



भारतीय राष्ट्रीय राजमार्ग प्राधिकरण

(सड़क परिवहन और राजमार्ग मंत्रालय, भारत सरकार)

National Highways Authority of India

(Ministry of Road Transport and Highways, Government of India)

जी-5 एवं 6, सेक्टर-10, द्वारका, नई दिल्ली - 110 075 • G-5 & 6, Sector-10, Dwarka, New Delhi-110075

दूरभाष/Phone : 91-11-25074100 / 25074200



NHAI/Policy Guidelines/ IT /2022

Policy Circular No. 6.33/2022 dated 18th October, 2022

{Decision taken on E-Office File No. 13057/02/2021/IT (Comp. No. 117184)}

Sub.: Payment Processing Module on Datalake for submission of bills and processing of all types of payments related to NHAI project (except LA)- reg.

- Ref: 1) Policy Circular No. 6.23/2020 dated 15.09.2020
2) OM No 13057/01/2021/IT dated 13.04.2022
3) OM No 13057/01/2021/IT dated 24.05.2022
4) OM No 13057/01/2021/IT dated 01.09.2022 (read with clarification dated 02.09.2022). Copies enclosed

NHAI has mandated compulsory submission and processing of all bills through Data Lake to ensure project-based accounting at AFMS. To bring transparency and traceability of bills submitted on Datalake and assure full adherence to prescribed policy guidelines, the existing payment module has been upgraded with additional functionalities as well as checks at each stage based on inputs from HQ, PIUs, F&A units. It has also enabled with authentication through digital signatures by the users covering the entire payment work flow viz the claimant (i.e. Contractors/ Concessionaire, Consultants), Engineers, PDs and F&A Unit officials to facilitate handling the bills processing only on Data Lake and not through e-office.

2. The beta version of the above upgraded system was made live w.e.f. 15th April 2022 vide reference 2 above after first round of training from 4th - 7th April 2022. Subsequently, refresher training was also conducted from 26th - 31st May 2022 and 2nd - 8th September 2022 for the concerned users.

3. Now, in supersession of all previous Policy circular(s) on the subject and to ensure transparency and timely release of eligible payments to all types of claimants except LA, the following directions shall be strictly adhered to by all concerned involved in payment process:

- i. Entire processing of payments starting from invoice submission to actual release including any *to-and-fro* movement for seeking clarifications etc. shall be only on Data Lake **and not through e-office**. Accordingly, for processing of any project related payments (excluding LA), no officer shall use e-office platform for recommending payment and F&A unit shall not entertain payment recommendations on e-office. Only for seeking administrative approvals / fund sanctions etc. before recommendations of payments, e-office shall be used and a copy of such approvals shall be attached while sending recommendation to F&A unit for payment release on Data Lake.
- ii. In addition to routine monthly payments, to facilitate those claimants, who do not need regular access to Data Lake e.g. proof /safety consultant / agencies such as advertising agencies, legal professionals, toll operators, utility shifting authorities, miscellaneous servicers providers / petty suppliers, etc or those contractors / consultants who are demobilized as on date, however need to claim any outstanding amount, a facility for online submission of such bills exists in the Data Lake home page (*Claim Outstanding Payment*). PIU to make such claimants aware of this facility and process such payments under concerned project UPC along with its recommendation to F&A unit after requisite approvals.

Contd...2/-

- iii. In compliance to Ministry of Finance, Department of Expenditure (GoI) Circular No. F.1/1/2021-PPD dated 29.10.2021; (copy enclosed) (Clause 12.1 regarding Delay in payment to the Contractor) following instruction are mandated:

- a. Ad-hoc payments of not less than 75% of eligible running account bill/ due stage payment, shall be made within 10 working days from bill submission date. This period of 10 days is for completion of all *ad-hoc payment* processes including prima facie scrutiny by all concerned in payment chain. The timeline for processing such payments shall be as follows:

Sr.	User	Days from submission by preceding User
1	AE/IE Concerned	4
2	PD Concerned	2
3	FA RO	2
4	DDO	1

- b. The remaining payment is also to be made within 28 working days of submission of original bill by the contractor after final checking of the bill as per the prescribed procedure.
- c. In case of delay in release in ad-hoc payment, written explanation shall be submitted by concerned official along with reason of delay in processing payment to his next higher authority within 3 days of payment.
- d. In case of unwarranted discretionary in delay of payments, responsibility shall be fixed on the concerned officers by the Authority.
- e. The final bill should also be paid to the contractor within three months after completion of the work as per contract.
- f. Any violation / non-compliance to stipulated procedure shall attract personal responsibility.
- iv. Detailed SoP to facilitate all Data Lake Users along with FaQ is available in Data Lake Helpdesk Menu for ready reference and guidance. In addition, Data Lake helpdesk may also be contacted on 011-25074100/200 Ext 3026 / 3028 / 3037.

4. This issues with the approval of Competent Authority.

Encl: As above



(Lt Col Chandan Vatsa, Retd)
Chief General Manager (Coord.)

To:

All Officers of NHAI HQ/ ROs/ PIUs/ CMUs/ Site Offices

Copy to:

1. Hindi Officer for translation in Hindi.
2. Library for hosting the circular on library site.
3. Web Admin for circulation



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NHA/Policy Guidelines/Project Payment/2020

No. 6.23/2020 dated 15th September, 2020

[Decision Taken on File No.NHA/F&A/2020-21/Project Paymt/DataLake/Circular,
E-File No.-29693]

Sub : Submission of bills related to project payments of NHA through Project Management System (PMS/ Data Lake) Portal.

NHA has facilitated on line submission of bills through Project Management System (PMS/ Data Lake) Portal for early disbursement of payments vide Circular No. NHA/IT/Data Lake/05, dated 21.04.2020. (copy enclosed). However, it was observed even after lapse of more than 4 months period that bills are still being submitted physically, without uploading in the PMS/ Data Lake.

2. In order to further strengthen the process and facilitate speedy payments, the system has been modified. A detailed process flow chart is enclosed for e-office users. The following steps may be followed:

- (i) This is applicable for all project related payments (Bills, Annuities, COS, Utility Shifting, Consultants Payments, etc.)
- (ii) The Contractors/Consultants shall 'compulsorily' upload the bills along with all supporting documents in the portal.
- (iii) Once it is submitted by the Contractor/Consultant, the AE/IE/PD/RO (receiving Official), as the case may be, shall verify the supporting documents and confirm its adequacy within 24 hours and submit to the PMS.
- (iv) On verification and acceptance by the Receiving Official and submission to the system, auto generated alert shall be communicated with a transaction ID to the Contractor/ Client. The date of such acknowledgement shall be treated as the date for submission of bills.
- (v) IE/AE shall process the bill and submit it to Project Director (PD) for further action. For bills submitted to RO/PD, they shall process the bills directly.
- (vi) PD shall process the bills through e-office and generate a payment file in the e-office quoting the Transaction ID. The entire information including the PIU/Project Name/Transaction ID/ Bill Amount shall be fed in the system and send it to the F&A unit for payment, as per laid down procedure.
- (vii) On Payment, Finance Division shall update the Transaction ID in place of BTS.

3. Accordingly, to ensure the system implementation, the following be complied with:

- (i) All Contractors/Concessionaires/ Consultants shall mandatorily submit the bills in the PMS/Data Lake only. No physical bills shall be accepted from 17.09.2020 for payments unless quoted with the Transaction-ID.
- (ii) Claimants must quote the Transaction ID in all correspondence.

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- (iii) Finance Division shall ensure that all bills submitted after 16.09.2020 must have reference of the Transaction ID, without which bills shall not be processed for payment.

This Circular is issued with the approval of Competent Authority.

Encl.: As above.



(Amarendra Kumar)
Chief General Manager (Coord.)

All Officers at NHAI HQ/ROs/PIUs/CMUs/Site Offices

Copy to:

All Members/CVO

PS to Chairman

Hindi Division- for translation in Hindi

NHAI/Policy Circular No
NHAI/IT/Data Lake/05
Dated 21st April 2020

CIRCULAR**SUB: Go Live of Project Management Software and Data Lake Portal w.e.f 25th April 2020**

The Project Management Software & Data Lake Portal is ready for use by all stakeholders of NHAI. All 1169 Projects with Unique Projects Code have been entered in the Data Lake and project management work flows along with Alerts have been configured in the Software. Over 1072 users including officers of HQs/ROs/PDs and authorised representatives of Contractors/Concessionaires, AEs/IEs & consultants have been registered on the portal. In addition to this, an online correspondence module for online movement of letters between Contractors/Concessionaires, AEs/IEs and PDs is also added to further facilitate of approvals in a time bound manner. Multiple rounds of trainings have been given to all the stakeholders.

2. In view of the above and in the prevailing lockdown situation & guidelines to prevent spread of COVID-19, it has been decided by the Competent Authority that with effect from 25th April 2020, all project related communications, approvals and correspondences between Contractors/Concessionaires, AE/IE & PD/RO/HQ will be done through the Project Management Software / Data Lake Portal only. No physical paper will be accepted unless it is a legal requirement.

3. The Contractors/Concessionaires are requested to use the Portal to communicate with the respective stakeholders, seek various approvals, submit stage payment bills with supporting details and upload their letters. Similarly AEs/IEs are requested to use the portal for communicating various approvals to Contractors/Concessionaires and taking up cases with PDs/ROs/HQ NHAI.

4. PDs to process the cases requiring approval of the ROs/HQ NHAI, through the portal only. Please use e-Office Module integrated with the Project Management Software / Data Lake Portal to process the case to RO/HQ NHAI along with letters of Contractors/Concessionaires and recommendation of AE/IEs using e-Office Note sheet. Similarly ROs are requested to accord approvals and process cases to HQ NHAI through Portal and e-Office Note sheets only.

5. The Project Management Software, user manual & video tutorial, helpdesk can be accessed by using the following :

Web-link	:	http://13.232.225.151/NHAI or http://datalake.nhai.gov.in/nhai
Help desk	:	Mr. Mihir / Mr Tanveer at 722786077 & Mr. Santosh at 7905054486
Helpdesk email ID	:	pmshelpdesk@nhai.org

This is issued with the approval of the Chairman, NHAI please.


(Akhilesh Srivastava)
CGM(T/IT)

To,

All ROs and PDs NHAI

All working Concessionaires / Contractor / DPR Consultants / User Fee collection Agencies

All Independent Engineers / Authority Engineers / PMC

Copy to

1. PPS to Chairman
2. PPS to Member (Admin) / Member (Fin) / Member (Project), NHAI
3. All CGMs HQ NHAI
4. All NHAI
5. Web Admin



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फैक्स / Fax: 91-11-25093507/ 25093514

April 13, 2022

File. No 13057/01/2021/IT

Office Memorandum

Sub.: Payment Processing Module on Datalake for submission of bills and processing of all types of payments related to any project (*except LA*) - Go Live of the upgraded system (beta version) w.e.f. 15.04.2022.

Ref: 1. Policy Circular No. 6.23/2020 dated 15.09.2020
2. Even No OM dated 30.03.2022

In order to facilitate claimants (viz. concessionaire/contractor/consultants etc.) trace the status of their bills submitted and help NHAI officers monitor pendency at various levels, NHAI vide Policy Circular No. 6.23/2020 dated 15.09.2020 had mandated compulsory submission and processing of all bills through Data Lake only w.e.f. 17.09.2020. However, instances of some non-compliance were observed as under:

- Physical submission of bills and its processing.
 - Submission of bills by claimant on data lake, however processing of payments through e-office.
 - Absence of Transaction ID during generation of payment voucher on AFMS
 - Not use of on-line checks against sanctioned budgets for UPCs of project concerned.
- To bring transparency and traceability of bills submitted on Datalake and assure full adherence to prescribed guidelines, the existing payment module has been upgraded with additional checks at each stage and enabled with *authentication with digital signatures by all concerned viz. the claimant, AE, PDs and F&A unit handling the bills processing.*
 - Prior to formal Go-Live of this module, exhaustive hands-on trainings were organized for the ROs with their F&A officials and PDs as well as the concerned personnel under RO & PIU e.g. FA-Units, DDOs, AEs/ IEs during 4th – 7th April 2022. Detailed SoP has also been prepared and enclosed. The SoP also has a separate section to address FaQ. All concerned officers are requested to go through and ensure adherence for successful implementation.
 - The beta version of upgraded system shall go live w.e.f. 14.04.2022 23:59:59 hours. From now onwards entire processing of payments starting from invoice submission to actual release including any *to-and-fro* movement for seeking clarifications etc. shall be only on Data Lake and not through e-office Accordingly, for processing of any project related payments (*excluding LA*), no officer shall use e-office platform for recommending payment and F&A unit shall nor entertain payment recommendations on e-office. Only for seeking administrative approvals / fund sanctions etc. before recommendations of payments, e-office shall be used and a copy of such approvals shall be endorsed while sending recommendation to F&A unit for payment release.

continued on pg 2/-

420428/2022/GM (IT-III) Office

- 2 -

5. Any situation not covered under the prescribed workflow in Data Lake (*if so discovered*) may be brought to the notice of helpdesk as well as also put into feedback in data lake. The dedicated back-end team of service provider shall be monitoring to ensure smooth roll out. In case of any assistance to users, Data Lake helpdesk may be contacted 011-25074100/200 Ext 3026, 3028, 3037.

Encl: As above.


(Deepak Saxena)
GM (IT)

To,

All ROs, All PDs
CGM (Fin)-HQ

Copy for information to:

1. All CGMs/ GMs
2. All Members / CVO
3. PPS to Chairman, NHAI

Copy also for necessary action to:

1. GMC Team - Project Manager - Kind Att. Ms Chinmayee Pradhan
2. Data Lake Team - Project Manager - Kind Att. Sh Ram Singh



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फैक्स / Fax: 91-11-25093507/ 25093514

May 24, 2022

File. No 13057/01/2021/IT

Office Memorandum

Sub.: Training to all stakeholders on the upgraded Payment Processing Module on Datalake for submission of bills and processing of payments related to projects reg.

NHAI has mandated compulsory submission and processing of all bills through Data Lake. To bring transparency and traceability of bills submitted on Datalake and assure full adherence to prescribed policy guidelines, the existing payment module has been upgraded with additional checks at each stage based on inputs from F&A units (Huq / PIUs) and enabling authentication with digital signatures by the PDs and F&A Unit officials handling the bills processing only on Data Lake and not through e-office.

2. The above upgraded system was made live w.e.f. 15th April 2022 after first round of training from 4th – 7th April 2022. Since there are lot of requests for one more round of training by the users, accordingly, the same shall be organized for the FARO officials and PDs as per the following batches and schedule. All concerned personnel viz PDs, FARO officials including DDOs, are requested to kindly attend as per the following batches and schedule –

Session No.	Date	Time	Participants/ Coverage – all concerned under the following FAROs & PIUs
1	26-05-2022	3:00 – 5:00 PM	Jammu, Chandigarh, Shimla, Delhi, Dehradun
2	27-05-2022	3:00 – 5:00 PM	UP East, UP West, Patna, Kolkata, Bhubaneshwar, Guwahati
3	30-05-2022	3:00 – 5:00 PM	Gandhinagar, Bhopal, Ranchi, Raipur, Madurai, Chennai
4	31-05-2022	3:00 – 5:00 PM	Mumbai, Nagpur, Jaipur, Bengaluru, Thiruvananthapuram, Hyderabad, Vijayawada

Note: F&A Div. officer from NHAI HQ would also be present for addressing any subject specific queries of attendees (on other than web-based data lake application).

3. The agenda of the above sessions would be:
- Detailed walkthrough and hands on training on the use of upgraded payment processing module covering entire stages of the process i.e. right from bill submission to payment release with few live test cases [payment of (i) Contractor, (ii) AE/IE, (iii) DPR Consultant] on Data Lake only.
 - Feedback and comments for further refinement of the payment module to ensure seamless processing of all payments through Data Lake portal only (*not through e-office*) which is the objective of NHAI.

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4. VC link for the above session will be sent by the Server Admin to the concerned Regional Officer and the PDs as per above batches with a request to forward to their respective F&A Units, PDs along with their respective AE / IE to attend the session.


(Deepak Saxena)
GM (IT)

To,

All ROs, All PDs

CGM (Fin)- (Kindly refer Para-2 above and nominate an officer of Finance Div at Hq to attend the session)

Copy for information to:

1. All CGMs/ GMs
2. PPS to all Members / CVO
3. PPS to Chairman, NHAI

Copy also for necessary action to:

1. GMC Team - Project Manager - Kind Att. Ms Chinmayee Pradhan
2. Data Lake Team - Project Manager - Kind Att. Sh Ram Singh (for conducting the session)
3. Server Admin to send web link to participants



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फैक्स /Fax: 91-11-25093507/ 25093514

September 1st, 2022

Important

File. No 13057/01/2021/IT

Office Memorandum

Sub: Upgrade of functionalities for processing payment in Data Lake

Refer even no. dated 13.04.2022 informing go-live of Beta version of payment processing module in Data Lake integrated with AFMS System. Based on various levels of reviews and experience shared by the users viz. (PIUs and FARO units), this module of Data Lake has been further improvised with addition of following features.

1. Diary Function:

- 1.1 Every user may input his observations and/or upload document under a 'Diary' function which comprises two sections namely (a) notepad and (b) document uploaded (with automatic ToC¹). Every observation recoded in Diary shall require compulsory digital signature.
- 1.2 The above would facilitate cross/previous referencing any observations or document used /referred by any user while processing payments. Any user can view the documents online for reading purpose or choose to download as per the requirement.

2. Digitalized Calculation Sheet

- 2.1 There is a provision of Digitalized calculation for determining / recommending payment of each invoice of claimant at IE, PIU and FARO Level. This sheet once saved shall appears in the document section.

3. Features for Claimant

- 3.1 Claimant of any invoice can withdraw his invoice (if so required), however only until subsequent user has not performed any action on the submitted claim. If some action has already been taken, then invoice cannot be withdrawn, subsequent user has a right to reject/send back the invoice for seeking clarification.

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¹ Table of Contents

3.2 If there are more than one invoice to submit at a time, the claimant shall submit each invoice as a separate claim and not club / combine into a single submission because each claim is governed with its *payment type* and processed through a unique *transaction ID*.

4. Features for DDO

4.1 DDO may return the payment proposal back to FARO Head for seeking clarification with his remarks in Note Pad.

5. Features for AE/ IE

5.1 While AE decides to split any payment claim into provisional and balance payment, he shall need to first complete the recommendations for provisional payment and send it to PD. The balance outstanding against such transaction IDs shall appear separately to be processed separately. AE to process the balance payments after completing due procedure. The digital calculation sheet referred at para 2 above shall show total claims in the invoice vis-à-vis provisional already recommended earlier.

6. Features for PDs

6.1 If a provisional payment is rejected at any stage, then its balance transaction ID shall get auto rejected by the system.

6.2 Consequent to PD's clarification sought from AE/IE if it emerges that AE/IE wrongly processed any invoice then AE/IE can reject the case only under such scenario where IEV was not prepared in AFMS. If IEV is prepared in AFMS then the AE/IE cannot reject any transactions until PD cancels the IEV in AFMS.

7. DOs and Don'ts

7.1 Complete processing of payments starting from invoice submission to actual release including any *to-and-fro* movement for seeking clarifications shall only be on Data Lake and not through e-office.

Accordingly, for processing of any project related payments (*excluding LA*), no officer shall use e-office platform for recommending payment and F&A unit shall nor entertain payment recommendations on e-office.

Only for seeking administrative approvals / fund sanctions etc. before recommendations of payments, e-office shall be used, and a copy of such approvals shall be endorsed while sending recommendation to F&A unit for payment release.



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- 7.2 No Journal Voucher (JV) will be prepared to book project relating payments in the AFMS because it does not have mandatory provision of transaction ID.
- 7.3 Claimants shall not repeatedly submit their invoices to avoid confusion. In case AE / IE notice such cases, they shall reject the same recording reasons thereof.
- 7.4 PDs shall ensure before recommending payment to FARO that adequate provision of sanction and budget is available. If not, Data Lake portal would not allow forwarding payment recommendation until the same is ensured.
- 7.5 All PDs/ ROs shall daily monitor live status of payments under process at various stages in Data Lake and ensure there is no inconsistency / redundancy in the information.

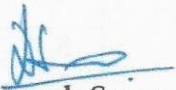
8. Standard Operating Procedure (SoP)

Revised SoP giving details of each aspect to guide the users in their day-to-day activities is provided within Data Lake Help Desk Menu for ready reference to all users. All users involved in processing of payments are directed to follow carefully.

9. Training to users

Data Lake team shall provide training to all concerned persons in PIUs and FAROs as per enclosed schedule.

Encl.: As above.


Deepak Saxena
General Manager (IT)

To,

All CGMs(T) & GMs(T)- HQ
All ROs & PDs
CGM(Fin.) & Concerned Officers (F&A Unit)

Copy to:

PS to Chairperson
PS to All Members

Copy also for necessary action to:

1. Data Lake Team - Project Manager - Kind Att. Sh Ram Singh
2. Network Admin. - To facilitate VC session for training as per enclosed Annex-A.

Schedule of training

Sr. No.	Representative Officer from HQ	Trainee FARO & concerned PIUs	Schedule
1.	Sh. S. Q. Ahmad	Bengaluru Bhubaneswar	September 2, 2022 10:30 - 12:30 AM
2.	Sh. Subhash Khurana	Jammu Shimla Dehradun	September 2, 2022 03:00 - 05:00 PM
3.	Sh. Sanjay Verma	Chennai Madurai Thiruvananthapuram	September 5, 2022 10:30 - 12:30 AM
4.	Sh. A. K. Jha	Patna Ranchi Kolkata	September 5, 2022 03:00 - 05:00 PM
5.	Sh. Dhanesh Kumar	Jaipur Bhopal Jabalpur	September 6, 2022 10:30 - 12:30 AM
6.	Sh. Manoj Saxena	Chandigarh Varanasi Lucknow	September 6, 2022 03:00 - 05:00 PM
7.	Sh. S. Mukhopadhyay	Delhi Mumbai Nagpur	September 7, 2022 10:30 - 12:30 AM
8.	Sh. Ananth Manohar	Hyderabad Vijayawada Raipur	September 7, 2022 03:00 - 05:00 PM
9.	Sh. Rafiq Khan	Gandhinagar Guwahati	September 8, 2022 10:30 - 12:30 AM



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April 13, 2022

File. No 13057/01/2021/IT

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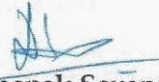
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 - b) Submission of bills by claimant on data lake, however processing of payments through e-office.
 - c) Absence of Transaction ID during generation of payment voucher on AFMS
 - d) Not use of on-line checks against sanctioned budgets for UPCs of project concerned.
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3. Prior to formal Go-Live of this module, exhaustive hands-on trainings were organized for the ROs with their F&A officials and PDs as well as the concerned personnel under RO & PIU e.g. FA-Units, DDOs, AEs/ IEs during 4th – 7th April 2022. Detailed SoP has also been prepared and enclosed. The SoP also has a separate section to address FaQ. All concerned officers are requested to go through and ensure adherence for successful implementation.
4. The beta version of upgraded system shall go live w.e.f. 14.04.2022 23:59:59 hours. From now onwards entire processing of payments starting from invoice submission to actual release including any *to-and-fro* movement for seeking clarifications etc. shall be only on Data Lake and not through e-office Accordingly, for processing of any project related payments (*excluding LA*), no officer shall use e-office platform for recommending payment and F&A unit shall nor entertain payment recommendations on e-office. Only for seeking administrative approvals / fund sanctions etc. before recommendations of payments, e-office shall be used and a copy of such approvals shall be endorsed while sending recommendation to F&A unit for payment release.

continued on pg 2/-

5. Any situation not covered under the prescribed workflow in Data Lake (*if so discovered*) may be brought to the notice of helpdesk as well as also put into feedback in data lake. The dedicated back-end team of service provider shall be monitoring to ensure smooth roll out. In case of any assistance to users, Data Lake helpdesk may be contacted 011-25074100/200 Ext 3026, 3028, 3037.

Encl: As above.


(Deepak Saxena)
GM (IT)

To,

All ROs, All PDs
CGM (Fin)-HQ

Copy for information to:

1. All CGMs/ GMs
2. All Members / CVO
3. PPS to Chairman, NHAI

Copy also for necessary action to:

1. GMC Team - Project Manager - Kind Att. Ms Chinmayee Pradhan
2. Data Lake Team - Project Manager - Kind Att. Sh Ram Singh



भारतीय राष्ट्रीय राजमार्ग प्राधिकरण

(सड़क परिवहन और राजमार्ग मंत्रालय)

National Highways Authority of India

(Ministry of Road Transport and Highways)

जी-5 एवं 6, सेक्टर-10, द्वारका, नई दिल्ली-110075

G-5 & 6, Sector 10, Dwarka, New Delhi - 110075

दूरभाष / Phone: 91-11-25074100/25074200

फैक्स / Fax: 91-11-25093507/ 25093514

September 2nd, 2022

Important

File. No 13057/01/2021/IT

Circular

Sub: Upgrade of functionalities for processing payment in Data Lake - Clarification to OM dated 01.09.2022.

Ref: OM dated 01.09.2022 on the subject. As informed by Data Lake team, there are following number of transactions pending at various levels concerning contractors' bills.

AE/IE	PIU	FARO	DDO	Total
611	280	126	57	1074

2. As the modified system in Data Lake is based on digitized calculation sheet for recommending payable amount and since there are inconsistencies in above figures of contractor's bill pendency due to various reasons but not limited to:

- (a) payment already made but not updated in Data Lake;
- (b) duplicate Bill submitted by contractor and not rejected by AE/IE;
- (c) payment split into provisional payment however not processed till date with clear recommendations, etc.

3. Therefore, to extend and opportunity at every level to one time clean up the Data Lake system following necessary step have been enacted:

- (a) 126 number of transactions at FARO level and 280 number of transactions at PIU level have been rolled back to AE/IE level for resubmission and recommendation after due checking.
- (b) In 57 number of transactions at DDO level since IEV/BPV voucher already under process in AFMS may be released without difficulty.
- (c) 611 number of transactions at AE/IE level plus the rolled back as mentioned above are now required to be submitted to respective PDs with clear recommendations supported with digitized calculation sheet.

4. Important steps mentioned in SOP and do's & don't as brought out in OM dated 01.09.2022 should be strictly adhered with by all concerned for ensuring smooth work flow in Data Lake.

Deepak Saxena
General Manager (IT)

To,

All CGMs(T) & GMs(T)- HQ
All ROs & PDs
CGM(Fin.) & Concerned Officers (F&A Unit)

Copy to:

PS to Chairperson
PS to All Members

Copy also for necessary action to:

Data Lake Team - Project Manager - Kind Att. Sh Ram Singh

**No.F:1/1/2021-PPD
Government of India
Ministry of Finance
Department of Expenditure
Procurement Policy Division**

264-C, North Block, New Delhi.
29th October, 2021.

Subject: General Instructions on Procurement and Project Management

It has always been a concern and challenge for the Government and its agencies to execute public projects on time, within the approved cost and with good quality. As the Government strives to step up the pace of economic development, the role of procedure and rules, and the incentives and disincentives they create, warrants careful examination.

2. The Central Vigilance Commission (CVC) and the Comptroller & Auditor General (CAG) are among the institutions which have, at various times, had occasion to comment on procurement and project management. Taking cognizance of these issues, CVC issued a Concept Paper on Alternative Procurement Strategy suggesting various reforms. Later after elaborate consultations with various stakeholders and a reform workshop held on 18.12.2020, CVC prepared Draft Guidelines on "Reforms in Public Procurement and Project Management". The draft guidelines inter alia stated: "Endeavour should be to explore the possibility of employing alternative procurement methods and other emerging trends apart from regularly used methods of procurement".

Separately, the CAG held a workshop on 27th February, 2020, soliciting ideas to improve procurement and project management. In that workshop, the then CAG himself observed: "It is also important to examine the information available with the decision maker at the time of taking the procurement decision. Post facto wisdom is easy and costs of indecision high". He hoped that the "focus of the presentations would be on discussing the challenges faced in procurement, especially that of adhering to the L1 requirement and related quality issues and new mechanisms/ strategies of procurement to overcome these challenges".

The National Institution for Transforming India (NITI) Aayog also prepared in August, 2020 a detailed paper entitled "Indian Public Procurement: Alternative Strategies and Way Forward" with various proposals.

3. A common theme arising in all these deliberations was a need to improve procurement and project management rules and procedures, to update them to present day needs, and empower those implementing projects to take better decisions, while adhering to probity and fairness. The fact that two premier institutions overseeing probity and accountability and India's premier policy think-tank felt the need to improve public procurement and project management procedures indicates the importance of the issue.

4. The Draft Guidelines prepared under the aegis of the CVC provided a sound platform for initiating reforms for empowering executing agencies and officers to take effective decisions in public interest, not only without favour but also without fear. These Draft Guidelines were considered by the Committee of Secretaries, and it was decided that the Department of Expenditure (DoE) would consider and issue guidelines, after soliciting and incorporating comments from Ministries/ Departments. Comments were solicited from all Ministries/ Departments and after due and detailed consideration of the comments received, instructions as contained in the subsequent paragraphs are being issued for compliance. While the primary source of these instructions is the draft guidelines prepared by the CVC, the views expressed in the CAG's workshop, by NITI Aayog, and in other comments received have also been duly considered and incorporated wherever appropriate.

5. The instructions below are "general instructions" within the meaning of Rule 6(1) of the GFR. They shall prevail in case of any general or case-specific conflict with the existing provisions of the Manual for Procurement of Goods, 2017, Manual for Procurement of Consultancy and other Services 2017, Manual for Procurement of Works 2019 or any other instruction issued by DoE in the past. For the purpose of these instructions:

- (i) Instructions containing 'may' are to be considered desirable or good practices which procuring entities/ project executing agencies are encouraged to implement but not mandatory.
- (ii) Instructions containing 'should' are required to be followed in general. However, there may be circumstances where it may not be practical/ desirable to implement them. In such cases, the concerned officer/ agency may deviate by recording reasons in writing for not implementing the same.

- (iii) Instructions containing 'shall' are mandatory; any deviation shall require relaxation of rules from the DoE (for Ministries/ Departments etc.) or from the Board of Directors (for Central Public Sector Enterprises).
- (iv) Instructions containing "allowed" indicate an optional course of action to be decided upon on merits.
- (v) "Procuring Entity" or "Project Executing Authority" or "Project Executing Agency" means Central Government Ministries/ Departments, Attached/ Subordinate bodies including Autonomous Bodies or Central Public Sector Enterprises (CPSEs) (etc) executing projects/ works.
- (vi) "Public Authority" means the client organization, which may be asking a "Procuring Entity" or "Project Executing Authority" or "Project Executing Agency" to execute a project or work on their behalf. For example, in case a University executes the works through Central Public Works Department (CPWD), then the said university will be the public authority and CPWD will be the Procuring Entity or Project Executing Authority or Project Executing Agency. (The public authority and the project executing authority may also be the same.)

6. Feasibility Study/ Ground Survey: Before undertaking a project Feasibility study/ Preliminary Project Report (PPR) may be prepared by the Project Executing Agency as prescribed in Para 2.2.1 of the Manual for Procurement of Works 2019 (*hereinafter called Manual*). A presentation on the findings of the feasibility study/ PPR may be made by a team (which may include engineers/ consultants/ outside experts, finance officers etc.) before the public authority/ or designated competent authority. This is to provide an opportunity to the public authority to have an overall assessment of the situation, appraisal of various options as well as likely challenges and mitigation measures. In the case of very large projects, such presentation may be made to the head of the public authority. The record of discussions during the presentation may become part of the Detailed Project Report (DPR) and tender file/ project record.

7. Detailed Project Report (DPR):

7.1 As prescribed in Para 2.4 of the Manual, once the project is considered viable and the competent public authority gives approval, a DPR/ Detailed Estimate should be prepared with due care and accuracy, using latest technological tools collecting all relevant ground information including consultation with the field units, wherever applicable.

7.2 Presentation may be made about the DPR before the public authority, for projects above a threshold value, as decided by Project Executing Authorities. The presentation may include salient features of the project including general layout, architectural drawings, broad specifications, cash flow (over the life of the project), composition of the project team, quality management plan for the project, important milestones in the project execution, obligations of the authority and the contractor/ concessionaire (hereinafter referred to as "contractor") and possible risks and mitigation measures. In the case of very large projects such presentation may be made to the head of the public authority. The record of discussions during the presentation shall become part of tender file/project record.

7.3. Wherever consultants are appointed for preparation of DPR, field units of the public authorities should also be associated with the process. The inputs from these field units can be useful in proposing best solutions for design and execution of the work as they are the custodian of legacy data, which may not be available with the consultants, as they may not be operating regularly in that geographical region.

7.4. Endeavour may be made to enlarge the base of the 'Schedule of Rates' published by various organizations to bring a maximum number of items under its ambit. For non-scheduled items, rates may be finalized by a committee constituted by the organization concerned/ consultants as the case maybe.

8. Availability of Land and Statutory Clearances:

8.1 It is desirable to have 100% of the required land in possession before award of contract; however, it may not always be possible to have the entire land due to prevailing circumstances. Also, it may not be prudent to put the entire process of award of contract on hold for want of the remaining portion of land, which in the assessment of public authority or the project executing

authority, could possibly be acquired in a targeted manner after award of the contract, without affecting progress.

8.2 Minimum necessary encumbrance free land should be available before award of contract. The minimum may be determined based on the circumstances of each case or general guidelines, issued by the concerned authorities. Only such land, non availability of which, will prevent essential components of work from execution, should be insisted upon.

8.3 Time taken in grant of statutory and other clearances also contributes to the time and cost of public projects. These clearances are required to achieve specific objectives like concern for the environment, aviation safety, preservation of national heritage, conservation of forest and wildlife etc. Public Authorities/ Project Executing Authorities should plan for obtaining all necessary clearances quickly and closely monitor the progress.

9. Pre-Tender activities:

9.1 Architectural and structural drawings: Architectural and structural drawings (fit for construction) are among the core requirements for projects. Finalization of these drawings at the earliest, preferably at the time of preparation of the cost estimate itself, can help to determine quantities of various items of the work. Adverse consequences of not preparing these drawings before invitation of tenders may manifest in the form of delay in execution of the work and deviations in quantities of the items of work. Hence, approved architectural and structural drawings should be available before invitation of tenders. Fit for construction (sometimes called Good for construction) drawings means the architectural and structural drawings approved by the project executing authority as well as by the authority governing the extant rules/ laws, including byelaws, such as local authorities.

9.2 Pre-Notice Inviting Tender (NIT) Conference: In complex and innovative procurement cases or where the procuring entity may not have the required knowledge to formulate tender provisions, a pre-NIT conference may help the procuring entity in obtaining inputs from the industry. Such conferences should be widely publicised so that different potential suppliers can attend.

9.3 Empanelment of contractors: Public authorities may empanel/ register contractors of those specific goods and services which are required by them regularly. Performance of such empanelled contractors should be reviewed

periodically. The list of registered contractors shall be updated on a regular basis. The category/ class of contractors may be upgraded/ downgraded or contractors may be de-listed based on their performance. Empanelment of contractors shall be done in a fair and equitable manner, preferably online after giving due publicity. The practice of inviting bids for works tenders only from empanelled contractors may be confined to tenders up to certain threshold value, as decided by the project executing authorities.

10. Tender documents:

10.1 The tender document is the fundamental document in the public procurement process as after award of the contract it becomes part of the contract agreement. All necessary provisions governing the contract should be clearly provided in the tender document. Examples are technical specifications, drawings, commercial terms and conditions including payment terms, obligations of the procuring entity and the contractor, timeframe/milestones for execution of the project, tax implications, compliance framework for statutory and other norms, reporting on progress/quality of the work, dispute resolution. Provisions/clauses in the tender document should be clear to avoid differences in interpretation and possible time overrun, cost overrun and quality compromises. Comprehensive survey & soil investigation report, area grading & mapping of underground facilities, where project is to be executed, may be made available and made part of tender document. Model Tender Documents issued by the DoE may be used, with due customisation.

10.2 In tenders containing General Conditions of Contract (GCC), additional/ special conditions to be incorporated in the tender document, shall be need based and specific. The GCCs should not be altered and changes, if any, in conditions of contract should only be made through the Special Conditions of Contract.

10.3 Identification of milestones may be done in an optimal and sequential manner and the same may be stipulated in the tender document along with enabling provisions.

10.4 Payment terms prescribed in the tender document should be such that the payment made to contractors at every stage is commensurate to quantum of work done, subject to any requirements for initial mobilisation.

10.5 Procuring entities may issue instructions regarding appropriate delegation of authority for approval of deviations, variations and changes in the scope of the contract.

10.6 Provision of price variation, wherever considered appropriate, as well as methodology for calculation of the same shall be clearly stipulated in the tender document.

10.7 Quality Assurance Plan (QAP) may be incorporated in the tender document/ contract. Schedule of visit by various levels of officials should also form part of the QAP.

10.8 Technical and Financial eligibility Criteria for the bidders are important in the public procurement process. They shall be clear and fair, having regard to the specific circumstances of the procurement. Appropriate parameters should be prescribed in the eligibility criteria for bidders, to enable selection of the right type of bidders in public interest, balancing considerations of quality, time and cost.

10.9 Open online tendering should be the default method to ensure efficiency of procurement. Public authorities should also keep the experience criteria broad based so that bidders with experience in similar nature of works in various sectors can participate.

10.10 Pre-bid conference may be conducted for large value tenders by Procuring Entities. The Place and time of pre-bid conferences should be mentioned in the tender document and/ or publicized through the website of the procuring entity and/ or through newspaper publication.

11. Project Management

11.1 The quality of project works significantly depends on supervision and monitoring. For completion of the projects within the stipulated time and cost and with specified quality standards, periodical review should be done by various levels of the officers.

11.2 Information Technology (IT) enabled project management systems can help in improving efficiency, transparency and aid faster decision making in execution of projects. These systems may be used for maintenance of records for the progress of work (including hindrance register), variations, etc., wherein reasons for delays are also to be captured on real time basis. Such

systems may be used for capturing progress and quality of work, site records/ photographs/ videos etc. including geo tagging.

11.3 Wherever applicable, the role of the Project Management Consultant (PMC) should be clearly defined in the contracts. Deployment of the PMC does not absolve the project executing authority of the responsibility to supervise the quality and timelines of the project.

11.4 The credentials and deployment schedule of key and other technical personnel to be engaged by PMC on the work should be taken along with the bid. During execution, adherence to deployment of key and other technical personnel as per the schedule of deployment should be ensured.

11.5 Execution of the work shall primarily be the responsibility of the officials designated with such responsibility. However, for large contracts senior officers shall also review the progress and quality of the work at various stages of construction. To this effect, presentations on the project performance may be made periodically before the senior officers depending upon the value of the project and progress of the project vis-à-vis schedule. Project executing authorities should put in place detailed instructions in this regard.

11.6 Project executing authorities should put in place a system for capturing the photographs and videos of important and critical activities of construction. This may be implemented in projects above a threshold value or, if possible, in all projects. Such photos/ videos may be uploaded in IT based project monitoring system to facilitate monitoring the progress and quality of work as well as assessment of delay in execution of work by stakeholders and senior management. Apart from this, photographs and videos may serve as permanent record of the project for posterity in case needed for any eventuality including litigation or enquiry/investigation.

11.7 **Sub-contracting:** As per Para 6.1.6 of the Manual, the works contract may provide for the contractor to get specified works executed from sub-contractors included in the pre-qualification application or later agreed to by the Procuring Entity, with a caveat that the responsibility for all sub-contract work rests with the prime contractor. Sub-contracting may be for specialized items of work, such as reinforced earth retaining walls, pre-stressing works, and so on. Procurement of material, hiring of equipment or engagement of labour will not mean sub-contracting. The total value of subcontracted work should not exceed the percentage of the contract price specified in the

contract (say 25%). Sub-contracting by the contractor without the approval of the Procuring Entity shall be a breach of contract, unless explicitly permitted in the contract.

11.8 Rejection of Single Bid: It has become a practice among some procuring entities to routinely assume that open tenders which result in single bids are not acceptable and to go for re-tender as a 'safe' course of action. This is not correct. Re-bidding has costs: firstly the actual costs of re-tendering; secondly the delay in execution of the work with consequent delay in the attainment of the purpose for which the procurement is being done; and thirdly the possibility that the re-bid may result in a higher bid.

Lack of competition shall not be determined solely on the basis of the number of Bidders. Even when only one Bid is submitted, the process should be considered valid provided following conditions are satisfied:

- (i) the procurement was satisfactorily advertised and sufficient time was given for submission of bids;
- (ii) the qualification criteria were not unduly restrictive; and
- (iii) prices are reasonable in comparison to market values.

11.9 Electronic-Measurement Books(e-MBs): Project executing authorities should, as early as possible, implement e-MBs and the same should be integrated with IT based project monitoring system, being used by the procuring entities.

11.10 Extension of time for completion of projects: Procuring entity may put in place a graded authority structure whereby extension of time for completion of contract, beyond a specified threshold value of contract, may be granted by the next higher authority.

11.11 Delay in taking timely decisions: Delay in decision making by the officials of the project executing authority on various changes in the project scheme arising out of emerging situations during execution of the work is also one of the contributors to the delay in completion of projects. Sometimes timely decisions on these changes are so crucial that the next step could only be taken after addressing the change. Delay in decisions by the project executing authority can also lead to litigation due to inadequate utilization/ idling of resources of the contractor. There is frequently a feeling among officials that indecision is safe while a decision may lead to adverse

consequences for the decision maker. Therefore, there is a need for project executing authorities to put in place a system of resolution of the issues coupled with timelines for various levels to take decisions.

11.12 Project executing authorities may review the flow chart of decision making and remove redundancies for faster decision making. They may also fix timelines for taking decisions on variations, extra items and changes in scope and specifications, etc. to avoid delay and litigation arising out of delayed decisions.

11.13 **Awarding of works in stalled contracts:** It is noted that in cases, where a contractor abandons or stops the work mid-way, either due to insolvency or a dispute or other reason, engagement of the new contractor takes considerable time and in the meanwhile public money is locked up in assets which cannot be utilized, apart from inconvenience and loss of amenities to the general public due to such half completed works. Notwithstanding anything in the GFR or the Manual, procuring entities should devise methods (including limited/ single tenders) to deal with part completed contracts, wherever the work is abandoned by the contractor mid-way. However, for issuance of limited/ single tenders in such cases, at least 20%, of work should have been billed by the contractor who has abandoned the work. Procurement approval of such limited/ single tender should be at the next higher level or such level as may be prescribed.

12. Delay in payment to the contractors:

12.1 Delay in eligible payments to contractors leads to delay in execution of projects, cost overruns and disputes. Hence, ad-hoc payments of not less than 75% of eligible running account bill/ due stage payment, shall be made within 10 working days of the submission of the bill. This period of 10 days is for completion of all processes including prima facie scrutiny and certification by the engineer in-charge (as declared by procuring entities). The remaining payment is also to be made after final checking of the bill within 28 working days of submission of bill by the contractor. In case the payment has not been released within 10 working days as prescribed above, it shall be made as soon as possible, and after payment a written explanation for the delay shall be submitted to the next higher authority within three working days.

12.2 Public authorities may put in place a provision for payment of interest in case of delayed payment of bills by more than 30 working days after

submission of bill by the contractor. Where interest is to be paid, the rate of interest should be the rate of interest on General Provident Fund.

12.3 In case of unwarranted discretionary delays in payments, including failure to authorise / make ad hoc payments as prescribed in para 12.1 above, responsibility shall be fixed on the concerned officers. Project executing authorities should have a system to monitor delays in payments and to identify such unwarranted delays.

12.4 The Final bill should also be paid to the contractor within three months after completion of work.

12.5 All project executing authorities implementing works contracts involving aggregate payments of more than Rs.100 crore per annum shall have an online system for monitoring of the bills submitted by contractors. Such system shall have the facility for contractors to track the status of their bills. It shall be mandatory for all contractors' bills to be entered into the system with date of submission and date of payment. Such system shall be put in place within one year of issue of these instructions.

13. Engineering, Procurement and Construction (EPC) contracts:

13.1 In EPC contracts, since primary responsibility to execute the work lies with the EPC contractor, success of the project also depends upon the quality of the tender document wherein enough clarity on the broad framework for execution of the work and the obligations of the contractor needs to be built in.

13.2 Milestones for payment to the contractor should be fixed in a manner that facilitates smooth cash flow for the contractor as well as for progress of the work. Milestones fixed should avoid excessive front loading or back loading, i.e., amount of payment should be commensurate with stage-wise quantum of work/ cost incurred. Milestones for payment to the contractor should also be linked with the deliverables.

13.3 In case of EPC contracts, only general arrangement drawings and architectural control parameters should be part of the EPC tender document. In case of EPC contracts, timelines for submission of drawings by the contractors and approval thereof by the competent authority should be clearly prescribed in the tender document, wherein, damages for non-adherence of such timelines in this regard may also be incorporated.

13.4 EPC contracts shall specify broad technical specifications and key output parameters. Over-specification of design may lead to increase in cost. Technical specifications shall be framed in such a manner to allow sufficient freedom to the contractor to optimize design. Provisions on the following should be included in commercial conditions:

- (i) Limitation of liability for procuring entity as well as contractor.
- (ii) Deviation limits and procedure for change of scope.
- (iii) Contract closing timelines and procedure to ensure timely closing of the contract.
- (iv) Performance parameters and liquidated damages for shortfall in performance.
- (v) Risk matrix and responsibilities of the contractor and the procuring entity.

In addition, a latent defect period beyond the defect liability period may be included to protect the procuring entity and public authority interest in case of any design/ engineering defect after the defect liability period is over, wherever appropriate.

13.5 To mitigate the risk involved in the methodology proposed by the contractor, the project executing authority shall either have an in-house engineering, quality assurance and project management expert or alternatively hire an experienced engineer to intensively examine the proposal submitted by the contractor. Project executing authorities are to ensure that optimal technological solutions are provided by the contractor.

13.6 To ensure quality, regular inspection and quality checks must be carried out. The Project executing authority shall carry out stage inspections in manufacturing of critical equipment/ critical activities of the project.

14. Substitution of key personnel during execution of consultancy contract:

- (i) Quality in consultancy contracts is largely dependent upon deployment and performance of key personnel, during execution of the contract.

- (ii) The following conditions should be incorporated in Tender Documents for procurement of Consultancy Services:
 - a) Substitution of key personnel can be allowed in compelling or unavoidable situations only and the substitute shall be of equivalent or higher credentials. Such substitution may ordinarily be limited to not more than 30% of total key personnel, subject to equally, or better, qualified and experienced personnel being provided to the satisfaction of the procuring entity.
 - b) Replacement of first 10% of key personnel will be subject to reduction of remuneration. The remuneration is to be reduced, say, by 5% of the remuneration which would have been paid to the original personnel, from the date of the replacement till completion of contract.
 - c) In case of the next 10% replacement, the reduction in remuneration may be equal to (say) 10% (ten per cent) and for the third 10% replacement such reduction may be equal to (say) 15% (fifteen per cent). In case such percentages are not relevant, or for some other practical considerations, for a particular contract, the procuring entity may formulate a suitable mechanism following the above logic, which should be specified in the tender documents.
- (iii) Public authorities may make use of IT enabled systems at the designated place of deployment to ensure presence of key personnel as per the schedule of deployment.

15. Additional Methods of Procurement:

15.1 Fixed Budget – based Selection (FBS) for consultancy services:

15.1.1 GFRs 2017 provide three methods for selection/evaluation of consultancy proposals viz. Quality and Cost Based Selection (QCBS), Least Cost System (LCS) and Single Source Selection (SSS). The Fixed Budget-based Selection (FBS) method is hereby also allowed for selection of consultants. Under this method, cost of the consulting services shall be specified as a fixed budget in the tender document itself. FBS may be used when:

- (i) the type of consulting service required is simple and/or repetitive and can be precisely defined; and
- (ii) the budget can be reasonably estimated and set based on credible cost estimates and/ or previous selections which have been successfully executed; and
- (iii) the budget is sufficient for the consultant to perform the assignment.

15.1.2 Under FBS, the selection of the consultant shall be made by one of the following two methods:-

- (i) By a competitive selection process, based only on quality, using specific marking criteria for quality in the manner indicated in Rule 192(i) of the GFR. The proposal with the highest technical score that meets the fixed budget requirement shall be considered for placement of contract.
- (ii) In cases of repetitive or multiple assignments, by empanelling suitable consultants, through an open advertised process with specified quality criteria. Thereafter, selection of a specific consultant for a specific assignment from such panel shall be based on overall considerations of public interest including timeliness, practicability, number of other assignments already given to that consultant in the past, etc. In such cases the budget for each assignment shall also be fixed by the procuring entity.

15.2 Quality-cum-Cost based Selection (QCBS) for Works and Non-Consultancy Services:-

15.2.1 Procuring entities are hereby allowed to use QCBS for procurement of works and non-consultancy services in the following cases:

- (i) where the procurement has been declared to be a Quality Oriented Procurement (QOP) by the competent authority or
- (ii) for procurement of Non-Consulting Services, where estimated value of procurement (including all taxes and option clause) does not exceed Rs 10 crore.

Note: In cases where estimated value was less than Rs 10 crore, but on tendering, following QCBS process, it is proposed to place contract for more than Rs 10 crore, the following procedure shall be adopted:

(a) In case the difference between estimated value (including taxes etc as above) and value of the proposed contract (including taxes etc) is less than 10% of the estimated value, there will be no bar on placement of contract.

(b) In all other cases, the procurement process is to be scrapped and restarted either as QOP or on non QCBS basis.

The principles of QCBS shall be as provided in Rule 192(i), (ii) and (iii) of the GFR. However, the maximum weight of the non-financial parameters shall in no case exceed 30%.

15.2.2 The Competent Authority for allowing QCBS shall be as follows:-

- (i) For declaring a procurement as QOP:
 - a) Where the procuring entity/ project executing authority is covered by Rule 1 of GFR, the Secretary of the Ministry/ Department, to which the procuring entity belongs.
 - b) Where the procuring entity is a CPSE, the Board of Directors of the CPSE.
- (ii) For Non-consulting Services not exceeding Rs.10 crore in value:
 - a) Where the procuring entity is covered by Rule 1 of GFR, by the officer or authority two levels above the officer/ authority competent to finalize the particular procurement, or the Secretary of the Ministry/ Department whichever is lower.
 - b) Where the procuring entity is a CPSE, the authority or officer two levels above the officer competent to finalize the particular procurement, or the Board of Directors of the CPSE whichever is lower.

15.2.3 In all cases of QOP, a Special Technical Committee (STC) shall be constituted with the following composition:-

- (i) Two or more persons who have expert knowledge and/or long experience relevant to the procurement in question;
- (ii) One or more persons with extensive experience in handling public projects and/or public finance in the Government or State/Central Public Sector;
- (iii) One or more persons with experience in financial management/ financial administration/audit/accountancy;
- (iv) Not more than one member representing the procuring entity who may *inter alia* provide administrative support to the Committee.
- (v) Any person who is a member of the STC shall not associate himself in any manner with any bidder for the procurement concerned.
- (vi) The persons referred to in sub paras (i) to (iii) shall be persons not working under the Competent Authority specified in para 15.2.2 and shall not belong to any organization under the control of, or receiving funding from, the procuring entity or the Ministry/ Department to which such procuring entity belongs.

15.2.4 The names of members of the Special Technical Committee shall be decided either by the Competent Authority specified in para 15.2.2 above or by any other authority to whom such power is delegated by the competent authority; however, powers shall not be delegated to the officer or authority competent to finalize the particular procurement. Sitting fee may be paid to the members of the STC. Incidental costs including travel shall be paid by the procuring entity.

15.2.5 The STC shall make specific recommendations on the following matters:-

- (i) The weight to be given to non-financial parameters (not exceeding 30%).
- (ii) The specific quality/ technical parameters, their weights, their scoring methodology, the minimum qualification score etc. and other relevant criteria necessary for ensuring fair and transparent quality/ technical evaluation of the bids.

The recommendations of the STC shall be followed except where there are special grounds in public interest for deviating from them. However, every case of deviation from the recommendations of the STC shall require approval of the Competent Authority specified in para 15.2.2(i) above who approved the declaration of the procurement as QOP.

15.2.6 In respect of QCBS for Non-Consultancy Services not exceeding Rs.10 crore, a Technical Committee shall be constituted to carry out functions mentioned in para 15.2.5 in lieu of the STC. The composition of the Technical Committee shall follow the provisions of para 15.2.3 (i) to (v). The provisions of 15.2.3 (vi) shall however not be applicable in such cases.

15.2.7 *Grounds for Declaring a Procurement to be Quality Oriented Procurement:* A procurement should be declared as a QOP only if there is enough justification in terms of value addition or enhancement of delivery or paramount importance of quality. Reasons for not adopting two cover/ pre-qualification-based/ least cost system shall be documented.

15.2.8 Tender Documents – Fixing/ Selection of the Evaluation/ Qualification Criteria

- (i) To ensure quality, some of the criteria used in marking may be made mandatory and if a bidder does not meet those, then bids shall not be evaluated further.
- (ii) Weightage may also be given for timely completion of past projects of similar nature by the bidder.
- (iii) In all cases of QOP, a pre-bid meeting shall be held in which the technical criteria including the marking scheme shall be discussed with the potential bidders. If any changes in the criteria are necessitated by such consultation, such changes shall require the recommendation of the STC. In Non-Consultancy Services, pre-bid meetings may be held at the discretion of the public authority.

15.2.9 Fixing of Scoring/ Marking Criteria:

- (i) The scoring should not be a variable that relies on the subjective opinion of the evaluating panel. The marking scheme should enable achievement of almost similar scores irrespective of the persons/ experts being involved in the evaluation process. When

the outcomes are consistent for the available information, the QCBS parameters are more reliable. Unambiguous description and criteria help to avoid grey areas so as to ensure that there is only one possible score for the item. As far as possible, the criteria should be so specific and clear that bidders can self-mark their own bids.

- (ii) It is better to specify minimum marks for meeting the qualifying criteria specified.
- (iii) Examples of fixed quality parameters that ought not to be considered for relative scoring include organizations' ISO/standards' accreditation, etc. These are required to establish the credentials of the service provider but cannot be used for relative comparison between various bidders.
- (iv) Bidders should be asked to produce certificates for the past performance. A format may be given in the tender itself outlining the contract details, completion, sustainability of service etc and bidders may be asked to fill it and give evidence to that effect.
- (v) Bidders may be asked to submit a detailed presentation on their proposals in the form of soft copy along with the bid so as to facilitate better understanding of their proposal and to ensure commitment.
- (vi) Besides the Bill of Quantity (BOQ) output criteria for payment, Key Performance Indicators (KPIs) may be specified with minimum achievement levels for payment so as to ensure quality compliance.

15.2.10 *Evaluation of QCBS Bids*: For evaluation, a suitable committee shall be constituted. However, members of the STC shall not be involved.

15.2.11 Joint ventures in QCBS:

- (i) In conventional tenders, some bidders adopt "name borrowing" and Joint Ventures (JV) often do not function in letter and spirit. This results in lack of quality and accountability. JVs often end in one-sided participation, diluting the essence of the tender evaluation during its performance. Since quality is given weightage in the evaluation itself, in QCBS procurement, it is

even more important to guard against such tendencies. Therefore, Joint Ventures may be avoided in QCBS procurements as far as possible. Joint Ventures could, however, become necessary in high technology or innovative projects where a single entity may not be able to execute the work alone.

- (ii) If JVs are allowed, adequate safeguards should be provided. Since weightage for quality/ experience influences the award itself, measures should be taken to ensure that all the JV partners are present and deliver services all through the contract period. An Implementation Board with participation of all JV partners may be provided for wherein the Project Manager from the procuring entity shall also be allowed audience when required. Meeting of JV partners with the project executing authority for quarterly progress review may be made as a criterion linked to achievement of key dates or even payment.

16. Arbitration and dispute resolution:

16.1 During operation of the contracts, issues and disputes arising due to lack of clarity in the contract become the root cause for litigation. Litigation has adverse implications on the timelines and overall cost of the project. Before resorting to arbitration/ litigation, the parties may opt for mutual discussion, mediation, and conciliation for the resolution of disputes.

16.2 Arbitration/ Court awards should be critically reviewed. In cases where there is a decision against Government/Public Sector Enterprise (PSE), the decision to appeal should not be taken in a routine manner but only when the case genuinely merits going for the appeal and there are high chances of winning in the court/ higher court. There is a perception that such appeals etc. are sometimes resorted to postpone the problem and defer personal accountability. Casual appealing in arbitration/court cases has resulted in payment of heavy damages/ compensation/ additional interest cost, thereby causing more harm to the exchequer, in addition to tarnishing the image of the Government.

16.3 The procuring entity should monitor the success rate of appealing against arbitration awards. There should be a clear delegation to empower officials to accept arbitration/ court orders. A special board/committee may be set up to review the case before an appeal is filed against an order. Arbitration/Court awards should not be routinely appealed without due

application of mind on all facts and circumstances including realistic probability of success. The Board/Committee or other authority deciding on the matter shall clarify that it has considered both legal merits and the practical chances of success and after considering the cost of, and arising through, litigation/appeal/further litigation as the case may be, it is satisfied that such litigation/appeal/further litigation cost is likely to be financially beneficial compared to accepting the arbitration/court award.

16.4 Statistics have shown that in cases where the arbitration award is challenged, a large majority of cases are decided in favour of the contractor. In such cases, the amount becomes payable with interest, at a rate which is often far higher than the Government's cost of funds. This results in huge financial losses to the Government. Hence, in aggregate, it is in public interest to take the risk of paying a substantial part of the award amount subject to the result of the litigation, even if in some rare cases of insolvency etc. recovery of the amount in case of success may become difficult. Instructions have been issued in this matter in the past but have not been fully complied with. The GFRs have now been amended accordingly.

16.5 All procuring entities and public authorities are required to comply with Rule 227A of GFRs. The only circumstances in which such payment need not be made is where the contractor declines, or is unable, to provide the requisite Bank Guarantee and /or fails to open escrow account as required. Persons responsible for not adhering to the Rule 227A of the GFRs are liable to be held personally accountable for the additional interest arising, in the event of the final court order going against the procuring entity.

17. Aligning the interest of stakeholders

17.1 The incentive structure for all the key stakeholders of public procurement ought to be such that the system itself will ensure timely delivery of the projects/works in a qualitative manner within approved cost. A balanced framework and work culture, where risks and rewards are properly shared amongst stakeholders and timely completion of quality projects is the common goal, can be the bedrock of efficient project management. An incentive structure, which may include pecuniary as well as non-pecuniary aspects (including public recognition), linked with measurable parameters of outcome/output, can help align the interests of stakeholders. An ethics-based regime, wherein integrity of all the stakeholders is nurtured, can help increase efficiency in all aspects of project management.

17.2 Public authorities may devise strategies to provide incentives to contractors/ concessionaires/ consultants/ architects/ other stakeholders by various means, including bonus, better rating and recognition for early/ timely and quality completion of projects. Similar strategies may be devised for recognition of engineers/ officers/ other team members for early/ timely and quality completion of the projects. The practice of mentioning the names of contractor and the project in-charge publicly at work sites may be implemented. Such recognition may be in a form which has long shelf life so as to associate the contractor and project in-charge with the life of the project.

17.3 "Coming together is a beginning; keeping together is progress; working together is success." It is an accepted fact that the success of any project is dependent on a well-co-ordinated team working towards a common goal. For successful execution of any project within specified time, cost and quality, the interest of all the stakeholders needs to be aligned. Coordinated efforts of all stakeholders such as contractors, consultants, public authority and project executing authority and public representatives will bring about the best possible outcome.

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29.10.2021

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To

- (i) Secretaries to All Central Government Ministries/ Departments
- (ii) Secretary, Department of Public Enterprises with a request for reiterating these instructions to all Central Public Sector Enterprises

Copy to:

- (i) Cabinet Secretary
- (ii) Secretary, Central Vigilance Commission.

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