

GOVERNMENT OF PUNJAB
DEPARTMENT OF HEALTH AND FAMILY WELFARE, PUNJAB

PROCUREMENT POLICY

The policy shall be called ***“Drug and Equipment Purchase Policy”*** and will supersede all previous procurement policies being followed hitherto by the Department of Health and Family Welfare.

1. Applicability and Extent:

The Punjab Health Systems Corporation shall be the Nodal Agency for procurement of Medicines, Material, Machinery & Equipment, Furniture, etc. for whole of the Department of Health and Family Welfare Punjab and its different wings.

2. Competent Authority:

- i. **Managing Director, PHSC:** The Managing Director, PHSC shall be the Competent Authority for the approval of procurement procedures, terms & conditions of the bidding document. The Managing Director, PHSC will be competent to accept the tenders and approve the Rate Contracts when there are at least two responsive bidders.
- ii. **Administrative Committee:** The Administrative Committee headed by the Principal Secretary Health and Family Welfare will be the final decision making body on procurement in PHSC. All the decision relating to procurement beyond the competence of Managing Director will be decided by the Administrative Committee. All the Rate Contracts approved by the Managing Director under his competency will also be placed before the Administrative Committee for information. The committee can review any of the decision taken by the Managing Director. The M.D.PHSC; Mission Director-NHM; Director Health Services; Director Family Welfare; Director Health (SI); Director (Proc), PHSC; Director (Finance), PHSC; and the Commissioner Food and Drugs Administration (CFDA), will be the members of the Administrative Committee. In case of urgency chairman, Administrative Committee can approve procurement / placement of orders to be ratified by the Administrative Committee.

3. Modes of procurement recognized and monetary ceilings in respect of making procurement using particular mode/method of procurement.

- i. **Open Tendering/ Two Stage bidding** shall be preferred mode of procurement/ finalization of Rate Contracts and as far as feasible e-tendering mode would be followed.
- ii. **Direct Contracting/Single Source** is contracting without competition (single source) and may be an appropriate method under the circumstances viz. standardization of equipment or spare parts to be compatible with existing equipment, availability from single source, essential to achieve optimal performance (e.g. reagents from OEM), in case of emergency.

For procurement of any proprietary article using this method, a certificate from the vendor shall be obtained certifying that they are sole manufacturer of the said product. Further in case of Drugs , a certificate of the drug being proprietary should also be obtained from office of CFDA before initiating purchase process.

- iii. **Limited tendering:** Calling sealed tenders from certain limited sources can be carried out under special circumstances necessitating such purchases. However this process should be followed with restraint. Before initiating any procurement activity through limited tendering process the team of technical experts should recommend such activity with complete justification. Prior approval of Administrative Committee is necessary.
- iv. **GeM:** Government eMarket (GeM) portal be referred for the procurement of goods/ material to the extent, expressly notified by the Finance Department, provided such goods are available on GeM and meets the specifications and requirements of the PHSC/Department.
- v. **Through Local quotations/Spot Committee:** For Procurement of small items / low cost items for which calling quotations through press publication is not a viable option or in case of emergent requirements for which total value of procurement does not exceed Rs.2 lakh.
- vi. **Quotations through Press Publication:** For procurement of items for which estimated value of procurement is between Rs.2 lakh to Rs.10 lakh and two stage tendering process/e-tendering is not considered as a viable option, procurement can be made by calling quotations through press publication.
- vii. **Buy-Back of existing / old equipment :-** Where the equipment is beyond repair or cost of repair is 50% or more than the cost of initial acquisition of equipment, such equipment can be replaced with new equipment under buy-back arrangements. For buy –back as far as possible an open tendering process would be followed.
- viii. **Other Approved Sources:** In case of requirements of certain equipment/ items for which own Rate Contracts are not available, procurement from other approved sources may be an appropriate method. The other approved sources may be categorized as under:

S.N	Approved alternative Source	Methodology / preference
1.	Rate Contracts of CPSEs, ESIC, BPPI, CGHS, DRME-Punjab.	1 st preference alternative source.
2.	Rate Contracts /Recent orders of any AIIMS, PGIMER-Chandigarh, GMCH-Sector 32, Chandigarh.	2 nd preference alternative source, after exhausting all the options from 1 st preference.
3.	Rate Contracts/recent orders of U.T Chandigarh, neighboring states of Haryana, Rajasthan , Himachal Pradesh & NCR Delhi. Besides these, HLL, TNMSC (Being oldest well established procurement agency of the Country) and Gujarat (also having well established procurement process).	3 rd preference alternative source after exhausting all the options from 1 st and 2 nd preference.

In case of each of the above options /set of alternative sources, procurement shall be made from the source/supplier with lowest rates in the concerned category/ set of alternative source. If lowest rates supplier does not agree, then order may be placed with next lowest in the category and so on.

4. **Negotiations:** There should normally be no post tender negotiations. If at all negotiations are warranted under exceptional circumstances, then it can be with L1 (lowest tenderer) only if the tender pertains to the award of work/ supply orders etc, where the Government or the Government entity has to make payment. However, if the tender is for sale of material by the Government or the Government entity, the post tender negotiations are not to be held except with H1 (i.e Highest tenderer) if required. All negotiations with details such as need for it and the outcome would be placed for information in next meeting of the Administrative Committee.

5. **Grievance Redressal/Resolution of Disputes:** Efforts should be made to resolve all the disputes arising out of any procurement process or related activities amicably. For this purpose a standing Grievance Redressal committee should be constituted by the Managing Director, PHSC. The information in this regard shall be clearly mentioned in the tender documents under the heading **“Grievance Redressal / Resolution of Disputes”**. The suppliers/ contractors shall refer their grievance / problems before the Grievance Redressal Committee. Based on the recommendations/findings of the Grievance Redressal committee the Managing Director, PHSC will decide on the grievance /dispute raised by the concerned suppliers / contractors.

Appeal: Any supplier or contractor who is not satisfied with the decision of the Managing Director, PHSC may appeal before the Principal Secretary Health and Family Welfare for Redressal of his grievance within a period of 30 days from the issue of the order.

6. **Disputes related to pending payments , delayed payments, L.D charges will be decided at the level of Managing Director , PHSC.**

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General Procedure for Procurement :

Following procedure for procurement of various goods should be followed

A) **Drugs : Medicines, Consumables , Suture :**

I) **For Routine procurement : By calling tenders (Rate Contract/ Specific quantity tenders)**

1. Identification of items and finalization of specifications: The State Essential Drug List would be divided in three categories namely **Vital , Essential and Desirable**.
 - a. **State Essential Drug List** : This list should be finalized institution wise by a committee of experts headed by the Director Health Services. The committee while finalizing the list should take due care to enunciate the proper specifications of the items and as far as possible the proprietary items should not be made part of the State Essential Drug List (EDL). The proprietary items can be included in this list only in exceptional circumstance e.g in case of vital/ life saving drugs and the expert committee must give due justification for recommending the proprietary item in the list and the inclusion of proprietary items in the list should be approved by the Administrative Committee before going ahead with procurement process. The list should be reviewed and appropriately revised periodically, preferably every year or atleast after every two years.
 - b. **Other Drugs**: The list of the drugs which are not part of the State EDL , but are required under various other programs like JSSK, WIFS, NPCDCS or any other program should be as per the guidelines of that particular program and specifications should be prepared by the committee of the experts for which meeting should be coordinated by the concerned program officers. Inclusion of proprietary items in such list shall be discouraged and as far as possible generic drugs should be specified.
2. **Assessment of demand**: The Managing Director , PHSC would devise appropriate mechanism regarding method /procedure to be followed for assessment of demand.
3. **Type of tender**: for procurement of essential drugs, rate contract tenders should be floated with validity of rate contract for one or two years.
Rate contracts can be extended with mutual consent with the approval of Administrative Committee.
4. **Publication of NIT**: Adequate wide publication of NIT should be given.
5. **Finalization of Tender terms and conditions** The Managing Director, PHSC, will be competent authority to decide the eligibility criteria, Tender document cost, EMD, Performance security and other terms and conditions of the Tender.
 - a) **Medicines and suture**: For medicines to be procured directly by the PHSC for supply to the hospitals, only original manufacturers or direct importers shall be eligible. The eligibility criteria with regard to annual turnover and past experience may be defined as per category of the medicines. The general eligibility criteria for medicines should be as under:
 - i. The bidders shall be original manufacturer or Direct Importer
 - ii. The Principal Manufacturer shall possess item wise WHO-GMP certificate for the quoted items.
 - iii. The bidder should have valid manufacturing licence / import licence and three years Manufacturing and Market standing for the quoted products.
 - iv. The bidder should not have been convicted under Drugs and Cosmetic Act.
 - v. The Average Annual Turnover of the Bidder during the last three years should be minimum Rs.20 crore.

List of medicine may be divided into two categories as per the suggestions of Joint Controller Drugs viz:

- a) Sensitive Drugs: Thermo liable drugs as well as other drugs whose potency is likely to vary with the period of time.
- b) Other drugs : Thermo stable drugs / drugs whose potency is not likely to vary much with the period of time.

For the medicines for which PHSC (HQ) is required to finalize Rate Contract and orders are to be placed by user hospitals/institutions, eligibility criteria may be modified accordingly.

b) Consumables except Suture: Original manufacturer , direct importers or the Authorized dealers of the original manufacturers / direct importers should be eligible. The general eligibility criteria for medicines should be as under:

- i. The bidders shall be original manufacturer or Direct Importer or their authorized dealers.
- ii. The principal manufacturer should have valid manufacturing licence / import licence and three years Manufacturing and Market standing for the quoted products. The bidder should also have three years market standing for supply of quoted item.
- iii. The principal manufacturer/direct importer as well as bidder (In case of bid by authorized dealers) should not have been convicted under Drugs and Cosmetic Act.
- iv. The Average Annual Turnover of the principal manufacturer/direct importer as well as bidder (In case of bid by authorized dealers) during the last three years should be minimum Rs.1 crore.

The eligibility criteria with regard to annual turnover and past experience may be defined as per category of the items. For sensitive items it can be fixed at higher level and for other items it can be fixed at lower side

Administrative Committee may amend the eligibility criteria.

6. **Pre-bid conference:** A pre bid conference may be held for answering to the queries of the prospective bidders / for issue of clarifications subsequent to the publication of tender notice. Pre-bid conference should be scheduled between the dates after the publication of tender notice and well before the last date for submission of bids.
7. **Opening of bids:** Bids shall be opened in the manner notified in the tender document.
8. **Evaluation of Technical Bids :** The bids received should be evaluated by a team of experts constituted by the Managing Director, PHSC. The bid evaluation committee should comprise of representatives from the Drug Controlling and licencing Authority and representatives from the finance and accounts section of the PHSC/ Health Department. Specialist doctors or any other experts may also be associated in tender evaluation process if deemed appropriate by the Managing Director, PHSC.

9. **Seeking clarifications:**
The tender document shall clearly specify all the essential documents which are to be submitted by the bidders in their bid. The bids of the bidders who did not submit these documents should be rejected. The Bid evaluation committee may for proper evaluation of bids, seek certain clarifications/ documents which should be viz-a-viz documents submitted in the bid and not for seeking documents which were to be submitted essentially with the bid.
10. **Opening of Price Bids:** Based on the recommendations of the tender evaluation committee, price bids of substantially responsive bidders shall be opened as per procedure laid down for e-tendering.
11. **Acceptance of Bids and Issue of Rate Contract approvals/ Awards:-** Based on the recommendations of the technical expert committee, the price comparative statements shall be prepared and the matter be placed before the Managing Director (for multiple bids) and **Administrative Committee** (in case of single or two bids) by the PHSC. Rate Contract approvals /Awards will be issued after getting clearance of the Competent Authority i.e M.D, PHSC/Administrative Committee.
12. **Issue of orders/ Awards/ indents :** Orders will be issued as per quarterly/ half yearly/ Annual requirements of the items as per decision of the Managing Director , PHSC.
13. **Rate Matching with L2 and L3 bidders:-** After finalization of Rate Contracts with lowest evaluated qualified bidder, the other qualified bidders who are not in L1 position may be asked to match the L1 rates. The offer to match the L1 rates will be extended upto L3 bidders only. The concerned bidders will be free to match or refuse to match the L1 rates. Orders will be placed in the Ratio of 70:30 among L1 and L1 matched bidders i.e 70% with L1 bidder and 30% with L1 matched bidders. In case where there are two L1 matched bidders , orders will be placed with L1 matched bidders in equal proportion i.e 15% of the total order with each of matched bidders. This is subject to the condition that such matched bidders gives consent in writing and validity of rates till the validity of Rate contract.

In exceptional cases where PHSC is not able to source supply from the L1 bidder (principal Rate Contract holder) owing to any reasons (back out by the L1 bidder, failure to execute the order within schedule time by the L1 bidder or debaring of L1 bidder or any other reasons.), orders for full/complete requirements may be placed with the L1 matched bidders.

14. **Purchase from L2, L3 Bidders:** Qualified bidders at L2 or L3 position who do not agree to match L1 rates may be kept at second preference and third preference respectively. In exceptional circumstances, orders with the second preference bidder or third preference bidder may be placed only where there is no L1 matched bidder and quantum of order will be to cover the requirements for the period of re-bidding.
15. **Inspection and Testing of medicines:** The tender document should contain the detail process that will be followed for carrying out inspection/testing of the medicines/material.

In case of proprietary items , conditions should be incorporated in tender document that the manufacturer will provide method of analysis and standard of reference to the CQCC.

Not of standard quality drugs should not be returned for replacement and should be destroyed and manner for disposing off such drugs be included in the tender conditions.

16. **Procedure for Debarring/Blacklisting:** The following conditions shall be mentioned in the tender document regarding procedure for debarring /blacklisting.
- a) **In case of Submission of forged/ fabricated documents:** The bidder/supplier/ contractor who is indicted for submission of forged documents/ fabricated documents in the tender, such bidder shall be debarred for participating in tenders for the period of 2- 5 years as per the decision of the Administrative Committee after considering the severity of offence.
 - b) **In case of default in supply:** In case where the contractor/supplier fails to supply any item within the stipulated delivery period, or backs out from the supply of any item, such contractor/supplier should be debarred for period of 2-5 years for participating in tenders for supply of that particular item/s which the bidder has failed to supply. However if the contractor/ supplier fails to supply more than 50% of the items for which the R.C is approved with the bidder or fails to supply all the items, such supplier/bidder should be debarred for participating in the tender for a period of 3 to 5 years for all the items.
 - c) **In case of product failure: in case where the material supplied by the bidder is declared as :**
 - Sub-Standard or Misbranded or Spurious,**

A standing committee shall be constituted comprising representatives of the Drug Controlling Authority, DHS and PHSC. The committee will recommend the action and period of debarring of the bidder which may range from 2 to 5 years for the particular item or for all the items depending upon the severity of product failure, probable reasons of product failure, number of failed batches. The Standing committee shall also examine and make recommendations on the matter as to whether the replacement of failed batch should be accepted or not. The Standing Committee shall also take into consideration following facts while making recommendations:

 - i. The recommendations are in consonance with Drug & Cosmetic Act and Rules.
 - ii. Whether the replacement of supply is sufficient and debarring of the bidder is not warranted.
 - iii. Whether the failure is for the first time or any other product of the same supplier has failed previously in recent 12 months.
 - iv. Any other relevant fact which the standing committee deemed appropriate and put on record.
17. **Delivery and distribution of material:** The mechanism regarding delivery and distribution of drugs may be developed by the Managing Director, PHSC.
18. **Release of payments:** Payments to the suppliers should be released promptly and preferably through electronic transfer (RTGS).
19. **Waiver of penalty / liquidated damages for delayed supplies:** In case where the payments to the suppliers have been delayed by more than 3 months from the date of supply, the Managing Director is authorized to waive of liquidated damages / penalties for delayed supplies in respect of such suppliers. In this regard the Managing Director, PHSC will be competent authority to formulate rules regarding rate of L.Ds, Maximum Limit as well circumstances / cases where the refund /waiver of L.Ds is merited. Speaking orders to be passed in case of waiver of Liquidated damages. All cases regarding refund of Liquidated damages shall be placed before the Administrative Committee for information of the committee before implementation.

- II) **Procurement in case of non-availability of Rate Contract / emergent requirements:** For items for which Rate Contracts could not be finalized or R.Cs are not available or procurement through inviting tenders is not considered as an effective manner or in case of emergent requirements, Purchase can be carried out using other modes of procurement as provided in the procurement policy.

B) Major/Minor Equipment :-

1. Identification of items and finalization of specifications: The list of the Equipment should be divided in two categories:
 - a. **Major Equipment:** This list should be finalized institution wise by the committee of experts headed by the Director Health Services. The list should be prepared taking into considerations norms of **IPHS (Indian Public Health Standards)**.

Suggested financial ceiling for the equipment to be graded as Major Equipment is Rs. 5 lakh or more (Individual cost of equipment).

Minor equipment : Procedure same as above. Suggested financial ceiling for the equipment to be graded as Minor Equipment is estimated cost less than Rs. 5 lakh (Individual cost of equipment).
2. **Type of tender:**
 - a. **For frequently required Items/Equipment:** For procurement of Minor equipment and which are required frequently throughout the year, Rate contract tenders should be floated with validity of rate contract for one or two years.
 - b. **For Procurement of Other Equipment:** Specific Quantity tenders with suitable provisions to the extent by which requirements could be increased / decreased should be floated with Rate Contract to be valid for a specific period.
3. **Publication of NIT:** Adequate wide publication of NIT should be given.
4. **Finalization of Tender terms and conditions :** The Managing Director, PHSC, will be competent authority to decide the eligibility criteria, Tender document cost, EMD, Performance security and other terms and conditions of the Tender.

The general eligibility however in case of equipment should be as under:

“Original Manufacturers as well as Indian subsidiaries of original manufacturers (In case quoted equipment being manufactured outside the territory of India) who have supplied atleast 60% of tender quantity during the last three years . There should not be any adverse report on functioning of equipment during the last two years.

Authorized dealers of original manufacturers who meets the above eligibility criteria would also be eligible subject to the condition that the dealer should have, market standing of three years for the supply of the quoted equipment and has supplied atleast 30% of the tender quantity of the concerned equipment during the last three years. There should not be any adverse report on functioning of equipment during the last two years.

5. **Pre-bid conference:** A pre bid conference may be held for answering to the queries of the prospective bidders / for issue of clarifications subsequent to the publication of tender notice. Pre-bid conference should be scheduled between the dates after the publication of tender notice and well before the last date for submission of bids.

6. **Opening of bids:** Bids shall be opened in the manner notified in the tender document.
 7. **Evaluation of Bids :** The bids received should be evaluated by a team of experts constituted by the Managing Director, PHSC. The bid evaluation committee should comprise of specialist doctors, Bio medical Engineer/ Assistant Biomedical Engineer/ Representatives from Engineering Wing/ Bio Medical Technicians etc. In addition to technical experts, representatives from the finance and accounts section of the PHSC/ Health Department should also be part of the Bid Evaluation Committee.

As far as possible , experts/specialist doctors from the Reputed institutions like PGIMER, Chandigarh, GMCH-Chandigarh etc should be associated with finalization of specifications of equipment and evaluation of bids particularly major medical equipment.
 8. **Seeking clarifications:** As specified in case of Drugs ibid.
 9. **Opening of Price Bids:** As specified in case of Drugs ibid.
 10. **Acceptance of Bids and Issue of Rate Contract approvals/ Awards:-** As specified in case of Drugs ibid.
 11. **Issue of orders/ Awards/ indents:** Orders will be issued as per requirements sent by the concerned programme officer, duly approved by the competent authority.
 12. **Rate Matching with L2 and L3 bidders:-** As specified in case of Drugs ibid provided the goods are of divisible nature to allow such condition of rate matching.
 13. **Purchase from L2, L3 Bidders:** As specified in case of Drugs ibid.
 14. **Inspection and Testing of equipment :** The tender document should contain the detail process that will be followed for carrying out inspection/testing of the equipment.
 15. **Procedure for Debarring/Blacklisting:**
 - d) **In case of Submission of forged/ fabricated documents:** As specified in case of Drugs ibid.
 - e) **In case of default in supply:** As specified in case of drugs ibid.
 - f) **In case of failure to adhere Warranty conditions:** The supplier who fails to maintain the minimum uptime of the equipment as specified in the tender document, depending upon the concerned case may be debarred for participation in the tender for a period ranging from 2-5 years as per decision of the Administrative Committee.
 16. **Release of payments:** Payments to the suppliers should be released promptly As per conditions specified in the tender document preferably through electronic transfer.
 17. **Waiver of L.D for delay in installation delivery where supplier is not at fault:** In cases, when the equipment could not be installed or delivered due to non availability of space or non fulfillment of any pre-condition on part of the consignees and for which supplier is not at fault, L.D should be waived off to the extent of delay attributable to the consignee/ purchaser.
- C) **Furniture:** Same as in case of Equipment, with following changes:
- i. List of Furniture may be divided into categories i.e Hospital Furniture and Office Furniture.
 - ii. There will be no ceiling with regard to major / minor furniture item

- D) Other Equipment (Such as UPS, Computers , Peripherals etc).** The whole process shall be same as that of Medical Equipment with appropriate amendments wherever deemed appropriate by the Managing Director , PHSC.
- E) Complete Package for diagnosis , treatment and follow up of specific disease/ problem/ epidemic:** The Administrative Committee may formulate the process and procedure as per the recommendations of the Technical Experts and concurrence of Minister of Health and Family Welfare shall be taken before initiating the procurement process.