



Government of Assam

**ASSAM SOCIETY FOR COMPREHENSIVE FINANCIAL MANAGEMENT
SYSTEM (AS-CFMS)**

F – BLOCK, JANATA BHAWAN, DISPUR, GUWAHATI – 781006

No.ECF/354952

Dated: January, 2024

ADVISORY

The procuring entities, partially or fully funded by the Government of Assam, have been procuring works, services and goods following various procurement methods. It has been observed that several common mistakes are made by procuring entities during the procurement process of different departments, including newspaper advertisements and standard bidding documents, as well as considering other relevant aspects.

In this regard, the Finance Department, Government of Assam has prepared a compilation of frequently made mistakes in procurement process attached at Annexure A.

All HoDs are requested to circulate this to all the subordinate offices, autonomous bodies, local bodies, corporations and PSUs etc. under their administrative control for information.

Enclosure: Annexure A

Signed by

Laya Madduri

Date: 02-02-2024 18:49:43

Secretary, Finance Department
& Addl. Project Director, AS-CFMS

No.ECF/354952

Dated: January, 2024

Copy forwarded to:

1. All Administrative Departments/ Heads of Department, Assam
2. All Addl. Chief Secretaries/ Principal Secretaries/ Commissioner & Secretaries/ Secretaries to the Govt. of Assam, Dispur
3. The Commissioner & Secretary to the Governor of Assam, Kharghuli, Guwahati
4. The Chief Electoral Officer, Assam, Dispur for information
5. All Commissioners of Divisions, Assam
6. The General Administration Department, Dispur, Guwahati-6 with a request to circulate the O.M to the Resident Commissioner, Assam Bhawan, New Delhi, all the Deputy Commissioners/ Sub Divisional Officers (Civil), Assam and OSD/Liaison Officer, Assam House, Shillong/ Assam House, Mumbai

I/428679/2024

7. The Finance (Estt.-B) Department with a request to circulate the same to all the Sr. Financial Advisers/ Financial Advisers/ Finance & Accounts Officers/ Treasury Officers, Assam
8. The Trade Adviser to the Govt. of Assam, Assam House, 8 Russel Street, Kolkata
9. The Judicial Department with a request to circulate the O.M to all District & Session Judges in Assam
10. The PPS to the Hon ble Chief Minister, Assam, Dispur
11. The PSs to all Hon'ble Ministers, Assam, Dispur
12. The PS to Chief Secretary, Assam, Dispur
13. The Principal Secretary, Karbi Anglong Autonomous Council, Diphu/ N.C. Hills Autonomous Council, Haflong
14. The Principal Secretary, Bodoland Territorial Region, Kokrajhar/ Rabha Hasong Autonomous Council, Dudhnoi, Goalpara/ Lalung (Tiwa) Autonomous Council, Morigaon/ Missing Autonomous Council, Gogamakh, Dhemaji
15. SPPP Manager for uploading

Secretary, Finance Department
& Addl. Project Director, AS-CFMS



सत्यमेव जयते
Government of Assam
FINANCE DEPARTMENT

Frequently Made Mistakes in Procurement Process

FINANCE DEPARTMENT
Government of Assam

Frequently Made Mistakes in Procurement Process

1. Method of Selection:

- 1.1. **Procurement through GeM portal:** It is often observed that although goods and services are available in the GeM (Government e-Marketplace) portal, procuring entities are preferring other method of procurement in violation of the Government **Notification No.FEB.224/2021/5, dated 28th January, 2022**. All the procuring entities are mandated to procure through GeM portal as first preference for all the goods and service available therein. Non-adherence to this notification by the procuring entities may lead to over spending by not taking advantage of the price competitiveness of the GeM portal.
- 1.2. **Use of QCBS method:** There are instances where procuring entities use Quality and Cost Based Selection (QCBS) method of evaluation even for Goods, Works, and Non-Consultancy Services. Whereas the Quality and Cost Based Selection (QCBS) method of evaluation is prescribed only for consultancy services as per **Rule 25(7)(a) of Assam Public Procurement Rules 2020**. The procuring entities should restrict QCBS methos of procurement only in case of consulting services.
- 1.3. **Threshold limit for Spot Purchase and Request for Quotation Method:** There are instances where the procuring entities have been procuring using Request for Quotation or Spot Purchase method even where the total value of procurement in a single occasion is more than the threshold limit of Rs 1,00,000/- (one lakh only) as prescribed under **Rule 24(F)(i) and Rule 24(G)(i) of the Assam Public Procurement Rules, 2020**. As per the Rule a procuring entity may adopt Request for Quotation and/or Spot Purchase method of procurement, if the estimated cost or the value of the subject matter of procurement is less than Rupees One lakh on one occasion, but it shall not exceed Rupees Five Lakh in a financial year.

2. Bidding Document:

- 2.1. **Pre-bid Meeting:** It is often noticed that procuring entities don't keep provision for pre-bid meeting in the bidding document. The procuring entity should appreciate the fact that pre-bid meetings play a crucial role in bringing clarity, on the content of the bidding document with respect to the subject matter of procurement and other tender terms and conditions by providing an opportunity of being heard to the prospective bidders. Pre-bid meeting is also helpful to the procuring entity to rectify any errors or omissions in the bidding document

failing which there could be risk of cancellation of tender. A well organised pre-bid meeting ensures uniformity in understanding by the intending bidders and thereby provides an environment for a fair and transparent competition.

- 2.2. Right to Appeal:** Bidders and the prospective bidders are allowed to file an appeal with the designated authority against any action, decision or omission of the procuring entity which is not in conformity with the provisions outlined in the Assam Public Procurement Act and Rule. The procuring entity should clearly mention in the bidding document the name and address of the designated appellate authority with whom the appeal can be filed by the aggrieved party by virtue of **Sec. 38(1) of the Assam Public Procurement Act, 2017**. However, it is noticed that procuring entities often fail to mention about this in the bidding document.
- 2.3. Timeline of Bid Submission:** Bidders should be allowed reasonable amount of time to prepare and submit their bid to ensure a fair and equitable competition. A shorter timeline may prevent serious bidders from participating in the bidding process for obvious reasons. In view of the above facts and by virtue of **Rule 10 of Assam Public Procurement Rules, 2020**, Department of Finance vide its notification dated 27th January 2022 has prescribed minimum timeline to be allowed for submission of Bid by the bidder. However, it is often noticed that a shorter timeline is often allowed for bid submission in contravention to this notification.
- 2.4. Bid Security Amount:** The procuring entity should fix the Bid Security amount between two to five percentage (2%-5%) of the estimated value of the procurement based on the nature of the subject matter of procurement as per **Rule 29(1)(i) of Assam Public Procurement Rules, 2020**. Therefore, the procuring entity should clearly mention the amount and mode of submission of the Bid Security in the bidding document. In view of above facts, bid security amount should be equal for all the bidders unless there is any specific exemption for a bidder. However, in certain cases it is noticed that bidders are submitting bid security at the specified percentage of their quoted value thereby indirectly disclosing their financial bid in contrary to standard procurement practice.
- 2.5. Standard Bidding Document:** Standard Bidding Documents have been notified by the Finance Department from time to time on different subject matter of procurement by virtue of **Sec. 20 (4) of Assam Public Procurement Act, 2027**

and Rule 21(5) of Assam Public Procurement Rule 2020 with an objective to bring standardization in procurement policies and practices. However, it is observed that in certain cases the procuring entities are using their own bidding documents different from the notified SBDs. The procuring entities are bound to face multiple problems due to the use of non-standard bidding documents with respect to evaluation, quality assurance, contracting and others.

2.6. Rate Contract: The procuring entity is required to mention the approximate quantity of procurement over the period of rate contract for consideration of the bidder while submitting their bid/proposal. Secondly, as per **Rule 24(I)(1)(iii) (a) of Assam Public Procurement Rules, 2020**, the Bidding Documents, including the Notice Inviting Bids, should specify the approximate quantities of the requirement on the basis of annual off take along with the specifications thereof wherein it shall also be specifically mentioned that no minimum quantity of the procurement is guaranteed. However, it is observed that in certain cases approximate quantity of procurement is not mentioned in the bidding document floated by procuring entity for rate contract.

2.7. EMD Exemption: In some cases, procuring entities are allowing exemption of EMD in the bidding document to Micro, Small, and Medium Enterprises (MSMEs). However, since there is no enabling provision for the same in the Procurement Preference Policy, 2021, granting of such exemptions to Micro, Small, and Medium Enterprise (MSMEs) is prohibitive in nature.

3. Publication:

3.1 Publication of Offline Tender: It is mandatory to publish offline tenders on the State Public Procurement Portal (SPPP) and department website, as per **Section 17(3) of Assam Public Procurement Act, 2017 and Rule 17 of Assam Public Procurement Rules, 2020**. However, the majority of the departments are not complying with this legal requirement.

3.2. Standard Templet for Newspaper Advertisement: The procuring entities are required to adopt standard format for publishing tenders to ensure clarity, consistency, and effective communication to all stakeholders involved in the procurement process. However, it is observed that procuring entities are not using standard format for paper advertisement thereby resulting in inaccurate information dissemination, overspending due to redundancy and lack of uniformity.

3.3. Issue of Notice Inviting Bid: Date of issue of tender is the date when the newspaper advertisement is released. So, in case of delay in publication of the newspaper advertisement the key dates in the bidding documents should be modified accordingly. Procuring entities should ensure timely release of newspaper advertisement to avoid the tendering process being declared as null and void.

3.4. Newspaper Advertisement: It is not mandatory for newspaper advertisement in case of procurement tender of estimated value of INR 10.00 lakhs and below as per Schedule-II of Finance Department Notification, dated 27th January 2022. However, it is noted that in certain cases procuring entities are spending on newspaper advertisement even for procurement of very small value.

4. Bidding:

4.1. Mode of Bidding: In some cases, it is observed that the procuring entities are using offline mode even when the estimated amount for a procurement exceeds threshold set for offline procurement. Whereas the latest circular issued by the Finance Department stipulates that for any procurement valued more than Rs. 20 lakhs, e-procurement mode is mandatory.

4.2. Response to Queries: All queries received within the stipulated timeline in written format or during pre-bid meetings should be responded formally by the procuring entities. Sometimes procuring entities does not respond to certain queries if the queries are not relevant. However, even for such queries, a response should be given by acknowledging the query. It is also observed that responses to queries are sometimes given as minutes of the pre-bid meeting. This can pose difficulties for bidders. The suggested format for responding to queries is as follows:

RESPONSE TO QUERY					
No:			Dated		
Tender Reference No.:					
Tender Title:.....					
Pre-Bid Meeting date, time and venue:					
SN	Bidding Document Page No	Section No / Clause No	Description of the Clause	Clarification Sought	Response
1					
2					
Signature:					
Name of TIA:					

- 4.3. Corrigendum:** In case a response to the queries results in a change, modification, or addition in the original bidding documents then a corrigendum needs to be issued separately. However, it is observed that in some cases while responding to the queries/clarifications, procuring entities make amendment (major/minor) to the bidding document without issuing a separate corrigendum. The procuring entity should ensure that in case of any change or amendment to the bidding document a corrigendum be issued separately along with the response to queries. A draft format is given below:

CORRIGENDUM				
No :			Dated	
Tender Reference No. :				
Tender Title :				
SN	Section / Chapter	Page No.	Content in the Bidding Document	Modification as per Corrigendum
1				
2				
Signature:				
Name of TIA:				

5. Evaluation:

5.1. Eligibility Criteria: It is observed that while evaluating the technical proposal the evaluation committee ignores certain eligibility criteria if they find it unreasonable or restrictive in nature during the time of evaluation. Sometimes the bid evaluation committee deliberately ignores certain conditions or eligibility criteria with an objective to make the tender a success by qualifying some bidders with a revised criteria. This is a violation of **Rule 16(i) Assam Public Procurement Rules, 2020**, which states that procuring entities should not change or relax criteria or terms, once fixed for evaluation of technical bids in the bidding documents under any circumstances. Bids should be evaluated only against the criteria specified in the bidding documents. No new criterion should be added, or any such specified criterion ignored.

6. Contract:

6.1. Publication of Result: To ensure transparency in the procurement process it is important to publish the result in the prescribed manner for information of all stakeholders including participating bidders. In the case of e-procurement, the declaration of results is done using the Award of Contract module in the e-procurement portal. In the case of offline tenders, the declaration of results is to be done on the State Public Procurement Portal and departmental website. Both of these actions are to be done within three days of decision / issue of sanction / letter of acceptance.

6.2. EMD Forfeiture: Procuring Entity sometimes award the contract to L2 bidder when L1 bidder fails to execute the contract or withdraws its bid after its opening, without forfeiting the Earnest Money Deposit (EMD) of L1 bidder. This is a clear violation of **Rule 29(2) of the Assam Public Procurement Rules, 2020**, which states that the EMD deposited by a bidder shall be forfeited; (a) when the bidder withdraws or modifies its bid after opening of bids; (b) when the bidder, after being selected for award of contract, does not deposit the required performance security within the specified period; and (c) if the bidder breaches any provision of code of integrity prescribed for bidders specified in the Act and these rules.

6.3. Bid Validity Period: Procuring Entity should ensure that the entire procurement process is complete, and the Letter of Award is issued to the successful bidder within the bid validity period. The Procuring entity should in advance seek for an extension of the bid validity period from the bidders in writing in case of any anticipated delay in the placing the contract. Along with letter of extension

for bid validity, a matching extension for the validity of bid security should also be sought. It is often noticed that the procuring entities are ignoring these requirements.

- 6.4. Validity of Performance Security:** The Procuring Entity should ensure that the performance security given in the form of BG remain valid upto atleast 60 days beyond contract period, uninterrupted. There are instances where original contract period has been extended but not the validity of the performance security period. This deprives the procuring entity from forfeiting the performance security in case of any default committed by the contractor once the validity is expired.

7. Re-tendering:

- 7.1. Elimination of Restrictive Terms and Conditions:** According to **Rule 23 (20) of the Assam Public Procurement Rules, 2020**, if there is a lack of competition in a procurement process, the procuring entity responsible can proceed with a single tender if the procurement had met certain requirements of encouraging competition. These requirements include using standard bidding terms, industry-friendly specifications, wide publicity, and providing sufficient time for bids. However, it has been observed that in case of lack of competition, without identifying the reason for such low participation, the procuring entities are reissuing the original bidding document without any modification. The main reasons for the lack of competition could be many, including restrictive tender terms and conditions, incorrect product knowledge, insufficient market information, etc. The procuring entities are required to make necessary corrections, modifications in the bidding document to remove the bottleneck before going for re-tendering to encourage participation.

8. Miscellaneous:

- 8.1. Debarment of Bidders:** According to **Section 46(4) of Assam Public Procurement Act, 2017** and **Rule 20(5) of the Assam Public Procurement Rules, 2020**, debarment should be carried out for a specific period not exceeding three years. However, in contrary it is observed that in certain cases the procuring entity has been proposing for permanent debarment of defaulting bidders from participating in all future procurement process.



FINANCE DEPARTMENT
Government of Assam