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நிதி அமைச்சு
MINISTRY OF FINANCE

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திகதி }
Date }

Public Finance Circular No: 08/2016

Secretaries to Ministries
Chief Secretaries of Provincial Councils
Heads of Government Departments
State Corporations and Statutory Boards
Chairmen of Government Owned Companies and
Heads of Local Authorities

Delays Caused in Finalizing Tenders in the Government Procurement Procedure

The Procurement Guidelines-2006 (Goods & Works) and the Procurement Manual to be used along with the guidelines as amended from time to time issuing supplements and circulars by the Department of Public Finance clearly articulate the procedures that should be adhered to, by the Procurement Entities (PEs) in carrying out any procurement action to ensure transparency, efficiency, timelines and value for money in procurements.

02. However, it has been brought to the notice of the Cabinet of Ministers that there are instances where undue delays have occurred in finalizing the bidding process affecting the efficient and timely implementation of government programmes.

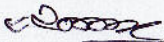
03. Having considered the reasons for such delays in finalizing the bidding process, the Cabinet of Ministers has observed that most procurement entities do not follow the respective guidance in the Government Procurement Guidelines-2006 (Goods & Works) specially in respect of procurement preparatory works including consultancy arrangements, preparation of BOQs, bidding documents and specifications. Bid evaluation and making recommendations for contract awards are also not in compliance with the scheduled timelines for each activity as a result.

04. Therefore, in accordance with the directives of the Cabinet of Ministers it has been decided to issue circular instructions to overcome those deficiencies which lead to delays in finalizing bids to ensure that all the procurements are finalized and awarded within the scheduled time targets.

05. As per the Clause 2.2.1 of the Government Procurement Guidelines -2006, the responsibility of the procurement actions is vested with the Secretaries of the respective line ministries. Therefore, you are kindly requested to strictly adhere to the instructions given in **Annex I** of this circular and inform the Heads of the Departments and Heads of other organizations coming under your purview so that all the officers who are involved in procurement related activities follow these instructions as a matter of priority.

06. Any clarifications on issues related to this circular may be obtained from the Director General of the Department of Public Finance on telephone 011-2484614 or Director (Procurement Management) on telephone No.011-2484805.

07. This circular is issued with the concurrence of the National Procurement Commission.



R.H.S. Samaratunge

Secretary to the Treasury

- Copies to:
- 1) Secretary to the President
 - 2) Secretary to the Prime Minister
 - 3) Secretary to the Cabinet of Ministers
 - 4) Auditor General
 - 5) Chairman, National Procurement Commission

Annexure 1

Instructions for the Procurement Entities to avoid delays in Procurement process and proposed solution to overcome those delays

Requirement	Issues involved due to Non- Adherence to the Guidelines	Proposed solution to overcome delays in procurement	Guidelines/ Circular Reference
<p>1. Procurement Planning There should be a proper Procurement Plan which articulates the most effective procurement arrangements to ensure economy, efficiency timelines and quality in procurements.</p> <p>The section 156c (2) of the 19th Amendment to the Constitution requires that all procurements should be in accordance with Procurement plans prepared based on Action Plans</p>	<ul style="list-style-type: none"> • Making urgent Procurement in an adhoc manner affecting adversely the transparency, cost and quality of procurement • Attempting to accelerate the process applying wrong procurement methods/short cut procedures or submit numerous Cabinet Memorandums seeking approval of the Cabinet of Ministers to get the procurements done deviating from accepted procurement procedure 	<ul style="list-style-type: none"> • Identifying needs in a proper Procurement Plan in overall Action Plan • It will allow adequate time for executing agencies to prepare for project execution in which procurement is a major component 	<p>4.1 and 4.2</p>
<p>2. Technical specifications, plans, drawings, BOQ and cost estimates should be of accurate, realistic and compete.</p> <p>If considerable time is taken to invite bids after preparation of the initial Total Cost Estimate (TEC), Such TEC shall be updated prior to inviting bids.</p>	<ul style="list-style-type: none"> • In most complex projects the project scope, technical specifications and cost estimates are not accurate and realistic. • There are instances where lowest evaluated bid price is considerably higher than the engineer's estimates resulting in re-tendering and considerable cost variations occurred during the project implementation 	<ul style="list-style-type: none"> • Preparation of technical specifications as a multi disciplined exercise where involvement of different expertise is required • Updating the specifications and estimates regularly considering the modern innovation technical and scientific and improvement 	<p>2.3.2 (c), 2.6.1(a)(iv) & 8.13.4</p> <p>4.3.3</p>
<p>3.All relevant information and details shall be include in the bid documents so that all prospective bidders to submit a complete bid</p>	<ul style="list-style-type: none"> • Ambiguities in bidding documents pertaining to duration of bid security, bid validity period result in seeking clarification by bidders and the time extension for bidding causing delay in procurement process 	<ul style="list-style-type: none"> • Bid document should be prepared avoiding such ambiguities specifically stating the exact bid security amount, bid security period and bid validity period for a specific date. • Technical specifications should be of unambiguous, exhaustive, and yet specific providing level playing field for all 	<p>5.1,5.2 5.3(5.3.1 to 5.3.11)</p> <p>5.6</p>

<p>4. Respective procurement should be carried out identifying the appropriate procurement method</p>	<ul style="list-style-type: none"> • Inappropriate procurement method has forced procuring entities to abandon the process halfway through and restart the process causing long delays. • Eg. Use of International Competitive Bidding process (ICB) in place of National Competitive Bidding process (NCB) shall cause twice the time of NCB causing undue delay. 	<p>prospective bidders</p> <ul style="list-style-type: none"> • Giving due attention to the nature of the procurement and sources of procurement, the appropriate procurement method should be selected before initiating procurement actions. • Publication of Advance Procurement Notice so that the prospective bidders to make a decision whether to participate in the procurement well in advance 	<p>6.2.2</p> <p>5.3.2 (Manual)</p>
<p>5. Each procurement actions from preparation of bidding documents to awarding the contract should be carried out in accordance with the Procurement Time Schedule (PTS) as agreed upon and approved by the PC at its 1st meeting. Where a major delay occurs it is the responsibility of the CAO to effect remedial measures</p>	<ul style="list-style-type: none"> • Although there is a agreed PTS indicating milestone of each procurement actions in accordance with procurement Manual, it has become a redundant document as many PEs are not following it properly causing delays in procurement process. • The minimum time period of each procurement actions in the process prescribed as per the Clause 4.2.2 of procurement Manual deemed to be very high. 	<ul style="list-style-type: none"> • Should strictly adhere to the PTS and the degree of compliance with the PTS should be reviewed quarterly. • Adherence to the PTS should be monitored quarterly • Reducing the existing timelines for procurement actions on the PTS to expedite the procurement process. 	<p>4.2.2 4.2.3</p> <p><i>(A separate Circular will be issued until the NPC issues the revised Guidelines)</i></p>
<p>6. Use of minimum time period given for the submission of bids</p>	<ul style="list-style-type: none"> • Application of general bidding period even for the pre-qualified suppliers 	<p>Reducing the bidding period for pre-qualified suppliers as follows:</p> <ul style="list-style-type: none"> • ICB 21 days • NCB -10 days 	<p>6.2.2 <i>(A separate Circular will be issued)</i></p>

	<ul style="list-style-type: none"> An ambiguity in evaluation criteria takes more time to complete the bid evaluation. 	<ul style="list-style-type: none"> Evaluation criteria should be clearly set forth before finalizing the tender documents. These criteria should be clear and free from the ambiguities. Carefully follow the Principles and methodologies in relation to preliminary bid evaluation and detailed bid evaluation Technical Evaluation committees should adhere to Procurement Time Schedule 	<p>5.3.19(a)</p> <p>7.9.1 & 7.9.2 (Manual)</p>
<p>8. Appeals</p> <p>The PAB shall submit its report containing the recommendations to the Cabinet of Ministers within 3 weeks of the appeal being lodged</p>	<ul style="list-style-type: none"> Ministries concern take a long time to respond to provide relevant information and documents for the Procurement Appeal Board 	<ul style="list-style-type: none"> Timely response for the PAB's requirements and TEC & PC to endeavor to recommend the lowest evaluated bidder in all aspects avoiding representations Establishment of separate Appeal Boards for MPC, DPC/PPC and CACPC. 	<p>8.3</p> <p>8.4</p> <p><i>(A separate Circular will be issued)</i></p>
<p>9. Contracts should be awarded within the scheduled time period (PTS)</p>	<ul style="list-style-type: none"> Once the procurement committee makes the determinations on the awards, it takes a longer period to obtain approval from respective authority. Eg. Submission of the Cabinet Paper seeking approval of the Cabinet of Ministers On the other hand, after the approval of the respective authority is obtained signing of the contract is delayed due to various administrative deficiencies 	<p>Action should be taken to avoid administrative deficiencies in obtaining approvals for contract awards and signing the respective contracts.</p>	
<p>10. Initiating the preparedness activities well in advance</p>	<p>PEs are compelled to wait even for initiating the preparedness activities until budgetary allocations are made available as present Guidelines states that procurement action should not be commenced without a</p>	<p>Create a procurement preparedness allocation under each head of expenditure to complete preliminary works even up to bid calling stage, after deciding requirements without waiting for</p>	<p>4.1.1(c)</p> <p><i>(A separate Circular will be issued to amend the Guidelines)</i></p>

	firm commitment of funds.	budgetary allocation for the project/ programme	
12. Bidders have no opportunity to seek potentials in the government procurement market so that them to prepare well in advance to respond once the bids are called.	Limiting the competitiveness since some bidders refrain from submitting bids under the prescribed time period of bidding.	Publication of Advance Procurement Notices by procuring entities	5.3.2