

Procurement Guideline for Executing Entities

Government of Nepal

Ministry of Energy, Water Resource and Irrigation

Alternative Energy Promotion Centre

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1. Introduction

Application of Public Procurement Act (PPA) 2063 BS¹ (With first amendment 2073) and Public Procurement Regulation (PPR) 2064 BS² (With fifth amendment 2074) shall be enforced in all aspects of the procurement processes with regards to securing products and services from any third parties by the Executing Entities (EEs) for funds received from Global Support Fund, Development Partners and GoN through Alternative Energy Promotion Centre (AEPC). Procurement of goods services for the EEs generally includes assessing and appointing vendors, contracting and creating purchase orders and making payments. The EEs should make procurement of goods and services from responsible suppliers or contractors registered in VAT who possesses the ability to provide the goods and services on time, quality product and a competitive price. This guideline prescribes step by step procedure required for procurement of goods, services and works and acts as a simple procurement handbook which summarizes the procurement procedures decreed by the PPA and PPR.

2. Preamble of the PPA 2063

- **Maximum Returns** of public expenditures in an **Economical** and **Rational** manner by promoting competition, **Fairness, Honesty, Accountability** and **Reliability** in procurement processes
- Ensure **Good Governance** by enhancing the managerial capacity of procurement of entities in procuring, or causing to be procured, construction work and procuring goods, consultancy services and other services by such entities and by ensuring the **Equal opportunity** for producers, sellers, suppliers, construction entrepreneurs or service providers to participate in public procurement processes without any discrimination

3. Types of Procurement:

1. Procurement of Goods
2. Procurement of Works
3. Procurement of Service
 - Consultancy Service
 - Other Service

¹ http://ppmo.gov.np/image/data/files/acts_and_regulations/public_procurement_act_2063.pdf

² http://ppmo.gov.np/image/data/files/acts_and_regulations/public_procurement_rules_2064.pdf

4. Procurement Method to be selected

For procurement of goods, construction works or other services:

SN	Procurement Method	Amount of Procurement (Cost Estimate)	Notice Days
1	By inviting open bids at international level (ICB)	Local Suppliers not available, no bid was submitted in NCB, under an agreement entered into with a donor party, Goods or Construction works, being of complex and special nature, have to be procured through an ICB	45+1 Days
2	By inviting open bids at national level (NCB)	Above Rs. 2 Million	30+1 Days
3	By inviting sealed quotations (SQ)	Below Rs. 2 Million	15+1 Days
4	By Procuring directly (DS)	Below Rs. 5 Hundred Thousand	7+1 Days
5	Users' committee or beneficiary group	Below Rs. 10 Million	As per need
6	Force account	Any construction works to be carried out directly by a public entity itself	As per need

5. Procurement Process (Goods, Works and Services):

- i. Preparation of Annual Procurement Plan (Beginning of the Fiscal year, Accumulation of Procurement nature all goods and services from annual Program)
- ii. Preparation of Technical Specification
- iii. Preparation of cost estimate of procurement
- iv. Preparation of Bidding Documents (Sealed quotation forms, Prequalification forms or Tenders or preparation of documents relating to consultancy service proposals
Sample for Solar (Goods)
- v. No Objection from AEPC.

- vi. Publication of notice inviting sealed quotations, prequalification proposals, tenders or consultancy service proposals (Format is prescribed by PPMO, we can obtain from www.ppmo.gov.np)
 - Notice is the one section of Bidding Document
- vii. Opening of sealed quotations, prequalification proposals, tenders or consultancy service proposals.
- viii. Evaluation of sealed quotations, prequalification proposals, tenders or consultancy service proposals.
- ix. No Objection from AEPC (Only for two envelopes Procedure).
- x. Opening and Evaluation of Financial Proposals of Consultancy services and two envelopes procurement procedure only
- xi. No Objection from AEPC.
- xii. Acceptance of sealed quotations, prequalification proposals, tenders or consultancy service proposals-7 days notice (Letter of Intent) to selected bidder/proponents/service providers and CC to non selected bidders/proponents/service providers (Only for NCB).
- xiii. Notice for Contract (Letter of Acceptance (LoA) with Performance Security minimum 5% of Contract Price, 30 days exceed the Work completion period and warranty/guarantee period)– 15 days notice to Selected Bidder/Service Provider/Consultant (7 days for below Rs. 2 million task) (Performance security is not applicable for consultancy service, Selected Consultant need to submit professional liability insurance which is not less than the contract value)
- xiv. Entering into contract-Template of Contract is a part of Bidding/RFP Document which is prescribed by the PPMO and we can obtain from www.ppmo.gov.np
 - Bid Document/Contract form/Proposal/ToR etc. are the part of Agreement.
- xv. Commencement of task/work- within time frame of Contract (Time may be extended as per mentioned in the contract document and as per required situation)
- xvi. Issuance of variation order (Up to 15% of original contract value) as per requirement of additional task which are unknown during procurement process.
(No Objection from AEPC is required before time extension and variation order issue to the bidder/service provider/consultant.)
- xvii. Completion of Procurement-Goods Received/Work Completed/Service provided-Invoice received
- xviii. Inspection and Acceptance of goods-Technical verification of Quality and quantity of the goods and services are received as per Specification/Proposal/ToR or not
- xix. Store Entry-Confirmation of Goods received/Installed.
- xx. Final payment by the Finance Department to the bidder/service provider/consultant (After deduction of Retention, Advance, TDS (Normally 1.5%) etc.

6. Procurement Consultancy Service

Methods to be selected:

1. Quality and Cost Based Selection method (QCBS)
2. Quality Based Selection Method (QBS)
3. Budget Ceiling Selection Method (BCS)
4. Least Cost Selection Method (LCS)

6.1 Procurement of consultancy service:

SN	Procurement Method	Amount	Notice Days
1	By Requesting Competitive Proposals	Above 5 Hundred Thousand	
1.1.	Issue EOI-National Level Newspaper for Short Listing	Above 0.50 M. to 100 Millions	15 Days
1.2	Issue EOI-International Level Newspaper for Short Listing	Above 100 Million	30 Days
1.2	Issue RFP to All Qualified Listed Firms	Above 20 Million	30 Days for National and 45 Days for ICB
1.3	Issue RFP to Listed (From Standing List, if Prepared earlier) Qualified Firms	0.50 M. to 2 Million	15 days or Provide sufficient time to Prepare Proposals (Technical and Financial)
1.4	Issue RFP with ToR to Listed (Standing Listing) few firms (3 to 6 Firms) by ensuring at least 3 proposals will be submitted	Below 0.50 Million	7 Days or Provide time to Prepare Proposals (Technical and Financial)
2	Through Direct Negotiations: <ul style="list-style-type: none"> • Special Trainings, symposia and seminars • Higher level of expertise is required • Consultancy is needed for a 	-Upto Rs. 100,000-Chief of the Public Entity -Above Rs. 100,000-with the approval of one level higher authority	

	<p>short period of time or time is short for the appointment of a consultant</p> <ul style="list-style-type: none"> • Only some consultants are qualified to perform the required task 		
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6.2 Step of Procurement of Consultancy Service:

1. Preparation and Approval of TOR and RFP for the Consultancy Service Need
2. Preparation and Approval of Cost Estimate
3. Short List to be Prepared by Soliciting **Expression of Interest Openly** (Above Rs. 2 Million)-Min. 15 Days for National Level EOI and 30 Days for Int'l Level EOI
 - i. Call for Proposal : Min 15 Days for Below 2 Million, Min 30 Days for between 2 Million to 100 Million Cost Estimate
 - ii. The name and address of the Entity
 - iii. The nature of the services to be procured, the time and place when and where the services are to be provided, the terms of reference of the services, the task to be completed and expected outputs
 - iv. Instructions to proponent to prepare proposal
 - v. Matters that the technical and the financial proposals have to be sealed in separate envelopes, each of which has to clearly indicate the type of proposal outside it and that both envelopes have then to be sealed in a separate envelope and that the required services have to be mentioned thereon
 - vi. Technical and financial evaluation weightage (80/20 or 70/30 or 90/10 etc.)
 - vii. The criteria and weightage marks for the evaluation and comparison of proposal:

Particular	Points:
a. Experience of consultants in the task to be performed by consultants	Max.25%
b. The quality of proposed methodology for the performance of task by the consultants	(20-35%)
c. The qualification of the proposed key human resource	(30-60%)
d. Provision of knowledge and technology transfer	(Max. 10%)
e. The details of key Nepalese human resource proposed for the performance of task- only for ICB	(Max. 10%)
Total	100

Minimum Pass Park for Technical Proposal

(60 to 90)

- viii. Conditions of the procurement contract
 - ix. The place, date and time for the submission of proposals
 - x. Method for the selection of proposals Statement that proposals shall not be processed in the event of conflict of interest and information relating to legal action if fraud or corruption is committed
 - xi. Provision that a proponent may make an application for review, against any error or decision made by the Public Entity in carrying out proposal proceedings, and
 - xii. Other matters as prescribed
4. Opening of Technical Proposals
 5. Evaluation of Technical Proposal
 6. Notice to Bidder
 - Request for Participation for opening Financial Proposal-Min 7 Days
 - Rejection Letter for non minimum scorer proposals
 7. Opening of Financial Proposal
 8. Evaluation of Financial Proposal, Issue LOI-7 Days, and Letter to Bidder for Agreement-15 days Rejection of Proposal and Cancellation of Procurement Proceedings:
 - If all the received proposals are not substantially responsive to the terms of reference,
 - If the cost offered by the selected proponent is substantially more than the cost estimate and available budget
 - If the consultancy service is no longer required or
 - If it is proved that the proponents have submitted the proposal by mutual collusions
 9. Negotiations with the Proponent:- Except remuneration of professional experts
 10. Procurement Contract to be Concluded
 11. Completion of Procurement Contract-Work Completed-Invoice received
 12. Inspection and Acceptance of Reports, Approval of The Final Report
 13. Final payment by the Finance Department (After Retention, Advance, TDS (Normally 1.5%) etc.
 14. Monitoring the Service performed and Evaluation

7. Provision for Direct Procurement: (PPA 41)-Goods and Service

1. Low-value procurement valuing up to the prescribed amount (Below Rs. 0.5 Million)
2. If only one supplier or construction entrepreneur or consultant or service provider has the technical efficiency or capacity to fulfill the procurement requirement,
3. If only one supplier has the exclusive right to supply the goods to be procured and no other appropriate alternative is available,
4. If additional goods or services of proprietary nature within the prescribed limit is to be procured from the existing supplier or consultant or service provider after it has been proved that if the existing supplier or consultant or service provider is changed to replace or extend existing goods or services or the spare parts of the installed machine the goods or services existing in the Entity cannot be replaced or changed,
5. If the most necessary construction works, goods or consultancy services or other services within the limit as prescribed but not included in the initial contract due to failure to foresee and difficult to be completed by separating from the initial contract due to technical or financial reasons, is to be procured.
6. If the service of a particular consultant with his unique qualifications is immediately needed for the concerned work or where the service of same consultant is indispensable.
7. Similar rate and Quality Goods e.g. Petrol, Diesel, Kerosene, Cooking Gas etc.
8. Special circumstance has created a situation in which, if a procurement is not made immediately, the entity will sustain further loss, the Entity may procure or cause to be procured immediately (PPA 66)

8. Validity period of Tenders/Proposals: (PPR 54)

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| 1. Upto Rs. 100 Million Cost Estimate | 90 Days |
| 2. Above Rs. 100 Million Cost Estimate | 120 Days |
| 3. For SQ (Goods and Works) | 45 Days |

9. Procedure for Obtaining No Objection Letter from AEPC:

- No Objection Letter shall not be required for any direct purchases made by executing entity
- Notice of procurement and submission of related documents shall suffice while procuring goods through sealed quotation.
- No objection Letter shall be obtained from AEPC prior to procurement while procuring goods through NCB and ICB.

9.1 Steps for No Objection Letter

- The EE shall send request letter to AEPC before it initiates procedures for procurement of goods and services through NCB and ICB for approval.
- AEPC shall within 7 days of receiving such letter shall provide approval for such procurement.
- AEPC may ask for any documents related to procurement or justification for the procurement to be made from EE entity.
- If such documents have been requested AEPC shall provide approval within 7 days of receipt of such documents
- AEPC shall notify EE with necessary reasons for refusal to provide ‘No Objection Letter’ if it decides against such procurement.
- AEPC shall provide conditional ‘No Objection Letter’ to EA and in such cases the procurement will be eligible only when such conditions shall be fulfilled.
- All decision on approval of procurement through ‘No Objection letter’ shall be made by Procurement Unit or any officer designated by the Unit.
- Upon receipt of ‘No objection Letter’ the EE shall initiate the procurement procedure.
- The EE shall request AEPC for ‘No Objection to Award Contract’ after the completion of bid selection procedure.
- AEPC shall ask for all necessary documents before providing such ‘No Objection Letter.’
- A review team with representative from procurement unit, compliance unit, finance unit and respective technical component shall review the documents and procurement procedures.
- Such review team shall recommend its decision to Procurement Unit/Executive Director.
- Executive Director shall make final decision on providing “No Objection Letter’ to EE. Such decision shall be made within 15 days of receipt of request from EE
- The EE shall clearly specify in Bid documents that AEPC shall reserve right to assess the bid procurement and decision to award contract shall lie on AEPC.

10.Review and Audit:

AEPC reserves the right to review or audit the procurements made by the Executing Entities on the funds acquired through AEPC from GoN, development partners or global support funds

11. General Provisions beyond Public Procurement Act 2063BS and Regulation 2064 BS

- i. AEPC Compliance Unit has reserved right to audit of every activity or transaction carried out by the consultant or Service Provider; and in this context one separate provision as follows should be included in all the contracts and agreements between AEPC and service provider /Consultant /Contractor. The Compliance Unit shall have the right to audit and inspect all books and records (in whatever form they may be kept, whether written, electronic or other) relating or pertaining to contracts or agreements under AEPC, or in which AEPC financing is involved, for delivery of goods or services, payments of subsidies or granting of loans (including any and all documents and other materials, in whatever form they may be kept, which support or underlie those books and records), kept by or under the control of the Contractor and/or Recipient of loan or subsidy, including, but not limited to those kept by the Contractor and/or Recipient of loan or subsidy, its employees, agents, assigns, successors and subcontractors.

The Contractor and/or Recipient of loan or subsidy shall maintain such books and records, together with such supporting or underlying documents and materials, for at least five years from the end of a contract or agreement. The books and records, together with the supporting or underlying documents and materials shall be made available, upon request, to AEPC Compliance Unit, through its employees, agents, representatives, contractors or other designees, during normal business hours at the Contractor and/or Recipient of loan or subsidy's office or place of business. In the event that no such location is available, then the books and records, together with the supporting or underlying documents and records, shall be made available for audit at a time and location in Nepal, which is convenient for the AEPC Compliance Unit.

- ii. All procurement / expenses of whatever nature under AEPC should be vetted by Procurement Officer.
- iii. Every final procurement should be approved by Executive Director
- iv. All the procurement above NPR 500,000 should be pre-approved by AEPC Management. Follow step ii and iii.

v. The Evaluation Committee of all procurement under AEPC will be as follows:

- Executive Director or Nominated Senior Technical Officer - Chairperson
- Respective Technical Focal Person – Member
- Head of Account/Finance Department – Member
- Head of Procurement Unit- Member Secretary
- Other required experts nominated by Evaluation Committee

vi. Besides the general nature of goods and services procurement under PPA and PPR, AEPC management can decide for a grant agreement with service providers for special type of services/products/goals/targets of the programme. Grant agreement should be based on the fulfillment of eligibility criteria and requirement of AEPC (GoN); and in case of availability of more than one service providers eligible for grant, the grant shall be provided only on competitive basis. In such case, a memorandum of understanding between AEPC and Service Providers should mention the detail description of the service/output/product required by AEPC out of the inputs agreed to be provided by AEPC to the Service Provider. In this working model, the service providers should maintain the evidence of proper use of AEPC financial resources in accordance with grant agreement with documents and outputs (as agreed between AEPC & Service Provider). The outputs/results derived by the use of AEPC resources in this way will be the property of AEPC and the use of resources is also subject to audit from AEPC Regular Audit and AEPC Compliance Audit.