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PART I : SECTION (I) — GENERAL

Government Notification

**NATIONAL PROCUREMENT COMMISSION OF THE DEMOCRATIC SOCIALIST REPUBLIC
OF SRI LANKA**

Procurement Guidelines – 2018

**Published by the National Procurement Commission in terms of Article 156C (1) of the Constitution of
the Democratic Socialist Republic of Sri Lanka**

**GUIDELINES FOR THE PROCUREMENT OF GOODS, WORKS, SERVICES AND INFORMATION
SYSTEMS AND SELECTION AND EMPLOYMENT OF CONSULTANTS BY GOVERNMENT
INSTITUTIONS AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH AND
INCIDENTAL THERETO**

In performance of the functions vested in terms of Article 156C (1) of the Constitution of the Democratic Socialist Republic of Sri Lanka, the National Procurement Commission published these guidelines for procurement of goods and services, works, consultancy services and information systems by government institutions and to provide for matters connected therewith and incidental thereto.

The date from which these guidelines shall come into force replacing all Procurement Guidelines, Circulars and Directives as prevalent on that date, shall be a date no later than 30 days after receipt of the approval of the Parliament for these Guidelines in terms of Article 156C (1) of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Interpretation of these guidelines and decisions on matters not covered by these guidelines shall be made by the National Procurement Commission.

By order of the National Procurement Commission,

Eng. S.D.H. DE SILVA,
Acting Secretary General,
National Procurement Commission.





Democratic Socialist Republic of Sri Lanka

**PROCUREMENT GUIDELINES
2018**

**GOODS, WORKS, SERVICES AND
INFORMATION SYSTEMS**

NATIONAL PROCUREMENT COMMISSION

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DEFINITIONS

Unless the context otherwise requires the terms whenever used in these Guidelines have the following meanings:

Action Plan	Means a medium term or a long-term work plan of the institution which is based on the corporate plan.
Bid or Quotation	An offer, by a firm, joint venture, or any other party, or parties in response to a Request for Bids, to provide the required Goods, Works, Services and Information Systems.
Call-Off Contract	Means individual contract concluded between procuring entity and supplier according to the terms and conditions established in the framework agreement and to which may be annexed the additional special terms that have not been dealt within the framework agreement determining in detail Goods, Works, or Services to be supplied by the supplier. A Call-off Contract is a contract that is binding on both parties. The signed purchase order incorporates the Call-off terms and conditions and forms the Call-off Contract.
Effective Date	Effective Date is the date on which these Guidelines will become effective replacing all Procurement Guidelines, Circulars and Directives as prevalent on that date. The Effective Date shall be a date not later than 30 days after receipt of Parliamentary approval for these Guidelines.
e-GP	Means the use of electronic platform for carrying out public procurement for value for money, for enhancing good governance and fostering socio-economic development.
Foreign Funding Agency	Means any multi-lateral or bi-lateral agency which has entered or intends to enter into an agreement with the Government of Sri Lanka for financing the Government.
Foreign Funded Project	Means a project fully or partly financed by a Foreign Funding Agency.

Framework Agreement	Means an agreement with one or more firms that establishes the terms and conditions that will govern any contract awarded during the term of the FWA (a Call-Off Contract).
Fraud & Corruption	Means sanctionable practices of corruption, fraud, collusion, coercion and obstruction.
Procurement Guidelines	Means Guidelines for procurement of Goods, Works, Services and Information Systems.
Goods	Means all commodities, raw materials, products, plant & machinery, equipment, Livestock, and other physical objects of every description, whether in solid, liquid, gaseous or living form.
Government Institution	Includes a Ministry, a Government Department, a Public Corporation, a Local Authority, any Business or other undertaking vested in the Government and a Company registered or deemed to be registered under the Companies Act, No.7 of 2007 in which the Government, a public corporation or any local authority holds more than 50% of the shares.
Green Public Procurement	Means a Public Procurement, which integrates environmental considerations in the Public Procurement process and takes into the consideration the entire life cycle of the product or service.
Information System	Means all the information technologies, materials, and other Goods of the supplier's equipment, together with the Services to be carried out by the supplier under the contract.
Information Technologies	Means all information processing and communications-related hardware, software, supplies, and consumable items that the supplier is required to supply and install under the contract.

In Writing

Means communicated or recorded in written form. It includes, for example: mail, e-mail, fax or communication through an electronic procurement system (provided that the electronic system is accessible, secure, ensures integrity and confidentiality, and has sufficient audit trail features).

Master Procurement Plan

Means a document prepared by the Procurement Entity, listing all procurements envisaged to be carried out during a period of three years in medium term budgeting perspective, with tentative dates for carry out such procurements.

Open Contracting Data Standard (OCDS)

The Open Contracting Data Standard (OCDS) enables disclosure of data and documents at all stages of the contracting process by defining a common data model.

Public Procurement

Means the obtaining of Goods, Works, Services and Information Systems by Procuring Entities through the most appropriate means, with public funds or funds from any other source whether local or foreign received by way of loans, grants, gifts, donations, contributions and similar receipts. It would include purchase, rental, lease or hire purchase, including services incidental to the provision of the said Goods or Services or the execution of the Works and disposal of assets for which there is no legal provisions.

Procurement Action

Means any action in furtherance of procurement of Goods, Works, Services and Information Systems.

Procurement Documents

All documents related to the procurement process including General Procurement Notice (GPN), Special Procurement Notice (SPN), Requests for Bids (RFB), Procurement Documents, Addenda, Contract Forms, Expression of Interest (EOI), Request for Quotation (RFQ), Request for Proposal (RFP), and the other forms of different documents used for procurements of Goods, Works, Services and Information Systems, other than Consulting Services.

Procuring Entity

Means a Government Institution, which the particular procurement is meant for.

Procurement Manual

The Procurement Manual is the detailed operational guidance on procurement policies and procedures for all the stakeholders involved in the various stages of Procurement Actions conducted under the Government Procurement Guidelines of Sri Lanka.

Procurement Plan

Is a subset of the Master Procurement Plan which lists out the procurements planned to be carried out during a particular financial year, with emphasis to available budgetary provisions with planned target dates for completion of critical milestones pertaining to each procurement.

Procurement Process

The Process that commences with identification of need and continues through planning, preparation of specification functional requirements, selection of contract award, contract management and completion of the contract.

Procurement Time Schedule

Means document prepared by the PE depicting specific dates from the Procurement Plan for accomplishment of each Procurement Activity under a particular procurement and approved by the PC.

Services

Means any services such as electricity, water supply, cleaning, security, cargo clearance, and other utility services of every description other than Consulting Services.

Works

A category of procurement that refers to divisional construction, decoration, repair, retrofitting, refurbishment, renovation, rehabilitation, demolition, restoration, maintenance of buildings, infrastructure, civil works structures and other associated activities.

ACRONYMS

AO	-	Accounting Officer
BEC	-	Bid Evaluation Committee
BOQ	-	Bill of Quantities
B/POC	-	Bid / Proposal Opening Committee
CAO	-	Chief Accounting Officer
CAPC	-	Cabinet Appointed Procurement Committee
CBO	-	Community Based Organization
CCC	-	Change Control Committee
CIDA	-	Construction Industry Development Authority
DPC	-	Departmental Procurement Committee
ECP	-	Estimated Cost of the Procurement
e-GP	-	e-Government Procurement
FWA	-	Framework Agreement
FFA	-	Foreign Funding Agency
FFP	-	Foreign Funded Project
GOSL	-	Government of Sri Lanka
GPP	-	Green Public Procurement
GPN	-	General Procurement Notice
HD	-	Head of Department
ICB	-	International Competitive Bidding
LKR	-	Sri Lanka Rupees
MPC	-	Ministry Procurement Committee

MPP	-	Master Procurement Plan
NCB	-	National Competitive Bidding
NPC	-	National Procurement Commission
OCDS	-	Open Contracting Data Standard
OD	-	Operational Directives
PC	-	Procurement Committee
PE	-	Procuring Entity
PFD	-	Public Finance Department
PGL	-	Procurement Guidelines
PP	-	Procurement Plan
PPP	-	Public Private Partnership
PTS	-	Procurement Time Schedule
RFB	-	Request for Bids
RFP	-	Request for Proposal
RFQ	-	Request for Quotations
RPC	-	Regional Procurement Committee
SCAPC	-	Standing Cabinet Appointed Procurement Committee
SPD	-	Standard Procurement Document
SPN	-	Special Procurement Notice
TCE	-	Total Cost Estimate
VAT	-	Value Added Tax

CHAPTER 1–GENERAL

<p>1.1 Purpose</p>	
<p>The purpose of these Guidelines is to establish governing principles and procedures to ensure Value for Money (VfM), in an efficient, fair, equitable, transparent, competitive and cost-effective procurement process by the Government Institutions for procurement of Goods, Works, Services and Information Systems.</p>	
<p>1.2 Objectives</p>	<p>Refer Manual 1.2</p>
<p>The Procurement Process should ensure:</p> <ul style="list-style-type: none"> (a) maximizing economy, timeliness and quality; (b) optimum utilization of budgetary resources; (c) adhering to prescribed standards, specifications, rules, regulations and good governance; (d) transparency and accountability in Public Procurement; (e) providing fair, equal and maximum opportunity for eligible interested parties to participate in procurement; (f) expeditious execution of Works and delivery of Goods, completion of Information Systems & provision of Services; (g) compliance with laws, regulations and international obligations; (h) introducing e-Government Procurement (e-GP) for public-sector procurements; (i) promote human wellbeing and support sustainable development by promoting environmental friendly procurement, while optimizing resource utilization and minimizing negative impacts on the environment; (j) promote transparency by regularly publishing procurement data in accordance with the Open Contracting Data Standard (OCDS); (k) enhancing stakeholders trust and confidence in the entire procurement process; (l) maintaining consistency in application of unique procedures across Procuring Entities. 	

<p>1.3 Scope of Application</p>	<p>Refer Manual 1.3</p>
<p>These Guidelines constitute the national policy and are mandatory and applicable to all procurements carried out by Government Institutions.</p> <p>These Guidelines repeal, replace or otherwise supersede previous Procurement Guidelines 2006 Goods and Works issued by the National Procurement Agency and the related supplements and circulars issued by NPA and Treasury.</p> <p>These Guidelines will take effect and come into operations on a date as specified by the NPC (Effective Date) which shall be within 30 days after the approval of these Guidelines by the Parliament.</p> <p>Any Procurement Action that has commenced prior to coming into operation of these Guidelines shall continue under the previous Procurement Guidelines 2006 Goods and Works up to the award of the contract.</p> <p>Commencement, for purposes of this clause, will be the publication of Invitation/Request for Bids. Notwithstanding the above, these Guidelines will apply for any matter not provided for in the previous Guidelines. Procurement Entity may seek a direction from the NPC in the event a clarification is necessary.</p> <p>Details such as procedures, authority limits, threshold limits, explanations, time schedules etc. which are relevant to provisions of these Guidelines are stipulated in the Procurement Manual and shall be read in conjunction with these Guidelines. The Manual will be issued and updated periodically by the NPC.</p>	
<p>1.3.1 Guidelines of Foreign Funding Agencies</p>	
<p>In the case of Foreign Funded Projects, if the Foreign Funding Agency mandates the use of Procurement Regulations/Guidelines of such Funding Agency, such funding agency Regulations/Guidelines shall prevail over these Guidelines to the extent applicable. In the event of a conflict between these Guidelines and that of the funding agency, the Funding agency Regulations/Guidelines shall take precedence over these Guidelines. In the event these Guidelines specify additional steps, not specified by the Guidelines of the relevant funding agency, the PE shall bring to the notice of the Funding Agency of those and apply those provisions with the concurrence of that Funding Agency.</p> <p>Notwithstanding the above, the PE shall not apply Guidelines of any Funding Agency, if the funding is loan/credit financing, where substantial achievement of the objectives as specified in Clause 1.2 above is not feasible.</p>	

1.4 Ethics in Procurement		
<p>Parties associated with Procurement Process including officials of the NPC, the Treasury, Procuring Entity, members of the Procurement Committees, and Bid Evaluation Committees as well as bidders, contractors and suppliers; any sub-contractors, service providers; any agents; consultants and any of their personnel should observe the highest standards of ethics during the Procurement Process and execution of such contracts.</p> <p>Ethics would include standards of conduct and norms of behaviour as sought to be defined and imposed by relevant laws, regulations, and codes generally applicable to such persons in relation to their general discharge of duties and in relation to their activities carried out in furtherance of or linked to the Procurement Process and action.</p>		
1.4.1	Confidentiality	
	All parties associated with procurement activities shall maintain strict confidentiality throughout the process except to the extent as may be mandated by law.	
1.4.2	Fraud and Corruption	Refer Manual 1.4.2
	<p>The GOSL requires that policy and decision makers, officials, bidders, contractors and suppliers; any sub-contractors, service providers; any agents; and any of their personnel observe the highest standards of ethics during the Procurement Process and contract execution and refrain from corrupt, fraudulent, collusive, coercive and obstructive practices in participating in the Procurement Process.</p> <p>For this provision, the terms set forth below are as follows:</p> <p>(a) Corrupt Practice</p> <p>“Corrupt Practice” means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;</p> <p>(b) Fraudulent Practice</p> <p>“Fraudulent Practice” means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;</p> <p>(c) Collusive Practice</p> <p>“Collusive Practice” means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party. Improper purpose would include any attempt to influence competition and/or the price.</p>	

	<p>d) Coercive Practice</p> <p>“Coercive Practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;</p> <p>e) Obstructive Practice</p> <p>“Obstructive Practice” means deliberately destroying, falsifying, altering, amending or concealing of evidence materials to the investigation or making false statements to investigators / auditors in order to materially impede an investigation / audit into allegation of a corrupt, fraudulent, collusive or coercive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation/audit.</p>	
<p>1.4.3</p>	<p>Sanctions for Involvement in Fraud and Corruption</p>	<p>Refer Manual 1.4.3 and 9.4</p>
	<p>If confirmed the involvement of corrupt practices through a formal inquiry, sanctions, including debarring from that procurement or eligibility for future procurements should be imposed on bidders, contractors and officials and should additionally be reported to the respective authorities for appropriate action.</p>	
<p>1.4.4</p>	<p>Conflict of Interest</p>	<p>Refer Manual 1.4.4</p>
	<p>“Conflict of Interest” means any situation where personal or business interests of any person in a Public Procurement transaction would adversely affect the interests of a Procuring Entity in achieving economy, efficiency, effectiveness, transparency, fairness, integrity and equal treatment of bidders or consultants.</p> <p>The GOSL requires that officials, firms and any other individuals involved in Procurement Process not have conflict of interest.</p>	
<p>1.5 Laws applicable to Procurement Actions</p>		
<p>The laws applicable to Procurement Actions shall be the laws of the Democratic Socialist Republic of Sri Lanka.</p>		

CHAPTER 2 - GOVERNANCE OF PROCUREMENT ACTIONS

The governance of Procurement Actions shall be managed by the Procuring Entities through clear and transparent lines of authority to confirm accountability, with clear definitions of the roles and responsibilities of each party.

2.1 National Procurement Commission (NPC)		Refer Manual 2.1
The National Procurement Commission (NPC) as established under the Chapter XIX B of the Constitution of Democratic Socialist Republic of Sri Lanka is the sole authority for the governance of all procurement activities by the Government Institutions of GOSL to whom these Guidelines apply. Any clarifications on the provisions of these Procurement Guidelines and related documents shall be sought from the NPC.		
2.1.1	Role of the NPC	Refer Manual 2.1.1
	Role of the NPC is to ensure formulation of procurement policy, Guidelines, practices, monitoring and investigation of Procurement Actions of Procuring Entities to guarantee implementation of such policies, Guidelines and best practices by Government Institutions, assessment of procurement capacity of Government Institutions, procurement capacity building and reporting to appropriate authorities on procurement performance of Procuring Entities and individuals.	
2.2 Roles and Responsibilities of Chief Accounting Officer and Accounting Officer (CAO and AO)		Refer Manual 2.2
Responsibility of the entire Procurement Process from making pre-procurement arrangements to contract execution shall be vested with the Secretaries of the respective Line Ministries, who are deemed to be the Chief Accounting Officers (CAOs) of such Ministries and the Accounting Officers (AOs) of respective Departments /Institutions.		
2.3 Roles and Responsibilities of Procuring Entity (PE)		Refer Manual 2.3
Secretaries to the Line Ministries, Heads of Departments /Institutions and Project Directors together with the assistance of the consultants and other relevant staff who are involved in procurement decision making shall be responsible for the following activities listed under:		
<ol style="list-style-type: none"> 1. Pre-Procurement Process 2. Procurement Process 3. Post Procurement Process 		

<p>2.4 Appointment of Procurement Committees (PCs) and Bid Evaluation Committees (BECs) and Payments for PC and BEC Members</p>	<p>Refer Manual 2.4</p>	
<p>PC and BEC are jointly and severally responsible for Procurement Actions. There shall be Procurement Committees to handle Procurement Process for determination of contract award and Bid Evaluation Committees (BECs) shall be appointed to perform specific functions delegated by the Procurement Committees in the Procurement Process as appropriate.</p> <p>The following PCs shall be appointed as per the respective authority limits as specified under Guideline 2.5 from time to time:</p> <ul style="list-style-type: none"> • Cabinet Appointed Procurement Committee (CAPC) • Standing Cabinet Appointed Procurement Committee (SCAPC) • Ministry Procurement Committee (MPC) • Department Procurement Committee (DPC) • Project Procurement Committee (PPC) • Regional Procurement Committee (RPC) <p>Apart from above, CAO's are permitted to appoint Minor Procurement Committees to deal with low value procurements.</p>		
<p>2.4.1</p>	<p>Cabinet Appointed Procurement Committee (CAPC)</p>	<p>Refer Manual 2.4.1</p>
	<p>CAPC shall be the PC, which shall be authorized to handle procurements under highest financial authority level that shall be appointed by the Secretary to the Treasury, with the concurrence of the NPC for the suitability of such members.</p> <p>CAPC shall be assisted by a BEC appointed by the Secretary to Treasury, considering the nominations of the PE.</p> <p>The appointing authority should take all possible efforts to limit the number of CAPCs that will be assigned to a particular CAPC member does not exceed six (6) CAPCs.</p>	
<p>2.4.2</p>	<p>Standing Cabinet Appointed Procurement Committee (SCAPC)</p>	<p>Refer Manual 2.4.2</p>
	<p>SCAPC may be appointed by the Secretary to the Treasury, considering the exceptional nature of procurement, with the concurrence of the NPC for the necessity of appointing a SCAPC to handle the particular procurement.</p> <p>Members of the SCAPC shall be cleared by the NPC for their suitability.</p> <p>BECs to assist SCAPCs shall be appointed by the Secretary to the Treasury, considering the nominations of the PE.</p>	

2.4.3	Ministry Procurement Committee (MPC)	Refer Manual 2.4.3
	<p>MPC shall be appointed to handle procurement within prescribed financial authority limits and appointing authority is the CAO/Line Ministry Secretary.</p> <p>MPCs shall be appointed annually at the beginning of the financial year.</p> <p>However, MPCs may be reconstituted within the financial year depending on the specific requirement of the particular procurement.</p> <p>BECs may be appointed by the CAO/Line Ministry Secretary to assist the MPC, considering its requirement.</p> <p>When the MPC is not assisted by a BEC, MPC shall be enhanced to accommodate subject matter specialists.</p>	
2.4.4	Department Procurement Committee (DPC)	Refer Manual 2.4.4
	<p>DPC shall be appointed to handle procurement within prescribed financial authority limits and appointing authority is the CAO/Secretary to the Line Ministry.</p> <p>BECs may be appointed by the AO to assist the DPC, considering the requirement.</p> <p>When the DPC is not assisted by a BEC, DPC shall be enhanced to accommodate subject matter specialists in the DPC.</p>	
2.4.5	Project Procurement Committee (PPC)	Refer Manual 2.4.5
	<p>PPCs shall be appointed to handle procurement within prescribed authority limits and the appointing authority is the CAO/Secretary to the Line Ministry or AO, as may be the project is under the supervision.</p> <p>BECs may be appointed by the PD with concurrence of CAO/AO to assist the PPC, considering the requirement.</p> <p>PPCs under public corporations, boards and statutory bodies shall be appointed, with the specific approval of the CAO/Secretary to the Line Ministry.</p>	
2.4.6	Regional Procurement Committee (RPC)	Refer Manual 2.4.6
	<p>RPC shall be appointed to handle procurement within prescribed financial authority limits and the appointing authority is the AO.</p> <p>BECs may be appointed by the AO to assist the RPC, considering the requirement.</p> <p>RPCs under public corporations, boards and statutory bodies shall be appointed, with the specific approval of the AO.</p>	

2.4.7	Payments for Members of Procurement Committees (PCs) and Bid Evaluation Committees (BECs), Staff Officers and Other Officers Assisting in the Procurement Process	Refer Manual 2.4.7
	Members of the PCs, BECs and alternate members shall be remunerated for participation in the Procurement Process. The members of the PCs and BECs and the official who specific responsibilities are assigned under these Guidelines shall be remunerated, with emphasis to their performance. Payment of remunerations shall be based on performance of such committees and individuals and the eligible payments shall be determined by the NPC, in consultation with the General Treasury.	
2.4.8	Roles and Responsibilities of Procurement Committees (PCs) and Bid Evaluation Committees (BECs)	Refer Manual 2.4.8
	PCs and BECs are jointly and severally responsible for Procurement Actions related to determination of award in the Procurement Process.	
	2.5 Authority Limits for determination of Contract Award	Refer Manual 2.5
	Public Procurement is administered through different levels of Procurement Committees (PC) with varying financial thresholds to make recommendation/determination of contract awards. Procurement Committees/Bid Evaluation Committees shall be appointed depending on the Total Cost Estimate (TCE) of the relevant procurement.	

CHAPTER 3 - PROCUREMENT METHODS & TYPES

Open competitive bidding is the basis for economical and efficient Public Procurement. Depending on the nature and size of the project and its procurement elements, PE may use appropriate procurement methods out of the following to procure Goods, Works, Services and Information Systems.

3.1 Procurement Methods	Refer Manual 3.1
<ol style="list-style-type: none"> 1. International Competitive Bidding (ICB) 2. National Competitive Bidding (NCB) 3. Limited International Bidding (LIB) 4. Limited National Bidding (LNB) 5. Shopping (International & National) 6. Direct Contracting 7. Force Account 8. Emergency Procurement 9. Community Participation in District/Divisional Level Construction 	

3.1.1	International Competitive Bidding (ICB)	Refer Manual 3.1.1
	<p>International Competitive Bidding (ICB) may be the appropriate method of procurement for large contracts. The purpose of ICB is to provide a level playing field for all prospective qualified bidders worldwide under the following circumstances in order that the PE will reap the ultimate benefit from enhanced market competition. Bidding opportunities must therefore be advertised worldwide to ensure maximum participation and value for money.</p> <ul style="list-style-type: none"> a) when the capacity of the domestic contractors, suppliers and service providers are limited and the advantage of ICB is evident; b) for Foreign Funded Projects, when the Foreign Funding Agency agreement requires the PE to resort to ICB procedures; <p>However, in the case of Works contracts in view of the development of domestic construction industry, the possibility of slicing the contract and following “slice and package” to suit domestic contractors may be considered.</p> <p>Local entities are also allowed to bid/proposals for procurements under ICB.</p> <p>Domestic preference criteria stipulated shall be used wherever applicable.</p> <p>All other conditions including currencies, taxes and other statutory levies except domestic preference shall be applicable equally to foreign and domestic bidders.</p>	
3.1.2	National Competitive Bidding (NCB)	Refer Manual 3.1.2
	<p>National Competitive Bidding (NCB) is the competitive bidding procedure that shall be generally applicable for most GOSL funded projects when the Goods, Works, Services and Information Systems are available within Sri Lanka.</p> <p>Foreign entities may bid for procurements under NCB method provided the prices are quoted in Sri Lanka Rupees.</p> <p>NCB in foreign funded projects shall be used with the agreement of the Foreign Funding Agency as articulated in the respective financing agreement.</p>	

<p>3.1.3</p>	<p>Limited International Competitive Bidding (LIB)</p>	<p>Refer Manual 3.1.3</p>
	<p>LIB is a procurement method which allows international procurements under a restricted and competitive environment.</p> <p>This method shall be used when there is only a limited number of suppliers/contractors or the amount of the contract is not large enough to attract suppliers or contractors through ICB, provided that the list of potential suppliers/contractors is sufficient to ensure competitiveness.</p> <p>In the case of Limited International Competitive Bidding (LIB), all procedures followed under ICB shall apply except the requirement for advertising.</p>	
<p>3.1.4</p>	<p>Limited National Competitive Bidding (LNB)</p>	<p>Refer Manual 3.1.4</p>
	<p>This method shall be used when there is only a limited number of suppliers/contractors or the amount of the contract is not large enough to attract suppliers or contractors through NCB, provided that the list of potential suppliers/contractors is sufficient to ensure competitiveness.</p> <p>In the case of Limited National Competitive Bidding (LNB), all procedures followed under NCB shall apply except the requirement for advertising.</p>	
<p>3.1.5</p>	<p>Shopping (International & National)</p>	<p>Refer Manual 3.1.5</p>
	<p>Shopping is a limited procurement method that can be used by the PE when purchasing small value Goods, Works, Services and Information Systems mentioned below, comparing price quotations received from at least three (3) reputed/registered bidders.</p> <ul style="list-style-type: none"> i. Commercially available Off the Shelf Goods (COTS); ii. Commodities for which specifications are standard; or iii. Small value Goods, Works, Services and Information Systems. 	
<p>3.1.6</p>	<p>Direct Contracting</p>	<p>Refer Manual 3.1.6</p>
	<p>Direct contracting is contracting with a single source without competition and may be an appropriate method under special circumstances as stated below.</p> <ul style="list-style-type: none"> a) additional items are required under an existing contract (repeat order) which was awarded in accordance with competitive procedures considered under this Guideline. PEs shall be satisfied in such cases that no better offer is likely to be received and that the price to be paid is not more than the original price. Usually, the repeat order shall occur within 6 months of the original contract, with the additional quantities not exceeding fifty percentum (50%) of the original quantities. 	

	<ul style="list-style-type: none"> b) standardization of equipment or spare parts compatible with existing equipment may justify additional purchases from the original supplier. For such purchases to be justified, the original equipment shall be suitable, the number of new items shall be less than the existing number and the price shall be reasonable. c) the required equipment is proprietary and obtainable only from one source. d) in exceptional cases, such as in response to natural disasters. e) no Government Institution will qualify for automatic direct contract award. 	
3.1.7	Force Account	
	<p>Force account is the execution of works by the use of the PE's own personnel and equipment which may be the only practical method for executing certain kinds of Works. The use of force account may be justified where:</p> <ul style="list-style-type: none"> a) quantities of work involved cannot be defined in advance; b) Works are small and scattered or in remote locations for which qualified construction firms are unlikely to bid at reasonable prices; c) Work is required to be carried out without disrupting ongoing operations; d) risks of unavoidable work interruption are better borne by the employer than by a contractor; or e) there are emergencies needing immediate attention. 	
3.1.8	Emergency Procurement	Refer Manual 3.1.8
	<p>PE may use this method in exceptional circumstances, such as man-made or natural disasters or to meet unforeseen social obligations and such other similar situations which shall be determined by the Government authorities as being an emergency situation.</p> <p>A formal covering approval for any emergency procurement shall be obtained from the appropriate PC at the first available opportunity.</p>	
3.1.9	Community participation in District / Divisional level Construction	Refer Manual 3.1.9
	<p>In the interest of project sustainability, or to achieve certain specific social objectives, such as creating employment opportunities in an identified area, it is desirable to call for the participation of local Community Based Organisations (CBOs) in the Procurement Process provided that such CBO is capable to undertaking such work in terms of financial, equipment and human resource requirements and has sufficient experience in the relevant field. Sub-contracting by the CBO shall not be allowed under any circumstances.</p>	

<p>3.2 Repeat Orders</p>	<p>Refer Manual 3.2</p>
<p>Repeat orders for the procurement of Goods may be authorized under exceptional circumstances if the PE certifies that;</p> <ul style="list-style-type: none"> a) the necessity for additional requirement was not foreseen and identified at the time of the original order; b) it is not economical to follow the bidding procedure again; c) price of the Goods have not reduced since the original order; and d) appropriate PC has no objection to such repeat order. <p>Provided that additional items that are required are under an existing contract originally awarded in accordance with competitive procedures.</p> <p>Notwithstanding the above, PEs shall be satisfied in cases that no better offer is likely to be received and that the price to be paid is not more than the original price.</p> <p>Usually, the repeat order shall occur within 6 months of the original contract, with the additional quantities not exceeding 50% of the original quantities.</p>	
<p>3.3 Types of Bidding</p>	<p>Refer Manual 3.3</p>
<p>Types of bidding, with or without pre-qualification/initial selection</p> <ol style="list-style-type: none"> 1. Single Stage One Envelope 2. Single Stage Two Envelope 3. Multistage Bidding 	
<p>3.3.1 Single Stage One Envelope Bidding</p>	<p>Refer Manual 3.3.1</p>
<p>Single Stage One Envelope bidding is most appropriate when the specifications and requirements are uniquely defined to enable submissions of both technical and financial bids/proposals in one envelope.</p>	
<p>3.3.2 Single Stage Two Envelope Bidding</p>	<p>Refer Manual 3.3.2</p>
<p>The first envelope contains the qualification and technical part and second envelop contains the financial part (price bid/proposal). The two envelopes are opened and evaluated sequentially. The main objective of this type is to evaluate the technical proposal and capacity of the bidders without influence of the price quoted for moderate technically complex works and supplies.</p> <p>Two envelope system may be used in circumstances such as “turnkey”, “design and build”, Information Systems and “supply and installation” contracts etc.</p>	

3.3.3	Multi - stage Bidding	Refer Manual 3.3.3
	<p>It may be impractical to prepare complete technical specifications in advance for the procurement of:</p> <ul style="list-style-type: none"> a) large complex facilities for which a turnkey contract will be awarded for the design and build of a plant; b) Works of a complex and special nature; or c) complex information and communication technology that is subject to rapid technological advances. <p>In the first stage, proposals are invited on the basis of a conceptual design or performance or functional specifications, subject to the PEs conducting proposal specific documented understanding meetings with individual proponents to learn about and discuss possible solutions.</p> <p>In the second stage, the request for proposals document may be amended to reflect the discoveries made in the proposal specific documented understanding meeting, and issued to the qualified proponents, requesting them to submit final proposals. As requested in the request for proposals document, the second stage shall be submitted in two (2) envelopes for the technical and financial parts respectively where two envelopes are opened and evaluated sequentially.</p>	
	3.4 Pre-qualification (PQ)/ Initial Selection (IS) of Bidders	Refer Manual 3.4
	<p>The purpose of PQ/IS of bidders is to ensure invitations to bid are extended only to those who have adequate capabilities; with respect to construction or manufacturing facilities or supply of Goods, Services, or supply and installation of Information Systems; and their financial position, experience and past performance on similar contracts is satisfactory.</p> <p>In this context, PQ may be necessary for large complex Works or in circumstances which could discourage competition due to high cost of preparation of detailed bids/proposals such as; Custom-designed equipment, industrial plants, specialized services, contracts to be let under design and build, management contracting, or complex Information Systems.</p>	

CHAPTER 4 - PROCUREMENT PLANNING

Efficient and realistic planning of the entire Procurement Process is vital to ensure timely completion of the procurement cycle.

<p>4.1 Procurement Planning</p>	<p>Refer Manual 4.1</p>
<p>Every Procuring Entity (PE) shall be responsible to plan their individual procurements, other than emergency procurements, in advance and shall prepare following plans.</p> <ol style="list-style-type: none"> 1. Master Procurement Plan (MPP) 2. Procurement Plan (PP) 3. Procurement Time Schedule (PTS) 	
<p>4.1.1 Master Procurement Plan (MPP)</p>	<p>Refer Manual 4.1.1</p>
<p>Every (PE) should prepare a Master Procurement Plan for a period of three year in medium term budgetary perspective and should be compiled at the Ministry level.</p> <ol style="list-style-type: none"> a) Individual procurements envisaged for a period of three years shall be listed in the Master Procurement Plan. (MPP) b) MPP shall be reviewed annually, at the commencement of respective financial year, and shall be approved by the Secretary to the Line Ministry. c) MPP shall be disclosed as per the regulations made under the Right to Information Act, No. 12 of 2016. 	
<p>4.1.2 Procurement Plan (PP)</p>	<p>Refer Manual 4.1.2</p>
<ol style="list-style-type: none"> a) PE shall prepare a Procurement Plan (PP) in accordance with Master Procurement Plan (MPP) and previously approved Action Plan, depicting procurement that shall be carried out during the respective financial year. b) PP shall be more specific and list the procurement activities of the current year in accordance with the budgetary provisions and approved by the Secretary to the Line Ministry. PE shall send a true copy of the approved PP to NPC. c) After preparation of the Procurement Plan the PE shall publish the General Procurement Notice (GPN) indicating the details of the procurements planned for the respective financial year. GPN shall be published in the websites of the PE, relevant line ministry and NPC. 	

	<p>d) PP is a management tool and shall be disclosed as per the regulations made under the Right to Information Act, No. 12 of 2016.</p> <p>PP shall be updated as and when necessary considering actual performance. MPP and Action Plan also may be amended accordingly, if required.</p> <p>PE shall send an updated PP to NPC within 30 calendar days of the update.</p>	
4.1.3	Procurement Time Schedule (PTS)	Refer Manual 4.1.3
	<p>a) Procurement Time Schedule (PTS) is a schedule describing each Procurement Action, in chronological order, from commencement to completion of the Procurement Process up to the award of contract.</p> <p>b) PTS shall be prepared by the PE in two stages;</p> <p>Stage 1 - all activities from the commencement up to the preparation of draft procurement documents;</p> <p>Stage 2 - all activities after preparation of the draft Procurement Document consequent to obtaining the required budgetary provisions.</p> <p>c) Regular update of PTS Stage 1 shall be done by the PE.</p> <p>d) The PE shall forward the draft PTS for Stage 2 on the procurement activity concerned, together with any connected downstream procurement to the PC. It is an obligation of the respective PC to consider the PTS Stage 2 and approve it at the first meeting. Once the PTS is agreed upon, the PC shall monitor the progress in consultation with the PE.</p>	
	4.2 Total Cost Estimate (TCE)	Refer Manual 4.2
	<p>TCE is an aggregation of elemental costs of a procurement to be conducted including VAT which will be shown separately.</p> <p>The elemental costs means itemized costs of the pre-procurement, procurement and post- procurement costs.</p> <p>TCE shall be prepared by the PE and approved by respective approving authority, prior to request for bids/proposals.</p>	

<p>4.2.1</p>	<p>Update of Total Cost Estimate (TCE)</p>	<p>Refer Manual 4.2.1</p>
	<p>Wherever it is necessary to update the TCE, the updated TCE shall be approved by the appropriate authority. The approving authority should refrain from revising the TCE during the Procurement Process after the request for bids/proposals.</p>	
	<p>4.3 Packaging and Slicing of Contracts</p>	<p>Refer Manual 4.3</p>
	<p>The size and the complexity of the contract are important considerations for packaging and slicing.</p> <p>Bids/proposals may be requested;</p> <ul style="list-style-type: none"> a) In order to facilitate large and small contractors to participate, procurement may be divided into smaller slices and procured on “Slice and/or Package” basis. b) Both small and large contractors may be allowed, at their options, to bid for one or more packages. c) In case of e-GP, lots will be treated as a stand-alone procurement packages and procured accordingly. <p>All bids/proposals shall be received by the same closing date and opened and evaluated simultaneously so as to determine the bid/proposal or combination of bids/proposals.</p> <p>Procurements carried out through e-GP system shall be automatically closed and locked from access to anyone at the time and date of closing and bidders shall not be allowed to submit any bids/proposals after that. Only the authorized person from the PE or opening committee members will be allowed to access and open the bids/proposals at and from the time of stipulated time for the bid/proposals opening.</p> <p>After the opening, the bids/proposals will be given access to the bid evaluation committee for evaluation. Most of the parts of the evaluation will be automated in the system to minimize discretion by the evaluators.</p> <p>All events, transactions, access information, bid/proposal data, and processed data shall be recorded in the e-GP system, and remain in encrypted form when in the system. Only the authorized persons as per their authority and role in the system shall get access to relevant and authorized data or information.</p>	

CHAPTER 5 – PROCUREMENT DOCUMENTS

<p>5.1 Preparation of Draft Procurement Documents</p>	<p>Refer Manual 5.1</p>
<p>a) The PE shall prepare the draft Procurement Documents in a manner best calculated to encourage competition and achievement of the procurement objectives as given in 1.2 above.</p> <p>b) The PE shall complete the above-mentioned task prior to the appointment of the PC and BEC.</p>	
<p>5.2 Contents of Procurement Documents</p>	<p>Refer Manual 5.2</p>
<p>The Procurement Documents shall contain all relevant information necessary for a prospective bidder to prepare a responsive bid/proposal. The contents of the Procurement Document shall be unambiguous.</p>	
<p>5.3 Standard Procurement Documents (SPDs)</p>	<p>Refer Manual 5.3</p>
<p>a) PEs shall use the appropriate SPDs, with minimum changes, if necessary, to address procurement specific issues. In the case of procurements funded by a Foreign Funding Agency, the PEs may use the SPDs mandated by such agencies.</p> <p>b) In case of Information Systems, separate Procurement Documents, as may be necessary, will be prepared by PE to cover procurement and contract documents to facilitate successful installation, integration and operation of a range of Information System applications- from straightforward supply, installation and maintenance of technology products, to complex development, integration and operation of mission-critical Information Systems.</p> <p>c) Where no relevant SPDs are available, the PE may use other appropriate Procurement Documents.</p> <p>d) All such documents must be reviewed/recommended and approved by the BEC and the PC, respectively. The BEC and PC shall be jointly and severally responsible for the contents of such documents. However, it is the duty of the PE to ensure that the Procurement Document is complete with any amendments recommended by the BEC and approved by the PC.</p> <p>e) In case of SPDs in e-GP, all data sections like bid data sheet, bill of quantity/material, schedule of delivery, technical and financial proposals, special conditions of contracts, and other data related forms should be available as web forms or interactive data capturing and processing system. SPDs static sections, in non-modifiable PDF format, should be built into the e-GP system process itself. Its use should enhance efficiency in administrative processes and contribute to good governance.</p>	
<p>For Works contracts standard formats published by CIDA may be used in instances where the PE is of the opinion that such are the most suitable.</p>	

<p>5.4 Request for Bids/Proposals</p>	<p>Refer Manual 5.4</p>
<p>Adequate publicity shall be given to the request for bids/proposals in national newspapers, organization's website and National Procurement Commission's web portal, e-GP portal and in case of ICB in relevant international or donor websites.</p> <p>Request for bids/proposals should be brief but should contain appropriate and relevant basic information required by prospective bidders to form, with sufficient clarity, an opinion as to the scope of the procurement.</p>	
<p>5.5 Instructions to Bidders (ITB)</p>	<p>Refer Manual 5.5</p>
<p>Instructions to bidders shall contain clear, precise and relevant information for bidders sufficient to prepare and submit responsive bids/proposals.</p>	
<p>5.6 Eligibility of Bidders</p>	<p>Refer Manual 5.6</p>
<p>(a) Eligibility requirements for bidders shall be limited to those that are essential to ensure bidder's legality and capacity to perform the relevant contract and shall be included in the Procurement Documents.</p> <p>(b) Bidders should be considered as ineligible bidders under the following two situations among others:</p> <ul style="list-style-type: none"> i. any blacklisted contractor/supplier/service provider; ii. any contractor/supplier/service provider who displays a conflict of interest. 	
<p>5.6.1</p>	<p>Eligibility for Works Contracts</p>
<p>(a) In the case of procurement of Works (excluding Works implemented through Community Based Organizations), domestic contractors shall have the appropriate and valid CIDA registration at the time of closing of bids/proposals and award of contract.</p> <p>(b) CIDA registration shall not be a criterion for purchasing Procurement Documents.</p> <p>(c) CIDA registration shall, for purposes of evaluation, be considered an eligibility criteria only.</p>	
<p>5.6.2</p>	<p>Eligibility for Consortia/Joint Ventures</p>
<p>(a) Firms should be allowed to bid as a joint venture or as a consortium, to enhance their qualifications and capabilities. Any partner of a joint venture/consortium is not allowed to submit another bid/proposal independently or as a joint venture partner or as a consortium with another for the same procurement.</p>	

	<p>(b) If a bid/proposal is submitted as a joint venture or a consortium, all parties of the joint venture/consortium shall be jointly and severally liable for the entire contract.</p> <p>(c) If a consortium or a joint venture has not been formed at the time of bid/proposal submission, the bid/proposal shall include sufficient material to establish the intention to form such consortium or a joint venture together with respective rights and liabilities of the consortium/joint venture parties. In any event consortium/joint venture shall be established prior to entering into contract.</p>	
<p>5.7 Equal Treatment for Foreign and Domestic Bidders</p>		
	<p>(a) In procurements under ICB, bidding and contract conditions shall have equal application to both domestic and foreign bidders, except in complying with the requirements of domestic preference and CIDA registration (in the case of construction contracts) for domestic bidders.</p> <p>(b) If any foreign currency payments are envisaged under the contract, both the foreign and domestic bidders shall be eligible to quote and to be paid in foreign currency.</p> <p>(c) To be eligible for foreign currency payment bidders are required to submit justification to that effect. Import of plant, equipment and machinery and payment of remuneration for expatriates etc. would be considered as valid justifications.</p>	
<p>5.8 Bid/Proposal Validity Period</p>		<p>Refer Manual 5.8</p>
	<p>Bidders shall be required to submit bids/proposals valid for a period specified in the Procurement Documents. Bid/proposal validity period must be requested indicating a certain calendar date, (not in number of days), which shall be sufficient to enable the PE to complete the comparison and evaluation of bids/proposals, review the recommendation for award and obtain all the necessary approvals so that the contract can be awarded within the bid/proposal validity period. In the event the evaluation cannot be completed, the PE shall request for an extension of the bid/proposal validity as per the revised calendar date.</p>	
<p>5.9 Bid Security</p>		<p>Refer Manual 5.9</p>
	<p>A bid security must be submitted by all the bidders, participating in ICB, LIB, NCB or LNB bidding processes as specified in the Procurement Documents. Validity period of bid security must be requested indicating a certain calendar date, (not in number of days).</p> <p>A Procuring Entity may accept a bid securing declaration in place of a bid security, provided that this is specified in the Procurement Document. If the bidder fails to fulfil any of the requirements given in the declaration, the bidder shall be blacklisted as per Procurement Guideline 9.4.</p>	

<p>5.10 Clarity of Procurement Documents</p>	
<p>(a) All prospective bidders shall be provided with the same information other than two stage bidding and shall be assured of equal opportunities to obtain additional information.</p> <p>(b) Where ever applicable a pre-bid meeting/site visits may be arranged whereby prospective bidders have the opportunity of seeking clarifications from the PE. All bidders must be provided with the same information by the PE.</p>	
<p>5.11 Clarifications and Modifications</p>	<p>Refer Manual 5.11</p>
<p>(a) A prospective bidder requiring any clarification of the Procurement Documents should notify to the PE in writing, with sufficient time before the date of bid/proposal closing.</p> <p>(b) At any time prior to the date of closing of bids/proposals PE may, at its own initiative or in response to a clarification requested by a prospective bidder, modify Procurement Documents by issuance of addenda with the recommendation of the BEC and approval of the PC.</p> <p>(c) If deemed necessary, the PE may extend the deadline for bid/proposal closing giving due consideration to the PTS and other Bidders, with the approval of the PC.</p>	
<p>5.12 Alternative Bids/Proposals or Bid Options/Proposal Options</p>	
<p>(a) The Procurement Document shall clearly indicate when bidders are allowed to submit alternative bids/proposals, how alternative bids/proposals should be submitted, how bid prices of the alternative bid/proposal should be offered and the basis on which alternative bid/proposal shall be evaluated.</p> <p>(b) Alternative bids/proposals submitted by a bidder, shall be considered as a separate bid/proposal and it shall be supported with an independent form of bid and bid security.</p> <p>(c) If bidders are permitted to submit alternative bids/proposals it shall be clearly stated in the Procurement Document. However, only the original bids/proposals shall be considered for the purpose of evaluation.</p> <p>(d) If the original bid/proposal submitted by the bidder is considered as the lowest evaluated and substantially responsive bid/proposal, the bidder's alternative bid/proposal will be compared with his original bid/proposal. In such a situation, if alternative bid/proposal is accepted, it shall fully comply with employer's requirements and bid/proposal price shall not be higher than the original bid/proposal price.</p> <p>If alternate bids/proposals are not permitted in the Procurement Document, any alternate bid/proposal shall not be considered.</p> <p>(e) Procurement Document shall specify whether bid/proposal options are allowed or not. If bidders are allowed to submit options, the Procurement Document shall clearly indicate how bid/proposal options should be submitted, how bid/proposal prices should be offered and the basis on which bid options shall be evaluated.</p> <p>If Procurement Documents specify bid/proposal options are not allowed, bids/proposals with all options will be rejected.</p>	

5.13 Value Added Tax	Refer Manual 5.13
The bidders shall be instructed to indicate VAT separately in their bid/proposal price and VAT shall not be considered for evaluation of bids/proposals.	
5.14 Bid/Proposal Evaluation Criteria and Qualification Requirements	Refer Manual 5.14
(a) The Procurement Documents shall clearly specify the relevant factors, in addition to price, to be considered in bid/proposal evaluation.	
(b) Pre-qualification criteria and post qualification criteria shall also be clearly stated in the relevant Procurement Documents.	
(c) The disclosed criteria shall not be modified, or additional criteria shall not be introduced during the bid/proposal evaluation.	
(d) If bids/proposals based on alternative designs, materials, completion schedules, payment terms etc. are permitted, conditions for their acceptability and method of their evaluation shall be expressly stated.	
5.15 Conditions of Contract	Refer Manual 5.15
(a) The General Conditions of Contract (GCC) are generally used with all types of contracts and shall be issued with the Procurement Document. Special Conditions of Contract (SCC) may be included in the Procurement Document depending upon the need.	
(b) Provisions indicated in the SCC will take precedence over the corresponding provisions in the GCC. Additional clauses shall be added to SCC to suit the particular contract.	
5.16 Price Adjustment	Refer Manual 5.16
For contracts with long delivery or completion periods including major civil works contracts, price adjustment provision shall be provided in the Procurement Document.	
5.17 Advance Payment	Refer Manual 5.17
An advance payment can be made, when required provisions are included in the Procurement Document.	

<p>5.18 Retention of Money in Works Contracts</p>	<p>Refer Manual 5.18</p>
<p>The PE shall retain a specified amount as retention money to ensure that the contractor rectifies any defects.</p>	
<p>5.19 Performance Security</p>	<p>Refer Manual 5.19</p>
<p>A performance security shall be provided by the contractor/supplier, to safeguard the PE in case of breach of contract and unsatisfactory performance.</p>	
<p>5.20 Liquidated Damages</p>	<p>Refer Manual 5.20</p>
<p>Provision shall be made in the contract for computation and charging of liquidated damages, for delays which result in a loss to PE where supplier/contractor is responsible for the delay.</p>	
<p>5.21 Dispute Resolution</p>	<p>Refer Manual 5.21</p>
<p>All disputes arising out of contract agreements shall be resolved through amicable negotiation, mediation, adjudication or arbitration. Arbitration shall be in accordance with the provisions of the Arbitration Act No. 11 of 1995 of Sri Lanka.</p>	
<p>5.22 The Law of Contract</p>	
<p>The law governing the Contract shall be the laws of the Democratic Socialist Republic of Sri Lanka.</p>	
<p>5.23 Specifications</p>	<p>Refer Manual 5.23</p>
<p>(a) Specifications shall include material, design, quality, standards and workmanship for all prospective procurements. It should meet the essential requirements of the PE and be objective, functional, and fit for the purpose.</p> <p>(b) It should be based on respective national standards and/or equivalent international standards as applicable.</p> <p>(c) Specifications should be of generic nature reflecting functional aspects than technical aspects.</p>	
<p>5.24 Contract</p>	<p>Refer Manual 5.24</p>
<p>The contract document shall be issued with the Procurement Document.</p>	

CHAPTER 6–PROCUREMENT PROCESS

6.1 Publication of Request for Bids (RFB)/ Request for Proposal (RFP)/ Specific Procurement Notice (SPN)	Refer Manual 6.1
<p>Wide publicity shall be given to the RFB/RFP/SPN which should include sufficient information for prospective bidders to respond in offering bids/proposals.</p> <p>Publicity of RFB/RFP/SPN will include publishing in the relevant PE/Ministry/NPC website as well as in e-GP portal.</p> <p>In case of LNB and LIB, RFB/RFP/SPN is not applicable.</p>	
6.2 Issuance of Procurement Documents	Refer Manual 6.2
<p>Procurement Documents, including in the e-GP system, should be made available for purchase by the prospective bidders, as mentioned in the RFB/RFP/SPN on the payment of the prescribed fees, if any, up to one day prior to the deadline for submission of bids/proposals.</p> <p>Procurement Documents and web-forms or functions to review and response to the RFB shall be available in e-GP System as provided for in the e-GP Guidelines.</p>	
6.3 Bidding Period	Refer Manual 6.3
The bidding period shall be reasonably adequate to prepare and submit the bids/proposals.	
6.4 Submission/Receipt of Bids/Proposals	Refer Manual 6.4
<p>The bid/proposal shall be submitted using Procurement Documents issued by PE which is not transferable to any other bidder.</p> <p>The bids/proposals shall be received only at one location as stated in the Procurement Document. When e-GP is introduced, all bids/proposals shall be accepted only through e-GP System as per the Guidelines relevant to the e-GP system.</p>	
6.5 Rejection of Late Bids/Proposals	Refer Manual 6.5
<p>Bids/proposals shall be closed at the time specified in the Procurement Documents. Late bids/proposals shall not be accepted and shall be returned unopened.</p> <p>e-GP System shall automatically reject the late bids/proposals.</p>	

6.6 Public Bid/Proposal Opening	Refer Manual 6.6
<p>a) Bids/proposals shall be opened by a bid/proposal opening committee in the presence of the bidders or their authorized representative/s who wish to attend, soon after the closing of bids/proposals.</p> <p>b) No bid/proposal is rejected by the bid/proposal opening committee at the bid opening.</p> <p>c) In case of e-GP, bids/proposals will be opened electronically as guided in the e-GP Guidelines.</p> <p>d) Amount in the form of bid announced at the public opening shall be the declared bid sum. Any discounts offered at the time of bidding should have been included in this amount.</p>	

CHAPTER 7 – BID/PROPOSAL EVALUATION

7.1 General	Refer Manual 7.1
<p>All the bids/proposals should be evaluated strictly on the basis of the terms and conditions incorporated in the Procurement Document. No new condition should be brought in while evaluating the bids/proposals. Aim should be to ensure that no bidder gets undue advantage at the cost of other bidders and/or at the cost of the PE.</p> <p>In case of e-GP system, most of the evaluations will be automated in the evaluation process.</p>	
7.2 Confidentiality	Refer Manual 7.2
<p>Entire bid /proposal evaluation process shall be confidential until the publication of award. After bid/proposal opening, information relating to substance, clarification, examination and evaluation of bids/proposals and recommendations concerning awards shall not be disclosed to bidders or to any other person not officially concerned with this process.</p> <p>All bid data, information, documents and evaluation records shall remain encrypted and confidential in the e-GP System. Only the evaluators will have access to the records for the purpose of carrying out evaluation until the decision to award is made.</p>	

7.3 Services of Consultant/s for Evaluation of Bids/Proposals	
<p>a) If the assistance of the consultant/s is required for evaluation of bids/proposals it shall be obtained under the supervision and guidance of BEC.</p> <p>b) Consultants shall not form part of a BEC.</p> <p>c) The BEC shall submit to the PC its own observations and recommendations in the form of a report along with the consultant's report.</p>	
7.4 Time Frame for Bid/Proposal Evaluation	Refer Manual 7.4
Bid evaluation shall be undertaken expeditiously, leaving ample time to seek all the requisite formal approvals. Hence, bids shall be evaluated within the period specified in the PTS.	
7.5 Extension of Bid/Proposal Validity	Refer Manual 7.5
<p>PC, BEC and PE must endeavour to make the award in keeping with the PTS and within the bid/proposal validity period.</p> <p>a) in exceptional situations where it is not possible to make the award before the expiry of bid/proposal validity period, prior to such expiration the validity period may be extended appropriately, and the bid security also extended accordingly.</p> <p>b) if a bidder does not agree to extend the validity of the bid/proposal and/or bid security, such bid/proposal shall be excluded from further consideration. However, in such a situation the bid security shall not be forfeited.</p>	
7.6 Original Bid/Proposal to be Evaluated	Refer Manual 7.6
Only the bids/proposals marked "original" shall be evaluated by the BEC/PC.	
7.7 Purpose and Stages of Bid/Proposal Evaluation	Refer Manual 7.7
<p>a) The purpose of bid/proposal evaluation is to determine the substantially responsive lowest evaluated bid/proposal out of the bids/proposals received..</p> <p>b) Bid/proposal evaluation process could be divided into four broad stages:</p> <p>7.7.1 Stage One: Collection of Data and Information and Prepare for Bid/Proposal Evaluation:</p> <p>Begin with collection of information and preliminary examination of bids;</p> <p>a) basic data collection;</p> <p>b) record of bid/proposal opening and related information collection;</p> <p>c) examination for completeness of bids/proposals; and</p> <p>d) preparation of table of bidder's completeness.</p>	

<p>7.7.2 Stage Two: Examination of Bids/Proposal for Substantial Responsiveness:</p> <p>a) examination of substantial responsiveness to commercial requirements.</p> <p>b) the bids/proposals that are responsive to commercial requirements will be examined for responsiveness to technical requirements.</p> <p>c) when examining the responsiveness to both commercial and technical requirements due recognition will be given for deviations.</p> <p>d) preparation of a table of responsiveness to commercial, technical requirements and deviations.</p> <p>7.7.3 Stage Three: Detailed Bid/Proposal Evaluation:</p> <p>At this stage detailed bid/proposal evaluation will be carried out in accordance with the Procurement Document, to determine the substantially responsive bids/proposals after which the financial evaluation should be carried out.</p> <p>If the Procurement Documents provide provision for application of domestic preference, will be carried out.</p> <p>At the end of this evaluation stage, a table of substantially responsive evaluated bids/proposals will be prepared.</p> <p>7.7.4 Stage Four: Is to Determination of the Lowest Evaluated Substantially Responsive Bid/Proposal:</p> <p>Step one is examination of unbalanced bids/proposals in the civil works contracts; and</p> <p>Step two is examination of post qualification criteria; and</p> <p>Step Three is examination of alternative bids/proposals if there is provision in the Procurement Documents.</p> <p>Finally, Selection and recommendation of substantially responsive lowest evaluated bid/proposal.</p> <p>Bid/proposal evaluation process ends up with preparation of bid evaluation report and recommendation for the award of contract.</p>	
<p>7.7.5 Domestic Preference</p>	<p>Refer Manual 7.7.5</p>
<p>With a view to providing a realistic value addition to local raw materials and domestic bidders, thereby promoting national industry and enterprise, when competing with foreign bidders, the domestic bidder's bid shall be given the margins of preference as referred in the Manual during Bid Evaluation.</p>	

<p>7.8 Clarifications from Bidders</p>	
<p>During the evaluation of bids/proposals (particularly for complex works) there may be a need to seek clarification from a bidder with the sole purpose of ensuring better understanding of the bid/proposal as submitted so that the bid/proposal can be properly and fairly evaluated. These clarifications should not:</p> <ul style="list-style-type: none"> a) permit any substantive change to the bidder's initial response; or b) change the bid/proposal price, except correction of arithmetical errors in the pricing of the bid; or c) give an advantage to the bidder from whom clarification is sought by providing that clarification; <p>On a request by PC or the BEC with the approval or delegated authority of PC, the PE will seek such clarifications from the bidder in writing.</p> <p>In the case of BEC requesting PE to seek clarifications without the approval of PC, such requests shall be made known to the PC concurrently</p>	
<p>7.9 Unrealistic Bids/Proposals</p>	
<p>When the substantially responsive lowest evaluated bid/proposal appears to be unrealistic, on the request of BEC, PE may require the bidder to prove written clarification, including detailed price analysis to demonstrate the consistency of prices with the scope of Works, proposed methodology and schedule. After evaluating the detailed price analysis, PC/BEC may as appropriate:</p> <ul style="list-style-type: none"> a) accept the bid/proposal; b) require that the total value of the performance security be increased, at the expense of the bidder; c) reject the bid/proposal. 	
<p>7.10 Negotiations with the Substantially Responsive Lowest Evaluated Bidder</p>	
<p>There should be no price negotiations except in the case of single bids/proposals as stated in (b) below. Selection of contractors by negotiations should be a rare exception rather than the rule. The negotiation should be held only with the substantially responsive lowest evaluated bidder. Negotiation shall be carried out by the PC with the assistance of BEC.</p> <p>Negotiation may be resorted to only in the following circumstances, with the lowest evaluated responsive bidder;</p> <ul style="list-style-type: none"> (a) having potential to improve outcome and benefits and reduce uncertainties; or 	

<p>(b) when only one bid/proposal is received after wide publicity has been given and prices quoted by the single bidder is high, the price also may be negotiated.</p> <p>The PC shall keep a record of matters agreed with the bidder during negotiations and the PE shall execute a Memorandum of Understanding (MOU) with the bidder relating to the agreed negotiated terms and conditions and this MOU should be included in the contract agreement. However, negotiations shall not substantially change the provisions prescribed in the Procurement Document.</p>	
<p>7.11 Bid Evaluation Report (BER)</p>	<p>Refer Manual 7.11</p>
<p>Immediately after the evaluation is completed the BEC should prepare a Bid Evaluation Report (BER) in the prescribed format and submit to the PC together with all supporting documents.</p>	
<p>7.12 Rejection of All Bids/Proposals Received</p>	<p>Refer Manual 7.12</p>
<p>Rejection of all bids/proposals received can be justified only under exceptional circumstances such as:</p> <ul style="list-style-type: none"> a) lack of competition; b) bids/proposals are not substantially responsive; c) when bid/proposal prices are substantially higher than the existing budget. <p>However,</p> <ul style="list-style-type: none"> (i) lack of competition shall not be determined solely on the number of bids/proposals received. (ii) even when only one bid/proposal is received, after wide publicity has been given, the bidding process may still be considered valid, if the prices quoted are reasonable. 	
<p>7.13 Re invitation of Bids/Proposals</p>	
<ul style="list-style-type: none"> a) Wider publicity must be given when re-inviting bids/proposals. b) In re-inviting bids/proposals, the same Procurement Documents shall not be used without rectifying possible deficiencies in the Procurement Document. c) Re-inviting bids/proposals must not be for the sole purpose of obtaining lower prices. 	

CHAPTER 8 - AWARD OF CONTRACT

8.1 Recommendation/Determination of Contract Award	Refer Manual 8.1
<p>BEC shall submit its report and recommendation to the PC along with the views/report of any of the dissenting member(s).</p> <p>PC must consider BEC recommendation and appropriate determination shall be made. In the case of any dispute among members of PC, the majority decision of the PC shall prevail. However, any PC member may submit a dissenting report.</p>	
8.2 Communication to all Bidders of the Intention to Award Contract	
<p>Within one week of being informed of the recommendation of the CAPC, MPC, DPC, PPC or RPC, all the bidders shall be informed in writing individually by the respective authority (CAPC/ MPC, Secretary to the Line Ministry and DPC/ PPC/RPC, Head of the Department or his delegated authority in the region/ Project Director), of the selection of the successful bidder and the intention to award the contract to such bidder. Each unsuccessful bidder shall be informed of the reasons for not selecting his particular bid/proposal.</p> <p>After the award is made, the bidders are entitled to obtain copies of BER, including any other reports and opinions which the BEC and/or the PC used in arriving at their respective recommendations.</p> <p>However, the Secretary to the Line Ministry has the right to reserve any confidential details, which can be legally misused subject to compliance with Right to Information Act. (RTI).</p>	
8.3 Debriefing	
<p>The Purposes of debriefing are to:</p> <ol style="list-style-type: none"> a) inform the aggrieved bidder who requests for a debriefing during the standstill period, of the reasons for not being successful, pointing out the specific shortcomings in its bid/ proposal without disclosing contents of other bids/proposals, with the overall objective of educating the bidder to submit more responsive and competitive bids/proposals in future. b) minimize the level of complaints and to demonstrate clearly the principle and practice of probity and transparency. c) after the notification of contract award, a bidder who wishes to ascertain the grounds on which its bid/proposal was not selected should address its request to the PE. <p>In the notification of contract award, the PE shall specify that any bidder who wishes to ascertain the grounds on which its bid/proposal was not selected, should request an explanation from the PE. The PE shall promptly provide the explanation as to why such bid/proposal was not selected, in writing and/or in a debriefing meeting, at the option of the bidder. The requesting bidder shall bear all the costs of attending such a debriefing. In this discussion, only the bidder's proposal can be discussed and not the bids/proposals of the successful or other bidders.</p>	

<p>8.4 Standstill Period</p>	<p>Refer Manual 8.4</p>
<p>To give bidders time to examine notification of contract award and to assess whether it is appropriate to submit a complain /appeal, a standstill period shall apply. However, standstill period does not apply under single bid/proposals situation in a competitive bidding or under the direct selection or under emergency situation announced by GOSL.</p>	
<p>8.5 Appeals against Contract Awards recommended by the CAPC/SCAPC/ MPC/DPC/PPC and RPC</p>	<p>Refer Manual 8.5</p>
<p>Any unsuccessful bidder who is not satisfied with the contract award decision, may make its representation against the recommendation of the CAPC/SCAPC/MPC/DPC/PPC and RPC to award the contract to the successful bidder, to the respective appeal board, within the standstill period.</p> <p>The appeal board shall immediately after the filing of the appeal, serve a notice thereof to the respective CAO/AO of a Procuring Entity.</p> <ul style="list-style-type: none"> a) request for observation and suspension of procurement proceedings shall be by a written notification by the appeal board. b) upon being served with a notice of a request for observation, the Procuring Entity shall within five working days or such lesser period as may be stated by the appeal board in a particular case, submit to the appeal board a written memorandum of response to the request for observation together with all relevant documents. c) appeal boards shall, after due consideration of the contents of appeals, make their recommendations with reasons to the appropriate authority. 	
<p>8.5.1</p>	<p>Appointment of Procurement Appeal Boards (PAB), Reporting and Operational Responsibilities and Payments for PAB Members</p>
<p>The key objectives of establishing the procurement appeal boards are to provide an independent review of the PC decision upon the grievances submitted by the bidders. Appealing procedure would allow contested issues to be reviewed and corrective measures to be put in place.</p> <p>PAB procedure would allow speedy decision and lower cost for all parties while at the same time providing fairness, transparency and value for money.</p>	

	<p>The following PABs shall be appointed as per the respective authority limits as specified under GL 2.5 from time to time;</p> <ul style="list-style-type: none"> • PABs for Cabinet level Procurements related to SCAPC, CAPC and CANC • MPABs for Ministry level Procurements related to MPC • DPAB/PPABs for Department/Project level Procurements related to DPC/PPC • RPABs for Regional level Procurements related to RPC <p>PABs are responsible to examine and hear each and every appeal submitted by aggrieved parties and make its recommendation to the relevant authority with a copy to CAO/AO/HD/PD. In the case of Cabinet and Ministry level procurements, the PAB recommendations shall be copied to NPC.</p>	
8.5.2	PABs for Cabinet level Procurements related to SCAPC, CAPC and CANC	Refer Manual 8.5.2
	<p>There shall be either one or more PAB/s to handle appeals related to procurements in the relevant threshold level of SCAPC, CAPC and CANC.</p> <p>PAB members for Cabinet appointed PCs are appointed by the President of Sri Lanka on the nominations submitted by the NPC.</p> <p>The appointing authority should take appropriate steps to appoint required number of PABs to handle the procurement appeals.</p>	
8.5.3	MPABs for Ministry level Procurements related to MPC	Refer Manual 8.5.3
	<p>There shall be either one or more MPAB/s to handle appeals related to procurements in the relevant threshold level of MPC.</p> <p>The Members for MPABs are appointed by the CAO.</p> <p>The appointing authority should take appropriate steps to appoint required number of MPAB to handle the procurement appeals.</p>	

8.5.4	DPAB/PPAB for Department/Project level Procurements related to DPC/PPC	Refer Manual 8.5.4
	<p>There shall be a DPAB/PPAB to handle appeals related to procurements in the relevant threshold level of DPC/PPC.</p> <p>The Members for DPAB/PPAB are appointed by the CAO on the recommendation of AO/HD/PD.</p>	
8.5.5	RPABs for Regional level Procurements related to RPC	Refer Manual 8.5.5
	<p>There may be a RPAB to handle appeals related to procurements in the relevant threshold level of RPC.</p> <p>The Members for RPAB are appointed by the AO/HD.</p>	
8.5.6	Payments for Members of Procurement Appeal Boards (PABs) and Staff Officers and Other Officers Assisting in the Procurement Appeal Process	Refer Manual 8.5.6
	<p>Members and alternate members of PAB shall be remunerated for participation in the procurement appeal process. The members of the PAB and the official whose specific responsibilities are assigned shall be remunerated.</p> <p>Payment of remuneration shall be based on performance of such committees and individuals and the eligible payments shall be determined by the NPC, in consultation with the General Treasury.</p>	
8.6 Award of Contract		
	<p>Following the acceptance of a bid/proposal submitted by a successful bidder,</p> <ol style="list-style-type: none"> a) a formal letter of acceptance shall be issued forthwith to the bidder by the Procuring Entity. b) prior to issuance of letter of acceptance, the PE should ensure that budgetary provision is available to meet the cost of contract. c) letter of acceptance shall be issued within the validity period of the bid/proposal, and no sooner the final approval for contract award is obtained. d) arrangements shall be made to sign the contract as early as possible prior to the commencement of the assignment. 	

8.7 Formal Contract	Refer Manual 8.7
A formal contract agreement is required to be entered into with the successful bidder.	
8.8 Publication of Contract Award	Refer Manual 8.8
The PE should publish promptly the details of the award in appropriate media including NPC website.	

CHAPTER 9 - CONTRACT ADMINISTRATION

9.1 Contract Administration	Refer Manual 9.1
The PE shall be responsible for contract administration with adequate supervision and to ensure adherence to specifications, quality standards in the delivery of Goods, execution of Works, provision of Services and completion of Information Systems.	
9.2 Change Requests /Variations	Refer Manual 9.2
<p>a) The conditions of contract will normally empower the PE to vary the scope, quality or quantity of Works, Services and Information Systems to be executed at any time during the progress of the contract and provided the basis for such change and valuation of such changes within approved limits is justifiable.</p> <p>b) The CAO/AO shall appoint the ‘Change Control Committee (CCC)’ to examine the changes/ associated time extensions and to make recommendations.</p> <p>c) Any contract change request/variation shall obtain prior approval by the relevant authority.</p> <p>d) However, before committing any expenditure due to changes proposed, necessary financial provision shall be available and relevant total cost estimate shall be duly revised and necessary prior approvals from the appropriate authority obtained.</p>	
9.3 Extension of Time	
Extensions of time may be granted by an appropriate authority, in exceptional circumstances or due to force majeure situations, when the contractor or the supplier establishes, to the satisfaction of the PE, that delays are attributable to circumstances beyond the control of the contractor/supplier.	

<p>9.4 Debarment or Blacklisting of Defaulted Bidders/Contractors/Suppliers</p>	<p>Refer Manual 9.4</p>
<p>Any defaulted contractor/bidder/supplier shall be considered for blacklisting or banning to participate in the public Procurement Process for a period specified by the appropriate authority.</p> <p>NPC and the CAO/AO shall maintain a database of defaulting contractors/suppliers which shall be updated regularly. After obtaining the information from particular PE the relevant CAO/AO shall inform NPC the details of the contractor/supplier to be included in the list maintained by the NPC.</p> <p>The PEs should not award any contracts to any bidder, as long as their names remain in the data base.</p>	

CHAPTER 10 – PROCUREMENT OF ESSENTIAL REQUIREMENTS

<p>10.1 Procurement of Essential Requirements</p>	
<p>Procurement of essential requirements to ensure day to day operations of the PEs often involves multiple awards for partial quantities to assure continuity of supply and multiple purchases over a period of time to take advantage of favourable market conditions.</p> <ul style="list-style-type: none"> a) PEs may maintain a list of pre-qualified bidders for procurement of such requirements through issuing of periodic invitations. b) bidders may be invited to quote prices, which prevails at the time of Invitation. c) bid/proposal validities shall be as short as possible. d) if the price of the commodity, which intended to procure is not in local currency, bidders should be allowed to quote in the currency which the commodity is usually priced in the market. e) Procurement Documents may permit electronic, telexed or faxed bids/proposals, if there is no requirement for bid security, or if standing bid securities valid over a specified period of time have been submitted by pre-qualified bidders. f) standard contract conditions and forms consistent with market practices shall be used. 	

10.2 Procurement of Spare Parts	
PEs may purchase spare parts from the original manufacturer of equipment, or their authorized local agent or independent manufactures of spare parts, or spare part dealers, considering the advantage.	
10.3 Repairs to Motor Vehicles and Equipment	Refer Manual 10.3
Repairs to motor vehicles and other equipment may be carried out through the local accredited agents of the manufacturer provided that the PE is satisfied that the quotation is reasonable, having taken into account the economy of the repair cost, the age and condition of the vehicles.	
10.4 Periodicals and Publications	
Periodicals and publications may be purchased directly from the publishers or from their agents and if there is any discount it should be so stated in the invoice.	
10.5 Purchasing of Fuel	
Requirements of fuel may be purchased from depot/s closer to the PE.	
10.6 Procurement of Pharmaceuticals and Medical Equipment	
<p>Procurement of drugs, vaccines, medical devices, biological products, nutritional additives and contraceptives hereinafter collectively referred to as pharmaceuticals is a complex and a unique process which requires special attention.</p> <p>A separate publication containing Guidelines relating to the procurement of pharmaceuticals (hereinafter called and referred to as “Guidelines for the Procurement of Pharmaceuticals” will be issued by the NPC to address the special concerns relating to pharmaceuticals procurement.</p> <p>The broad principles of procurement outlined in these Guidelines, will however, continue to be applicable to the extent possible, for the procurement of pharmaceuticals, unless they have been amended/modified in the Guidelines for the procurement of pharmaceuticals. In the event of a conflict between these Guidelines and the Guidelines for the procurement of pharmaceuticals, the latter shall prevail.</p> <p>These Guidelines will continue to be applicable as the appropriate Guidelines for the procurement of medical equipment.</p>	

CHAPTER 11 – PROCUREMENT OF INFORMATION SYSTEMS (IS)

11.1 Information System (IS) Procurement		
<p>IS procurement is the common term used to designate all procurements having to do with computing and communication technologies regardless of their hardware, software, supply, or service components such as installation, operation, and maintenance.</p> <p>IS procurement is also conducted on the Guidelines and procedures described through chapter 1 to chapter 9 of this Guideline.</p>		
11.2 Procurement Documents to be Used		Refer Manual 11.2
11.2.1	Straightforward IS Procurements	Refer Manual 11.2.1
	In procurement of straightforward IS products, PE defines required products, their technical specifications and service requirements.	
11.2.2	Complex Supply and Installation and Complex System Engineering Procurements	Refer Manual 11.2.2
	In this procurement bidder bears much of the design risk since it undertakes the responsibility to design and build a system that reaches operational acceptance.	
11.2.3	IS Consulting Services	Refer Manual 11.2.3
	When using the RFP approach for this type of assignments, there would need to be some customization of the standard RFP issued by the GOSL for the Selection of Consultants.	
11.2.4	Pre-qualification (PQ)/Initial Selection	Refer Manual 11.2.4
	Prequalification/Initial Selection is normally used with Requests for Proposals (RFP) and is optional depending on the nature and complexity of the IS procurement.	

CHAPTER 12 – FRAMEWORK AGREEMENT

<p>12.1 Introduction</p> <p>The Framework Agreement is an arrangement to enable timely supply of Goods, Works, Services and Information Systems, which are commonly used by Procuring Entities to procure Goods, Works, Services and Information Systems which have national significance, in desired quality and at prices attributable to economies of scale resulting from bulk purchases ensuring value for money.</p> <p>A Central Procurement Entity or Procuring Entity on its own and on behalf of other Procuring Entities may administer Framework Procurements and enters into Framework Agreements with suppliers so that Procuring Entities may obtain value for money in their purchasing while being assured that their procurement is compliant with the Procurement Guidelines.</p> <p>FWAs may be established for the anticipated procurement of Goods, Works, Services and Information Systems, as and when required, over a specified period of time. FWA does not commit either party to procure or supply. Once established, a FWA provides a fast and efficient way to procure Goods, Works or Services.</p> <p>A multi- supplier FWA allows a PE to select from a number of firms, helping to ensure that each procurement represents best value for money.</p> <p>FWAs may be appropriate for the procurement of Goods, Works, Services or Information Systems under the following circumstances:</p> <ul style="list-style-type: none"> • frequent reordering is based on the same, or similar requirements, or set of specifications; • where different departments and units under a Ministry or public agency or different Procuring Entities procure the same Goods, Works, Services or Information Systems, and aggregating the demand could lead to volume discounts; • planning for emergency situations; or • no single firm is considered to have sufficient capacity. 	
<p>12.2 Features of Framework Agreement</p>	<p>Refer Manual 12.2</p>
<p>A Framework Agreement sets out the terms and conditions for subsequent Call-Off Contracts but places no obligations on the Procuring Entity to place future purchase orders, does not require or obligate Procuring Entity to issue any minimum number or value of purchase orders, and does not guarantee any minimum or maximum amount of expenditure.</p>	

<p>12.3 Responsibility for Management of Framework Agreement</p>	<p>Refer Manual 12.3</p>
<p>A Central Procurement Entity or Procurement Entity, on its own or on behalf of other Procuring Entities must closely manage the framework agreement.</p>	
<p>12.4 Procedural and Implementation Arrangements</p>	<p>Refer Manual 12.4</p>
<p>The procurement of items which are of common use to Procuring Entities shall be carried out in accordance with the provisions complying with the Guidelines and procedures prescribed through chapter 1 to chapter 9 of this Guideline.</p>	
<p>12.5 Procurement Management</p>	<p>Refer Manal 12.5</p>
<p>Procurement management in a Framework Agreement is based on the Call-Off Contract as issued by the Procuring Entity. Issuance of Call-Off Contract depends on the provisions laid out in the terms and conditions of the Framework Agreement.</p>	

CHAPTER 13 – e-GOVERNMENT PROCUREMENT (e-GP)

<p>13.1 Introduction</p>	
<p>An e-GP is a process that uses the Internet and Internet tools to support every stage of the Procurement Process.</p>	
<p>The conversion from conventional (paper based) government procurement activities to e-GP is becoming an international trend in many countries in the World. GOSL is in the process of getting ready to implement e-GP in the country for Goods, Works, Services, Information Systems and Consultancy Services. However, there are major issues and challenges that need to be addressed before the implementation of fully pledged e-GP system.</p>	
<p>An e-Government Procurement (e-GP) is defined as the collaborative use of information and communications technologies by Government Entities, bidding community, regulatory agencies, legal authorities, National Procurement Commission, Ministry of Finance, other supporting service providers, and civil society in conducting ethical procurement activities of the Government procurement process cycle for the procurement of Goods, Works, Services, Information Systems, Consultancy Services and management of contracts ensuring good governance and value-for-money in public procurement, and contributing to the socioeconomic development of country.</p>	

<p>13.2 Implementation Process of e-GP at the PEs</p>	<p>Refer Manual 13.2</p>
<p>All stages of procurement cycle of the PEs can benefit from an e-GP such as procurement planning, pre-qualification, advertising, PPP advertisements, preparation and issuance of Procurement Documents, pre-bid conference, and issuing PB minutes, issuing addendums, modifications and revising Procurement Documents, clarifications, modification and addenda's, receipt of bids/proposals, unsolicited proposals, bid/proposal closing, bid/proposal opening, evaluation of bids/proposals, request for clarifications, and contract award notification, and publication of contract award results.</p>	
<p>13.3 Fully fledged e-GP system to be implemented by the PEs</p>	
<p>Procurement Entities (PEs) may use an e-GP for all of their procurement activities provided the appropriate authority is satisfied with the adequacy and competence of the system, including;</p> <ul style="list-style-type: none"> • accessibility • security of process • authentication • integrity • confidentiality • reliability • audit trail features • electronic signatures • design and implement an e-GP management system • identification of requirements • legal obligations/ Acts/ agreements/legislative approaches, and other mandatory requirements for e-GP implementation. 	
<p>13.4 Good Governance in Public Procurement: Key to e-GP</p>	
<p>The procurement principles and objectives, particularly transparency and non-discrimination must be met if e-GP systems are to be applied to the activities of Public Procurement similar to paper-based procurement.</p>	

<p>The principle of non-discrimination between paper-based and e-procurement shall, as far as practical, be reflected in the e-GP system. PE shall have in place the transitional option of paper-based procurement for bidders/consultants who wish it or who do not have access to e-GP. The e-GP system must be designed to ensure;</p> <ul style="list-style-type: none"> • accountability • efficiency and effectiveness • fraud and corruption control • equity and ethics • rule of law and predictability • civil society awareness • equality of access and fairness, • open competition, • security of process <p>The following requirements are designed to support these principles for PEs procurement activities. Converting these principles into operational effect has implications for variables such as;</p> <ul style="list-style-type: none"> • technological neutrality, • technical standards for interoperability and security, • ensuring good audit trails, • cost and ease of participation. <p>These requirements supplement and do not replace existing requirements that apply to traditional procurement procedures specified in the Procurement Guidelines & Manuals published by the NPC.</p>	
<p>13.5 e-GP System Access</p>	<p>Refer Manual 13.5</p>
<p>When e-GP is to be applied to PE's procurement activities, it shall have the minimum features specified in the Procurement Manual.</p> <p>NPC encourage individual PEs to use e-GP depending on the availability of resources that must be met. When e-GP is implemented by PEs, they shall follow the mandatory requirements and processes specified in the Procurement Guidelines issued for traditional paper-based procurement by NPC if it is not provided in this Guidelines and Manuals.</p>	

13.6 Procurement Plan	
Where a PE intends to use an e-procurement system, it shall prepare its master plan, detail plan, and other procurement plans through the system and publish it in the relevant web sites (PE's website, NPC website, FFAs websites-if applicable / e-GP portal-if available).	
13.7 Bidder Registration	
Bidders (suppliers, contractors, and consultants) may register as a single entity, joint venture or association with sub-contractors or sub-consultants, or individual consultant through an online application form provided by the PE's e-GP system for registration.	
13.8 PE's Requisition	
Where the e-GP system is in operation, PEs shall request all the procurement requirements through the e-GP system.	
13.9 e-Advertising	Refer Manual 13.9
The notice for "Invitation for Bid/Application/Proposal" and other procurement opportunities shall be published in the PE's web site, NPC web site, and FFA's web sites-if applicable and depending on the value of contract /e-GP Portal-if available. Notice shall be published in local newspapers as well and there shall be no difference what so ever between the paper advertisement and those advertised online.	
13.10 Procurement Documents	Refer Manual 13.10
PE may distribute Procurement Documents (PDs) inclusive of RFPs by using electronic systems (downloaded from a website) or means (sent as email attachment, on a compact disc, or flash drive or other storage devices if appropriate). The email used shall be part and parcel of or dedicated to the e-GP system with adequate security and privacy controls. There shall be no difference between electronic and paper versions of the PDs. Splitting documents into combinations of electronic and printed portions should be avoided.	
13.11 Correspondence, Clarifications and Amendments	Refer Manual 13.11
The e-GP system shall be interactive and have the capability to enable bidders participating in a procurement proceeding to request or seek information or clarification on line. When a bidder makes an inquiry or seek information or clarification relating to the Procurement Documents, the PE shall promptly respond on line.	

<p>Correspondence with bidders during this period may be done electronically as long as print correspondence is used for bidders who request it.</p> <p>If the response affects the requirements of the bid/proposal, it shall be copied to all bidders and shall include a description of the inquiry but without identifying the source.</p> <p>Copies of all correspondence shall be kept for audit.</p>	
<p>13.12 Pre-Bid Conference</p>	<p>Refer Manual 13.12</p>
<p>PE may carry out online pre-bid conference on the date, time and venue, as stipulate in the Procurement Document (PD/RFP).</p> <p>Responses/clarifications of the queries relating to the Procurement Documents should be posted by bidders online before or during the pre-bid conference. This is allowed to be done only by the bidders who purchased the documents.</p>	
<p>13.13 Amendments to the Procurement Document</p>	
<p>To the extent permissible under the Procurement Guidelines the PE may amend the Procurement Documents at any time prior to the bid/proposal submission deadline.</p> <p>PEs shall issue an addendum and publish in all related websites and also send via an automated electronic means (email, SMS alert etc) and make available online for the information of the public and the prospective bidders who have purchased/received the Procurement Document. However, there shall be a time period of minimum 10 working days or more between last correspondence and bid/proposal closing deadline.</p>	
<p>13.14 Submission of e-Bids/Proposals</p>	<p>Refer Manual 13.14</p>
<p>Online submissions shall be:</p> <ul style="list-style-type: none"> (a) submitted/received into an electronic bid box; and (b) maintained to high standards of security, confidentiality and integrity. <p>When the option is available, bids/proposals may be submitted electronically in the standard e-formats issued by the PE or in paper format. PEs may offer registered bidders the use of online electronic systems (uploaded through a website) to submit their bids/proposals.</p> <p>The date and time for the receipt of bids/proposals shall be the same for both regardless if submitted electronically or on paper. The terms and conditions of the e-submissions are given in the Manual.</p>	

<p>13.15 Bid Securities and Performance Securities</p>	<p>Refer Manual 13.15</p>
<p>In order to facilitate procurement when using electronic systems, bid securities may request by the PEs at their option. However, PEs if they so wish, may use other methods like bid declaration instead of bid securities and/or sanctioning method for bidders who do not honour their bids/proposals.</p>	
<p>13.16 Public Opening of e-Bids/Proposals</p>	<p>Refer Manual 13.16</p>
<p>1. If option is available, PE may use e-GP to open bids/proposals received to electronic bid box.</p> <p>2. The electronic bid box in (1.) above shall have;</p> <p style="padding-left: 40px;">(a) three passwords that are simultaneously time-activated;</p> <p style="padding-left: 40px;">(b) each password shall be issued to different officers who are members of the Bid/Proposal Opening Committee(B/POC); and</p> <p style="padding-left: 40px;">(c) the e-bid box shall remain closed until the time of bid/proposal opening.</p>	
<p>13.17 Evaluation of e-bids/e-proposals</p>	<p>Refer Manual 13.17</p>
<p>1. The PE receiving the bids/proposals should form a Bid Evaluation Committees (BECs) comprising of required number of members.</p> <p>2. PE may use pre-approved automated electronic evaluations as long as the evaluation aligns with the criteria established in the Procurement Documents; is consistent with the principles of economy, efficiency, equal opportunity, and transparency.</p> <p>3. A Bid Evaluation Report (BER) shall be prepared in accordance with the requirements specified in the Procurement Document. The BER shall contain scanned copies of the signed record of bid/proposal opening, the advertisement, and other documents for which copies are required. A print copy of the BER shall be kept on file for audit and NPC investigation purposes.</p>	
<p>13.18 Publication of Contract Awards</p>	
<p>Contract awards shall be published online consistent with bid advertising in the PE's website, NPC's website and FFA website if applicable.</p>	

<p>13.19 Notification of Contract Award (NOA) Intention letter</p>	
<p>1. A PE shall notify all bidders participating in the e-bidding process of the outcome of the award and intention to award the contract to successful bidder simultaneously electronically.</p> <p>2. Unsuccessful bidders have the option of appealing like paper-based procurement.</p> <p>Copies of BER together with any consultant’s reports that were submitted in relation to evaluation of the bid/proposal may be made available to any bidder at their request in terms of the Right Information Act, No. 12 of 2016.</p> <p>3. Debarred bidders will be verified in NPC website before issuing NOA.</p> <p>4. The PE shall sign and send electronically a notification to:</p> <p style="padding-left: 40px;">a) the successful bidder that their bid/proposal was successful; and</p> <p style="padding-left: 40px;">b) to unsuccessful bidders that their bids/proposals were unsuccessful giving reasons thereof.</p> <p>5. Successful bidder will accept the notification of award online using e- signature or digital signature whichever is applicable.</p> <p>6. Contract will be signed, manually or digitally, by both parties. The content of documentation that is part of the e-GP system shall form part of the contract.</p>	
<p>13.20 Contract Negotiation</p>	
<p>If provided for in the contract document, Contract negotiation can be carried out online and negotiation records will be recorded in the electronic system.</p>	
<p>13.21 Contract Management</p>	
<p>If provided for, the electronic system shall be interactive and have the capability to provide functions of contract management including to generate purchase orders and receive invoices from suppliers, track deliveries, place call-off orders in case of Framework Agreements, monitor contract execution progress etc.</p>	
<p>13.22 Payments for Procurement Documents</p>	
<p>1. Prospective bidders shall have open and free access to all Specific Procurement Notices (SPNs) and Procurement Documents published in electronic format. No payment shall be required.</p> <p>2. A nominal fee may be charged as a condition for submitting a bid/proposal. For the purpose of these requirements, nominal fee is expected to be an amount less than or similar to that charged for obtaining paper Procurement Documents.</p> <p>3. Bidders shall be offered an electronic payment facility (e.g. electronic check, credit card) to avoid situations where bidders incur charges online but must visit an office to pay for them.</p>	

<p>13.23 Records Management System</p>	
<p>The electronic system shall have a secure document management system.</p>	
<p>13.24 Authentication</p>	
<p>If a digital certification/signature is required, the following shall apply.</p> <ol style="list-style-type: none"> 1. bidders shall be certified for a reasonable period of time (at least 1 year) and shall not be required to request certification for each bid/proposal with the same PE. 2. certification shall be kept open permanently allowing bidders to submit the request for certification at any time to allow them to register in advance for future bidding process. 3. in the case of ICB, certification process shall allow bidders to take all actions required for their certification within their own countries, without the need to travel abroad. 4. certification process shall accept an electronic signature or a digital certification/signature issued by certifying authorities within the country of the bidder or shall accept submission of online or offline documentation to certify the authenticity of the bidder's representative, accepting documentation that can be obtained under commonly used procedures in the country of the bidder (for example, no notarization in a consulate or embassy shall be required). 	
<p>13.25 Information Security Management (ISM)</p>	<p>Refer Manual 13.25</p>
<ol style="list-style-type: none"> 1. For electronic system, the PE shall ensure to maintain, and implement an information security management system that conforms with international standards. 2. PE shall clearly specify in the Procurement Documents the procedures to be followed in the case of any kind of failure, malfunction, fault, crash or breakdown of the electronic system used during Procurement Process. PEs shall not accept any responsibility or liability for failures, interruptions or breakdowns other than in those systems strictly under PE's own control. 	
<p>13.26 Electronic Procurement Models</p>	<p>Refer Manual 13.26</p>
<ol style="list-style-type: none"> 1. PEs may use electronic systems under any of the models as explained in the Manual or any other different model suitable for the purpose. However, before selecting an electronic system by the PE, prior approval shall be obtained from the NPC. 2. If the electronic system is operated by a third party under a service contract arrangement, that third party service providers and their subsidiaries or parent companies shall be ineligible to be awarded contracts on Procurement Process that are undertaken through the said electronic system and their staff, consultants or other representatives shall enter into such agreements with the PE sufficient to maintain secrecy and confidentiality. 	

13.27 Applicability of the e-procurement Guidelines and Manuals	
<ol style="list-style-type: none"> 1. Irrespective of who operates the system all terms, requirements and conditions of this Guidelines and manuals shall apply. 2. Use of e-GP system is subject to the general laws of Sri Lanka. 3. Any discrepancies between Procurement Guidelines & Manuals for Goods, Works, Services and Information Systems or Procurement Guidelines for Selection & Employment of Consultants and in the applications of any of the requirements in this e-GP chapter 13, clarifications shall be obtained by the NPC and final decision of the NPC shall prevail. 4. If particular circumstances arise in PE that cause the e-GP requirements specified in this chapter 13 to be in conflict with other principles then the circumstances shall be referred to NPC for interpretation. 	

CHAPTER 14 – OPEN CONTRACTING DATA STANDARD (OCDS)

14.1 Introduction	Refer Manual 14.1
<p>The Open Contracting Data Standard (OCDS) is a core product of the Open Contracting Partnership (OCP). The objective of the data standard is to support Governments to publish contracting data in a more accessible, inter-operable and useful manner and to enable the widest possible range of stakeholders to use contracting data effectively.</p> <p>The Guidelines describes the OCDS presents a high-level approach for each implementation in an e-Procurement system. If the OCDS is implemented in an e-Procurement system when first introduced by incorporating OCDS within the system itself, the system specification phase must explicitly define OCDS-specific requirements (e.g. data fields, triggers, reports, visualizer).</p> <p>By adopting the OCDS into the contracting process, the expected benefits are important for key stakeholders. The users may use open contracting data in order to:</p> <ol style="list-style-type: none"> a) achieve value for money; b) provide the potential to increase trust and transparency with the public, for the Government; c) strengthen the transparency, accountability and integrity of public contracting; d) access and review details of public contracting processes and monitor spending to ensure that citizens are getting the best outcomes, for the non-governmental organizations; 	

<p>e) enable the private sector to compete for public contracts;</p> <p>f) monitor service delivery (from both aid and budget-executed projects) for effectiveness;</p> <p>g) get involved in decision making, for the general public;</p> <p>h) reduce opportunities for fraudulent or corrupt use of public resources.</p> <p>The publication of data could be organized in the following manner;</p> <p>i. proactive publication requirement;</p> <p>ii. timing and frequency of publication;</p> <p>iii. formats and licences of publication;</p> <p>iv. procurements and contracts;</p> <p>v. stakeholder engagement.</p>	
<p>14.2 Standard</p>	<p>Refer Manual 14.2</p>
<p>The OCDS is used to describe unique contracting processes. The first step towards publishing open contracting data is to identify the contracting processes in the system data. A contracting process ties together information about the different stages related to the lifespan of a contract, beginning with planning and progressing through initiation and implementation stages accordingly, as well as ending when a contract is either completed or closed.</p>	

CHAPTER 15 – GREEN PUBLIC PROCUREMENT

<p>15.1 Introduction to Green Public Procurement</p>	<p>Refer Manual 15.1</p>
<p>It is a mandatory that all Government Institutions take into account environmental considerations when procuring Goods, Works, Services and Information Systems.</p> <p>Green Public Procurement (GPP) is a Public Procurement, which integrates environmental considerations in the whole Public Procurement Process including planning and procurement and takes into the consideration the entire life cycle of the Goods, Works or Service. In addition, it is considered to be appropriate and one of the most effective tools seeking to reduce negative impacts on the environment.</p>	

<p>15.1.1</p>	<p>Green Public Procurement Policy</p>	<p>Refer Manual 15.1.1</p>
	<p>Sri Lanka Government has taken a policy decision to adopt green procurement practice as a mandatory requirement and to include basic premises in the new Procurement Guidelines.</p> <p>Green Procurement means procuring Goods, Works and Services that cause minimal adverse environmental impacts. The procurement procedure itself includes human health and environmental concerns and those safeguard measures which are to be included in the tender documents. Specifically, Government Institutions are encouraged to avoid single use disposable items and purchase products, Works and Services and efforts to be given to the following points;</p> <ul style="list-style-type: none"> a) with improved re-cyclability, high re-cyclable contents, reduce packing and greater durability and wherever possible using green material; b) with greater energy efficiency; c) utilizing clean technology and or clean fuel; d) which result in reduced water consumption, and increase water harvesting; e) which emit fewer irritating or toxic substances during installation or use; f) which result in smaller production of toxic substances or of less toxic substance upon disposal and sustainable garbage disposal; g) apply wherever possible; the polluter pays principle and the producer responsibility. 	
	<p>15.2 Guiding Principles of GPP</p>	<p>Refer Manual 15.2</p>
	<ul style="list-style-type: none"> a) Achieving Economic, Social and Environmental Development Challenges; b) Minimizing and or Avoiding Unnecessary purchasing/Consumption with: waste, toxicity, habitat destruction, soil degradation, greenhouse gas emissions; c) Maximizing Efficiency and outcome: Resource efficiency, energy efficiency, water efficiency, value for money, competitive advantage, and the purchase of eco- labelled/environmentally preferred products/services, education for sustainability opportunities and safety; d) Life Cycle and Sustainable Production and Consumption Principles: GPP shall be applied to improve productivity and eco-efficiency of the resources use and environmental quality; 	

<p>e) The Polluter Pays Principle, the Precautionary Principle and the Producer Responsibility (product stewardship): GPP shall be applied to reduce resource consumption to the maximum extent possible throughout the life cycle of the product and service and to maximize environmental and social responsibility;</p> <p>f) Government Institutions Spearhead: Government Institutions shall be obligated to follow rules and procedures for GPP and related budgeting to ensure transparency and efficient use of public funds at all levels using value for money functional principle (VE process);</p> <p>g) Environmental Accountability: GPP shall be recognized and assured as an essential means of accountable implementation of Public Procurement; and</p> <p>h) Good Governance: GPP shall ensure the Good Governance through the environmental performance consideration in public procurement at all levels.</p>	
<p>15.3 Introducing GPP Strategy</p>	<p>Refer Manual 15.3</p>
<p>To achieve GPP objective, the NPC and Ministry of Environment with the help of other Ministries shall:</p> <p>a) educate, initiate and stimulate of debate regarding the use of Green Public Procurement (GPP) and Sustainable Public Procurement (SPP) in the country;</p> <p>b) exchange of good practice between Procuring Entities by establishing a platform for exchange of experiences, information and knowledge on the arrangements for GPP and SPP;</p> <p>c) elaborate and advise on, criteria and indicators to be used in Public Procurement in view of promoting GPP and SPP;</p> <p>d) foster Public Procurement planning, in order to timely integrate GPP and SPP criteria in to the Procurement Process;</p> <p>e) first starting strategy of GPP is to begin with commonly used Goods, Works and Services and to expand the Green Procurement list;</p> <p>f) encourage in getting green building or green material certification.</p>	
<p>15.4 Role of the Ministry of Environment</p>	<p>Refer Manual 15.4</p>
<p>The Ministry in charge of the subject of environment shall establish an Inter-Agency Expert Committee on Green Public Procurement. (IAEC - GPP).</p>	

<p>15.5 Introducing Green Specifications for Commonly Used Items</p>	<p>Refer Manual 15.5</p>
<p>IAEC may develop green specifications for commonly used products, Goods and Works using existing certified material by local green certification organizations. Each PE shall obtain approval for their green specifications from IAEC.</p>	
<p>15.6 Inclusion of Green Public Procurement criteria in Procurement Documents</p>	<p>Refer Manual 15.6</p>
<p>For the purchase of common use items, each PE may adopt green specifications as “mandatory” features in the bid/proposal specifications when the products are available on the market with adequate models and quantities in supply. In this connection, “mandatory” green requirements are specified in the Manual.</p> <p>For new green specifications developed with uncertain market availability, green specifications will be included in the bid/proposal specifications as “desirable” features.</p>	
<p>15.7 Evaluation of Bids/Proposals with Green Criteria</p>	<p>Refer Manual 15.7</p>
<p>The Bid Evaluation Committee (BEC) will evaluate bids/proposals which can meet the mandatory features and recommend either the lowest conforming offer (for a bid/proposal without a marking scheme) or the highest scoring conforming offer (for a bid/proposal with a marking scheme) for acceptance. As regards the green desirable features, they are not taken into account in the bid/proposal evaluation except where there are two or lowest conforming offers which are identical in all respects, the one which could meet the desirable green specification(s) could be given the preference. These arrangements should be clearly spelt out in the Procurement Document.</p> <p>In order to encourage potential suppliers to offer products that can comply with green specifications, consideration may also be given to adopting a marking scheme with appropriate weighting for green specifications against the price offered. For this purpose, prior approval has to be obtained from the Procurement Committee (PC). In drawing up the marking scheme, due weight should be given to whether it will achieve the value for money objective.</p> <p>BEC will keep record of the bids/proposals that can meet the “desirable” green specifications and review the market availability of products meeting individual green specifications on a regular basis based on the bid/proposal responses and market information, with a view to changing them into “mandatory” or “desirable requirements attracting marks” in future bidding exercises when circumstances warrant. Individual “desirable” green specifications without sufficient models or quantities in supply will continue to be included as “desirable” features.</p>	

<p>15.8 Annual Report on Green Product Purchase</p>	<p>Refer Manual 15.8</p>
<p>To monitor the green product purchasing situation, the NPC will invite the Procuring Entities to submit a report on its last calendar year's purchases within the first two months of each calendar year. Procuring Entities are advised to go through the green product list and check whether the products to be purchased are included on the list. If products to be purchased are listed, the Procuring Entity should try to apply the recommended green specifications by making reference to the practice mentioned in paragraphs 15.6 and 15.7 above and include the item code and green specification code as recommended by the IAEC in the common use item list. In parallel, the Procuring Entities should consolidate the information of the product ID, purchase values and the information on whether green specifications are adopted or not and whether the final purchases meet such green specifications for incorporation into the annual report to NPC.</p>	
<p>15.9 Cost Implication</p>	
<p>Procuring Entities should absorb any additional cost incurred in procuring Goods, Works and Services with green specifications. While costs of these products and services may in some cases be higher than those without green features, it is expected that the Government's initiative of taking the lead on Green Procurement would facilitate the development of the relevant market and the prices of products meeting green specifications would be lowered over time.</p> <p>Procuring Entities shall prepare life cycle cost in case of procuring Goods with the life over three years and it is mandatory in the case of Work.</p>	

CHAPTER 16 – PUBLIC PRIVATE PARTNERSHIPS (PPP)

<p>16.1 Public Private Partnerships (PPP)</p>	
<p>PPP is broadly defined as a long-term contract between a private investor and Government Entity for providing a public asset or service, in which the private investor bears significant risks and management responsibility.</p> <p>The private investor may finance the cost of the project or the contract procured under PPP arrangement Build- Own- Operate (BOO), Build-Operate-Transfer (BOT) and Build-Own-Operate-Transfer (BOOT), Design-Build-Own-Operate-Transfer (DBOOT) concessions or similar type or private arrangement if the selection is consistent with the NPC core procurement principles.</p>	



Democratic Socialist Republic of Sri Lanka

**PROCUREMENT GUIDELINES
2018**

Selection and Employment of Consultants

NATIONAL PROCUREMENT COMMISSION

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DEFINITIONS

Unless the context otherwise requires the Terms whenever used in these Guidelines have the following meanings:

Consultant	A variety of legally and financially autonomous public and private entities, joint ventures, or individuals (not engaged by the PE as an employee) that provide services of an advisory or professional nature.
Consulting Service	Covers a range of services that are of an advisory or professional nature and are provided by consultants such as policy advice, institutional reforms, capacity building, communications consultants, management consultants, engineering services, quantity surveying, architectural services, construction supervision, feasibility studies, pre-investment studies, finance and accounting services, procurement services, social and environmental studies, identification, preparation, and implementation of projects, project management, training and development.
Consultants Selection	Obtaining by Procuring Entities of Consulting Services by the most appropriate means, with public funds or funds from any other source whether local or foreign received by way of loans, grants, gifts, donations, contributions and similar receipts.
Contract Price	Means the amount of money that is to be paid under a contract to render a service. Contract Price is stated in the Notification of Award and thereafter as adjusted in accordance with the provisions of the Contract. In some specific cases, the Contract Price is fixed using agreed price formula as stipulated in a contract.
Foreign Funding Agency	Means any multi-lateral or bi-lateral agency which has entered or intends to enter into an agreement with the Government of Sri Lanka for financing the Government.
Foreign Funded Project	Means a project fully or partially financed by a Foreign Funding Agency.
Fraud and Corruption	The sanctionable practices of corruption, fraud, collusion, coercion and obstruction.
Goods	Means all commodities, raw materials, products, plant and machinery, equipment, Livestock, and other physical objects of every description, whether in solid, liquid, gaseous or living form.

Government Institutions	Includes a ministry, a government department, a public corporation, a local authority, any business or other undertaking vested in the Government and a company registered or deemed to be registered under the Companies Act, No. 7 of 2007, in which the Government, a public corporation or any local authority holds more than 50% of the shares.
Guidelines	These Guidelines are for Selection and Employment of Consultants.
In Writing	Means communicated or recorded in written form. It includes, for example: mail, e-mail, fax or communication through an electronic procurement system (provided that the electronic system is accessible, secure, ensures integrity and confidentiality, and has sufficient audit trail features).
Master Procurement Plan	Means a document prepared by the Procurement Entity, listing all the procurements envisaged to be carried out during a period of three years in medium term budgeting perspectives, with tentative dates to carry out such procurement.
Non-consulting Services	Services which are not Consulting Services. Non-Consulting Services are normally bid and contracted on the basis of performance of measurable outputs, and for which performance standards can be clearly identified and applied. Examples include: drilling, aerial photography, satellite imagery, mapping, electricity water supply, cleaning, security, cargo clearance, and other utility services and similar operations.
Procuring Entity	Means a Government Institution, which the particular procurement is meant for.
Procurement Action	Means any action in furtherance of the selection and Employment of Consultants.
Procurement Process	Means, for purposes of this Guideline the obtaining by Procuring Entities Consulting Services, by the most appropriate means, with public funds or funds from any other source whether local or foreign received by way of loans, grants, gifts, donations, contributions and similar receipts.
Works	A category of Procurement that refers to divisional construction, decoration, repair, retrofitting, refurbishment, renovation, rehabilitation, demolition, restoration, maintenance of buildings, infrastructure, civil works structures and other associated activities.

ACRONYMS

AO	-	Accounting Officer
CAO	-	Chief Accounting Officer
CCSC	-	Cabinet Appointed Consultant Selection Committee
CQS	-	Consultant's Qualification Based Selection
CSC	-	Consultant Selection Committee
CV	-	Curriculum Vitae
DCSC	-	Department Consultant Selection Committee
e-GP	-	e-Government Procurement
EOI	-	Expressions of Interest
FBS	-	Fixed Budget Selection
FFA	-	Foreign Funding Agency
GOSL	-	Government of Sri Lanka
HD	-	Heads of Departments
ICB	-	International Competitive Bidding
LCS	-	Least Cost Selection
LKR	-	Sri Lanka Rupees
MCSC	-	Ministry Consultant Selection Committee
MPP	-	Master Procurement Plan
NCB	-	National Competitive Bidding
NPC	-	National Procurement Commission
PCSC	-	Project Consultant Selection Committee
PE	-	Procuring Entity
PP	-	Procurement Plan
PTS	-	Procurement Time Schedule
QBS	-	Quality Based Selection
QCBS	-	Quality and Cost Based Selection
REOI	-	Request for Expressions of Interest
RFP	-	Request for Proposal
SSS	-	Single Source Selection
TCE	-	Total Cost Estimate
TOR	-	Terms of Reference

CHAPTER 1 – GENERAL

1.1 Purpose	Refer Manual 1.1
The purpose of these Guidelines is to establish governing principles and procedures to ensure value for money (VfM), in an efficient, fair, equitable, transparent, competitive and cost-effective selection process by the Government Institutions for Selection and Employment of Consultants.	
1.2 Objectives	
<p>The Procurement Process should ensure:</p> <ul style="list-style-type: none"> (a) high level of integrity across the Procurement Process and beyond following the principles of transparency, efficiency, accountability, equal treatment, rule of law, citizen engagement, anti-corruption, integrity, and anti-fraudulent practices; (b) understanding and communication of clear requirements of needs and objectives; (c) selection of fit for purpose procurement method and contractual arrangements based on the nature, context, complexity, risk and value of the procurement; (d) appropriate specification or scope of work of the requirements; (e) the need for high quality and standard of services; (f) adhering to prescribed standards, rules, regulations and good governance; (g) compliance with local laws and regulations and international obligations; (h) ensuring appropriate evaluation criteria with transparency and consistency in the evaluation and selection procedure that allow timely, cost effective, responsive procedure acceptable to the Government of Sri Lanka and/or Foreign Funding Agencies; (i) enhancing stakeholders trust in the entire Procurement Process; (j) Promotion and development of local Consultant; and (k) Efficient and justified use of public funds. 	
1.3 Scope of Application	Refer Manual 1.3
<p>These Guidelines are applicable to all Consulting Services carried out by the Government Institutions.</p> <p>These Guidelines repeal, replace or otherwise supersede all previous Procurement Guidelines, Manuals and Circulars on the subject of selection and employment of Consultants.</p> <p>These Guidelines will take effect and come into operations on a date as specified by the NPC (Effective Date) which shall be within 30 days after the approval of these Guidelines by the Parliament.</p> <p>Details such as procedures, authority limits, threshold limits, explanations and time schedules etc. which are relevant to provisions of these Guidelines are stipulated in the Procurement Manual which shall be read in conjunction with the Guidelines. These details will be updated periodically by NPC.</p>	

	<p>The consultancy activities include entire process of selection of Consultants, preparation of work-plans and procurement plan for consultancy service procurement, implementation of procurement plan, service procurement, monitoring and evaluation of Consultant's performance, disbursement under Consultant's contracts, preparation and maintenance of financial statements and service accounts, and conduct of audit. The scope of this document is to set out a guideline covering the processes and operating procedures for the activities described above.</p> <p>The Guidelines are designed to ensure that procedures allow for timely, cost-effective, responsive, fair and transparent procurement of consultancy services.</p>	
1.3.1	Scope of Consultancy Services	
	<p>(a) Covers a range of services that are of an advisory or professional nature and are provided by Consultants.</p> <p>(b) Consultancy Services include formulation of long, medium and short-term strategies and selection of national and international advisors and Consultants to conclude the assignments in a manner that all targets are ultimately achieved. The type of Consulting Services covered in these Guidelines include but not limited to policy advice, institutional reforms, capacity building, communications consultants, management consultants, engineering services, architectural services, quantity surveying services, value management services, construction supervision, feasibility studies, pre-investment studies, finance and accounting services, technical auditing, procurement services, customized software design and development services, social and environmental studies, identification, preparation, and implementation of projects, project management, training and development etc.</p>	
1.3.2	Guidelines of Foreign Funding Agencies	Refer Manual 1.3.2
	<p>In the case of Foreign Funded Projects, if the Foreign Funding Agency mandates the use of Procurement Regulations/Guidelines of such funding agency, such funding agency Regulations/Guidelines shall prevail over these Guidelines to the extent applicable.</p> <p>In the event of a conflict between these Guidelines and that of the funding agency, the funding agency Regulations/Guidelines shall take precedence over these Guidelines. In the event these Guidelines specify additional steps, not specified by the Guidelines of the relevant funding agency, the PE shall bring to the notice of the Funding Agency of those and shall apply those provisions with the concurrence of that funding Agency.</p> <p>Notwithstanding the above, the PE shall not apply Guidelines of any funding agency, if the funding is loan/credit financing, where substantial achievement of the objectives as specified in Clause 1.2 above cannot be achieved.</p>	

1.4 Ethics in Selection and Employment of Consultants		Refer Manual 1.4
<p>Parties associated with Procurement Process including officials of the NPC, the Treasury, Procuring Entity, Members of the Consultant Selection Committees, as well as Consultants and any of their personnel should observe the highest standards of ethics during the Procurement Process and execution of such contracts.</p> <p>Ethics would include standards of conduct and norms of behavior as sought to be defined and imposed by relevant laws, regulations, and codes generally applicable to such persons in relation to their general discharge of duties and in relation to their activities linked to the relevant Procurement Process.</p>		
1.4.1	Confidentiality	Refer Manual 1.4.1
	All parties associated with procurement activities shall maintain strict confidentiality throughout the process except to the extent as may be mandated by law	
1.4.2	Fraud and Corruption	Refer Manual 1.4.2
	<p>The GOSL requires that officials, bidders, contractors, Consultants, and suppliers; any sub-contractors, service providers; any agents; and any of their personnel observe the highest standards of ethics during the Procurement Process and contract execution and refrain from Fraud and Corruption. In case of FFP, parties associated with any step of the Procurement Processes shall adhere to the FFA’s Guidelines in addition to the GOSL requirements.</p> <p>For the purpose of this provisions, the terms set forth below as follows;</p> <p>a) Corrupt Practice</p> <p>“Corrupt Practice” means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;</p>	

	<p>b) Fraudulent Practice</p> <p>“Fraudulent Practice” means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;</p> <p>c) Collusive practice</p> <p>“Collusive Practice” means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party. Improper purpose would include any attempt to influence competition and/or the price;</p> <p>d) Coercive Practice</p> <p>“Coercive Practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;</p> <p>e) Obstructive Practice</p> <p>“Obstructive Practice” means deliberately destroying, falsifying, altering, amending or concealing of evidence materials to the investigation or making false statements to investigators / auditors in order to materially impede an investigation / audit into allegation of a corrupt, fraudulent, collusive or coercive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation/audit.</p>	
1.4.3	Conflict of Interest	Refer Manual 1.4.3
	<p>The GOSL requires that officials, firms and any other individuals involved in Procurement Process shall not have a conflict of interest. Officials shall declare that they shall remain without a conflict of interest throughout the process and deal with any perceived conflicts of interest. Should such a compromising situation arise, the official shall declare his/her interest and disassociate himself/herself from the process.</p>	

	<p>The NPC requires that Consultants provide professional, objective, and impartial advice and at all times hold the PE's interest's paramount, without any consideration for future work, and that in providing advice they avoid conflicts with other assignments and their own corporate interests. Consultants shall not be hired for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of being unable to carry out the assignment in the best interests of the PE. Without limitation on the generality of the foregoing, Consultants shall not be hired under the circumstances set forth below:</p> <ul style="list-style-type: none"> a) Conflict between consulting activities and procurement of Goods, Works, or Non- Consulting Services: a firm that has been engaged by the PE to provide Goods, Works, or Non-Consulting Services for a project; or, where those Consulting Services were provided by any affiliate (that directly or indirectly controls, is controlled by, or is under common control with that firm) or associate, shall be disqualified from providing Consulting Services resulting from or directly related to those Goods, Works, or Non-Consulting Services; b) A firm for the preparation or implementation of a project, or any affiliate (that directly or indirectly controls, is controlled by, or is under common control with that Consulting firm), shall be disqualified from subsequently providing Goods, Works, or Non-Consulting Services resulting from or directly related to the Consulting Services for such preparation or implementation; c) Conflict among consulting assignments: neither a Consultant (including its personnel and sub-consultants), nor any affiliate (that directly or indirectly controls, is controlled by, or is under common control with that Consultant), shall be hired for any assignment that, by its nature, creates a conflict of interest with another assignment of the Consultants'; and d) Relationship with PE's staff: consulting firms (including their experts and other personnel, and sub-consultants) that have a close business or family relationship with a professional staff of the PE or any other party representing or acting on behalf of the PE, who are directly or indirectly involved in any part of: (i) the preparation of the TOR for the assignment, (ii) the selection process for the contract, or (iii) the supervision of such contract, may not be awarded a contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the PE throughout the selection process and the execution of the contract. 	
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1.4.4	Unfair Competitive Advantage	
	<p>Fairness and transparency in the Consultant selection process require that firms or their affiliates or Individual Consultants competing for a consulting assignment do not derive a competitive advantage from having provided Consulting Services related to it. To that end, the PE shall make available to all the short-listed Consultants, together with the request for proposals, all information that would in that respect give a Consultant a competitive advantage.</p> <p>Officials shall refrain from compromising the Code of Ethics by accepting inappropriate gifts and hospitality at any stage of Procurement Process. Consultants shall be disqualified from the selection process if found offering any gift or inducement which may have an effect of influencing a decision or impairing the objectivity of an official.</p>	
1.5 Laws Applicable to Procurement Actions		
The laws applicable to Procurement Actions shall be the Laws of the Democratic Socialist Republic of Sri Lanka.		
1.6 Consulting Services Leading to Downstream Procurement		Refer Manual 1.6
The PE may carry out the selection of a Consultant for the Consulting Services that will lead to downstream procurement/s such as subsequent contract awards for construction activities (non-consultancy component), following a Consulting Services for design, engineering and costing and project management of construction works (consultancy component) using appropriate option.		

CHAPTER 2 - GOVERNANCE OF PROCUREMENT ACTIONS

The governance of procurement Actions shall be managed by the procuring entities through clear and transparent lines of authority to confirm accountability, with clear definitions of the roles and responsibilities of each party.

All procurements related to consultancy services shall be carried out in accordance with Selection and Employment of Consultants Guidelines and Manuals, 2018 announced by National Procurement Commission (NPC).

2.1 National Procurement Commission (NPC)		Refer Manual 2.1
<p>The National Procurement Commission (NPC) as established under the Chapter XIX B of the Constitution of Democratic Socialist Republic of Sri Lanka is the sole authority for the governance of all procurement activities by the Government Institutions of GOSL to whom these Guidelines apply. Any clarifications on the provisions of these Procurement Guidelines and related documents shall be sought from the NPC.</p>		
2.1.1	Role of the NPC	
	<p>Role of the NPC is to ensure formulation of procurement policy, Guidelines and practices, monitoring and investigation of Procurement Actions of procuring entities to guarantee implementation of such policies, Guidelines and best practices by procuring entities and related Government Institutions, assessment of procurement capacity of Government Institutions, procurement capacity building and reporting to appropriate authorities on procurement performance of procuring entities and individuals.</p>	
2.2 Roles and Responsibilities of Chief Accounting Officer and Accounting Officer (CAO and AO)		
<p>Responsibility of the entire Procurement Process from making pre-procurement arrangements to contract execution shall be vested with the Secretaries of the respective Line Ministries, who are deemed to be the Chief Accounting Officers (CAOs) of such Ministries and the Accounting Officers (AOs) of respective Departments /Institutions.</p> <p>If there is no Line Ministry for the particular Institution, the responsibility of the entire Procurement Process including contract execution shall be vested with the relevant Head of the Institution.</p>		
2.3 Roles and Responsibilities of Procuring Entity (PE)		Refer Manual 2.3
<p>Secretaries to the Line Ministries, Heads of Departments /Institutions/Agencies and Project Directors together with the assistance of the Procurement Specialist, Consultants and other relevant staff shall be responsible for the following activities listed under:</p> <ol style="list-style-type: none"> 1. Pre-Procurement process 2. Procurement process 3. Post Procurement process 		

<p>2.4 Appointment of Consultant Selection Committee (CSCs) and Payments for CSCs Members</p>	<p>Refer Manual 2.4</p>	
<p>The members of the CSCs are jointly and severally responsible for entire Procurement Actions. The following CSCs shall be appointed as per the respective authority limits as specified under Guideline 2.5 from time to time;</p> <ul style="list-style-type: none"> • Cabinet Appointed Consultant Selection Committee (CCSC) • Ministry Consultant Selection Committee (MCSC) • Department Consultant Selection Committee (DCSC) • Project Consultant Selection Committee (PCSC) 		
<p>2.4.1</p>	<p>Cabinet Appointed Consultants Selection Committees (CCSC)</p>	<p>Refer Manual 2.4.1</p>
	<p>Under delegated authority by the Cabinet of Ministers, the CAO shall appoint CCSCs to undertake high value consultancy assignments.</p>	
<p>2.4.2</p>	<p>Ministry Consultants Selection Committee (MCSC)</p>	<p>Refer Manual 2.4.2</p>
	<p>The CAO shall appoint the MCSC.</p>	
<p>2.4.3</p>	<p>Department Consultants Selection Committee (DCSC)</p>	<p>Refer Manual 2.4.3</p>
	<p>The CAO shall appoint the DCSC.</p>	
<p>2.4.4</p>	<p>Project Consultants Selection Committee (PCSC)</p>	<p>Refer Manual 2.4.4</p>
	<p>The CAO shall appoint the PCSC.</p>	
<p>2.4.5</p>	<p>Payments for Members of Consultants Selection Committees (CSCs), Staff Officers and Other Officers Assisting in the Procurement Process</p>	<p>Refer Manual 2.4.5</p>
	<p>Members of the Consultants Selection Committees and alternate members shall be remunerated for participation in the Procurement Process. The members of the Consultants Selection Committees and the officers to whom specific responsibilities are assigned under these Guidelines shall be remunerated, with emphasis to their performance.</p> <p>Payment of remunerations shall be based on performance of such committees and individuals and the eligible payments shall determined by the NPC, in consultation with the General Treasury.</p>	

<p>2.5 Authority Limits for determination of Contract Award</p>	<p>Refer Manual 2.5</p>
<p>Selection and Employment of Consultant is administered through different levels of Consultants Selection Committees (CSC) with varying financial thresholds to make recommendation/determination of contract awards.</p> <p>Limits of authority to make recommendation/determination of contract award and thresholds shall be decided from time to time and shall be communicated by making amendments to the Consulting Services Manual or circulars issued under these Guidelines by the NPC.</p> <p>Consultants Selection Committees shall be appointed depending on the Total Cost Estimate (TCE) of the relevant procurement.</p> <p>In the event the substantially responsive lowest evaluated bid exceeds the threshold limit of the relevant Consultant Selection Committee, it shall be referred to the relevant appointing authority to take a decision.</p>	

CHAPTER 3 – SELECTION PROCESS AND SELECTION METHODS OF CONSULTANCY FIRMS AND INDIVIDUAL CONSULTANTS

The selection method shall achieve the objectives of VfM, fairness, clarity, fit-for-purpose, transparency and confidentiality. Hence the appropriate method of selection is related to the nature, size, complexity, likely impact of the assignment, and the technical and financial considerations.

A consultancy firm shall be selected in obtaining the services required rather than getting the service done by one or more individuals for assignments for which:

- a. coordinated input of team of personnel with different expertise are required; and
- b. coordination, administration or collective responsibility is important.

In other cases, PE may select Individual Consultant/s (IC). The selection method of Individual Consultant is outlined in section 3.2 below.

<p>3.1 Methods for the Selection of Consultancy Firm</p>	<p>Refer Manual 3.1</p>
<p>The choice of the appropriate method of selection is related to the factors mentioned above. It is therefore necessary to carefully define the assignment, particularly the Terms of reference including objective and the scope of the services, before deciding on the selection method.</p> <p>The following selection methods shall be determined as appropriate by the PE prior to issuance of the request for proposals from prospective Consultants.</p> <ul style="list-style-type: none"> a) Quality and Cost Based Selection (QCBS); b) Quality Based Selection (QBS); c) Fixed Budget Selection (FBS); d) Least Cost Selection (LCS); e) Consultant’s Qualifications based Selection(CQS); f) Direct Selection-Single Source Selection (SSS); and g) Selection of particular types of Consultants 	

3.1.1	Quality and Cost Based Selection (QCBS)	Refer Manual 3.1.1
	<p>QCBS is a competitive process among Shortlisted consulting firms under which the selection of the successful firm takes into account the quality of the Proposal and the cost of the services. The request for proposals document shall specify the minimum score for the technical Proposals. The relative weight to be given to the quality and cost depends on the nature of the assignment. Weightage for quality part of the proposal is always higher than the financial part. Among the Proposals that are responsive to the requirements of the request for proposals document and are technically qualified, the Proposal with the highest combined (quality and cost) score is considered the Most Advantageous Proposal.</p> <p>Preferred method of selection of Consultancy firm shall be QCBS. Other methods shall be used only under the circumstances described against such selection methods.</p> <p>The QCBS method is appropriate when:</p> <ol style="list-style-type: none"> the scope of work can be precisely defined; the TOR are well specified and clear; and, PE and the Consultants can estimate with reasonable accuracy the personnel time as well as the other inputs required of the Consultants. 	
3.1.2	Quality Based Selection (QBS)	Refer Manual 3.1.2
	<p>QBS is a method based on evaluating only the quality of the technical proposals and the subsequent negotiation of the financial proposal and the contract award to the Consultancy firm who submitted the highest ranked technical proposal.</p> <p>When QBS is used, the proposal quality is evaluated without using cost as an evaluation criterion. The RFP will request firms to submit both technical and financial proposals at the same time, but in separate envelopes (single stage – two envelope system). The financial proposal of only the highest technically qualified firm is open and evaluated. The Procuring Entity and the related firm shall discuss the work plan, the TOR, and financial proposal, etc. of the contract. After successful completion of technical and financial negotiations with the highest ranked firm, the contract will be awarded. The rest of financial proposals will be returned unopened to the unsuccessful firms. QBS is appropriate for the following types of assignments:</p> <ol style="list-style-type: none"> complex or highly specialized assignments for which it is difficult to define precise TOR and the input required from the firm, and for which the Procuring Entity expects the firm to demonstrate innovation in its Proposals; assignments that have a high downstream impact; and assignments that can be carried out in substantially different ways, so that Proposals will not be comparable. 	

<p>3.1.3</p>	<p>Fixed Budget- based Selection (FBS)</p>	<p>Refer Manual 3.1.3</p>
	<p>Like QCBS, FBS is a competitive process among Shortlisted consulting firms under which the selection of the successful firm takes into account the quality of the Proposal and the cost of the services. In the request for proposals document, the cost of services is specified as a fixed budget that shall not be exceeded.</p> <p>FBS is appropriate when:</p> <ul style="list-style-type: none"> a) the type of Consulting Service required is simple and TOR can be precisely defined; b) the time and personnel inputs can be accurately assessed to ensure the budget is reasonably estimated and set; c) the budget is sufficient for the firm to perform the assignment. d) the budget is fixed and cannot be exceeded. <p>Evaluation of all technical proposals shall be carried out first. The Firms securing less than the minimum marks shall be rejected, and the financial proposals of the rest shall be opened in public.</p> <p>Proposals of which evaluated financial proposal exceed the indicated fixed budget shall be rejected.</p> <p>The technical Proposal with the highest technical score that meets the fixed budget requirement, be selected and invited to finalize the contract.</p>	
<p>3.1.4</p>	<p>Least Cost Selection (LCS)</p>	<p>Refer Manual 3.1.4</p>
	<p>Similar to QCBS, LCS is a competitive process among Shortlisted consulting firms under which the selection of the successful firm takes into account the quality of the Proposal and the cost of the services.</p> <p>Least-cost selection (LCS) is generally appropriate for selecting Consultants for smaller value assignments, of a standard or routine nature where well-established practices and standards exist.</p> <p>The RFP shall define the “minimum” qualifying mark for the “quality” and request the firms to submit at the same time technical and financial proposals in separate envelopes. Technical proposals will be opened first and evaluated. Those securing less than the minimum qualifying mark specified in the RFP will be rejected, and the financial proposals of the rest will be opened in public. The firm with the lowest evaluated cost shall then be selected and invited to finalize the contract.</p>	

3.1.5	Consultant's Qualification-based Selection (CQS)	Refer Manual 3.1.5
	<p>CQS is appropriate for;</p> <ul style="list-style-type: none"> a) smaller value assignments; or b) an emergency situation; and c) preparation and evaluation of full-fledged competitive Proposals is not justified. <p>CQS is appropriate for higher value assignments only when:</p> <ul style="list-style-type: none"> d) satisfies the condition given under 'c' above; and e) highly specialized expertise is required for the assignment: and f) few Consultants are qualified. <p>The PE shall request expressions of interest (REOI), by attaching the TOR to the REOI. Only a selected Consultancy firms shall be requested to provide information about their relevant experience and qualifications. Out of the long list received in response to the REOI, a shortlist of minimum of three firms shall be prepared and the PE will select the firm with the best qualifications and relevant experience and invite it to submit its combined technical and financial Proposals for negotiations.</p> <p>Should the negotiations failed the PE shall obtain a combined proposal from the next ranked firm until an agreement is reached.</p> <p>Advertisement of REOI is not mandatory.</p>	
3.1.6	Direct Selection - Single Source Selection (SSS)	Refer Manual 3.1.6
	<p>Generally, Single Source Selection of consultancy firms does not provide the benefits of competition in regard to quality and cost, lacks transparency in selection, and could encourage unacceptable practices. Therefore, single source selection shall only be used in exceptional cases.</p> <p>While going through this method of selection, the PE will provide well described and evidence based justifications to ensure economies of scales, efficiency and value for money. The justifications shall be examined at an appropriate level for making the decision.</p> <p>SSS will be used only in exceptional cases, where it provides clear advantage over competition in the following cases;</p> <p>SSS may be appropriate under the following circumstances:</p> <ul style="list-style-type: none"> a) an existing contract for Consulting Services, may be extended for additional Consulting Services of a similar nature, if it is properly justified; no advantage may be obtained by competition; and the prices are reasonable. Extended services shall not be more than 25% of the existing contract; or 	

	<ul style="list-style-type: none"> b) for Consulting Services which are natural continuation of previous assignment carried out by the same firm within the last 12 months, where it was selected on competitive basis for the first assignment and where continuity of technical services is unavoidable and if performance has been satisfactory in the previous assignment(s). Extended continuation services shall not be more than 50% of the previous assignment; c) in cases of an emergency situation where a rapid selection is essential; d) for smaller value assignments; e) when only one firm is qualified, or has experience of exceptional worth for the assignment; f) specific recommendation shall be obtained from the relevant CSC; g) to obtain necessary prior approval for the SSS justification with all other relevant details in Writing from the CAO, concerned on recommendation by a CSC; h) for Foreign Funded Projects this selection method shall be used only with the prior approval of the relevant funding agency; <p>In all instances of direct selection, the Procuring Entity shall ensure fairness and equity, and shall have in place procedures to ensure that:</p> <ul style="list-style-type: none"> i. the prices are reasonable and consistent with the market rates for services of a similar nature; and ii. the required Consulting Services are not split into smaller- size procurements to avoid competitive processes. 	
<p>3.1.7</p>	<p>Selection of Particular Type of Consultants</p>	<p>Refer Manual 3.1.7</p>
	<p>Under special circumstances as described below Consultants may be selected.</p>	
<p>3.1.7.1</p>	<p>Consultancy Works by State Universities and State Research & Development (R&D) Centers</p>	
	<p>With the objective of promoting active institute/industry links/partnerships, research based consultancy assignments directed towards improvements of efficiency and productivity of the local industries and helping to realize the country's socio-economic, environmental, human development policies, may be directly assigned to state universities and state R&D centers. In such situations, PE shall follow the process using direct selection method. The fees billed for permanent staff by the university or R&D center in no case should exceed twice the basic salary of such staff. When such Consulting Services are given, the university or R&D center shall follow the requirements given in the Consultant's Manual. PE shall ensure that the relevant permanent staff of the university or R&D center is under the control and direction of the university authorities, have necessary legal and administrative clearances to engage in consultancy assignments, and ensure that the assignments given under this section are not subcontracted, assigned or otherwise transferred to any person or entity outside the university.</p>	

	<p>The contract shall be entered with the proper legal entity of the university or R&D center and in no case with an individual or group of individual.</p> <p>For Foreign Funded Projects this selection method shall be used only with the concurrence with the Foreign Funding Agency.</p>	
3.1.7.2	Consultancy Assignment to Government Institutes	
	No consultancy assignments shall be awarded to Government Institutions through direct contracting.	
3.1.8	Preparation of Terms of Reference (TOR)	Refer Manual 3.1.8
	<p>a) The PE shall be responsible for preparing the TOR for the assignment. TOR shall be prepared by a person(s) or a Consultancy Firms specialized in the area of the assignment. The scope of the services described in the TOR shall be compatible with the available budget. TOR shall define clearly the objectives, specific tasks required to implement the assignment, goals, and scope of the assignment and provide background information (including a list of existing relevant studies and basic data), and provides details on the required qualifications of the key experts; and lists the expected deliverables to facilitate the Consultants' preparation of their proposals. If transfer of knowledge or training is an objective, it should be specifically outlined along with details of number of staff to be trained, and so forth, to enable Consultants to estimate the required resources.</p> <p>However, TOR should not be too detailed and inflexible, so that competing Consultants may propose their own methodology and staffing. Consultancy Firms shall be encouraged to comment on the TOR in their proposals. The PE's and Consultants' respective responsibilities should be clearly defined in the TOR.</p> <p>b) TOR should provide a level playing field for all prospective Consultants. It should meet the essential requirements of the PE.</p> <p>c) It should normally be based on respective national standards or equivalent international standards where applicable.</p> <p>This Section shall not be used to over-write provisions in Instructions to Consultants and Data Sheet.</p>	

3.1.9	Preparation of Long List	Refer Manual 3.1.9
	<p>The long list of Consultants may be prepared following one or any combination of the following methods:</p> <ul style="list-style-type: none"> i. Inviting EOI by advertisement; ii. By including names of Consultants who have satisfactorily completed similar assignments to the PE previously; iii. By collecting names from the other PEs who had obtained the services of Consultants for similar assignments; and iv. By collecting names from Foreign Funding Agencies. <p>However, for large and complex assignments the PE shall advertise in local newspapers, PEs web site and NPC website or e-GP portal or as directed by NPC. When the participation of international Consultancy firms is expected, the invitation shall be extended to international media and international web portals. When e-GP System is established and rolled out, all such advertisements should be published in e-GP Portal in addition to other mediums.</p>	
3.1.10	Preparation of Shortlist	Refer Manual 3.1.10
	<p>Short listing of Consultants shall ensure, only the best qualified Consultancy Organizations submit proposals. In preparation of short list first consideration shall be given to those organizations expressing interest that possesses the relevant qualifications.</p>	
3.2 Selection of Individual Consultants		
3.2.1	Selection of Individual Consultants	Refer Manual 3.2.1
	<p>Individual Consultants are normally employed on assignments (lump sum or time based) for which:</p> <ul style="list-style-type: none"> (a) the experience and qualifications of the individual are the paramount requirement; and (b) Teams of personnel, and coordination, administration, or collective responsibility between them are not required; or (c) no additional outside (home office) professional support is required. 	

3.2.2	Terms of Reference (TOR) for the Selection of Individual Consultants	Refer Manual 3.2.2
	PE should first prepare a TOR for the assignment, including the scope of work, estimated budget etc. The TOR shall be reviewed by the relevant CSC.	
3.2.3	Advertising	Refer Manual 3.2.3
	<p>Advertisement for seeking expressions of interest (EOI) or CV is encouraged, particularly when the PE does not have knowledge of experienced and qualified national expert individuals or of their availability, or the services are complex, or there is potential benefits from wider advertising, or if it is exceeding a period of three (3) months.</p> <p>Submission of qualifications shall be advertised in national newspapers, PEs web site and NPC web site. For international Consultancy Assignments, it is recommended to advertise in national newspapers, PEs web site and NPC web site, in addition to international advertisements. Local Consultants, subject to Clause 5.8 below, may apply for Consultancy assignments advertised internationally. It may not, however, be required in all cases and should not take place for small value contracts. All invitations for EOIs should specify selection criteria that are solely based on experience and qualifications. When firms are invited to propose individual Consultants, EOIs shall clarify that only the experience and qualifications of individuals shall be used in the selection process, and that their corporate experience shall not be taken into account, and specify whether the contract would be signed with the firm or the proposed individuals.</p>	
3.2.4	Selection on Competitive Basis	
	Individual Consultants are selected on the basis of their qualifications for the assignment. Generally, they shall be selected through comparison of qualifications and capabilities of at least three or more candidates among those who have expressed interest in the assignment in response to an advertisement or have been approached directly by the PE. Capability is judged on the basis of academic background and experience, as appropriate.	
3.2.5	Single Source Selection (SSS)	
	<p>Individual Consultants may be selected on a single-source basis with due justification in exceptional cases such as:</p> <ul style="list-style-type: none"> (a) tasks that are a continuation of previous work that the Consultant has carried out and for which the Consultant was selected competitively; (b) assignments with a total expected duration of less than 6 (six) months; (c) urgent situations; and (d) when the individual is the only Consultant qualified for the assignment. 	

	<p>SSS justification with the details of individual Consultant shall be approved by the CAO;</p> <p>(e) If the assignment period is more than 6 (six) months, provided funds are available the NPC approval should be obtained for sufficiently detailed justification, including the rationale for single source selection instead of a competitive selection process, and the basis for recommending a particular individual Consultant in all such cases, except for contracts below a threshold.</p>	
3.2.6	Terms of Appointment	
	<p>A formal contract agreement shall be signed with the individual Consultant. This contract shall include employment conditions covering remuneration, direct expenses, leave (if any), insurance (if any), per- diems (if any), and Description of Services. For very small assignments of routine nature a letter of appointment may be used but shall address the above-mentioned terms.</p>	

CHAPTER 4 - PROCUREMENT PLANNING

Efficient and realistic planning of the entire Procurement Process is vital to ensure timely completion of the procurement cycle.

Preliminary selection steps such as preparation of draft TOR, cost estimates, preparation of draft REOI, draft RFP etc. may be commenced by the PE even without a firm commitment of funds for the assignments included in the procurement plan to reduce future delays.

4.1 Procurement Planning		
<p>Every Procurement Entity shall be responsible to plan their individual procurements, other than emergency procurements, in advance and shall prepare following plans.</p> <ol style="list-style-type: none"> 1. Master Procurement Plan (MPP) 2. Procurement Plan (PP) 3. Procurement Time Schedule (PTS) 		
4.1.1	Master Procurement Plan (MPP)	Refer Manual 4.1.1
	<p>Every Procurement Entity should prepare a Master Procurement Plan for a period of three years in medium term budgetary perspective and should be compiled at the Ministry level.</p> <p>(a) Individual procurements envisaged for a period of three years shall be listed in the Master Procurement Plan. (MPP)</p>	

	<p>(b) MPP shall be reviewed annually, at the commencement of respective financial year, and shall be approved by the Secretary to the Line Ministry.</p> <p>(c) MPP shall be disclosed as per the Regulations made under the Right to Information Act, No. 12 of 2016.</p>	
4.1.2	Procurement Plan (PP)	Refer Manual 4.1.2
	<p>(a) PE shall prepare a Procurement Plan (PP) in accordance with Master Procurement Plan (MPP) and previously approved Action Plan, depicting procurement that shall be carried out during the year.</p> <p>(b) PP shall be more specific and list the Procurement activities of the current year in accordance with the budgetary provisions and approved by the Secretary to the Line Ministry. PE shall send a true copy of the approved PP to NPC.</p> <p>(c) After preparation of the procurement plan the PE shall publish the General Procurement Notice (GPN) indicating the details of the procurements planned for the current year. GPN shall be published in the websites of the PE, relevant line ministry and NPC.</p> <p>(d) PP shall be disclosed as per the Regulations made under the Right to Information Act, No. 12 of 2016.</p> <p>PP shall be updated as and when necessary considering actual performance. MPP and Action Plan also may be amended accordingly, if required.</p> <p>PE shall send an updated PP to NPC within 30 calendar days of the update.</p>	
4.1.3	Procurement Time Schedule (PTS)	Refer Manual 4.1.3
	<p>(a) Procurement Time Schedule (PTS) is a schedule describing each Procurement Action in chronological order, from commencement to completion of the entire Procurement Process up to the award of contract.</p> <p>(b) PTS shall be prepared by the PE in two stages;</p> <p style="padding-left: 40px;">Stage 1 - all activities from the commencement up to the preparation of draft Request for Proposal (RFP) document;</p> <p style="padding-left: 40px;">Stage 2 - all activities after preparation of the draft Request for Proposal (RFP) document consequent to obtaining the required budgetary provisions.</p>	

	<p>(c) Regular updates of PTS Stage 1 shall be done.</p> <p>(d) It is an obligation of the respective CSC, to consider the PTS and approve it at the first meeting. The PE shall forward the draft PTS for the Consultancy assignment, together with any connected downstream Procurement to the CSC. Once the PTS is agreed upon, the Chairpersons of the CSC shall monitor the progress in consultation with the PE. Where a major delay occurs, it is the responsibility of the Chairperson of the CSC to effect remedial measures.</p>	
<p>4.2 Publication of Procurement Plan and Time Frame for Procurement Actions</p>		<p>Refer Manual 4.2</p>
<p>The Procurement Plan is a management tool and needs the approval of the CAO. The final Procurement Plan will be published without estimated costs in advance on the NPC’s website as well as on the website of the PE. The Procurement Plan will guide the PE in the selection of consultancy services.</p> <p>Average time frame for different stages of procurement is specified in the Manual.</p>		
<p>4.3 Total Cost Estimate (TCE) of the Procurement</p>		<p>Refer Manual 4.3</p>
<p>TCE is an aggregation of elemental costs of a procurement to be conducted including VAT which will be shown separately. The elemental costs mean itemized costs of the pre-procurement, procurement and post- procurement costs.</p> <p>Well-developed cost estimates are essential to ensure realistic budgetary allocations. The cost estimates for the proposed assignment shall be prepared by the PE based on assessment of the resources needed to carry out the activities: experts’ time, logistical support, and physical inputs (for example; transport, office space, equipment, laboratory equipment etc.). For the complex procurements, PEs may take external expert assistance. Costs shall be firstly divided into two main categories:</p> <p>(a) remuneration; and</p> <p>(b) other expenses including reimbursable costs,</p> <p>and further divided into foreign and local costs where appropriate.</p>		
<p>4.3.1</p>	<p>Approving of Total Cost Estimate (TCE)</p>	
	<p>TCE shall be approved by the appropriate authority.</p>	

4.3.2	Update of Total Cost Estimate (TCE)	
	<p>Wherever it is necessary to update the TCE, the updated TCE shall be approved by the appropriate authority prior to request for Proposals.</p> <p>The Approving Authority should refrain from revising the TCE during the Procurement Process after the issuance of request for proposals.</p>	
4.4 Expression of Interest		
4.4.1	Publication of Request for Expression of Interest (REOI)	Refer Manual 4.4.1
	<p>A Request for Expression of Interest (REOI) shall be advertised by giving applicants at least fourteen (14) calendar days for national competition and twenty-one (21) calendar days for international competition to submit their interest to provide consultancy services. The late submission of a response to REOI shall not be a cause for its rejection unless the PE has already prepared a short list, based on the received EOIs.</p> <p>An advertisement is to be published in the PE's website, web portal of NPC, e-GP Portal (if applicable) and local newspapers in case of national procurement and also established international e-procurement portals or donor website in case of international procurement for inviting of eligible Consultants to show their interest in offering Consulting Services in a specific field of expertise.</p>	
4.4.2	Content of the REOI	Refer Manual 4.4.2
	<p>a) the name and address of PE;</p> <p>b) an appropriate description of the assignment providing scope of the intellectual and professional services required;</p> <p>c) deadline and place of the submission of the EOI; and</p> <p>d) evaluation criteria required to be followed.</p>	
4.4.3	Criteria for Short-listing of Consultants Firms	Refer Manual 4.4.3
	<p>Whenever short-listing is deemed necessary, the PE shall predetermine the criteria for short-listing. Except for single source, there will normally be five (5) to eight (8) Consultants in the shortlist, but there is no upper limit for number of candidates to be short-listed. However, if less than five candidates apply (after sufficient advertising), their proposals may be considered on merit.</p>	

	<p>The PE while engaged in short-listing of Consultants will take into consideration the following factors, namely:</p> <ul style="list-style-type: none"> i. qualification; ii. general experience; iii. similar experience; and iv. any other factor that a PE may deem relevant. <p>Well defined criteria should be used for short-listing. All applicants shall be informed whether or not they have been short-listed.</p>	
4.4.4	Criteria for Short-listing of Individual Consultants	
	<p>Where applications from Individual Consultants are required, the CV required (Request for CVs) must be to a certain standard and format. Qualifications can be divided between academic and professional. Remuneration depends on the level of qualification achieved. Good TORs do not call for absolutes but allow for some degree of flexibility; Experience is given greater weight over academic qualification. Similar Experience is given greater weight than General Experience – the more relevant to the service the more desirable. Consultants may be asked to provide a sample of their previous work if necessary.</p>	

CHAPTER 5 - REQUEST FOR PROPOSAL (RFP) DOCUMENTS

5.1 Preparation of Draft Request for Proposal (RFP) Document	
<ul style="list-style-type: none"> a) The PE shall prepare the draft Request for Proposal (RFP) document. b) The PE shall complete the abovementioned task prior to the appointment of the CSC. 	
5.2 Contents of RFP Document	Refer Manual 5.2
<p>The RFP documents shall contain all relevant information necessary for a prospective Consultant to prepare a responsive proposal for the assignment.</p> <p>The contents of the Request for Proposal document shall be unambiguous. Sections of the RFP are given in the Manual.</p>	

<p>5.3 Standard Request for Proposal (SRFP) Document</p>	<p>Refer Manual 5.3</p>
<p>a) PEs shall use the appropriate SRFP, issued by the NPC, with minimum changes, as necessary to address assignment - specific conditions. In the case of Procurements funded by a Foreign Funding Agency, the PEs may use the SRFPs mandated by such agencies.</p> <p>b) Where no relevant SRFPs are available, the PE may use appropriate RFP with the concurrence of CAO; before sending to CAO, the documents must be vetted and approved by the CSC, who shall take entire responsibility for the contents of such documents.</p>	
<p>5.4 Request for Proposals (RFP's) Publication</p>	<p>Refer Manual 5.4</p>
<p>Adequate publicity shall be given to the "Request for Proposals" in national newspapers, PE's website and National Procurement Commission's web portal and in relevant international websites, if required. In case of e-GP, the Request for Proposal (RFP) is published in e-GP portal.</p> <p>Request for Proposal should contain appropriate and relevant basic information required by prospective Consultants including main eligibility criteria, qualification requirements etc., depending on the value and complexity of the services.</p>	
<p>5.5 Letter of Invitation (LOI)</p>	<p>Refer Manual 5.5</p>
<p>The LOI should state the intention of the PE to obtain the services of the Consultant for a given assignment and inform the shortlisted Consultants that they are invited to submit a proposal for the execution of the assignment. At a minimum it shall provide the basic information regarding:</p> <ul style="list-style-type: none"> a) The name of the PE and source of funding; b) The names of the shortlisted firms; c) A brief description of the objectives and scope of the assignment; d) The method of selection; and e) The date, time and address for submission of proposals. <p>The LOI should also instruct the Consultants to indicate whether they intend to submit their proposal alone or in association with other shortlisted parties/individuals and request the PE's permission to such association.</p>	

<p>5.6 Instructions to Consultants (ITC)</p>	<p>Refer Manual 5.6</p>
<p>Instructions to Consultants shall contain all relevant information for the Consultant to prepare and submit a proposal. ITC shall not be changed in SRFPs.</p>	
<p>5.7 Eligibility of Consultants</p>	<p>Refer Manual 5.7</p>
<p>a) Eligibility requirements for Consultants shall be included in the RFP documents.</p> <p>b) Consultants should be considered as ineligible under the following situations, among others:</p> <ul style="list-style-type: none"> (i) If the Consultant is blacklisted (a list of blacklisted Consultants will be updated periodically, and will be published in the NPC web portal) or by FFA in case of Foreign Funded Projects; (ii) Any Consultant who has been engaged by the PE to prepare the TOR for the proposed Consultancy Assignment. 	
<p>5.8 Equal Treatment for Foreign and National Consultants</p>	
<p>When foreign Consultants are involved, the contract conditions shall have equal application to both national and foreign Consultants other than allowing preference for participation of national Consultants, if specified in the RFP.</p> <p>Only if foreign currency payments are envisaged under the contract, both the foreign and national Consultancy Firms shall be eligible to quote and be paid in foreign currency to the extent applicable.</p> <p>To be eligible for foreign currency payment, Consultants are required to submit justification to that effect. Import of specialized equipment spending foreign currency by the Consultant and payment of remuneration for expatriates etc., would for instance be deemed to be valid justifications.</p>	
<p>5.9 Proposal Validity Period</p>	<p>Refer Manual 5.9</p>
<p>a) Consultants shall be required to submit proposals valid for a period of specified in the RFP documents.</p> <p>b) The CSC shall ensure that the period so specified is sufficient to enable the CSC to complete the evaluation of proposals, obtain all requisite approvals, and in the case of a Foreign Funded Project to obtain the concurrence of the Foreign Funding Agency for the recommendation of award in order that the contract can be awarded within the proposal validity period.</p>	

c) The minimum proposal validity periods are given in the Consultancy Services Manual.	
5.10 Time for Submission of Proposals	
The CSC shall allow sufficient time for the Consultants to prepare their proposals. The CSC shall follow the minimum time periods given in the Consultancy Services Manual.	
5.11 Clarity of RFP Documents	
<p>a) All prospective Consultants shall be provided with the same information and shall be assured of equal opportunities to obtain additional information. PE shall provide reasonable opportunity of access to the project sites for visits by prospective Consultants, if requested.</p> <p>b) In the case of all CCSC, MCSC, DCSC and PCSC assignments, a pre-proposal conference shall be arranged where by potential Consultants have the opportunity of seeking clarifications from the PE.</p> <p>c) Minutes of such pre-proposal conference shall be circulated to all prospective Consultants. Minimum period between issuing minutes of pre-proposal conference and proposal closing date shall be ten (10) working days for national competitive bidding and in the case of international competitive bidding twenty (20) calendar days.</p> <p>If there are drastic changes in specifications/requirements/scope of work in the pre-proposal conference minutes against specified in the RFP, PE shall consider increasing the above period appropriately. If deemed necessary, the PE may extend the deadline for proposal submission closing appropriately.</p>	
5.12 Clarifications and Amendments to RFP	Refer Manual 5.12
a) Any prospective Consultants requiring any clarification of the RFP documents should notify to the PE In Writing, in sufficient time before the date of proposal submission closing. The PE, in consultation with CSC, shall provide these clarifications In Writing or by fax or email, electronic message in case of e-GP, and copy them to all Consultancy Firms on the short list without indicating the name of the Consultant who request the clarification.	

<p>b) At any time prior to the date of closing of proposal submission, PE may at its own initiative or in response to a clarification requested by prospective Consultants, modify RFP documents by issuance of addenda. However, minimum period between issuing addenda and proposal closing date shall be ten (10) working days for national competitive bidding and in the case of international competitive bidding twenty (20) calendar days.</p> <p>c) If deemed necessary, the PE may extend the deadline for proposal submission closing giving due consideration to the PTS.</p>	
<p>5.13 Association between Consultants</p>	<p>Refer Manual 5.13</p>
<p>Consultants may associate with each other in the form of a joint venture or of a sub-consultancy agreement to complement their respective areas of expertise, strengthen the technical responsiveness of their proposals and make available bigger pools of experts, provide better approaches and methodologies, and, in some cases, offer lower prices. Joint venture and/or partners are jointly and severally liable on the execution of a contract.</p> <p>Such an association may be for the long term (independent of any particular assignment) or for a specific assignment.</p> <p>If the PE employs an association in the form of a joint venture, the association shall appoint one of the firms to represent the association as a lead partner; all members of the joint venture, or their representative with a power of attorney, shall sign the contract. All members of the joint venture shall be jointly and severally liable for the entire assignment.</p> <p>PE shall not require Consultants to form associations with any specific firm or group of firms or include any particular individual in their proposals, but may encourage association with qualified national firms.</p> <p>Once the short list is finalized, and the Requests for Proposals (RFPs) are issued, any association in the form of joint venture or sub-consultancy among short-listed Consultancy Firms shall not be permissible. However, under special circumstances it may permissible only with the approval of the PE.</p> <p>A shortlisted Consultancy Firm shall submit only one proposal in the same selection process, either individually as a proponent or as a partner in a joint venture. No Consultancy Firm can be a sub-consultant while submitting a proposal individually or as partner in a joint venture in the same selection process. A Consultancy Firm, if acting in the capacity of sub-consultant in any proposal, may participate in more than one proposal, but only in that capacity.</p>	

5.14 Value Added Tax		
The Consultants shall be instructed to indicate VAT separately and VAT shall not be considered for evaluation of proposals.		
5.15 Evaluation Criteria and Qualification Requirements		
<p>a) The RFP documents shall clearly specify the evaluation criteria and sub-criteria that will be applied for the selection of the Consultant.</p> <p>b) Qualification criteria and post qualification criteria shall also be clearly stated in the RFP documents.</p> <p>c) The disclosed criteria shall not be modified or additional criteria shall not be introduced during the proposal evaluation. Evaluation shall be done only in accordance with the disclosed criteria.</p>		
5.16 Standard Forms of Contract		
5.16.1	Draft Contract to be Issued	
	<p>a) The draft contract shall be issued with the RFP document.</p> <p>b) The draft contract document shall clearly define:</p> <ul style="list-style-type: none"> i. the scope of the assignment (Description of Services-DOS); ii. the rights and obligations of the PE; iii. the rights and obligations of the Consultant; iv. if the PE intending to assign members of its own professional staff to the assignment in different capacities, PE shall give the details governing such staff, known as counterpart staff, as well as facilities that shall be provided by the PE, such as housing, office space, secretarial support, utilities, materials, and vehicles. v. The contract shall also indicate the measures that Consultant can take if some of the items cannot be provided or have to be withdrawn during the assignment, and the compensation the Consultant will receive in such a case. vi. that the Consultant should state the local cost only in Sri Lankan Rupees. vii. That the failure on the part of the parties to perform their obligations under the contract will not be considered a default, if such failure is the result of an event of Force Majeure, as defined in the contract. 	

	<p>viii. The policy on corrupt and fraudulent practices: Consultants, sub-consultants, service providers and any agents (whether declared or not); and any of their personnel, observe the highest standard of ethics during the Procurement Process, selection and contract execution, and refrain from Fraud and Corruption.</p> <p>ix. In addition to the general conditions of contract, any special conditions particular to the specific Goods or Works or Services to be procured and the location and modality of the project shall be included.</p>	
5.17 Conditions of Contract		
<p>(a) The General Conditions of Contract (GCC) are generally used with all types of contracts and shall be issued with the RFP document. Special Conditions of Contract (SCC) may also be included in the RFP document with necessary modifications, depending upon the need.</p> <p>(b) Provisions indicated in the SCC will supersede the corresponding provisions in the GCC.</p>		
5.18 Price Adjustment		
<p>To adjust the remuneration for foreign and/or local Consultants due to inflation and other costs, a price adjustment provision may be included in the contract if its duration is expected to exceed 18 months. Contracts of shorter duration (less than 18 months), may also include similar provisions for price adjustments when local or foreign inflation is expected to be high.</p> <p>Prices are adjusted by using applicable official price indices. Where such indices are not available, they may be derived from appropriate documented sources. The formula, the applicable price indices, and the base date for application shall be clearly defined in the contract.</p>		
5.19 Payment Provisions		
<p>Payment provisions, including amounts to be paid, schedule of payments, and payment procedures, shall be included. Payments may be milestone based.</p>		
5.20 Advance Payment		Refer Manual 5.20
<p>An advance payment can be made, when required provisions are included in the RFP document.</p>		
5.20.1	Performance Security	Refer Manual 5.20.1
<p>If PE wishes to obtain a Performance Security from the Consultancy Firm under special circumstances, it is allowed to do so up to the percentage as specified in the RFP. This percentage is normally 5% to 10% of the total Contract Price.</p>		

<p>5.21 Dispute Resolution</p>	
<p>(a) All disputes arising out of contract agreements shall be first subjected to adjudication and thereafter governed in accordance with the provisions of the Arbitration Act, No. 11 of 1995 of Sri Lanka, as amended.</p> <p>(b) A reference must be made in the contract documents, that settlement of disputes would be by way of arbitration and an appropriate arbitration clause should be included in the contract to such effect.</p> <p>(c) For Foreign Funded Projects dispute resolution provisions recommended by the Foreign Funding Agency shall be complied with.</p> <p>(d) Subject to the provisions of the Arbitration Act, the Rules of Arbitration of the International Chamber of Commerce (ICC) or the United Nations Commission on International Trade Law (UNCITRAL) or any other set of acceptable rules such as Sri Lanka International Arbitration Centre (Guarantee) Limited are recommended for usage.</p> <p>(e) The venue of arbitration shall be in Sri Lanka, for GoSL funded projects. The venue of arbitration for Foreign Funded Projects would be determined in accordance with the requirements of the Foreign Funding Agency.</p>	
<p>5.22 The Law of Contract</p>	<p>Refer Manual 5.22</p>
<p>The law governing the Contract shall be the Laws of the Democratic Socialist Republic of Sri Lanka.</p>	
<p>5.23 Terms of Reference (TOR)</p>	
<p>Refer clause 3.1.8 of this Guidelines.</p>	
<p>5.24 Technical and Financial Proposals Standard Forms</p>	
<p>The PE and Consultants shall not modify technical and financial proposal standard forms given in the Standard RFPs, unless it is essential and that with the concurrence of relevant CAO or AO where appropriate.</p>	

CHAPTER 6—PROPOSAL PROCESS

<p>6.1 Issuance of RFP Documents</p>	<p>Refer Manual 6.1</p>
<p>(a) The RFP should be made available during business hours, by mail or in person to short listed Consultant, or through the e-GP platform on the payment of the prescribed fees if applicable.</p> <p>(b) The RFP shall be issued only to the shortlisted Consultants and it is not transferable.</p>	
<p>6.2 Proposal Preparation Period</p>	<p>Refer Manual 6.2</p>
<p>(a) The proposal preparation period shall commence from the date on which the RFP documents are made available to short listed Consultants.</p> <p>(b) The period shall end with the deadline for proposal submission.</p> <p>(c) The proposal preparation period shall be reasonably adequate to prepare the proposals.</p>	
<p>6.3 Submission/Receipt of Proposals</p>	<p>Refer Manual 6.3</p>
<p>(a) The proposal shall be received only at one location by;</p> <ul style="list-style-type: none"> i. mail under registered post; or ii. personal delivery against receipt, to the officer authorized by the PE to receive such proposals at the specified location; or iii. e-GP portal of Sri Lanka (if instruction given in the RFP) <p>(b) Except for CQS and SS, all proposals must be submitted only under sealed cover and the RFP documents should stipulate a condition to this effect.</p> <p>(c) Proposal shall be submitted in one original and a copy as stipulated in the “Instruction to Consultants” sealed separately and clearly marked as “Original” or “Copy”. All these envelopes shall together be enclosed in one envelope and delivered as per above. In case of e-GP system, only one digital copy will be submitted in provided forms and formats by the e-GP System.</p>	
<p>6.4 Rejection of Late Proposals</p>	<p>Refer Manual 6.4</p>
<p>Proposals shall be closed at the time specified in the RFP documents. Late Proposals shall not be accepted and shall be returned unopened in the case of QCBS, QBS, LCS, and FBS. In case of e-GP system, the system shall be geared to automatically reject the proposal if the specified time is expired.</p>	

<p>6.5 Public Opening of Proposals</p>	
<p>(a) Responsibility of opening of the proposals is vested with the CSC and should be opened soon after the time of closing of proposal submission deadline. The CSC may delegate such authority to a “proposal opening committee (POC)” which shall comprise of a minimum of two members.</p> <p>(b) Except for CQS and SSS, the proposals shall be opened in the presence of the Consultants who choose to attend. Only the outer envelope shall be opened and the names and addresses of the Consultants who have submitted the proposals shall be announced. The presence or absence of the financial proposal of each Consultant shall also be disclosed. In case of e-GP system, online opening of proposal may be carried out.</p> <p>(c) Only the Financial Proposals marked as “original” shall be opened at the Financial proposal opening. The “copy” shall not be opened. In case of e-GP System, a unique copy of the proposal will be remained in the system and accessible to the authorized committee members for opening and evaluation purposes.</p>	
<p>6.6 Procedure of Opening Financial Proposals</p>	<p>Refer Manual 6.6</p>
<p>(a) The PE shall inform the firms whose technical proposal were evaluated as qualified, of the date, time and place where the financial proposals will be opened publicly. The opening date shall be determined allowing sufficient time for Consultants to make arrangements to attend the opening of the financial proposal and in no case, should be not less than three (3) working days’ notice if all the firms are national, and eight (8) working days in all other cases. The name of the firm, the technical quality score (for QCBS), and proposal prices shall be announced, and recorded when financial proposals are opened.</p> <p>(b) The proceedings of the financial proposal opening shall be recorded in the prescribed format and should be signed by all members of the proposal opening committee.</p> <p>(c) The original financial proposal together with the minutes pertaining to proposal opening shall be handed over to the chairperson of the CSC.</p>	

CHAPTER 7–EVALUATION OF PROPOSALS

7.1 General	Refer Manual 7.1
All the proposals should be evaluated strictly on the basis of evaluation criteria, and terms and conditions incorporated in the RFP document. No new conditions and criteria should be brought in while evaluating the proposals. Aim should be to ensure that no firm gets undue advantage over others.	
7.2 Confidentiality	
After closing of submission of Proposals, information relating to substance, clarification and evaluation of Proposals and recommendations concerning selection shall not be communicated to Firms nor to any other person, (unless they are formally involved in the process.), until after the date on which the formal announcement is due.	
7.3 Services of Outside Expert/s for Evaluation of Proposals	
(a) If the evaluation of Proposals is entrusted to outside expert/s, it shall be made under the supervision and guidance of CSC; (b) Outside experts shall not form part of CSC; (c) The CSC shall prepare its formal report along with the outside expert’s report.	
7.4 Time Frame for Proposal Evaluation	Refer Manual 7.4 and 7.5
Proposal evaluation shall be undertaken expeditiously, leaving ample time to seek all the requisite formal approvals. Hence, proposals shall be evaluated within the period specified in the PTS.	
7.5 Extension of Proposal Validity	Refer Manual 7.4 and 7.5
CSC must endeavor to make the award in keeping with the PTS and within the bid validity period. (a) In exceptional situations where it is not possible to make the award before the expiry of proposal validity period, prior to such expiration, the validity period may be extended; (b) If a bidder does not agree to extend the validity of the proposal, such proposal shall be excluded from further consideration. (c) Any extension of validity so requested, may result the firm substituting the original staff proposed during the negotiations. However, it shall be in accordance with terms and conditions laid down in the RFP.	

7.6 Original Proposal to be Evaluated		
Only the Proposals marked “original” shall be evaluated by the CSC.		
In case of e-GP system, there will be only one digital copy in the e-GP System submitted in accordance with the forms and formats as provisioned in the system.		
7.7 Purpose and Stages of Proposal Evaluation		
<p>a) The evaluation of the Proposals shall be carried out in two stages; first the quality and then the cost. The evaluation shall be carried out in full conformity with the provisions of the RFP. The purpose of Proposal evaluation will vary with the selection method used.</p> <p>b) Precise evaluation procedures vary between the different methodologies, but all consist of three stages:</p> <ul style="list-style-type: none"> i. a preliminary screening to eliminate proposals which do not comply with the basic requirements of the RFP and the firm does not meet mandatory eligibility requirements; ii. a detailed technical evaluation to determine whether proposals are responsive to the RFP document, to assess the relative quality of the proposals, using a merit point scoring system specified in the RFP and to determine which proposals should proceed to the financial opening and evaluation; and iii. a financial evaluation to examine the prices of the proposal/s and determine which is the successful proposal that should be recommended for award of contract. 		
7.8 Evaluation of Technical Proposal		
7.8.1	CSC to agree on the Rating System in Advance	
	All members of the CSC should familiarize themselves with the RFP (in particular the TOR), the evaluation criteria and sub-criteria specified in the data sheet, and the selection procedure. The CSC should meet before the deadline for submission of the proposals to confirm that there is a common understanding of the evaluation method, the evaluation criteria and sub-criteria, and a joint definition of the rating system. It is important not to wait until after the technical proposals are opened to define the rating system, since these definitions could be biased by the knowledge of the contents of the proposals.	

7.8.2	Evaluation to be Carried out by CSC	
	<p>Evaluation shall be carried out by each CSC member other than the chairperson, individually. The CSC first reviews each proposal to confirm that it is substantially responsive, that is, that there are no important/material omissions or deviations from the stated objectives, TOR, or other key requirements of the RFP. Individual's results shall be recorded on pre-formulate worksheets or web-forms templates. By applying the criteria and sub-criteria specified in the RFP, CSC shall establish the absolute, not the relative, quality of the proposals.</p> <p>After each member has independently completed the evaluation, the CSC should meet to review, and if necessary discuss the merits of, individual evaluations and scores. Some evaluators tend to be generous while others will be rigid in their judgment and ratings. Such disparity does not matter, provided each evaluator is consistent and differences in scores are not too large. The chairperson of the CSC shall review the large differences and discuss with the members at a joint meeting, since they often are caused by improper or inaccurate use of the rating system. As a result of these discussions, a member may revise some of his or her ratings and scores if necessary; these changes should be recorded. For each proposal, the CSC should then calculate the average of the scores allocated by all members under each criterion, establish the technical ranking of the proposals, and identify the best. The evaluation report must include the joint as well as the individual evaluations.</p>	
7.8.3	Strengths and Weaknesses of Each Proposal to be Recorded	
	<p>During the evaluation the committee also should comment on the strengths and weaknesses of all proposals that have passed the minimum technical qualifying mark indicated in the RFP. This will help identify any issues in the recommended proposal that need to be clarified during negotiations.</p>	
7.8.4	Evaluation Based on Disclosed Criteria	Refer Manual 7.8.4
	<p>The evaluation shall be based on the evaluation criteria defined in the RFP. The CSC shall evaluate each technical proposal, taking into account several criteria including:</p> <ul style="list-style-type: none"> i. the Consultant's relevant experience for the assignment; ii. the quality of the methodology proposed; iii. the qualifications and experience of the key staff proposed; iv. Other matters, such as the extent of participation of nationals among key staff in situations where the shortlist comprises of national and international firms and transfer of knowledge for assignments where training is needed. 	

<p>7.9 Technical Proposal Evaluation Form</p>	
<p>Immediately after the evaluation of technical proposal is completed a Technical Evaluation Report shall be prepared by CSC in the format as published by NPC recording and explaining the scores given to each proposal. For each proposal, the report also should indicate technical weaknesses or deviations from the terms set out in the RFP and comment on their acceptability or alternative proposed by the Consultants, and comment on their acceptability. The technical evaluation report is a confidential document and its contents shall not be disclosed, except to the extent as required under the provisions of the Right to Information Act.</p>	
<p>7.10 Clarifications from Consultants During Evaluation</p>	
<p>During the evaluation, CSC may request clarification or additional information from the Consultants through the PE. However, CSC may not seek clarifications or additional information from the Consultants that could change the substance of the proposal.</p>	
<p>7.11 Opening of Financial Proposals</p>	
<p>After preparing the technical evaluation report, the PE shall notify the Consultants whose proposals did not meet the minimum technical score specified in the RFP or were found to be nonresponsive, indicating that the Consultants' financial proposals will be returned unopened at the end of the selection process. The PE simultaneously notifies Consultants whose technical proposals were above the minimum technical score and informs them of the date, time, and place set for opening the financial envelopes. The opening date should be defined to allow sufficient time for Consultants to make arrangements to attend the opening.</p> <p>The proposal opening committee (POC) verifies that the financial proposals have remained sealed and then opens them. The financial proposals of technically qualified firms will be opened publicly in the presence of firms or their representatives who choose to attend. The name of the Consultant, the technical points, and the proposed prices shall be read aloud and recorded as each financial proposal is opened.</p> <p>When e-GP submission of proposals is used, this information shall be posted online. No modification to financial proposals is permitted. The PE prepares the minutes of the public opening, which should be attached to the Financial Evaluation Report.</p> <p>If Consultants were initially requested to submit financial proposals under QBS, the PE shall notify the Consultant with the highest-ranked technical proposal and indicates the date, time, and place set for negotiating the financial proposal and the contract.</p>	

<p>7.12 Evaluation of Financial Proposals</p>	<p>Refer Manual 7.12</p>
<p>The CSC should first establish that the financial proposals are completed (<i>i.e.</i> whether they have priced all the items of the corresponding technical proposal. If not the CSC shall cost them and add those costs to the initial price if Time Based type contract is used).</p> <p>Then the Proposals are checked for arithmetical errors. Arithmetical errors should be corrected, and the corresponding adjustments made to the offered prices to obtain the final evaluated prices. In case of e-GP system, a separate checking of arithmetic errors need not be effected if the price of each item is automatically calculated by the system using the rates given by the Consultants against the requirements provided by PE.</p> <p>Activities and items described in the technical proposals, but not priced, shall be assumed to be included in the prices of other activities or items.</p> <p>If an activity or line item is quantified differently in the financial proposal than in the technical proposal and the Time-Based Form of Contract has been included in the RFP, the CSC shall correct the quantification indicated in the financial proposal so as to make it consistent with what is indicated in the technical proposal, apply the relevant unit price included in the financial proposal to the corrected quantity, and correct the total proposal cost. In case of e-GP system, the system should be geared for automatic calculation.</p> <p>If the Lump-Sum Form of Contract has been included in the RFP, no corrections are applied to the financial proposal in this respect.</p> <p>For the purpose of comparing proposals, evaluated prices shall be converted to a single currency using the exchange rate, date and source indicated in the RFP where appropriate.</p> <p>When FBS is adopted, adjustments made by the CSC to correct omissions or in- consistencies detected during the evaluation of the financial proposal could raise the evaluated price of a proposal over the available budget indicated in the RFP. This could lead to the rejection of the proposal.</p>	
<p>7.13 Negotiation with the Highest Ranked Consultant</p>	<p>Refer Manual 7.13</p>
<p>The objective of negotiations is to arrive at a mutually satisfactory contract between the PE and the selected Consultants. The parties will discuss the technical proposal submitted, agree on the detailed scope of work of the Consultant assignment and all related arrangements, negotiate financial terms, and discuss and finalize contract conditions. A good contract should protect the interests of both parties in a balanced way.</p>	

7.13.1	Negotiation in case of QCBS, FBS and LCS	
	<p>After completion of the evaluation, the CSC shall negotiate a contract with the first ranked Consultancy firm. Negotiations shall include discussions of the TOR, the methodology, work plan, deliverables, staff schedule, PE's counterpart facilities, and special conditions of the contract. These discussions shall not substantially alter the original TOR attached to the invitation. The final TOR and the agreed methodology shall be incorporated in "Description of Services" (DOS), which shall form part of the contract.</p> <p>The selected Consultancy firm should not be allowed to substitute key staff, unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet the objectives of the assignment. If this is not the case and if it is established that key staff were offered in the Proposal without consulting their availability, (as far as possible to avoid such situations Consultants can have an written agreement with the key staff on their availability for the particular assignment before submitting their names) the Consultancy firm may be disqualified and the process continued with the next ranked Consultancy firm. The key staff proposed for substitution shall have qualifications equal to or better than the key staff initially proposed.</p> <p>During the negotiations on financial proposal, unit rates for staff- months and reimbursable shall not be negotiated, since these have already been a factor of selection in the cost of the proposal, unless there are exceptional reasons.</p> <p>If the negotiations fail to result in an acceptable contract, the CSC shall terminate the negotiations and invite the next ranked Consultancy firm for negotiations. The Consultant shall be informed of the reasons for termination of the negotiations. Once negotiations are commenced with the next ranked Consultancy firm, the CSC shall not reopen the earlier negotiations. After negotiations are successfully completed with the next firm, the CSC shall make their final determination of the contract award. After this determination, the PE shall promptly notify other Consultancy firms on the short list that they were unsuccessful.</p>	

<p>7.13.2</p>	<p>Negotiation in Case of QBS, CQS and SSS</p>	
	<p>After completion of the evaluation the CSC shall negotiate a contract with the first ranked Consultant. Negotiations shall include discussions of the TOR, the methodology, work plan, deliverables, staff schedule, PE’s counterpart facilities, and special conditions of the contract. These discussions shall not substantially alter the original TOR attached to the invitation. The final TOR and the agreed methodology shall be incorporated in “Description of Services,” which shall form part of the contract.</p> <p>The selected Consultant should not be allowed to substitute key staff, unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet the objectives of the assignment. If this is not the case and if it is established that key staff were offered in the Proposal without consulting their availability (as far as possible to avoid such situations Consultants can have an agreement with the key staff on their availability for the particular assignment before submitting their names), the Consultant may be disqualified, and the process continued with the next ranked Consultant. The key staff proposed for substitution shall have qualifications equal to or better than the key staff initially proposed.</p> <p>The negotiations on financial proposal shall include the remuneration rates for staff (breakdown of fees such as salary, social costs, overheads, fee that is profit, and any premium or allowance paid), proposed unit rates and quantities for reimbursable.</p> <p>If the negotiations fail to result in an acceptable contract, the CSC shall terminate the negotiations and invite the next ranked Consultant for negotiations. The PE shall inform the Consultant of the reasons for termination of the negotiations. Once negotiations are commenced with the next ranked Consultant, the CPC shall not reopen the earlier negotiations. After negotiations are successfully completed, the CSC shall make their final determination of the contract award. After this determination, the PE shall promptly notify other firms on the short list that they were unsuccessful.</p> <p>The CSC shall keep a record of matters agreed with the Consultant during negotiations and the PE shall execute a Memorandum of Understanding with the Consultant relating to the agreed negotiated terms and conditions, which subsequently shall be included as contract terms.</p>	

<p>7.14 Combined Evaluation Report</p>	<p>Refer Manual 7.14</p>
<p>Immediately after the evaluation is completed the CSC should prepare a Combined Evaluation Report and recommendation/determination of contract award in the prescribed format and submit to the relevant authority for the approval.</p>	
<p>7.15 Rejection of all Proposals Received</p>	
<p>If all proposals are found to be nonresponsive, the CSC may be justified in rejecting all of them. The grounds for rejecting all proposals are as follows:</p> <ul style="list-style-type: none"> (i) The proposals present major deficiencies in complying with the RFP. (ii) All proposals fail to achieve the minimum qualifying mark (technical score) indicated in the RFP. (iii) The proposal prices are substantially higher than the PE's estimated budget. <p>There may be technical reasons for the deficiencies. Most frequently, the PE and Consultants disagree on which contractual party should be responsible for executing specific assignment activities or on the exact content and feasibility of specific deadlines affecting the implementation schedule of the PE's project. In other instances, Consultants may find the estimated staff-months and the distribution of risks unacceptable.</p> <p>And also, the PE may not know the ongoing remuneration levels of Consultants for the type of service being considered, Consultants may misinterpret the TOR, or the PE's plans may be too ambitious for the available budget. In this case, before rejecting all proposals, the PE, should investigate the feasibility of increasing the budget or scaling down the scope of services to meet the original budget.</p> <p>In all cases, good TOR, accurate budget, and review of the RFP can reduce the risks of nonresponsive proposals.</p> <p>If all proposals rejected, the new process may start and include revising the TOR, RFP (including the short list) and the budget. Calling for new proposals creates obvious delays and should remain the last resort.</p> <p>CAO's prior approval shall be obtained before rejecting all proposals and to start the new process.</p>	

CHAPTER 8 - AWARD OF CONTRACT

<p>8.1 Recommendation/Determination of Contract Award</p>	
<p>In case of any dispute in respect of recommendation/determination of contract award, the majority decision of the CSC shall prevail. However, any CSC member may submit a dissenting report.</p> <p>After the CSC has completed the evaluation:</p> <p>(a) in the case of CCSC, the CCSC may make a recommendation of contract award to the CAO; and</p> <p>(b) in all other cases convey the determination of contract award to the:</p> <ul style="list-style-type: none"> i. CAO, in the case of MCSC; or ii. AO, Head of Department in the case of DCSC; or iii. Project Director in the case of PCSC. 	
<p>8.2 Communication to all Consultants of the Intention to Award Contract</p>	<p>Refer Manual 8.2</p>
<p>Within one week of being informed of the recommendation of CCSC, MCSC, PCSC or DCSC as required, all the participated Consultants shall be informed In Writing individually by the Secretary to the Line Ministry (CAO), of the selection of the successful Consultant and the intention to Award the contract to such Consultant and the specific reasons as to why the particular Consultant's proposal has not been successful.</p> <p>After the award is made, the Consultants are entitled to obtain copies of Proposal evaluation reports (Technical, Financial and Combined), including any other reports and opinions which the CSC used in arriving at their respective recommendations.</p> <p>However, the Secretary to the Line Ministry has the right to reserve any confidential details, which can be legally misused subject to compliance with Right to Information Act. (RTI).</p> <p>CAO shall inform all Consultants with regard to Appeal Boards for their objections/appeals if any.</p>	

<p>8.3 Debriefing</p> <p>The Purposes of debriefing are to:</p> <ul style="list-style-type: none"> (a) Inform the aggrieved Consultant who requests for a debriefing during the standstill period, of the reasons for not being successful, pointing out the specific shortcomings in its proposal without disclosing contents of other proposals, with the overall objective of educating the Consultant to submit more responsive and competitive proposals in future. (b) Minimize the level of complaints and to demonstrate clearly the principle and practice of probity and transparency. (c) After the notification of contract award, a Consultant who wishes to ascertain the grounds on which its proposal was not selected should address its request to the PE. <p>In the Notification of contract award, the PE shall specify that any Consultant who wishes to ascertain the grounds on which its proposal was not selected, should request an explanation from the PE. The PE shall promptly provide the explanation as to why such proposal was not selected, In Writing and/or in a debriefing meeting, at the option of the Consultant. The requesting Consultant shall bear all the costs of attending such a debriefing. In this discussion, only the Consultant's Proposal can be discussed and not the Proposals of competitors.</p>	
<p>8.4 Standstill Period</p>	<p>Refer Manual 8.4</p>
<p>To give Consultants time to examine Notification of Contract award and to assess whether it is appropriate to submit a complain /appeal, a standstill period shall apply, However, standstill period does not apply under single proposal situation in a competitive method or under the direct selection method or emergency situation announced by GOSL.</p>	
<p>8.5 Appeals against Contract Awards Recommended by the CCSC/MCSC/DCSC or PCSC</p>	<p>Refer Manual 8.5</p>
<ul style="list-style-type: none"> (a) Any unsuccessful Consultant who is not satisfied with the contract award decision, within 10 working days' time of being informed of the Intention to Contract Award, may make its representation against the recommendation of the CCSC/MCSC/DCSC or PCSC to award the contract to the successful Consultant, to the respective Appeal Board upon payment of the requisite fees as instructed by relevant authority. (b) The Appeal Board shall immediately after the filing of the request serve a notice thereof to the Chief Accounting Officer of a Procuring Entity. 	

	<p>(c) Request for review and suspension of procurement proceedings shall be by a written notification by the Appeal Board.</p> <p>(d) Upon being served with a notice of a request for review, the Procuring Entity shall within five working days or such lesser period as may be stated by the Appeal Board in a particular case, submit to the Appeal Board a written memorandum of response to the request for review together with all relevant documents.</p> <p>Appeal Boards shall, after due consideration of the contents of appeals, make their recommendations with reasons to the appropriate authority with copy to NPC.</p>	
<p>8.5.1</p>	<p>Appointment of Procurement Appeal Boards (PABs), Reporting and Operational Responsibilities and Payments for PAB Members</p>	<p>Refer Manual 8.5.1</p>
	<p>The key objectives of establishing the procurement appeal boards are to provide an independent review of the CSC decision upon the grievances submitted by the consultants. Appealing procedure would allow contested issues to be reviewed and corrective measures to be put in place.</p> <p>PAB procedure would allow speedy decision and lower cost for all parties while at the same time providing fairness, transparency and value for money.</p> <p>The following PABs shall be appointed as per the respective authority limits as specified under GL 2.5 from time to time;</p> <ul style="list-style-type: none"> • PABs for Cabinet Level Procurements related to CCSC and CANC • MPABs for Ministry Level Procurements related to MCSC • DPAB/PPABs for Department/Project level Procurements related to DCSC/PCSC <p>PABs are responsible to examine and hear each and every appeal submitted by aggrieved parties and make its recommendation to the relevant authority with a copy to CAO/AO/HD/PD. In the case of Cabinet and Ministry level procurement, the PAB recommendations shall be copied to NPC.</p>	

8.5.2	PABs for Cabinet level Procurements related to SCCSC, CCSC and CANC	Refer Manual 8.5.2
	<p>There shall be either one or more PAB/s to handle appeals related to procurements in the relevant threshold level of CCSC and CANC.</p> <p>PAB members for Cabinet appointed CSCs are appointed by H.E. the President of Sri Lanka on the nominations submitted by the NPC.</p> <p>The appointing authority should take appropriate steps to appoint required number of PABs to handle the procurement appeals.</p>	
8.5.3	MPABs for Ministry level Procurements related to MCSC	Refer Manual 8.5.3
	<p>There shall be either one or more MPAB/s to handle appeals related to procurements in the relevant threshold level of MCSC.</p> <p>The Members for MPABs are appointed by the CAO.</p> <p>The appointing authority should take appropriate steps to appoint required number of MPAB to handle the procurement appeals.</p>	
8.5.4	DPAB/PPAB for Department/Project level Procurements related to DCSC/PCSC	Refer Manual 8.5.4
	<p>There shall be a DPAB/PPAB to handle appeals related to procurements in the relevant threshold level of DCSC/PCSC.</p> <p>The Members for DPAB/PPAB are appointed by the CAO on the recommendation of AO/HD/PD.</p>	
8.5.5	Payments for Members of Procurement Appeal Boards (PAB) and Staff Officers and Other Officers Assisting in the Procurement Appeals Process	Refer Manual 8.5.6
	<p>Members and alternate members of PAB shall be remunerated for participation in the procurement appeal process. The members of the PAB and the official whose specific responsibilities are assigned shall be remunerated.</p> <p>Payment of remunerations shall be based on performance of such committees and individuals and the eligible payments shall be determined by the NPC, in consultation with the General Treasury.</p>	

8.6 Contract Award Procedure	
<p>Following the acceptance of a Proposal submitted by a Consultant</p> <p>a) a formal Letter of Acceptance shall be issued forthwith to the bidder by the Procuring Entity.</p> <p>b) Prior to issuance of Letter of Contract Award, the PE should ensure that budgetary provision is available to meet the cost of contract.</p> <p>c) Letter of Contract Award shall be issued within the validity period of the proposal, and no sooner the final determination of contract award is completed.</p> <p>d) Arrangements shall be made to sign the contract as early as possible prior to the commencement of the assignment.</p>	
8.7 Formal Contract	
<p>A formal contract agreement is required to be entered into with the successful Consultant. Contract administration depends on the types of Contract signed: Lump-sum or Time-based.</p>	
8.8 Publication of Contract Award	<p>Refer Manual 8.8</p>
<p>The PE should publish promptly the details of the award in PE's web site, NPC Web portal, and e-GP Portal if applicable.</p>	

CHAPTER 9 - CONTRACT ADMINISTRATION

9.1 Contract Administration	<p>Refer Manual 9.1</p>
<p>The PE shall be responsible for ensuring adequate supervision and assessment of deliverables and scope of services by the Consultants.</p>	
9.2 Variation of Contract/Change Requests	<p>Refer Manual 9.2</p>
<p>a) The conditions of contract will normally empower the PE to vary the scope, quality or quantity of Services to be executed at any time during the progress of the contract and provided the basis for such variations/change requests and valuation of such variations/ change requests within approved limits and is justifiable.</p>	

<p>b) The CAO/AO shall appoint the 'Change Control Committee (CCC)' to examine the variations/change requests that are justifiable in all aspects.</p> <p>c) Any contract variation/change request shall obtain prior approval by the relevant authority.</p> <p>d) However, before committing any expenditure due to variation/ change request proposed, relevant total cost estimate shall be duly revised, necessary financial provision shall be available and necessary prior approvals from the appropriate authority obtained.</p>	
<p>9.3 Extension of Time</p>	
<p>Extensions of time may be granted by an appropriate authority, in exceptional circumstances or due to Force Majeure situations, when the Consultant establishes to the satisfaction of the PE, that delays are attributable to circumstances beyond the control of the Consultant.</p>	
<p>9.4 Debarring or Blacklisting of Defaulting Consultants</p>	<p>Refer Manual 9.4</p>
<p>Any defaulted Consultant shall be considered for blacklisting or banning to participate in the consultancy assignments for a period specified by the appropriate authority.</p> <p>NPC and the CAO/AO shall maintain a database of defaulting Consultants which shall be updated regularly. After obtaining the information from particular PE the relevant CAO/AO shall inform NPC the details of the Consultant to be included in the list maintained by the NPC.</p> <p>The PEs should not award any contracts to any Consultant, as long as their names remain in the data base.</p>	
<p>9.5 Supervising the Consultants</p>	
<p>a) To enable the Consultant to begin work promptly, the PE shall make arrangements for supervision of the assignment, in particular by:</p> <ul style="list-style-type: none"> (i) Appointing the counterpart staff where required; (ii) Providing office space, transport and other supplies and services where applicable as per the client inputs in the RFP; (iii) Informing all concerned institutional parties; (iv) Effecting the advance payment if specified in the RFP; (v) Providing, authorization, data and background material if needed; (vi) Acceptance of the successfully completed deliverables as stated in the contract. 	

<p>b) The performance of the Consultants will also be monitored by the management of the PE with the assistance of concerned or interested parties. For this purpose, the PE will prepare a status report of all sub projects and submit them to management and, if and where appropriate, to donors on a fortnightly basis or within such times as may be mutually agreed. Information related to a Consultant's performance will be added to the database of Consultants. Any issues of attention (such as weaknesses in the department's support or a less than satisfactory output by a Consultant or insufficient support by a counterpart) will be discussed and appropriate changes to the systems and structures will be agreed and implemented.</p>	
<p>9.6 Types of Contracts</p>	
<p>PEs spend substantial funds on various type of Consulting Services and therefore need to consider how best to structure the contracts for those services.</p> <p>Three main considerations determine what type of contract to adopt in a Consultant assignment: as follows;</p> <ol style="list-style-type: none"> a) the nature of the assignment, b) the distribution of risks and rewards between the Procuring Entity and the Consultant, and c) the circumstances of the PE and of the Consultant. The level of capacity in contract management and Consulting Services supervision that the PE will be able to provide may also be a factor in the choice. <p>The following contract types based on payment conditions may be used as appropriate;</p> <ul style="list-style-type: none"> • Lump-sum contract • Time-based contract • Retainer and/or (success) fee contract • Percentage contract • Indefinite-delivery contract (IDC) <p>Each type is described briefly in the Manual, as well as the criteria that are suggested for their adoption and correct application.</p>	