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## **TENDERING SYSTEM IN NFDC**

### **1. General:**

Tendering is the most accepted method of procurement of goods and services. Different forms of tendering have been devised to meet the needs of the situation and obtain the best possible goods and services at the least possible cost. However, it is impossible to devise rules, systems and procedures which can meet the needs of all situations. The procedures described below should, therefore, be taken more as a guideline rather than as absolute rules. However, if any deviations from these instructions are to be made, there should be strong reasons for doing so and should be made only with the approval by competent authority.

In cases where rules and instructions are not clear, the following considerations may be found of help in taking decisions-

- There should be transparency in decision making.
- Fair and equal opportunity must be given to all bidders.
- Decisions taken should demonstrably be in the best interest of the company.
- Reasons for taking a decision must be recorded.

The procedure will be equally applicable to work contracts as well as supply contracts. Hence, in what follows, the terms ‘works’ and ‘supplies’ should be used interchangeably. Where special instructions are required, it has been so indicated. These instructions should be read along with the provision in the Schedule of Powers of the company issued from time to time.

### **2. Form of Tenders:**

Three forms of tenders are generally prevalent

- Open Tender
- Limited Tender
- Single Tender

#### **a. Open Tender**

Open tender means call of tender by publication of Notice Inviting Tenders (NIT) by means of advertisement in newspaper(s) and other media.

While inviting Open Tender –

- Advertisement must be given in at least one daily newspaper. NIT should also be published on the website of the corporation.

- Open tender is generally more time consuming and may also be more expensive.
- Open tender system should be resorted to in case estimated value of the tender is Rs.50 Lakhs and above.

If it is proposed to adopt Limited or Single Tender system, approval of the authority competent to call for Limited/single tender should be obtained before calling for tender.

#### **b. Limited Tender**

Limited tender implies issue of tender documents to a limited number of prospective bidders. Limited Tender may be considered where the number of known bidders of proven capability and credentials is limited or time available is less.

While inviting Limited Tender –

- Tenders should be invited from a previously Approved List of suppliers/contractors with the approval of the authority competent to accept the tender.
- If no Approved List exists or where additional names are to be added to/removed from the list, the list of bidders to whom NIT / tender documents are proposed to be issued should be got approved by the competent authority with Finance advice.
- Tenders should be invited from at least six bidders. If the number of bidders proposed to be invited to bid is less than six, approval of the same should be obtained.
- While deciding the number of bidders, care should be taken to ensure that there are sufficient number of qualified bidders in the selected list in the interest of healthy competition.

#### **c. Single Tender**

Single Tender means inviting bid only from one bidder. Since this is the most restrictive form of procurement, it should be resorted to only if unavoidable.

Some of the situations in which Single Tender may become necessary are-

- Procurement of a priority item
- New and innovative or highly specialized nature of work.
- Urgency.
- Requirement indicated by the Client, to be recorded in tender case.

### **3. Procurement of Services:**

The Corporation may hire external professionals, consultancy firms or consultants for specific job which is well defined in term of content and time frame.

#### **a. Identification of likely Source:**

- a) Where the estimated cost of the service is upto Rs.25.00 lakhs per job or per annum as the case may be, selection of agencies may be made out of approved panel. In case the approved panel is not available likely sources capable of handling assignment on the basis of formal or informal enquiries may be explored.

Technical capabilities may be ascertained through:

- i) Calling of technical bid/details on the basis of predefined criteria.
  - ii) Evaluation of predefined criteria plus “Presentation” before the nominated committee
- b) Where the estimate cost of the service is above Rs.25.00 lakhs per annum/ per case as the case may be, selection of agencies may be made through open tender, an enquiry for seeking ‘Expression of Interest’ from consultants should be published in at least one national daily and Corporation’s web site. The web site address should also be given in the advertisements. Enquiry for seeking Expression of Interest should include in brief, the broad scope of work or service, inputs to be provided by the Corporation(s) and consultant’s past experience in similar work or service. Adequate time should be allowed for getting responses from interested consultants.
- c) After selection of agency on the basis of selection criteria, financial bids may be invited.
- d) For selection of directors/ creative directors for media business, the procedure is laid down in annexure “B”.

b. Consultancy by Nomination:

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 Corporation. Full justification of single source selection should be recorded in the file

**4. Rate Contract:**

In case of regular requirement of certain materials/services throughout the year e.g. raw material, spare parts, consumables, stores, stationery, agencies for restoration/repair, a rate contract may be established to save time and to obtain best possible rates. Rate contract is suitable in case there is a regular requirement of such goods/services.

- Rates valid for half year/one year may be invited by calling bids from approved short listed agencies as per tender procedure.
- At the time of calling bids, estimated annual requirement may be indicated so as to ensure bulk rates.
- After selecting agency, a rate contract valid for a specified period may be entered.

### **5. Repeat Order:**

Repeat order may be placed upto 25% value of the original value of work order without calling fresh tenders.

However

a) In case original work order is less than six months	No financial concurrence is required
b) In case original work order is more than six months old but less than one year old	Financial concurrence is required
c) In case original work order is more than one year	No repeat orders - to call fresh tender

### **6. Time Frame:**

Considering nature of work, normally minimum time allowed for submission of bids should be as indicated below –

Open Tender	2 weeks
Limited Tender	1 weeks
Single Tender	3 days

The above is, however, only indicative. A different time period may be provided with the approval of the Tender Accepting Authority depending on the need of the situation.

### **7. Dispensing with Tender:**

In case estimated value of works/supplies/repairs etc. is less than Rs.10.00 Lakhs supplies/works/services may be procured in following manner.

- For purchases of more than Rs. 50,000 and upto Rs. 500,000, nominated Committee, to call for at least 3 quotations, Committee to review and comment on reasonability of rates. Members of the Committee should not be below the rank of Asstt. Manager.
- For purchases more than Rs. 500,000 to Rs. 10,00,000, Sr. officer's committee, not below the rank of Dy. Manager, to call for at least 3 quotations. Committee to review and comment on reasonability of rates after considering last purchased rate/market survey.
- In case of branded, technically specific or artistic value material, Sr. officer's committee to purchase through extensive market survey and to buy from authorized dealers. Committee to review and comment on reasonability of rates.
- In above cases, committee will comment on reasonability of the rates, in the minutes, as follows:

“Certified that we \_\_\_\_\_, members of the purchase committee are jointly and individually satisfied that the goods recommended for purchase are of the requisite specification and quality, priced at the prevailing market rate and the supplier recommended is reliable and competent to supply the goods in question.”

- Expenditure up to Rs.50,000/- in each case can be incurred, under the authority of concerned HOD and within the powers as given in Delegation of Authority, without quotations or formation of any committee. However HOD will ensure that rates are generally reasonable.
- In case appropriate levels of officers are not available in Regional Office(s), lower level officers may be included in the committee with the approval of competent authority.

#### **8. Earnest Money Deposit:**

- a) The purpose of EMD is to ensure that the tenderer does not withdraw his offer within the validity of the offer. In case he does so, the EMD will be forfeited. EMD of unsuccessful tenderers should be refunded at the earliest possible time
- b) Offers unaccompanied by the prescribed EMD should not be considered.
- c) The amount of EMD and the form in which it would be acceptable should be clearly indicated both in NIT.
- d) In case of small tenders, requirement of EMD may restrict participation in the tendering process, accordingly EMD will not be asked for tenders upto value of Rs. 10 Lakhs.
- e) Earnest Money Deposit (EMD) will be 0.5% of the estimated cost of the tendered work.
- f) Earnest Money shall be in the form of Demand Draft drawn in favour of National Film Development Corporation Ltd. payable at the place prescribed/FDR endorsed in NFDC's favour from a scheduled Bank in India.
- g) If it is proposed to dispense with EMD, prior approval of MD/DF should be obtained.

#### **9. Performance Security / Retention Money.**

The purpose of Performance Security/Retention money is to ensure that after entering into the contract, the contractor executes the work in accordance with terms and conditions contained therein.

- a) Retention money for all contracts shall be recovered from on account/final bills of the Contractor @ 10% of the gross value of each bill after adjusting Earnest Money amount till the amount so recovered including EMD amount add up to 5% of the contract value. No interest shall be payable to the Contractor on the amount retained in cash towards retention money.

- b) The Retention Money shall be released after acceptance of the final bill by the Contractor, expiry of defect liability period and rectification of all failures, defects, imperfections, shrinkages and faults.

#### **10. Estimates:**

Before issue of tender documents, an estimate may be prepared and got approved by the competent authority after finance vetting.

#### **11. Site of work:**

Tenders should not be issued unless the site of work is available free of all encumbrances. However, if it becomes necessary to proceed with the tendering process pending availability of site of work free from all encumbrances, this fact should be brought to the notice of the authority competent to authorized calling of the tender.

#### **12. Procedure for Purchase:**

##### **a. Issue of Enquires:**

In case of single/Limited tender Purchase Committee shall issue an enquiry/tender to selected agencies to bid for the work. In case of open tender, the NIT will be published in news paper(s). NIT will specify the date and time upto which tender documents can be collected. The NIT should be published at least one local newspaper.

##### **b. Notice Inviting Tender(NIT)**

Notice Inviting Tender gives all essential information about the project in brief to enable prospective bidders to decide about bidding. It is not possible to specify to complete content of the NIT. However, the NIT should contain at least such information as name documents if any, period of availability etc. so as to enable the tenderer to decide whether to bid or not and if so information about the availability of tender documents. However, detailed information may be published on the website. In NIT website address should be mentioned.

##### **c. Short Listing for Limited Tenders:**

Head Office/ Regional office shall develop an Approved List of suitable agencies for different types of works/supplies. The names of contractors/suppliers shall be placed in the lists after verifying their technical and financial credentials. The lists shall be dynamic and updated from time to time.

The names of reputed contractors/suppliers service provider can, after recording reasons, be put on the Approved List with approval of authority without calling for PQ details.

Whenever limited tenders are to be called, short-listing shall be done from the approved list contractor/suppliers. If approved list is not available, suitable/credential agencies

may be selected based on Formal/Informal enquiries and be approved before calling tenders.

**d. Preparation of Tender Documents:**

Tender documents are of great importance. They lead to the formation of contract with the tenderer. Hence tender documents must be drawn with great care. The contents of the tender document are not being specified over here. They will vary from work to work. However, they must directly or by inference broadly include the following:

Brief Description and place of work  
Estimated Cost  
Completion period  
Conditions of contract – General Conditions and Special conditions, if any.  
Eligibility criteria  
Earnest Money requirement  
Advances such as Mobilization advance etc.  
Performance Security/Retention money  
Payments Terms  
Plant & Machinery/Material to be provided by NFDC  
Facilities to be provided by NFDC  
Taxes  
Quantity variations  
Methods for determining rates of non-scheduled items  
Liquidated damages  
Termination  
Dispute Resolution  
Specifications  
Quality Standards  
Acceptance Test Procedures  
Jurisdiction of courts for dispute resolution  
Etc.

Each page of the Tender documents must be serially numbered and initialed by an officer not below the rank of an Asstt. Manager.

**e. Two Packet system:**

Where approved list/short list is not prepared or in other cases as considered necessary, two-packet system of tendering may be followed. Two Packet system comprises may be decided with the approval of the competent authority. Financial Bid of only successful bidders in technical bid process should be opened.

**f. Receipt & Opening of Tenders**

Tenders shall be received in sealed covers, for which a tender box shall be kept at a conspicuous place. The tender box shall remain locked and the key shall be kept in the

custody of an authorized officer. However, for low value tenders, tenders may be collected in person.

Tenders received should be opened jointly by the executive officer and an Accounts representative nominated for the purpose. Those tenderers or their authorized representative who desire to be present may be allowed to do so. Detailed instructions for Opening of Tenders are given in **Annexure A**.

**g. Delayed and Late Tenders:**

Such offers which are received after the “closing time” of receipt of offers but before opening of tenders are called Delayed Tenders and those received after the opening of tenders are called Late tenders.

Delayed and Late tenders should be received and their date and time of receipt marked in red ink on the envelopes and signed by the tender opening officials. However, Late tenders are not to be considered hence their envelopes should be left unopened. Delayed tenders should be opened by the tender opening committee and recorded as such on the tender papers. Delayed tenders may be considered by the Tender Committee like a normal tender.

**h. Tenders received by Fax:**

Offers received through Fax may also be considered provided the offer is received before opening of tender and is followed by a written offer.

**i. Formation of Tender Committee:**

Tender Committee will consist of three members. One member of the Tender Committee will be from the Finance department. Members of the tender committee will not be below the rank of Dy. Manager. However, in case Regional Office is not having requisite level of officers, lower level of officers may be included in the Tender Committee with the approval of competent authority.

**j. Minutes of the Tender Committee:**

TC minutes should be such that it brings out all relevant factors to enable the Accepting Authority to take decision.

The Tender Committee minutes should be comprehensive. It is not possible to lay down the complete contents of TC Minutes applicable to all situations. However, the following composition of the Minutes may be found useful-

- Information about composition of TC and meeting held
- Factual information about the work-e.g. name, place of work, period, estimated cost, client, etc.
- Factual information about the tender – e.g. type of tender, newspaper in which advertisement issued, tender sold, offers received, relative position of all offers.

- Discussion on eligibility, earnest money and such other matters.
- Evaluation of offers. The offers of lowest three tenders should be discussed in detail.
- Evaluation implies evaluation of the bidder as well as evaluation of the bid. The former gets covered in discussion of the eligibility criteria. Evaluation of the bid includes discussion on reasonableness of rates, special conditions of the bidder including its financial implications etc. If the rates offered are too low, the workability of rates should also be commented upon.
- Comparison with sanctioned estimate if any.
- Finally, Recommendation of the tender committee should be clear and specific. The Minutes should also clearly indicate the competency of sanction.

It needs to be emphasized that the Tender committee cannot change the tender conditions as originally given. The Committee, may, however, comment upon it for the information of the Accepting authority.

Tenders requiring the acceptance of MD should be routed through the Director Finance.

### **13. Negotiation:**

Negotiation is a matter of exception and if unavoidable, may be resorted to only with the lowest acceptable bidder. However, following may be noted:

- (i) There should not be any negotiations. Negotiations if any shall be an exception and only in the case of proprietary items or in the case of items with limited source of supply. Negotiations shall be held with L-1 only. Counter offers tantamount to negotiations and should be treated at par with negotiation.
- (ii) Negotiations can be recommended in exceptional circumstances only after due application of mind and recording valid, logical reasons justifying negotiations. In case of inability to obtain the desired results by way of reduction in rates, and negotiations prove infructuous, satisfactory explanations are required to be recorded by the Committee who recommended the negotiations. The Committee shall be responsible for lack of application of mind in case its negotiations have only unnecessarily delayed the award of work/contract.

Negotiations may be undertaken only on the recommendations of the tender committee and with the approval of the authority competent to accept the tender.

### **14. Acceptance of Tender:**

The Accepting Authority may accept, reject or modify the recommendations of the Tender committee. The accepting authority may also refer the case back to the TC for reconsideration on some points as the case may be. If the Accepting authority rejects or modifies the recommendations of the Tender committee, the reasons for doing so must be recorded in the file.

### **15. Withdrawal by L1/H1 Bidder:**

In case of L1/H1 backing out there should be re-tendering

### **16. Transparency:**

Tender committee, recommending authority and accepting authority will ensure transparency. The Accepting authority or any other official should not issue any directive or guidelines to the Tender Committee for the consideration for the Tender committee.

### **17. Letter of Acceptance:**

Letter of Acceptance of the offer should be issued to the tenderer immediately after the acceptance of the tender by the competent authority. Since the contract comes into existence immediately on communication of the acceptance, it is important to ensure that the LOA is correctly framed and is in accordance with the acceptance of the Accepting Authority.

LOA should be issued in duplicate one copy of which should be returned by the contractor duly accepted.

Some important points regarding LOA-

- LOA should be unconditional. As per the law on contracts, a conditional LOA is not LOA but only a counted offer. Being a counted offer, it will be opened to the bidder whether or not to accept the terms given in the LOA.
- LOA should indicate the date by which the Agreement will be ready for signature by both the parties and request the tenderer to sign the Agreement thereafter.
- It should indicate whether the contractor may treat the LOA as work order also and commence the work or wait for further instructions.

Letter of Acceptance is followed by signing of the Contract/Agreement between NFDC and the bidder. Contract Agreement should be vetted by Finance before issue.

In case of small contract final work order may be issued directly. Work order to be issued for all contract/agreement valuing is Rs.50,000/-

## **19. Powers of MD:**

These Policy Guidelines for Tendering framed to enable the Company to do business on the basis of certain norms, pertain to day-to-day tender management and fall within the scope of substantial powers of management with Managing Director to carry on the business of the Company. Therefore, the Managing Director is authorized to carry out any amendment in these Guidelines that may be found necessary to meet the business requirements of the Company and that are of minor in nature, however same will be reported to the BOD subsequently. Any amendment which is major in nature will require prior approval of the BOD.

## **OPENING OF TENDERS**

Tenders shall be opened at the specified time, date and place by the committee nominated consisting of the Executive and Accounts representative in the presence of intending tenders or their representatives.

The sealed tender box should be opened in the presence of all and the number of bids submitted should be counted and announced before proceeding further.

The particulars of tenders received should be noted in the Tender Sale Register containing at least the following information –

Serial Number

Name of the work & tender number

Name and address of tenderer

Date and Time of Opening

Nature of tender (late/delayed)

Remark about Earnest Money

Signature of tenderer

The tenders received will be properly numbered i.e., 1/4, 2/4,.....

A closing line should be drawn at the bottom of the last entry and the following information recorded-Number of tenders sold, number of tenders received, Late/Delayed tenders, tenders received in open condition/by Fax. The register should be signed by the Executive and the Accounts official who have opened the tenders. This register should be kept in safe custody.

All the officials who have opened the tenders should

- Initial with date on the cover containing the tender on the front cover page of the tender and also on every page of the tender in which the rates and special conditions are quoted, schedule of quantities, and other essential parts of contracts documents.
- Mark all corrections and overwriting and number them in red ink. In case of a number of corrections, in any rate either in words or in figures, the number of corrections marked should indicate the corrections serially, that is to say in case of three corrections in rate of any one item each of the three corrections should be allotted independent numbers serially and not one number to represent all the three corrections;
- any ambiguities in the rate quoted by tenderers in words or figures must be clearly indicated on each page of the schedule attached to the tender to which it concerns.

All correction, alterations or additions in the tender shall be initialed at the time of opening the tenders, by the Officers opening the tenders in order not to have any room for doubt or ambiguity regarding the corrections, alterations or additions existing at the time of opening of tenders.

The names of the tenderers and the rates as quoted by each both in words and figures should be read out, where practicable to the tenderers or their representative who may be present at the time of opening.

While opening the tenders, no opportunity should be given to any of the tenderers to repudiate or alter what has already been quoted in the tender i.e. the tenderers should not be asked to explain or go through the remarks regarding the rates already quoted or remarks already made by them in the tenders submitted by them.

Delayed tenders should be opened by the Committee considering the merits.  
Late tenders should not be opened but marked as such in red ink.

## Annexure "B"

### **Selection of Director/ Creative Director (Media Business)**

In the sphere of creative areas such as production of films and audio visual and other creative works the tender policy and conditions stipulated herein would not apply since there cannot be a tender policy on creative spheres. The selection of the Director or Creative Director for a creative work or production project would be done by a Committee for Shortlisting/Selection of Director/Creative Director. The shortlisting/selection would be done by the Committee from the available Panel of Directors.

The Committee for Shortlisting/Selection of Director/Creative Director will consist of three members. Members of the Committee will not be below the rank of Manager. However, in case Regional Office is not having requisite level of officers, lower level of officers may be included in the Committee with the approval of competent authority.

The Committee's decisions would depend on a case to case basis. However, they must directly or by inference broadly include the following parameters:

- Work profile of the Director
- Creative abilities of the Director
- Technological and logistical facilities available with the Director for production
- Creative Team

## **Delegation of Powers – Tendering related**

### Administrative approval

Sl.	Subject Matter	Authority	Existing delegation	Revised Delegation	Remark
1	Administrative approval for capital purchases	MD	Above 1 lakh	Full powers as per Capital Budget approved in BOD	Financial Concurrence required for proposal above Rs. 1 lakh.
		DF	Upto Rs. 20000 for office equipment	Officers delegated with power to sanction may give administrative approval	
		GM/DGM/ HOD	-		
2	Administrative approval for other purchases	MD	Above Rs. 5 Lakh	Officers delegated with power to sanction may give administrative approval	
		DF	upto Rs. 5 Lakh		
		GM/DGM/ HOD at RO	-		

### Issuance of Enquiries

Sl.	Subject Matter	Authority	Existing delegation	Revised Delegation	Remark
1	Issuance of enquiries for open tender, limited tender and single tender	HOD	Full Powers	Full Powers	- Against approved indent / administrative approval.
		Mgr/DM	Upto Rs. 10/5/1 lakh for open/ limited/ single tender	Upto Rs. 10 lakh	

- Earlier powers were with purchase dept. only

### Acceptance of Tenders

Sl.	Subject Matter	Authority	Existing delegation	Revised Delegation	Remark
1	Acceptance of open tender, limited tender and single tender	HOD	Full Powers	Full Powers	- Against approved indent / administrative approval and lowest offer.
		Mgr/DM	Powers Upto Rs. 10/5/1 lakh for open/ limited/ single tender	nil	

- Earlier powers were with purchase dept. only

## Dispensing with Tender - Acceptance of Tenders

Sl.	Subject Matter	Authority	Existing delegation	Revised Delegation	Remark
1	For value more than Rs.50,000/- but upto Rs.5,00,000/-	HOD/Head of RO	-	Full Powers	
2	For value more than Rs.5,00,000/- but less than Rs.10,00,000/-	HOD/ Head of RO (DGM and above)	-	Full Powers	