

**GOVERNMENT OF ASSAM**  
**WB-PMU, FINANCE (Estt.-B) DEPARTMENT**

Dated Dispur the 15<sup>th</sup> Setember, 2016

**NOTIFICATION**

**NO.FEB(WB-PMU).25/2016/10:** In pursuance to the Para 14.16 of the Budget Speech 2016-17 of Hon'ble Finance Minister, and in continuation to the Office Order No. FEB(eGU). 03/2015/61 dtd 05/08/2015 Finance Department in consultation with World Bank Team desires to constitute a Task Force for drafting a Public Procurement Policy and Public Procurement Act as well as to develop Procurement Rules and Standard Bidding Documents (SBD) in order to make Public Procurement more transparent and to execute schemes with high standards of quality and well in time.

2. To work on the aforesaid activities, Members/Representative from the following Departments have been identified to be included in the Task force and the members as confirmed by the department would be as follows:

Chairperson :	Shri Simanta Thakuria, IAS, Commissioner & Secretary to the Govt. of Assam, Finance (Estt-B) Deptt
Vice Chairperson :	Dr. Mukulesh Barua, Director, Assam Institute of Management
Member Conveynor:	Smt. Mreeshi Agarwala, Asst Professor, AIM
Member :	Shri Mustaqur. Rahman, Executive Engineer(M), PW(R)D and OSD to ARIAS Society
Member :	Shri Dilip Goswami, Under Secretary, PWD(Building & NH Division)
Member :	Shri Prakash Ranjan Gharphalia. Jt. Secretary, Agriculture Dept
Member :	Shri Fakharuddin Ahmed, Jt Secretary, IT Department
Member :	Shri J.M. Aditya, Auditor, SSA, Education Department
Member :	Shri Alokesh Baruah, State Programmer, RMSA Education Dept
Member :	Shri Tarun Ch Saharia, Adviser Production, Public Enterprise Department
Member :	Representative from Planning & Development Department
Member :	Representative from Health & Family Welfare Department
Member :	Representative from Home & Political Department
Member :	Representative from Irigation Department
Member :	Representative from NIC, Assam State Unit
Special Invitee :	Shri Girish Bhatnagar, World Bank Consultant

3. The Scope of Public Procurement Act & Terms of Reference of the Task Force is annexed at Annexure I & Annexure II respectively. The Task Force is expected to submit its final report to the Finance Department, Govt of Assam preferably before the end of November,2016.

Sd/-

(Dr. Ravi Kota, IAS)

Commissioner & Secretary to the Govt of Assam,  
Finance Department

Dated Dispur the 15<sup>th</sup> September, 2016

Memo No. FEB (WB-PMU).25/2016/10-A

Copy to:

1. The Addl. Chief Secretary/Principal Secretary /Commissioner & Secretary / Commissioner & Special Secretary / Secretary, PWD(Roads) / PWD(Building & NH) / Irigation / Agriculture / Education / Health & Family Welfare Department/Home & Political Department/Information Technology / Public Enterprise Department/Planning & Development Department. The nominated officers may be directed to attend the 1<sup>st</sup> meeting of the Task Force on 15/09/2016 at 1:30 PM in Conference Hall, Finance Department, F-Block, Assam Secreteriat. The Procurement policy and Act of Rajasthan and the draft Procurement Policy of Assam prepared by AIM is being circulated through CD for detailed study of the nominated officials.
2. Shri Mohan Gopalakrishnan/ Girish Bhatnagar, World Bank Consultant.
3. Director, Assam Institute of Management, Bigyan Path, Paschim Boragaon, Near IASST, Guwahati-781035 : Assam for nominating member for the Task Force
4. The State Informatics Officer, NIC, Assam State Unit, Old Gana Sewa Bhawan, Dispur for nominating member for the Task Force
5. PS to the Addl. Chief Secretary to the Government of Assam, Finance Department for kind information of Addl. Chief Secretary.
6. PS to the Commissioner & Secretary (RK/IH/ST) to the Government of Assam, Finance Department for kind information of Commissioner & Secretary.
7. PS to the Project Director, AS-CFMS for kind information of PD, AS-CFMS.
8. Person concerned.
9. Office Copy.

By Orders etc.

*Aty Choudhury*  
15/9/16  
Addl. Project Director,  
AS-CFMS

**Annexure 1:**  
**Scope of the "Public Procurement Act"**

**Scope:** The scope of the "Public Procurement Act" should cover:

- the objectives and principles of public procurement to serve as an effective guide for procurement decisions to be taken by different Departments, while allowing adequate flexibility to them to cater to their specific needs.
- Provide an enabling envelope of procedures of procurement, and methods of procurement and their conditions of use in order to ensure that the procuring authorities remain within such an envelope while detailing procedures and methods of procurement.
- Applicability and exclusions under certain defined circumstances to various entities (Government departments, public sector enterprises, urban local bodies, statutory bodies and autonomous bodies) and also to various categories of procurement (security, emergencies, and smaller procurements below prescribed thresholds etc).
- Effective grievance redressal system to address unlawful actions prior to signing of the procurement contract and to a limited extent after signing of contract. The grievance system should have safeguards to prevent procurement turning into a playground of lawyers and malicious petitioners.
- The Act should provide for envelopes within which following must be ensured:
  - ✓ transparency in need assessment, description and specification of requirements
  - ✓ adequate competition in public procurement by broad-basing the bidders;
  - ✓ adequate and effective publicity; disclosures and public opening of bids;
  - ✓ promotion of e-procurement;
  - ✓ criteria for determining the qualification / eligibility of bidders;
  - ✓ the evaluation of bids;
  - ✓ restricting cartelisation and anti-competitive behaviour;
- The Act should provide for setting up of avenues to ensure that the penal provisions of Act are enforced expeditiously for
  - ✓ violation of the Act by the procurement authority/ staff;
  - ✓ bidders' acts such as misrepresentation of facts with a view to obtaining award of contract or receiving undue benefit from the government, lodging of false claims;
  - ✓ Undue interference in the bidding process, securing undue gains, wasting a bid process, non-compliance with the directions of the Tribunal etc.
- The Act should provide only a minimal judicial review of administrative function of procurement without encumbering legal system with the details of procurement decisions.

## Annexure II

### TERMS OF REFERENCE FOR TASK FORCE TO DRAFT PROCUREMENT POLICY, LAW AND RULES FOR GOVT. OF ASSAM

**Background:** The Government of Assam (GoA) has been engaged for quite some time, in Public Finance Management (PFM) reforms with the objective to stabilize and consolidate state finances and thereby to enhance growth and reduce poverty, and to improve fiscal governance through legal, regulatory, and institutional reforms. GoA also recognizes the need for Procurement Reforms, to both strengthen the legal framework and capacity in procurement in order to meet its ambitious public investment plans.

Accordingly GoA intends to develop & adopt a Public Procurement Policy<sup>1</sup> and Public Procurement Act, supported by appropriate and comprehensive procurement rules and bidding documents and has constituted a Task Force for the same. Enactment of Public Procurement Act and adoption of a Public Procurement Policy Statement would jointly serve as a starting point and sound foundation as well as an overarching reference point for further envisaged comprehensive Public Procurement reforms e.g. establishment of a nodal Public Procurement Policy & Technical Unit within the Department of Finance; development of Procurement Rules, Manuals and Standard Bidding Documents; building up of Professional and Institutional Capacity in Public Procurement and gradual scale up of a complete e-Procurement system from the current e-tendering system.

**Need for the Public Procurement Act:** currently procurement in Assam is governed by the Financial Rules, which have not evolved over time to cater to new models and approaches to procurement. Assam Institute of Management (AIM) which has been carrying out the function of procurement observatory over the last 2 years and has engaged with 8 large departments in Assam, has developed a draft procurement policy based on its experience and review of procurement law of the States of Rajasthan, Karnataka and Tamil Nadu.

**Terms of reference for the Task Force:** The task force constituted by GoA, Finance Dept will (i) frame a draft "Public Procurement Act of Assam" and "Public Procurement Policy Statement of the Government of Assam" and recommend the same to for adoption by the Govt and (ii) frame draft procurement rules and procedures of Assam, in conformity with the draft law. The task force shall:

- Carry out in-depth research and study of UNCITRAL's Model Public Procurement Law and its Guidelines for implementation
- Carry out in-depth research and study of Public Procurement Policy Framework of those States/Countries who have explicitly adopted Public Procurement Law and/ or Public Procurement Policy Statement and their relevance in context of Assam. Specific reference may be made to the

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<sup>1</sup>The "Public Procurement Policy Statement" is an overarching reference point for all policies in Public Procurement. It outlines the vision of the Government as to the direction in which the Government intends to move in medium and long term with regard to Public Procurement. The "Statement" also highlights the obligations and code of integrity expected by the Government from its own officers and also from vendors. United Nations Commission for International Trade Law (UNCITRAL) in its work on Model Public Procurement Law and Guidelines for implementation of the Model law has recommended adoption of Public Procurement Policy Statement. In India also it was advocated by the Committee on Public Procurement (Dhall Committee) in its report.

Rajasthan, which was the latest state to enact a procurement Act and the draft Public Procurement Bill of Govt. of India.

- Review the procurement rules in Govt of Assam with by benchmarking the same with rules developed by other states.
- Hold consultations with identified Stakeholders for understanding the ground position and seeking suggestions.
- Preparation of a Draft Public Procurement Act (see annex 1 for board scope of PPA) and Draft Public Procurement Policy Statement and circulating it to identified Stakeholders, including Dept of Law regarding the Public Procurement Act.
- Holding a joint consultative meeting with identified stakeholders for advocacy and feedback about the Drafts.
- Submit final (i) Public Procurement Bill and Public Procurement Policy Statement incorporating final remarks of GoA and (ii) submit draft procurement rules to GoA.

**Length and Time Frame:**the task force is expected to submit its final report to the GoA by Nov 30 2016.