

**PROCUREMENT OF CONSULTANTS  
SERVICES**

**BY**

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## **Procurement of Consultants' Services**

### **1.0 Introduction**

- 1.1** The consulting engineering profession is virtually the spirit in the body for qualitative planning, designing and implementation of development projects. In the national context, it has grown substantially from the seventies since there were only a few firms operating before the gigantic Indus Basin Project was initiated during the sixties. Implementation of Indus Basin Project comprising Major Dams, Barrages and gigantic Inter River Canals provided a meaningful and fruitful exposure to the local professionals working with the foreign consultants and the Profession itself. The Profession, generally is also indebted to other factors which include, growth of the education system, emergence of engineering as an applied science, formation of professional societies and associations which has played a major role in disseminating knowledge and also in promotion of higher professional and technical standards. The consulting profession in Pakistan is progressing through a constant evolutionary stage and formation/development of professional standards are still continuing.
- 1.2** Being conscious of certain constraints, Pakistan Engineering Council was created by the government in the mid seventies with the basic aim to regulate the engineering profession during the academic stages and then its application in consulting or construction roles. A few entities were also created during this period in the Public sector to provide a model for others which included National Engineering Services, Pakistan (NESPAK), National Construction Corporation (NCC), National Tubewell Construction Corporation (NTCC) and Mechanized Construction of Pakistan (MCP). It was with the specific aim of development of professional standards that best available talent from engineering departments was hired by the government to staff these entities.
- 1.3** Use of foreign funding, both from multi-lateral as well as bilateral sources for IBP and development of other infra-structural projects provided a strong impetus to the profession since use of international consultants from member/specific countries is normally a pre-requisite under their 'Lending' Rules. Exposure of staff from Local Consulting Houses' through association with foreign staff proved fruitful for the local professionals and the engineering consultancy practices took a robust root in the form of trained manpower in the local consulting houses.

## **2.0 Selection of Consulting Firms**

**2.1** Employment of consultants for the foreign funded projects is mandatory under the prevailing rules of those funding agencies. Major national executing agencies adopted the specific selection process because normally according to Lender Agencies' rules selection of consultants is the responsibility of the borrowing agencies. This exposure contributed to enlightenment of staff within the Pakistani implementing departments which also helped them to formulate their own

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procedures for selection of consultants for the projects under their administrative controls. WAPDA having maximum share in development projects was leader in this context followed by provincial Planning & Development Departments.

**2.2** Pakistan Engineering Council took some time to formulate the Byelaws for regulation of Conduct and Practice of Consulting Engineers which was approved and issued through an SRO by the Government in 1986. These Byelaws are to be observed mandatorily for procurement of Consultants' Service by all federally controlled agencies. These Byelaws provide essential basic knowledge and guidance to the officials to understand the process but not the detailed guidance for its practice. Keeping this fact in mind the Pakistan Engineering Council created a Standard and Quality Committee to formulate Standard Contract Documents for Procurement of Services and Works followed by a set of Comprehensive Guidelines which, inter alia, provide detailed instructions for shortlisting/pre qualification of consulting firms as well as selection of consulting firms for procurement of engineering consultancy services. These Guidelines as well as Standard Contract Forms are available for use by all procuring agencies though not mandatory for the provincial procurement.

## **3.0 Procurement of Services: Essential Steps**

**3.1** Essential activities that has to be followed for selection of consultants in a professional manner include the following:

- i) Prequalification/Shortlisting of consulting firms/Joint Ventures/ Consortium of firms.
- ii) Drafting the Terms of Reference after defining the scope of services.
- iii) Estimating the consultants time input required for the assignment and computation of costs for budgetary provisions.
- iv) Drafting the RFP Document which would essentially contain:
  - a) Letter of Invitation (LOI)

- b) Instructions to Consultants (ITC) for preparation of Technical/ Financial Proposals and how to address other issues.
- c) An LOI Data Sheet which complements the LOI by providing project specific information not covered in the ITC/LOI. It essentially contains but is not limited to information about the project, consultants time input or the cost, system of selection and evaluation criteria.
- d) Standard Forms for :
  - Preparation of Technical Proposals
  - Preparation of Financial Proposals

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- v) Evaluation of Technical Proposals and opening of Financial Proposals as required under the specific system of selection; i.e. Quality Based Selection/Quality and Cost Based Selection System (QBS/QCBS), and finalization of ranking of Proposals.
- vi) Negotiation of Consultants Contract and Award/Signing of the Contract.

**3.2** A brief description about how these activities are handled is as follows:

**i) Shortlisting of Consultants**

Pre-qualification and consequently shortlisting of consulting firms is the first major step in the selection process. It is meant to limit the number (a maximum of Seven) of firms for participation in the final selection process from among those who are eminently qualified on the basis of their past experience in similar assignments and available professional manpower employed by these entities/other resources. It involves five steps, which include:

- a) A notice in the press and Pakistan Procurement Regulatory Authority (PPRA) website or other forum(s) to seek Expression of Interest by the prospective firms.
- b) Preparation of long list of reasonable number of firms which could vary between 2 to 4 times the number of firms to be shortlisted.
- c) Prepare EOI Documents including specific Application Forms for submission of requisite data/documents by the Applicant Firms.
- d) Evaluation of Applications received from the interested firms/ consortia.

- e) Grading of Applications and selection of a maximum of Seven Firms/Consortia for inclusion in the shortlist.

**ii) Terms of Reference (TOR)**

Terms of Reference is the statement through which the Clients provide detailed description of services/duties to be performed by the consultants. Since this is the basis on which consultants prepare their Proposals hence it must be clear & complete yet concise. This is the most important document because it also forms part of the final agreement between the Client and Consultants and so referable from inception of project to the completion of services/project implementation. It, interalia, provides information under the following heads:

- a) Objectives of the project which provides information about the final deliverables at the end of the assignment.

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- b) Scope of Consultants' Services which include the Type of Services, in what disciplines, the quantum of total and individual Key Personnel's time input, probable tasks involved during the assignment, probable phasing of tasks and activities involved in the process.
- c) Type, quantum and duration of expertise including qualification of staff, weightages for evaluation and minimum experience required from the firms/consortia.
- d) Reporting requirements/deliverables by the consultants has to be stated.
- e) Other heads under which information is required is institutional arrangement during implementation, training if needed and clients' contribution to the consultants' in the form of facilities etc.

**iii) Estimation of Consultants' Input/Costing**

iii.1: The computation of time input of consultants is a complex exercise which requires indepth knowledge and experience in project implementation within the department. The first important step in the process is a mental simulation by the drafter(s) to visualize the steps/activities/sub-activities which are mandatory for carrying out the assignment.

- iii.2: After listing of activities/sub-activities the drafter(s) shall have to visualize and decide about the minimum time period for completion of the specific activity. They also need to establish the inter-relationships between various activities and also about status of any activity being critical. After a decisions/finalization of time periods etc. for each activity, the drafters will proceed with drafting of the Activity Schedule.
- iii.3: The Activity Schedule is the most important and basic document which helps finalize the requirements for various types of expert services to complete the listed activities leading to formation of a team of Key Professionals/other professional support staff to finalize the Team of various cadres of professionals in specific disciplines. The input of each professional is computed accordingly culminating in the Total Man-Month effort to be procured from the Consultants.
- iii.4: Once the time input/Man-Months numbers are finalized the cost of services for the remuneration portion can be computed by multiplying the number of Man-Months of each professional with the prevailing average billing rate of that level of professional. Billing rate is a factor of additions/multiple of various elements which include the Gross Salary of the individual plus the Social Charges payable to the individuals (normally as a percentage of Gross Salary), which are

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multiplied by the percentage figure of overhead costs certified by independent auditors. Total of the Gross Salary plus Social Charges plus the Overhead cost are multiplied by a percentage figure which is in

vogue as Fee. This figure is the profit of consultants before taxation. The total of all these elements is the billing rate.

- iii.5: The second part of cost is the Direct/out of Pocket expenses to provide for the requisite furnished space for office, office equipment, transport vehicles, communication cost, office materials etc., cost of utilities and non-professional support staff. The Direct cost is only an estimate of cost expended on behalf of the client and reimbursed accordingly on submission of the expenditure bills by the consultants.
- iii.6: The third item of cost is a minor provision as contingencies which is only a notional figure to cater for the unforeseen costs, the inflationary effects in cost increases in the Remuneration/Direct Costs.

**iv) Drafting of Letter of Invitation (LOI)/Request For Proposal (RFP)**

- All Guideline documents prepared by various agencies contain standard/detailed instructions for preparation of the Technical and Financial Proposals supplemented by a Data Sheet. The project specific information is filled in the Data Sheet to supplement the LOI/ITC. The most important items to be included in the Data Sheet are:
  - a) Description about the Project/its components
  - b) Estimate of the time input of Key Professionals and other Staff Members
  - c) Minimum acceptable qualifications of the key Staff
  - d) System of selection (i.e. QBS or QCBS) of consultants and weightage for Technical and Financial aspect if it is to be the QCBS process.
  - e) Evaluation criteria for evaluation of Technical Proposals
- A set of Forms for preparation of Technical and Financial Proposals.

**v) Evaluation of Technical Proposals**

The Technical Proposals are evaluated applying the criteria provided in the RFP. However further detailed criteria is developed by the committee to meet the finer details of the assignment at hand. The three Major heads under which credit is awarded, are:

- a) Qualification/experience of the Firm(s)

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- b) Approach, Methodology and Work Plan proposed for the assignment by the proposing firms and
- c) Quality of the Key Professional Staff which essentially takes into consideration the academic/general qualifications and experience of the individual relevant to the specific assignment plus other optional elements.

The total score awarded to each proposer under the aforelisted heads is the basis for ranking of the firms/consortia. In case of QBS the top ranked firm is invited for Financial/Contract negotiations. However in case of QCBS the final ranking is made after considering the total proposed cost by

the firm using the weightage provided in the RFP/Data Sheet. These weightages for Technical and Financial aspect is in the ratio of 80:20 respectively.

**vi) Negotiation of Consultants Contract**

Forms of Contract are made part of the RFP and these govern the drafting of the contract. However if consultants have shown any kind of reservation about the TOR or the Conditions of Contract these are discussed/agreed and adopted. Prior to negotiation meeting between the parties the clients finalize their points for discussions as well as a formal agenda, which generally contains following items:

- a) Opening remarks by the leaders of the two teams.
- b) Verification of formal authorization submitted by the consultants.
- c) Discussion of the Terms of Reference for its adequacy especially in the light of consultants' comments on the TOR.
- d) Discussion about proposed methodology and Activity/Staffing Schedules.
- e) Quality of Consultancy Staff and their availability.
- f) Facilities required for performance of the duties by the Consultants to be provided by the client.
- g) Equipment types and quantities and other material requirements.
- h) The Form of Contract to be adopted for the Project.
- i) Financial Terms which include verification of elements of billing rates if QBS is adopted. No negotiation in cost is carried out in QCBS since cost has already figured in ranking of the Proposals.
- j) Finalization of Minutes of Agreement/decisions and drafting of Contract Agreement.
- k) Formal Award and signing of Contract Agreement.



## **4.0 Comparison of Various Systems/Guidelines/Rules for Procurement of Services**

**4.1** There are numerous systems/guidelines/rules adopted by various agencies/departments for procurement of services in Pakistan. However four systems are more widely used which are listed as follows and are reviewed for its shortcomings and variations in the following paragraphs:

These Systems/Rules/Guidelines include:

- i) Byelaws of the Pakistan Engineering Council (PEC) and its complementary Guide lines.

These guidelines and procurement rules in association with the rules framed by the Pakistan Procurement Regulatory Authority (PPRA) are mandatory for use for procurement of services by the Federally controlled agencies.

- ii) Procedures and practices for procurement of services for Asian Development Bank Funded Projects.
- iii) Guidelines for Selection and Employment of Consultants for World Bank Funded Projects.
- iv) Consultants Selection Guidelines prepared by the P&D Department, Government of the Punjab.

## **4.2 Comparison/Variations**

Generally all the four guidelines have been drafted to adequately cater for the requirements of the selection process. However all the four guidelines/procedures are subservient to the Rules/Byelaws, Applicable Laws. However in some cases the biases and prejudices that prevail in specific environments greatly affect the process. The most damaging of prejudices is a psychological barrier among the Public Sector officials which seize their minds and proves a barrier which stops them to accept equitability as the guiding spirit in handling of all procurements under their control. In this process the rationality gets severely hurt when some written indigenous rules, however irrational are not even considered for change.

**4.3** Following are listed some of the variations out of which a few are inconsequential while others are substantial and normally affect the procurement process/ rights of the parties:

- i) **Shortlisting**

- a) Only PEC and P&D Department, Punjab have detailed guidelines for seeking applications/evaluation and grading of firms for preparation of shortlists of the higher graded prequalifying firms:

• Weightages to Elements (%age)	PEC	P&D Department, Punjab
- Experience of Firms	30	20
- Personnel	70	80

Additionally excessive details in criteria/its type provided in the P&D Department guidelines provide more discretionary powers to evaluators which can affect transparency.

- b) The ADB and WB are suggestive in their guidelines and propose adoption of less mathematics and more common sense on the basis of the previous data bases existing within the procuring agency, previous experience with firms or the DACON of the Banks.
- c) Number of Firms in Shortlist for the four entities' guidelines are as follows:

PEC	Min: 4,	Max: 7
ADB	Min: 5,	Max: 7
WB	Min: Silent,	Max: 6
P&D, Department, Punjab	Min: 3,	Max: 7

## ii) Selection of Consultants

- a) Types of Proposals

Except for ADB, all others seek detailed Technical/Financial Proposals under two Envelop system. The ADB, for various situations have different types of proposals which are:

- Full Technical Proposal (FTP) where Proposers are allowed to use upto a maximum of 20 pages to demonstrate Firms' experience and 50 pages for Approach/Methodology/Workplan.
- Simplified Technical Proposals (STP) where Experience of Firms is not required while max. 10 pages are allowed for writeup of Approach/Methodology/Workplan.
- Biodata Technical Proposals (BTP) where Experience of Firms is not required while only 2 pages are allowed for Approach/Methodology etc.

**b) Estimate of Time Input/Cost of Services**

- **PEC** and **ADB** provide comprehensive methodology for estimation of Time Input of consultants which is used as basis for computing cost of services.
- World Bank has no guidelines for use of the Borrowers for computing the Consultants' input etc.
- P&D Department, Punjab guidelines do not provide any instructions and make only a passing reference to cost estimates spread over a total of 4 lines.

**c) Letter of Invitation/RFP**

Except for the P&D Department Punjab guidelines all others require that their Standard Form of Contract should be part of the RFP. Not only that, in case of Punjab guidelines for selection of consultants the contract negotiated by the CSC is still subject to clearance by the Finance and Law Departments of the Government of Punjab, which invariably causes delays in signing of contract since the Finance & Law Departments operate within very strict rules of their Departments.

**d) Evaluation of Technical Proposals**

d.1: While World Bank has minimal instructions for evaluation of Proposals, Asian Development Bank has a little more to say in the form of "Narrative Evaluation Criteria" for various types of Technical Proposals. Pakistan Engineering Council and Government of Punjab's guidelines are comprehensive. While the Pakistan Engineering Council guidelines are simpler to follow the P&D Department, Punjab's guidelines are rather complicated and difficult to operate for average professionals except that serious training is imparted to members of the committees entrusted to evaluate the Proposals.

d.2: The Government of Punjab guidelines categorize the assignments on the basis of the values of previous consulting assignments which are strangely, also applicable to the Project Teams (Key Personnel) as well as Approach & Methodology portion. Even the

categorization seems to be inconsistent especially for the two aforementioned heads.

d.3: In the PEC guidelines credit is awarded to applicants for qualification/experience of firms only on the basis of magnitude and complexity of previous assignments with the present assignment. In

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case of Punjab guidelines excessive weightage is earmarked for “Value of similar” assignments.

d.4: Normally all the guidelines recommend that experience of firms beyond the past 10 years may not be considered. However, the Government of Punjab guidelines recommend that previous experience older than 10 years shall also be considered and credit awarded for that.

**e) Contract Negotiations**

Unfortunately the word “Negotiation” is taken by most of the project executing department officials to mean “reduction in cost” from the financial proposal submitted by the consultants. The guidelines of the Pakistan Engineering Council, Asian Development Bank and the World Bank provide a realistic and rational guide for the Negotiation Team of the Department i.e. how the focus should be on the improvement in the TOR, the facilities and its quantum required for the assignment and the verification of the elements of the billing rates. The Government of Punjab guidelines list this as “Financial Negotiations” and are entirely focused on the verification of the Breakdown of Remuneration Rates. In P&D Department guidelines reduction though prohibited for QCBS of selection yet it contains a rider provision which says that reduction can be “enforced” in cost proposed by consultants if the bid rate exceed the available budget, (however irrational the budget may be).

**f) Contract Agreement Forms**

f.1: Pakistan Engineering Council and the World Bank have issued comprehensive Standard Contract Forms which are equitable and adequately define the rights of the Contracting Parties. These Documents contain detailed Conditions of Contract in two parts i.e. General Conditions of Contract (GC) and Special Conditions of Contract (SC) alongwith detailed instructions for filling the

supplementary/complementary information in the SC as well as how to complete the Appendices to the Contract Agreement.

f.2: The Asian Development Bank has a Sample Contract Forms in its guidelines which comprise of Conditions of Contract without any detailed instructions for its use as well as making it project specific, since no mechanism for flexibility has been provided in the sample documents.

f.3: The guidelines prepared by the P&D Department of the Government of the Punjab do not include any Standard/Sample Forms of Contract. Its absence is very conspicuous since Condition of contract have serious bearing on the Financial Costs of the assignments. In case of Government of Punjab this situation often

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gets aggravated due to certain new/inequitable conditionalities that are recommended for mandatory inclusion in the contracts by the Finance and Law Departments.