

The Ravi Urban Development Authority

Procurement Regulations, 2020

Notification: chm/Ruda/17/1/2020-59, in exercise of the powers conferred under Section 55 read with Section 33(5) of The Ravi Urban Development Authority Act, 2020, The Ravi Urban Development Authority is pleased to notify the following regulations:

1. **Short title and commencement.** - (1) These Regulations may be cited as **The Ravi Urban Development Authority Procurement Regulations, 2020.**

(2) They shall come into force at once.

CHAPTER-I

GENERAL PROVISIONS

2. **Definitions.** - (1) In these Regulations:

- a) **"Act"** means The Ravi Urban Development Authority Act, 2020 (Act No. XVII of 2020);
- b) **"advertisement"** means an advertisement published by the Authority in the manner prescribed under Regulation 12;
- c) **"applicant"** means a person who seeks to be enlisted or to be prequalified or to be shortlisted in response to an advertisement;
- d) **"associate"** means any person with whom the consultant associates in order to provide any part of the services;
- e) **"Authority"** means the Authority as defined in Section 2(c) of the Act;
- f) **"bid"** means a tender or an offer, in response to an invitation by the Authority, by a person expressing its willingness to undertake a specified task at a price;
- g) **"bidding document"** means a document or a set of documents prescribing the quantity, quality, characteristics, conditions and procedures of the transactions prior to the actual procurement and on the basis of which bidders prepare their bids;
- h) **"bid security"** means the bank guarantee or other form of security submitted by a bidder together with a bid to secure the obligations of the bidder participating in a bidding process;
- i) **"competitive bidding"** means a procedure leading to the award of a procurement contract whereby all invited persons may bid for the contract;
- j) **"competent authority"** means the Chairman of the Authority or any other officer of the Authority authorized to act as such pursuant to the Act ;
- k) **"consultant"** means a person who is qualified by appropriate education and relevant experience for provision of consultancy services;
- l) **"consultancy services"** means services requiring adequate technical expertise and financial capability in undertaking specific assignment or project and may be of an intellectual nature and differ from the other types of services directly connected with the

- procurement of goods and works in which the physical component of the activity is the main function and often involves equipment intensive assignments and may include inter alia:
- i. Advisory and review services;
 - ii. Pre-investment or feasibility studies;
 - iii. Construction supervision;
 - iv. Management and related services;
 - v. Financial services;
 - vi. Legal services;
 - vii. Other technical services or special studies;
 - viii. Design; and
 - ix. Surveys and investigations;
- m) **"contract"** means the agreement entered into between the Authority and the successful bidder;
- n) **"contractor"** means a person who undertakes to supply goods, services or works and includes a consultant;
- o) **"corrupt and fraudulent practice(s)"** includes the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official or the supplier or contractor in the procurement process or in contract execution to the detriment of the Authority; or misrepresentation of facts in order to influence a procurement process or the execution of a contract. collusive practices among bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the Authority of the benefits of free and open competition and any request for, or solicitation of anything of value by any public official in the course of the exercise of his duty;
- p) **"emergency"** means natural calamity, disaster, accident, war and operational emergency which may give rise to abnormal situation requiring prompt and immediate action to limit or avoid damage to person, property or the environment;
- q) **"evaluation committee"** means a committee constituted by the Authority to evaluate tender or proposal to ascertain whether the bid's proposal or tender correspond to the evaluation criteria formulated by the Authority;
- r) **"evaluation report"** means the report prepared after the evaluation of tenders, quotations, expression of interest, or proposal;
- s) **"framework procurement contract"** means a procurement contract whereby the procurement is made for a certain volume or quantity of a particular good, a set of goods, services or works over a specific period against an agreed sum or rate per item or lump sum.
- t) **"Federal Government"** means the Government of the Islamic Republic of Pakistan;
- u) **"Government"** means the Federal Government, a Provincial Government or a Local Government;

- v) **"large consultancy"** means a consultancy where the cost of consultancy exceeds two million rupees for individual consultant and five million rupees for consulting firms;
- w) **"lowest evaluated bid"** means:
 - i. a bid most closely conforming to evaluation criteria and other conditions specified in the bidding document; and
 - ii. having lowest evaluated cost;
- x) **"performance guarantee"** means the bank guarantee or other form of security submitted by the contractor to secure obligations under the contract in accordance with the requirements in the bidding document;
- y) **"person "** means a company, entity, firm, association of persons, body of individuals, or a sole proprietor;
- z) **"pre-qualification "** means a procedure for demonstrating qualification as a pre-condition for being invited to tender;
- aa) **"proposal"** means the technical proposal or the financial proposal submitted by a bidder;
- bb) **"repeat orders"** means procurement of the same commodity from the same source;
- cc) **"Regulations"** mean The Ravi Urban Development Authority Procurement Regulations, 2020;
- dd) **"responsive"** means qualified for consideration on the basis of declared evaluation criteria and specified in the bid document or in the request for proposal;
- ee) **"short consultancy"** means consultancy where the cost of consultancy does not exceed two million rupees for individual consultant and five million rupees for consulting firms and duration of the short consultancies shall not exceed six (6) months for an individual consultant and one (1) year for consulting firms;
- ff) **"supplier"** means a person who undertakes to supply goods, services or works;
- gg) **"urgency "** means a limited timeline for the accomplishment of procurement which cannot be met through open and limited bidding method; and
- hh) **"value for money"** means the best returns for each rupee spent in terms of quality, timeliness, reliability, after sales service, up-grade ability, price, source, and the combination of whole-life cost and quality to meet the Authority's requirements.

(2) Any expression used but not defined in these Regulations shall have the same meaning as is assigned to it in the Act.

3. **Scope and applicability.** - Save as otherwise provided, these Regulations shall apply to all procurements made by the Authority.
4. **Principles of procurements.** - The Authority, while making any procurement, shall ensure that the procurement is made in a fair and transparent manner, the object of procurement brings value for money to the Authority and the procurement process is efficient and economical.

5. **Treaty Obligations etc.** - Whenever these Regulations are in conflict with an obligation or commitment of
- a) the Federal Government arising out of an international treaty or an agreement with a State or States, or any international financial institution or donor institution;
 - b) the Authority arising out of an agreement with any financial institution or donor institution; the provisions of such treaty or agreement shall prevail to the extent of such conflict.

6. Language

1. Subject to sub-regulation (2), all communication and documentation relating to procurements of the Authority shall either be in Urdu or English or both.
 2. When any procurement is required to be made from any state outside Pakistan, the language of that state may also be used in addition to Urdu or English but the original documentation for purposes of record, even in that case, shall be in Urdu or English and the translation in such other language may be used for any other purpose.
 3. In case of conflict, the original documentation on record shall prevail.
7. **Integrity Pact.** - Procurement exceeding the limit as may be determined by the Authority shall be subject to an integrity pact between the Authority and a contractor.

CHAPTER-II

PROCUREMENT PLANNING

8. **Procurement Planning.** - The Authority shall, within two months from the commencement of a financial year, devise annual planning for all proposed procurements with the object of realistically determining the requirements of the Authority, within its available resources, delivery time or completion date and benefits that are likely to accrue to the Authority.
9. **Limitation on Splitting of Procurement.** - (1) Save as otherwise provided the Authority shall announce in an appropriate manner all proposed procurements for each financial year and shall proceed accordingly without any splitting or regrouping of the procurements so planned.
- (2) The Authority shall advertise in advance annual requirements for procurement on its website
10. **Specifications.** - (1) The Authority shall determine specifications in a manner to allow the widest possible competition which shall not favor any single contractor nor put others at a disadvantage.
- (2) The specifications shall be generic and shall not include references to brand names, model numbers, catalogue numbers or similar other classifications but if the Authority is satisfied that the use of, or a reference to, a brand name or a catalogue number is essential to complete an otherwise incomplete specification, such use or reference shall be qualified with the words "or equivalent".
11. **Approval Mechanism.** - The Authority shall provide clear authorization and delegation of powers for different categories of procurement and shall initiate procurements after prior approval of the relevant competent authority specified by the Chairman through an order in writing.

CHAPTER-III

ADVERTISEMENT

12. **Method of Advertisement.** - (1) Save as otherwise provided in these Regulations, the Authority shall advertise procurement of more than One Million rupees and up to the limit of ten million rupees on the website. The Authority may also advertise the procurement in at least one national daily newspaper of either Urdu or English language.
- (2) Subject to Regulations 13 and 16(5), any procurement exceeding ten million rupees shall be advertised on the website (when live) of the Authority and in at least two national daily newspapers of wide circulation, one in English and one in Urdu.
- (3) The Authority shall ensure that the information posted on the website is complete for purposes for which it has been posted, and such information shall remain available on that website until the closing date for the submission of bids.
13. **Exceptions.** - The requirement of advertisement mentioned in Regulation 12, may be dispensed with after prior approval of the Authority in case the publication of advertisement or notice of the proposed procurement involves disclosure of information which is proprietary in nature or falls within the definition of intellectual property which is available from a single source.
14. **Response Time.** - (1) The Authority may decide the response time for receipt of bids or proposals (including proposals for prequalification) from the date of publication of an advertisement or notice keeping in view the complexity of the procurement, availability and urgency but, in no circumstances, the response time shall be less than fifteen days for national competitive bidding and thirty days for international competitive bidding. The period may be extended with approval of the Authority.
- (2) All advertisements or notices shall expressly mention the response time allowed for the procurement along with the information for collection of bid documents which shall be issued till a given date, allowing sufficient time to complete and submit the bid by the closing date. Notwithstanding anything contained in these Regulations the requirement of response time shall not apply in case of an emergency procurement.
- (3) The response time shall be calculated from the date of publication of the advertisement in a newspaper or on the website, whichever is later.
15. **Framework Procurement Contract.** - (1) The Authority may procure goods, services or works through framework procurement contract in order to ensure uniformity in the procurement.
- (2) The Authority shall adopt any of the methods of procurement mentioned in these Regulations for purposes of entering into a framework procurement contract.

CHAPTER-IV

PREQUALIFICATION, QUALIFICATION AND DISQUALIFICATION

16. **Pre-Qualification.** - (1) Subject to sub-regulation (2), the Authority may, prior to floating the tenders or invitation to proposals or offers, engage in prequalification of bidders in case of services, civil works, turnkey projects and also in case of procurement of expensive and technically complex equipment to ensure that only technically and financially capable firms or persons having adequate managerial capacity are invited to submit bids.

- (2) The Authority shall prequalify bidders under sub-regulation (1) in case of procurement of goods of five hundred million rupees and above and large consultancy, except where the Authority, for reasons to be recorded in writing, dispense with the requirement of prequalification of bidders.
- (3) For purposes of the prequalification of bidders, the Authority shall take into consideration the following factors:
 - a) Qualifications;
 - b) Relevant experience and past performance;
 - c) Capabilities with respect to personnel, equipment, and plant (as applicable);
 - d) Financial position (where applicable);
 - e) Appropriate managerial capability; and
 - f) Any other factor that the Authority may deem relevant, not being inconsistent with these Regulations.
- (4) The Authority shall ensure that the prequalification is based on the capacity of the interested parties to satisfactorily perform the services or works.
- (5) In case of fast track projects where the time is of the essence, or where potential consultants are limited or the assignment is of a complex nature, the Authority as constituted under Section 4(4)(a)(b)(c) of the Act may, after recording reasons, dispense the requirements under Regulation 12 while inviting a request for proposals.
- (6) Notwithstanding anything contained in sub-regulation (1) and (2), the Authority may shortlist individual consultants, firms or companies having legal, financial and technical expertise without going through the process of prequalification prescribed in Regulation 17.
- (7) The Authority may, at the time of prequalification process consider any of the individual consultants, firms or companies shortlisted under sub-regulation (6), after conducting the due evaluation process (technical or financial), in cases where:
 - (a) The Authority lacks the capacity to undertake the prequalification process; or
 - (b) Sufficient time to undertake the process of prequalification is not available; and
 - (c) Expertise of the individual consultant, firms or companies shortlisted under sub-regulation (6) are in line with the requirements of the Authority.
- (8). The Authority shall:
 - (a) Before shortlisting process, determine the parameters and selection criteria for shortlisting of individual consultants, firms or companies to be considered as consultant;
 - (b) Shortlist all such individual consultants, firms or companies only for one financial year strictly in accordance with the procedure provided under these Regulations;
 - (c) Shortlist at least three individual consultants, firms or companies for each area of expertise; andUpload the list of such shortlisted individual consultants, firms or companies on its website.
- (9) The Authority, if it intends to use the facility of shortlisted individual consultants, firms or companies, while taking up the process of procurement, shall invite technical or financial bids from all such shortlisted individual consultants, firms or companies as per requirement of the Authority.

17. **Prequalification Process.** - (1) The Authority while engaging in prequalification shall announce, in the prequalification documents, all information required for prequalification including instructions for preparation and submission of the prequalification documents, evaluation criteria, list of documentary evidence required by contractors to demonstrate their respective qualifications and any other information that the Authority deems necessary for prequalification.
- (2) The Authority shall provide a set of prequalification documents to any contractor, on request and subject to payment of such price as the Authority may determine to defray the cost on account of printing and provision of the document.
- (3) The Authority shall promptly inform the contractor who has applied for the prequalification whether or not he has been prequalified and shall, on request from the applicant who had applied for prequalification, provide a list of contractors who have been prequalified.
- (4) On a request, the Authority shall communicate to the contractor who has not been prequalified the reasons for not prequalifying the contractor.
- (5) Only the prequalified contractors shall be entitled to participate in the subsequent procurement proceedings, if such prequalification process has been carried out.
18. **Qualification.** - The Authority, at any stage of the procurement proceedings, having credible reasons for, or prima facie evidence of, any defect in the capacity or otherwise of a contractor, whether or not prequalified, may require the contractor to provide such further information concerning the professional, technical, financial, legal or managerial competence as the Authority may decide.
19. **Disqualification.** - The Authority shall disqualify a contractor, after providing an opportunity of hearing, and if the contractor has been found to have provided false, fabricated or materially incorrect information.
20. **Declaration of Ineligibility.** - (1) Subject to Regulation 21, the Authority may, after providing an opportunity of hearing, declare, through a notification, an applicant for prequalification as ineligible for participating in any public procurement process for such period as it may determine on account of his engaging, directly or through an agent, in corrupt and fraudulent practice.
- (2) A copy of the notification shall be provided to the affected person.
21. **Blacklisting.** - (1) The Authority may, through its Chairman may for a specified period, debar a bidder or contractor from participating in any procurement process of the Authority, if the bidder or contractor has:
- a) Acted in a manner detrimental to the public interest or good practices;
 - b) Consistently failed to perform his obligation under the contract;
 - c) Not performed the contract up to the mark; or
 - d) Indulged in any corrupt and fraudulent practice;
 - e) provided false, fabricated or materially incorrect information.

- (2) If the Authority debars a bidder or contractor under sub-regulation (1), the Authority:
- a) Shall publish the decision on its website; and
 - b) May request any Government to debar the bidder or contractor from procurement for all public procuring agencies.
- (3) Any person aggrieved by a declaration made under Regulation 20 or a decision under sub-regulation (1) of this Regulation may, within thirty days from the date of the publication of the information on the website of the Authority, file a representation before the Authority as constituted under Section 4(4)(a)(b)(c) of the Act and the Authority may pass such order on the representation as it may deem fit. For the purposes of this sub regulation, the Chairman shall not take part.
- (4) Any person Authority aggrieved by an order under sub-regulation (3) or (4) may, within thirty (30) days of the order, file a representation before the members and the decision of the majority of the members may pass such order on the representation as it may deem appropriate.
- (5) The mechanism or process for barring a bidder or contractor from participating in procurement process of the Authority and a representation under this Regulation is specified in the Schedule appended to these Regulations.

CHAPTER-V

METHODS OF PROCUREMENT

22. **Principal Method of Procurement.** - Save as otherwise provided hereinafter, the Authority shall use open competitive bidding or publication of request for tender as the principal method of procurement for the procurement of goods, services and works.
23. **Open Competitive Bidding.** - Subject to Regulations 24 to 39, the Authority shall engage in open competitive bidding if the cost of procurement is more than one million rupees.
24. **Submission of Bids.** - (1) A bidder shall submit a bid in a sealed package or packages in such manner that the contents of the bid are fully enclosed and cannot be known until duly opened.
- (2) The Authority shall specify the manner and method of submission and receipt of bids in an unambiguous and clear manner in the bidding documents.
25. **Bidding Documents.** - (1) The Authority shall formulate precise and unambiguous bidding documents that shall be made available to the bidders immediately after the publication of the invitation to bid.
- (2) For competitive bidding, whether open or limited, the bidding documents shall include the following:
- a) Invitation to bid;
 - b) Instructions to bidders;
 - c) Form of bid;
 - d) Form of contract;
 - e) General or special conditions of contract;
 - f) Specifications and drawings or performance criteria (where applicable);
 - g) List of goods or bill of quantities (where applicable);
 - h) Delivery time or completion schedule;

- i) Qualification criteria (where applicable);
 - j) Bid evaluation criteria;
 - k) Format of all securities required (where applicable);
 - l) Details of standards (if any) that are to be used in assessing the quality of goods, works or services specified; and
 - m) Any other detail not inconsistent with these Regulations that the Authority may deem necessary.
- (3) Any information that becomes necessary for bidding or for bid evaluation, after the invitation to bid or issue of the bidding documents to the prospective bidders, shall be provided in a timely manner and on equal opportunity basis.
- (4) Where any change becomes essential in the procurement process, such change shall be made in a manner similar to that of the original advertisement.
- (5) The Authority shall prescribe its own standard bidding documents.
- (6) The Authority shall, on payment of such fee as the Authority may determine keeping in view the cost of printing and provision of the documents, provide a set of bidding documents to the prospective bidders.
- 26. Reservations and Preference.** - (1) The Authority shall allow all perspective bidders to participate in procuring procedure without regard to nationality except in cases in which the Authority decides to limit such participation to national bidders only or prohibit participation of bidders of some nationalities in accordance with the policy of the Government.
- (2) The Authority shall allow for a preference to domestic or national contractor in accordance with the policies of the Government and the magnitude of price preference to be accorded shall be clearly mentioned in the bidding documents under the bid evaluation criteria.
- 27. Bid Security.** - The Authority may require the bidders to furnish a bid security not exceeding five per cent of the estimated price.
- Explanation. -In this Regulation, the words 'estimated price' mean the price of procurement estimated by the Authority before initiation of the process of procurement.
- 28. Bid Validity.** - (1) The Authority, keeping in view the nature of the procurement, shall subject the bid to a bid validity period.
- (2) The bids shall be valid for the period of time specified in the bidding document.
- (3) Subject to sub-regulation (5), the Authority shall ordinarily be under an obligation to process and evaluate the bids within the stipulated bid validity period but, under exceptional circumstances and for reasons to be recorded in writing, if an extension is considered necessary, all the bidders shall be requested to extend their respective bid validity period but such extension shall not be for more than the original period of bid validity. Provided that such request to extend bids may only be made during the currency of the original bid.
- (4) A bidder who:
- a) Agrees to the extension of the bid validity period shall also extend the validity of the bid bond or security for the extended period of the bid validity;
 - b) Agrees to the Authority's request for extension of bid validity period shall not be, permitted to change the substance of the bid; and
 - c) Does not agree to an extension of the bid validity period shall be allowed to withdraw the bid without forfeiture of the bid bond or security.

(5) The Authority may extend bid validity period for reasons to be recorded in writing.

29. **Extension of Time for Submission of Bids.** - If the Authority considers that it is necessary in public interest to extend the last date for the submission of the bids, it may, after recording reasons, do so in the manner similar to the original advertisement.

CHAPTER-VI

OPENING, EVALUATION AND REJECTION OF BIDS

30. **Opening of Bids.** - (1) The date for opening of bids and the last date for the submission of bids shall be the same; and, bids shall be opened at the time specified in the bidding documents which shall not be less than thirty minutes after the closing time for the submission of the bids.
- (2) All bids shall be opened publicly in the presence of the bidders or their representatives who may choose to be present, at the time and place announced prior to the bidding and the Authority shall read aloud the unit price as well as the bid amount and shall record the minutes of the bid opening.
- (3) All bidders in attendance at the time of opening of the bids shall sign an attendance sheet.
- (4) The bids submitted after the closing time prescribed shall be rejected and returned without being opened.
31. **Evaluation Criteria.** - (1) The Authority shall formulate an appropriate evaluation criterion listing all the relevant information against which a bid is to be evaluated and such evaluation criteria shall form an integral part of the bidding documents.
- (2) In simple or standard procurement process like open competitive bidding or procurement through direct request for tender, the Authority may use the amount of the bid price as the sole evaluation criteria for the bids.
32. **Evaluation of Bids.** - (1) All bids shall be evaluated in accordance with the evaluation criteria and other terms and conditions set forth in the prescribed bidding document.
- (2) For purposes of comparison of the bids quoted in different currencies, the price shall be converted into a single currency specified in the bidding documents and the rate of exchange shall be the selling rate, prevailing on the date of opening of bids specified in the bidding documents, as notified by the State Bank of Pakistan on that day.
- (3) A bid once opened in accordance with the prescribed procedure shall be subject to only those rules, regulations and policies that are in force at the time of issue of notice for invitation of bids.
33. **Clarification of Bids.** - (1) No bidder shall be allowed to alter or modify his bid after the closing time for the submission of the bids.
- (2) The Authority may, if necessary, after the opening of the bids, seek and accept such clarifications of the bid as do not change the substance of the bid.
- (3) Any request for clarification in the bid, made by the Authority and its response, shall invariably be in writing.
34. **Discriminatory and Difficult Conditions.** - Save as otherwise provided, the Authority shall not introduce any condition, which discriminates between bidders or which is difficult to meet.

Explanation. - *In ascertaining the discriminatory or difficult nature of any condition, reference shall be made to the ordinary practices of that trade; manufacturing, construction business or service to which that particular procurement is related.*

35. **Rejection of Bids.** - (1) The Authority may reject all bids or proposals at any time prior to the acceptance of a bid or proposal.
- (2) The Authority shall upon request communicate to any bidder, the grounds for its rejection of all bids or proposals, but shall not be required to justify those grounds.
- (3) The Authority shall incur no liability, solely by virtue of its invoking sub-regulation (1) towards the bidders.
- (4) The bidders shall be promptly informed about the rejection of the bids, if any.
- (5) The Authority may, for reasons to be recorded in writing, restart the bidding process from any prior stage if it is possible without violating any principle of procurement contained in Regulation 4 and shall immediately communicate the decision to the bidders.
36. **Re-bidding.** - If the Authority rejects all the bids under Regulation 35, it may proceed with the process of fresh bidding but before doing that it shall assess the reasons for rejection and may, if necessary, revise specifications, evaluation criteria or any other condition for bidders.
37. **One Person One Bid.** - (1) In any procurement, one person may submit one bid and if one person submits more than one bids, the Authority shall reject all such bids.
- (2) If a consortium of persons has submitted a bid in any procurement, it shall be construed that each member of the consortium submitted the bid.
38. **Announcement of Evaluation Reports.** - The Authority shall announce the results of bid evaluation in the form of a report giving justification for acceptance or rejection of bids at least ten (10) days prior to the award of procurement contract. If the Authority rejects all the bids under Regulation 35, it may proceed with the process of fresh bidding but before doing that it shall assess the reasons for rejection and may, if necessary, revise specifications, evaluation criteria or any other condition for bidders.
39. **Procedures for Selection of Contractors.** (1). - Save as otherwise provided in these Regulations, single stage one envelope bidding procedure shall ordinarily be the main open competitive bidding procedure used for the procurement of works and standard goods.
- (2) Other appropriate procedures for selection of contractors other than consultants may be adopted in the following circumstances:
- (a) Single stage two envelopes bidding procedure shall be used for procurement of such goods where the bids are to be evaluated on technical and financial grounds and the procedure for single stage two envelopes shall be:
- i. The bid shall be a single package consisting of two separate envelopes, containing separately the financial and the technical proposals
 - ii. The envelopes shall be marked as "Financial Proposal" and "Technical Proposal";
 - iii. In the first instance, the "Technical Proposal" shall be opened and the envelope marked as "Financial Proposal" shall be retained unopened in the custody of the Authority
 - iv. The Authority shall evaluate the technical proposal in the manner prescribed in advance, without reference to the price and shall reject any proposal which does not conform to the specified requirements;

- v. During the technical evaluation no amendments in the technical proposal shall be permitted;
- vi. After the evaluation and approval of the technical proposals, the Authority shall open the financial proposals of the technically accepted bids, publicly at a time, date and venue announced and communicated to the bidders in advance, within the bid validity period;
- vii. The financial proposal of the bids found technically non-responsive shall be retained unopened and shall be returned on the expiry of the grievance period or the decision of the complaint, if any, filed by the non-responsive bidder, whichever is later:

Provided that the Authority may return the sealed financial proposal earlier if the disqualified or non-responsive bidder, contractor or consultant submits an affidavit, through an authorized representative, to the effect that he is satisfied with the proceedings of the Authority; and

- viii. The lowest evaluated bidder shall be awarded the contract.
- (b) Two stage bidding procedure may be adopted in large and complex contract where technically unequal proposals are likely to be encountered or where the Authority is aware of its options in the market but, for a given set of performance requirements, there are two or more equally acceptable technical solutions available to the Authority and the bidding procedure shall be:

First Stage

- i. In the first instance, the bidders shall submit, according to the required specifications, a technical proposal without quoting price;
- ii. The technical proposal shall be evaluated in accordance with the specified evaluation criteria and may be discussed with the bidders regarding any deficiencies and unsatisfactory technical features;
- iii. After such discussions, all the bidders shall be permitted to revise their respective technical proposals to meet the requirements of the Authority;
- iv. The Authority may revise or modify any aspect of the technical requirements or evaluation criteria, or it may add new requirements or criteria not inconsistent with these Regulations but any revisions or modification shall be communicated to all the bidders at the time of invitation to submit final bids, and sufficient time shall be allowed to the bidders to prepare their revised bids but such time shall not be less than fifteen (15) days in the case of national competitive bidding and thirty (30) days in case of international competitive bidding;
- v. The bidders unwilling to conform their respective bids to the Authority's technical requirements may withdraw from the bidding without forfeiture of their bid security.

Second Stage

- i. The bidders, whose technical proposals or bids have not been rejected and who are willing to conform their bids to the revised technical requirements of the Authority, may submit a revised technical proposal along with the financial proposal;
- ii. The fresh and revised technical proposals and the financial proposals shall be opened at a time, date and venue announced and communicated to the bidders in advance but in setting the date for the submission of the revised technical proposals and financial proposals, the Authority shall allow sufficient time to the bidders to incorporate the agreed changes in the technical proposal and prepare their financial proposals accordingly; and

- iii. The revised technical proposal and the financial proposal shall be evaluated in the manner prescribed above and the lowest evaluated bid shall be accepted;
- (c) Two stage two envelope bidding method shall be used for procurement where alternative technical proposals are possible, such as certain types of machinery or equipment or manufacturing plant and the procedure shall be:

First Stage

- i. The bid shall comprise a single package comprising two separate envelopes containing the financial proposal and the technical proposal;
- ii. The envelopes shall be marked as "Financial Proposal" and "Technical Proposal";
- iii. In the first instance, the envelope marked "Technical Proposal" shall be opened and the envelope marked as "Financial Proposal" shall be retained unopened in the custody of the Authority;
- iv. The technical proposals shall be discussed with the bidders with reference to the Authority's technical requirements;
- v. Those bidders willing to meet the requirements of the Authority shall be allowed to revise their technical proposals following these discussions; and
- vi. Bidders not willing to conform to the technical proposal as per revised requirements of the Authority shall be allowed to withdraw their respective bids without forfeiture of their bid security;

Second Stage

- i. After agreement between the Authority and the bidders on the technical requirements, bidders who are willing to conform to the revised technical specifications and whose bids have not already been rejected shall submit a revised technical proposal and supplementary financial proposal, according to the technical requirement;
- ii. The revised technical proposal along with the original financial proposal and supplementary financial proposal shall be opened at a date, time and venue announced in advance by the Authority:
Provided that in setting the date for the submission of the revised technical proposals and supplementary price proposals an Authority shall allow sufficient time to the bidders to incorporate the agreed changes in the technical proposal and to prepare the required supplementary financial proposal; and
- iii. The Authority shall evaluate the whole proposal in accordance with the evaluation criteria and the lowest evaluated bid shall be accepted.

(d) Single Stage Three Envelope Bidding Procedure may be used where pre-qualification is to be done together with inviting technical and financial bids, the Authority shall adopt the following procedure:

- i. The bid shall comprise a single package containing three separate envelopes, two containing separately the financial and the technical proposals and third one shall contain pre-qualification documents as required in the bid documents;
- ii. The envelopes shall be marked as "FINANCIAL PROPOSAL", "TECHNICAL PROPOSAL" and "PRE-QUALIFICATION";
- iii. Initially, the envelope marked as "PRE-QUALIFICATION" shall be opened;
- iv. The envelopes marked as "FINANCIAL PROPOSAL" and "TECHNICAL PROPOSAL" shall be retained in the custody of the Authority without being opened;
- v. The Authority shall evaluate the pre-qualification documents in such manner as may have been made public, in advance, and shall reject any proposal which does not conform to the specified requirements

- vi. After submission of the documents, the Authority shall not permit any amendment in the technical or financial proposals
- vii. After pre-qualifying the bidders, the Authority shall return un-opened the envelopes containing the technical or financial proposals to the bidders who fail to pre-qualify;
- viii. The Authority shall next open the technical proposals of the pre-qualified bidders at the given time and date in the presence of all the bidders who are present provided that the time so communicated shall not be beyond the bid validity period; provided further that the procedure shall not be deemed incomplete or defective if a bidder, although invited, does not participate in the proceeding for any reason what so ever; and
- ix. The Authority shall follow the same procedure for opening of technical and financial proposals as contained in Regulation 39(2)(b) above.

40. **Selection for Selection of Contractors.** - Notwithstanding anything contained in these Regulations, on the recommendations of the Authority, may be notification direct that the procurements mentioned in the notification may be made in the manner provided under Regulation 47 and in that case the expression 'consultant' or 'consultants' in that Regulation shall be deemed as 'contractor ' or 'contractors ' and the said Regulation shall be construed accordingly.

CHAPTER-VII

PROCUREMENT OF CONSULTANCY SERVICES

41. **Rights and Obligations.** - The rights and obligations of the Authority and the consultant shall be governed by of the provision of the relevant procurement contract.

42. **Methods for Selection of Consultants.** - (1) The Authority may utilize one of the methods mentioned in succeeding sub-regulations for selection of a consultant.

(2) **Least Cost Selection:**

This is the preferred method for selecting consultants for assignments of standard or routine nature such as audit, simple engineering design or supervision of non-complex works, where well-established practices and standards exist.

(3) **Quality and Cost Based Selection:**

This method may be used where:

- a) Quality is the prime consideration while cost is a secondary consideration;
- b) Terms of reference are well defined;
- c) The financial proposals of only those technically responsive bidders who obtained minimum sixty-five percent (65%) marks shall be opened;
- d) A combined evaluation of the technical and financial proposals is carried out by weighting and adding the quality and the cost scores;
- e) The weight for quality is normally of eighty percent (80%) with twenty percent (20%) given to cost and more than twenty percent (20%) weight to the cost of the services is justified only in relatively routine and straightforward assignments (such as design of simple structures), whereas in no cases it should exceed thirty percent (30%) and the consultant obtaining the highest combined score is invited for negotiations.
- f) The financial proposals of only those technically responsive bidders who obtained minimum sixty-five percent (65%) marks shall be opened;
- g) A combined evaluation of the technical and financial proposals is carried out by weighting and adding the quality and the cost scores;

- h) The weight for quality is normally of eighty percent (80%) with twenty percent (20%) given to cost and more than twenty percent (20%) weight to the cost of the services is justified only in relatively routine and straightforward assignments (such as design of simple structures), whereas in no cases it should exceed thirty percent (30%) and the consultant obtaining the highest combined score is invited for negotiations.

(4) Quality Based Selection:

This system may be used for highly specialized, innovative and complex assignments, where quality is the predominant factor.

- (5) Subject to sub-regulation (6), the Authority may, in a complex project, engage, through direct contracting, an organization owned or controlled by a Government.

- (6) In case of engagement of an organization under sub-regulation (5), the Authority shall:

- (a) Record reasons in writing for direct contracting and shall issue a certificate of reasonability of the negotiated price of consultancy based on the principles of procurement contained in Regulation 4; and
- (b) Obtain approval of the majority of the members to the extent of declaring the project as complex project.

- (7) The Authority may, after recording reasons in writing, use any method for selection of consultant other than least cost selection.

43. Expression of Interest. - (1) A request for expression of interest shall be advertised in accordance with the provisions of Regulation 12 and Regulation 13

- (2) The expression of interest shall contain the following information:

- a) The name and address of Authority
- b) An appropriate description of the assignment providing scope of the intellectual and professional services required;
- c) Closing date and place of the submission of the expression of interest;
- d) Criteria for short listing or prequalification where required; and
- e) Any other information that the Authority may deem appropriate to disseminate at this stage

44. Request for Proposals. - (1) Authority shall use a request for proposal for seeking proposals from the shortlisted or pre-qualified consultants which shall include the following:

- a) Letter of Invitation: the letter of invitation shall mention the name and address of the Authority and its intention to enter into a procurement contract for provision of consulting services and contain names of all the short listed firms;
- b) Instruction to Consultants: the instructions to consultants shall contain all necessary information that may help them prepare responsive proposals;
- c) Terms of Reference: the terms of reference shall unambiguously define the objectives, goals and scope of the assignment, core team of required experts, expected deliverables with timelines and list of services necessary to carry out the assignment;
- d) Evaluation Criteria: except as otherwise provided, the evaluation of proposals shall be carried out giving due consideration to quality and cost;
- e) Type of Procurement Contract: The Authority, depending on the circumstances, may use one of the following types of procurement contract:

- i. Lump sum procurement contract shall be used mainly for assignments in which the content, duration of the services and the required output are unambiguously defined;
 - ii. Time based contract shall be used when it is difficult to define the scope and the length of services;
 - iii. Hourly or daily rates shall be used for small projects, especially when the assignment is for less than a month; and
 - iv. Any other, based on combination of the above and including out of pocket expenses, where required;
- f) Special Provisions: The Authority may specify any other requirement related to the assignment or procurement contract, where required.

(2) The Authority shall invite the prospective consultants to submit their technical and financial proposals in separately sealed envelopes and the Authority shall give deadline for submission of proposals but the consultants shall be given adequate time to prepare their proposals which shall not be less than two (2) weeks.

45. Evaluation of Quality of Consulting Services. - Evaluation criteria for technical evaluation of consultants shall include the following:

- a) Experience: The consultants specialized skills, work on similar assignments and access to particular technologies related to the assignment;
- b) Financial Capability: Financial capability of the consultant may be evaluated with a view to ensuring that the consultant can complete the assigned task in a timely manner;
- c) Approach and Methodology: The methodology proposed by the consultants shall be evaluated for its innovativeness and soundness;
- d) Quality Management: The availability of a well-established quality management system may be taken into account for large and complex assignments; and
- e) Staff Proposed: Qualification and experience of the proposed staff of the consultant in the relevant field.

46. Association of Consultants. - (1) An association of consultants may take either the form of a joint venture or a subcontract and such association may participate in procurement process with the permission of the Authority.

(2) Under a joint venture, all members, if awarded the procurement contract, shall individually sign and be jointly and severally liable for the entire assignment and such an association may be known as a consortium, association or joint venture.

47. Intellectual Property Rights. - (1) All documents, reports, designs, research work and all deliverables prepared by the consultant shall become and remain the property of the Authority.

(2) Any restrictions on the future use of these documents and software by the consultant shall be specified in the conditions of the contract.

48. Negotiations. - (1) Notwithstanding the provision under Regulation 56 (Limitation on negotiations), the Authority may negotiate with the highest ranked bidder for consultancy regarding methodology, work plan, staffing, contract price, payment terms and special conditions of the contract.

- (2) In case of failure of negotiations, the Authority may invite the next highest ranked bidder.
- (3) A committee of the Authority shall negotiate with the consultant and negotiation by a single person on behalf of the Authority shall not be allowed.

49. Professional Liability of Consultant. - (1) The Authority may demand insurance on part of the consultant to cover the liability of the consultant and necessary costs shall be borne by the consultant.

CHAPTER-VIII

ACCEPTANCE OF BIDS AND AWARD OF PROCUREMENT CONTRACT

50. **Acceptance of Bids.** - Subject to these Regulations, the bidder with the lowest evaluated bid shall be awarded the procurement contract within the original or extended bid validity period.
51. **Single Complying Proposal.** - Subject to Regulation 35, if one complying bid is received, the Authority may award the procurement contract to the bidder.
52. **Performance Guarantee.** - Where needed and clearly expressed in the bidding documents, the Authority shall require the successful bidder to furnish a performance guarantee which shall not exceed ten percent (10%) of the contract amount.
53. **Limitation on Negotiations.** - Save as otherwise provided in these Regulations, the Authority shall not negotiate with any of the bidders.
54. **Confidentiality.** - The Authority shall keep all information regarding the bid evaluation confidential until the time of the announcement of the evaluation report.
55. **Alternative Methods of Procurements.** - (1) The Authority may utilize the following alternative methods of procurement of goods, services and works:
- (a) **Petty Purchases:** The Authority may provide for petty purchases where the object of the procurement is below the financial limit of **five hundred thousand (500,000) rupees** and such procurement shall be exempted from the requirements of bidding or quotation of prices; The Authority shall, however, ensure that procurement of petty purchases is in conformity with the principles of procurement as laid out in Regulation 4;
 - (b) **Petty Purchases through Quotation:** The Authority may provide for petty purchases through at least three quotations where the cost of the procurement is **more than five hundred thousand (500,000) rupees but less than one million (1,000,000) rupees** and such procurement shall be exempted from the requirements of bidding procedures; The Authority shall, however, ensure that such procurement is in conformity with the principles of procurement as laid out in Regulation 4;
 - (c) **Direct Contract:** The Authority shall only engage in direct contract if any of the following conditions exist:
 - i. The procurement concerns the acquisition of spare parts or supplementary services from original manufacturer or supplier when the same are not available from alternative sources;
 - ii. Only one manufacturer or supplier exists for the required procurement but in such a case, the Authority shall obtain the approval from the majority of the members; and

- iii. Where a change of supplier may result in acquisition of material having different technical specifications or characteristics that may cause incompatibility or disproportionate technical difficulties in operation and maintenance; and the contract does not exceed three (3) years in duration;
- iv. Repeat orders not exceeding fifteen percent (15%) of the original procurement;
- v. In case of an emergency but the Authority shall obtain approval in writing from the majority of the members in such a case;
- vi. When the price of goods, services or works is fixed by a Government or any other authority, agency or body under the law; and
- vii. For purchase of motor vehicle from local original manufacturers or their authorized agents at manufacturer's price.

(d) **Negotiated Tendering:** The Authority may engage in negotiated tendering with one or more contract with or without prior publication of a procurement notification but this procedure shall only be used when:

- i. The supplies involved are manufactured purely for the purpose of supporting a specific piece of research or an experiment, a study or a particular development;
- ii. For technical or artistic reasons, or for reasons connected with protection of exclusive rights or intellectual property, the supplies may be manufactured or delivered only by a particular supplier;
- iii. For reasons of extreme urgency brought about by events unforeseeable by the Authority, the time limits laid down for open and limited bidding methods cannot be met, however, the circumstances invoked to justify extreme urgency must not be attributable to the Authority; and

56. **Exemption.** - (1) The Authority may directly procure goods from a public sector manufacturing unit on fixed price or negotiated price where value of procurement does not exceed one million (1,000,000) rupees.

(2) Where value of goods exceeds one million (1,000,000) rupees or in a competitive bidding, the public sector manufacturing unit participating in the bid may, within three (3) working days of opening of the bids, match the lowest evaluated bid. Where more than one public sector manufacturing unit matches the lowest price the Authority shall have the discretion to select one in line with the principles of procurement contained in Regulation 4.

(3) In this Regulation, public sector manufacturing unit means a manufacturing unit owned or controlled by a Government or by an organization which is owned or controlled by any Government. In this Regulation, "owned or controlled" means directly or indirectly holding not less than fifty (50) percent of the voting securities or voting power of the manufacturing unit or otherwise having the power to appoint, elect or nominate the majority of the directors and/or management of the manufacturing unit.

57. **Commencement of Procurement Contract.** - (1) A procurement contract shall come into force:

- a) Where no formal signing of a procurement contract is required, from the date the notice of the acceptance of the bid or purchase order has been given to the bidder whose bid has been accepted and such notice of acceptance or purchase order shall be issued within a reasonable time; or

- b) Where the Authority requires signing of a written procurement contract, from the date on which the signatures of both the Authority and the successful bidder are affixed to the written procurement contract and such affixing of signatures shall take place within a reasonable time; and
- c) Where the coming into force of a procurement contract is contingent upon fulfilment of a certain condition or conditions, the contract shall take effect from the date whereon such fulfilment takes place.

58. Closing of Contract. - (1) Except for defect liability by the contract or, as specified in the relevant procurement contract, performance of the procurement contract shall be deemed close on the issue of overall delivery certificate or taking over certificate which shall be issued within thirty (30) days of final taking over of goods or receiving the deliverables or completion of works enabling the contractor to submit final bill.

(2) In case of defect liability, defect liability certificate shall be issued within thirty (30) days of the expiry of the said period enabling the contractor to submit the final bill, except for unsettled claims, which shall be settled through resolution of dispute mechanism provided in the relevant procurement contract.

59. Assignment. - The Authority may assign whole or part of procurement process to another authority set up and acting under the control of a Government with the consent of such other authority

CHAPTER-IX

MAINTENANCE OF RECORD AND FREEDOM OF INFORMATION

- 60. Record of Procurement.** - (1) The Authority shall maintain a record of a procurement along with all associated documents for a minimum period of five (5) years.
- 61. Public Access and Transparency.** - (1) As soon as a contract has been awarded, the Authority shall make all documents related to the evaluation of the bid and award of contract public.
- (2) Where the disclosure of any information related to the award of a contract is of proprietary nature or where the Authority is convinced that such disclosure shall be against the public interest, it may withhold only such information from public disclosure subject to the prior approval of the majority of the members.

CHAPTER-X

REDRESSAL OF GRIEVANCES AND SETTLEMENT OF DISPUTES

- 62. Grievance Committee for Procurement Process.** - (1) The Authority shall constitute a committee comprising of odd number of persons, with proper powers and authorization, to address the complaints of bidders that may occur prior to the entry into force of the procurement contract.
- (2) Any bidder feeling aggrieved by any act of the Authority after the submission of his bid may lodge a written complaint concerning his grievances not later than ten (10) days after the announcement of the bid evaluation report.

- (3) The committee shall investigate and decide upon the complaint within fifteen (15) days of the receipt of the complaint.
- (4) Mere fact of lodging of a complaint before the Grievance Committee or an appeal before the Appellate Committee shall not warrant suspension of the procurement process but the Grievance Committee or the Appellate Committee, as the case may be, may consider suspension of the procurement process in appropriate cases.

63. **Mis-Procurement.** - Any violation of these Regulations shall be treated as mis- procurement.

64. **Procurement of Land.** - The Authority may recommend procurement of immovable property through private agreement in accordance with Section 32 of the Act. For the said purpose the Authority shall obtain latest land valuation through at least two (2) reputable land valuers on the panel of Pakistan Bankers Association/State Bank of Pakistan.

