DISCLAIMER

This document is a working draft of the Procurement Guidelines on Selection and Employment of Consultants-2017 developed by NPC (the “Draft Procurement Guidelines”), and has been uploaded to the NPC website with the sole intention of inviting comments and suggestions from stakeholders and interested parties. All stakeholders and interested parties are requested to study the Draft Procurement Guidelines and send any comments to Additional Secretary General (Procurement Policy) of National Procurement Commission, Block No.9, BMICH, Colombo 07, on or before June 15, 2017. Comments may be emailed to adsecpol@nprocom.gov.lk

The final draft of the Procurement Guidelines on Selection and Employment of Consultants2017 will be developed having considered relevant comments and suggestions received by the NPC before the deadline stated above. Thereafter, steps will be taken to gazette the Guidelines and obtain the approval of the Parliament.

Please note that these Draft Procurement Guidelines shall not be legally binding until such time that they are published in the Gazette and approved by Parliament.
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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 private entities, joint ventures, or individuals (not engaged by the PE as an employee) that provide services of an advisory or professional nature.

“Consultancy Firm” An entity whether national or international who has submitted a Proposal or who has invited to submit a Proposal or who has selected to provide Consulting Services.

“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.

“Foreign Funding Agency” Means any multi-lateral or bi-lateral agency which has entered/intends to enter into an agreement with the Government of Sri Lanka and is not limited to the World Bank, Asian Development Bank, or Japan International Cooperation Agency.

“Foreign Funded Project” 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 & machinery, equipment, Livestock, and other physical objects of every description, whether in solid, liquid, gaseous or living form.

“Guideline” These guidelines for selection and employment of Consultants.

“In Writing” This 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).

“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 consistently applied. Examples include: drilling, aerial photography, satellite imagery, mapping, and similar operations.

“Procuring Entity”
A government ministry, provincial council, government department, government agency, statutory authority, government corporation, government owned company, local authority or any subdivision thereof or any other body wholly or partly owned by the Government of Sri Lanka or where the Government of Sri Lanka has effective control of such body, that engages in procurement.

“Procurement Guidelines”
The latest Procurement Guidelines issued by National Procurement Commission (NPC).

“Procurement Plan”
A plan prepared by Procurement Entity for each procurement describing how the procurement activities are programmed.

“Procurement Process”
The process that starts with the identification of a need and continues through planning, preparation of specifications/requirements/terms of reference, budget considerations, selection, contract award, and contract management. It ends on the last day of the warranty period.

“Proposal”
A formal offer by a Consultant indicating the details and other terms at which the Consultant proposes to provide the Consultant Services.

“Shortlist”
The shortlisting process used prior to inviting request for proposals in the procurement of Consulting Services.

“Standstill Period”
The period following the Notification of Intention to Contract Award.

“Works”
A category of Procurement that refers to divisional construction, decoration, repair, retrofitting, renovation, rehabilitation, demolition, restoration, maintenance of buildings, infrastructure, civil works structures and other associated activities.
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<th>ACRONYMS</th>
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<tr>
<td>AO</td>
<td>Accounting Officer</td>
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<td>CAO</td>
<td>Chief Accounting Officer</td>
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<td>CSC</td>
<td>Consultant Selection Committee</td>
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<td>CCSC</td>
<td>Cabinet Appointed Consultants Selection Committee</td>
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<td>MCSC</td>
<td>Ministry Consultant Selection Committee</td>
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<td>DCSC</td>
<td>Department Consultants Selection Committee</td>
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<td>PCSC</td>
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<td>Curriculum Vitae</td>
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<td>DPP</td>
<td>Detailed Procurement Plan</td>
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<td>e-GP</td>
<td>e-Government Procurement</td>
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<td>EOI</td>
<td>Expression of Interest</td>
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<td>FBS</td>
<td>Fixed Budget Selection</td>
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<td>FFA</td>
<td>Foreign Funding Agency</td>
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<td>GOSL</td>
<td>Government of Sri Lanka</td>
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<td>HD</td>
<td>Heads of Departments</td>
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<td>ICB</td>
<td>International Competitive Bidding</td>
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<td>LCS</td>
<td>Least Cost Selection</td>
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<td>LKR</td>
<td>Sri Lanka Rupees</td>
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<td>MPP</td>
<td>Master Procurement Plan</td>
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<td>NCB</td>
<td>National Competitive Bidding</td>
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<td>National Procurement Commission</td>
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<td>PC</td>
<td>Procurement Committee</td>
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<td>PE</td>
<td>Procuring Entity</td>
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<td>PP</td>
<td>Procurement Plan</td>
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<td>QCBS</td>
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<td>QBS</td>
<td>Quality Based Selection</td>
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<td>REOI</td>
<td>Request for Expression of Interest</td>
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<td>RFP</td>
<td>Request for Proposal</td>
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<tr>
<td>TCE</td>
<td>Total Cost Estimate</td>
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<tr>
<td>Acronym</td>
<td>Description</td>
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<tr>
<td>TOR</td>
<td>Terms of Reference</td>
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<tr>
<td>CSC</td>
<td>Consultant Selection Committee</td>
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<td>SSS</td>
<td>Single Source Selection</td>
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# CHAPTER I–GENERAL

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<td>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 Consultancy Services.</td>
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<th>Manual 1.2</th>
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<td>The Procurement process should ensure:</td>
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<td>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;</td>
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<td>b) understanding and communication of clear requirements of needs and objectives;</td>
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<td>c) selection of fit for purpose procurement method and contractual arrangements based on the nature, context, complexity, risk and value of the procurement;</td>
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<td>d) appropriate specification or scope of work of the requirements;</td>
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<td>e) the need for high quality and standard of services;</td>
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<td>f) adhering to prescribed standards, rules, regulations and good governance;</td>
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<td>g) compliance with local laws and regulations and international obligations;</td>
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<td>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; and</td>
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<td>i) enhancing stakeholders trust in the entire procurement process.</td>
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<th>1.3 Scope of Application</th>
<th>Manual 1.3</th>
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<td>1.3.1 These Guidelines are applicable to all Selections/Employment of Consultancy Services carried out by the Procuring Entities in Sri Lanka.</td>
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<td>1.3.2 These Guidelines repeal, replace or otherwise supersede all previous Procurement Guidelines, Manuals and Circulars on the subject of selection &amp; employment of Consultants.</td>
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1.3.3 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 which shall be read in conjunction with the Guidelines. These details will be updated periodically by the NPC.

1.3.3 a) 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 consultants’ performance, disbursement under consultants’ 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.

1.3.3 b) The Guidelines are designed to ensure that procedures allow for timely, cost-effective, responsive, fair and transparent procurement of consultancy services.

1.3.4 Scope of Consultancy Services

a) Covers a range of services that are of an advisory or professional nature and are provided by Consultants.

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, procurement services, social and environmental studies, identification, preparation, and implementation of projects, project management, training and development.

1.3.5 Guidelines of Foreign Funding Agencies

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.
## 1.4 Ethics in Selection and Employment of Consultants

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<td><strong>1.4.1 Confidentiality</strong></td>
<td>All parties associated with procurement activities shall maintain strict confidentiality throughout the process.</td>
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<th>Subsection</th>
<th>Description</th>
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| **1.4.2 Fraud and Corruption** | 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. For the purpose of this provisions, the terms set forth below as follows;  

  **a) Corrupt practice**  
  “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;  

  **b) Fraudulent practice**  
  “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  

  **c) Collusive practice**  
  “collusive practice” means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;  

  **d) Coercive practice**  
  “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;  

  **e) Obstructive Practice**  
  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. |
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.

The NPC requires that consultants provide professional, objective, and impartial advice and at all times hold the PE’s interests 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:

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<th>Conflict of Interest</th>
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<td>1.4.3</td>
<td>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.</td>
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<td>The NPC requires that consultants provide professional, objective, and impartial advice and at all times hold the PE’s interests 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:</td>
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<td>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), shall be disqualified from providing consulting services resulting from or directly related to those goods, works, or non-consulting services;</td>
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<td>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 nonconsulting services resulting from or directly related to the consulting services for such preparation or implementation;</td>
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<td>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</td>
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<td>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,</td>
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may not be awarded a contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the NPC throughout the selection process and the execution of the contract.

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<tr>
<th>1.4.4 Unfair Competitive Advantage</th>
<th>Manual 1.4.4</th>
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<tr>
<td>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. 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.</td>
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<tr>
<th>1.5 Laws Applicable to Procurement Actions</th>
<th>Manual 1.5</th>
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<tr>
<td>The laws applicable to Procurement Actions shall be the Laws of the Democratic Socialist Republic of Sri Lanka</td>
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<tr>
<th>1.6 Consulting Services Leading to Downstream Procurement</th>
<th>Manual 1.6</th>
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<tr>
<td>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.</td>
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CHAPTER 2 - GOVERNANCE OF PROCUREMENT
ACTION

The governance of procurement operations shall be managed through clear and transparent lines of accountability, and the clear definition of the roles and responsibilities of each entity authorized by the government. Governance structure of procurement operations are detailed in this section.

In order to gain the confidence of the Government of Sri Lanka and/or the international donors (where applicable), in the transparency and probity of the procedures and processes involved, the governance structure or selection of committees be adopted and implemented demonstrating accountability and choice and where decision making is recorded and each step can be seen to have been taken in a fair and visible manner. The appropriate authority shall constitute and announce committees well in advance for the entire process of Selection and Employment of Consultants.

All procurements related to consultancy services shall be carried out in accordance with Selection and Employment of Consultants Guidelines, and Manuals, 2017 announced by National Procurement Commission (NPC).

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<tr>
<th>2.1 National Procurement Commission (NPC)</th>
<th>Manual 2.1</th>
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<tr>
<td>The National Procurement Commission (NPC) established under the Chapter XIX B of the Constitution of Socialist Republic of Sri Lanka shall be the sole authority for the governance of all procurement activities by the Ministries &amp; Government Institutions of GOSL. Any clarifications on the provisions of these Procurement Guidelines may be sought from the NPC.</td>
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<tr>
<th>2.2 Roles and Responsibilities of Secretaries to the Line Ministries</th>
<th>Manual 2.2</th>
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<tr>
<td><strong>Chief Accounting Officer (CAO)</strong></td>
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<td>Responsibility of the entire procurement process including contract execution shall be vested with the Secretaries of the respective Line Ministries, who are deemed to be the Chief Accounting Officers (CAO) of such Ministries.</td>
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<td>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.</td>
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### 2.3 Roles and Responsibilities of Procuring Entity (PE)

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:

1. Pre-Procurement process
2. Procurement process
3. Post Procurement process

### 2.4 Roles and Responsibilities of Consultant Selection Committee (CSC).

CSCs are responsible for entire procurement actions.

#### 2.4(a) Declarations by Members of Consultants Selection Committees (CSCs)

All members of CSCs are required to sign a declaration in the prescribed format at its first meeting, affirming:

(i) There is no Conflict of Interest;
(ii) their respect for the commercial confidentiality of the proceedings of the committee;
(iii) their impartiality and integrity; and (iv) absence of personal interest.

The PE shall provide for the safe custody of such declaration, which shall be preserved for a period of at least five (05) years.

#### 2.4(b) Review of Performance of Consultants Selection Committees (CSCs) by the National Procurement Commission (NPC)

The NPC shall:
1. monitor the performance of CSCs;
2. conduct random post procurement reviews;
3. examine on random basis, whether the decisions taken by member/s are in accordance with the procedures described in these Guidelines & Manuals.

If it is established that the members of CSCs were negligent, inactive or irresponsible in the conduct and the performance of duties at CSCs, resulting in delays, NPC may at its sole discretion:

(i) advise the members to expedite the selection process by rescheduling the PTS; or
(ii) advise the members to adopt corrective measures; or
(iii) replace such irresponsible members; or
(iv) cancel the names of such members from the NPC list.
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<tr>
<th><strong>2.5 Authority Limits for determination of Contract Award</strong></th>
<th>Manual 2.5</th>
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<tr>
<td>Procurement Consultancy Services is administered through different levels of Consultants Selection Committees (CSC) with varying financial thresholds to make recommendation/determination of contract awards.</td>
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<td>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.</td>
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<td>Consultants Selection Committees shall be appointed depending on the Total Cost Estimate (TCE) of the relevant procurement.</td>
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<th><strong>2.6 Composition of Cabinet Appointed Consultants Selection Committees (CCSC)</strong></th>
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<td>Under delegated authority by the Cabinet of Ministers, the CAO shall appoint CCSCs to undertake high value consultancy assignments.</td>
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<tr>
<th><strong>2.7 Ministry Consultants Selection Committee (MCSC)</strong></th>
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<tr>
<td>The CAO shall appoint the MCSC.</td>
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<tr>
<th><strong>2.8 Department Consultants Selection Committee (DCSC)</strong></th>
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<tr>
<td>The CAO shall appoint the DCSC</td>
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<tr>
<th><strong>2.9 Project Consultants Selection Committee (PCSC)</strong></th>
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<tr>
<td>The CAO shall appoint the PCSC</td>
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CHAPTER 3–SELECTION PROCESS AND SELECTION METHODS OF CONSULTANCY FIRMS AND INDIVIDUAL CONSULTANTS

Competitive process is basis for economical & efficient public procurement, on the basis of comparison of technical and financial proposals or in some cases only technical proposal, submitted by the shortlisted Consultant firms. 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.

Many aspects effect the ways in which one procures. There is not only one way to decide a selection of consultant methodology, in fact there are a combination of factors. Each method has its advantages and disadvantages. The easiest to see is the potential value of the consultancy assignment/contract. The larger in value the more controlled is the methodology – but not always. Number of personnel is an indication of the procurement method. The complexity of the assignment is more subjective and, thus, more difficult to define. Nevertheless, a complex assignment needs more careful monitoring. The length of an assignment often determines its methodology.

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 are required; and b. coordination, administration or collective responsibility is important.

### 3.1 Methods for the Selection of Consultancy Firm

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 objective and the scope of the services, before deciding on the selection method.

The following selection methods shall be determined as appropriate by the PE prior to issuance of the request for proposals from prospective consultants.

- a) Consultant’s Quality and Cost –Based Selection (QCBS);
- b) Consultant’s Quality - Based Selection (QBS);
- c) Fixed Budget – based Selection (FBS);
- d) Least Cost - based 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)

Manual(3.1.1 Annexure 3-3.1.1)
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. 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.

Preferred method of selection of Consultancy firm shall be QCBS. Other methods shall be used only under the circumstances described against such selection methods.

3.1.1.1 Procedures for Selection under the Quality and Cost Based Selection (QCBS).

a) **Preparation of TOR**: in accordance with Guideline given in User Manual;
b) **Preparation of cost estimation and the budget**;
c) **Preparation of long list and short list** through the selection of consultant firms by inviting to contest responding to a Request for Expression of Interest (REOI) published;
d) **Preparation of a Request for Proposals (RFP)** including scoring ration between technical and financial proposals, and issuance of LOI to submit proposals along with the RFP document to all the short-listed firms. The PE shall allow sufficient time for the firms to prepare their proposals depending on the nature and complexity of the assignment;
e) **Clarifications and addenda**: shall be in Writing;
f) **Proposal Submission**: the technical and financial Proposals shall be submitted at the same time in two (2) separate and sealed envelopes

g) **Technical Proposal Opening**: the PE shall conduct the opening of only the technical Proposals received by the deadline for the submission of Proposals;
h) **Evaluation of Technical Proposals**: the evaluation of the technical Proposals shall be in accordance with the evaluation criteria specified in the request for proposals document;
i) **Communication of results**: once the evaluation of technical Proposals is complete, the PE shall inform all firms that submitted Proposal of their score and whether they met the minimum qualifying technical score specified in the RFP. The PE shall simultaneously notify the firms that have met the technical Proposal requirements of when the financial Proposal shall be opened.
j) **Financial Proposals opening**: Financial Proposals shall not be opened earlier than three (3) Workings Days from the communication of technical evaluation results to the consulting firms. The financial proposals of technically responsive proposals shall be opened in the presence of the consultants or their representatives who may wish to attend the opening session;
the PE shall prepare the minutes of the public opening and a copy of this record shall be promptly sent to all consulting firms who submitted Proposals.

k) Evaluation of Financial Proposals; shall meet the requirements indicated in the RFP document; l) Combined Evaluation (Quality & Cost); shall meet the requirements indicated in the RFP document and the consultant firm with the highest combined score proposal will be accepted.
m) Negotiation with the selected consultant firm; Negotiations shall include discussions of the TOR, the methodology, PE’s inputs, and special conditions of the contract. These discussions shall not substantially alter the original scope of the services specified in the TOR or the terms of the contract.
In the case, where there is only one consultants firm is qualified after technical evaluation, after providing sufficient publicity and that firm is selected PE may decide to negotiate financial proposals also, if the cost is substantially over the estimated cost of the assignment.

n) Notification of Intention to Award: PE shall inform all qualified firms that the PE’s intention of award the contract to the winning firm. The PE shall implement a Standstill Period in accordance with guidelines.
o) Award of Contract and Publication of Contract Award: The PE shall publish the contract award information in its website of free access and the NPC website and inform directly to firms that submitted Proposals.

3.1.2 Quality Based Selection (QBS)
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.
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 & 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:
(a) 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 Borrower expects the firm to demonstrate innovation in its Proposals;
(b) assignments that have a high downstream impact; and
(c) assignments that can be carried out in substantially different ways, so that Proposals will not be comparable.
### 3.1.2.1 Procedures for selection under the Quality Based Selection:

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<td>a)</td>
<td><strong>Preparation of TOR</strong>: in accordance with Guideline given in User Manual;</td>
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<tr>
<td>b)</td>
<td><strong>Preparation of cost estimation and the budget</strong>;</td>
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<tr>
<td>c)</td>
<td><strong>Preparation of long list and short list</strong> through the selection of consultant firms by inviting to contest responding to a Request for Expression of Interest (REOI) published;</td>
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<td>d)</td>
<td><strong>Preparation of a Request for Proposals (RFP)</strong> including evaluation criteria, and issuance of LOI to submit proposals along with the RFP document to all the short-listed firms. The PE shall allow sufficient time for the firms to prepare their proposals depending on the nature and complexity of the assignment;</td>
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<td>e)</td>
<td><strong>Clarifications and addenda</strong>: shall be in Writing;</td>
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<td>f)</td>
<td><strong>Proposal Submission</strong>: the technical and financial Proposals shall be submitted at the same time in two (2) separate and sealed envelopes</td>
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<td>g)</td>
<td><strong>Technical Proposal Opening</strong>: the PE shall conduct the opening of only the technical Proposals received by the deadline for the submission of Proposals;</td>
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<td>h)</td>
<td><strong>Evaluation of Technical Proposals</strong>: the evaluation of the technical Proposals shall be in accordance with the evaluation criteria specified in the request for proposals document;</td>
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<td>i)</td>
<td><strong>Communications of Results</strong>: the PE shall: notify the consulting firm that has the highest score for the technical Proposal as to when the financial Proposal shall be opened; and simultaneously inform the other firms who submitted Proposals of their technical scores and that their technical Proposal has not been evaluated as the highest ranked;</td>
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<td>j)</td>
<td><strong>Financial Proposals Opening</strong>: Financial Proposals shall not be opened earlier than three (3) Working Days from the communication of technical evaluation results to the consulting firms; the PE shall conduct the opening of the financial Proposal of the consulting firm with the highest ranking technical Proposal in the presence of the firms who submitted Proposals and wish to attend; and</td>
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the PE shall prepare the minutes of the public opening and a copy of this record shall be promptly sent to all consulting firms who submitted Proposals.

k) Evaluation of Financial Proposals and Negotiations: the PE shall evaluate the financial Proposal and negotiate;

l) Notification of Intention to Award: The PE shall inform all qualified firms that the PE’s intention of award the contract to the winning firm. The PE shall implement a Standstill Period in accordance with guidelines;

m) Award of Contract and Publication of Contract Award: The PE shall publish the contract award information in its website of free access and the NPC website and inform directly to firms that submitted Proposals.

3.1.3 Fixed Budget-based Selection (FBS)
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.

FBS is appropriate when:
(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

The technical Proposal with the highest technical score that meets the fixed budget requirement is considered for the contract award.

3.1.3.1 Procedures for under fixed budget selection:

a) Preparation of TOR; in accordance with Guideline given in User Manual and the TOR shall be as complete as possible to make sure that the budget is sufficient for the consultants to perform the expected tasks;

b) Preparation of cost estimation and the budget;

c) Preparation of long list and short list through the selection of consultant firms by inviting to contest responding to a Request for Expression of Interest(REOI)published;

d) Preparation of a Request for Proposals(RFP) The RFP document specifies the budget and the minimum technical score for
the technical Proposals, and issuance of LOI to submit proposals along with the RFP document to all the short-listed firms. The PE shall allow sufficient time for the firms to prepare their proposals depending on the nature and complexity of the assignment; the RFP shall require the consultants to provide breakdowns of their costs for the different activities with a provision that applicants who decline to provide the breakdown may risk the rejection of their proposals; and the RFP shall state that, following opening of proposals, all proposals that exceed the indicated budget shall be rejected and the applicant who has submitted the highest ranked technical proposal among the rest shall be selected and invited to negotiate and discuss further details for concluding the contract.

e) **Clarifications and addenda**; shall be in Writing;
f) **Proposal Submission**: the technical and financial Proposals shall be submitted at the same time in two (2) separate and sealed envelopes
g) **Technical Proposal Opening**: the PE shall conduct the opening of only the technical Proposals received by the deadline for the submission of Proposals;
h) **Evaluation of Technical Proposals**: the evaluation of the technical Proposals shall be in accordance with the evaluation criteria specified in the request for proposals document;
i) **Communication of results**: once the evaluation of technical Proposals is complete, the PE shall inform all firms that submitted Proposal of their score and whether they met the minimum qualifying technical score specified in the RFP. The PE shall simultaneously notify the firms that have met the technical Proposal requirements of when the financial Proposal shall be opened.
j) **Financial Proposals opening**: Financial Proposals shall not be opened earlier than three (3) Workings Days from the communication of technical evaluation results to the consulting firms. The financial proposals of technically responsive proposals shall be opened in the presence of the consultants or their representatives who may wish to attend the opening session; the PE shall prepare the minutes of the public opening and a copy of this record shall be promptly sent to all consulting firms who submitted Proposals.
k) **Evaluation of Financial Proposals**: shall meet the requirements indicated in the RFP document particularly the budget;
l) **Negotiation with the selected consultant firm**: Negotiations shall include discussions of the TOR, the methodology, PE’s inputs, and special conditions of the contract. These discussions shall not substantially alter the original scope of the services specified in the TOR or the terms of the contract.
m) **Notification of Intention to Award:** PE shall inform all qualified firms that the PE’s intention of award the contract to the winning firm. The PE shall implement a Standstill Period in accordance with guidelines.

n) **Award of Contract and Publication of Contract Award:** The PE shall publish the contract award information in its website of free access and the NPC website and inform directly to firms that submitted Proposals.

### 3.1.3.2 FBS is appropriate only when:

- **a)** the TORs are precisely defined;
- **b)** the time and personnel inputs can be accurately assessed; and
- **c)** the budget is fixed and cannot be exceeded.

To reduce the financial risk for consultants and avoid receiving unacceptable technical proposals or no proposals at all, this method can only be used for well-defined Consulting assignments, where it is expected that there will be no changes during implementation. The RFP shall indicate the available budget, define the “minimum” qualifying mark for the “quality” and request consultants/firms to submit their best technical and financial proposals in separate envelopes, at the same time, and within the budget. Evaluation of all technical proposals shall be carried out first. Then the financial proposals of consultants/firms meeting the “minimum” qualifying mark shall be opened in public and prices shall be announced. Proposals that exceed the indicated budget shall be rejected. The consultant with the highest ranked technical proposal and simultaneously within the fixed budget limit financial proposal should be considered for the award.

### 3.1.4 Least Cost Selection (LCS)

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. LCS is generally appropriate for assignments of a standard or routine nature (such as engineering designs of non-complex Works).

This method is appropriate for assignments of standard or routine nature, where well established practices and standards exist. LCS is only appropriate for selecting consultants for small assignments. 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.

### 3.1.4.1 Procedure for Selection Under Least Cost Selection (LCS)
a) **Preparation of TOR:** in accordance with Guideline given in User Manual;
b) **Preparation of cost estimation and the budget;**
c) **Preparation of long list and short list** through the selection of consultant firms by inviting to contest responding to a Request for Expression of Interest (REOI) published;
d) **Preparation of a Request for Proposals (RFP):** The RFP document specifies the minimum technical score for the technical Proposals, and issuance of LOI to submit proposals along with the RFP document to all the short-listed firms.
e) **Clarifications and addenda:** shall be in Writing;
f) **Proposal Submission:** the technical and financial Proposals shall be submitted at the same time in two (2) separate and sealed envelopes;
g) **Technical Proposal Opening:** the PE shall conduct the opening of only the technical Proposals received by the deadline for the submission of Proposals;
h) **Evaluation of Technical Proposals:** the evaluation of the technical Proposals shall be in accordance with the evaluation criteria specified in the request for proposals document;
i) **Communication of results:** once the evaluation of technical Proposals is complete, the PE shall inform all firms that submitted Proposal of their score and whether they met the minimum qualifying technical score specified in the RFP. The PE shall simultaneously notify the firms that have met the technical Proposal requirements of when the financial Proposal shall be opened.
j) **Financial Proposals opening:** Financial Proposals shall not be opened earlier than three (3) Workings Days from the communication of technical evaluation results to the consulting firms. The financial proposals of technically responsive proposals shall be opened in the presence of the consultants or their representatives who may wish to attend the opening session; the PE shall prepare the minutes of the public opening and a copy of this record shall be promptly sent to all consulting firms who submitted Proposals.
k) **Evaluation of Financial Proposals:** shall meet the requirements indicated in the RFP document proposals and firms passing the technical score threshold shall then be treated equally and evaluated on the basis of cost only.
l) **Negotiation with the selected consultant firm:** Negotiations shall include discussions of the TOR, the methodology, PE’s inputs, and special conditions of the contract with consultancy firm who submitted the least evaluated cost; and these discussions shall not substantially alter the original scope of the services specified in the TOR or the terms of the contract.
m) **Award of Contract and Publication of Contract Award:** The PE shall publish the contract award information in its website of free access.
and the NPC website and inform directly to firms that submitted Proposals.

3.1.5 Consultant’s Qualification Selection (CQS)

CQS is appropriate for small assignments or Emergency Situations in which preparing and evaluating competitive Proposals is not justified.

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 invitation of EOI, a shortlist of three firms shall be prepared and the PE selects the firm with the best qualifications and relevant experience and invites it to submit its combined technical and financial Proposals for negotiations.

Should the negotiations failed the PE shall obtain a combined proposal from the next ranked firm until an agreement is reached.

Advertisement of REOIs is not mandatory.

3.1.5.1 Procedure for Selection Under CQS

a) Preparation of REOI & TOR;
b) Preparation of cost estimate and the budget;
c) Preparation of long list;
d) Preparation of the short list of Consultancy firms;
e) Select the firm with best qualifications and references;
f) Invite from the selected firm to submit its technical and financial proposals;
g) Receipt of technical and financial proposals; and
h) Negotiations and award of the contract

3.1.6 Direct Selection - Single Source Selection (SSS)

Generally, Direct 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, direct selection shall be used only in exceptional cases.

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.

This method will be used only in exceptional cases, where it provides clear advantage over competition in the following cases;

Direct selection may be appropriate under the following circumstances:
(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;
(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 small assignments (as specified in the user guide or instructions issued by NPC);
(e) when only one firm is qualified, or has experience of exceptional worth for the assignment;
(f) specific approval shall be obtained from the relevant CPC;
(g) for foreign funded projects this selection method shall be used only with the prior approval of the relevant funding agency;

In all instances of direct selection, the Borrower shall ensure fairness and equity, and shall have in place procedures to ensure that:

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.
iii) to obtain necessary prior approval for the direct selection justification with all other relevant details in writing from the Chief Accounting Officer, concerned on recommendation by a CPC;

3.1.6.1 Procedure for Selection Under Direct Selection:
The RFP or TOR, as the case may be, shall be issued to the selected consultant and the selected consultant shall be requested to submit a technical and financial proposal. Upon the receipt of which discussions shall be held between the proposal evaluation committee and the selected consultant and all aspects of its proposal, whether technical or financial, shall be discussed and negotiated together in order to reach an agreement/contract etc.

3.1.7 Selection of Particular Type of Consultants

Under special circumstances as described below consultants may be selected

3.1.7.1 Consultancy Works by Universities and Research & Development (R&D) Centers
With the objective of promoting active institute/industry links/partnerships, Consultancy Assignments directed towards improvement of efficiency and productivity of the local industries and helping to realize the country’s socio-economic, environmental and human development policies, may be directly assigned to universities and R&D centers. In such situations, the 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 Services Manual.

The contract shall be entered with the legal entity of the university or R&D Center and in no case with an individual or group of individuals. For foreign funded projects this selection method shall be used only with the concurrence of the Foreign Funding Agency.

### 3.1.7.2 Consultancy Assignment to Government Institutes

If the total cost of the Consulting Services is not exceeding the threshold (as specified in the user guide or instructions issued by NPC), and under special circumstances, Consultancy Services may be awarded to Government owned agencies. In such situations, the PE shall follow the process of direct selection method. The lump sum type contract shall be entered with the legal entity of the Government agency and in no case with an individual or group of individuals. The selected Government Agency should not undertake any downstream works related to the Consulting Services either directly or on competitive procedure.

The fees billed for permanent staff by the Government Agency in no case should exceed twice the basic salary of such staff. When such Consulting Services are given the Government Agency shall follow the requirements given in the Consultant Services Manual.

For foreign funded projects this selection method shall be used only with the concurrence of the Foreign Funding Agency.

### 3.1.8 Preparation of Terms of Reference (TOR)

Manual (3.1.8, Annexure 3 - 3.1.8)
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. 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.

b) TOR should provide a level playing field for all prospective consultants. It should meet the essential requirements of the PE.

c) It should normally be based on respective national standards or equivalent international standards where applicable.

This Section shall not be used to over-write provisions in Instructions to Consultants and Data Sheet.

### 3.1.8.1 Sections of TOR

<table>
<thead>
<tr>
<th>Steps to be followed</th>
<th>Manual 3.1.8.1</th>
</tr>
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</table>

### 3.1.9 Preparation of Long List

The long list of Consultants may be prepared following one or any combination of the following methods:

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

However, for large and complex assignments the PE shall advertise in local newspapers, PEs web site and NPC website or e-GP portal 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.

### 3.1.10 Preparation of Shortlist

Manual 3.1.10
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. Short lists shall comprise not more than six Consultancy organizations. The shortlist may comprise of less than six organizations when suitably qualified organizations have not expressed their interest to submit a proposal and no other qualified Consultancy Organizations are known. The short list should preferably comprise consultants of the same category, similar capacity, and business objectives. The shortlist shall not include individual consultants. When QCBS, LCS or FBS methods are used mixing of NGOs, universities; etc. with other business type Consultancy Organizations shall be avoided.

### 3.2 SELECTION OF INDIVIDUAL CONSULTANTS

#### 3.2.1 Selection of Individual Consultants

Individual consultants are normally employed on assignments for which:
- a) Teams of personnel are not required;
- b) no additional outside (home office) professional support is required;
- c) the experience and qualifications of the individual are the paramount requirement; and
- d) When coordination, administration, or collective responsibility between the individuals is not required.

#### 3.2.2 Terms of Reference (TOR) for the Selection of Individual Consultants

PE should first prepare a TOR for the assignment, including the scope of work and its estimated budget. The TOR shall be reviewed by the relevant CSC or other appropriate authority.

#### 3.2.3 Advertising

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, 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. 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
<table>
<thead>
<tr>
<th>3.2.4</th>
<th>Selection on Competitive Basis</th>
<th>Manual 3.2.4</th>
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<tbody>
<tr>
<td>Individual consultants are selected on the basis of their qualifications for the assignment. Generally, they shall be selected through comparison of qualifications 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. It is recommended to set up interviews wherever possible. Individuals employed by PE shall meet all relevant qualifications and shall be fully capable of carrying out the assignment. Capability is judged on the basis of academic background, experience, and as appropriate.</td>
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<tr>
<th>3.2.5</th>
<th>Single Source Selection (SSS)</th>
<th>Manual 3.2.5</th>
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<tbody>
<tr>
<td>Individual consultants may be selected on a single-source basis with due justification in exceptional cases such as: (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. SSS justification with the details of individual consultant shall be approved by the CAO. (d) 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 singlesource 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.</td>
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<tr>
<th>3.2.6</th>
<th>Terms of Appointment</th>
<th>Manual 3.2.6</th>
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<tbody>
<tr>
<td>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 TOR. For very small assignments of routine nature a letter of appointment may be used but shall address the above-mentioned terms.</td>
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CHAPTER 4 - PROCUREMENT PLANNING

Efficient & realistic planning of the entire procurement process is vital to ensure timely completion of the project & its successful monitoring and implementation and to obtain Value for Money.

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 the future delays.

<table>
<thead>
<tr>
<th>4.1 Master Procurement Plan (MPP)</th>
<th>Manual(4.1, format at Annexure 4 – 4.1)</th>
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<tbody>
<tr>
<td>a) The Procuring Entity (PE) shall prepare the MPP which should include the Consultancy Services;</td>
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<tr>
<td>b) Selection steps envisaged at least for a period of three-years shall be listed in the MPP;</td>
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<tr>
<td>c) Selection steps for the immediately succeeding year shall be prepared in detail.</td>
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<tr>
<td>d) MPP shall be prepared in alignment with the medium term budget and shall be approved by the Secretary to the Line Ministry.</td>
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<td>e) MPP shall be regularly updated at intervals not exceeding six months.</td>
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<tr>
<th>4.2 Detail Procurement Plan (PP)</th>
<th>Manual(4.2, format at Annexure 4 – 4.2)</th>
</tr>
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<tbody>
<tr>
<td>a) PE shall prepare Procurement Plan (PP) in accordance with Master Procurement Plan (MPP) &amp; previously approved Action Plan. PP and Action plan shall be submitted to NPC.</td>
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<tr>
<td>b) Procurement activities for the current year shall be listed in the Procurement Plan (PP) in accordance with the budgetary provision and approved by the Secretary to the Line Ministry.</td>
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<tr>
<td>c) PP shall be updated as and when necessary along with the MPP and Action Plan.</td>
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<tr>
<th>4.3 Procurement Time Schedule (PTS)</th>
<th>Manual(4.3, format Annexure 4 – 4.3)</th>
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</table>
**a)** Procurement Time Schedule (PTS) is a schedule describing each procurement action in chronological order, from commencement to completion of the entire procurement process.

**b)** PTS shall be prepared by the PE in two stages;

**Stage 1** - all activities from the commencement up to the preparation of draft Request for Proposal (RFP) document;

**Stage 2** - all activities after preparation of the draft Request for Proposal (RFP) document should follow upon obtaining the required budgetary provisions.

**c)** Regular updates of PTS Stage 1 shall be done.

**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 explain the cause(s) for the delay, effect remedial measures and inform NPC. In the case of CCSCs, MCSCs, DCSCs, PCSCs and in all other cases, such responsibility shall vest in the CAO.

### 4.4 Publication of Procurement plan and Time Frame for Procurement Actions

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.

Average time frame for different stages of procurement is directed by the NPC.

### 4.5 Total Cost Estimate (TCE) of the Procurement

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.). Costs shall be firstly divided into two main categories:

**a)** remuneration; and

**b)** other expenses, and further divided into foreign and local costs where
appropriate. Where works are considered it should reflect elemental cost breakdown including necessary contingencies of the works.

<table>
<thead>
<tr>
<th>4.5.1</th>
<th>Approving of Total Cost Estimate (TCE)</th>
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<tr>
<td>TCE shall be approved by the appropriate authority.</td>
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<tr>
<th>4.5.2</th>
<th>Update of Total Cost Estimate (TCE)</th>
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<tbody>
<tr>
<td>Wherever it is necessary to update the TCE, the updated TCE shall be approved by the appropriate authority prior to request for Proposals.</td>
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<tr>
<th>4.6 Expression of Interest</th>
<th>Manual 4.6</th>
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<tr>
<th>4.6.1</th>
<th>Publication of Request for Expression of Interest (REOI)</th>
<th>Manual (4.6.1)</th>
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<tbody>
<tr>
<td>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. An advertisement is to be published in the PE’s website, web portal of NPC, e-GP Portal 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.</td>
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<tr>
<th>4.6.2</th>
<th>Content of the REOI</th>
<th>Manual 4.6.2</th>
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<tbody>
<tr>
<td>a) the name and address of PE; b) an appropriate description of the assignment providing scope of the intellectual and professional services required; c) deadline and place of the submission of the EOI; and d) evaluation criteria required to be followed.</td>
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<tr>
<th>4.6.3</th>
<th>Criteria for Short-listing of Consultants Firms</th>
<th>Manual 4.6.3</th>
</tr>
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<tbody>
<tr>
<td>Whenever short-listing is deemed necessary, the PE shall predetermine criteria for short-listing. Except for single source, there will normally be a minimum of six (6) consultants in the shortlist, but there is no upper limit for number of candidates to be short-listed. However, if less than six candidates apply (after sufficient advertising), their proposals may be considered on merit. The PE while engaged in short-listing of consultants will take into consideration the following factors, namely: i. qualification; ii. general experience, similar experience; and iii. any other factor that a PE may deem relevant. Well defined criteria should be used for short-listing. All applicants shall be informed whether or not they have been short-listed.</td>
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Details at Manual Annexure 4.6.2 and format for short listing at Annexure 4.6.3
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<tr>
<th>4.6.4</th>
<th><strong>Criteria for Short-listing of Individual Consultants</strong></th>
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<tbody>
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<td></td>
<td>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. Specific Experience is given greater weighting 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.</td>
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</table>
### CHAPTER 5 - REQUEST FOR PROPOSAL (RFP) DOCUMENTS

#### 5.1 Preparation of Draft Request for Proposal (RFP) Document

| a) | The PE shall prepare the draft Request for Proposal (RFP) document including TOR, evaluation criteria in a fair and competitive manner. |
| b) | The PE shall complete the abovementioned task prior to the appointment of the CPC. |

#### 5.2 Contents of RFP Document

The RFP documents shall contain all relevant sections and information necessary for a prospective consultant to prepare a responsive proposal. The contents of the Request for Proposal document shall be unambiguous. Sections of the RFP are given in the Manual.

#### 5.3 Standard Request for Proposal (SRFP) Document

| a) | PE shall use the appropriate SRFP, approved by NPC, 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 SRFPs mandated by such agencies. |
| 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. |
| c) | All such documents must be vetted and approved by the CSC, who shall take the entire responsibility for the contents of such documents. |

#### 5.4 Request for Proposals Publication

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.

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.
### 5.5 Letter of Invitation (LOI)

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. It shall provide the basic information regarding:

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.

The LOI should also instruct the Consultants to indicate whether they intend to submit their proposal alone or in association with other shortlisted parties and request the PE’s permission to such association.

### 5.6 Instructions to Consultants (ITC)

Instructions to consultants shall contain all relevant information for the Consultant to prepare and submit a proposal. ITC shall not be changed in SRFPs.

### 5.7 Eligibility of Consultants

**a)** Eligibility requirements for Consultants shall be limited to those that are essential to ensure the Consultant’s legality and capacity to perform the relevant service and shall be included in the RFP documents.

b) Consultants should be considered as ineligible bidders under the following situations among others:

i. If the consultant is blacklisted by NPC (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. If the consultant has been engaged by the PE to provide goods, works, or services which are related to the proposed assignment.

### 5.8 Equal Treatment for Foreign and National Consultants

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.

a) 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.

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.

5.9 Proposal Validity Period

a) Consultants shall be required to submit proposals valid for a period specified in the RFP documents.
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.
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

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.
b) In the case of all MCSC & CCSC assignments, a pre-proposal conference shall be arranged where by potential consultants have the opportunity of seeking clarifications from the PE.
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. 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.

5.12 Clarifications and Amendments to RFP
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.

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.

c) If deemed necessary, the PE may extend the deadline for proposal submission closing giving due consideration to the PTS.

### 5.13 Association between Consultants

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.

Such an association may be for the long term (independent of any particular assignment) or for a specific assignment.

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; 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.

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.

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.

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.

### 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

| a) | The RFP documents shall clearly specify the evaluation criteria and sub-criteria that will be applied for the selection of the consultant. |
| b) | Qualification criteria and post qualification criteria shall also be clearly stated in the RFP documents. |

| 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. |

### 5.16 Standard Forms of Contract

#### 5.16.1 Draft Contract to be Issued

| a) | The draft contract shall be issued with the RFP document. |
| b) | The draft contract document shall clearly define: |
| | (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. If so 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. The contract shall also indicate measures the 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. |
| | (v) that the consultant should state the local cost only in Sri Lankan Rupees. |
| | (vi) 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. |
| | (vii) 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. |
| | (viii) 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. |
### 5.17 Conditions of Contract

| Man 5.17 |

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) also be included in the RFP document with necessary modifications depending upon the need.

b) Provisions indicated in the SCC will supersede the corresponding provisions in the GCC.

### 5.18 Price Adjustment

| Man 5.18 |

To adjust the remuneration for foreign and/or local 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.

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.

The contract shall also have appropriate provisions for treatment of the impact on a contract change in laws and regulations in the country, if after 28 days prior to the date of Proposal submission, that subsequently affects the contract completion period/delivery date and/or the contract price.

### 5.19 Payment Provisions

| Man 5.19 |

Payment provisions, including amounts to be paid, schedule of payments, and payment procedures, shall be included.

### 5.20 Advance Payment

| Man 5.20 |

An advance payment can be made, when required provisions are included in the RFP document.

A maximum of twenty percent (20%) of the contract sum may be paid against the submission of an acceptable advance payment guarantee. When an advance payment is made, it shall be set off by equal installments against the payments due to the Consultant, within the first fifty percent (50%) of the total contract price.

### 5.20(a) Performance Security

| Annexure 5: 5.4 |

If PE wishes to obtain a Performance Security from the Consultancy Firm under special circumstances, it is allowed and shall not be more than 10% of the total contract price.
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<th>5.21 Dispute Resolution</th>
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<tr>
<td>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.</td>
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<tr>
<td>b) A reference must be made in the contract documents, that settlement of disputes would be by way of arbitration and a detailed arbitration clause should be included in the contract to such effect.</td>
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<tr>
<td>c) For Foreign Funded Projects dispute resolution provisions recommended by the Foreign Funding Agency shall be complied with.</td>
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<tr>
<td>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.</td>
</tr>
<tr>
<td>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.</td>
</tr>
<tr>
<td>5.22 The Law of Contract</td>
</tr>
<tr>
<td>The law governing the Contract shall be the Laws of the Democratic Socialist Republic of Sri Lanka.</td>
</tr>
<tr>
<td>5.23 Terms of Reference (TOR)</td>
</tr>
<tr>
<td>Refer clause 3.1.8 of this Guide Lines;</td>
</tr>
<tr>
<td>5.24 Technical and Financial Proposals Standard Forms</td>
</tr>
<tr>
<td>The PE and Consultants shall not modify technical and financial proposal standard forms given in the Standard RFPs, unless it is really essential and that with the concurrence of relevant CAO or AO where appropriate.</td>
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</tbody>
</table>
# CHAPTER 6–PROPOSAL PROCESS

## 6.1 Issuance of RFP Documents

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<thead>
<tr>
<th>Manual 6.1</th>
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<tbody>
<tr>
<td>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.</td>
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<tr>
<td>b) The RFP shall be issued only to the shortlisted consultants.</td>
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</table>

## 6.2 Proposal Preparation Period

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<tr>
<th>Manual 6.2</th>
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<tbody>
<tr>
<td>a) The proposal preparation period shall commence from the date on which the RFP documents are available to short listed consultants.</td>
</tr>
<tr>
<td>b) The period shall end with the deadline for proposal submission.</td>
</tr>
<tr>
<td>c) The proposal preparation period shall be reasonably adequate to prepare the bids</td>
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## 6.3 Submission/Receipt of Proposals

<table>
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<th>Manual 6.3</th>
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<tr>
<td>a) The proposal shall be received only at one location by:</td>
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<td>(i) mail under registered post; or</td>
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<tr>
<td>(ii) personal delivery against receipt, to the officer authorized by the PE to receive such proposals at the specified location; or</td>
</tr>
<tr>
<td>(iii) e-GP portal of Sri Lanka</td>
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<tr>
<td>b) Except for CQS and SS, for all proposals must be submitted only under sealed cover and the RFP documents should stipulate a condition to this effect.</td>
</tr>
<tr>
<td>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.</td>
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## 6.4 Rejection of Late Proposals

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<th>Manual 6.4</th>
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<tbody>
<tr>
<td>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, system shall automatically reject the proposal if the specified time is expired.</td>
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## 6.5 Public Opening of Proposals

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<th>Manual 6.5</th>
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<tbody>
<tr>
<td>a) Responsibility of opening of the proposals is vested with the CSC. The CSC may delegate such authority to a “proposal opening committee” which shall comprise of a minimum of two members approved by the CSC.</td>
</tr>
<tr>
<td>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.</td>
</tr>
</tbody>
</table>
Responsibility of opening of financial proposals is vested with the CSC. The CSC may delegate such authority to a “proposal opening committee” which shall comprise of a minimum of two members approved by the CSC.

d) In the case of QCBS, QBS, LCS and FBS the financial proposals shall be opened in the presence of the consultants or their representative/s who wish to attend, at the financial proposal opening offline or online as specified in the RFP.

e) Only the 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 for opening and evaluation purposes to the authorized committee members.

### 6.6 Procedure of Opening Financial Proposals

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<tbody>
<tr>
<td><strong>a)</strong> 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 3 (three) working days’ notice if all the firms are national, and 8 (eight) 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.</td>
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<tr>
<td><strong>b)</strong> 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.</td>
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<tr>
<td><strong>c)</strong> The original financial proposal together with the minutes pertaining to proposal opening shall be handed over to the chairperson of the CSC.</td>
<td></td>
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</table>

**Manual 6.6**

**Annexure 6: 6.4**
# CHAPTER 7–EVALUATION OF PROPOSALS

## 7.1 General

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 a CSC;
c) The CSC shall prepare its formal report along with the outside expert’s report.

## 7.4 Time Frame for Proposal Evaluation

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

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, if required, the CSC may obtain photo copies of the originals for evaluation purposes.

In case of e-GP system, there will be only one digital copy in the e-GP System in the forms and formats as provisioned in the system.

7.7 Purpose and Stages of Proposal Evaluation

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.

b) Precise evaluation procedures vary between the different methodologies, but all consist of three stages:

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 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 the 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**
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 omissions or deviations from the stated objectives, TOR, or other key requirements of the RFP. Individual’s results shall be recorded on pre-established worksheets or web-forms. By applying the criteria and sub-criteria specified in the RFP, CSC shall establish the absolute, not the relative, quality of the proposals.

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.

### 7.8.3 Strengths and Weaknesses of Each Proposal to be Recorded

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 winning proposal that need to be clarified during negotiations.

### 7.8.4 Evaluation Based on Disclosed Criteria

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:

(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 to be considered 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.

### 7.9 Technical Proposal Evaluation Form

Manual 7.9
Immediately after the evaluation of technical proposal is completed a technical evaluation report shall be prepared by CSC in the format published by NPC, by 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.

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<tr>
<th>7.10 Clarifications from Consultants During Evaluation</th>
<th>Manual 7.10</th>
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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.

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<tr>
<th>7.11 Opening of Financial Proposals</th>
<th>Manual 7.11</th>
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After preparing the technical evaluation report, the PE notifies 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.

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 publically in presence of firms or their representatives who choose to attend. The name of the consultant, the technical points, and the proposed prices are read aloud and recorded as each financial proposal is opened.

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.

If consultants were initially requested to submit financial proposals under QBS, the PE notifies the consultant with the highest-ranked technical proposal and indicates the date, time, and place set for negotiating the financial proposal and the contract.

|--------------------------------------|-------------|
The CSC should first establish that the financial proposals are completed (i.e. 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).

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 arithmetic errors not necessary to be checked 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.

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.

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 that 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, it will automatically have calculated by the system.

If the Lump-Sum Form of Contract has been included in the RFP, no corrections are applied to the financial proposal in this respect.

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.

When FBS is adopted, adjustments made by the CSC to correct omissions or inconsistencies 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.

### 7.13 Negotiation with the Highest Ranked Consultant

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.

### 7.13.1 Negotiation in case of QCBS, FBS and LCS
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.

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.

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 [refer; Clause 3.1.1.1 (m)].

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.

**7.13.2 Negotiation in Case of QBS, CQS and SSS**
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.

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), 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.

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.

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.

| 7.13.3 | 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. |
| 7.15 Rejection of all Proposals Received | Manual 7.15 |
| 7.15.1 | 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:

i) The proposals present major deficiencies in complying with the RFP and specifically the TOR.

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.

In the first case, 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.

In the third case, 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.

In all cases, good TOR, accurate budget, and review of the RFP can reduce the risks of nonresponsive proposals.

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.

CAO’s prior approval shall be obtained before rejecting all proposals and to start the new process. |
CHAPTER 8 - AWARD OF CONTRACT

8.1 Recommendation/Determination of Contract Award

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<th>Manual 8.1</th>
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<tr>
<td>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. After the CSC has completed the evaluation: a) in the case of CCSC may make a recommendation of contract award to the CAO; and b) in all other cases convey the determination of contract award to the: (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.</td>
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8.2 Communication to all Consultants of the Intention to Award Contract

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<th>Manual 8.2</th>
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<tr>
<td>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. The Secretary to the Line Ministry has the right to reserve any confidential details, which can be legally misused subject to compliance of Right to Information Act (RTI). CAO shall inform all Consultants with regard to Appeal Boards for their objections/appeals if any.</td>
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8.3 Debriefing

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<td>The Purposes of debriefing are to: a) Inform the aggrieved consultant 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. 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</td>
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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.

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<th>8.4 Stand Still Period</th>
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<td>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, except in the following situations: Only one proposal is submitted in case of open competitive methods or Direct selection was done with approval from the proper authority. The submission of the PE’S Notification of Contract Award, begins the Stand Still Period. The stand still period shall last 10 working days after origination of such transmission date, unless otherwise extended due to appeal process. The contract shall not be awarded either before or during the stand still period in which PE should accommodate request for debriefing and the same should be completed within the first 06 working days of the 10 days the consultant shall be allowed to make appeal within the next 04 working days.</td>
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<th>8.5 Appeals against Contract Awards Recommended by the CCSC/MCSC/DCSC or PCSC</th>
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<tr>
<td>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 NPC.</td>
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<tr>
<td>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.</td>
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<td>c) request for review and suspension of procurement proceedings shall be by a written notification by the Appeal Board.</td>
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<tr>
<td>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 such documents as may be specified.</td>
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<tr>
<td>e) The Appeal Board shall, immediately notify all other parties to the review upon receipt of such documents from a procuring entity.</td>
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<tr>
<td>f) The Appeal Board notifies all parties about the decision after following its review process.</td>
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<tr>
<td>g) In case of DCSC and PCSC appeals, appropriate threshold will be applicable as given in the manual.</td>
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### 8.6 Contract Award Procedure

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<tr>
<td>a) Prior to the issuance of the Letter of Contract Award, a formal letter of acceptance shall have sought from the consultant.</td>
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<tr>
<td>b) Prior to issuance of Letter of Contract Award, the PE should ensure that budgetary provision is available to meet the cost of contract.</td>
</tr>
<tr>
<td>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.</td>
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<tr>
<td>d) Arrangements shall be made to sign the contract as early as possible prior to the commencement of the assignment.</td>
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### 8.7 Formal Contract

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<th>Annexure 8: 8.1</th>
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<tr>
<td>A formal contract agreement is required to be entered into with the successful Consultant. Contract management depends on the types of Contract signed: Lumpsum or time-based.</td>
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### 8.8 Publication of Contract Award

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<tr>
<td>The PE should publish promptly the details of the award in PE’s web site, NPC Web portal, and e-GP Portal. The publication should include the following details:</td>
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<tr>
<td>a) description of the Consulting Services for which proposals were invited;</td>
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<tr>
<td>b) the names of all consultants who submitted proposals;</td>
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<tr>
<td>c) name of the successful consultant;</td>
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<tr>
<td>d) amount at which the contract was awarded;</td>
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<tr>
<td>e) in the case of a contract awarded to a foreign principal who has a local agent, the name of the local agent.</td>
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The publication data should adhere to the Open Contracting Data Standard (OCDS), if NPC provides required tools.
### CHAPTER 9 - CONTRACT ADMINISTRATION

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<td>9.2 Variation of Contract/Change Requests</td>
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<td>9.3 Extension of Time</td>
<td>Manual 9.3</td>
</tr>
<tr>
<td>9.4 Default- Data Base of Defaulting Consultants</td>
<td>Manual 9.4</td>
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</tbody>
</table>

#### 9.1 Contract Administration

The PE shall be responsible for ensuring adequate supervision and assessment of deliverables and scope of services by the consultants.

#### 9.2 Variation of Contract/Change Requests

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 provide the basis for such variations/change requests and valuation of such variations/change requests within approved limits.

b) The PE shall examine the variations/change requests that are justifiable in all aspects.

c) Any contract variation/change request shall obtain prior approval by the relevant authority.

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 obtain necessary prior approvals from the appropriate authority.

#### 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 consultant establishes to the satisfaction of the PE, that delays are attributable to circumstances beyond the control of the consultant.

#### 9.4 Default- Data Base of Defaulting Consultants

After obtaining the information from particular PE the relevant CAO, AO shall inform all details with regard to any bad performance of the Consultant to NPC requesting for blacklist Consultant, and it is the duty of CAO, AO to submit all relevant details to NPC to enable NPC to take a decision.

a) In every case involving a contract exceeding the value (as specified in the Manual issued by the NPC), the NPC shall maintain a data base of defaulting consultants which would be updated regularly. The names of defaulting consultants will also be published in NPC’s website.

b) The NPC will issue half-yearly, a list of such defaulting consultants to all Line Ministries for circulation among departments/corporations under their purview.

c) The PEs should not award any contracts to any consultant, as long as their names remain in this data base.

The placement of a defaulting consultant’s name in the NPC website is data base of defaulting consultants merely for the purpose of informing.
e) PEs that they must refrain from dealing with such parties, until such time their names are removed from the data base at the sole discretion of the NPC and is not intended to imply any moral delinquency on the part of such consultant.

### 9.5 Supervising the Consultants

a) To enable the consultant to begin work promptly, the PE shall make arrangements for supervision of the assignment, in particular by:
   (i) Appointing the counterpart staff where required;
   (ii) providing office space, transport and other supplies & services where applicable as per the client inputs in the RFP;
   (iii) informing all concerned institutional parties;
   (iv) effecting the advance payment as specified in the RFP;
   (v) providing, authorization, data and background material if needed;
   (vi) Acceptance of the deliverables as stated in the contract

b) The performance of the consultants will also be monitored by the management of the PE with the assistance of concerned 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 the time mutually set. 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.

### 9.6 Types of Contracts

PEs spend substantial funds on various type of consulting services and therefore need to consider how best to structure the contracts for those services. Three main considerations determine what type of contract to adopt in a consultant assignment:

(a) the nature of the assignment,

(b) the distribution of risks and re- wards between the Borrower 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.

The following contract payment types may be used as appropriate:

- Lump-sum
- Time-based
- Retainer and/or (success) fee
<table>
<thead>
<tr>
<th>Type</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Percentage</td>
<td>Each type is described briefly in the Manual, as well as the criteria that are suggested for their adoption and correct application.</td>
</tr>
<tr>
<td>Indefinite-delivery</td>
<td></td>
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