

**MINISTRY OF FINANCE & ECONOMIC EMPOWERMENT**  
**PROCUREMENT POLICY OFFICE**

**Circular No. 2 of 2009**

**Ref : F/PPO/4/1**

**From: Director, Procurement Policy Office**

**To : Heads of Public Bodies**

**Amendments to Public Procurement Regulations 2008**

You are hereby informed that the Public Procurement Regulations 2008 have been amended as follows through the Public Procurement (Amendment) Regulations 2008 (Government Notice No. 8 of 2009 – copy attached):

- (i) **Regulation 5A. Request for sealed quotations**  
The prescribed threshold limit for the use of the Request for sealed quotations procurement method has been set at Rs 5 million.
- (ii) **Regulations 5 & 6**  
The threshold value for large works requiring a pre-qualification exercise and international open advertised bidding has been raised to Rs 400 million.
- (iii) **Regulation 21**  
Documents in French submitted with a bid may be accepted without a translation.
- (iv) **Regulation 25**  
The restriction to provide for price adjustment in works contract having a duration of less than 12 months has been waived.
- (v) **Regulation 28**  
The requirement for a bid security is no longer mandatory for procurements of an estimated value of up to Rs 200 million. Moreover, the form of the bid security shall be in accordance with instructions issued by the Procurement Policy Office.
- (vi) **Regulation 30**  
The period of bid validity requested shall be up to 90 days for national bidding, 120 days for international bidding and 180 days for large and complex works.

(vii) **Regulation 38**

On being informed of the approval of an award by the Central Procurement Board, if a public body requires more than 5 days to notify the bidders concerned about the proposed award, it shall inform the Central Procurement Board and the Procurement Policy Office giving reasons for an extension of the delay.

(viii) **Regulation 51**

The amount of the deposit required to file an application for review shall be Rs 75000 in respect of the opening process and award of major contracts and Rs 10000 in all other cases.

(ix) **Regulation 71**

The notification of award of major contracts shall henceforth be published on the website of the public body within 7 days from the date of issue of the letter of award.

Annexed is a comparative table showing the existing provisions and the new provisions

**Procurement Policy Office  
9 February 2009**

**THE PUBLIC PROCUREMENT ACT 2006**  
**Regulations made by the Minister under section 61 of the**  
**Public Procurement Act 2006**

1. These regulations may be cited as the Public Procurement (Amendment) Regulations 2009.

2. In these regulations –

"principal regulations" means the Public Procurement Regulations 2008.

3. Regulation 5(2) of the principal regulations is amended by deleting the figure "200" and replacing it by the figure "400".

4. The principal regulations are amended by inserting immediately after regulation 5 the following new regulation –

**5A. Request for sealed quotations**

For the purposes of section 20(1) of the Act, the prescribed threshold shall be 5 million rupees.

5. Regulation 6(1)(a) of the principal regulations is amended by deleting the figure "200" and replacing it by the figure "400".

6. Regulation 21 of the principal regulations is amended by adding immediately after paragraph (2), the following new paragraph –

(3) Notwithstanding paragraph (2), a public body may accept a document in French submitted with a bid.

7. Regulation 25 of the principal regulations is amended by revoking paragraph (3) and replacing it by the following paragraph –

(3) No price adjustment shall be allowed during the period of delay in performance if the delay is caused by the supplier or contractor.

8. Regulation 28 of the principal regulations is amended by revoking paragraphs (1) and (2) and replacing them by the following paragraphs–

(1) Subject to subsections (2) and (3), where a bid security is required, a public body shall indicate in the bidding document the type and form of the security in order to be acceptable.

(2) The type and form of the security indicated in the bidding document shall be in accordance with the instructions provided for in the standard bidding document.

(2A) (a) A bid security shall be required in procurement where the estimated value of the procurement exceeds 200 million rupees;

(b) A public body may request a bid security for procurement of an estimated value which is less than 200 million rupees in accordance with instructions issued by the Policy Office.

**9.** Regulation 30 of the principal regulations is amended –

(a) in paragraph (2)(a) and (b), by inserting after the word “be” the following words “of a period not exceeding”;

(b) in paragraph (3), by inserting after the words “be”, the following words “of a period not exceeding”.

**10.** Regulation 38 of the principal regulations is amended by adding after paragraph (1) the following –

(2) Notwithstanding paragraph (1)(a) where a public body considers that it requires more than 5 days, it shall promptly notify the Board and the Policy Office giving reasons for an extension of the delay.

**11.** Regulation 51 of the principal regulations is amended by revoking paragraph (1) and replacing it by the following paragraph –

(1) The submission of an application for review shall be accompanied by a deposit as follows –

(a) where the application relates to the bid opening process or the award of a major contract, an amount of 75,000 rupees;

(b) in any other case, an amount of 10,000 rupees.

**12.** Regulation 71 of the principal regulations is amended in paragraph (1) by deleting the words “a national paper with wide circulation” and replacing them by the words “its website”.

Made by the Minister, on the recommendation of the Policy Office, on 13 January 2009.

**AMENDMENTS TO PUBLIC PROCUREMENT REGULATIONS 2008**

	<b>Existing</b>	<b>Amendments</b>
1	<p><b>5. Open international bidding</b></p> <p>(2) For the purposes of section 18(1)(a) of the Act, the estimated value for procurement of goods, works and other services shall be 200 million rupees and for consultancy services 10 million rupees.</p>	<p>Regulation 5 (2) of the principal regulations is amended by deleting the figure “200” and replacing it by the figure “400”.</p>
2	<p><b>New Paragraph</b></p>	<p>The principal regulations are amended by inserting after regulation 5 the following regulation –</p> <p><b>5A. Request for sealed quotations</b></p> <p>For the purposes of section 20(1) of the Act, the prescribed threshold shall be 5 million rupees.</p>
3	<p><b>6. Prequalification proceedings</b></p> <p>(1) A prequalification exercise shall be effected for the procurement of –</p> <p style="padding-left: 40px;">(a) any large work for which the estimated cost exceeds 200 million rupees;</p>	<p>Regulation 6 (1)(a) of the principal regulations is amended by deleting the figure “200” and replacing it by the figure “400”.</p>
4	<p><b>21. Language of bidding document</b></p> <p>(1) All bidding documents, pre-qualification documents, bids, proposals or contract documents shall be in English.</p> <p>(2) Any document submitted with a bid in a language other than English shall be accompanied by a certified or otherwise authorised translation into English.</p>	<p>Regulation 21 of the principal regulations is amended by adding after paragraph (2), the following paragraph –</p> <p>(3) Notwithstanding paragraph (2), a public body may accept a document in French submitted with a bid.</p>

5	<p><b>25. Price adjustment</b></p> <p>(3) No price adjustment shall be allowed in the case of work contracts with a performance period of less than 12 months, and during the period of delay in performance if the delay is caused by the supplier or contractor.</p>	<p>Regulation 25 of the principal regulations is amended by revoking paragraph 3 and replacing it by the following –</p> <p>(3) No price adjustment shall be allowed during the period of delay in performance if the delay is caused by the supplier or contractor.</p>
6	<p><b>28. Requirements applicable to bid securities</b></p> <p>(1) Where a bid security is required, a public body shall indicate in the bidding document that a bid security in the form of a bank guarantee to be issued by a reputable bank in order to be acceptable.</p> <p>(2) A bid security shall be required in procurement where time is of the essence, and the failure of the winning bidder to sign the procurement contract would result in unacceptable delay.</p>	<p>Regulation 28 of the principal regulations is amended by revoking paragraphs (1) and (2) and replacing them by the following –</p> <p>(1) Subject to subsections (2) and (3), where a bid security is required, a public body shall indicate in the bidding document the type and form of the security in order to be acceptable.</p> <p>(2) The type and form of the security indicated in the bidding document shall be in accordance with the instructions provided for in the standard bidding document.</p> <p>(2A) (a) A bid security shall be required in procurement where the estimated value of the procurement exceeds 200 million rupees;</p> <p>(b) A public body may request a bid security for procurement of an estimated value which is less than 200 million rupees in accordance with instructions issued by the Policy Office.</p>
7	<p><b>30. Bid validity period</b></p> <p>(2) Subject to paragraph (3) a bid validity period shall –</p> <p>(a) for local bidding be 90 days;</p> <p>(b) for international bidding be 120 days.</p> <p>(3) For any complex major contracts, a bid validity period shall be 180 days.</p>	<p>Regulation 30 of the principal regulations is amended –</p> <p>(c) in paragraph 2(a) and (b), by inserting after the word “be” the following words “of a period not exceeding”;</p> <p>(d) in paragraph (3), by inserting after the words “be”, the following words “of a period not exceeding”.</p>

8	<p><b>38. Notification of Award (as amended per G.N. No.71 of 2008)</b></p> <p>(1) Following the identification of the successful bidder in accordance with section 40 of the Act, a public body shall –</p> <p>(a) notify the bidder of the proposed award of the contract within 5 days from the date of receipt of approval from the Central Procurement Board;</p> <p>(b) promptly publish notice of every procurement award as provided under regulation 71.</p>	<p>Regulation 38 of the principal regulations is amended by adding after paragraph 1 the following –</p> <p>(2) Notwithstanding paragraph (1)(a) where a public body considers that it requires more than 5 days, it shall promptly notify the Board and the Policy Office giving reasons for an extension of the delay.</p>
9	<p><b>51. Security Deposit for an application for review</b></p> <p>(1) The submission of an application for review shall be accompanied by a deposit as follows –</p> <p>(a) where the application relates to the award of a major contract, an amount equivalent to the bid security;</p> <p>(b) in any other case 10,000 rupees or 50 per cent of the bid security, whichever is the higher.</p>	<p>Regulation 51 of the principal regulations is amended by revoking paragraph 1 and replacing it by the following paragraph –</p> <p>(1) The submission of an application for review shall be accompanied by a deposit as follows –</p> <p>(b) where the application relates to the bid opening process or the award of a major contract an amount of 75,000 rupees;</p> <p>(b) in any other case, an amount of 10,000 rupees.</p>
10	<p><b>71. Notice of procurement contract award</b></p> <p>(1) In the case of procurement contracts whose value exceeds the prescribed amount, the public body shall cause a notice of the procurement contract to be published in a national newspaper with wide circulation within 7 days of the award of the contract.</p>	<p>Regulation 71 of the principal regulations is amended in paragraph (1) by deleting the words “a national paper with wide circulation” and replacing them by the words “its website”.</p>