

GENERAL FINANCIAL RULES 2017

Rule 194 - Single Source Selection/Consultancy by nomination.

The selection by direct negotiation/nomination, on the lines of Single Tender mode of procurement of goods, is considered appropriate only under exceptional circumstance such as:

- (i) tasks that represent a natural continuation of previous work carried out by the firm;
- (ii) in case of an emergency situation, situations arising after natural disasters, situations where timely completion of the assignment is of utmost importance; and
- (iii) situations where execution of the assignment may involve use of proprietary techniques or only one consultant has requisite expertise.
- (iv) Under some special circumstances, it may become necessary to select a particular consultant where adequate justification is available for such single-source selection in the context of the overall interest of the Ministry or Department. Full justification for single source selection should be recorded in the file and approval of the competent authority obtained before resorting to such single-source selection.
- (v) It shall ensure fairness and equity, and shall have a procedure in place to ensure that the prices are reasonable and consistent with market rates for tasks of a similar nature; and the required consultancy services are not split into smaller sized procurement.

Rule 204 - Procurement of Non-consulting services by nomination.

Should it become necessary, in an exceptional situation to procure a non-consulting service from a specifically chosen contractor, the Competent Authority in the Ministry or Department may do so in consultation with the Financial Adviser. In such cases the detailed justification, the circumstances leading to such procurement by choice and the special interest or purpose it shall serve, shall form an integral part of the proposal.

MANUAL FOR PROCUREMENT OF GOODS 2017

4.6 Proprietary Article Certificate

4.6.1 In procurement of goods, certain items are procured only from Original Equipment Manufacturers (OEMs) or manufacturers having proprietary rights (or their authorised dealers/ stockists) against a PAC certificate (Annexure 6) signed by the appropriate authority. Once a PAC is signed at the designated level as per SoPP, the powers of procurement are the same as in normal conditions as per the delegation of powers. This mode may be shortest but since it may provide lesser VfM as compared to LTE/OTE and also strains the transparency principle, it should be used only in justifiable situations. (Rule 166 of GFR 2017)

4.6.2 Terms and conditions

- i) Users should enclose, with their Indent, a PAC certificate indicating the justification and approval at the appropriate level as per DPFR/SoPP, for sourcing an item from OEM or PAC firms or their authorised agents;
- ii) Proprietary items shall be purchased only from a nominated manufacturer or its authorised dealer as recorded in the PAC certificate;
- iii) In certain unavoidable cases, the procuring authority may have no alternative but to waive payment of EMD/SD for procurement on a proprietary basis;
- iv) To the extent feasible, the firm may be asked to certify that the rates quoted by them are the same and not higher than those quoted with other Government, public sector or private organisations;
- v) In case of PAC/single tender procurements:
 - a) Reports relating to such awards should be submitted to the Ministry every quarter;
 - b) Internal audit may be required to check at least 10 (ten) per cent of such cases; and
 - c) Details of such contracts should be published on the website of the Procuring Entity.

4.6.3 PAC - Risks and Mitigations

Risk	Mitigation
There is a risk that this mode may get used unjustifiably to restrict competition. Such risks get aggravated, in case of secrecy about such procedures as alternative vendor/contractors may not even come to know about such opportunities	The delegation of powers should be restricted for signing of PAC. Audit may take-up 10 (ten) per cent of cases of PAC procurements for review. Even in PAC procurements the NIT and the Award of Contract should be put on the website of CPPP and Procuring Entity.
Once approved, there is a risk of a nexus getting developed and the mode may continue to be used for many years, without fresh application of mind	No item should be procured on PAC basis for more than three years, after which a mandatory OTE mode may be used, to test the market
The bidder may charge a price higher than the market	The firm should be asked to accept a "fall clause" undertaking that, in case it supplies or quotes a lower rate to other Governments, public sector or private organisations, it would reimburse the excess. Negotiations may be called for to get prices reduced

4.7 Single Tender Enquiry (STE) without a PAC

4.7.1 A tender invitation to one firm only without a PAC certificate is called a single tender. This mode may be shortest but since it may provide lesser VfM as compared to LTE/OTE and may also strain the transparency principle, it should be resorted to only under following conditions:

- i) In a case of existing or prospective emergency relating to operational or technical requirements to be certified by the indenter, the required goods are necessarily to be purchased from a particular source subject to the reason for such decision being recorded and approval of the competent authority obtained.
- ii) For standardization of machinery or components or spare parts to be compatible to the existing sets of machinery/equipment (on the advice of a competent technical expert and approved by the competent authority), the required goods are to be purchased only from a selected firm. (Rule 166 of GFR 2017)

4.7.2 Terms and Conditions

- i) The reasons for a STE and selection of a particular firm must be recorded and approved by the CA as per the delegation of powers laid down at in DFPR/SoPP, prior to single tendering. Unlike in PAC, powers of procurement of STE are more restricted; and
- ii) Other terms and conditions of PAC procurement mentioned above would also apply in this case.

4.7.3 STE - Risks and Mitigations

Risk	Mitigation
Same but more heightened risks than PAC are present in this mode. Selection of a single vendor may be non-transparent and unjustified	Same mitigation strategies as in the case of PAC should apply. Procurements on a STE basis should be made from reputed firms after determining reasonableness of rates. Powers of procurement of STE should be severely restricted.

MANUAL FOR PROCUREMENT OF CONSULTANCY & OTHER SERVICES 2017

3.10 Direct Selection: Single Source Selection (SSS)

3.10.1 Under some special circumstances, it may become necessary to select a particular consultant/service provider where adequate justification is available for such single source selection in the context of the overall interest of Procuring Entity. In Finance Ministry's 'Manual of Policies and Procedure of Employment of Consultants', this is called 'Selection through Direct Negotiations', which is not the generally prevalent nomenclature. (Rule 194 of GFR 2017, also see para 6.9.3) The selection by SSS/nomination is permissible under exceptional circumstances such as:

- i) tasks that represent a natural continuation of previous work carried out by the firm;
- ii) in case of an emergency situation, situations arising after natural disasters, situations where timely completion of the assignment is of utmost importance;
- iii) situations where execution of the assignment may involve use of proprietary techniques or only one consultant has requisite expertise;
- iv) At times, other PSUs or Government Organizations are used to provide technical expertise. It is possible to use the expertise of such institutions on a SSS basis;
- v) Under some special circumstances, it may become necessary to select a particular consultant where adequate justification is available for such single-source selection in the context of the overall interest of the Ministry or Department. Full justification for single source selection should be recorded in the file and approval of the competent authority obtained before resorting to such single source selection.

Procuring Entity shall ensure fairness and equity and shall have a procedure in place to ensure that:

- a) the prices are reasonable and consistent with market rates for tasks of a similar nature; and
- b) the required consultancy services are not split into smaller sized procurement.

3.10.2 SSS – Risks and Mitigations

Risk	Mitigation
Inappropriate selection of SSS: There is a possibility that SSS system is selected where LCS or other systems would have been more appropriate considering the quality requirements or the capability of Procuring Entity to monitor the assignment. The assignment may be split into parcels to avoid competitive selection systems or to avoid obtaining higher level approvals for SSS.	Full justification for single source selection should be recorded in the file and approval of the competent authority (schedule of Procurement Powers – SoPP should severely restrict powers for SSS selection) obtained before resorting to such single-source selection. In direct selection, the Procuring Entity should ensure fairness and equity and the required consultancy/other services are not split into smaller sized procurement to avoid competitive processes.
Cost may be unreasonably high: The single consultant/service provider is likely to charge unreasonably high price.	Procuring Entity must have a procedure in place to ensure that the prices are reasonable and consistent with market rates for tasks of a similar nature. If necessary negotiations may be held with the consultants/service providers to examine reasonableness of quoted price.

7.1.6 As per CVC guidelines, it's CFA's (Competent Financial Authority) responsibility to ensure that a statement of all selections by nominations, every month are to be reported to Secretary/Head of Ministry/Department.