not substantially responsive, that is, it contains material deviations from or reservations to the terms, conditions and specifications in the tender documents, it shall not be considered further. The bidder shall not be permitted to correct or withdraw material deviations or reservations once tenders have been opened.

xix. **Extension of validity of tenders:** As far as possible contracts should be finalized within the original validity of the offers mentioned in the tender. An extension of bid validity, if justified by exceptional circumstances with the approval of next higher authority and after obtaining World Bank's no objection where required, shall be requested in writing from all the bidders (of valid tenders only) before the expiry date. Bidders shall have the right to refuse to grant such an extension without forfeiting their Earnest Money Deposit, but those who are willing to extend the validity of their bid shall also be required to provide a suitable extension of Earnest Money.

xx. **Tender evaluation and Comparison:**

The purpose of tender evaluation is to determine the cost to the implementing agency of each tender in a manner that permits a comparison based on evaluated cost. The tender with the lowest evaluated cost and substantially responsive, but not necessarily

with the lowest submitted price, should be selected for award. The bid price read out at the bid opening shall be adjusted to correct any arithmetical errors for the purpose of evaluation. Evaluation of tenders should be made strictly in terms of the provisions in the tender documents to ensure compliance with the commercial and technical aspects. Conditional discounts offered by the bidders shall not be taken into account for evaluation. Cross discounts shall be taken into account to determine the lowest cost combination of the contracts.

The past performance of the suppliers/ contractors should also be taken into account while evaluating the tenders. (this should also be indicated in bid documents). The implementing agency shall prepare a detailed report on the evaluation and recommendations for the award of the contract.

- xxi. **Post-qualification of Bidders:** If bidders have not been pre-qualified, the implementing agency shall determine whether the bidder whose bid has been determined to be the lowest evaluated bid, has the capability and resources to effectively carry out the contract, and if the bidder does not meet the specified criteria, the bid shall be rejected. In such an event, the implementing agency shall make a similar determination for the next-lowest evaluated bidder and so on.
- xxii. **Rejection of All Tenders:** Tender documents usually provide that implementing agency may reject all tenders. Rejection of all tenders is justified when none of the tenders are substantially responsive. However, lack of competition shall not be determined solely on the basis of the number of bidders. If all tenders are rejected, the implementing agency shall review the causes, justifying the rejection and consider making revisions to the conditions of contract, design and specifications, scope of the contract, or a combination of these, before inviting fresh tenders.

If the rejection of all tenders is due to lack of competition, wider advertising shall be considered. If the rejection is due to most or all of the tenders being non-responsive, fresh tenders may be invited. Rejection of all tenders and re-inviting new tenders, irrespective of value shall always be after approval of the competent authority as per delegation of authority attached and with the approval of the World Bank.

4.4.3 LIMITED TENDER/LCB

Limited Tendering is the mode of inviting tenders from selected potential suppliers of proven capacity-cum-capability (from at least two different countries in case of International Limited Tender) without open advertisement but broad enough to ensure receipt of competitive bids. This procedure could be adopted where.

- ② There are only a limited number of suppliers of the particular goods or services.

- ② Demand is urgent in nature. Exceptional reasons exist justifying departure from advertised open tender. Other procedures under limited tender will be same as that of open advertised tender.
- ② Use of Rate contracts of Directorate General of Supplies and Disposals (DGS & D) shall also be an appropriate method under limited tender system. The purchaser shall however, check that the rate contracts are representative of market price and are not obsolete. In all such cases approval of the competent authority to dispense with open advertised tender should be taken. Rate contracts of State Governments can be taken as one of the bids only.
- ② This method of procurement shall be followed where the estimated cost per contract is above the threshold value specified for shopping.

4.4.4 SHOPPING

Shopping is a procurement method based on comparing price quotations obtained from several suppliers, usually at least three to ensure competitive prices. Under International Shopping quotations should be solicited from at least three suppliers in two different countries. Format as per **Appendix I** may be used to invite quotations.

- ② Goods estimated to cost below the financial ceiling mentioned in the table titled “Threshold Values” in **Chapter VI** per contract may be procured under the Shopping.
- ② It is an appropriate method for procuring readily available off-the-shelf goods or standard specification commodities that are small in value and are ordinarily available from more than one source.
- ② Approval of competent authority may be obtained for items to be purchased along with specifications, estimated costs and agencies from whom quotations should be invited.
- ② The requests for quotations shall be made indicating the description, specifications, quantity time and place of delivery.
- ② If the quotations are called for more than one item, it should also be indicated whether the evaluation would be item-wise or as a package.

4.4.5 SINGLE TENDER/DIRECT CONTRACTING

The Single Tender system may be adopted in case of articles which are specifically certified as of proprietary nature or in case of extreme emergency. The single tender system without competition shall be an appropriate method under the following circumstances:

- ② extension of an existing contract for goods or works awarded in accordance with the prescribed procedure for additional goods or works;
- ② Standardization of equipment or spare parts to be compatible with existing equipment may justify additional purchases from the

- original supplier;
- ☒ The required item is proprietary and obtainable only from one source;
- ☒ Need for early delivery to avoid costly delays;
- ☒ In exceptional cases, such as in response to natural disasters; and
- ☒ The estimated cost of procurement lies within the threshold value for Direct Contracting.

4.5 AWARD OF CONTRACT

Implementing agency shall award the contract, within the period of the validity of tenders, to the bidder who meets the tender conditions in all aspects, has the necessary technical capability and financial resources and whose bid is substantially responsive to the tender documents and has the lowest evaluated cost. The purchaser can, if it so desires, satisfy itself that the manufacturer to whom the contract is proposed to be awarded, has the capability to produce the required quantity and also of required standards. Single tenders should also be considered for award, if it is determined that publicity was adequate, bid specification/ conditions were not restrictive or unclear, and bid price is considered reasonable.

4.6 RESOLUTION OF DISPUTES

The dispute resolution methodology should be very clearly indicated in the contract document. As far as possible, disputes may be resolved with mutual agreement between purchaser and buyer through alternate dispute resolution methods to avoid going through arbitration and litigation stage. There are a number of possible causes of disputes during the execution of contract. These may involve:

- ☒ Interpretation of the terms and conditions of the contract
- ☒ Delay in delivery/ completion of the works
- ☒ Delay in release of payment
- ☒ Condition of the items on arrival at consignee end and after delivery
- ☒ Rate of the items, variation in quantity in civil works contracts etc.
- ☒ Design/ specification issues.

4.7 LAWS GOVERNING THE CONTRACT

- ☒ The contract shall be governed by the laws of India in force
- ☒ The court of the place from where the acceptance of tender of has been issued shall alone have jurisdiction to decide any dispute arising out of or in respect of the contract.
- ☒ Irrespective of the place of delivery, the place of performance or place of payment under the contract or the place of issue of advance intimation of acceptance of tender, the contract shall be deemed to have been made at the place from where the acceptance of the tender has been issued.

4.8 ARBITRATION

- i. In the event of any question, dispute or difference arising under the contract

conditions or any special conditions of contract or in connection with the contract (except as to any matters the decision of which is specially provided for by these or the special conditions), the same shall be referred to the sole arbitration of an officer, from the department other than the department who has decided the contract. The arbitrator should be having sufficient knowledge of law and shall be appointed as per the laid down procedure. The award of the arbitrator shall be final and binding on the parties to this contract.

- ii. In the event of the arbitrator dying, neglecting or refusing to act or resigning or being unable to act for any reason, or his award being set aside by the court for any reason, it shall be lawful for the purchaser to appoint another arbitrator in place of the outgoing arbitrator in the manner aforesaid.
- iii. It is further a term of the contract that no person other than the person appointed by the purchaser as aforesaid should act as arbitrator and that, if for any reason that is not possible, the matter shall be referred to President, Institution of Engineers, India, for nominating an arbitrator.
- iv. The arbitrator may from time to time, with the consent of all parties to the contract, enlarge the time for making the award.
- v. Upon every and any such reference, the assessment of the costs incidental to the reference and award respectively shall be at the discretion of the arbitrator.
- vi. Subject to as aforesaid, The Arbitration and Conciliation Act, amended up to date and the rules there under and any statutory modifications thereof for the time being in force, shall be deemed to apply to the Arbitration proceedings under this clause.
- vii. If the value of the claim in a reference exceeds Rs. 1 lakh the arbitrator shall give a reasoned award.
- viii. The venue of arbitration shall be the place from which formal acceptance of tender is issued or such other place as the purchaser at his discretion may determine.
- ix. Suitable clause may be incorporated in the tender enquiry to obtain the consent of the bidder to accept the arbitration clause.

4.9 EXTENSION OF CONTRACT

Normally contract once awarded should not be extended. Under exceptional circumstances, extension of existing contracts up to 25% of the original contract value may be considered, if it is justifiable on economic grounds, subject to approval of the competent Authority as per the Schedule of Delegation of Powers and with the prior approval of the Bank wherever required.

4.10 COMPLAINT REDRESSAL MECHANISM (ALSO APPLICABLE TO PROCUREMENT OF SERVICES)

In order to deal with the complaints received from the contractors/ suppliers effectively, a complaint handling mechanism should be available at the State level as well as at District level, and immediate action should be initiated on receipt of complaints to redress the grievances. All complaints should be handled at a level higher than that of the level at which the procurement process is being undertaken and the allegations made in the complaints should be thoroughly enquired into, and if found correct, appropriate remedial measure should be taken by the appropriate authorities. In case any individual staff is found responsible, suitable disciplinary proceedings should be initiated against such staff under the

applicable government conduct rules. The existing provisions under the Indian law including the instructions of central vigilance commission should be followed in this regard.

COMMUNITY PROCUREMENT (PRINCIPLES AND PROCESS DESCRIPTION)

5.1 CONCEPT

Growing awareness of community participation in the works from planning to implementation and post implementation stage gives rise to the problems of operation of complicated process of procurement of goods, works and services by rural community who lack knowledge and skill in the area. Institutional capacity of the community plays a major role for effective community participation in procurement. Capacity building activities need to be undertaken in order to build on and sharpen their existing skills for management and for sustaining all activities related to project completion.

5.2 COMMUNITY EMPOWERMENT

Community Procurement is an effective tool of community empowerment if it ensures quality, quantity, timeliness and reasonableness of rates.

5.2.1 Quality Assurance

Procurement of goods and material having ISI certification from authorized vendors shall be the first step in obtaining prescribed quality of goods /materials.

5.2.2 Quantity Assurance

Purchase of excess goods/materials always results in loss and wastage. Quantities strictly required to execute the work satisfactorily should always be worked out prior to scheduling the procurement.

5.2.3 Timing

Appropriate timing of delivery of goods/materials matching with commencement and completion of work should always be adhered to. Any gap might lead to either excess holding of materials or to delay in completion of work, which may cause cost over-run, adversely affecting the financial viability of the Project.

5.2.4 Process of Preparation and Approval of DPR

Detailed Project Report (DPR) of the project prepared by User Community with support of Engineer of Payjal Nigam/ Jal Sansthans or hired by the UWSSC shall contain details of estimated cost of goods and works required.

Appraisal and Sanction of Schemes

Appraisal Check Lists for Schemes

The non-negotiables for appraisal of the schemes shall be as follows:-

1. Capital cost sharing according to the GoUA policy
2. 100% O&M for SVS and partial O&M cost sharing for MVS according to the GoUA policy
3. Integration of water supply, sanitation, and catchment
4. Open Defecation Free Villages
5. UWSSC formation for SVS/UWSSC and MVSLC formation for MVS
6. Renovation of existing water supply scheme
7. Proposed sources are undisputed, perennial etc.

Intermediate Appraisal Milestones

Planning Phase

1. Formation of user groups. Ensure that UWSSCs/MVSLC are formed on representative basis, based on technological options.
2. “Agreed to Do” meeting on Community Action Plan, ratified by GP in an open community wide meeting
3. Ensure that Community Action Plan (CAP) includes integrated planning for water supply, sanitation and catchment protection, health and hygiene; plans proposed are based on investment guidelines; check whether community participation is satisfactory.
4. Community has collected 1% of upfront cash contribution, and 50% of the annual O&M cost.

Technical Feasibility Factors

- ② Meets the desired service levels
- ② Meets the technical requirements
- ② Easily maintainable, and repair facilities are accessible easily and markets for spare parts are available
- ② Requires least O&M cost for the minimum level of maintenance

Technical Appraisal Conditions

Basic Principle: Use of the existing system / facilities to the optimum level, subject to cost effectiveness

Design of all components should follow design guidelines.

For Single Village Schemes:

Based on the feasibility studies and the Agree to do meeting, the water supply technological option for the concerned UWSSC shall be finalized. The Detailed Project Report (DPR) shall be prepared for this selected technical option by the Support Organization (SO) / Facilitating Agency – DPMU, District Division of UJN and UJS. The district level Technical Review Committee (TRC) will appraise these DPRs and accord technical sanction. The

administrative and financial sanction shall thereafter be given by the DWSC/DWSM depending upon the availability of the funds.

All Single Village Schemes (SVS) irrespective of the facilitating agency and the cost of the schemes shall be appraised and approved at the district level.

For Multi Village Schemes:

Based on the feasibility studies and the “Agree to do meeting”, the water supply technological option for the concerned GPs/UWSSCs shall be finalized. The Detailed Project Report (DPR) shall be prepared for this selected technical option by the Facilitating Agency – District Division of UJN and UJS. The district level Technical Review Committee (TRC) will appraise these DPRs. The technical, administrative and financial sanction shall thereafter be given at various levels depending upon the availability of the funds and the capital cost of the MVS. Schemes costing up to Rs. 50 lakhs shall be administratively and financially sanctioned by the concerned DWSC/DWSM. Schemes costing more than Rs. 50 lakhs and up to Rs. 100 lakhs shall be technically, administratively and financially sanctioned by the SWSM. Schemes costing more than Rs. 100 lakhs and up to Rs. 500 lakhs shall be technically, administratively and financially sanctioned at the government level by Department of Drinking Water and Department of Finance. Schemes costing more than Rs. 500 lakhs shall be technically, administratively and financially sanctioned by the Finance Expenditure Committee.

Fixation of limits for appraisal and approval of DPR is mentioned in **para 2.5 of Chapter II**.

The rates estimated in the DPR shall be taken as a benchmark while deciding the rates of procurement. However, at the time of procurement, if the market rate of items procured is increased, sanction of DPMU shall be taken for increases upto 10% of estimated rates, and for increases beyond 10%, sanction of PMU shall also be necessary. However, DPR estimates should be updated to reflect the market rates correctly.

5.3 BENEFITS OF COMMUNITY PROCUREMENT

The benefits of involving community in procurement may be summarized as below.

- ② Enhancing community ownership
- ② Increasing capacity of the community
- ② Generating employment and economic opportunities within the community
- ② Lessening the burden of procurement on Government implementing agencies.

5.4 COMMUNITY PROCUREMENT

The merits of this kind of procurement are: ‘ownership by the community’, ‘command over the entire process’, ‘sharing of capital investment of the project by the community’, and ‘simplicity’. Community-involved procurement, must not compromise with the principles of competitiveness and transparency of the process. It is designed to suit to the capacity of the community in rural environment.

When implementing the Schemes by participation of community, the total requirement of procurement of goods shall preferably be done in more than one lot. Number of lots may vary depending upon the requirements over the next six months/1 year period and the capacity of



the vendors/suppliers. Market Survey is the simplest method that should be undertaken by the community for the procurement of goods. Procurement of simple engineering works, other than specialized works would be done by hiring local labour. Specialised works such as elevated storage reservoir (ESR) and drilling will be procured through normal tendering process (ITQ). A schematic diagram depicting these methods is given below.

5.5 PROCUREMENT NEEDS AT COMMUNITY LEVEL:

The activities that are to be undertaken in project villages for the project are:

- ❖ Construction of rural water supply schemes - Pumping/Gravity, Dugwell/Borewell
- ❖ Sanitation schemes
 - Construction of twin pit pour flush latrine
 - Drains
 - Compost pits
 - Soak pits
 - Garbage pits
- ❖ Construction of village roads

The project Frame Work envisages the User Community to procure goods, works and services in order to achieve the implementation of aforesaid activities. Institutional set-up for Community Procurement under the Project envisages the involvement of following entities in procurement of goods, works and services.

User Water Supply and Sanitation Sub-committee (UWSSC):

UWSSC shall be formed for each group of beneficiaries for any water supply and sanitation

scheme. The UWSSC will be for each user group within the GP. There may be only one UWSSC or more than one UWSSC within the Gram Panchayat. The User Group, which is beneficiary of any water supply scheme, will elect Chairman, Treasurer and Members of their User Water and Sanitation Sub-Committee. User Group means the adult members of the families, which are beneficiaries of the water supply schemes. The User Water and Sanitation Sub-Committee will have minimum seven (7) and maximum twelve (12) members. The elected ward members to District Panchayat, Block Panchayat and Gram Panchayat member from the concerned User Water and Sanitation Subcommittee will be ex-officio members of the Sub-Committee. The Gram Pradhan will be the ex-officio Chairman of all the User Water and Sanitation Subcommittees. The subcommittee will elect the Treasurer from amongst its members. The User Water and Sanitation Sub-Committee will have at least 30% female members and 20% SC/ST representation as per the norms. For decision making by the subcommittee, 50% of the members of the Sub-Committee will constitute the quorum for meetings and decision will be by majority votes.

Roles and responsibilities of User Water and Sanitation Sub-Committee

- i. The User Water and Sanitation Sub-Committee/Sub-Committees will collect voluntary contribution (cash or labour) from the village community for capital cost of construction works of the schemes (drinking water supply, sullage drain, individual house hold latrine, soak pit, compost pit etc.) and also for operation and maintenance of the schemes. The Sub-Committees will make efforts for spreading awareness regarding sanitation and hygiene among the villagers. This Sub-Committee shall deliberate on technical alternatives of construction works and adopt the same so that the schemes being constructed are according to the expectations of the villagers.
- ii. To plan, design, implement, operate and maintain water supply and sanitation schemes.
- iii. To collect user charges from the users of the drinking water schemes for maintenance of the schemes and to take appropriate action in case of non-payment of charges.
- iv. To procure construction material as per rules and to ensure quality of the materials procured.
- v. To receive capital investment amount from Gram Panchayat and to deposit the same in the capital cost account of the User Water and Sanitation Sub-Committee and to incur expenditure as per planning of the scheme.
- vi. To maintain details of capital cost investment
- vii. To fix user charges for operation and maintenance of water supply and sanitation schemes.
- viii. To furnish monthly financial progress report to Project Implementing Agency.
- ix. To ensure coordination with Jal Prabandhan Committee of Gram Panchayat and with Gram Panchayat.

5.6 PROCUREMENT PLAN

UWSSC shall prepare a tentative Procurement Plan for the entire project cycle. The same shall be firmed up and split into annual and quarterly plans for undertaking procurement and

for fund allocation. The Procurement Plan for goods and works prepared in **Formats I and II** respectively as annexed shall be approved by GP/DPMU prior to commencement of procurement processes.

5.7 PROCEDURE OF PROCUREMENT

Formation of Procurement Sub Committee (For goods)

A three member Procurement Sub-Committee (PSC) shall be formed by UWSSC by nominating three of its members, one of them shall be female member, with the approval of general body of the user group in **Proforma A** and submit a copy of this resolution to GP and DPMU. The resolution shall also be recorded in UWSSC register. Support Organization shall nominate one senior engineer for assisting the PSC as facilitator. Copies of such nomination shall be sent to GP, UWSSC and DPMU in **Proforma B**.

5.8 KEY RULES OF COMMUNITY PROCUREMENT

Transparency: All procurement procedures must be carried in an open and transparent manner displaying all the details of procurement at prominent places in the villages.

Equal opportunity for all Suppliers: Equal opportunity must be given to all suppliers interested in supplying items to the UWSSC and uniform evaluation procedures must be adopted.

Accountability: Any office bearer or committee member of the UWSSC undertaking procurement function remains accountable for all decisions and actions taken.

Ensuring Value for Money: Items procured should meet the required technical specifications and the quality standards, and should be obtained at reasonable prices

Avoid procurement of items from Friends and Relatives: Procuring items from close relatives and friends of any of the office bearers of the UWSSC must be avoided.

No undue benefits for anyone: No members of the UWSSC shall accept directly or indirectly any undue benefits or advantages on account of a procurement action.

There should not be any distinction of wages between male and female workers (equal pay for equal work) and other benefits.

5.9 CONFLICT OF INTEREST

Enterprises of PSC members and their immediate relatives and PSC members themselves will not be allowed to provide goods, works or services under the project nor will they participate as bidders.

5.10 AUTHORITY FOR PROCUREMENT

The prescribed procedure should be followed for procurement of goods, works and services in accordance with the Procurement Plan formulated for the entire project cycle as required and sanctioned in the DPR. In case of any deviation from the sanctioned cost, approval of the competent authority should be obtained as described in Para. 5.2.4.

FORMAT- I

Name of S.O. _____

Name of Village/Habitation : _____
Name of block : _____
Name of district : _____

PROCUREMENT PLAN (GOODS)

Sl. No.	Process of Procurement	Package /lot	Description of material	Quantity	Rates as approved in DPR (Rs)	Total Value (Rs)	Budgeted Provision (Rs)	Remark if any
1	Shopping (through sealed quotations)	1						
Grand Total								
2	Shopping (through sealed quotations)	2						
Grand Total								

Surveyor
of Support Organization.

President
UWSSC

FORMAT- II

Name of S.O. _____

Name of Village/Habitation : _____
Name of block : _____
Name of district : _____

PROCUREMENT PLAN (WORKS)

Sl. No.	Package lot No.	Process of Procurement	Description of the work	Quantities to be executed	Rate as per sanctioned DPR (In Rs.)	Total (Rs.)	Budgeted Provision (Rs.)	Remark
		Shopping Procedures through Quotations						
Grand Total								

Surveyor
of Support Organization

President
UWSSC

PROFORMA – A

Nomination of three representatives in the meeting of Users Group of village - as members of Procurement sub-committee (PSC) for purchase of materials required.

This day ---- in the village _____ block _____ district _____ the meeting held under Chairmanship of President UWSSC, nominations of three members of UWSSC as members of the Procurement sub-committee for purchase of construction materials, local and non-local, have been deliberated. After due deliberation the following three persons are nominated as member of Procurement sub-committee.

1. Shri/Smt. _____ Son/Wife/daughter of Shri/Smt _____
2. Shri/Smt. _____ Son/Wife/daughter of Shri/Smt _____
3. Shri/Smt. _____ Son/Wife/daughter of Shri/Smt _____

Above noted representatives shall carry out Market Survey to ascertain various possible suppliers, who can supply construction material with reputed brands in good quality and shall submit their recommendations to the User Groups of the village in the prescribed format. Senior Engineer nominated by SO shall assist the sub-committee in ascertaining the brands and rates and shall function as facilitator only.

Sl.No.	Members of UWSSC			Sl.No.	Name and signature of User Groups and other residents of the village	
	Name	Designation	Signature		Name	Signature
1				1		
2				2		
3				3		
4				-		
5				-		
6				5		
7				6		
8				-		
9				-		
10				23		
11				24		
12				25		

Above resolution must be approved by representatives of 25 numbers of houses or 50% of total number of houses if less than 25, including UWSSC members.

PROFORMA – B

NOMINATION OF FACILITATOR FOR PROCUREMENT SUB-COMMITTEE

By

Support Organization

Shri/Smt _____, Senior engineer of village ____ block _____ District _____ is hereby nominated as a representative of Support Organization to act as facilitator to assist the Procurement sub-committee for procurement of materials, verification of rates and ascertaining the brands, as a Facilitator.

Signature
Name
Team Leader
(Seal of Support Organization)

5.11 PROCUREMENT OF GOODS

Procurement of goods in appropriate amount and at the right time is essential for the completion of any project within scheduled time. Procurement at UWSSC level shall be through shopping in which the quantity of goods shall be purchased in such amounts, which are required immediately. This would minimize wastage due to lack of proper storage system. Procurement of each lot shall be done following the steps given below:

- ② Use of rate contracts of DGS&D, if timely deliveries from conveniently located source(s) are feasible.
- ② Obtain sealed quotations from Authorized Dealers in the selected markets (minimum 3 quotations).
- ② Opening of sealed quotations before UWSSC by PSC.
- ② Preparation of Comparison chart of rates quoted and selection of the lowest evaluated responsive bidder.
- ② Finalization of rates and release of purchase order.

Steps to be followed for the purchase of Goods

5.12 SELECTION OF MARKET

Selection of market should be done before obtaining the sealed quotations and recorded in **Proforma-C (Part-I)**

5.13 COLLECTION OF QUOTATIONS

The rates of materials shall be obtained in Bill of quantities (BOQ) **attached as Appendix -I** and recorded in **Proforma- C (Part – II)**.

Following precautions will be taken while obtaining sealed quotations.

- ② Format of Proforma Invoice for all lots should be same.

- ❷ Materials like cement, reinforcement (saria), pipes and fittings, valves etc. should be mandatorily ISI marked.
- ❷ Firms/sellers shall quote the rates on the letter head of the firm mentioning the name, address, telephone no. and sales tax no. etc.
- ❷ Quotations shall be addressed to UWSSC
- ❷ Information for the material to be purchased on quotations should be tabulated in the following manner.

Sl.No.	Description of Materials	Quantity	Rate (Rs.)	Total Cost (Rs.)	Remarks
1	2	3	4	5	6

Col 3 – Enter cement bags in number and in weight, pipe lengths in meter, bricks in number, steel in dia/weight etc.

Col 2- Mention specifications of the required material and B.I.S. code number clearly.

Invitation to Quote (ITQ) as per Format in **Appendix I** shall set forth the following requirements:

- ❖ Period of Validity of the rates
- ❖ Applicable sales tax
- ❖ Terms of Delivery (destination)
- ❖ Delivery period (within which goods are required to be supplied)
- ❖ Mode of Payment
- ❖ Guarantee period

5.14 EVALUATION AND COMPARISION OF BIDS

The evaluation and comparison of bids shall be on the basis of free delivery at destination prices including insurance to the place of destination (if applicable) but excluding sales tax. The UWSSC shall prepare a detailed report on the evaluation and comparison of bids setting forth the specific reasons on which the recommendation is based for the award of the contract.

MARKET SURVEY (SELECTION OF MARKET)

PROFORMA – C

Part I

Name of the Village

Block

District

Nominated members of PSC

1. Mr./Mrs./Miss _____

2. Mr./Mrs./Miss _____

3. Mr./Mrs./Miss _____

Sl.No.	Name of material to be purchased	Quantity to be purchased in first lot as per DPR	Remarks

This day _____ in the meeting of UWSSC following markets are selected for the purchase of above noted materials and the procurement sub-committee is directed to carry out market survey in these selected markets.

Market _____

Place _____

Market _____

Place _____

Market _____

Place _____

Market survey work must be completed by date _____

Sl.No.	Members of UWSSC	Sl.No.	Name and signatures of other residents of village
--------	------------------	--------	---

	Name	Designation	Signature		Name	Signature
1				1		
2				2		
3				3		
4				4		
5				5		
6				6		
7				7		
8				8		
9				9		
10				10		
11				11		
12				12		
Sl.No.	Members of Support Organisations			13		
	Name	Designation	Signature	14		
1				15		
2				16		
3				17		
4				18		
5				19		
6				20		
7				21		
8				22		
9				23		
10				24		
11				25		

Above resolution must be approved by representatives of 25 numbers of houses or 50% of total number of houses if less than 25, including UWSSC members.

MARKET SURVEY (COLLECTION OF SEALED QUOTATIONS)

PROFORMA - C

Part - II

Name of the Village _____

Block _____

District _____

Name of SO _____

Nominated members of PSC

1. Mr/Mrs/Miss _____

2. Mr/Mrs/Miss _____

3. Mr/Mrs/Miss _____

Market Survey date (i) _____

(ii) _____

(iii) _____

In compliance with resolution of UWSSC proforma C (part-I) dated _____ following markets have been surveyed by PSC.

Market _____ Place _____

Market _____ Place _____

Market _____ Place _____

(if other markets are surveyed in addition to above, a note to this effect shall be given. If necessary, details may also be given)

The PSC is submitting following market survey Proforma with details

Sl. No	Name of Construction Material	Measurement/ Quantity	Name of authorized dealer		
			M/s --- Rate (Rs.)	M/s --- Rate (Rs.)	M/s --- Rate (Rs.)
1					
2					
3					
4					

(Quotations should be enclosed in token of having received above rates).

On the basis of above noted comparative statement, materials of Sl.No. ____ from M/s _____ Sl. No. ____ from M/s. _____ Sl. No. ____ from M/s _____ are recommended to be purchased.

Signature

Name

Representative of UWSSC

Signature

Name

Representative of UWSSC

Signature

Name

Senior Engineer of Support Organisation as Facilitator

Note: Recommendation, if any for purchase of materials higher than lowest rates must be explained.

5.15 RESOLUTION FOR PROCUREMENT OF GOODS

President UWSSC shall call a general body meeting of the users. The recommendation of the procurement sub-committee regarding purchase of materials as submitted in **Proforma C-Part II** shall be placed before the general body, apprising the members, details of recommendation. In accordance with the decisions taken in the general body meeting, UWSSC shall pass a resolution related to purchase of materials in **Proforma C Part III**.

**MARKET SURVEY
PROFORMA - C
Part- III**

Name of the Village
Block
District

This day _____ in the general body meeting of beneficiaries, President UWSSC placed the recommendations of PSC in Proforma C (part-I & II) as approved under resolution of the general body of beneficiaries in the meeting dated _____.
Comparative statement and recommendations as submitted by the PSC have been deliberated and decisions taken for purchase of construction material as per following details.

Sl.No.	Name of the Construction Material (along with brand)	Quantity to be purchased	Rate (Rs.)	Amount (Rs.)	Name of authorized dealer/vendor
1					
2					

Sl.No.	Members of UWSSC			Sl.No.	Name and signature of other residents of village	
	Name	Designation	Signature		Name	Signature
1				1		
2				2		
3				-		
4				-		
5				6		
6				7		
7				-		
8				-		
9				-		
10				-		
11				23		
12				24		

Note: In case the decision taken is contrary to the recommendations of PSC, reasons thereof shall be recorded.

On the basis of above details the President, UWSSC is authorized to submit related documents with quotations to examine the documents and recommend the reasonableness of lowest quoted rates.

Above resolution must be approved by representatives of 25 numbers of houses or 50% of total number of houses if less than 25, in addition to UWSSC members.

5.16 APPROVAL FOR PROCUREMENT OF GOODS

UWSSC shall submit all the related documents viz. market survey and recommendations **Proforma C part I, II & III**, and all quotations to DPMU for approval and necessary action. DPMU shall examine rates quoted in quotations for materials along with resolution passed by the general body of the beneficiaries and approve the procurement. If the proposed rates are unreasonable and exceed the ceiling rates, it would be referred back to UWSSC for reconsideration. UWSSC would reconsider it in the light of observations made by DPMU and put up reconsidered/ revised proposal for approval of DPMU. After approval of the procurement the DPMU shall transfer funds to the extent of value of purchase to UWSSC bank account. Same procedure shall also be followed for procurement of all subsequent lots of materials.

5.17 PURCHASE ORDER

After receipt of the comparative statement and related documents from DPMU, the UWSSC (assisted by procurement sub-committee) shall place purchase order as per the format **annexed in Appendix-I** and a copy of the order shall be sent to DPMU/SO.

5.18 RECEIPT AND PAYMENT OF SUPPLIER'S BILL

Goods received against the order placed by the President UWSSC in accordance with the procedure outlined above shall be entered in site account of the work (format given in Appendix II). The engineer of Support Organization, nominated as facilitator in Procurement sub-committee along with a member of the procurement sub-committee shall acknowledge the materials thus received and shall also record it on the body of the invoice. The supplier shall attach the receipted invoice with the bill in duplicate and present it for payment.

After receipt of above noted bill from the supplier, the SO engineer shall verify the materials in accordance with specifications mentioned in the purchase order as well as the brand of the materials along with the three members of the committee. All the three members shall record a certificate as given below in token of the verification of the bill.

“Certified that the materials have been received as mentioned in the bill and verified as per specifications and brand name (if any) mentioned there in and found correct”.

On the basis of the verification certificate mentioned above the President UWSSC shall draw cheque or draft in favour of the supplier from the bank account of UWSSC. The cheque shall be signed by the President and Treasurer of UWSSC jointly as per rules prescribed by the Government of Uttarakhand and handed over or dispatched to the supplier.

5.19 PROCUREMENT OF ENGINEERING WORK BY GP/UWSSC

Engineering works like excavation, intake structure, laying of pipelines etc. shall be executed by engaging skilled and unskilled labour as well as support persons on daily wages on muster roll as per procedure prescribed by **Panchayati Raj Account Code**. The community shall carry out the work directly by hiring the local technicians like mason, plumber, computer, blacksmith etc and procuring materials as per procedure described in foregoing paras and supervise the construction work and ensure its quantity & quality. If it is decided by UWSSC that the whole work needs to be executed by an agency (contractor), the quotations will be invited from the qualified contractors. A Sample of Invitation to Quote (ITQ) for works is annexed as **Appendix – I A(i)W-6 or A(ii) W-5 (W-6 is for Direct Contracting and W-5 is**

for National Shopping).

Following steps shall be followed:

- ② GP shall authorize the UWSSC to implement and supervise the work
- ② Chairman Beneficiary committee shall engage skilled, unskilled and support persons on muster roll.
- ② Daily labour reports of skilled, unskilled and support persons engaged shall be sent to Adhyksha/ Secretary Panchayat committee detailing the work done.
- ② Adhyksha UWSSC shall keep the accounts of material in site account performa given in the **Appendix –II.**
- ② UWSSC shall be assisted by individual Consultant of DPMU.

5.20 PROCUREMENT OF SPECIALIZED WORKS

Works like construction of elevated storage reservoir and drilling of tube wells require specialized technique and equipment which could only be procured through contractors having men, material, equipment, expertise, skill and experience in this field. Community shall therefore procure these works as per method and threshold values given in the table in VI (Para 6.6).

A) Procurement of Elevated Storage Reservoir (local shopping for works)

Layout drawings, construction drawings of ESR, capacity of the ESR and staging height with rising, delivery and overflow pipe upto wheel valve with lightening conductor and level indicator with technical specifications of different components shall be attached with ITQ (for works). Estimated value of work shall also be given. Invitation to Quote (ITQ) with all these details and others terms and conditions as mentioned in sample ITQ (**Appendix – I A(i)W-6 or A(ii) W-5**) shall be delivered to the registered contractors locally available and asked to quote the lump sum price of the complete job, giving a break-up schedule for intermediate payments as well as adjustment of prices in case there is variation in quantities due to site conditions. The price quoted by the lowest evaluated responsive bidder shall be accepted as per procedure for award of contract detailed in ITQ (**Appendix – I A(i)W-6 or A(ii) W-5**).

B) Procurement of Drilled Tube Wells

Diameter of tube well and depth to which it is intended to be drilled shall be mentioned in the ITQ along with the technical specifications. The drilling contractor shall be asked to give the lump sum price of tube well so drilled with developing and capping the tube well after its completion as a complete job. ITQ shall indicate standard specifications for items like pipes, motors and pump sets for supply by the contractor. In case any brand names are specified, bid shall be invited for the brands or equivalents so that competition is not restricted. The contractor shall also provide a breakup of the work for making intermediate payments. The contractor shall quote the rate of extra drilling beyond fixed depth if needed in Rupees per unit meter. In case the tube well discharge is less than 1200 litres/hr, the tube well shall be declared unsuccessful and so abandoned and the cost of drilling work done and casing of pipe consumed shall be paid to the contractor as per break up rates given in the quotation. These conditions shall be entered in ITQ and contract agreement executed with the drilling contractor.

5.21 QUALITY CONTROL AT GP/UWSSC LEVEL

Simple methods for exercising tests and checks for different goods/materials like bricks, sand, stones, stone aggregates, cement, steel, pipes, wood etc., required in the rural water supply and sanitation schemes shall be implemented to ensure that all materials supplied and works executed conform to the prescribed specifications.

5.22 SOCIAL AUDIT COMMITTEE:

The Gram Panchayat will directly constitute a Social Audit Committee with five members for a period of two years. The Committee members;

- ② Should be respectable members of the community and on whom the poor have faith.
- ② Not immediately related to the GP members or UWSSC members.
- ② Should not be members of any of the decision making committees
- ② At least three members should be from target population.

The Social audit Committee will perform the following functions:

- ② Ensure that all the committees follow Procurement Manual.
- ② Report any violation or deviation of rules to Gram Panchayat.
- ② Monitor the adherence of project principles and rules in selection of beneficiaries, implementation of sub projects and all decisions of UWSSC.

**PROCUREMENT OF WORKS, GOODS AND SERVICES
(OTHER THAN CONSULTANCY SERVICES) AT PMU &
DPMU LEVEL**

6.1 GENERAL

PROCUREMENT CELL

The procurement at PMU, DPMUs and UWSSCs levels needs to be closely supervised and monitored at each stage of procurement. In order to ensure transparency, effective control for timely supply of goods and services and delivery of the Project within the stipulated period, a Procurement Cell has been established at PMU. The Procurement Cell will comprise of Director, PMU as its Chairman. He shall nominate six members, one Additional Director, one Finance Controller, one Procurement Specialist, one from engineering unit and two Project Managers from Districts. The Finance Controller shall function as Convener/ Secretary of the Cell. The procurement cell will guide and monitor the process of procurement of all goods, works and services required under the Project. It will be responsible for dissemination of information and the trainings required for procurement.

The procurement cell shall ensure the following:

- i)The specification of the type, quality and quantity of goods to be procured, keeping in view the specific needs of the consumer. The specifications so worked out should meet the basic needs without including superfluous and non-essential features, which may result in unwarranted expenditure. Care should also be taken to avoid purchasing quantities in excess of the requirement to avoid carrying costs and wastages.
- ii)Offers should be invited following a fair, transparent and reasonable procedure.
- iii)The procuring authority should be satisfied that the bid of the selected bidder is responsive both technically and commercially and adequately meets the requirement in all respects.
- iv)The procuring authority should be satisfied that the price of the selected offer is reasonable and consistent with the quality required.
- v)At each stage of procurement the concerned procuring authority must place on record, in precise terms, the considerations, which weighed with it while taking the particular procurement decision.

Specific areas for dissemination of information by procurement cell are:

- ii)Compilation of list of items to be procured with full nomenclature, specifications and brand names only if unavoidable and in such cases bids should be invited to 'brand names or equivalents'.
- iii)Compilation of district wise list of manufactures and their authorized dealers in the

State.

- iv) Circulation of rates at which non-local items are being purchased by various UWSSCs.
- v) Circulation of rates of non-local items in Jal Nigam RCs.
- vi) Circulation of cases of poor performance of suppliers/contractors
- vii) Suspension of business dealings or black listing [see note below] of suppliers/contractors in appropriate cases, such as fraud, corruption, non performance, misrepresentation, collusive bidding, etc.
- viii) Circulation of cases of supply of sub-standard quality of material/works and rejections.

Note: NCB - The World Bank, may accept the debarment of a domestic firm from bidding on a Bank financed NCB tender on the basis of a previous debarment by the national authorities provided that (i) the debarment was enacted at least as part of the agreed NCB provisions, and (ii) the Bank has satisfied itself that the procedure followed to debar the firm afforded the firm reasonable due process and the grounds thereof.

ICB – The World Bank does not generally accept national debarment for debarring under ICB. However, in exceptional circumstances decided on case-by-case basis, the Bank may rely on the borrower's representation to agree to exclude a nationally debarred firm from participation in a Bank financed ICB tender on the basis of the firm's lack of qualifications.

Training Activities:

- i) Train Project Managers, Accounts Managers and other staff involved in procurement functions.
- ii) Train UWSSC in the procurement procedures.

Procurement Committee

PMU shall form a procurement committee at its own level for procurement comprising Director, PMU as its Chairman, Finance Controller, and two Unit Coordinators. The Finance member shall function as Convener/Secretary of the committee. The procurement committee at PMU shall process and monitor procurement of all goods, works and services including consultancy services required under the project. Procurement committee at PMU level shall have the decision making power up to Rs. 50 lacs in matters of procurement of goods, works and services. Director PMU shall have financial powers to invite tenders upto Rs. 50 lacs at a time for procurement of goods, works and services in accordance with availability of funds. The Finance Committee of PMU consisting of Secretary, Drinking Water as Chairman and other members as mentioned in the Memorandum of Association of PMU, shall be the decision-making committee in all matters of procurement of goods, works and services exceeding Rs. 50 lacs.

6.2 PROCUREMENT PLAN

Procurement Committee shall prepare a procurement plan/ schedule which will indicate contract wise procurement of goods, works and services for the year keeping in view the availability of funds in accordance with budget provision for the year and also for the subsequent year consistent with future requirement. The plan shall be scheduled according to priority as fixed by the committee. The prioritized procurement schedule shall be estimated

item-wise, value of each contract displayed in the prescribed format as below :

For goods & works:-

Organisation	Sl. No.	Package No.	Description of Works/Goods	Estimated Cost (Rs. In Lakhs)	Methods of Procurement ICB/NCB/Others	Design/Investigation Completed (Date)	Estimate Prepared & Sanctioned (Date and Value)	Review by Bank (Prior/Post)	Expected Bid Opening Date
1	2	3	4	5	6	7	8	9	10

For Consultancy Services:-

Organisation	Sl. No.	Package No.	Description of Services	Estimated Cost (Rs. In Lakhs)	Methods of Selection	Advertisement for Short listing (EOI) (Date)	Review by Bank (Prior/Post)	Expected Proposal Submission Date
1	2	3	4	5	6	7	8	9

The committee shall finalize the mode of procurement from its value threshold as given in the table at the end of the **Chapter VI**. If the value of procurement plan is up to Rs 50 lacs, Director PMU shall invite tenders for procurement. In case the value exceeds Rs 50 lacs the procurement plan shall be submitted to finance committee for approval. After approval of the Finance Committee, Director PMU shall call for tenders for procurement purposes.

6.3 POWERS OF APPROVAL FOR AWARD OF CONTRACTS

Lowest evaluated responsive bids valued upto Rs. 50 lacs shall be approved by Procurement Committee at PMU level subject to the recommended prices being within 10% above the estimated value of the goods, works and services subject to prior review of the World Bank, wherever required. Above this limit, the tenders shall be submitted to Finance Committee for approval. The Procurement Committee at PMU shall prepare the comparative statement and submit it along with the tender documents price bids etc. to the Finance Committee with its recommendations for approval. The Finance Committee shall have full powers for approval of rates for procurement of goods, works and services. Rates of works, goods and services administratively approved shall be the guideline for approval of rates received against tenders. After the rates are approved, Director PMU shall promptly execute the contract Agreement with the successful bidder as per terms and conditions of Contract in the standard format of the state govt. or Bank as the case may be. Bid documents shall form part of such Contracts.

Chapter III & IV may be referred to, for procedures for notice inviting tender, preparation of bid documents, opening of tenders, evaluation, tender award and signing of contract etc.

6 RATE CONTRACT

Rate Contracts of DGS&D / State Government may preferably be operated for speedy procurement of goods as per procedure outlined below;

A. For procurement of goods valued upto the threshold for shopping shown in para 6.6.

➤ **Rate contracts (DGS&D)**

Director General of Supply and Disposal executes rate contracts with various manufacturing units for supply GI, CI, DI, MS, PVC, HDPE pipe etc. and other materials as listed in their schedule, shall be applicable for the procurement of such items.

B. For procurement of goods valued upto the threshold for Direct Contracting shown in para 6.6.

➤ Rate Contracts of DGS&D shall also be applicable for procurement of such items.

7 PRINTING WORKS

Printers have devised their units of printing charges for text, figures, drawings, photographs etc. Shopping procedures shall be adopted for such procurement as value of each contract is expected within the shopping threshold limit for goods . The PMU shall give their requirements of printing matter including figures, writings, photographs etc. design of brochures, cover design of books / reports etc. to obtain sealed quotations from the printers. Procedures and guidelines given in **Chapter IV** shall be followed for Shopping.

8 HIRING OF VEHICLES

Vehicles shall be hired on daily/ monthly/ yearly basis as per requirement. Quotations shall be called from atleast three travel agencies under shopping procedures provided the estimated value is below the Shopping threshold.

9 Hiring Services of Support Staff

Services of support staff shall be hired on monthly rate basis. Pay Scale will be decided according to the practices followed by PMU for different categories of skilled and non-skilled persons. Selection of the support staff shall be made on the basis of qualifications required by PMU for respective jobs. The staff should either be hired directly from the market or through recognized agencies following procedure for hiring of individual consultants as outlined in **Chapter III**.

10 Other procurements

Procurement of Consultants	-	As given in Chapter III
Procurement of NGOs	-	As given in Chapter III
Procurement of goods for office use	-	As given in Chapter IV
Procurement of individual Consultant	-	As given in Chapter III

11 PROCUREMENT AT DPMU LEVEL

Procurement at DPMU level for goods, works & services shall be carried out under delegated powers of PMU.

However procurement committee shall be constituted at DPMU level consisting of project manager of DPMU as the Chairman and he shall nominate one member each from accounts and engineering sections.

6.4 POWERS FOR PROCUREMENT OF GOODS, WORKS AND SERVICES

Mentioned in **Para 2.5 of Chapter II**.

6.5 POWER OF APPROVAL FOR AWARD OF CONTRACT

Powers for award of contracts shall rest with Director PMU. DPMU shall process the tender documents and send the comparative statement along with all the papers and their recommendation to Director PMU for approval of award of contract as per the limit mentioned in table 2.5.

After approval by Director, PMU, Project Manager DPMU shall properly enter into agreement with the successful bidder. The process of tendering shall be followed as per procedure outlined in **Chapters III & IV** of the Manual.

6.6 THRESHOLD VALUES

(a) Threshold values for works and goods under different methods of procurement are given below:

- ② ICB, contracts above US \$10 million (INR 45 crore approx.) for works and US \$ 200,000 (INR 90 lakhs approx.) for goods in each case.
- ② NCB, contracts up to US \$ 10 million (INR 45 crore approx.) for works and up to US \$ 200,000 (INR 90 lakhs approx) for goods in each case.
- ② Limited Competitive Bidding/Shopping contracts up to US \$ 100,000 (INR 45 lakhs approx.) for works and goods in each case.
- ② Direct Contracting, proprietary items, such as spare parts, software, books, periodicals etc. up to US \$ 10,000 (INR 4.50 lakhs) per contract meeting requirements stated in the Procurement manual and petty items costing up to US \$ 1,000 (INR 45000) per contract may be procured through Direct Contracting.

Note: Slicing/Packaging/Lots shall be appropriately reviewed to avoid fragmentation to the extent practicable. Whenever bids are invited concurrently for several contracts in a package and cross discounts are invited, the aggregate value of the total package will form the basis to determine the procurement method as well as the review requirement,

(b) Threshold values for consultancy:

Individual Consultants	< US\$50,000
Very Small Consultancies [SSS] including NGO services	< US\$100,000

Small Consultancies [CQS]	< US\$200,000

(c) Review Requirements:

Prior Review:

Goods and Works: All ICB contracts and first two NCB contracts each valued over US\$ 1,000,000 equivalent for works and US\$ 100,000 for goods, every year during the program.

Consultancy Services: All contracts valued over US\$100,000 equivalent for firms including NGO services and above US\$50,000 equivalent for individuals.

Post Review:

All contracts not covered under prior review will be subject to post award review. The Terms of Reference for the independent Auditors, to be engaged by the GoUA, would also include procurement review of selected contracts. The Bank on its part will review the reports of the Auditors in addition to conducting its own post review on sample basis.

**PROCUREMENT POLICY AND PROCEDURES IN THE
WATER SUPPLY SECTOR FOR UTTARAKHAND PEY JAL
NIGAM & UTTARAKHAND JAL SANSTHAN**

An organized system exists in the Uttarakhand Peyjal Nigam & Uttarakhand Jal Santhan for the procurement of goods, works & services based on rules and regulations of the State Government as enunciated in the financial hand books of the state of U .P. (Adopted also by GoUA) as modified from time to time by GO's on the relevant subjects. The procedure followed are more or less the same as that of the state 'Public Work Department. Sector Institutions will follow their existing procurement procedures, as applicable for procurement of goods, works and services (other than the Consultancy services) under the program, subject to following provisions for new investment (SWAp basket) in the Rural Water Supply and Sanitation Sector:

1. Equitable opportunity to all eligible bidders without regional preferences and all the bidders have the same information to compete in providing goods and works. Foreign bidders will not be precluded from bidding against NCBs issued. NCBs for procurement of works may require the bidders to offer bid prices in local currency.
2. No preference shall be given to any bidder other than domestic preference in case of ICB. Open competition is the basis for efficient public procurement. The Sector Institutions shall select the most appropriate method for the specific procurement as given below:
 - ② ICB, contracts above US \$10 million (INR 45 crore approx.) for works and US \$ 200,000 (INR 90 lakhs approx.) for goods in each case.
 - ② NCB, contracts up to US \$ 10 million (INR 45 crore approx.) for works and up to US \$ 200,000 (INR 90 lakhs approx) for goods in each case.
 - ② Limited Competitive Bidding/Shopping contracts up to US \$ 100,000 (INR 45 lakhs approx.) for works and goods in each case.
 - ② Direct Contracting, proprietary items, such as spare parts, software, books, periodicals etc. up to US \$ 10,000 (INR 4.50 lakhs) per contract meeting

requirements stated in the Procurement manual and petty items costing up to US \$ 1,000 (INR 45000) per contract may be procured through Direct Contracting.

② Community Driven procurement, the procedures are described in the Procurement Manual.

3. Bids will not be rejected at the sole discretion of any authority. Reason of rejection must be disclosed to the bidders.
4. There will be no requirement of registration with State Departments/ Sector Institutions beyond the Limited Competitive Bidding (LCB)/Shopping limits of Rs. 45.00 lakhs for works and goods. However Sector Institutions will ensure that the process of registration is open and transparent and only the firms that meet the criteria shall be registered for Limited Competitive Bidding.
5. Award of contract shall be made to the lowest evaluated responsive bidder, who is qualified and capable to perform and not necessarily to the lowest bidder.
6. The result of bidding process shall be disclosed to all bidders, through details placed on the website. Reason for rejection of bids shall be given to the bidders.
7. Bidding documents shall state either that (a) bid prices will be fixed or (b) that price adjustments will be made to reflect any changes (upwards or downwards) in major cost components of the contract, such as labour, equipment, materials, and fuel. Price adjustment provisions are usually not necessary in simple contracts involving delivery of goods or completion of works within eighteen months, but shall be included in contracts, which extend beyond eighteen months. Prices may be adjusted by the use of a prescribed formula (or formulae), which breaks down the total price into components that are adjusted by price indices specified for each component provided by the supplier or contractor. The method to be used, the formula (if applicable), and the base date for application shall be clearly defined in the bidding documents. If the payment currency is different from the source of the input and corresponding index, a correction factor shall be applied in the formula, to avoid incorrect adjustment. The sector institutions will be required to prepare and finalize the sample bidding

documents for NCB, after review of the draft by the Bank, so as to ensure appropriate incorporation of the observations contained in this **Chapter**. The possibility of use of Bank's standard bidding document will be explored.

8. No exemption will be given to any organization, from submission of Earnest Money or Bid Security Deposit, as this amounts to unfair advantage to the beneficiary of such exception.
9. Works contracts shall be awarded to competent and capable contractors and the contractor shall be responsible for supply of all materials. No materials shall be transferred by the employer either on free issue or on issue rate basis. Contractor will not be forced to procure materials from any specified firms or agencies. For this purpose, Sector Institutions will include in the Bidding Documents, clear and elaborate Specifications and provisions relating to Inspection for the purpose of ensuring Quality Control and testing Facilities for compliance with the Specifications.
10. The following provisions shall also apply and shall be suitably incorporated in the bidding documents for bids invited on NCB basis:
 - i) Invitations to bids shall be advertised in at least one widely circulated national daily newspaper, at least 30 days prior to the deadline for submission of bids.
 - ii) No special preference will be accorded to any bidder either for price or for other terms and conditions when competing with foreign bidders, State owned enterprises, small-scale enterprises or enterprises from any given State.
 - iii) There shall be no negotiation of price with the bidders, not even with the lowest evaluated bidder without prior clearance of the Bank.
 - iv) Re-bidding, if required for reasons whatsoever, will be resorted to only after prior clearance of the Bank.
11. For the purpose of engaging services of consultants, the procedure, as outlined in the Chapter III of the Procurement Manual, shall be followed.
12. The Multi Village Schemes (MVS) may be divided into components of works by their nature and specifications, which can be given as separate contracts to different contractors based on technical parameters.

APPENDIX -I

LOCAL SHOPPING - INVITATION TO QUOTE (ITQ)

Date:

To:

1.You are invited to submit your price quotation(s) for the supply of the following item(s) duly sealed:

Sl.No	Brief Description of goods/equipments	Brief Specifications	Quantity	Delivery Period	Place of delivery
1					
2					
3					
4					
5					
6					

2.You must quote for all the items under this Invitation. Price quotations will be evaluated for all the items together and contract awarded to the firm offering the lowest evaluated total cost of all the items.

3.Your quotation(s) in the required format should be addressed and submitted to:

Telephone: _____

FAX: _____

4.Your quotation should be accompanied by adequate technical documentation and catalogue(s) and other printed material or pertinent information for each item quoted, including names and addresses of firms providing service facilities in the country.

5.The deadline for receipt of your quotation (s) by the Purchaser at the addressed indicated in Paragraph 3 is: _____

6. You quotation(s) should be submitted as per the following instructions and in accordance with the Terms and Conditions of Supply in the Purchase Order. Please sign the Terms and Conditions of the Supply which will become part of the Purchase Order that the Purchaser will issue to the selected supplier.

(i) PRICES: The prices should be quoted in the local currency for delivery ex-factory, including the cost of delivering to the place of destination, which is as follows: Taxes and any other local duties should be quoted separately.

(ii) EVALUATION AND AWARD OF PURCHASE ORDER: Offers determined to be substantially responsive to the technical specifications will be evaluated by comparison of their prices by converting their Ex-Works price, including the cost of delivery to the place of destination. The award will be made to the firm offering the lowest evaluated price and that meets the required standards of technical and financial capabilities.

(iii) VALIDITY OF THE OFFER: Your quotation(s) should be valid for a period of 30 days from the date for receipt of quotation(s) indicated in Paragraph 5 above.

7. Further information can be obtained from:

Telephone: _____

Fax: _____

Telex _____

Sincerely,

LOCAL SHOPPING

Draft Purchase Order

Purchase Order No. _____

Date of Purchase Order _____

Name of the Purchaser _____

Complete Postal Address of Purchaser _____

Telephone No. _____

Fax No. _____

Subject: SUPPLY OF _____

TO: {Please insert Supplier's name and address}

Dear Sirs:

Your _____ price _____ quotation _____ No. _____
_____ Dated _____ for the supply
of the above goods is accepted by the Purchaser for an amount of
_____ as per the attached Technical Specifications and Terms and
Conditions.

Please acknowledge receipt within 5(five) days from the date of receipt of this
Purchase Order.

Sincerely,

Purchaser

TERMS AND CONDITIONS OF SUPPLY

Project Name: _____ Purchaser: _____

Consignee: _____ Package No _____

1. Prices and Schedules for Supply

<u>S.No.</u>	<u>Item No.</u>	<u>Quantity</u>	<u>Unit Price</u>	<u>Total Price</u>	<u>Delivery Time</u>
--------------	-----------------	-----------------	-------------------	--------------------	----------------------

Taxes

Total

{Note: In case of discrepancy between unit price and Total derived from unit price, unit price shall prevail}

Spare Parts }

Tools and Accessories }

Manuals } Specify, if applicable.

Maintenance Requirements }

2. Fixed Price The prices indicated above are firm and fixed and not subject to any adjustment during contract performance.

3. Delivery Schedule: The delivery should be completed as per schedule.

4. Payment for your invoice will be made 100% against delivery of goods.

5. Warranty: Goods offered should be covered by manufacturer's warranty for at least 12 months from the date of delivery to the Purchaser (Please specify warranty period and terms in detail).

6. Packaging and Marking Instructions: {Purchaser to specify}

7. Required Technical Specifications

- (i) General Description
- (ii) Specific details and technical standards
- (iii) Performance Parameters

Supplier confirms compliance with above specifications {In case of deviations supplier to list all such deviations}

- 8. The material which will be supplied by the vendor will be tested in recognized testing institutions. If the sample material fails in testing the vendor will be liable to replace the whole lot with the material already supplied as per specification given above or refund the amount paid for the material. The cost of replacement will be borne by the vendor.
- 9. Failure to Perform: The Purchaser may cancel the Purchase Order if the Supplier fails to deliver the Goods, in accordance with the above terms and conditions, in spite of a 21 day notice given by the Purchaser, without incurring any liability to the Supplier.

NAME OF SUPPLIER_____

Authorized Signature_____

Place:

Date:

W-5

**PROCUREMENT OF CIVIL WORKS
UNDER
NATIONAL SHOPPING PROCEDURES**

(For Works valued less than equivalent of \$ 30,000 each)

**INVITATION FOR QUOTATIONS FOR CONSTRUCTION OF
CIVIL WORKS UNDER SHOPPING PROCEDURES**

To

Dear Sirs,

Sub : INVITATION FOR QUOTATIONS FOR CONSTRUCTION OF

1. You are invited to submit your most competitive quotation for the following works:-

Brief Description of the Works	Approximate value of Works (Rs.)	Period of Completion
-----------------------------------	-------------------------------------	-------------------------

2. Government of India has received a credit from the International Development Association (IDA) in various currencies equivalent to US\$ _____ towards the cost of the _____ Project and intends to apply part of the proceeds of this credit to eligible payments under the contract for which this invitation for quotations is issued.

3¹. The _____ Project in _____ state is being implemented by _____, which is an autonomous society registered under the Societies Registration Act.

4. To assist you in the preparation of your quotation, we are enclosing the following :

- i. Layout Drawings of the works;
- ii. Structural Details;
- iii. Detailed Bill of Quantities, with estimated rates and prices;
- iv. Technical Specifications;
- v. Instructions to Bidders (in two sections).
- vi. Draft Contract Agreement format which will be used for finalizing the agreement for this Contract.

5. You are requested to provide your offer latest by hrs.
on

¹ _____
Delete if inapplicable

6. Quotations will be opened in the presence of Bidders or their representatives who choose to attend at _____ AM/PM on _____ in the office of _____.

7. We look forward to receiving your quotations and thank you for your interest in this project.

(Employer)

Name: _____

Address: _____

Tel. No: _____

Fax No. _____

Instructions to Bidders

SECTION - A

1. Scope of Works

The _____ (Employer) invites quotations for the construction of works as detailed in the table given below

Brief Description of the Works	Approximate value of Works (Rs.)	Period of Completion
-----------------------------------	-------------------------------------	-------------------------

The successful bidder will be expected to complete the works by the intended completion date specified above.

2. Qualification of the bidder : The bidder shall provide qualification information which shall include :-

- (a) total monetary value of construction works performed for each year of the last 3 years :
- (b) Income tax clearance certificate from the concerned IT circle;
- (c) Report on his financial standing; and
- (d) Details of any litigation, current or during the last 3 years in which the bidder is involved, the parties concerned and disputed amount in each case.

3. To qualify for award of the contract the bidder:-

- (a) should have satisfactorily completed as a prime contractor at least one similar work of value not less than Rs. 500,000 in the last three years;
- (b) should possess valid electrical license for executing building electrification works (in the event of the works being sub - contracted, the sub-contractor should have the necessary license);
- (c) should possess required valid license for executing the water supply/sanitary works (in the event of the works being sub-contracted, the sub-contractor should have the necessary license);

4. **Bid Price**

- a) The contract shall be for the whole works as described in the Bill of quantities, drawings and technical specifications. Corrections, if any, shall be made by crossing out, initialling, dating and re writing.
- b) All duties, taxes and other levies payable by the contractor under the contract shall be included in the total price.
- c) The rates quoted by the bidder shall be fixed for the duration of the contract and shall not be subject to adjustment on any account.
- d) The rates should be quoted in Indian Rupees only.

5. **Submission of Quotations**

5.1 The bidder is advised to visit the site of works at his own expense and obtain all information that may be necessary for preparing the quotation.

5.2 Each bidder shall submit only one quotation.

5.3 The quotation submitted by the bidder shall comprise the following :-

- (a) Quotation in the format given in Section B.
- (b) Signed Bill of Quantities ; and
- (c) Qualification information form given in Section B duly completed.

5.4 The bidder shall seal the quotation in an envelope addressed to the (Purchaser). The envelope will also bear the following identification :-

- ② Quotation for _____ (Name of the Contract)
- ② Do not open before _____ (time and date of quotation opening).

5.5 Quotations must be received in the office of the ----- (Employer) not later than the time and date given in the letter of invitation . If the specified date is declared a holiday, quotations shall be received upto the appointed time on the next working day.

5.6 Any quotation received by the, (Employer) after the deadline for submission of quotations will be rejected and returned unopened to the bidder.

6. **Validity of Quotation**

Quotation shall remain valid for a period not less than 45 days after the deadline date specified for submission.

7. **Opening of Quotations**

Quotations will be opened in the presence of bidders or their representatives who choose to attend on the date and time and at the place specified in the letter of invitation.

- 8.** Information relating to evaluation of quotations and recommendations for the award of contract shall not be disclosed to bidders or any other persons not officially concerned with the process until the award to the successful bidder is announced.

9. Evaluation of Quotations

The Employer will evaluate and compare the quotations determined to be substantially responsive i.e. which

- (a) meet the qualification criteria specified in clause 3 above;
- (b) are properly signed ; and
- (c) conform to the terms and conditions, specifications and drawings without material deviations.

10. Award of contract

The Employer will award the contract to the bidder whose quotation has been determined to be substantially responsive and who has offered the lowest evaluated quotation price and who meets the specified qualification criteria.

- 10.1** Notwithstanding the above, the Employer reserves the right to accept or reject any quotations and to cancel the bidding process and reject all quotations at any time prior to the award of contract.

- 10.2** The bidder whose bid is accepted will be notified of the award of contract by the Employer prior to expiration of the quotation validity period.

11. Performance Security

Within 15 days of receiving letter of acceptance, the successful bidder shall deliver to the (Employer) the performance security (either a bank guarantee or a bank draft in favour of the Employer) for an amount equivalent of 3 % of the contract price. The Performance Security shall be valid till the expiry of the period of maintenance of the work, specified in clause 12.

12. Period of Maintenance :

The “Period of Maintenance” for the work is six months from the date of taking over possession or one full monsoon season whichever occurs later. During the period of maintenance, the contractor will be responsible for rectifying any defects in construction free of cost to the Employer.

- 13.** Purchase of all construction materials including cement and steel as per the specifications (ISI certification marked goods wherever available) shall be the responsibility of the contractor.

.....

SECTION - B

- 1. Format for Qualification Information.**
- 2. Format for Submission of Quotation.**
- 3. Format of Letter of Acceptance.**

QUALIFICATION INFORMATION

1 For Individual Bidders

1.1 Principal place of business: _____

Power of attorney of signatory of Quotation.
[Attach copy]

1.2 Total value of Civil Engineering construction work performed in the last three years (in Rs. Lakhs)

	19	_____	
	19	_____	
	19	_____	

1.3 Work performed as prime contractor (in the same name) on works of a similar nature over the last three years.

<u>Project Name</u>	<u>Name of Employer</u>	<u>Description of work</u>	<u>Contract No.</u>	<u>Value of contract (Rs.Lakhs)</u>	<u>Date of issue of work order</u>	<u>Stipulated period of completion</u>	<u>Actual date of completion</u>	<u>Remarks explaining reasons for delay and work completed</u>
---------------------	-------------------------	----------------------------	---------------------	-------------------------------------	------------------------------------	--	----------------------------------	--

Existing commitments and on-going works:

Description of Work	Place & State	Contract No. & Date	Value of Contract (Rs. Lakh)	Stipulated period of completion	Value of works* remaining to be completed (Rs. Lakhs)	Anticipated date of completion
(1)	(2)	(3)	(4)	(5)	(6)	(7)

* Enclose a certificate from Engineer concerned.

1.4 Proposed subcontracts and firms involved.

Sections of the works	Value of Sub-contract	Sub-contractor (name & address)	Experience in similar work
*	*	*	*
*	*	*	*
*	*	*	*
*	*	*	*

1.5 Evidence of access to financial resources to meet the requirements of working capital : cash in hand, lines of credit, etc. List them below and attach copies of support documents.

1.6 Name, address, and telephone, telex, and fax numbers of the Bidders' bankers who may provide references if contacted by the Employer.

1.7 Information on litigation history in which the Bidder is involved.

Other party(ies)	Employer	Cause of dispute	Amount involved	Remarks showing present status
-------------------------	-----------------	-------------------------	------------------------	---------------------------------------

QUOTATION

*

Description of the Works :

To:

Subject : Construction of

Reference : Letter No.....dated.....from.....

Sir,

We offer to execute the Works described in your letter referred to above in accordance with the Conditions of Contract enclosed therewith at percentage above / below the estimated rates, i.e., for a total Contract Price of -

Rs.** _____ [in figures]

Rs. _____ [in words].

This quotation and your written acceptance of it shall constitute a binding contract between us. We understand that you are not bound to accept the lowest or any quotation you receive.

We hereby confirm that this quotation is valid for 45 days as required in Clause 6 of the Instructions to Bidders.

Yours faithfully,

Authorized Signature : _____ Date: _____

Name & Title of Signatory : _____

Name of Bidder : _____

Address : _____

* To be filled in by the Employer before issue of the Letter of Invitation.

** To be filled in by the Bidder, together with his particulars and date of submission at the bottom of this Form.

**LETTER OF ACCEPTANCE
CUM NOTICE TO PROCEED WITH THE WORK
(LETTERHEAD OF THE EMPLOYER)**

Dated : _____

To : _____ [Name and address of the Contractor]

Dear Sirs,

This is to notify you that your Quotation dated _____ for execution of the _____ for the contract price of Rupees _____ [amount in words and figures], is hereby accepted by us.

You are hereby requested to furnish performance security for an amount of Rs. _____ (equivalent to 3% of the contract price) within 15 days of the receipt of the letter. The Performance Security in the form of Bank guarantee or a Bank draft in favour of(Employer) shall be valid till the expiry of the period of maintenance i.e. upto _____. Failure to furnish the Performance Security will entail cancellation of the award of contract.

You are also requested to sign the agreement form and proceed with the work not later than _____ under the instructions of the Engineer, _____ and ensure its completion within the contract period.

With the issuance of this acceptance letter and your furnishing the Performance Security, contract for the above said work stands concluded.

Yours faithfully,

**Authorized Signature
Name and title of Signatory**

Draft Agreement form for Construction through National Shopping

ARTICLES OF AGREEMENT

This deed of agreement is made in the form of agreement on _____ day _____ month _____ 199 ____, between the _____ (Employer) or his authorized representative (hereinafter referred to as the first party) and _____ (Name of the Contractor), S/O _____ resident of _____ (hereinafter referred to as the second party), to execute the work of construction of _____ (hereinafter referred to as works) on the following terms and conditions.

2. Cost of the Contract

The total cost of the works (hereinafter referred to as the “total cost”) is Rs. ____ as reflected in Annexure - 1.

3.1 Payments under its contract:

Payments to the second party for the construction work will be released by the first party in the following manner :-

On signing of agreement	:	25% of total cost
On reaching plinth level (first stage)	:	25% of the total cost
On reaching lintel level (second stage)	:	25% of the total cost
On reaching roof level (third stage)	:	15% of the total cost
Plastering and completion of whole work (fourth stage)	:	10% of the total cost

(The above has been drafted for construction of school buildings; modify this suitably for other works)

3.2 Payments at each stage will be made by the first party :

- (a) on the second party submitting an invoice for an equivalent amount ;
- (b) on certification of the invoice (except for the first installment) by the engineer nominated by the first party with respect to quality of works in the format in Annexure - 2; and
- (c) upon proper and justified utilization of at least 50 % of the previous installment and 100 % of any prior installment.

4. Notice by Contractor to Engineer

The second party, on the works reaching each stage of construction, issue a notice to

the first party or the Engineer nominated by the first party (who is responsible for supervising the contractor, administering the contract, certifying the payments due to the contractor, issuing and valuing variations to the contract, awarding extensions of time etc.), to visit the site for certification of stage completion. Within 15 days of the receipt of such notice, the first party or the engineer nominated by it, will ensure issue of stage completion certificate after due verification.

5. Completion time

The works should be completed in _____ (months/weeks/days) from the date of this Agreement. In exceptional circumstances, the time period stated in this clause may be extended in writing by mutual consent of both the parties.

6. If any of the compensation events mentioned below would prevent the work being completed by the intended completion date, the first party will decide on the intended completion date being extended by a suitable period :

- a) The first party does not give access to the site or a part thereof by the agreed period.
- b) The first party orders a delay or does not issue completed drawings, specifications or instructions for execution of the work on time.
- c) Ground conditions are substantially more adverse than could reasonably have been assumed before issue of letter of acceptance and from information provided to second party or from visual inspection of the site.
- d) Payments due to the second party are delayed without reason.
- e) Certification for stage completion of the work is delayed unreasonably.

7. Any willful delay on the part of the second party in completing the construction within the stipulated period will render him liable to pay liquidated damages. @ Rs. * _____ per day which will be deducted from payments due to him. The first party may cancel the contract and take recourse to such other action as deemed appropriate once the total amount of liquidated damages exceeds 2 % of the contract amount.

(Note : The amount of liquidated damages per day should be determined at 0.05 % of the contract value of the works and indicated here).

8. Duties and responsibilities of the first party

8.1 The first party shall be responsible for providing regular and frequent supervision and guidance to the second party for carrying out the works as per specifications. This will include written guidelines and regular site visit of the authorized personnel of the first party, for checking quality of material and construction to ensure that it is as per the norms.

- 8.2** The first party shall supply 3 sets of drawings, specifications and guidelines to the second party for the proposed works.
- 8.3** Possession of the site will be handed over to the second party within 10 days of signing of the agreement.
- 8.4** The Engineer or such other person as may be authorized by the first party shall hold meeting once in a month where the second party or his representative at site will submit the latest information including progress report and difficulties if any, in the execution of the work. The whole team may jointly inspect the site on a particular day to take stock of activities.
- 8.5** The Engineer shall record his observations/instructions at the time of his site visit in a site register maintained by the second party. The second party will carry out the instructions and promptly rectify any deviations pointed out by the engineer. If the deviations are not rectified, within the time specified in the Engineer's notice, the first party as well as the engineer nominated by it, may instruct stoppage or suspension of the construction. It shall thereupon be open to the first party or the engineer to have the deviations rectified at the cost of the second party.

9. Duties and responsibilities of the second party

- 9.1** The second party shall :
- a) take up the works and arrange for its completion within the time period stipulated in clause 5;
 - b) employ suitable skilled persons to carry out the works ;
 - c) regularly supervise and monitor the progress of work ;
 - d) abide by the technical suggestions / direction of supervisory personnel including engineers etc. regarding building construction ;
 - e) be responsible for bringing any discrepancy to the notice of the representative of the first party and seek necessary clarification ;
 - f) ensure that the work is carried out in accordance with specifications, drawings and within the total of the contract amount without any cost escalation ;
 - g) keep the first party informed about the progress of work ;
 - h) be responsible for all security and watch and ward arrangements at site till handing over of the building to the first party ; and
 - i) maintain necessary insurance against loss of materials/cash, etc. or workman disability compensation claims of the personnel deployed on the works as well as third party claims.
- f) Pay all duties, taxes and other levies payable by construction agencies as per law under the contract (First party will effect deduction from running bills in respect of such taxes as may be imposed under the law).

10. Variations / Extra Items

The works shall be carried out by the second party in accordance with the approved drawings and specifications. However, if, on account of site conditions or any other factors, variations are considered necessary, the following procedure shall be followed:-

- a) The second party shall provide the Engineer with a quotation for carrying out the Variation when requested to do so by the Engineer. The Engineer shall assess the quotation, which shall be given within seven days of the request before the Variation is ordered.
- b) If the quotation given by the second party is unreasonable, the Engineer may order the Variation and make a change to the Contract Price which shall be based on Engineer's own forecast of the effects of the Variation on the Contractor's costs.
- c) The second party shall not be entitled to additional payment for costs which could have been avoided by giving early warning.

11. Securities

The Performance Security shall be provided to the Employer no later than the date specified in the Letter of Acceptance and shall be issued in an amount and form and by a bank or surety acceptable to the Employer. The Performance Security shall be valid until a date 28 days from the date of issue of the Certificate of Completion in the case of a Bank Guarantee.

12. Termination

12.1 The Employer may terminate the Contract if the other party causes a fundamental breach of the Contract.

12.2 Fundamental breaches of Contract include, but shall not be limited to the following:

- (a) the contractor stops work for 28 days and the stoppage has not been authorized by the Engineer;
- (b) the Contractor has become bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
- (c) the Engineer gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Engineer;

(d) the Contractor does not maintain a security which is required;

12.3 Notwithstanding the above, the Employer may terminate the Contract for convenience.

12.4 If the Contract is terminated the Contractor shall stop work immediately, make the Site safe and secure and leave the Site as soon as reasonably possible.

13. Payment upon Termination

13.1 If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Engineer shall issue a certificate for the value of the work done less advance payments received up to the date of the issue of the certificate, less other recoveries due in terms of the contract, less taxes due to be deducted at source as per applicable law.

13.2 If the Contract is terminated at the Employer's convenience, the Engineer shall issue a certificate for the value of the work done, the reasonable cost of removal of Equipment, repatriation of the Contractor's personnel employed solely on the Works, and the Contractor's costs of protecting and securing the Works and less advance payments received up to the date of the certificate, less other recoveries due in terms of the contract and less taxes due to be deducted at source as per applicable law.

14. Dispute settlement

If over the works, any dispute arises between the two parties, relating to any aspects of this Agreement, the parties shall first attempt to settle the dispute through mutual and amicable consultation.

In the event of agreement not being reached, the matter will be referred for arbitration by a Sole Arbitrator not below the level of retired Superintending Engineer, PWD to be appointed by the first party. The Arbitration will be conducted in accordance with the Arbitration and Conciliation Act, 1996. The decision of the Arbitrator shall be final and binding on both the parties.

BILL OF QUANTITIES

Sl.No.	Description of Work	Qty.	Unit	Estimated Cost		Amount
				In figure (Rs.)	In Words	

Gross Total Cost : Rs.

We agree to execute the works in accordance with the approved drawings and technical specifications at percentage above/below the estimated rates, i.e., for a total contract price of Rs.(amount in figures) (Rs. amount in words).

Signature of Contractor

Format of certificate

Certified that the works upto ----- level in respect of construction of ----- at ----- have been executed in accordance with the approved drawing and technical specifications.

Signature
Name & Designation
(Official address)

Place :
Date :

Office seal

W-6

PROCUREMENT OF CIVIL WORKS

VALUED US \$30,000 AND BELOW

THROUGH

NGOs, BENEFICIARIES

ON

**DIRECT CONTRACTING
PROCEDURES**

**PROCUREMENT OF CIVIL WORKS VALUED US \$30,000 AND BELOW
THROUGH NGOs, BENEFICIARIES ON DIRECT CONTRACTING PROCEDURES**

Construction of Civil Works

- (a) The works should be of the nature that they are simple, scattered and construction through community participation is essential.
- (b) The ceiling value of such works should be Rs.1,000,000 (US \$30,000 for each work).
- (c) These could be entrusted for construction to the communities, such as:
 - (i) School construction committees, village education committees, parent teacher associations, block resource committees etc.

or

Similar health communities

- (ii) NGOs
- (d) The above agencies could carry out the work either directly by organizing the contribution of labour from the communities

or

The work can be executed under piece rate/unit rate systems with available local skilled workmen (materials being procured locally under National Shopping procedures)

- (e) As the involvement of communities is of prime importance, the committee/NGO which is locally operating in the area has to be identified. If a NGO is selected, the selection should take into account, among others, the following criteria :
 - (i) the NGO should be non-political and should be having a proven track record on similar assignments. (Experience of having satisfactorily executed similar civil works);
 - (ii) it should consist of an adequate number of experienced field staff conversant with the local culture and language, the socio-economic dimensions of the beneficiary groups;
 - (iii) the staff of the selected NGO should have excellent communication skills;
 - (iv) it should be registered as a society or other corporate status;
 - (v) it should have facilities to maintain separately records and accounting and auditing of funds allocated for the assignment;
 - (vi) it should possess internal stability so as to assure long-term support; and

- (vii) it should not have been blacklisted by the Central Social & Welfare Board (CSWB) and Council for the Advancement of Peoples Action & Rural Technology (CAPART).

[A checklist for shortlisting of NGO's (and other intermediaries) is attached (Annexure A) for guidance, which could be expanded/modified suitably for each case, in consultation with the Bank.]

(f) In villages and small places, it is likely that only a few NGOs may be operating. The borrower should identify those who meet with the above criteria.

(i) If only one NGO could be identified by the borrower as meeting with the criteria, it should be selected.

(ii) In such cases, a contact should be signed by the borrower at the rates agreed with them, keeping in view the following, which should be specifically indicated in the agreement:

- that the community should be involved actively in planning and implementation;
- who will procure the materials or goods used in works ?
- that goods/works will have to be executed as per plans and specifications cleared with the Bank;
- the name and designation of the Engineer who will do the technical supervision and certification during construction;
- the details of stage payments to be made (preferably in four stages) as suggested below (for buildings) :
 - ⊗ 1st stage upto the plinth level
 - ⊗ 2nd stage upto the lintel level
 - ⊗ 3rd stage upto the roof level
 - ⊗ 4th stage upto the plastering etc., completion of whole works;

(for other types of work (s) suitable stages could be formulated and indicated).

- the format of certificate to be issued at each stage by the supervising Engineer confirming that the works upto the stage indicated have been executed in accordance with the approved plans and technical specifications;

(A sample format used for the District Primary Education Project [Credit 2661-IN] for construction through village committees is attached (Annexure B) for guidance during the drafting of the model agreement for the Project).

- the contract value should not exceed a norm (for example, Rate per Square Meter or Per Building) which should be pre-agreed with the Task Manager; and
- One draft agreement should be forwarded to the Bank for review and comment. After approval, this draft could be used for entering into agreements for all such small works without any prior review by the Bank. Only changes, if any, made in the approved draft should be got

prior reviewed by the Bank.

- (g) Where a number of NGOs meeting with the specified criteria stated above are available, the borrower should call for quotations (following National Shopping procedures' document - W-5) from them for construction of the works as per plans and specifications, terms and conditions, and the lowest evaluated, subject to bid price being comparable with agreed norms, should be considered for award.

- (h) As the value of the contract will be limited to Rs.1,000,000 (US \$30,000), no prior review will be needed as long as the agreement follows the standard format and cost of work is within the norms agreed with the Task Team Leader.
- (i) In the SAR, the number of such works and the aggregate ceiling value of works to be procured following the above procedures should be indicated for overall control (where SAR is silent, this should be done subsequently by the Task Team Leader after review with the borrower).
- (j) The borrower should review at periodic intervals the progress on these contracts, including the element of beneficiary assessment to get the stakeholder's point of view on these NGOs for necessary action, and advise the Task Team Leader.
- (k) Any work which individually costs more than Rs.1,000,000 or US \$30,000 should be procured following NCB procedures only.

Attachment : Annexes A and B

CHECKLIST FOR SELECTION OF INTERMEDIARIES

This annex provides issue to be considered in selection of NGOs. Project designers must select from this list based on the needs of their proposed project and based on an understanding of the profile and characteristics of NGOs operating in the country. For example, where there are very few operational NGOs to select from, the legal requirements would continue to be important, while other criteria cannot be strictly applied. At the same time, it would be important to ensure requisite capacity building exercises in areas that have been highlighted.

Legal or Regulatory Requirements

- (a) the NGO is validly registered under existing regulations in the country;
 - (b) the NGO is validly registered to work in the particular geographic locality;
- and
- (c) the NGO's articles of association or by-laws permit operating in the sub-project sector.

Institutional Aspects

(a) Human and Physical Resources

- i) there is committed leadership at the top, supported by adequate second level leadership;
- ii) existence of adequate and skilled staff in relation to needs for sub-project implementation; ** and
- iii) NGO has the necessary physical resource base (accessible office space, vehicles, communication facilities and so on).

(b) Community Sensitivity

- i) NGO has prior experience in the community where the project is to be implemented.
- ii) community/beneficiaries' perception about the NGO is positive;
- iii) NGO, through its personnel, has a keen understanding of, and are sensitive to issues concerning women and weaker sections of the society; **
- iv) NGO, through its personnel, have a keen understanding of, and are sensitive to issues related to environment; **
- v) NGO, through its personnel have a philosophy suitable for implementation of

community initiated sub-projects with community participation.

Financial Aspects

(a) Financial Capacity

- i) NGO has required financial strength and stability;
- ii) NGO will not need the payment of non-incremental recurrent administrative cost; and
- iii) NGO has access to other sources of financing and will not be totally dependent on sub-project financing.

(b) Account Capacity

- i) NGO has knowledge of, and practices sound accounting principles; ** and
- ii) NGO has no objection to external auditing (where applicable or when acting as implementing agency).

Demonstrated Experience

(a) Relevant Sectoral and Operational Experience

- i) NGO has prior experience in related sectors (construction/survey etc.);
- ii) NGO has adequate technical expertise;** and
- iii) NGO must have been functioning at least 2 year(s) (*where there are a large number of NGOs modify the number of years suitably*)

** *highlights the need for capacity building*

Draft Agreement Form for Construction of School Buildings through Community Participation

Articles of Agreement

1. This deed of agreement made in the form of agreement on _____ between the (Project Authority) _____ or his authorized representative (hereinafter referred to a the first party) and the School Construction Committee/Village Education Committee/Parent Teacher Association/Block Resource Committee _____, Village _____, Block _____, District _____, (hereinafter referred to as the second party), to execute the work of construction of _____ (hereinafter referred to as works) on the following terms and conditions.

2. **Cost of Contract**
The total cost of the works (hereinafter referred to as the “total cost”) as Rs. _____, as reflected in Annexure 1. **Out of the total cost, a sum of Rs. _____ would be borne by the second party and/or other beneficiaries. (** delete if not applicable).

3. **Disbursement of funds**
 - 3.1 The second party shall have a bank account opened in the name of the sub-project (to be operated by two in the committee which should be preagreed) with the branch of a nationalized/ scheduled/ Cooperative Bank as soon as this Agreement has been signed and shall provide its Bank account number to the first party.

 - 3.2 The second party shall notify the first party in writing the names and address of those who will jointly operate the Bank account mentioned in Clause 3.1. Such signatories shall not be changed without the prior consent of the first

party.

3.3 Payment to the second party for the construction work will be released by the first party in the following manner:

Advance (Mobilization advance upon start of work) : 25% of the total cost

On reaching plinth level (first stage) : 25% of the total cost

On reaching lintel level (second stage) : 25% of the total cost

On reaching roof level (third stage) : 15% of the total cost

Plastering and completion of the whole work (fourth stage) : 10% of the total cost

3.4 Payment at each stage will be made by the first party on certification by the junior engineer of the site as in the format in Annexure 2 and upon proper and justified utilization of at least 50% of the previous installment and 100% of any prior installment.

4. Maintenance of Accounts

The second party shall maintain separate accounts for all the expenditures incurred out of the payments made by the first party from time to time for execution of the work. Such accounts shall be available for inspection by the first party or any other visiting team deputed for the purpose.

4.1 In the event of any misuse of funds, the first party shall have the right to freeze the Bank account of the sub-project after such inquiry as may be deemed necessary.

5. Completion time

The works should be completed in _____ (month/weeks/days) from the date of this Agreement. In exceptional circumstances, the time period stated in this clause may be extended in writing by mutual consent of both the parties.

6. Duties and responsibilities of the first party

6.1 The first party shall be responsible for providing regular and frequent supervision and guidance to the second party for carrying out the works as per specifications. This will include written guidelines and regular site visit of the authorized personnel of the first party, for checking quality of material and construction to ensure that it is as per the norms.

6.2 The first party shall supply 3 sets of drawing, specifications and guidelines to the second party for the proposed works.

- 6.3 The District Project Engineer or such other person as may be authorized by the Project Authorities shall hold meeting once in a week (*period to be modified as agreed for each project*) at Block level where the representatives of the committees, Junior Engineers in charge of the site will submit the latest information including progress report duly counter-signed by the Member Secretary of the respective Committee and difficulties if any, in the execution of the work. The whole team may jointly inspect any site on a particular day to take stock of activities.
- 6.4 The first party shall have the right to instruct to stop or suspend the construction at any stage if there is any deviation from the specification or violation of any of the terms of this Agreement and demand reimbursement of its payments.

7. Duties and responsibilities of the second party

- 7.1 The second party shall :
- (a) take up the works and arrange for its completion within the time period stipulated in Clause 5;
 - (b) employ suitable skilled persons to carry out the works;
 - (c) make labour payment as per schedule of labour payment for different items of work;
 - (d) ensure that all purchases are made as per abstract of materials (preferably with ISI certification mark where feasible and available);
 - (e) regularly supervise and monitor the progress of work;
 - (f) abide by the technical suggestions/direction of supervisory personnel including engineers etc. regarding building construction.
 - (g) be responsible for bringing any discrepancy to the notice of the representative of the first party including School Inspector/Block Elementary Education Officer/District Project Engineer and seek necessary clarification;
 - (h) ensure that the work is carried out in accordance with specifications, drawings and also within the total sanctioned amount without any cost escalation;

- (i) keep the general village committee informed about the progress of work;
- (j) ensure that there is no mis-utilization of the money/materials during construction;
- (k) maintain necessary insurance against loss of materials/ cash/ workmen's compensation, etc.; and
- (l) pay all duties, taxes and other levies payable by construction agencies as per law under the contract. (First party will perform deductions in respect of such taxes as may be imposed under the law).

7.2 In special circumstances, the second party may, after prior approval of the first party, entrust execution of the works on a piece work basis or otherwise to any appropriate non-governmental organization or a recognized construction agency with a good track record of undertaking community construction. The non-governmental organization or the construction agency as the case may be, shall however assume full liability towards any insurance for loss of material/ cash or workman disability compensation claims of the personnel deployed on the works as well as third party claims and no part of the liability on this account shall devolve on the first party.

8. Dispute Settlement

If over the works, any dispute arises between the two parties, relating to any aspects of this Agreement, the parties shall first attempt to settle the dispute through mutual and amicable consultation. If the dispute is not settled through such consultation, the matter may be referred for arbitration to the District Collector/ Dy. Commissioner of the District*. (** Modify as appropriate for each project.*)

Signed and delivered by Sri. _____ President
VEC/PTA/BRC Committee _____ on behalf of the
Committee. In the presence of:

- i)
- ii)

Signed and delivered by Sri. _____ District
Project Coordinator _____ of _____.
In the presence of:

- i)
- ii)

Annexure I

<u>Detailed Cost of Work</u>				
<u>Material</u>	<u>Quantity reqd.</u>	<u>Unit costs</u>	<u>Cost</u>	<u>Cost to be provided by</u>
Cement				
Bricks				
Wooden planks				
Nails				
Windows				
Door knobs				
Aluminum sheets				
Roofing tiles				
Sub-total Costs				
Labour	No. of Man days	Cost per man day	Sub-total Cost	Costs provided by
Unskilled Labour				
Grand Total				

Format of Certificate

Certified that the works upto _____ level in respect of construction of _____ at _____ have been executed in accordance with the approved plans and technical specifications.

Place :
Date:

Signature
Name & Designation
(Official address)

Office seal

Monthly Materials account at site

Name of Scheme: _____

Ending on: _____

State:-

District:-

Block:-

Panchayat:-

Village/Habitations:-

Sl.NO.	Name & description of Materials	Source of receipt	Date of receipt	Quantity	Issued to Name of agency/work	Quantity	Date	Consumed in the Work	Balance

Forwarded to Adhyaksha GP

Signature of Supervisor

Signature of Technical Member

Matrix-1: Procurement Matrix for Consultancy Services

Sl. No.	Procurement Details	Selection Based on Consultant Qualification (CQS)		Single Source (SS)		Least Cost Selection (LCS)			
		Yes/No	days	Yes/No	days	Yes/No	days	Yes/No	days
1	Prepare TOR (assumed already prepared)	Yes	0	Yes	0	Yes	0	Yes	0
2	Preparation of cost estimate & budget (assumed already prepared)	Yes	0	Yes	0	Yes	0	Yes	0
3	Advertising:	Yes	15	NA	0	Yes	15	Yes	15
	Request EOI in National Newspaper	Yes	0	NA	0	Yes	0	Yes	0
4	Preparation of short list of consultants (First Six or one as the case may be)	Yes	14	NA	0	Yes	14	Yes	14
5	Select Single Source	NA	0	Yes	15	NA	0	NA	0
6	Preparation (During shortlisting period) & issuance of RFP:	Yes	2	Yes	2	Yes	2	Yes	2
7	Receipt of proposals (including 2 days for receiving the proposals)	Yes	30	Yes	30	Yes	30	Yes	30
8	Evaluation of technical proposals	Yes	2	Yes	2	Yes	15	Yes	15
9	Notice of Public opening of financial proposals	NA	0	NA	0	Yes	15	Yes	15
10	Firm with the best Technical Score among firms whose financial bids are within the budget	NA	0	NA	0	NA	0	NA	0
11	Financial negotiations with the selected firm	Yes	10	Yes	10	NA	0	NA	0
12	Evaluation of financial proposals	NA	0	NA	0	Yes	10	Yes	10
13	Final evaluation of quality & cost	NA	0	NA	0	NA	0	NA	0
14	Negotiations with the selected firm	NA	0	NA	0	Yes	0	Yes	0
15	Award of the contract to the selected firm	Yes	0	Yes	0	Yes	0	Yes	0
	Total Days		73		59		131		101
	Standard Form of the World Bank that can be used for Firms & Organisation/ Individuals consultants:								
	In case of Time based Contracts					C-n-2			
	In case of Time based Contracts < US \$ 50000/-	C-n-3		C-9/C-10				C-18/C-21	
	In case of Lumpsum Contracts					C-n-2			
	In case of Lumpsum Contracts < US \$ 50000/-	C-9		C-9/C-8				C-17, C-20	

Matrix-2: Procurement Matrix for Consultancy Services

Sl. No.	Procurement Details	QCBS		QBS		Fixed Budget	
		Yes/No	days	Yes/No	days	Yes/No	days
1	Prepare TOR (assumed already prepared)	Yes	0	Yes	0	Yes	0
2	Preparation of cost estimate & budget (assumed already prepared)	Yes	0	Yes	0	Yes	0
3	Advertising:	Yes	15	Yes	15	Yes	15
	Request EOI in National Newspaper	Yes	0	Yes	0	Yes	0
4	Preparation of short list of consultants (First Six or one as the case may be)	Yes	14	Yes	14	Yes	14
5	Select Single Source	NA	0	NA	0	NA	0
6	Preparation (During shortlisting period) & issuance of RFP:	Yes	2	Yes	2	Yes	2
7	Receipt of proposals (including 2 days for receiving the proposals)	Yes	30	Yes	30	Yes	30
8	Evaluation of technical proposals	Yes	15	Yes	15	Yes	15
9	Notice of Public opening of financial proposals	Yes	15	NA	0	Yes	0
10	Firm with the best Technical Score among firms whose financial bids are within the budget	NA		NA		Yes	0
11	Financial negotiations with the selected firm	NA		Yes	10	NA	0
12	Evaluation of financial proposals	Yes	10	NA	0	NA	0
13	Final evaluation of quality & cost	Yes	10	NA	0	NA	0
14	Negotiations with the selected firm	Yes	15	NA	0	NA	0
15	Award of the contract to the selected firm	Yes	0	Yes	0	Yes	0
	Total Days		126		86		76
	Standard Form that can be used for Firms & Organisation/ Individuals consultants: (World Bank Standard Formats will be used)						
	In case of Time based Contracts						
	In case of Time based Contracts < US \$ 50000/-	C-23		C-13 N		C-n-1/C-22	
	In case of Lumpsum Contracts						
	In case of Lumpsum Contracts < US \$ 50000/-	PF/C-13		C-13, C-17, C-20		C-20	

INVITATIONS FOR BIDS (IFB)

NATIONAL COMPETITIVE BIDDING

FOR SMALL WORKS

Date:

Bid No.:

1. The Government of Uttarakhand has implemented the Rural Water Supply and Environmental Sanitation in an integrated manner under Sector Wide Approach (SWAp). Funds from all sources, viz Government of India, Government of Uttarakhand, World Bank or any other sources, will be expended under common approach. Bidding is open to all bidders from eligible source countries.. Bidders from India should, however, be registered with the Government of Uttarakhand or other State Governments/Government of India, or State/Central Government Undertakings. **Bidders are advised to note the minimum qualification criteria specified in Clause 4 of the Instructions to Bidders to qualify for the award of the contract.**
2. The invites bids for the construction of works detailed in the table. The bidders may submit bids for any or all of the following works.
3. Bidding documents (and additional copies) may be purchased from the office of..... fromto....., for a non-refundable fee (three sets) as indicated, in the form of cash or Demand Draft on any Scheduled bank payable at..... in favour of.....Interested bidders may obtain further information at the same address. Bidding documents requested by mail will be dispatched by registered/speed post on payment of an extra amount of Rs..... The will not be held responsible for the postal delay if any, in the delivery of the documents or non-receipt of the same.
4. Bids should be valid for 45 days after the deadline date specified for submission.
5. Bids must be delivered to..... on or before.....hours on (date) and will be opened on the same day at.....hours, in the presence of the bidders who wish to attend. If the office happens to be closed on the date of receipt of the bids as specified, the bids will be received and opened on the next working day at the same time and venue.
6. Other details can be seen in the bidding documents.

TABLE

<u>Package No.</u>	<u>Name of work</u>	<u>Approximate value of work (Rs.)</u>	<u>Cost of document (Rs.)</u>	<u>Period of completion</u>
1	2	3	4	5

Seal of office

(Employer)

Name: _____

Address: _____

Tel. No: _____

Fax No. _____

Instructions to Bidders

SECTION - A

1. Scope of Works

The _____ (Employer) invites bids for the construction of works as detailed in the table given below

Brief Description of the Works	Approximate value of Works (Rs.)	Period of Completion
--------------------------------	----------------------------------	----------------------

The successful bidder will be expected to complete the works by the intended completion date specified above.

2. Qualification of the bidder: The bidder shall provide qualification information which shall include:-

- total monetary value of construction works performed for each year of the last 3 years;
- Income tax clearance certificate from the concerned IT circle;
- Report on his financial standing; and
- Details of any litigation, current or during the last 3 years in which the bidder is involved, the parties concerned and disputed amount in each case.

3. To qualify for award of the contract the bidder:-

- should have satisfactorily completed as a prime contractor at least one similar work of value not less than Rs. 500,000 in the last three years;
- * should possess valid electrical license for executing building electrification works (in the event of the works being sub - contracted, the sub-contractor should have the necessary license);
- * should possess required valid license for executing the water supply/sanitary works (in the event of the works being sub-contracted, the sub-contractor should have the necessary license);

(* Delete whichever is inapplicable.)

4. Bid Price

- The contract shall be for the whole works as described in drawings and technical specifications. Corrections, if any, shall be made by crossing out, initialing, dating, and rewriting.
- All duties, taxes and other levies payable by the contractor under the contract shall be included in the total price.
- The rates quoted by the bidder shall be fixed for the duration of the contract and shall not be subject to adjustment on any account.

5. Submission of Bids

5.1 The bidder is advised to visit the site of works at his own expense and obtain all information that may be necessary for preparing the bid.

5.2 Each bidder shall submit only one bid.

5.3 The set of bidding documents comprise of the following:

- Layout Drawings of the works;

- ii. Structural Details;
- iii. Detailed Bill of Quantities;
- iv. Technical Specifications;
- v. Instructions to Bidders (in two sections); and
- vi. Draft Contract Agreement format which will be used for finalizing the agreement for this Contract.

5.4 The bid submitted by the bidder shall comprise the following:-

- (a) Bid in the format given in Section B.
- (b) Signed Bill of Quantities ; and
- (c) Qualification information form given in Section B duly completed.

5.5 The bidder shall seal the bid in an envelope addressed to the (Purchaser). The envelope will also bear the following identification :-

- ⊗ Bid for _____ (Name of the Contract)
- ⊗ Do not open before _____ (time and date of bid opening).

5.6 Bids must be received in the office of the ----- (Employer) not later than the time and date given in the letter of invitation . If the specified date is declared a holiday, bids shall be received upto the appointed time on the next working day.

5.7 Any bid received by the, (Employer) after the deadline for submission of bids will be rejected and returned unopened to the bidder.

6. Validity of Bid

Bid shall remain valid for a period not less than 45 days after the deadline date specified for submission.

7. Opening of Bids

Bids will be opened in the presence of bidders or their representatives who choose to attend on the date and time and at the place specified in sub-clause 5.6 above.

8. Information relating to evaluation of bids and recommendations for the award of contract shall not be disclosed to bidders or any other persons not officially concerned with the process until the award to the successful bidder is announced.

9. Evaluation of Bids

The Employer will evaluate and compare the bids determined to be substantially responsive i.e. which

- (a) meet the qualification criteria specified in clause 3 above;
- (b) are properly signed ; and
- (c) conform to the terms and conditions, specifications and drawings without material deviations.

10. Award of contract

The Employer will award the contract to the bidder whose bid has been determined to be substantially responsive and who has offered the lowest evaluated bid price and who meets the specified qualification criteria.

10.1 Notwithstanding the above, the Employer reserves the right to accept or reject any bids and to cancel the bidding process and reject all bids at any time prior to the award of contract.

10.2 The bidder whose bid is accepted will be notified of the award of contract by the Employer prior to expiration of the bid validity period.

11. Performance Security

Within 15 days of receiving letter of acceptance, the successful bidder shall deliver to the (Employer) the performance security (either a bank guarantee or a bank draft in favour of the Employer) for an amount equivalent of 3 % of the contract price. The Performance Security shall be valid till the expiry of the period of maintenance of the work, specified in clause 12.

12. Defects Liability:

The “Defects Liability Period” for the work is six months from the date of taking over possession or one full monsoon season whichever occurs later. During this period, the contractor will be responsible for rectifying any defects in construction free of cost to the Employer.

13. Supply of all construction materials including cement and steel as per the specifications (ISI certification marked goods wherever available) shall be the responsibility of the contractor.

.....

SECTION - B

- 4. Format for Qualification Information.**
- 5. Format for Submission of Bid.**
- 6. Format of Letter of Acceptance.**

QUALIFICATION INFORMATION

1 For Individual Bidders

1.1 Principal place of business: _____

Power of attorney of signatory of Bid.
[Attach copy]

1.2 Total value of Civil** Engineering construction work performed in the last three years (in Rs. Lakhs)

	19	
	19	
	19	

1.3 Work performed as prime contractor (in the same name) on works of a similar nature over the last three years.

<u>Project Name</u>	<u>Name of Employer</u>	<u>Description of work</u>	<u>Contract No.</u>	<u>Value of contract (Rs.Lakhs)</u>	<u>Date of issue of work order</u>	<u>Stipulated period of completion</u>	<u>Actual date of completion</u>	<u>Remarks explaining reasons for delay and work completed</u>
---------------------	-------------------------	----------------------------	---------------------	-------------------------------------	------------------------------------	--	----------------------------------	--

Existing commitments and on-going works:

Description of Work	Place & State	Contract No. & Date	Value of Contract (Rs. Lakh)	Stipulated period of completion	Value of works* remaining to be completed (Rs. Lakhs)	Anticipated date of completion
(1)	(2)	(3)	(4)	(5)	(6)	(7)

* Enclose a certificate from Engineer concerned.

** Modify as appropriate.

1.4 Proposed subcontracts and firms involved.

Sections of the works	Value of Sub-contract	Sub-contractor (name & address)	Experience in similar work
*	*	*	*
*	*	*	*
*	*	*	*
	*	*	

1.5 Evidence of access to financial resources to meet the requirement of working capital : cash in hand, lines of credit, etc. List them below and attach copies of support documents.

1.6 Name, address, and telephone, telex, and fax numbers of the Bidders' bankers who may provide references if contacted by the Employer.

1.7 Information on litigation history in which the Bidder is involved.

Other party(ies)	Employer	Cause of dispute	Amount involved	Remarks showing present status

BID FORM

*

Description of the Works :

To:

Subject : Construction of
.....

Reference : Letter No.....dated.....from.....

Sir,

We offer to execute the Works described in your letter referred to above in accordance with the Conditions of Contract enclosed therewith at a total Fixed Contract Price of -

Rs.** _____ [in figures]

Rs. _____ [in words].

This bid and your written acceptance of it shall constitute a binding contract between us. We understand that you are not bound to accept the lowest or any bid you receive.

We hereby confirm that this bid is valid for 45 days as required in Clause 6 of the Instructions to Bidders.

Yours faithfully,

Authorized Signature : _____ Date: _____

Name & Title of Signatory : _____

Name of Bidder : _____

Address : _____

* To be filled in by the Employer before issue of the Letter of Invitation.

** To be filled in by the Bidder, together with his particulars and date of submission at the bottom of this Form.

**LETTER OF ACCEPTANCE
CUM NOTICE TO PROCEED WITH THE WORK**

(LETTERHEAD OF THE EMPLOYER)

Dated : _____

To : _____ [Name and address of the Contractor]

Dear Sirs,

This is to notify you that your Bid dated _____ for execution of the _____ for the contract price of Rupees _____ [amount in words and figures], is hereby accepted by us.

You are hereby requested to furnish performance security for an amount of Rs. _____ (equivalent to 3% of the contract price) within 15 days of the receipt of the letter. The Performance Security in the form of Bank guarantee or a Bank draft in favour of(Employer) shall be valid till the expiry of the period of maintenance i.e. upto _____. Failure to furnish the Performance Security will entail cancellation of the award of contract.

You are also requested to sign the agreement form and proceed with the work not later than _____ under the instructions of the Engineer, _____ and ensure its completion within the contract period.

With the issuance of this acceptance letter and your furnishing the Performance Security, contract for the above said work stands concluded.

Yours faithfully,

**Authorized Signature
Name and title of Signatory**

Draft Agreement form for Construction through Lumpsum Contract

ARTICLES OF AGREEMENT

1. This deed of agreement is made in the form of agreement on _____ day _____ month _____ 199 ____, between the _____ (Employer) or his authorized representative (hereinafter referred to as the first party) and _____ (Name of the Contractor), S/O _____ resident of _____ (hereinafter referred to as the second party), to execute the work of construction of _____ (hereinafter referred to as works) on the following terms and conditions.

2. Cost of the Contract

The total cost of the works (hereinafter referred to as the “total cost”) is Rs. ____ as reflected in Annexure - 1.

3.1 Payments under its contract:

Payments to the second party for the construction work will be released by the first party in the following manner :-

On signing of agreement	:	10% of the contract price on receipt of unconditional bank guarantee in the format attached
On reaching plinth level (first stage)	:	25% of the total cost
On reaching lintel level (second stage)	:	25% of the total cost
On reaching roof level (third stage)	:	25% of the total cost
Plastering and completion of whole work (fourth stage)	:	15% of the total cost

(The above payment terms have been drafted for construction of school buildings; modify this suitably for other works)

3.2 Payments at each stage will be made by the first party :

- (a) on the second party submitting an invoice for an equivalent amount ;
- (b) on certification of the invoice (except for the first installment) by the engineer nominated by the first party with respect to quality of works in the format in Annexure - 2; and
- (c) upon proper and justified utilization of at least 50 % of the previous installment and 100 % of any prior installment.

4. Notice by Contractor to Engineer

The second party, on the works reaching each stage of construction, issue a notice to the first party or the Engineer nominated by the first party [who is responsible for supervising the contractor, administering the contract, certifying payments due to the contractor, issuing and valuing variations to the contract, awarding extension of time etc.) to visit the site for certification of stage completion. Within 15 days of the receipt of such notice, the first party or the engineer nominated by it, will ensure issue of stage completion certificate after due verification.

5. Completion time

The works should be completed in _____ (months/weeks/days) from the date of this Agreement. In exceptional circumstances, the time period stated in this clause may be extended in writing by mutual consent of both the parties.

6. If any of the compensation events mentioned below would prevent the work being completed by the intended completion date, the first party will decide on the intended completion date being extended by a suitable period :

- a) The first party does not give access to the site or a part thereof by the agreed period.
- b) The first party orders a delay or does not issue completed drawings, specifications or instructions for execution of the work on time.
- c) Ground conditions are substantially more adverse than could reasonably have been assumed before issue of letter of acceptance and from information provided to second party or from visual inspection of the site.
- d) Payments due to the second party are delayed without reason.
- e) Certification for stage completion of the work is delayed unreasonably.

7. Any willful delay on the part of the second party in completing the construction within the stipulated period will render him liable to pay liquidated damages. @ Rs. * _____ per day which will be deducted from payments due to him. The first party may cancel the contract and take recourse to such other action as deemed appropriate once the total amount of liquidated damages exceeds 2 % of the contract amount.

(Note : The amount of liquidated damages per day should be determined at 0.05 % of the contract value of the works and indicated here).

8. Duties and responsibilities of the first party

- 8.1** The first party shall be responsible for providing regular and frequent supervision and guidance to the second party for carrying out the works as per specifications. This will include written guidelines and regular site visit of the authorized personnel of the first party, for checking quality of material and construction to ensure that it is as per the norms.
- 8.2** The first party shall supply 3 sets of drawings, specifications and guidelines to the second party for the proposed works.
- 8.3** Possession of the site will be handed over to the second party within 10 days of signing of the agreement.
- 8.4** The Engineer or such other person as may be authorized by the first party shall hold meeting once in a month where the second party or his representative at site will submit the latest information including progress report and difficulties if any, in the execution of the work. The whole team may jointly inspect the site on a particular day to take stock of activities.
- 8.5** The Engineer shall record his observations/instructions at the time of his site visit in a site register maintained by the second party. The second party will carry out the instructions and promptly rectify any deviations pointed out by the engineer. If the deviations are not rectified, within the time specified in the Engineer's notice, the first party as well as the engineer nominated by it, may instruct stoppage or suspension of the construction. It shall thereupon be open to the first party or the engineer to have the deviations rectified at the cost of the second party.

9. Duties and responsibilities of the second party

- 9.1** The second party shall:
- a) take up the works and arrange for its completion within the time period stipulated in clause 5;
 - b) employ suitable skilled persons to carry out the works ;
 - c) regularly supervise and monitor the progress of work ;
 - d) abide by the technical suggestions / direction of supervisory personnel including engineers etc. regarding building construction ;
 - e) be responsible for bringing any discrepancy to the notice of the representative of the first party and seek necessary clarification ;
 - f) ensure that the work is carried out in accordance with specifications, drawings and within the total of the contract amount without any cost escalation ;
 - g) keep the first party informed about the progress of work ;

- h) be responsible for all security and watch and ward arrangements at site till handing over of the building to the first party ; and
- i) maintain necessary insurance against loss of materials/cash, etc. or workman disability compensation claims of the personnel deployed on the works as well as third party claims.
- j) Pay all duties, taxes and other levies payable by construction agencies as per law under the contract (First party will effect deduction from running bills in respect of such taxes as may be imposed under the law).

10. Variations / Extra Items

The works shall be executed by the second party in accordance with the approved drawings and specifications. No variation in cost is acceptable. However, if the Engineer issues instructions for execution of extra items, the following procedure shall be followed:-

- a) The second party shall provide the Engineer with a bid for carrying out the extra items when requested to do so by the Engineer. The Engineer shall assess the bid, which shall be given within seven days of the request before the extra items are ordered.
- b) If the bid given by the second party is unreasonable, the Engineer may order the extra items and make a change to the Contract Price which shall be based on Engineer's own forecast of the effects of the extra items on the Contractor's costs.
- c) The second party shall not be entitled to additional payment for costs, which could have been avoided by giving early warning.

11. Securities

The Performance Security shall be provided to the Employer no later than the date specified in the Letter of Acceptance and shall be issued in an amount and form and by a bank or surety acceptable to the Employer. The Performance Security shall be valid until a date 28 days from the date of issue of the Certificate of Completion in the case of a Bank Guarantee.

12. Termination

12.1 The Employer may terminate the Contract if the other party causes a fundamental breach of the Contract.

12.2 Fundamental breaches of Contract include, but shall not be limited to the following:

- (a) the contractor stops work for 28 days and the stoppage has not been authorized by the Engineer;

- (b) the Contractor has become bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
- (c) the Engineer gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Engineer;
- (d) the Contractor does not maintain a security which is required;

12.3 Notwithstanding the above, the Employer may terminate the Contract for convenience.

12.4 If the Contract is terminated the Contractor shall stop work immediately, make the Site safe and secure and leave the Site as soon as reasonably possible.

13. Payment upon Termination

13.1 If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Engineer shall issue a certificate for the value of the work done less advance payments received up to the date of the issue of the certificate, less other recoveries due in terms of the contract, less taxes due to be deducted at source as per applicable law.

13.2 If the Contract is terminated at the Employer's convenience, the Engineer shall issue a certificate for the value of the work done, the reasonable cost of removal of Equipment, repatriation of the Contractor's personnel employed solely on the Works, and the Contractor's costs of protecting and securing the Works and less advance payments received up to the date of the certificate, less other recoveries due in terms of the contract and less taxes due to be deducted at source as per applicable law.

14. Dispute settlement

If over the works, any dispute arises between the two parties, relating to any aspects of this Agreement, the parties shall first attempt to settle the dispute through mutual and amicable consultation.

In the event of agreement not being reached, the matter will be referred for arbitration by a Sole Arbitrator not below the level of retired Chief Engineer / Superintending Engineer, (not connected in part or whole with this Project in his service) to be appointed by the first party. The Arbitration will be conducted in accordance with the Arbitration and Conciliation Act, 1996. The decision of the Arbitrator shall be final and binding on both the parties.

BILL OF QUANTITIES

The approximate Bill of Quantities is indicated below to give an idea of the work which should be executed in accordance with the approved drawings and specifications to enable the bidder to furnish the lumpsum price. Bidders may, however, note that no variations in the lumpsum cost is acceptable (except where extra items are ordered by the Engineer).

Sl.No.	Description of Work	Unit	Qty.

We agree to execute the works in accordance with the approved drawings and technical specifications at a total fixed contract price of Rs.....(amount in figures)
(Rs..... amount in words).

Signature of Contractor

Note: Where there is a discrepancy between the rate in figures and words, the rates in words will govern.

Format of certificate

Certified that the works upto ----- level in respect of construction of ----- at ----- have been executed in accordance with the approved drawings and technical specifications.

Signature
Name & Designation
(Official address)

Place :
Date :

Office seal

BANK GUARANTEE FOR ADVANCE PAYMENT

To: _____ *[name of Employer]*
_____ *[address of Employer]*
_____ *[name of Contract]*

Gentlemen:

In accordance with the provisions of the Conditions of Contract, subclause 3.1 of the above-mentioned Contract, _____ *[name and address of Contractor]* (hereinafter called "the Contractor") shall deposit with _____ *[name of Employer]* a bank guarantee to guarantee his proper and faithful performance under the said Clause of the Contract in an amount of _____ *[amount of guarantee]*
¹ _____ *[in words]*.

We, the _____ *[bank or financial institution]*, as instructed by the Contractor, agree unconditionally and irrevocably to guarantee as primary obligator and not as Surety merely, the payment to _____ *[name of Employer]* on his first demand without whatsoever right of objection on our part and without his first claim to the Contractor, in the amount not exceeding _____ *[amount of guarantee]*¹
_____ *[in words]*.

We further agree that no change or addition to or other modification of the terms of the Contract or of Works to be performed thereunder or of any of the Contract documents which may be made between _____ *[name of Employer]* and the Contractor, shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

This guarantee shall remain valid and in full effect from the date of the advance payment under the Contract until _____ *[name of Employer]* receives full repayment of the same amount from the Contractor.

Yours truly,

Signature and seal: _____
Name of Bank/Financial Institution: _____
Address: _____
Date: _____

¹ An amount shall be inserted by the bank or financial institution representing the amount of the Advance Payment, and denominated in Indian Rupees.

PERFORMANCE BANK GUARANTEE

To: _____ [name of Employer]
_____ [address of Employer]

WHEREAS _____ [name and address of Contractor] (hereinafter called "the Contractor") has undertaken, in pursuance of Contract No. _____ dated _____ to execute _____ [name of Contract and brief description of Works] (hereinafter called "the Contract");

AND WHEREAS it has been stipulated by you in the said Contract that the Contractor shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract;

AND WHEREAS we have agreed to give the Contractor such a Bank Guarantee;

NOW THEREFORE we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Contractor, up to a total of _____ [amount of guarantee] ¹ _____ [in words], such sum being payable in the types and proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of _____ [amount of guarantee]¹ as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the Contractor before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the Contract or of the Works to be performed thereunder or of any of the Contract documents which may be made between you and the Contractor shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

This guarantee shall be valid until 28 days from the date of expiry of the Defects Liability Period.

Signature and seal of the guarantor _____
Name of Bank _____
Address _____
Date _____

1 An amount shall be inserted by the Guarantor, representing the percentage of the Contract Price specified in the Contract including additional security for unbalanced Bids, if any and denominated in Indian Rupees.

GOVERNMENT OF _____

_____ PROJECT

AGREEMENT NO. _____

NATIONAL COMPETITIVE BIDDING

(CIVIL WORKS)

NAME OF WORK :
PERIOD OF SALE OF BIDDING DOCUMENT : FROM TO
TIME AND DATE OF HOURS PRE-BID CONFERENCE : DATE _____ TIME _____
LAST DATE AND TIME FOR HOURS RECEIPT OF BIDS : DATE _____ TIME _____
* TIME AND DATE OF OPENING HOURS OF BIDS : DATE _____ TIME _____
PLACE OF OPENING OF BIDS :
:
:
:
OFFICER INVITING BIDS :

** Should be the same as for the deadline for receipt of bids or promptly thereafter.*

INVITATION FOR BID

(IFB)

GOVERNMENT OF
.....PROJECT

INVITATIONS FOR BIDS (IFB)

NATIONAL COMPETITIVE BIDDING

Date:

Bid No.:

1. The Government of Uttarakhand has implemented the Rural Water Supply and Environmental Sanitation in an integrated manner under Sector Wide Approach (SWAp). Funds from all sources, viz Government of India, Government of Uttarakhand, World Bank or any other sources, will be expended under common approach. Bidding is open to all bidders from eligible source countries.. Bidders from India should, however, be registered with the Government of Uttarakhand or other State Governments/Government of India, or State/Central Government Undertakings. **Bidders are advised to note the minimum qualification criteria specified in Clause 4 of the Instructions to Bidders to qualify for the award of the contract**

2. The invites bids for the construction of works detailed in the table. The bidders may submit bids for any or all of the following works.

3. Bidding documents (and additional copies) may be purchased from the office of..... fromto....., for a non-refundable fee (three sets) as indicated, in the form of cash or Demand Draft on any Scheduled bank payable at..... in favour of..... Interested bidders may obtain further information at the same address. Bidding documents requested by mail will be despatched by registered/speed post on payment of an extra amount of Rs..... The will not be held responsible for the postal delay if any, in the delivery of the documents or non-receipt of the same.

4. Bids must be accompanied by security of the amount specified for the work in the table below, drawn in favour of..... Bid security will have to be in any one of the forms as specified in the bidding document and shall have to be valid for 45 days beyond the validity of the bid.

5. Bids must be delivered to..... on or before.....hours on (date) and will be opened on the same day at.....hours, in the presence of the bidders who wish to attend. If the office happens to be closed on the date of receipt of the bids as specified, the bids will be received and opened on the next working day at the same time and venue.

6. A prebid meeting will be held onat.....hrs. at the office ofto clarify the issues and to answer questions on any matter that may be raised at that stage as stated in Clause 9.2 of 'Instructions to Bidders' of the bidding document.

7. Other details can be seen in the bidding documents.

TABLE

<u>Package No.</u>	<u>Name of work</u>	<u>Approximate value of work (Rs.)</u>	<u>Bid security (Rs.)</u>	<u>Cost of document (Rs.)</u>	<u>Period of completion</u>
1	2	3	4	5	

Seal of office

SECTION 1: INSTRUCTIONS TO BIDDERS
(ITB)

Section 1: Instructions to Bidders

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A. General

1. Scope of Bid

- 1.1 The (referred to as Employer in these documents) invites bids for the construction of works (as defined in these documents and referred to as "the works") detailed in the table given in IFB. The bidders may submit bids for any or all of the works detailed in the table given in IFB.
- 1.2 The successful bidder will be expected to complete the works by the intended completion date specified in the Contract data.

2. Source of Funds

- 2.1 The Government of India has received a loan/credit from the International Bank for Reconstruction and Development/the International Development Association (hereinafter interchangeably called "the Bank") towards the cost of.....Project and intends to apply a part of the funds to cover eligible payments under the contract for the Works. Payments by the Bank will be made only at the request of the borrower and upon approval of the Bank in accordance with the *Loan/Credit Agreement*, and will be subject in all respects to the terms and conditions of that Agreement. Except as the Bank may specifically otherwise agree, no party other than the borrower shall derive any rights from the *Loan/Credit Agreement* or have any rights to the loan/credit proceeds.
- 2.2 The loan agreement prohibits a withdrawal from the loan account for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the Bank, is prohibited by a decision of the United Nations Security Council, taken under Chapter VII of the Charter of the United Nations.

3. Eligible Bidders

- 3.1 This *Invitation for Bids* is open to all bidders from the eligible countries as defined under the *IBRD Guidelines for Procurement*. Any materials, equipment, and services to be used in the performance of the Contract shall have their origin in the eligible source countries.
- 3.2 All bidders shall provide in Section 2, Forms of Bid and Qualification Information, a statement that the Bidder is not associated, nor has been associated in the past, directly or indirectly, with the Consultant or any other entity that has prepared the design, specifications, and other documents for the Project or being proposed as Project Manager for the Contract. A firm that has been engaged by the Borrower to provide consulting services for the preparation or supervision of the works, and any of its affiliates, shall not be eligible to bid.
- 3.3 Government-owned enterprises in the Employer's country may only participate if they are legally and financially autonomous, operate under commercial law and are not a dependent agency of the Borrower or Sub-borrower.
- 3.4 Bidders shall not be under a declaration of ineligibility for corrupt and fraudulent practices issued by the Bank in accordance with sub-clause 37.1.

4. Qualification of the Bidder

- 4.1** All bidders shall provide in Section 2, Forms of Bid and Qualification Information, a preliminary description of the proposed work method and schedule, including drawings and charts, as necessary.
- 4.2** In the event that Pre-qualification of potential bidders has been undertaken, only bids from prequalified bidders will be considered for award for Contract. These qualified bidders should submit with their bids any information updating their original prequalification applications or, alternatively, confirm in their bids that the originally submitted prequalification information remains essentially correct as of date of bid submission. The update or confirmation should be provided in Section 2.
- 4.3** If the Employer has not undertaken prequalification of potential bidders, all bidders shall include the following information and documents with their bids in Section 2:
- (a) copies of original documents defining the constitution or legal status, place of registration, and principal place of business; written power of attorney of the signatory of the Bid to commit the Bidder;
 - (b) total monetary value of construction work performed for each of the last five years;
 - (c) experience in works of a similar nature and size for each of the last five years, and details of works under way or contractually committed; and clients who may be contacted for further information on those contracts;
 - (d) major items of construction equipment proposed to carry out the Contract;
 - (e) qualifications and experience of key site management and technical personnel proposed for the Contract;
 - (f) reports on the financial standing of the Bidder, such as profit and loss statements and auditor's reports for the past five years;
 - (g) evidence of adequacy of working capital for this contract (access to line (s) of credit and availability of other financial resources);
 - (h) authority to seek references from the Bidder's bankers;
 - (i) information regarding any litigation or arbitration resulting from contracts executed by the Bidder in the last five years or currently under execution. The information shall include the names of the parties concerned, the disputed amount, cause of litigation, and matter in dispute;
 - (j) proposals for subcontracting components of the Works which in aggregate add to more than 20 percent of the Bid Price (*for each, the qualifications and experience of the identified sub-contractor in the relevant field should be annexed; no vertical splitting of work for sub-contracting is acceptable*); and

- (k) the proposed methodology and program of construction including Environmental Management Plan, backed with equipment, materials and manpower planning and deployment, duly supported with broad calculations and quality control procedures proposed to be adopted, justifying their capability of execution and completion of the work as per technical specifications within the stipulated period of completion as per milestones *(for all contracts over Rs.10 M)*.

4.4 *Where it is proposed to accept Joint Ventures, incorporate all changes as indicated in the Attachment at the end of this document, otherwise state as 'Bids from Joint ventures are not acceptable'.*

4.5 **A. To qualify for award of the contract, each bidder in its name should have in the last five years *i.e.*.....:***

- (a) achieved, in at least two financial years, a minimum annual financial turnover (in all classes of civil engineering construction works only) of Rs.....@ *(usually not less than two times the estimated annual payments under the contract)*;
- b) satisfactorily completed (not less than 90% of contract value), as a prime contractor, at least **one similar work** of value not less than Rs..... @ *(usually not less than 80% of estimated value of contract)*;

* *Specify the financial years; they should be those immediately preceding the financial year in which the bids are received.*

(c) executed in any one year, the following minimum quantities of work:

- cement concrete (including RCC and PSC)cum
- earthwork in both excavation and embankment
(combined quantities)cum
-cum
-cum

(usually 80% of the expected peak rate of construction)

- (d) The contractor or his identified sub-contractor should possess required valid electrical license for executing the building electrification works and should have executed similar electrical works totalling Rupees@ ** in any one year.
- (e) The contractor or his identified sub-contractor should possess required valid license for executing the water supply/sanitary engineering works and should have executed similar water supply/sanitary engineering works totalling Rupees ** in any one year.

(@) at _____* price level. Financial turnover and cost of completed works of previous years shall be given weightage of 5% per year based on rupee value to bring them to _____ price level*.

* the financial year in which bids are received.

** at least 50% of the estimated value of electrical/water supply works.

4.5 B. Each bidder should further demonstrate:

(a) availability (either owned or leased or by procurement against mobilization advances) of the following key and critical equipment for this work:

-
-
-
-

NOTE: (To be included for bids valued over Rs. 10 million only)

Based on the studies, carried out by the Engineer the minimum suggested major equipment to attain the completion of works in accordance with the prescribed construction schedule are shown in the above list.

The bidders should, however, undertake their own studies and furnish with their bid, a detailed construction planning and methodology supported with layout and necessary drawings and calculations (detailed) as stated in clause 4.3 (k) above to allow the employer to review their proposals. The numbers, types and capacities of each plant/equipment shall be shown in the proposals along with the cycle time for each operation for the given production capacity to match the requirements.

(b) availability for this work of a Project Manager with no less than five years' experience in construction of similar civil engineering works and other key personnel with adequate experience as required; and

(c) liquid assets and/or availability of credit facilities of no less than Rs..... million in the format given in Section 2.

(Credit lines/letter of credit/certificates from Banks for meeting the funds requirement etc.) - *(usually the equivalent of the estimated cash flow for 3 months in peak construction period.)*

4.5 C. To qualify for a package of contracts made up of this and other contracts for which bids are invited in the IFB, the bidder must demonstrate having experience and resources sufficient to meet the aggregate of the qualifying criteria for the individual contracts.

4.6 Sub-contractors' experience and resources shall not be taken into account in determining the bidder's compliance with the qualifying criteria except to the extent stated in 4.5 (A) above.

4.7 Bidders who meet the minimum qualification criteria will be qualified only if their available bid capacity is more than the total bid value. The available bid capacity will be calculated as under:

$$\text{Assessed Available Bid capacity} = (A * N * 1.5 - B)$$

where

A = Maximum value of civil engineering works executed in any one year during the last five years (updated to _____* price level) taking into account the completed as well as works in progress.

N = Number of years prescribed for completion of the works for which bids are invited.

B = Value, at _____* price level, of existing commitments and on-going works to be completed during the next.....years (period of completion of the works for which bids are invited)

Note: *The statements showing the value of existing commitments and on-going works as well as the stipulated period of completion remaining for each of the works listed should be countersigned by the Engineer in charge, not below the rank of an Executive Engineer or equivalent.*

4.8 Even though the bidders meet the above qualifying criteria, they are subject to be disqualified if they have:

- made misleading or false representations in the forms, statements and attachments submitted in proof of the qualification requirements; and/or
- record of poor performance such as abandoning the works, not properly completing the contract, inordinate delays in completion, litigation history, or financial failures etc.; and/or
- participated in the previous bidding for the same work and had quoted unreasonably high bid prices and could not furnish rational justification to the employer.

5. One Bid per Bidder

5.1 Each bidder shall submit only one bid for one contract. A bidder who submits or participates in more than one Bid (other than as a subcontractor or in cases of alternatives that have been permitted or requested) will cause all the proposals with the Bidder's participation to be disqualified.

6. Cost of Bidding

6.1 The bidder shall bear all costs associated with the preparation and submission of his Bid, and the Employer will in no case be responsible and liable for those costs.

7. Site visit

7.1 The Bidder, at the Bidder's own responsibility and risk is encouraged to visit and examine the Site of Works and its surroundings and obtain all information that may be necessary for preparing the Bid and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the Bidder's own expense.

** the financial year in which bids are received*

B. Bidding Documents

8. Content of Bidding Documents

8.1 The set of bidding documents comprises the documents listed in the table below and addenda issued in accordance with Clause 10:

Invitation for Bids		
Section	1	Instructions to Bidders
	2	Forms of Bid and Qualification Information
	3	Conditions of Contract
	4	Contract Data
	5	Specifications
	6	Drawings
	7	Bills of Quantities
	8	Forms of Securities

8.2 Of the three sets of the bidding documents supplied, two sets should be completed and returned with the bid.

9. Clarification of Bidding Documents

9.1 A prospective bidder requiring any clarification of the bidding documents may notify the Employer in writing or by cable (hereinafter "cable" includes telex and facsimile) at the Employer's address indicated in the invitation to bid. The Employer will respond to any request for clarification which he received earlier than 15 days prior to the deadline for submission of bids. Copies of the Employer's response will be forwarded to all purchasers of the bidding documents, including a description of the enquiry but without identifying its source.

9.2 Pre-bid meeting

9.2.1 The bidder or his official representative is invited to attend a pre-bid meeting which will take place at _____ (address of venue) on _____ (time and date).

9.2.2 The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.

- 9.2.3 The bidder is requested to submit any questions in writing or by cable to reach the Employer not later than one week before the meeting.
- 9.2.4 Minutes of the meeting, including the text of the questions raised (without identifying the source of enquiry) and the responses given will be transmitted without delay to all purchasers of the bidding documents. Any modification of the bidding documents listed in Sub-Clause 8.1 which may become necessary as a result of the pre-bid meeting shall be made by the Employer exclusively through the issue of an Addendum pursuant to Clause 10 and not through the minutes of the pre-bid meeting.
- 9.2.5 Non-attendance at the pre-bid meeting will not be a cause for disqualification of a bidder.

10. Amendment of Bidding Documents

- 10.1 Before the deadline for submission of bids, the Employer may modify the bidding documents by issuing addenda.
- 10.2 Any addendum thus issued shall be part of the bidding documents and shall be communicated in writing or by cable to all the purchasers of the bidding documents. Prospective bidders shall acknowledge receipt of each addendum by cable to the Employer.
- 10.3 To give prospective bidders reasonable time in which to take an addendum into account in preparing their bids, the Employer shall extend as necessary the deadline for submission of bids, in accordance with Sub-Clause 20.2 below.

C. Preparation of Bids

11. Language of the Bid

11.1 All documents relating to the bid shall be in the English language.

12. Documents comprising the Bid

12.1 The bid submitted by the bidder shall comprise the following:

- (a) The Bid (in the format indicated in Section 2).
- (b) Bid Security;
- (c) Priced Bill of Quantities;
- (d) Qualification Information Form and Documents;

and any other materials required to be completed and submitted by bidders in accordance with these instructions. The documents listed under Sections 2, 4 and 7 of Sub-Clause 8.1 shall be filled in without exception.

12.2 Bidders bidding for this contract together with other contracts stated in the IFB to form a package will so indicate in the bid together with any discounts offered for the award of more than one contract.

13. Bid Prices

13.1 The contract shall be for the whole works as described in Sub-Clause 1.1, based on the priced Bill Quantities submitted by the Bidder.

13.2 The bidder shall fill in rates and prices and line item total (both in figures and words) for all items of the Works described in the **Bill of Quantities** alongwith total bid price (both in figures and words). *Items for which no rate or price is entered by the bidder will not be paid for by the Employer when executed and shall be deemed covered by the other rates and prices in the Bill of Quantities.* Corrections, if any, shall be made by crossing out, initialing, dating and rewriting.

13.3 All duties, taxes, and other levies payable by the contractor under the contract, or for any other cause shall be included in the rates, prices and total Bid Price submitted by the Bidder.

Note: *“Bidders may like to ascertain availability of excise/custom duty exemption benefits available in India to the contracts financed under World Bank loan/credits. They are solely responsible for obtaining such benefits which they have considered in their bid and in case of failure to receive such benefits for reasons whatsoever, the employer will not compensate the bidder (contractor). Where the bidder has quoted taking into account such benefits, he must give all information required for issue of certificates in terms of such notifications as per form attached to the Qualification Information in the bid. To the extent the employer determines the quantity indicated therein are reasonable keeping in view the bill of quantities, construction programme and methodology, the certificates will be issued and no subsequent changes will be permitted. No certificate will be issued for items where no quantity/capacity of equipment is indicated in the statement. The bids which do not conform to the above provisions will be treated as non responsive and rejected. Any delay in procurement of the construction equipment /machinery/goods as a result of the above shall not be a cause for granting any extension of time.”*

13.4* The rates and prices quoted by the bidder shall be fixed for the duration of the Contract and shall not be subject to adjustment on any account.

OR

13.4* The rates and prices quoted by the bidder are subject to adjustment during the performance of the Contract in accordance with the provisions of Clause 47 of the Conditions of Contract.

14. Currencies of Bid and Payment

14.1 The unit rates and the prices shall be quoted by the bidder entirely in Indian Rupees.

15. Bid Validity

15.1 Bids shall remain valid for a period not less than ninety days after the deadline date for bid submission specified in Clause 20. A bid valid for a shorter period shall be rejected by the Employer as non-responsive.

* *Choose one and delete the other.*

15.2 In exceptional circumstances, prior to expiry of the original time limit, the Employer may request that the bidders may extend the period of validity for a specified additional period. The request and the bidders' responses shall be made in writing or by cable. A bidder may refuse the request without forfeiting his bid security. A bidder agreeing to the request will not be required or permitted to modify his bid except as provided in 15.3 hereinafter, but will be required to extend the validity of his bid security for a period of the extension, and in compliance with Clause 16 in all respects.

15.3 In the case of contracts in which the Contract Price is fixed (not subject to price adjustment), in the event that the purchaser requests and the Bidder agrees to an extension of the validity period, the contract price, if the Bidder is selected for award shall be the bid price corrected as follows :

The price shall be increased by the factor (value of factor B)¹ for each week or part of a week that has elapsed from the expiration of the initial bid validity to the date of issue of letter of acceptance to the successful Bidder.

15.4 Bid evaluation will be based on the bid prices without taking into consideration the above correction.

16. Bid Security

16.1 The Bidder shall furnish, as part of his Bid, a Bid security in the amount as shown in column 4 of the table of IFB for this particular work. This bid security shall be in favour of and may be in one of the following forms:

- a bank guarantee issued by a nationalized / scheduled bank located in India or a reputable bank located abroad in the form given in Section 8; or
- Certified cheque, Bank draft or Letter of Credit in favour of payable at
-
-
-

16.2 Bank guarantees issued as surety for the bid shall be valid for 45 days beyond the validity

of the bid.

- 16.3** Any bid not accompanied by an acceptable Bid Security and not secured as indicated in Sub-Clauses 16.1 and 16.2 above shall be rejected by the Employer as non-responsive.
- 16.4** The Bid Security of unsuccessful bidders will be returned within 28 days of the end of the bid validity period specified in Sub-Clause 15.1.
- 16.5** The Bid Security of the successful bidder will be discharged when the bidder has signed the Agreement and furnished the required Performance Security.
- 16.6** The Bid Security may be forfeited
- (a) if the Bidder withdraws the Bid after Bid opening during the period of Bid validity;
 - (b) if the Bidder does not accept the correction of the Bid Price, pursuant to Clause 27;
or
 - (c) in the case of a successful Bidder, if the Bidder fails within the specified time limit to
 - (i) sign the Agreement; or
 - (ii) furnish the required Performance Security.

1. *The value of B is based on the country's inflation for the period in question. The borrower inserts the value in the bid document prior to issue.*

17. Alternative Proposals by Bidders

17.1 Bidders shall submit offers that comply with the requirements of the bidding documents, including the basic technical design as indicated in the drawing and specifications. Alternatives will not be considered.

18. Format and Signing of Bid

18.1 The Bidder shall prepare one original and one copy of the documents comprising the bid as described in Clause 12 of these *Instructions to Bidders*, bound with the volume containing the Form of Bid, and clearly marked "**ORIGINAL**" and "**COPY**" as appropriate. In the event of discrepancy between them, the original shall prevail.

18.2 The original and copy of the Bid shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the Bidder, pursuant to Sub-Clauses 4.3. All pages of the bid where entries or amendments have been made shall be initialled by the person or persons signing the bid.

18.3 The Bid shall contain no alterations or additions, except those to comply with instructions issued by the Employer, or as necessary to correct errors made by the bidder, in which case such corrections shall be initialled by the person or persons signing the bid.

18.4 The Bidder shall furnish information as described in the Form of Bid on commissions or gratuities, if any, paid or to be paid to agents relating to this Bid, and to contract execution if the Bidder is awarded the contract.

D. Submission of Bids

19. Sealing and Marking of Bids

19.1 The Bidder shall seal the original and copy of the Bid in separate envelopes, duly marking the envelopes as "**ORIGINAL**" and "**COPY**". These envelopes (called as inner envelopes) shall then be put inside one outer envelope.

19.2 The **inner and outer** envelopes shall

(a) be addressed to the Employer at the following address:

.....
.....

(insert address of office for bid submission), and

(b) bear the following identification:

- Bid for[name of contract]
- Bid Reference No.....[insert number]
- DO NOT OPEN BEFORE.....[time and date for bid opening, per Clause 23]

19.3 In addition to the identification required in Sub-Clause 19.2, the inner envelopes shall indicate the name and address of the bidder to enable the bid to be returned unopened in case it is declared late, pursuant to Clause 21.

19.4 If the outer envelope is not sealed and marked as above, the Employer will assume no responsibility for the misplacement or premature opening of the bid.

20. Deadline for Submission of the Bids

20.1 Bids must be received by the Employer at the address specified above no later than.....*. In the event of the specified date for the submission of bids declared a holiday for the Employer, the Bids will be received upto the appointed time on the next working day.

20.2 The Employer may extend the deadline for submission of bids by issuing an amendment in accordance with Clause 10, in which case all rights and obligations of the Employer and the bidders previously subject to the original deadline will then be subject to the new deadline.

21. Late Bids

21.1 Any Bid received by the Employer after the deadline prescribed in Clause 20 will be returned unopened to the bidder.

22. Modification and Withdrawal of Bids

22.1 Bidders may modify or withdraw their bids by giving notice in writing before the deadline prescribed in Clause 20.

22.2 Each Bidder's modification or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 18 & 19, with the outer and inner envelopes additionally marked "MODIFICATION" or "WITHDRAWAL", as appropriate.

22.3 No bid may be modified after the deadline for submission of Bids.

22.4 Withdrawal or modification of a Bid between the deadline for submission of bids and the expiration of the original period of bid validity specified in Clause 15.1 above or as extended pursuant to Clause 15.2 may result in the forfeiture of the Bid security pursuant to Clause 16.

22.5 Bidders may offer discounts to, or modify the prices of their Bids only by submitting Bid modifications in accordance with this clause, or included in the original Bid submission.

E. Bid Opening and Evaluation

23. Bid Opening

23.1 The Employer will open all the Bids received (except those received late), including modifications made pursuant to Clause 22, in the presence of the Bidders or their representatives who choose to attend at hours on the date and the place specified in Clause 20. In the event of the specified date of Bid opening being declared a holiday for the Employer, the Bids will be opened at the appointed time and location on the next working day.

- 23.2** Envelopes marked "**WITHDRAWAL**" shall be opened and read out first. Bids for which an acceptable notice of withdrawal has been submitted pursuant to Clause 22 shall not be opened. Subsequently all envelopes marked "Modification" shall be opened and the submissions therein read out in appropriate detail.
- 23.3** The Bidders' names, the Bid prices, the total amount of each Bid and of any alternative Bid (if alternatives have been requested or permitted), any discounts, Bid modifications and withdrawals, the presence or absence of Bid security, and such other details as the Employer may consider appropriate, will be announced by the Employer at the opening. No bid shall be rejected at bid opening except for the late bids pursuant to Clause 21. Bids [and modifications] sent pursuant to Clause 22 that are not opened and read out at bid opening will not be considered for further evaluation regardless of the circumstances. Late and withdrawn bids will be returned un-opened to bidders.
- 23.4** The Employer shall prepare minutes of the Bid opening, including the information disclosed to those present in accordance with Sub-Clause 23.3.

**Insert time and date; this should be the same as those given in the Invitation for Bids.*

24. Process to Be Confidential

- 24.1** Information relating to the examination, clarification, evaluation, and comparison of Bids and recommendations for the award of a contract shall not be disclosed to Bidders or any other persons not officially concerned with such process until the award to the successful Bidder has been announced. Any effort by a Bidder to influence the Employer's processing of Bids or award decisions may result in the rejection of his Bid.

25. Clarification of Bids

- 25.1** To assist in the examination, evaluation, and comparison of Bids, the Employer may, at his discretion, ask any Bidder for clarification of his Bid, including breakdowns of the unit rates. The request for clarification and the response shall be in writing or by cable, but no change in the price or substance of the Bid shall be sought, offered, or permitted except as required to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the Bids in accordance with Clause 27.
- 25.2** Subject to sub-clause 25.1, no Bidder shall contact the Employer on any matter relating to its bid from the time of the bid opening to the time the contract is awarded. If the Bidder wishes to bring additional information to the notice of the Employer, it should do so in writing.
- 25.3** Any effort by the Bidder to influence the Employer in the Employer's bid evaluation, bid comparison or contract award decisions may result in the rejection of the Bidders' bid.

26. Examination of Bids and Determination of Responsiveness

- 26.1** Prior to the detailed evaluation of Bids, the Employer will determine whether each Bid (a) meets the eligibility criteria defined in Clause 3; (b) has been properly signed; (c) is accompanied by the required securities and; (d) is substantially responsive to the requirements of the Bidding documents.
- 26.2** A substantially responsive Bid is one which conforms to all the terms, conditions, and specifications of the Bidding documents, without material deviation or reservation. A material deviation or reservation is one (a) which affects in any substantial way the scope, quality, or performance of the Works; (b) which limits in any substantial way, inconsistent with the Bidding documents, the Employer's rights or the Bidder's obligations under the Contract; or (c) whose rectification would affect unfairly the competitive position of other Bidders presenting substantially responsive Bids.
- 26.3** If a Bid is not substantially responsive, it will be rejected by the Employer, and may not subsequently be made responsive by correction or withdrawal of the non-conforming deviation or reservation.

27. Correction of Errors

- 27.1** Bids determined to be substantially responsive will be checked by the Employer for any arithmetic errors. Errors will be corrected by the Employer **as follows**:
- (a) where there is a discrepancy between the rates in figures and in words, the rate in words will govern; and
 - (b) where there is a discrepancy between the unit and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern.
- 27.2** The amount stated in the Bid will be adjusted by the Employer in accordance with the above procedure for the correction of errors and, with the concurrence of the Bidder, shall be considered as binding upon the Bidder. If the Bidder does not accept the corrected amount the Bid will be rejected, and the Bid security may be forfeited in accordance with Sub-Clause 16.6 (b).

28. Deleted

29. Evaluation and Comparison of Bids

- 29.1** The Employer will evaluate and compare only the Bids determined to be substantially responsive in accordance with Clause 26.
- 29.2** In evaluating the Bids, the Employer will determine for each Bid the evaluated Bid Price by adjusting the Bid Price as follows:
- (a) making any correction for errors pursuant to Clause 27; or
 - (b) making an appropriate adjustments for any other acceptable variations, deviations; and
 - (c) making appropriate adjustments to reflect discounts or other price modifications offered in accordance with Sub Clause 22.5.
- 29.3** The Employer reserves the right to accept or reject any variation, deviation, or alternative offer. Variations, deviations, and alternative offers and other factors which are in excess of the requirements of the Bidding documents or otherwise result in unsolicited benefits for the Employer shall not be taken into account in Bid evaluation.
- 29.4** The estimated effect of the price adjustment conditions under Clause 47 of the *Conditions of Contract*, during the period of implementation of the Contract, will not be taken into account in Bid evaluation.
- 29.5** If the Bid of the successful Bidder is seriously unbalanced in relation to the Engineer's estimate of the cost of work to be performed under the contract, the Employer may require the Bidder to produce detailed price analyses for any or all items of the Bill of Quantities, to demonstrate the internal consistency of those prices with the construction methods and schedule proposed. After evaluation of the price analyses, the Employer may require that the amount of the performance security set forth in Clause 34 be increased at the expense of the successful Bidder to a level sufficient to protect the Employer against financial loss in the event of default of the successful Bidder under the Contract.

30. Deleted

F. Award of Contract

31. Award Criteria

- 31.1** Subject to Clause 32, the Employer will award the Contract to the Bidder whose Bid has been determined to be substantially responsive to the Bidding documents and who has offered the lowest evaluated Bid Price, provided that such Bidder has been determined to be (a) eligible in accordance with the provisions of Clause 3, and (b) qualified in accordance with the provisions of Clause 4.
- 31.2** If, pursuant to Clause 12.2 this contract is being let alongwith other contracts, the lowest evaluated Bid Price will be determined when evaluating this contract in conjunction with other contracts to be awarded concurrently, taking into account any discounts offered by the

bidders for the award of more than one contract.

32. Employer's Right to Accept any Bid and to Reject any or all Bids

- 32.1** Notwithstanding Clause 31, the Employer reserves the right to accept or reject any Bid, and to cancel the Bidding process and reject all Bids, at any time prior to the award of Contract, without thereby incurring any liability to the affected Bidder or Bidders or any obligation to inform the affected Bidder or Bidders of the grounds for the Employer's action.

33. Notification of Award and Signing of Agreement

- 33.1** The Bidder whose Bid has been accepted will be notified of the award by the Employer prior to expiration of the Bid validity period by cable, telex or facsimile confirmed by registered letter. This letter (hereinafter and in the *Conditions of Contract* called the "Letter of Acceptance") will state the sum that the Employer will pay the Contractor in consideration of the execution, completion, and maintenance of the Works by the Contractor as prescribed by the Contract (hereinafter and in the Contract called the "Contract Price").
- 33.2** The notification of award will constitute the formation of the Contract, subject only to the furnishing of a performance security in accordance with the provisions of Clause 34.
- 33.3** The Agreement will incorporate all agreements between the Employer and the successful Bidder. It will be signed by the Employer and sent to the successful Bidder, or kept ready for signature of the successful bidder in the office of employer (*choose one alternative*) within 28 days following the notification of award along with the Letter of Acceptance. Within 21 days of receipt, the successful Bidder will sign the Agreement and deliver it to the Employer.
- 33.4** Upon the furnishing by the successful Bidder of the Performance Security, the Employer will promptly notify the other Bidders that their Bids have been unsuccessful.

34. Performance Security

- 34.1** Within 21 days of receipt of the Letter of Acceptance, the successful Bidder shall deliver to the Employer a Performance Security in any of the forms given below for an amount equivalent to 5% of the Contract price plus additional security for unbalanced Bids in accordance with Clause 29.5 of ITB and Clause 52 of Conditions of Contract:
- a bank guarantee in the form given in Section 8; or
 - Certified cheque/Bank draft, in favour of payable at
 - _____
- 34.2** If the performance security is provided by the successful Bidder in the form of a Bank Guarantee, it shall be issued either (a) at the Bidder's option, by a Nationalized/Scheduled Indian bank or (b) by a foreign bank located in India and acceptable to the Employer or (c) by a foreign bank through a correspondent Bank in India [scheduled or nationalized].
- 34.3** Failure of the successful bidder to comply with the requirements of sub-clause 34.1 shall constitute a breach of contract, cause for annulment of the award, forfeiture of the bid security, and any such other remedy the Employer may take under the contract, and the Employer may resort to awarding the contract to the next ranked bidder.

35. Advance Payment and Security

- 35.1** The Employer will provide an Advance Payment on the Contract Price as stipulated in the Conditions of Contract, subject to maximum amount, as stated in the Contract Data.

36. Adjudicator

36.1 The Employer proposes that [name of proposed Adjudicator] be appointed as Adjudicator under the Contract, at a daily fee of Rs.....plus reimbursable expenses. If the Bidder disagrees with this proposal, the Bidder should so state in the Bid. If in the Letter of Acceptance, the Employer has not agreed on the appointment of the Adjudicator, the Adjudicator shall be appointed by [name of Appointing Authority] at the request of either party.

37. Corrupt or Fraudulent Practices

37.1 The Bank requires that Borrowers (including beneficiaries of Bank loans), as well as Bidders, Suppliers, Contractors, and Consultants under Bank-financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuit of this policy, the Bank:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the procurement process or in contract execution;
 - (ii) “fraudulent practice” means a misrepresentation or omission of facts in order to influence a procurement process or the execution of a contract;
 - (iii) “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of the borrower, designed to establish bid prices at artificial, non competitive levels; and
 - (iv) “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the procurement process or affect the execution of a contract;
- (b) will reject a proposal for award if it determines that the Bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for the Contract in question;
- (c) will cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the Borrower or of a beneficiary of the loan engaged in corrupt, fraudulent, collusive or coercive practices during the procurement or the execution of that contract, without the Borrower having taken timely and appropriate action satisfactory to the Bank to remedy the situation;
- (d) will sanction a firm or individual, including declaring them ineligible, either indefinitely or for a stated period of time, to be awarded a Bank-financed contract if it at any time determines that they have, directly or through an agent, engaged, in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a Bank-financed contract; and
- (e) will have the right to require that a provision be included in Bidding Documents and in contracts financed by a Bank loan, requiring Bidders, Suppliers, Contractors and Consultants to permit the Bank to inspect their accounts and records and other documents relating to the bid submission and contract performance and to have them audited by auditors appointed by the Bank.

37.2 Furthermore, Bidders shall be aware of the provision stated in sub-clause 59.2 of the Conditions of Contract.

SECTION 2: FORMS OF BID, QUALIFICATION INFORMATION AND LETTER OF ACCEPTANCE

Table of Forms:

- **CONTRACTOR'S BID**
- **QUALIFICATION INFORMATION**
- **LETTER OF ACCEPTANCE**
- **NOTICE TO PROCEED WITH THE WORK**
- **AGREEMENT FORM**

Contractor's Bid

Description of the Works:

BID

To : _____ [the Employer]

Address : _____³

GENTLEMEN,

Having examined the bidding documents including addendum, we offer to execute the Works described above in accordance with the Conditions of Contract, Specifications, Drawings and Bill of Quantities accompanying this Bid for the Contract Price of _____ [in figures] (_____) [in letters].⁴

The advance Payment required is: Rupees _____.

We accept the appointment of _____ as the Adjudicator.

(OR)

We do not accept the appointment of _____ as the Adjudicator and propose instead that _____ be appointed as Adjudicator whose daily fees and biographical data are attached.

This Bid and your written acceptance of it shall constitute a binding contract between us. We understand that you are not bound to accept the lowest or any Bid you receive.

We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf will engage in bribery.

We also undertake that, in competing for (and, if the award is made to us, in executing) the above contract, we will strictly observe the laws against fraud and corruption in force in India namely "Prevention of Corruption Act 1988".

Commissions or gratuities, if any, paid or to be paid by us to agents relating to this Bid, and to contract execution if we are awarded the contract, are listed below :

² 1 To be filled in by the Employer before issue of the Bidding Documents.
³ 2 To be filled in by the Employer before issue of the Bidding Documents.
⁴ 3 To be filled in by the Bidder, together with his particulars and date of submission at the bottom of the Form of Bid.

Name and address of agent

Amount

Purpose of Commission or gratuity

(if none, state "none")

Qualification Information

The information to be filled in by the Bidder in the following pages will be used for purposes of postqualification as provided for in Clause 4 of the Instructions to Bidders. This information will not be incorporated in the Contract.

1. For Individual Bidders

1.1 Constitution or legal status of Bidder *[Attach copy]*

Place of registration: _____

Principal place of business: _____

Power of attorney of signatory of Bid
[Attach]

1.2 Total value of Civil Engineering construction work executed and payments received in the last five years**

19--- -19_____* 19_____ (in Rs. Million) 2001_____	19----- 2000-_____ 2001-2002_____ 2002-2003_____
---	---

1.3.1 Work performed as prime contractor (in the same name) on works of a similar nature over the last five years. **

<u>Project Name</u>	<u>Name of the Employer</u> *	<u>Description of work</u>	<u>Contract No.</u>	<u>Value of contract (Rs. Million)</u>	<u>Date of issue of work order</u>	<u>Stipulated period of completion</u>	<u>Actual date of completion</u> *	<u>Remarks explaining reasons for delay and work completed</u>

1.3.2 Quantities of work executed as prime contractor (in the same name and style) in the last five years: **

<u>Year</u>	<u>Name of</u>	<u>Name of the</u>	<u>Quantity of work performed (cum) @</u>			<u>Remarks *</u>
	<u>of</u>	<u>of the</u>	<u>Cement concrete</u>	<u>Masonry</u>	<u>E/works</u>	<u>(indicate contract</u>

	<u>the</u> <u>Wor</u> <u>k</u>	<u>Employer*</u> (including RCC&PCC)	<u>Ref)</u>
19-----			
19-----			
19-----			
19-----			
2000-2001			
2001-2002			
2002-2003			

**Attach certificate(s) from the Engineer(s)-in-Charge*

@The item of work for which data is requested should tally with that specified in ITB clause 4.5A(c).

*** immediately preceding the financial year in which bids are received.*

☉Attach certificate from Chartered Accountant.

1.4 Information on Bid Capacity (works for which bids have been submitted and works which are yet to be completed) as on the date of this bid.

(A) Existing commitments and on-going works:

Description of Anticipated Work	Place & State	Place & Date	Contract No. and Address of Employer	Name of Contract (Rs. million)	Value of period of completion	Stipulated remaining to be completed (Rs. million)	Value of works* to be date of completion
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

(B) Works for which bids already submitted:

Description of Work	Place & State	Name and Address of Employer	Estimated value of works (Rs. million)	Stipulated period of completion	Date when decision is expected	Remarks if any
(1)	(2)	(3)	(4)	(5)	(6)	(7)

* *Attach certificate(s) from the Engineer(s)-in-Charge.*

1.5 The following items of Contractor's Equipment are essential for carrying out the Works. The Bidder should list all the information requested below. Refer also to Sub Clause 4.3 (d) of the Instructions to Bidders.

<u>Item of equipment</u>	<u>Requirement</u>		<u>Availability proposals</u>		<u>Remarks</u> (From whom to be purchased)
	<u>No.</u>	<u>Capacity</u>	<u>Owned/leased/ to be procured</u>	<u>Nos/ capacity</u>	

*	*	*	*	*	*	*
*	*	*	*	*	*	*

1.6 Qualifications and experience of key personnel proposed for administration and execution of the Contract. Attach biographical data. Refer also to Sub Clause 4.3 (e) and 4.5 (B) (b) of instructions to Bidders and Sub Clause 9.1 of the Conditions of Contract.

<u>Position</u>	<u>Name</u>	<u>Qualifications</u>	<u>Years of experience (general)</u>	<u>Years of experience in the proposed position</u>
Project Manager *	*	*	*	*
*	*	*	*	*
*	*	*	*	*
*	*	*	*	*
etc.				

1.7 Proposed subcontracts and firms involved. [Refer ITB Clause 4.3 (j)]

<u>Sections of the works</u>	<u>Value of Sub-contract</u>	<u>Sub-contractor (name and address)</u>	<u>Experience in similar work</u>
*	*	*	*
*	*	*	*
*	*	*	*
	*	*	

1.8 Financial reports for the last five years: balance sheets, profit and loss statements, auditors' reports (in case of companies/corporation), etc. List them below and attach copies.

1.9 Evidence of access to financial resources to meet the qualification requirements: cash in hand, lines of credit, etc. List them below and attach copies of support documents *[sample format attached]*.

1.10. Name, address, and telephone, telex, and fax numbers of the Bidders' bankers who may provide references if contacted by the Employer.

1.11 Information on litigation history in which the Bidder is involved.

<u>Other party(ies)</u>	<u>Employer</u>	<u>Cause of dispute</u>	<u>Amount involved</u>	<u>Remarks showing</u>
				<u>present</u> <u>status</u>

1.12 Statement of compliance under the requirements of Sub Clause 3.2 of the instructions to Bidders.

1.13 Proposed work method and schedule. The Bidder should attach descriptions, drawings and charts as necessary to comply with the requirements of the Bidding documents. [Refer ITB Clause 4.1 and 4.3 (k)].

2. Joint Ventures - Deleted

3. Additional Requirements

3.1 Bidders should provide any additional information required to fulfill the requirements of Clause 4 of the Instructions to the Bidders, if applicable.

SAMPLE FORMAT FOR EVIDENCE OF ACCESS TO OR AVAILABILITY OF CREDIT FACILITIES –* CLAUSE 4.5 [B] [c] OF ITB

BANK CERTIFICATE

This is to certify that M/s. is a reputed company with a good financial standing.

If the contract for the work, namely
[funded by the World Bank] is awarded to the above firm, we shall be able to provide overdraft/credit facilities to the extent of Rs. to meet their working capital requirements for executing the above contract.

__ Sd. __

Name of Bank

Senior Bank Manager

Address of the Bank

*** Change the text as follows for Joint venture:**

This is to certify that M/s. who has formed a JV with M/s. and M/s. for participating in this bid, is a reputed company with a good financial standing.

If the contract for the work, namely [funded by the World Bank] is awarded to the above Joint Venture, we shall be able to provide overdraft/credit facilities to the extent of Rs. to M/s. to meet the working capital requirements for executing the above contract.

[This should be given by the JV members in proportion to their financial participation.]

(Name of the Project)

(Declaration regarding customs/excise duty exemption for materials/
construction equipment bought for the work)

(Bidder's Name and Address)

To:
(Name of the Employer)

Dear Sir:

Re: *[Name of Work]* -
Certificate for Import/Procurement of Goods/Construction Equipment

1. We confirm that we are solely responsible for obtaining customs/excise duty waivers which we have considered in our bid and in case of failure to receive such waivers for reasons whatsoever, the Employer will not compensate us.
2. We are furnishing below the information required by the Employer for issue of the necessary certificates in terms of the Government of India Central Excise Notification No. 108/95 and Customs Notification No. 85/99.

3. The goods/construction equipment for which certificates are required are as under:

Items	Make/ Brand Name	Capacity [where applicable]	Quantity	Value	State whether it will be procured locally or imported [if so from which country]	Remarks regarding justification for the quantity and their usage in works
Goods						
[a] Bitumen						
[b] Others						
Construction Equipment						
[a]						
[b]						
[c]						
[d]						

4. We agree that no modification to the above list is permitted after bids are opened.

5. We agree that the certificate will be issued only to the extent considered reasonable by the Employer for the work, based on the Bill of Quantities and the construction programme and methodology as furnished by us alongwith the bid.
6. We confirm that the above goods will be exclusively used for the construction of the above work and construction equipment will not be sold or otherwise disposed of in any manner for a period of five years from the date of acquisition.

Date: _____
Place: _____

(Signature) _____
(Printed Name) _____
(Designation) _____
(Common Seal) _____

Letter of Acceptance
(letterhead paper of the Employer)

_____ [date]

To:

_____ [name and address of the Contractor]

Dear Sirs,

This is to notify you that your Bid dated _____ for execution of the _____ [name of the contract and identification number, as given in the Instructions to Bidders] for the Contract Price of Rupees _____ (_____) [amount in words and figures], as corrected and modified in accordance with the Instructions to Bidders¹ is hereby accepted by our Agency.

We accept/do not accept that _____ be appointed as the Adjudicator².

We note that as per bid, you do not intend to subcontract any component of work.

[OR]

We note that as per bid, you propose to employ M/s. as sub-contractor for executing

[Delete whichever is not applicable]

You are hereby requested to furnish Performance Security, plus additional security for unbalanced bids in terms of ITB clause 29.5, in the form detailed in Para 34.1 of ITB for an amount of Rs. _____ within 21 days of the receipt of this letter of acceptance valid upto 28 days from the date of expiry of Defects Liability Period i.e. upto and sign the contract, failing which action as stated in Para 34.3 of ITB will be taken.

We have reviewed the construction methodology submitted by you alongwith the bid in response to ITB Clause 4.3[k] and our comments are given in the attachment. You are requested to submit a revised Program including environmental management plan as per Clause 27 of General Conditions of Contract within 14 days of receipt of this letter.

Yours faithfully,

Authorized Signature

Name and Title of Signatory

Name of Agency

-
- 1 Delete "corrected and" or "and modified" if only one of these actions applies. Delete "as corrected and modified in accordance with the Instructions to Bidders" if corrections or modifications have not been effected.
 - 2 To be used only if the Contractor disagrees in his Bid with the Adjudicator proposed by the Employer in the "Instructions to Bidders."

Issue of Notice to proceed with the work
(letterhead of the Employer)

_____ (date)

To

_____ (name and address of the Contractor)

Dear Sirs:

Pursuant to your furnishing the requisite security as stipulated in ITB clause 34.1 and signing of the contract agreement for the construction of _____ @ a Bid Price of Rs. _____, you are hereby instructed to proceed with the execution of the said works in accordance with the contract documents.

Yours faithfully,

(Signature, name and title
of signatory authorized to
sign on behalf of
Employer)

Agreement Form

Agreement

This agreement, made the _____ day of _____ 19_____,
between _____
_____ [name and address of Employer]
(hereinafter called “the Employer”) of the one part and

_____ [name and
address of contractor] (hereinafter called “the Contractor”) of the other part.

Whereas the Employer is desirous that the Contractor execute _____

_____ [name and identification number of Contract] (hereinafter called “the
Works”) and the Employer has accepted the Bid by the Contractor for the execution and
completion of such Works and the remedying of any defects therein, at a contract price of
Rs.....

NOW THIS AGREEMENT WITNESSETH as follows:

1. In this Agreement, words and expression shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to, and they shall be deemed to form and be read and construed as part of this Agreement.
2. In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Employer to execute and complete the Works and remedy any defects therein in conformity in all aspects with the provisions of the Contract.
3. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying the defects wherein the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.
4. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz.:

- i) Letter of Acceptance;
- ii) Notice to proceed with the works;
- iii) Contractor's Bid;
- iv) Contract Data;
- v) Conditions of contract (including Special Conditions of Contract);
- vi) Specifications;
- vii) Drawings;
- viii) Bill of Quantities; and
- ix) Any other document listed in the Contract Data as forming part of the contract.

In witness whereof the parties thereto have caused this Agreement to be executed the day and year first before written.

The Common Seal of

was hereunto affixed in the presence of:

Signed, Sealed and Delivered by the said

in the presence of:

Binding Signature of Employer

Binding Signature of Contractor

SECTION 3: CONDITIONS OF CONTRACT

Conditions of Contract

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Conditions of Contract

A. General

1. Definitions

- 1.1** Terms which are defined in the Contract Data are not also defined in the Conditions of Contract but keep their defined meanings. Capital initials are used to identify defined terms.

The **Adjudicator** is the person appointed jointly by the Employer and the Contractor to resolve disputes in the first instance, as provided for in Clauses 24 and 25. The name of the Adjudicator is defined in the Contract Data.

Bill of Quantities means the priced and completed **Bill of Quantities** forming part of the Bid.

Compensation Events are those defined in Clause 44 hereunder.

The **Completion Date** is the date of completion of the Works as certified by the Engineer in accordance with Sub Clause 55.1.

The **Contract** is the contract between the Employer and the Contractor to execute, complete and maintain the Works. It consists of the documents listed in Clause 2.3 below.

The **Contract Data** defines the documents and other information which comprise the Contract.

The **Contractor** is a person or corporate body whose Bid to carry out the Works has been accepted by the Employer.

The **Contractor's Bid** is the completed Bidding document submitted by the Contractor to the Employer.

The **Contract Price** is the price stated in the Letter of Acceptance and thereafter as adjusted in accordance with the provisions of the Contract.

Days are calendar days; **months** are calendar months.

A **Defect** is any part of the Works not completed in accordance with the Contract.

The **Defects Liability Period** is the period named in the Contract Data and calculated from the Completion Date.

The **Employer** is the party who will employ the Contractor to carry out the Works.

The **Engineer** is the person named in the Contract Data (or any other competent person appointed and notified to the contractor to act in replacement of the Engineer) who is responsible for supervising the execution of the works and administering the Contract.

Equipment is the Contractor's machinery and vehicles brought temporarily to the Site to construct the Works.

The **Initial Contract Price** is the Contract Price listed in the Employer's Letter of Acceptance.

The **Intended Completion Date** is the date on which it is intended that the Contractor shall complete the Works. The Intended Completion Date is specified in the Contract Data. The Intended Completion Date may be revised only by the Engineer by issuing an extension of time.

Materials are all supplies, including consumables, used by the contractor for incorporation in the Works.

Plant is any integral part of the Works which is to have a mechanical, electrical, electronic or chemical or biological function.

The **Site** is the area defined as such in the Contract Data.

Site Investigation Reports are those which were included in the Bidding documents and are factual interpretative reports about the surface and sub-surface conditions at the site.

Specification means the Specification of the Works included in the Contract and any modification or addition made or approved by the Engineer.

The **Start Date** is given in the Contract Data. It is the date when the Contractor shall commence execution of the works. It does not necessarily coincide with any of the Site Possession Dates.

A **Subcontractor** is a person or corporate body who has a Contract with the Contractor to carry out a part of the work in the Contract which includes work on the Site.

Temporary Works are works designed, constructed, installed, and removed by the Contractor which are needed for construction or installation of the Works.

A **Variation** is an instruction given by the Engineer which varies the Works.

The **Works** are what the Contract requires the Contractor to construct, install, and turn over to the Employer, as defined in the Contract Data.

2. Interpretation

- 2.1 In interpreting these Conditions of Contract, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Engineer will provide instructions clarifying queries about the Conditions of Contract.
- 2.2 If sectional completion is specified in the Contract Data, references in the Conditions of Contract to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion date for the whole of the Works).
- 2.3 The documents forming the Contract shall be interpreted in the following order of priority:

- (1) Agreement
- (2) Letter of Acceptance, notice to proceed with the works
- (3) Contractor's Bid
- (4) Contract Data

- (5) Conditions of Contract including Special Conditions of Contract
- (6) Specifications
- (7) Drawings
- (8) **Bill of Quantities** and
- (9) any other document listed in the Contract Data as forming part of the Contract.

3. Language and Law

3.1 The language of the Contract and the law governing the Contract are stated in the Contract Data.

4. Engineer's Decisions

4.1 Except where otherwise specifically stated, the Engineer will decide contractual matters between the Employer and the Contractor in the role representing the Employer.

5. Delegation

5.1 The Engineer may delegate any of his duties and responsibilities to other people except to the Adjudicator after notifying the Contractor and may cancel any delegation after notifying the Contractor.

6. Communications

6.1 Communications between parties which are referred to in the conditions are effective only when in writing. A notice shall be effective only when it is delivered (in terms of Indian Contract Act).

7. Subcontracting

7.1 The Contractor may subcontract with the approval of the Engineer but may not assign the Contract without the approval of the Employer in writing. Subcontracting does not alter the Contractor's obligations.

8. Other Contractors

8.1 The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the Employer between the dates given in the Schedule of Other Contractors. The Contractor shall as referred to in the Contract Data, also provide facilities and services for them as described in the Schedule. The employer may modify the schedule of other contractors and shall notify the contractor of any such modification.

9. Personnel

- 9.1** The Contractor shall employ the key personnel named in the Schedule of Key Personnel as referred to in the Contract Data to carry out the functions stated in the Schedule or other personnel approved by the Engineer. The Engineer will approve any proposed replacement of key personnel only if their qualifications, abilities, and relevant experience are substantially equal to or better than those of the personnel listed in the Schedule.
- 9.2** If the Engineer asks the Contractor to remove a person who is a member of the Contractor's staff or his work force stating the reasons the Contractor shall ensure that the person leaves the Site within seven days and has no further connection with the work in the Contract.

10. Employer's and Contractor's Risks

10.1 The Employer carries the risks which this Contract states are Employer's risks, and the Contractor carries the risks which this Contract states are Contractor's risks.

11. Employer's Risks

11.1 The Employer is responsible for the excepted risks which are (a) in so far as they directly affect the execution of the Works in the Employer's country, the risks of war, hostilities, invasion, act of foreign enemies, rebellion, revolution, insurrection or military or usurped power, civil war, riot commotion or disorder (unless restricted to the Contractor's employees), and contamination from any nuclear fuel or nuclear waste or radioactive toxic explosive, or (b) a cause due solely to the design of the Works, other than the Contractor's design.

12. Contractor's Risks

12.1 All risks of loss of or damage to physical property and of personal injury and death which arise during and in consequence of the performance of the Contract other than the excepted risks are the responsibility of the Contractor.

13. Insurance

13.1 The Contractor shall provide, in the joint names of the Employer and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles stated in the Contract Data for the following events which are due to the Contractor's risks:

- (a) loss of or damage to the Works, Plant and Materials;
- (b) loss of or damage to Equipment;
- (c) loss of or damage of property (except the Works, Plant, Materials and Equipment) in connection with the Contract; and
- (d) personal injury or death.

13.2 Policies and certificates for insurance shall be delivered by the Contractor to the Engineer for the Engineer's approval before the Start Date. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.

13.3 If the Contractor does not provide any of the policies and certificates required, the Employer may effect the insurance which the Contractor should have provided and recover the premiums the Employer has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.

13.4 Alterations to the terms of an insurance shall not be made without the approval of the Engineer.

13.5 Both parties shall comply with any conditions of the insurance policies.

14. Site Investigation Reports

14.1 The Contractor, in preparing the Bid, shall rely on any site Investigation Reports referred to in the Contract Data, supplemented by any information available to the Bidder.

15. Queries about the Contract Data

15.1 The Engineer will clarify queries on the Contract Data.

16. Contractor to Construct the Works

16.1 The Contractor shall construct and install the Works in accordance with the Specification and Drawings, and as per instructions of Engineer.

17. The Works to Be Completed by the Intended Completion Date

17.1 The Contractor may commence execution of the Works on the Start Date and shall carry out the Works in accordance with the program submitted by the Contractor, as updated with the approval of the Engineer, and complete them by the Intended Completion Date.

18. Approval by the Engineer

18.1 The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Engineer, who is to approve them if they comply with the Specifications and Drawings.

18.2 The Contractor shall be responsible for design of Temporary Works.

18.3 The Engineer's approval shall not alter the Contractor's responsibility for design of the Temporary Works.

18.4 The Contractor shall obtain approval of third parties to the design of the Temporary Works where required.

18.5 All Drawings prepared by the Contractor for the execution of the temporary or permanent Works, are subject to prior approval by the Engineer before their use.

19. Safety

19.1 The Contractor shall be responsible for the safety of all activities on the Site.

20. Discoveries

20.1 Anything of historical or other interest or of significant value unexpectedly discovered on the Site is the property of the Employer. The Contractor is to notify the Engineer of such discoveries and carry out the Engineer's instructions for dealing with them.

21. Possession of the Site

21.1 The Employer shall give possession of all parts of the Site to the Contractor. If possession of a part is not given by the date stated in the Contract Data the Employer is deemed to have delayed the start of the relevant activities and this will be Compensation Event.

22. Access to the Site

22.1 The Contractor shall allow the Engineer and any person authorized by the Engineer access to the Site, to any place where work in connection with the Contract is being carried out or is intended to be carried out and to any place where materials or plant are

being manufactured / fabricated / assembled for the works.

23. Instructions

- 23.1** The Contractor shall carry out all instructions of the Engineer which comply with the applicable laws where the Site is located.
- 23.2** The Contractor shall permit the bank to inspect the Contractor's accounts and records relating to the performance of the Contractor and to have them audited by auditors appointed by the Bank, if so required by the Bank.

24. Disputes

24.1 If the Contractor believes that a decision taken by the Engineer was either outside the authority given to the Engineer by the Contract or that the decision was wrongly taken, the decision shall be referred to the Adjudicator within 14 days of the notification of the Engineer's decision.

25. Procedure for Disputes

25.1 The Adjudicator shall give a decision in writing within 28 days of receipt of a notification of a dispute.

25.2 The Adjudicator shall be paid daily at the rate specified in the Contract Data together with reimbursable expenses of the types specified in the Contract Data and the cost shall be divided equally between the Employer and the Contractor, whatever decision is reached by the Adjudicator. Either party may refer a decision of the Adjudicator to an Arbitrator within 28 days of the Adjudicator's written decision. If neither party refers the dispute to arbitration within the above 28 days, the Adjudicator's decision will be final and binding.

25.3 The arbitration shall be conducted in accordance with the arbitration procedure stated in the Special Conditions of Contract.

26. Replacement of Adjudicator

26.1 Should the Adjudicator resign or die, or should the Employer and the Contractor agree that the Adjudicator is not fulfilling his functions in accordance with the provisions of the Contract, a new Adjudicator will be jointly appointed by the Employer and the Contractor. In case of disagreement between the Employer and the Contractor, within 30 days, the Adjudicator shall be designated by the Appointing Authority designated in the Contract Data at the request of either party, within 14 days of receipt of such request.

B. Time Control

27. Program

27.1 Within the time stated in the Contract Data the Contractor shall submit to the Engineer for approval a Program including Environmental Management Plan showing the general methods, arrangements, order, and timing for all the activities in the Works along with monthly cash flow forecast.

27.2 An update of the Program shall be a program showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining work including any changes to the sequence of the activities.

27.3 The Contractor shall submit to the Engineer, for approval, an updated Program at intervals no longer than the period stated in the Contract Data. If the Contractor does not submit an updated Program within this period, the Engineer may withhold the amount stated in the Contract Data from the next payment certificate and continue to

withhold this amount until the next payment after the date on which the overdue Program has been submitted.

27.4 The Engineer's approval of the Program shall not alter the Contractor's obligations. The Contractor may revise the Program and submit it to the Engineer again at any time. A revised Program is to show the effect of Variations and Compensation Events.

28. Extension of the Intended Completion Date

28.1 The Engineer shall extend the Intended Completion Date if a Compensation Event occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Intended Completion Date without the Contractor taking steps to accelerate the remaining work and which would cause the Contractor to incur additional cost.

28.2 The Engineer shall decide whether and by how much to extend the Intended Completion Date within 21 days of the Contractor asking the Engineer for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Intended Completion Date.

29. Deleted

30. Delays Ordered by the Engineer

30.1 The Engineer may instruct the Contractor to delay the start or progress of any activity within the Works.

31. Management Meetings

31.1 Either the Engineer or the Contractor may require the other to attend a management meeting. The business of a management meeting shall be to review the plans for remaining work and to deal with matters raised in accordance with the early warning procedure.

31.2 The Engineer shall record the business of management meetings and is to provide copies of his record to those attending the meeting and to the Employer. The responsibility of the parties for actions to be taken is to be decided by the Engineer either at the management meeting or after the management meeting and stated in writing to all who attended the meeting.

32. Early Warning

32.1 The Contractor is to warn the Engineer at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work, increase the Contract Price or delay the execution of works. The Engineer may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate is to be provided by the Contractor as soon as reasonably possible.

- 32.2** The Contractor shall cooperate with the Engineer in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instruction of the Engineer.

C. Quality Control

33. Identifying Defects

- 33.1** The Engineer shall check the Contractor's work and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractor's responsibilities. The Engineer may instruct the Contractor to search for a Defect and to uncover and test any work that the Engineer considers may have a Defect.
- 33.2** The contractor shall permit the Employer's Technical auditor to check the contractor's work and notify the Engineer and Contractor of any defects that are found. Such a check shall not affect the Contractor's or the Engineer's responsibility as defined in the Contract Agreement.

34. Tests

- 34.1** If the Engineer instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect the test shall be a Compensation Event.

35. Correction of Defects

- 35.1** The Engineer shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion and is defined in the Contract Data. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.
- 35.2** Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Engineer's notice.

36. Uncorrected Defects

- 36.1** If the Contractor has not corrected a Defect within the time specified in the Engineer's notice, the Engineer will assess the cost of having the Defect corrected, and the Contractor will pay this amount.

Note: Where in certain cases, the technical specifications provide for acceptance of works within specified tolerance limits at reduced rates, Engineer will certify payments to Contractor accordingly.

D. Cost Control

37. Bill of Quantities

- 37.1** The Bill of Quantities shall contain items for the construction, installation, testing, and

commissioning work to be done by the contractor.

37.2 The Bill of Quantities is used to calculate the Contract Price. The Contractor is paid for the quantity of the work done at the rate in the Bill of Quantities for each item.

38. Changes in the Quantities

38.1 If the final quantity of the work done differs from the quantity in the Bill of Quantities for the particular item by more than 25 percent, provided the change exceeds 1% of Initial Contract Price, the Engineer shall adjust the rate to allow for the change.

38.2 The Engineer shall not adjust rates from changes in quantities if thereby the Initial Contract Price is exceeded by more than 15 percent, except with the Prior approval of the Employer.

38.3 If requested by the Engineer, the Contractor shall provide the Engineer with a detailed cost breakdown of any rate in the Bill of Quantities.

39. Variations

39.1 All Variations shall be included in updated Programs produced by the Contractor.

40. Payments for Variations

40.1 The Contractor shall provide the Engineer with a quotation (with breakdown of unit rates) for carrying out the Variation when requested to do so by the Engineer. The Engineer shall assess the quotation, which shall be given within seven days of the request or within any longer period stated by the Engineer and before the Variation is ordered.

40.2 If the work in the Variation corresponds with an item description in the Bill of Quantities and if, in the opinion of the Engineer, the quantity of work above the limit stated in Sub Clause 38.1 or the timing of its execution do not cause the cost per unit of quantity to change, the rate in the bill of Quantities shall be used to calculate the value of the Variation. If the cost per unit of quantity changes, or if the nature or timing of the work in the Variation does not correspond with items in the Bill of Quantities, the quotation by the Contractor shall be in form of new rates for the relevant items of work.

40.3 If the Contractor's quotation is unreasonable (or if the contractor fails to provide the Engineer with a quotation within a reasonable time specified by the engineer in accordance with Clause 40.1), the Engineer may order the Variation and make a change to the Contract Price which shall be based on Engineer's own forecast of the effects of the Variation on the Contractor's costs.

40.4 If the Engineer decides that the urgency of varying the work would prevent a quotation being given and considered without delaying the work, no quotation shall be given and the Variation shall be treated as a Compensation Event.

40.5 The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning.

41. Cash flow forecasts

41.1 When the Program is updated, the contractor is to provide the Engineer with an

updated cash flow forecast.

42. Payment Certificates

- 42.1** The Contractor shall submit to the Engineer monthly statements of the estimated value of the work completed less the cumulative amount certified previously along with details of measurement of the quantity of works executed in a tabulated form as approved by the Engineer.
- 42.2** The Engineer shall check the details given in the Contractor's monthly statement and within 14 days certify the amounts to be paid to the Contractor after taking into account any credit or debit for the month in question in respect of materials for the works in the relevant amounts and under conditions set forth in sub-clause 51(3) of the Contract Data (Secured Advance).
- 42.3** The value of work executed shall be determined by the Engineer after due check measurement of the quantities claimed as executed by the contractor.
- 42.4** The value of work executed shall comprise the value of the quantities of the items in the Bill of Quantities completed..
- 42.5** The value of work executed shall include the valuation of Variations and Compensation Events.
- 42.6** The Engineer may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information.

43. Payments

- 43.1** Payments shall be adjusted for deductions for advance payments, retention, other recoveries in terms of the contract and taxes, at source, as applicable under the law. The Employer shall pay the Contractor the amounts certified by the Engineer within 28 days of the date of each certificate. If the Employer makes a late payment, the Contractor shall be paid interest on the late payment in the next payment. Interest shall be calculated from the date by which the payment should have been made upto the date when the late payment is made at 8% per annum.
- 43.2** If an amount certified is increased in a later certificate or as a result of an award by the Adjudicator or an Arbitrator, the Contractor shall be paid interest upon the delayed payment as set out in this clause. Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute.
- 43.3** Items of the Works for which no rate or price has been entered in will not be paid for by the Employer and shall be deemed covered by other rates and prices in the Contract.

44. Compensation Events

- 44.1** The following are Compensation Events unless they are caused by the Contractor:

- (a) The Employer does not give access to a part of the Site by the Site Possession Date stated in the Contract Data.
- (b) The Employer modifies the schedule of other contractors in a way which affects the work of the contractor under the contract.
- (c) The Engineer orders a delay or does not issue drawings, specifications or instructions required for execution of works on time.
- (d) The Engineer instructs the Contractor to uncover or to carry out additional tests upon work which is then found to have no Defects.
- (e) The Engineer unreasonably does not approve for a subcontract to be let.
- (f) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of Letter of Acceptance from the information issued to Bidders (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site.
- (g) The Engineer gives an instruction for dealing with an unforeseen condition, caused by the Employer, or additional work required for safety or other reasons.
- (h) Other contractors, public authorities, utilities or the Employer does not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor.
- (i) The advance payment is delayed.
- (j) The effect on the Contractor of any of the Employer's Risks.
- (k) The Engineer unreasonably delays issuing a Certificate of Completion.
- (l) Other Compensation Events listed in the Contract Data or mentioned in the Contract.

44.2 If a Compensation Event would cause additional cost or would prevent the work being completed before the Intended Completion Date, the Contract Price shall be increased and/or the Intended Completion Date is extended. The Engineer shall decide whether and by how much the Contract Price shall be increased and whether and by how much the Intended Completion Date shall be extended.

44.3 As soon as information demonstrating the effect of each Compensation Event upon the Contractor's forecast cost has been provided by the Contractor, it is to be assessed by the Engineer and the Contract Price shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable, the Engineer shall adjust the Contract Price based on Engineer's own forecast. The Engineer will assume that the Contractor will react competently and promptly to the event.

44.4 The Contractor shall not be entitled to compensation to the extent that the Employer's interests are adversely affected by the Contractor not having given early warning or not having cooperated with the Engineer.

45. Tax

45.1 The rates quoted by the Contractor shall be deemed to be inclusive of the sales and other taxes that the Contractor will have to pay for the performance of this Contract. The Employer will perform such duties in regard to the deduction of such taxes at

source as per applicable law.

46. Currencies

46.1 All payments shall be made in Indian Rupees.

47. Price Adjustment

47.1 Contract price shall be adjusted for increase or decrease in rates and price of labour, materials, fuels and lubricants in accordance with the following principles and procedures and as per formula given in the contract data:

- (a) The price adjustment shall apply for the work done from the start date given in the contract data upto end of the initial intended completion date or extensions granted by the Engineer and shall not apply to the work carried out beyond the stipulated time for reasons attributable to the contractor.

- (b) The price adjustment shall be determined during each quarter from the formula given in the contract data.
- (c) Following expressions and meanings are assigned to the work done during each quarter:

R = Total value of work done during the quarter. It would include the amount of secured advance for materials paid for (if any) during the quarter, less the amount of the secured advance recovered, during the quarter. It will exclude value for works executed under variations for which price adjustment will be worked separately based on the terms mutually agreed.

47.2 To the extent that full compensation for any rise or fall in costs to the contractor is not covered by the provisions of this or other clauses in the contract, the unit rates and prices included in the contract shall be deemed to include amounts to cover the contingency of such other rise or fall in costs.

48. Retention

48.1 The Employer shall retain from each payment due to the Contractor the proportion stated in the Contract Data until Completion of the whole of the Works.

48.2 On Completion of the whole of the Works half the total amount retained is repaid to the Contractor and half when the Defects Liability Period has passed and the Engineer has certified that all Defects notified by the Engineer to the Contractor before the end of this period have been corrected.

48.3 On completion of the whole works, the contractor may substitute retention money (*balance half*) with an “on demand” Bank guarantee.

49. Liquidated Damages

49.1 The Contractor shall pay liquidated damages to the Employer at the rate per day stated in the Contract Data for each day that the Completion Date is later than the Intended Completion Date (for the whole of the works or the milestone as stated in the contract data). The total amount of liquidated damages shall not exceed the amount defined in the Contract Data. The Employer may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages does not affect the Contractor's liabilities.

49.2 If the Intended Completion Date is extended after liquidated damages have been paid, the Engineer shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate. The Contractor shall be paid interest on the over payment calculated from the date of payment to the date of repayment at the rates specified in Sub Clause 43.1.

50. Deleted

51. Advance Payment

51.1 The Employer shall make advance payment to the Contractor of the amounts stated in

the Contract Data by the date stated in the Contract Data, against provision by the Contractor of an Unconditional Bank Guarantee in a form and by a bank acceptable to the Employer in amounts and currencies equal to the advance payment. The guarantee shall remain effective until the advance payment has been repaid, but the amount of the guarantee shall be progressively reduced by the amounts repaid by the Contractor. Interest will not be charged on the advance payment.

- 51.2** The Contractor is to use the advance payment only to pay for Equipment, Plant and Mobilization expenses required specifically for execution of the Works. The Contractor shall demonstrate that

advance payment has been used in this way by supplying copies of invoices or other documents to the Engineer.

51.3 The advance payment shall be repaid by deducting proportionate amounts from payments otherwise due to the Contractor, following the schedule of completed percentages of the Works on a payment basis. No account shall be taken of the advance (mobilization and equipment only) payment or its repayment in assessing valuations of work done, Variations, price adjustments, Compensation Events, or Liquidated Damages.

51.4 Secured Advance:

The Engineer shall make advance payment in respect of materials intended for but not yet incorporated in the Works in accordance with conditions stipulated in the Contract Data.

52. Securities

52.1 The Performance Security shall be provided to the Employer no later than the date specified in the Letter of Acceptance and shall be issued in an amount and form and by a bank or surety acceptable to the Employer, and denominated in Indian Rupees. The Performance Security shall be valid until a date 28 days from the date of expiry of Defects Liability Period and the additional security for unbalanced bids shall be valid until a date 28 days from the date of issue of the certificate of completion.

53. Deleted

54. Cost of Repairs

54.1 Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Correction periods shall be remedied by the Contractor at the Contractor's cost if the loss or damage arises from the Contractor's acts or omissions.

E. Finishing the Contract

55. Completion

55.1 The Contractor shall request the Engineer to issue a Certificate of Completion of the Works and the Engineer will do so upon deciding that the Work is completed.

56. Taking Over

56.1 The Employer shall take over the Site and the Works within seven days of the Engineer issuing a certificate of Completion.

57. Final Account

57.1 The Contractor shall supply to the Engineer a detailed account of the total amount that the Contractor considers payable under the Contract before the end of the Defects

Liability Period. The Engineer shall issue a Defect Liability Certificate and certify any final payment that is due to the Contractor within 56 days of receiving the Contractor's account if it is correct and complete. If it is not, the Engineer shall issue within 56 days a schedule that states the scope of the corrections or additions that are necessary. If the Final Account is still unsatisfactory after it has been resubmitted, the Engineer shall decide on the amount payable to the Contractor and issue a payment certificate, within 56 days of receiving the Contractor's revised account.

58. Operating and Maintenance Manuals

58.1 If "as built" Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates stated in the Contract Data.

58.2 If the Contractor does not supply the Drawings and/or manuals by the dates stated in the Contract Data, or they do not receive the Engineer's approval, the Engineer shall withhold the amount stated in the Contract Data from payments due to the Contractor.

59. Termination

59.1 The Employer or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.

59.2 Fundamental breaches of Contract include, but shall not be limited to the following:

- (a) the Contractor stops work for 28 days when no stoppage of work is shown on the current program and the stoppage has not been authorized by the Engineer;
- (b) the Engineer instructs the Contractor to delay the progress of the Works and the instruction is not withdrawn within 28 days;
- (c) the Employer or the Contractor is made bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
- (d) a payment certified by the Engineer is not paid by the Employer to the Contractor within 56 days of the date of the Engineer's certificate;
- (e) the Engineer gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Engineer;
- (f) the Contractor does not maintain a security which is required;
- (g) the Contractor has delayed the completion of works by the number of days for which the maximum amount of liquidated damages can be paid as defined in the Contract data; and
- (h) if the Contractor, in the judgment of the Purchaser has engaged in fraud and corruption, as defined in GCC Clause 64, in competing for or in executing the Contract.

- 59.3** When either party to the Contract gives notice of a breach of contract to the Engineer for a cause other than those listed under Sub Clause 59.2 above, the Engineer shall decide whether the breach is fundamental or not.
- 59.4** Notwithstanding the above, the Employer may terminate the Contract for convenience.
- 59.5** If the Contract is terminated the Contractor shall stop work immediately, make the Site safe and secure and leave the Site as soon as reasonably possible.

60. Payment upon Termination

60.1 If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Engineer shall issue a certificate for the value of the work done less advance payments received up to the date of the issue of the certificate, less other recoveries due in terms of the contract, less taxes due

to be deducted at source as per applicable law and less the percentage to apply to the work not completed as indicated in the Contract Data. Additional Liquidated Damages shall not apply . If the total amount due to the Employer exceeds any payment due to the Contractor the difference shall be a debt payable to the Employer.

60.2 If the Contract is terminated at the Employer's convenience or because of a fundamental breach of Contract by the Employer, the Engineer shall issue a certificate for the value of the work done, the reasonable cost of removal of Equipment, repatriation of the Contractor's personnel employed solely on the Works, and the Contractor's costs of protecting and securing the Works and less advance payments received up to the date of the certificate, less other recoveries due in terms of the contract and less taxes due to be deducted at source as per applicable law.

61. Property

61.1 All materials on the Site, Plant, Equipment, Temporary Works and Works are deemed to be the property of the Employer, if the Contract is terminated because of a Contractor's default.

62. Release from Performance

62.1 If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the Employer or the Contractor the Engineer shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all work carried out before receiving it and for any work carried out afterwards to which commitment was made.

63. Suspension of World Bank Loan or Credit

63.1 In the event that the World Bank suspends the Loan or Credit to the Employer, from which part of the payments to the Contractor are being made:

- (a) The Employer is obligated to notify the Contractor of such suspension within 7 days of having received the World Bank's suspension notice.
- (b) If the Contractor has not received sums due to it upon the expiration of the 28 days for payment provided for in Sub-Clause 43.1, the Contractor may immediately issue a 14-day termination notice.

64. Fraud and Corruption

64.1 The Bank requires that Borrowers (including beneficiaries of Bank loans), as well as Bidders, Suppliers, Contractors, and Consultants under Bank-financed contracts, observe

the highest standard of ethics during the procurement and execution of such contracts. In pursuit of this policy, the Bank:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the procurement process or in contract execution;
 - (ii) “fraudulent practice” means a misrepresentation or omission of facts in order to influence a procurement process or the execution of a contract;
 - (iii) “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of the borrower, designed to establish bid prices at artificial, non competitive levels; and
 - (iv) “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the procurement process or affect the execution of a contract;
- (b) will cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the Borrower or of a beneficiary of the loan engaged in corrupt, fraudulent, collusive or coercive practices during the procurement or the execution of that contract, without the Borrower having taken timely and appropriate action satisfactory to the Bank to remedy the situation;
- (d) will sanction a firm or individual, including declaring them ineligible, either indefinitely or for a stated period of time, to be awarded a Bank-financed contract if it at any time determines that they have, directly or through an agent, engaged, in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a Bank-financed contract; and
- (e) will have the right to require that Contractors to permit the Bank to inspect their accounts and records and other documents relating to the bid submission and contract performance and to have them audited by auditors appointed by the Bank.

F. Special Conditions of Contract

1. LABOUR :

The Contractor shall, unless otherwise provided in the Contract, make his own arrangements for the engagement of all staff and labour, local or other, and for their payment, housing, feeding and transport.

The Contractor shall, if required by the Engineer, deliver to the Engineer a return in detail, in such form and at such intervals as the Engineer may prescribe, showing the staff and the numbers of the several classes of labour from time to time employed by the Contractor on the Site and such other information as the Engineer may require.

2. COMPLIANCE WITH LABOUR REGULATIONS :

During continuance of the contract, the Contractor and his sub contractors shall abide at all times by all existing labour enactments and rules made thereunder, regulations, notifications and bye laws of the State or Central Government or local authority and any other labour law (including rules), regulations, bye laws that may be passed or notification that may be issued under any labour law in future either by the State or the Central Government or the local authority. Salient features of some of the major labour laws that are applicable to construction industry are given below. The Contractor shall keep the Employer indemnified in case any action is taken against the Employer by the competent authority on account of contravention of any of the provisions of any Act or rules made thereunder, regulations or notifications including amendments. If the Employer is caused to pay or reimburse, such amounts as may be necessary to cause or observe, or for non-observance of the provisions stipulated in the notifications/bye laws/Acts/Rules/regulations including amendments, if any, on the part of the Contractor, the Engineer/Employer shall have the right to deduct any money due to the Contractor including his amount of performance security. The Employer/Engineer shall also have right to recover from the Contractor any sum required or estimated to be required for making good the loss or damage suffered by the Employer.

The employees of the Contractor and the Sub-Contractor in no case shall be treated as the employees of the Employer at any point of time.

SALIENT FEATURES OF SOME MAJOR LABOUR LAWS APPLICABLE TO ESTABLISHMENTS ENGAGED IN BUILDING AND OTHER CONSTRUCTION WORK

(The law as current on the date of bid opening will apply)

- a) Workmen Compensation Act 1923: The Act provides for compensation in case of injury by accident arising out of and during the course of employment.
- b) Payment of Gratuity Act 1972: Gratuity is payable to an employee under the Act on satisfaction of certain conditions on separation if an employee has completed 5 years service or more or on death the rate of 15 days wages for every completed year of service. The Act is

applicable to all establishments employing 10 or more employees.

- c) Employees P.F. and Miscellaneous Provision Act 1952 (since amended): The Act Provides for monthly contributions by the employer plus workers @ 10% or 8.33%. The benefits payable under the Act are :
 - (i) Pension or family pension on retirement or death, as the case may be.
 - (ii) Deposit linked insurance on the death in harness of the worker.
 - (iii) payment of P.F. accumulation on retirement/death etc.
- d) Maternity Benefit Act 1951: The Act provides for leave and some other benefits to women employees in case of confinement or miscarriage etc.
- e) Contract Labour (Regulation & Abolition) Act 1970: The Act provides for certain welfare measures to be provided by the Contractor to contract labour and in case the Contractor fails to provide, the same are required to be provided, by the Principal Employer by Law. The Principal Employer is required to take Certificate of Registration and the Contractor is required to take license from the designated Officer. The Act is applicable to the establishments or Contractor of Principal Employer if they employ 20 or more contract labour.
- f) Minimum Wages Act 1948: The Employer is supposed to pay not less than the Minimum Wages fixed by appropriate Government as per provisions of the Act if the employment is a scheduled employment. Construction of Buildings, Roads, Runways are scheduled employments.
- g) Payment of Wages Act 1936: It lays down as to by what date the wages are to be paid, when it will be paid and what deductions can be made from the wages of the workers.
- h) Equal Remuneration Act 1979: The Act provides for payment of equal wages for work of equal nature to Male and Female workers and for not making discrimination against Female employees in the matters of transfers, training and promotions etc.
- i) Payment of Bonus Act 1965: The Act is applicable to all establishments employing 20 or more employees. The Act provides for payments of annual bonus subject to a minimum of 8.33% of wages and maximum of 20% of wages to employees drawing Rs.3500/-per month or less. The bonus to be paid to employees getting Rs.2500/- per month or above upto Rs.3500/- per month shall be worked out by taking wages as Rs.2500/-per month only. The Act does not apply to certain establishments. The newly set-up establishments are exempted for five years in certain circumstances. Some of the State Governments have reduced the employment size from 20 to 10 for the purpose of applicability of this Act.
- j) Industrial Disputes Act 1947: The Act lays down the machinery and procedure for resolution of Industrial disputes, in what situations a strike or lock-out becomes illegal and what are the requirements for laying off or retrenching the employees or closing down the establishment.
- k) Industrial Employment (Standing Orders) Act 1946: It is applicable to all establishments employing 100 or more workmen (employment size reduced by some of the States and Central Government to 50). The Act provides for laying down rules governing the conditions of employment by the Employer on matters provided in the Act and get the same certified by

the designated Authority.

- l) Trade Unions Act 1926: The Act lays down the procedure for registration of trade unions of workmen and employers. The Trade Unions registered under the Act have been given certain immunities from civil and criminal liabilities.
- m) Child Labour (Prohibition & Regulation) Act 1986: The Act prohibits employment of children below 14 years of age in certain occupations and processes and provides for regulation of employment of children in all other occupations and processes. Employment of Child Labour is prohibited in Building and Construction Industry.
- n) Inter-State Migrant workmen's (Regulation of Employment & Conditions of Service) Act 1979: The Act is applicable to an establishment which employs 5 or more inter-state migrant workmen through an intermediary (who has recruited workmen in one state for employment in the establishment situated in another state). The Inter-State migrant workmen, in an establishment to which this Act becomes applicable, are required to be provided certain facilities such as housing, medical aid, travelling expenses from home upto the establishment and back, etc.
- o) The Building and Other Construction workers (Regulation of Employment and Conditions of Service) Act 1996 and the Cess Act of 1996: All the establishments who carry on any building or other construction work and employs 10 or more workers are covered under this Act. All such establishments are required to pay cess at the rate not exceeding 2% of the cost of construction as may be modified by the Government. The Employer of the establishment is required to provide safety measures at the Building or construction work and other welfare measures, such as Canteens, First-Aid facilities, Ambulance, Housing accommodations for workers near the work place etc. The Employer to whom the Act applies has to obtain a registration certificate from the Registering Officer appointed by the Government.
- p) Factories Act 1948: The Act lays down the procedure for approval at plans before setting up a factory, health and safety provisions, welfare provisions, working hours, annual earned leave and rendering information regarding accidents or dangerous occurrences to designated authorities. It is applicable to premises employing 10 persons or more with aid of power or 20 or more persons without the aid of power engaged in manufacturing process.

3. SUB-CONTRACTING (GCC Clause 7)

Please add the following as Clause 7.2:

The contractor shall not be required to obtain any consent from the employer for:

- a) the sub-contracting of any part of the Works for which the Sub-contractor is named in the contract;
- b) the provision of labour; and
- c) the purchase of materials which are in accordance with the standards specified in the Contract.

Beyond this if the contractor proposes sub-contracting any part of the work during execution of works, because of some unforeseen circumstances to enable him to complete the work as per terms of the contract, the Engineer will consider the following before according approval:

- The contractor shall not sub-contract the whole of the Works.
- The contractor shall not sub-contract any part of the Work without prior consent of the Engineer. Any such consent shall not relieve the contractor from any liability or obligations under the contract and he shall be responsible for the acts, defaults and neglects of any sub-contractor, his agents or workmen as fully as if they were the acts, defaults or neglects of the contractor, his agents or workmen.
- The Engineer should satisfy whether (a) the circumstances warrant such sub-contracting; and (b) the sub-contractors so proposed for the Work possess the experience, qualifications and equipment necessary for the job proposed to be entrusted to them in proportion to the quantum of work to be sub-contracted.
- If payments are proposed to be made directly to that sub-contractor, this should be subject to specific authorization by the prime contractor so that this arrangement does not alter the contractor's liability or obligations under the contract.

4. ARBITRATION (GCC Clause 25.3)

The procedure for arbitration will be as follows :

- 25.3 (a) In case of Dispute or difference arising between the Employer and a domestic contractor relating to any matter arising out of or connected with this agreement, such disputes or difference shall be settled in accordance with the Arbitration and Conciliation Act, 1996. The arbitral tribunal shall consist of 3 arbitrators one each to be appointed by the Employer and the Contractor. The third Arbitrator shall be chosen by the two Arbitrators so appointed by the Parties and shall act as Presiding arbitrator. In case of failure of the two arbitrators appointed by the parties to reach upon a consensus within a period of 30 days from the appointment of the arbitrator appointed subsequently, the Presiding Arbitrator shall be appointed by the * Indian Council of Arbitration/President of the Institution of Engineers (India)/The International Centre for Alternative Dispute Resolution (India).

(Note: 1. All bidders are expected to indicate clearly in the bid, if they proposed sub-contracting elements of the works amounting to more than 20 percent of the Bid Price. For each such proposal the qualification and the experience of the identified sub-contractor in the relevant field should be furnished alongwith the bid to enable the employer to satisfy himself about their qualifications before agreeing for such sub-contracting and include it in the contract. In view of the above, normally no additional sub-contracting should arise during execution of the contract.

2. However, [a] sub contracting for certain specialized elements of the work is not unusual and acceptable for carrying out the works more effectively; but vertical splitting of the works for subcontracting is not acceptable. [b] In any case, proposal for sub-contracting in addition to what was specified in bid and stated in contract agreement will not be acceptable if the value of such additional sub-contracting exceeds 25% of value of work which was to be executed by Contractor without sub-contracting.

3. Assignment of the contract may be acceptable only under exceptional circumstances such as insolvencies/liquidation or merger of companies etc.

- (b) In the case of dispute with a Foreign contractor the dispute shall be settled in accordance with provisions of UNCITRAL Arbitration Rules. The Arbitral Tribunal shall consist of three Arbitrators one each to be appointed by the Employer and the Contractor. The third Arbitrator shall be chosen by the two Arbitrators so appointed by the Parties, and shall act a presiding arbitrator. In case of failure of the two arbitrators appointed by the parties to reach upon a consensus within a period of 30 days from the appointment of the arbitrator appointed subsequently, the Presiding arbitrator shall be appointed by the * Indian Council of Arbitration/President of the Institution of Engineers (India)/The International Centre for Alternative Dispute Resolution (India).
- (c) If one of the parties fails to appoint its arbitrator in pursuance of sub-clause (a) and (b) above within 30 days after receipt of the notice of the appointment of its arbitrator by the other party, then the * Indian Council of Arbitration/President of the Institution of Engineers (India)/The International Centre for Alternative Dispute Resolution (India), both in cases of the Foreign Contractor as well as Indian Contractor, shall appoint the arbitrator. A certified copy of the order of the *Indian Council of Arbitration /President of the Institution of Engineers (India)/The International Centre for Alternative Disputes Resolution (India), making such an appointment shall be furnished to each of the parties.
- (d) Arbitration proceedings shall be held at _____, India, and the language of the arbitration proceedings and that of all documents and communications between the parties shall be English.
- (e) The decision of the majority of arbitrators shall be final and binding upon both parties. The cost and expenses of Arbitration proceedings will be paid as determined by the arbitral tribunal. However, the expenses incurred by each party in connection with the preparation, presentation, etc. of its proceedings as also the fees and expenses paid to the arbitrator appointed by such party or on its behalf shall be borne by each party itself.
- (f) Where the value of the contract is Rs.50 millions and below, the disputes or differences arising shall be referred to the Sole Arbitrator. The Sole Arbitrator should be appointed by agreement between the parties; failing such agreement, by the appointing authority, namely the *Indian Council of Arbitration/President of the Institution of Engineers (India)/The International Centre for Alternative Disputes Resolution (India).
- (g) Performance under the contract shall continue during the arbitration proceedings and payments due to the contractor by the owners shall not be withheld, unless they are the subject matter of the arbitration proceedings.

5. PROTECTION OF ENVIRONMENT:

Add the following as GCC Clause 16.2:

The contractor shall take all reasonable steps to protect the environment on and off the Site

* *Choose one alternative. Insert Chairman of the executive Committee of the Indian Roads Congress (for highway project) or any other appropriate institutions (for other types of works).*

and to avoid damage or nuisance to persons or to property of the public or others resulting from pollution, noise or other causes arising as a consequence of his methods of operation.

During continuance of the contract, the contractor and his sub-contractors shall abide at all times by all existing enactments on environmental protection and rules made thereunder, regulations, notifications and bye-laws of the State or Central Government, or local authorities and any other law, bye-law, regulations that may be passed or notification that may be issued in this respect in future by the State or Central Government or the local authority.

Salient features of some of the major laws that are applicable are given below :

The Water (Prevention and Control of Pollution) Act, 1974, This provides for the prevention and control of water pollution and the maintaining and restoring of wholesomeness of water. 'Pollution' means such contamination of water or such alteration of the physical, chemical or biological properties of water or such discharge of any sewage or trade effluent or of any other liquid, gaseous or solid substance into water (whether directly or indirectly) as may, or is likely to, create a nuisance or render such water harmful or injurious to public health or safety, or to domestic, commercial, industrial, agricultural or other legitimate uses, or to the life and health of animals or plants or of aquatic organisms.

The Air (Prevention and Control of Pollution) Act, 1981, This provides for prevention, control and abatement of air pollution. 'Air Pollution' means the presence in the atmosphere of any 'air pollutant', which means any solid, liquid or gaseous substance (including noise) present in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creatures or plants or property or environment.

The Environment (Protection) Act, 1986, This provides for the protection and improvement of environment and for matters connected therewith, and the prevention of hazards to human beings, other living creatures, plants and property. 'Environment' includes water, air and land and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organism and property.

The Public Liability Insurance Act, 1991, This provides for public liability insurance for the purpose of providing immediate relief to the persons affected by accident occurring while handling hazardous substances and for matters connected herewith or incidental thereto. Hazardous substance means any substance or preparation which is defined as hazardous substance under the Environment (Protection) Act 1986, and exceeding such quantity as may be specified by notification by the Central Government.

[Employers should note that the Loan Agreement between IBRD and the borrowing country may establish specific measures to be taken during construction of the Works for the protection of the environment. Sub-clause 16.2 should be modified/expanded to take into account such specific measures or other measures considered appropriate by the Employer]

6. LIQUIDATED DAMAGES:

Sub-clause 49.1:

Please substitute the last sentence with the following:

“Time is the essence of the contract and payment or deduction of liquidated damages shall

not relieve the contractor from his obligation to complete the work as per agreed construction program and milestones or from any other of the contractor's obligations and liabilities under the contract.”

SECTION 4: CONTRACT DATA

51-A

Contract Data

Items marked "N/A" do not apply in this Contract.

The following documents are also part of the Contract:

Clause Reference

- The Schedule of Operating and Maintenance Manuals [58]
- The Schedule of Other Contractors [8]
- The Schedule of Key Personnel [9]
- The Methodology and Program of Construction & Environmental Management Plan [27]
- The Schedule of Key and Critical equipment to be deployed on the work as per agreed program of construction [27]
- Site Investigation reports [14]

The Borrower is Government of India/_____ [1.1]
[name of Borrower and statement of relationship with the Employer, if different from the Borrower].

The World Bank means _____ [1.1]

[insert "International Bank for Reconstruction and Development (IBRD)" or International Development Association (IDA), "as appropriate],
and loan refers to an _____
[insert "IBRD Loan" or "IDA Credit", as appropriate]

The above insertions should correspond to the information provided in the Invitation of Bids.

The Employer is

Name: _____ (1.1)

Address: _____

Name of authorized Representative: _____

The Engineer is (1.1)

Name: _____

Address: _____

Name of Authorized Representative: _____

The Adjudicator appointed jointly by the Employer and Contractor is:

*Name : _____ (1.1)

*Address : _____

(*to be filled in after the Adjudicator has been appointed)

The name and identification number of the Contract is

[insert name and number as indicated in the Invitation for Bids (or Prequalification, if any)]. [1.1]

The Works consist of-----

(1.1)

[brief summary, including relationship to other contracts under the Project].
The Start Date shall be the date of issue of notice to proceed with the work. (1.1)

The Intended Completion Date for the whole of the Works is----- with the following milestones: [17, 28]

Milestone dates:

<u>Physical works to be completed</u>	<u>Period from the date of issue of notice to proceed with the work</u>
Milestone 1 i.e. _____	_____ months.
Milestone 2 i.e. _____	_____ months.
Milestone 3 i.e. _____	_____ months.

The following documents also form part of the Contract: [2.3]

The Contractor shall submit a revised Program including Environmental Management Plan for the Works (in such form and detail as the engineer shall reasonably prescribe) within _____ days of delivery of the Letter of Acceptance. [27]

[This program should be in adequate detail and generally conform to the program submitted alongwith bid in response to ITB Clause 4.3 (k). Deviations if any from that should be clearly explained and should be satisfactory to the Engineer]

The Site Possession Dates shall be: [21]

Section 1 _____
Section 2 _____
Section 3 _____

The Site is located at _____
[1]
and is defined in drawings nos. _____

The Defects Liability Period is _____ days from the date of certification of completion of works. (where sectional completion certificate is issued this will apply from those dates for those sections). [35]

Insurance requirements are as under: [13]

		Minimum Cover for Insurance	Maximum deductible for Insurance
(i)	Works and Plant and		

	Materials		
(ii)	Loss or damage to Equipment		
(iii)	Other Property		
(iv)	Personal injury or death insurance: a) for other people;		
	b) for Contractor's Employees	In accordance with the statutory requirements applicable to India	

The following events shall also be Compensation Events: [44]

1. _____
2. _____
3. _____
4. _____

The period between Program updates shall be _____ days.
[27]

The amount to be withheld for late submission of an updated Program shall be _____
[27]

The language of the Contract documents is English [3]

The law which applies to the Contract is the laws of Union of India
[3]

The currency of the Contract is Indian Rupees. [46]

Fees and types of reimbursable expenses to be paid to the Adjudicator
[25]

Appointing Authority for the Adjudicator _____
[26]

The formula(e) for adjustment of prices are: [47]

R = Value of work as defined in Clause 47.1 of Conditions of Contract.

Adjustment for labour component

- (i) Price adjustment for increase or decrease in the cost due to labour shall be paid in accordance with the following formula:

$$V_L = 0.85 \times P_1/100 \times R \times (L_i - L_o)/L_o$$

V_L = increase or decrease in the cost of work during the quarter under consideration due to changes in rates for local labour.

L_o = the average consumer price index for industrial workers for _____ centre for the quarter preceding the date of opening of Bids as published by Labour Bureau, Ministry of Labour, Government of India.

L_i = The average consumer price index for industrial workers for _____ centre for the quarter under consideration as published by Labour Bureau, Ministry of Labour, Government of India.

P_1 = Percentage of labour component of the work.

Adjustment for cement component

- (ii) Price adjustment for increase or decrease in the cost of cement procured by the contractor shall be paid in accordance with the following formula.

$$V_c = 0.85 \times P_c/100 \times R \times (C_i - C_o)/C_o$$

V_c = Increase or decrease in the cost of work during the quarter under consideration due to changes in the rates for cement

C_o = The all India average wholesale price index for cement for the quarter preceding the date of opening of Bids as published by the Ministry of Industrial Development, Government of India, New Delhi

C_i = The all India average wholesale price index for cement for the quarter under consideration as published by Ministry of Industrial Development, Government of India, New Delhi

P_c = Percentage of cement component of the work

Adjustment for steel component

- (iii) Price adjustment for increase or decrease in the cost of steel procured by the Contractor shall be paid in accordance with the following formula:

$$V_s = 0.85 \times P_s/100 \times R \times (S_i - S_o)/S_o$$

V_s = Increase or decrease in the cost of work during the quarter under consideration due to changes in the rates for steel

S_o = The all India average wholesale price index for steel (Bars and Rods) for the quarter preceding the date of opening of Bids as published by the Ministry of Industrial Development, Government of India, New Delhi

S_i = The all India average wholesale price index for steel (Bars and Rods) for the quarter under consideration as published by Ministry of Industrial Development, New Delhi

P_s = Percentage of steel component of the work

Note: For the application of this clause, index of Bars and Rods has been chosen to represent steel group.

Adjustment of Bitumen component

- (iv) Price adjustment for increase or decrease in the cost of bitumen shall be paid in accordance with the following formula:

$$V_b = 0.85 \times P_b/100 \times R \times (B_i - B_o)/B_o$$

V_b = Increase or decrease in the cost of work during the quarter under consideration due to changes in the rate for bitumen.

B_o = The average official retail price of bitumen at the IOC depot at ——— on the day 30 days prior to date of opening of Bids.

B_i = The average official retail price of bitumen at IOC depot at ——— for the 15th day of the middle calendar month of the quarter under consideration.

P_b = Percentage of bitumen component of the work.

Adjustment of POL (fuel and lubricant) component

- (v) Price adjustment for increase or decrease in cost POL (fuel and lubricant) shall be paid in accordance with the following formula:

$$V_f = 0.85 \times P_f/100 \times R \times (F_i - F_o)/F_o$$

V_f = Increase or decrease in the cost of work during the quarter under consideration due to changes in rates for fuel and lubricants.

F_o = The average official retail price of High Speed Diesel (HSD) at the existing consumer pumps of IOC at ——— on the day thirty days prior to the date of opening of Bids.

F_i = The average official retail price of HSD at the existing consumer pumps of IOC at _____ for the 15th day of the middle calendar month of the quarter under consideration.

P_f = Percentage of fuel and lubricants component of the work.

Note: For the application of this clause, the price of High Speed Diesel oil has been chosen to represent fuel and lubricants group.

Adjustment for Plant and Machinery Spares component

- (vi) Price adjustment for increase or decrease in the cost of plant and machinery spares procured by the Contractor shall be paid in accordance with the following formula:

$$V_p = 0.85 \times P_p / 100 \times R \times (P_i - P_o) / P_o$$

V_p = Increase or decrease in the cost of work during the quarter under consideration due to changes in the rates for plant and machinery spares

P_o = The all India average wholesale price index for heavy machinery and parts for the quarter preceding the date of opening of Bids as published by the Ministry of Industrial Development, Government of India, New Delhi

P_i = The all India average wholesale price index for heavy machinery and parts for the quarter under consideration as published by Ministry of Industrial Development, New Delhi

P_p = Percentage of plant and machinery spares component of the work

Note: For the application of this clause, index of Heavy Machinery and Parts has been chosen to represent the Plant and Machinery Spares group.

Adjustment of Local materials

- (vii) Price adjustment for increase or decrease in cost of local materials other than cement, steel, bitumen and POL procured by the contractor shall be paid in accordance with the following formula:

$$V_m = 0.85 \times P_m / 100 \times R \times (M_i - M_o) / M_o$$

V_m = Increase or decrease in the cost of work during the quarter under consideration due to changes in rates for local materials other than cement, steel, bitumen and POL.

M_o = The all India average wholesale price index (all commodities) for the quarter preceding the date of opening of Bids, as published by the Ministry of Industrial Development, Government of India, New Delhi.

M_i = The all India average wholesale price index (all commodities) for the quarter under consideration as published by Ministry of Industrial Development, Government of India, New Delhi.

P_m = Percentage of local material component (other than cement, steel, bitumen and POL) of the work.

The following percentages will govern the price adjustment for the entire contract:

1. Labour - P_l	_____ %
2. Cement - P_c	_____ %
3. Steel - P_s	_____ %
4. Bitumen - P_b	_____ %
5. POL - P_f	_____ %
6. Plant & Machinery Spares - P_p	_____ %
7. Other materials - P_m	_____ %
Total	100%

The proportion of payments retained (retention money) shall be 6% from each bill subject to a maximum of 5% of final contract price
[48]

The liquidated damages for the whole of the works are

Rs. _____ (*amount*) per day and that for the milestone are as under :
[49]

For milestone 1	Rs. _____ per day
For milestone 2	Rs _____ per day
For milestone 3	Rs. _____ per day

[To be fixed at not less than 0.05% per day of contract value of each milestone]

The maximum amount of liquidated damages for the whole of the works [49] is ten percent of final contract price.

The amounts of the advance payment are:
[51]

<u>Nature</u> of <u>Amount (Rs.)</u>	<u>Conditions to be fulfilled</u>
<u>Advance</u>	
1. Mobilization 5% of the Contract price	On submission of un-conditional Bank Guarantee. (to be drawn before end of 20% of Contract period)
2. Equipment 90% for new and 50% of depreciated value for old equipment. Total amount will not be applicable for equipment already owned. (This advance is not applicable for equipment already owned price. Total amount will be subject to a maximum of 5%/10%/15%* of the Contract price.)	After equipment is brought to site as per agreed construction program (provided the Engineer is satisfied that the equipment is required for performance of the contract) and on submission of unconditional Bank Guarantee for amount of advance.

or hired/ leased
by the (* Choose one and delete
contractor.) others)

3. Secured advance for non-perishable materials brought to site 75% of Invoice value or Market value - lower of the two.

- a) The materials are in-accordance with the specification for Works;
- b) Such materials have been delivered to site, and are properly stored and protected against damage or deterioration to the satisfaction of the Engineer. The contractor shall store the bulk material in measurable stacks.;
- c) The Contractor's records of the requirements, orders, receipt and use of materials are kept in a form approved by the Engineer and such records shall be available for inspection by the Engineer;
- d) The contractor has submitted with his monthly statement the estimated value of the materials on site together with such documents as may be required by the Engineer for the purpose of valuation of the materials and providing evidence of ownership and payment thereof;
- e) Ownership of such materials shall be deemed to rest in the Employer for which the Contractor has submitted an Indemnity Bond in an acceptable format; and
- f) The quantity of materials are not excessive and shall be used within a reasonable time as determined by the Engineer.

(The advance payment will be paid to the Contractor no later than 15 days after fulfillment of the above conditions).

Repayment of advance payment for mobilization and equipment: [51]

The advance shall be repaid with percentage deductions from the interim payments certified by the Engineer under the Contract. Deductions shall commence in the next Interim Payment Certificate following that in which the

total of all such payments to the Contractor has reached not less than 15 percent of the Contract Price or ——— months from the date of payment of first installment of advance, whichever period concludes earlier, and shall be made at the rate of ___@ percent of the amounts of all Interim Payment Certificates until such time as the advance has been repaid, always provided that the advance shall be completely repaid prior to the expiry of the original time for completion.

Repayment of secured advance:

The advance shall be repaid from each succeeding monthly payments to the extent materials [for which advance was previously paid pursuant to Clause 51.4 of G.C.C. and 51(3) of Contract Data on prepage] have been incorporated into the Works.

The Securities shall be for the following minimum amounts equivalent as a percentage of _____ [52]
the Contract Price:

Performance Security for 5 per cent of contract price plus Rs. as additional security for unbalanced bids [*in terms of ITB Clause 29.5*].

The standard form of Performance Security acceptable to the Employer shall be an unconditional Bank Guarantee of the type as presented in Section 8 of the Bidding Documents.

*The date by which operating and maintenance manuals are required is within 28 days of issue _____ [58]
of certificate of completion of whole or section of the work, as the case may be.

*The date by which “as-built” drawings (in scale ...) in 2 sets are required is within 28 days of issue of certificate of completion of whole or section of the work, as the case may be. _____ [58]

The amount to be withheld for failing to supply “as built” drawings and/or operating and _____ [58]
maintenance manuals *by the date required is

The following events shall also be fundamental breach of contract: _____ [59.2]

1. The Contractor has contravened Sub-clause 7 of GCC read with SCC and Clause 9.0 of GCC
2. The contractor does not adhere to the agreed construction program (Clause 27 of GCC) and also fails to take satisfactory remedial action as per agreements reached in the management meetings (Clause 31) for a period of 60 days.
3. The contractor fails to carry out of the instructions of Engineer within a reasonable time determined by the Engineer in accordance with GCC Clause 16.1 and 23.1.

The percentage to apply to the value of the work not completed representing the Employer's [60]
additional cost for completing the Works shall be 20 percent.

-
- * *Score out whichever is inapplicable*
 - @ *Stipulate appropriately, namely 30% for 20% advance, 25% for 15% advance, 15% for 10% advance and 7.5% for 5% advance respectively*

SECTION 5: SPECIFICATIONS

SECTION 6: DRAWINGS

SECTION 7: BILL OF QUANTITIES

Bill of Quantities

Sl. No.	Description of item (with brief specification and reference to Book of specification)	Quantity	Unit	Rate		Amount
				In figures	In words	
Total Bid Price (in figures)						
(in words)						

Note:

- (1) Item for which no rate or price has been entered in will not be paid for by the Employer when executed and shall be deemed covered by the other rates and prices in the **Bill of Quantities** (refer: ITB Clause 13.2 and GCC Clause 43.3).
- (2) Unit rates and prices shall be quoted by the bidder in Indian rupee [ITB Clause 14.1].
- (3) Where there is a discrepancy between the rate in figures and words, the rates in words will govern.
[ITB Clause 27.1(a)]
- 4) Where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by quantity, the unit rate quoted shall govern [ITB Clause 27.1 (b)].

SECTION 8: FORMS OF SECURITIES

Forms of Securities

Acceptable forms of securities are annexed. Bidders should not complete the Performance and Advance Payment Security forms at this time. Only the successful Bidder will be required to provide Performance and Advance Payment Securities in accordance with one of the forms, or in a similar form acceptable to the Employer.

Annex A: Bid Security (Bank Guarantee)

Annex B: Performance Bank Guarantee

Annex B1: Performance Bank Guarantee for Unbalanced Items

Annex C: Deleted

Annex D: Bank Guarantee for Advance Payment

BID SECURITY (BANK GUARANTEE)

WHEREAS, _____ [*name of Bidder*] (hereinafter called "the Bidder") has submitted his Bid dated _____ [*date*] for the construction of _____ [*name of Contract*] (hereinafter called "the Bid").

KNOW ALL PEOPLE by these presents that We _____ [*name of bank*] of _____ [*name of country*] having our registered office at _____ (hereinafter called "the Bank") are bound unto _____ [*name of Employer*] (hereinafter called "the Employer") in the sum of _____¹ for which payment well and truly to be made to the said Employer the Bank binds itself, his successors and assigns by these presents.

SEALED with the Common Seal of the said Bank this _____ day of _____ 19_____.

THE CONDITIONS of this obligation are:

- (1) If after Bid opening the Bidder withdraws his bid during the period of Bid validity specified in the Form of Bid;
- or
- (2) If the Bidder having been notified of the acceptance of his bid by the Employer during the period of Bid validity:
 - (a) fails or refuses to execute the Form of Agreement in accordance with the Instructions to Bidders, if required; or
 - (b) fails or refuses to furnish the Performance Security, in accordance with the Instruction to Bidders; or
 - (c) does not accept the correction of the Bid Price pursuant to Clause 27;

we undertake to pay to the Employer up to the above amount upon receipt of his first written demand, without the Employer having to substantiate his demand, provided that in his demand the Employer will note that the amount claimed by him is due to him owing to the occurrence of one or any of the three conditions, specifying the occurred condition or conditions.

This Guarantee will remain in force up to and including the date _____² days after the deadline for submission of Bids as such deadline is stated in the Instructions to Bidders or as it may be extended by the Employer, notice of which extension(s) to the Bank is hereby waived. Any demand in respect of this guarantee should reach the Bank not later than the above date.

DATE _____ SIGNATURE OF THE BANK _____

WITNESS _____ SEAL _____

[signature, name, and address]

- 1 The Bidder should insert the amount of the guarantee in words and figures denominated in Indian Rupees. This figure should be the same as shown in Clause 16.1 of the Instructions to Bidders.
- 2 45 days after the end of the validity period of the Bid.

PERFORMANCE BANK GUARANTEE

To: _____ [name of Employer]
_____ [address of Employer]

WHEREAS _____ [name and address of Contractor] (hereinafter called "the Contractor") has undertaken, in pursuance of Contract No. _____ dated _____ to execute _____ [name of Contract and brief description of Works] (hereinafter called "the Contract");

AND WHEREAS it has been stipulated by you in the said Contract that the Contractor shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract;

AND WHEREAS we have agreed to give the Contractor such a Bank Guarantee;

NOW THEREFORE we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Contractor, up to a total of _____ [amount of guarantee] ¹ _____ [in words], such sum being payable in the types and proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of _____ [amount of guarantee]¹ as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the Contractor before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the Contract or of the Works to be performed thereunder or of any of the Contract documents which may be made between you and the Contractor shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

This guarantee shall be valid until (i.e.) 28 days from the date of expiry of the Defects Liability Period.

Signature and seal of the guarantor _____
Name of Bank _____
Address _____
Date _____

1 An amount shall be inserted by the Guarantor, representing the percentage of the Contract Price specified in the Contract and denominated in Indian Rupees.

PERFORMANCE BANK GUARANTEE (for unbalanced items)

To: _____ [name of Employer]
_____ [address of Employer]

WHEREAS _____ [name and address of Contractor] (hereinafter called "the Contractor") has undertaken, in pursuance of Contract No. _____ dated _____ to execute _____ [name of Contract and brief description of Works] (hereinafter called "the Contract");

AND WHEREAS it has been stipulated by you in the said Contract that the Contractor shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract;

AND WHEREAS we have agreed to give the Contractor such a Bank Guarantee;

NOW THEREFORE we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Contractor, up to a total of _____ [amount of guarantee] / _____ [in words], such sum being payable in the types and proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of _____ [amount of guarantee]¹ as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the Contractor before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the Contract or of the Works to be performed thereunder or of any of the Contract documents which may be made between you and the Contractor shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

This guarantee shall be valid until (i.e.) 28 days from the date of issue of the certificate of completion of works.

Signature and seal of the guarantor _____
Name of Bank _____
Address _____
Date _____

1 An amount shall be inserted by the Guarantor, representing additional security for unbalanced Bids, if any and denominated in Indian Rupees.

BANK GUARANTEE FOR ADVANCE PAYMENT

To: _____ *[name of Employer]*
_____ *[address of Employer]*
_____ *[name of Contract]*

Gentlemen:

In accordance with the provisions of the Conditions of Contract, subclause 51.1 ("Advance Payment") of the above-mentioned Contract, _____ *[name and address of Contractor]* (hereinafter called "the Contractor") shall deposit with _____ *[name of Employer]* a bank guarantee to guarantee his proper and faithful performance under the said Clause of the Contract in an amount of _____ *[amount of guarantee]*¹ _____ *[in words]*.

We, the _____ *[bank or financial institution]*, as instructed by the Contractor, agree unconditionally and irrevocably to guarantee as primary obligator and not as Surety merely, the payment to _____ *[name of Employer]* on his first demand without whatsoever right of objection on our part and without his first claim to the Contractor, in the amount not exceeding _____ *[amount of guarantee]*¹ _____ *[in words]*.

We further agree that no change or addition to or other modification of the terms of the Contract or of Works to be performed thereunder or of any of the Contract documents which may be made between _____ *[name of Employer]* and the Contractor, shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

This guarantee shall remain valid and in full effect from the date of the advance payment under the Contract until _____ *[name of Employer]* receives full repayment of the same amount from the Contractor.

Yours truly,

Signature and seal: _____

Name of Bank/Financial Institution: _____

Address: _____

Date: _____

1 An amount shall be inserted by the bank representing the amount of the Advance Payment, and denominated in Indian Rupees.

NCB – Civil Works – Document W-2 [Amendments for Joint Ventures]

In NCB contracts where it is proposed to permit JV [in the case of high value or specialized/complex works], the following corrections are to be incorporated in W-2

1. Instructions to Bidders

A. *Insert Clause 4.4 as under :*

4.4 Bids submitted by a joint venture of two or more firms as partners shall comply with the following requirements :

- [a] the bid shall include all the information listed in Sub-clause 4.3 above;
- [b] the bid and, in case of a successful bid, the Agreement, shall be signed so as to be legally binding on all partners;
- [c] one of the partners shall be nominated as being in charge, and this authorization shall be evidenced by submitting a power of attorney signed by legally authorized signatories of all the partners;
- [d] the partner in charge shall be authorized to incur liabilities and receive instructions for and on behalf of any and all partners of the joint venture and the entire execution of the contract, including payment, shall be done exclusively with the partner in charge;
- [e] all partners of the joint venture shall be liable jointly and severally for the execution of the contract in accordance with the contract terms, and a statement to this effect shall be included in the authorization mentioned under [c] above, as well as in the bid and in the Agreement [in case of a successful bid];
- [f] The joint venture agreement should indicate precisely the role of all members of JV in respect of planning, design, construction equipment, key personnel, work execution, and financing of the project. All members of JV should have active participation in execution during the currency of the contract. This should not be varied/modified subsequently without prior approval of the employer;
- [g] The joint venture agreement should be registered in* so as to be legally valid and binding on partners; and
- [h] a copy of the Joint Venture Agreement entered into by the partners shall be submitted with the bid. Alternatively, a Letter of Intent to execute a joint Venture Agreement in the event of a successful bid shall be signed by all partners and submitted with the bid, together with a copy of the proposed Agreement.

[Fill in the name of the city where contract agreement is to be signed]*

B. *Substitute Clause 4.6 as under :*

4.6 The figures for each of the partners of a joint venture shall be added together to determine the Bidder's compliance with the minimum qualifying criteria of Sub-clause 4.5. However, for a joint venture to qualify, each of its partners must meet at least 50 percent of the minimum criteria set in Sub-clause 4.5 above and all the partners collectively must meet the criteria specified in Sub-clause 4.5 above in full. Failure to comply with this requirement will result in rejection of the joint venture's bid.

Sub-contractor's experience and resources will not be taken into account in determining the Bidder's compliance with the qualifying criteria, except to the extent stated in Clause 4.5 [A] above.

C. In Sub-clause 5.1, insert words 'either individually or as a partner in a Joint Venture', at the end of the first sentence in Line 1.

D. In sub-clause 16.3, add the following at the end :

'The bid security of a joint venture must define as 'bidder' all joint venture partners and list them in the following manner : a joint venture consisting of '.....', '.....', and '.....'.

E. In sub-clause 34.2, add the following at the end :

'The performance security of a Joint Venture shall be in the name of the joint venture.'

2. Qualification Information

Insert Clause 2 as under :

'2. Joint Ventures

2.1 The information listed in 1.1-1.12 above shall be provided for each partner of the joint venture.

2.2 The information in 1.13 above shall be provided for the joint venture.

2.3 Attach the power of attorney of the signatory[ies] of the bid authorizing signature of the bid on behalf of the joint venture..

2.4 Attach the agreement among all partners of the joint venture [and which is legally binding on all partners], which shows the requirements as indicated in sub-clause 4.4 of the Instructions to Bidders'. Alternatively, a Letter of Intent to execute a Joint Venture Agreement in the event of a successful bid shall be signed by all partners and submitted with the bid, together with a copy of the proposed Agreement

2.5 Furnish details of participation proposed in the joint venture as below:

DETAILS OF PARTICIPATION IN THE JOINT VENTURE

<i>PARTICIPATION DETAILS</i>	<i>FIRM 'A' (Lead Partner)</i>	<i>FIRM 'B'</i>	<i>FIRM 'C'</i>
Financial			
Name of the Banker(s)			
Planning			
Construction Equipment			
Key Personnel			
Execution of Work (Give details on contribution of each)			

3. General Conditions of Contract

- In sub-clause 51.1, add the following at the end :
‘The bank guarantee of a joint venture shall be in the name of the joint venture’.
- In sub-clause 52.1, add the following at the end :
‘The performance security of a joint venture shall be in the name of the joint venture’.
- In sub-clause 59.2 add the following after sub-clause (h)
 - (i) “The contractor (in case of joint venture) has modified the composition of the joint venture and/or the responsibility of each member of the joint venture from what is stated in joint venture agreement without prior approval of the Employer”.

4. Agreement Form

In para (4) insert (x) as additional item

(x) Joint Venture Agreement.