Procurement Manual

[Procurement of Services, Works, Goods, Equipment]

City District Government Karachi

This Procurement Manual has been compiled by

The Office of the City Nazim

City District Government Karachi
City Government Secretariat, Civic Centre - Karachi

Tel: 0092-21-9232400 to 4
Fax: 0092-21-9232406

In collaboration with

Transparency international Pakistan
65-C National Highway, Defence Housing Authority – Phase II, Karachi
Tele: (0092-21) 4552438 & 5803518, Fax: 4559152

E-mail: ti-pak@transparency.org.pk.

Website: www.transparency.org.pk

March 2004

TRANSPARENCY INTERNATIONAL - PAKISTAN

Strives to make Pakistan a better country to live in

CONTENTS

PROCUREMENT MANUAL – INTRODUCTION

- GENERAL ORDER 03
- MEMORANDUM OF UNDERSTANDING 04
- ACKNOWLEDGMENT 07
- PREFACE. 08
- EXECUTIVE SUMMARY. 12

Chapter 1 PUBLIC PROCUREMENT- WHY DOES IT MATTER. 15

Chapter 2 PROCESSING OF TENDERS. 18
Prequalification – existing procedures
National Anti-corruption Strategy for procurement.
Tendering Process.

Chapter 3 PROCUREMENT OF SERVICES. 28
Prequalification.
Standard Guidelines for Evaluation.
Clarification for Evaluation of Consultants.
Letter of Invitation, contract award etc.

Chapter 4 PROCUREMENT OF WORKS & GOODS. 38
Prequalification.
Standard Guidelines for Evaluation.
Invitation to tender, Letter of Invitation, Evaluation, etc.

- THE INTEGRITY PACT IN CDGK 50
  Attachment # 1.
  Attachment # 2.
- CHIEF EXECUTIVE DIRECTIVE 1/2000 & 2/2000 59
- PEC CODE OF CONDUCT FOR ENGINEERS 61

PROCUREMENT MANUAL - GUIDELINES & CONTRACT DOCUMENTS

A. Standard Guidelines for Prequalification of Consultant

B. Standard Guidelines for Evaluation of Proposal for Procurement of Engineering Services.

C. Standard form of Contract for Engineering Consultancy Services (for smaller projects)

D. Standard form of Contract for Engineering Consultancy Services (for large projects – Time Based Assignments)

E. Standard form of Contract for Engineering Consultancy Services (for large projects – Lump Sum Assignments)

F. Standard Guidelines for Prequalification of Constructors

G. Standard Guidelines for Evaluation of Bids for Procurement of Works

H. Standard forms of Biding Documents (Civil Works)
- Part I. General Conditions of Contracts.
- Part II Condition of Particular Applications.
- FIDIC conditions for works of civil engineering constructions

I. Standard forms of tender documents for procurement of works (Electrical and Mechanical)

J. Escalation and Construction Contracts.

CITY DISTRICT GOVERNMENT KARACHI

CITY NAZIM SECRETARIAT

[Ph: 9232400/Fax: 9232406]

n_Karachi@yahoo.com

No: Nazim/City/Secy/5154 /2004
Dated: 24 February 2004

GENERAL ORDER

Our intention of signing a Memorandum of Understanding with Transparency International Pakistan was not only for providing Transparency in our Procurement Procedure but that it would also be a guiding light to other City District Governments in Pakistan.

We are well aware that Transparent Public Procurement Procedure is an Integral Part of the National Anti Corruption Strategy approved by the Cabinet on 20th September 2002 & 5th October 2002 and its implementation mechanism approved by the President on 24th October 2002 and that the NACS is completely in line with the policy of the government as part of its program to combat corruption.

The MOU signed resulted in the preparation of a comprehensive Procurement Manual jointly prepared by CDGK and Transparency International Pakistan. In principle it is to insure that all activities and decisions of public offices are transparent and that the project/works are implemented, services are provided or taken, and goods/materials are supplied without giving or taking any kind of benefit, financial or otherwise. Justification of the decisions taken is provided without discrimination to all parties concerned or to any individual or institution/organization and within defined time frame.

WHEREAS it is expedient to provide for the establishment of Standard Procurement Procedures for regulating procurement of goods, services and works in all Departments of City District Government Karachi.

AND WHEREAS the Nazim CDGK is satisfied that circumstances exist which render it necessary to take such an action.

NOW, Therefore, in exercise of the powers vested in me, I am pleased to approve the Procurement Manual 2004 for implementation and subsequent monitoring by Transparency International Pakistan.

[NIAMATULLAH KHAN]
City Nazim, Karachi

Distribution: -
1-District Coordination Officer, CDGK.
2-Town Nazims (All)
3-Executive District Officers (All)
4-District Officer (P&H), CDGK.
5-District Officer (HRM), CDGK.

Transparency International Pakistan
Strives to build a better country to live in

MEMORANDUM OF UNDERSTANDING

An Agreement for the Implementation of the "Integrity Pact" in the Procurement of Works, Equipment and Services Contracts in City District Government - Karachi

An agreement between Transparency International Pakistan (TI-Pakistan) and City District Government Karachi (CDGK) has been reached on 22nd. day of March, **2003** to implement the "Integrity Pact" for Transparent Procurement Procedures in Works, Equipment and Services in the City District Government Karachi.

The "Integrity Pact" is the Integral Part of National Anti Corruption Strategy approved by the Cabinet on 20th September 2002 & 5th October 2002 and its Implementation mechanism approved by the President 24th October 2002.

It is a component of the Integrity System developed by Transparency International, which insures that all activities and decisions of public offices are transparent and that the projects/works are implemented, services are provided or taken, and goods/materials are supplied without giving or taking any kind of benefit, financial or otherwise. Justification of the decisions taken is provided without discrimination to all parties concerned or to any individual or institution/organization.

It is agreed that CDGK along with TI-Pakistan will work jointly in the implementation of the NACS decision for providing Systemic improvements within the CDGK on transparent procurement procedures. It will include Transparency in all its dealings and incorporate the necessary Checks and Balances in CDGK's effort to reduce corruption. The process will comprise the formation of a Coordination Committee to implement the Integrity Pact and its conditions of Access to Information etc. (Attached Along with).

The Coordinating Committee.

This committee to be set up by the CDGK shall consist of a three member committee comprising three Officials of CDGK, with responsibilities related to the Administrative (Legal Expert), Financial and Works (Procurement & Contracts) Departments. And three Representative of TI-Pakistan. The EDO Works shall act as its chairman. The Coordinating Committee will:

1. Identify and list all Transparency issues and evaluation of tender criteria in the procurement bidding documents, discretionary conditions of contract, and revision of such clauses.

2. Prepare ways and means to be included in Contract Documents to eliminate/reduce delays to a bare minimum and in approvals by providing mandatory time frames for submittals by consultants/contractors and approvals by client/consultants.

3. Introduce systems to complete the Projects at a most economical cost and within the scheduled time.

4. Incorporate the Directives of the NACS with regards to Procurement and Contracting.

Herein after it is agreed that;

- All important decisions be made public.
- Information on all important activities including auditor's report should be made easily accessible to all.
- CDGK will periodically make public their sources of income and revenues.
- For this purpose, Transparency International Pakistan will provide experts' services to CDGK without any cost to the CDGK .
- CDGK has the responsibility to inform the local public and all interested individuals / institutions / organizations / Vendors and others about the activities carried out under this Agreement.
- In accordance with the proposed Pact, Transparency International Pakistan will provide experts' services for 12-months beginning from_____ March 2003 and may be renewed on mutual understanding.
- CDGK will continue the Integrity System even after the completion of this project and will provide information and details when Transparency International Pakistan requires such information for the purpose of implementation of this agreement.

- That all information relevant to providing Transparency Procurement procedures shall be provided to the Coordination Committee by the CDGK and all its related departments. It shall include documents which are in addition to those that are allowed under the Freedom of Information. Ordinance 2002.

- That the SAMPLE Integrity Pact attached along with will be implemented as part of all Contracts / Tenders to be implemented by the CDGJK with modifications by the coordination committee where and when necessary and preferably at the pre-qualification stage.

IN WITNESS whereof the parties, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in Karachi, Pakistan, on the date written opposite each party's name.

Signed By,

Niamatullah Khan	Brig. Rtd. Zaheer Kadri	Shaukat Omari	Syed Adil Gilani
Nazim,	EDO Works & Services,	Executive Director,	Procurement Specialist,
District Government	City District Government,	T I - Pakistan	T I - Pakistan
Karachi	Karachi	Karachi	Karachi

In the presence of;

22-03-03

City Commissioner
C.D.G Karachi

ACKNOWLEDGMENT

Transparency International Pakistan extends its deep appreciation for the support of Mr. Naimatullah Khan – Nazim City District Government Karachi and acknowledges the participation and contribution of the Coordination Committee established by him in compiling this Procurement Manual

We would like to thank the following members of the Coordination Committee for their support in this endeavour.

1	Engr. Syed Adil Gilani	Procurement Specialist	TI Pakistan
2	Engr. Shaukat Omari	Executive Director	TI Pakistan
3	Engr. Abid Hussain	Material Specialist	TI Pakistan
4.	Engr. Saad Rashid	Contract Specialist	TI Pakistan
5	Engr. Mirza M Naveed	EDO, Works & Services	CDGK
6	Engr. Amanullah Chachar	DO-I RBF South	CDGK
7	Engr. A Rasheed Mughul	DO (P&D)	CDGK
8	Mr. Shafi Muhammad Chachar	DDO (A&A)	CDGK
9	Engr. M. Shamim Ghory	DO (CM)	CDGK
10	Engr. Mohammad. Fazal Memon	DO (E&M)	CDGK

Following the recommendations and approval of the coordination Committee CDGK, the Procurement Manual was then forwarded by the Nazim for final review and comments to

Mir Hussain Ali	District Coordinating Officer - CDGK
Engr. Saleem Azhar.	Technical Advisor to Nazim CDGK
Engr Shoaib A. Siddiqui	EDO (Works & Services) - CDGK
Mansoor Ahmed	EDO (Law) – CDGK

Which has been approved by them for implementation in the Works & Services and other Departments of the CDGK for Transparency in Procurement.

Transparency International Pakistan welcomes any feedback or experiences from the use of this Procurement Manual from bidders and from others stakeholders as well.

PREFACE

Government of Pakistan carried out a comprehensive study on the public procurement procedures in Pakistan and its causes and effects.

Government of Pakistan carried out a comprehensive study on the public procurement procedures in Pakistan and its causes and effects.

The pertinent extracts from the National Anti Corruption Report (the Complete NACS Report can be downloaded from www.nab.gov.pk) are quoted here.

Quote

"Procurement was of huge concern to stakeholders, who highlighted the following weaknesses as being particularly vital in allowing procurement to be the breeding ground for corruption.

Pakistan has ***no coherent single law setting standards*** *and no effective legal protection against collusion and corruption in the award of government contracts. Instead, there is an* ***accretion of complex laws, rules, regulations, codes and manuals*** *which create a web of lengthy and cumbersome practices and customs. (Unlike other developing countries, donors' procurement rules do not prevail over local rules, although the Ministry of Finance has tried to enforce this.) The rules and regulations are manipulated to deter competition, thwart objectivity and transparency and give officials wide and unsupervised latitude in applying or ignoring the tangle of rules. The ground for corruption is laid at every stage of the procurement process, as seen in the box below.*

Manipulation of the procurement process

Overall: head of procuring agency certifies that procurement process is urgent, thereby avoiding requirement for competitive bidding; projects/contracts split to avoid competitive bidding requirements above a certain cost ceiling; officials take advantage of the year-end (May-June) period, when departments are trying to spend their budget allocations, to rush through procurements which then escape proper procedures and monitoring;

Technical feasibility: improper feasibility studies may be undertaken to overvalue projects, to the benefit of officials; studies may also be undertaken by consultants with links to contractors;

Tender documents: project specifications are prepared to favour particular contractors;

Registration/pre-qualification and Invitations for bids: process is kept bureaucratic (e.g. numerous unnecessary conditions to fulfill) and lengthy to deter competition; advertisements in low circulation publications; published tender notices are followed by a number of short addenda, which if missed by bidders in their tenders would lead to their disqualification; short notice for submission of bids whilst favoured bidder had prior notice and time to prepare; officials will create their own fictitious companies to bid and approve them through this stage of the process;

Preparation of bids: collusion between competitors will lead to inflated pricing; 'pooling', whereby one bidder "buys" his competitors' bids, changing their values, submitting the lowest bid far in excess of the market price; multiple bids by contractor operating under different names;

Bid evaluation: financial envelopes are often opened before technical; unrealistic and outdated Schedules of Rates are used to defeat good bids by "outsiders"; delays are created to generate kickbacks.

Negotiations: no rules exist for the negotiation period, but is often the period when collusion and coercion occur. Prices may be renegotiated and adjusted after contracts have been let.

This manipulation of often quite acceptable rules only allows corruption because of the inherent ***lack of transparency and public participation*** *in the procurement process. Without this, any set of procurement laws and rules can be manipulated for self-enrichment.*

The public are usually denied the opportunity to be informed of, monitor or participate in, aspects of the procurement or development affecting their community and country. There is no other mechanism by which the public may be satisfied about the integrity of the process.

The blame does not lie entirely with the government side of course. There are builder's mafias, collusion between bidders and widespread ***bribery by national companies.*** *However, in terms of grand corruption,* ***multinationals,*** *and therefore their* ***governments*** *must share the blame, as many tend to view corruption as a Pakistani trait, which they are content to accept, by the use of "agents."*

Unquote.

In order to address these serious drawbacks in the public procurement procedures, the National Anti-Corruption Strategy (NACS) was prepared by the Government of Pakistan in 2002 wherein the NACS has prescribed the use of the Pakistan Engineering Council Procurement Procedures and Standard Bidding Documents. At the same time it has also specified special modifications in these procedures.

The PEC Standard Bidding Documents (SBD's) were prepared on the basis of following publications/documents;

(i) Pakistan Standard Conditions of Contract (Civil), Ist. Edition reprinted in July 1993.
(ii) Standard Bidding Documents finalized by WAPDA in 1987 for use on medium sized contracts.
(iii) National Highway Authority Contract No. 1, Indus Highway Project (N-55)
(iv) Asian Development Bank-Sample Bidding Documents.
(v) World Bank Standard Bidding Documents-Procurement of Works, and other SBD's and FIDIC 1987.

Naimatullah Khan - Nazim City District Government Karachi on 22 May 2003 signed an agreement between Transparency International Pakistan (TI-Pakistan) and the City District Government Karachi in which it was agreed that CDGK along with TI-Pakistan will work

jointly in the implementation of the NACS decision for providing Systemic improvements initially within the Works & Services Department of CDGK on transparent procurement procedures. It will include Transparency in all its dealings and incorporate the necessary Checks and Balances in CDGK's effort to reduce corruption.

It was agreed that the "Integrity Pact" which is an Integral Part of the National Anti Corruption Strategy and approved by the Cabinet on 20th September 2002 & 5th October 2002 with its Implementation mechanism approved by the President on 24th October 2002, would be a part of all Contract Awards by the CDGK.

It is an established fact that the misuse of discretionary authority and discriminatory evaluation procedures can only be prevented by a transparent procurement process and with the participation of Civil Society.

The City District Government Karachi firmly believes that Transparency through internal and external scrutiny is an essential element of accountability and should be an inherent characteristic of all processes and procedures, plans, actions or decisions relating to Procurement.

The Manual has been compiled to achieve following aims;

- **All Procurements shall be allotted to competent firms, with the best quality of works/goods/services, but at the same time consideration must be given to obtain the lowest price for the stipulated/acceptable quality of goods/services.**

- **Through introduction of Transparency International's "Integrity Pact" in all CDGK Contracts of over Rupees Five million, Citizen Monitoring will automatically become an integral part of the Procurement Process, a Key Factor for the Checks and Balances in the Award and in the Implementation phase of Projects.**

- **Timely and Transparent Contract Implementation is a key to the success of Procurement and will only be achieved by making available on CDGK website all tenders notices, , evaluation reports, award decisions Contract Monthly Progress reports and variation orders for external scrutiny.**

This Procurement Manual has been prepared to comply with the requirement of Transparent Public Procurement based on the principles laid down in the National Anti-Corruption Strategy (NACS).

Procedure of Routing the Tenders.
Prequalification and Tender Documents must be ready by the time the Administrative approval is received.

- Prequalification and notification in the press. 03 Days.
- Receipt of Prequalification from bidders 25 Days

- Evaluation of Prequalification 07 Days
- Invitation to Bidders. 01 Day
- Receipt of Tenders (minimum) 21 Days
- Opening & Evaluation of tenders 07 Days
- 1Public Declaration of Evaluation Report 10 Days
- Evaluation Report
  - Finalization of ER 03 Days
  - Approval of ER by Project Award Committee. 02 Days
  - Approval of Award of Contract by Nazim CDGK. 02 Days
  - Issue of Letter of Award by EDO 02 Days
  - Signing of Agreement 04 Day

Note:
Tender Opening & Evaluation Committee: Comprises of EDO and Concerned group of officers, DO's, Representatives of EDO (F&P), EDO (Law) and three Representatives from Civil Society (example from FPCCI, Institute of Chartered Accountants,. Pakistan Engineering Council etc.)

Project Award Committee. Comprises of DCO, EDO (Works & Services), EDO (F & P), EDO (Law), EDO (Concerned Department), Representative of City Nazim.

Note: Publication of the Evaluation Report
CDGK shall publish in its website the following information: (i) name of all bidders who submitted a bid; (ii) bid prices as read out at bid opening; (iii) name and evaluated prices of all bids that had been evaluated; (iv) name of bidders that were disqualified and the reasons for their disqualification; and (v) name of the bidder recommended for award and reason for recommendation, price, duration and summary scope of the contract.

EXECUTIVE SUMMARY

Principles of Procurement.

The CDGK has four basic concerns that govern its procurement policies:

1. To ensure that the goods and services needed to carry out the project are procured with due attention to economy;

2. To ensure that Projects are executed within shortest period of time;

3. To ensure that the funds are used to buy only those goods and services needed to carry out the project;

4. To give all qualified bidders an equal opportunity to compete for the contracts;

5. To ensure that the procurement process is transparent, fair and discretion free.

The Procurement Manual is based on the following principles;

- Economy;
- Efficiency;
- Fairness;
- Reliability;
- Transparency; and
- Accountability and Ethical Standards.

Statutory Requirements.

In accordance with Pakistan Engineering Council Act 1976, Public Procurement all over Pakistan are regulated by PEC. The Pakistan Engineering Council issued a number of Bye-Laws, commencing in 1986, issued vide SRO No 809 (1)86 dated 24 August 1986 which are to be used in all Government and Semi Government Departments.

Planning and Development Division Government of Pakistan, Islamabad has complied the Project Manual, which includes the guidelines for preparing Projects, like PC-I, PC-II, PC-III, PC-IV, and PC-V, method of Selection of Contractors and Consultants for Self Financing Projects, Donor Agency Projects, and other regulations, approved any ECC and Ministry of Finance, in 1990 and revised in 1997.

However, various government departments are using more than 26 different procurement procedures, which has been a major cause to complains and misuse of funds.

The Government of Pakistan to address this flaw in the procedures, carried out a comprehensive study in association with World Bank in 1994-2000, and decided to have a uniform Procurement Code in Pakistan. In May 2002, Public Procurement Regulatory Authority (PPRA) was formed, which has been entrusted the Task of preparing uniform procurement procedures for Pakistan.

In 2002, National Anticorruption Strategy-2002 issued by National Accountability Bureau in October 2002, the Procurement Procedure have been regulated.

NACS 2002 has prescribed that Either the Pakistan Engineering Council (PEC) byelaws or the World Bank guidelines should be uniformly implemented until such time that the Public Procurement Regulatory Authority prepares its own laws and procedures. The CDGK Procurement Manual is compiled on the basis of Pakistan Engineering Council (PEC) bye laws.

However, the PEC By Laws requires amendments as given in the NACS-2002, such as the inclusion of the Transparency International "Integrity Pact", Selection of Consultants, Evaluation Committee formation, declaration of Evaluation Report prior to Award and additional clarification with regards to Transparency.

Transparency International in association with officers of CDGK and its Services and Works Department has prepared a Manual for Procurement as well as for the Process of Approval for Time Based Implementation of the Procurement decisions.

Applicability of Procurement Manual.

The Procedures given in the Procurement Manual will be applicable on all Consultancy Contracts, and all Tenders for Award of Works, Goods and Equipment which are of more than Rupees Five Million in value.

Tenders of Works, Goods and Equipment which are of less than Rupees Five Million value will be procured through current enlisted contractors

Use of Procurement Manual

The Procurement Guidelines and the Standard Bidding Documents of Pakistan Engineering Council, amended with for the specific revisions constitute the City District Government Karachi policies on procurement. This Manual is intended to give additional advice and assistance to CDGK staff to help them carry out their own procurement responsibilities and to help them on how to handle their responsibilities when carrying out procurement. The Manual does not contain any new policies but comprises of PEC procedures combined with NACS 2002 policy. Rather, it explains in more detail how specific aspects of procurement

should be handled consistent with the Guidelines. It is a source of "how-to" information about the tasks and elements that comprise the procurement process.

Competition is the foundation for good procurement practice. In addition to economy and efficiency, the public sector requires transparency and accountability for the use of public funds, and this affects the choice of the procurement method and the documentation and procedures that are used.

The Procurement Manual describes in Chapter 1 the review of policy and institutional aspects of transparent public procurement that have broad applicability and about which questions arise most frequently. Subsequent chapters deal with specific procurement topics, taking them generally in the chronological order in which they occur, from the initial analysis of a Borrower's procurement systems and capacity, through the procurement planning stages and into project implementation and contract administration.

The Four considerations that guide the rules for Procurement are:

a) Ensuring economy and efficiency in project implementation including the procurement of goods, works etc.

b) Giving eligible, responsive and technically qualified bidders a fair opportunity to compete on a level playing field,

c) Encouraging the Development of Domestic Constructors and Engineering Services and

d) Providing for Transparency in the Procurement Process.

Chapter: 1

PUBLIC PROCUREMENT: WHY DOES IT MATTER.

Before describing step-by-step how procurement should be planned and implemented by CDGK Staff it is appropriate to establish at the outset why this topic is worthy of attention. This inquiry can be fruitfully addressed by approaching it from three linked perspectives:

a) What constitutes proficient public procurement—what are its distinguishing characteristics?

b) Why is it so important?

c) Why should its achievement and maintenance be a priority concern for the CDGK and CDGK's staff?

What is Good Procurement? What Does It Look Like?
The principal hallmarks of proficient public procurement are:

- Economy;
- Efficiency;
- Fairness;
- Reliability;
- Transparency; and
- Accountability and Ethical Standards.

Economy: Procurement is a purchasing activity whose purpose is to give the purchaser best value for money. For complex purchases, value may imply more than just price, for example, since quality issues also need to be addressed. Moreover, lowest initial price may not equate to lowest cost over the operating life of the item procured. But the basic point is the same: the ultimate purpose of sound procurement is to obtain maximum value for money.

Efficiency: The best public procurement is simple and swift, producing positive results without protracted delays. In addition, efficiency implies practicality, especially in terms of compatibility with the administrative resources and professional capabilities of the purchasing entity and its procurement personnel.

Fairness: Good procurement is impartial, consistent, and therefore reliable. It offers all interested contractors, suppliers and consultants a level playing field on which to compete and thereby, directly expands the purchaser's options and opportunities.

Transparency: Good procurement establishes and then maintains rules and procedures that are accessible and unambiguous. It is not only fair, but should be *seen* to be fair.

Accountability and Ethical Standards: Good procurement holds its practitioners responsible for enforcing and obeying the rules. It makes them subject to challenge and to sanction, if appropriate, for neglecting or bending those rules. Accountability is at once a key

inducement to individual and institutional probity, a key deterrent to collusion and corruption, and a key prerequisite for procurement credibility.

A sound procurement system is one that combines all the above elements. The desired impact is to inspire the confidence and willingness-to-compete of well-qualified vendors. This directly and concretely benefits the purchasing entity and its constituents, responsive contractors and suppliers, and the donor agency providing the project finance.

Conversely, a procurement system that does not consider the above elements stimulates hesitation to compete, submission of inflated bids containing risk premia, or submission of deflated bids followed by delayed or defective performance. Other direct results include collusion in bribery by frustrated or unscrupulous vendors and purchasing entities, bad value for those entities and their constituents, and betrayal and abuse of the public trust for personal gain.

In sum, proficient public procurement is not difficult to describe in principle or to distinguish from its antithesis in practice. But it does require varied professional and technical know- how to establish, as well as discipline and determination to administer.

Why Is Proficient Public Procurement So Important?

Public procurement is the process by which CDGK buy the inputs for vital public-sector investments. Those investments, both in physical infrastructure and in strengthened institutional and human capacities, lay foundations for national development. In procurement terms, those inputs are generally grouped into three categories:

- Services - expert advice and training, conventionally labeled Consulting Services.
- Civil works - for example, bridges and buildings, roads, drainage, sewerage etc.
- Goods - typically equipment, materiel and supplies, commodities, textbooks, medical supplies etc.

The quality, timeliness, Transparency, local appropriateness and affordability of those procured inputs can largely determine whether the public investments will succeed or fail. So the beneficial impact and contribution of the input, particularly in the case of technical assistance services, can exceed their direct costs, by several orders of magnitude. Yet procurement costs can be substantial, consuming scarce resources of tightly constrained government budgets. Often the required funding is limited. Moreover, the process also consumes scarce skilled public-sector human resources. It takes time, not merely for procurement planning and contracting but also for contract supervision and execution. And much of this process is highly visible, as well as controversial, exposing ministers and civil servants to scrutiny and second-guessing for procurement choices they made, deferred or discarded.

There are four basic concerns that Govern Procurement Policies:

- to ensure that the goods and services needed to carry out the project are procured with due attention to economy and efficiency;

- to ensure that the funds are used to buy only those goods and services needed to carry out the project;
- to give all qualified bidders an equal opportunity to compete for the contracts;
- to ensure that the procurement process is transparent.

The procurement policies and procedures through this manual have been designed to promote fairness and equal treatment.

Chapter: 2

Processing of Tenders.

PRESENT LAWS / PROCEDURES IN PRACTICE IN THE GOVERNMENT DEPARTMENTS

1. Planning Commission 1990/1997 - Contract to be awarded to the Lowest Responsive Firm.

2. Local Government Ordinance 2002 - Contract to be awarded at the competitive rates prevailing in the market.

3. NACS 2002 - Contract to be awarded to the Lowest Responsive Firm

4. Pakistan Engineering Council - The top ranking consulting engineer Guidelines (1986) will first be invited to negotiate a contract

According to prevailing procedures following rules are applied which is in anomaly to the law.

- The Planning Commission procedures are binding on the Federal Government Ministries / Organizations.

- The procedures under Local Government Ordinance 2002 are biding on all Local Bodies in the 4 provinces.

- The NACS procedure are recommended guidelines for all public bodies in Pakistan.
- The PEC Guidelines (though based on discretionary procedures), are to be applied by all public procurements agencies in Pakistan.

It has been noticed that not one public agency is following the PEC Guidelines in its entirety and is often manipulated, although the main criteria stipulates that the contract is to be negotiated with top ranking firm is used, and the prices are negotiated at the discretion of client, and not based on PEC Rules.

This non-compliance and manipulation of the PEC Procedure is the cause of mishandling of awards and the credibility / authenticity and transparency of most Public tendering processes. Details of these various procedures are as follows:

According to PEC Engineering Works Bye-Laws notified under S.R.O. 568 (I)/87 dated 8th July 1987, Statutory Tendering process recommendations are;

Selection and Tendering process-

(1) All construction and management and supervision of operations of engineering work shall be entrusted only to the constructors or operators as the case may be licensed as such by the Council.

(2) A foreign constructor or foreign operator wishing to perform any construction or operation of engineering works in Pakistan shall obtain an appropriate license from the Council before initiating any activity which is a subject of these Bye-laws. The foreign constructor or foreign operator may be granted license only for specific projects which need expertise and specialized technology of construction or operation not available with a Pakistani constructor or Pakistani operator. Any such foreign constructor or foreign operator shall enter into a joint venture agreement with the Pakistani constructor or Pakistani operator in which share of foreign constructor or foreign operator shall be limited to the expertise and technology not available with the Pakistani constructor or Pakistani operator. The establishment of a joint venture shall be subject to the condition that share of the Pakistani constructor or Pakistani operator shall not be less than thirty percent.

(3) The client or employer shall adopt an equitable method of selection of a constructor or operator for a particular project and will ensure that the following basic requirements are met namely:-

(a) An engineering work falling under a certain category must be entrusted only to those constructors or operators who are licensed by the Council in accordance with these byelaws, either in the same category or in a higher category.

(b) A uniform system of credit points for the purpose of evaluation of the applicant's capabilities in the respect of vital elements of applicant's organization and capacity to perform shall be established before tenders or proposals are called from prospective bidders. The various vital elements to be covered are:

(i) Net worth of the applicant as on the date of application.

(ii) current ability to obtain finances and bonds (i.e. total ability less existing commitments).

(iii) current availability of applicant's construction equipment of tools required for the project (total equipment and tools owned as well as equipment irrevocably committed to be leased to the applicant on demand less current commitment and the period of their commitment).

(iv) Professional experience of construction or operation of the type of proposed project, including professional personnel of required experience in full time employment of the applicant less the personnel commitment on projects in hand.

(v) Previous performances of the applicant on other projects and similar projects,

(vi) Current license issued by the Council; and

(vii) any other relevant factors.

(c) A provision is made in the proposed contract with the constructor or operator for the settlement of any differences by arbitration under the Arbitration Act 1940, before recourse to any other legal action.

(d) Selection is done through open and fair competition and no preference is given to any contractor or operator for reason of his being in the public or private sector.

EXISTING PROCEDURES FOR AWARD TO CONSULTANTS

1. PLANNING COMMISSION 1990/1997.

Manual for Development Projects published by the Project Wing, Planning and Development Division Government of Pakistan in 1990 and Revised under your authority in May 1997

Guidelines for appointment of Domestic and Foreign Consultants Part II of the Manual. Annexure VIII. Subsection Part IV. Appendix-III.

For Projects with local financing following procedure is applicable.

Once the technical proposals have been ranked according to the consolidated mean score, the price proposals of only those firms are considered which fall within the top 10% of the Highest average score. For example, if the highest technical score achieved by a firm is 90 per cent, then price proposals of only those firms is considered who achieved a technical score equal to and above 81 percent. **Of these, lowest price proposal is accepted and the study awardedto that firm.**

2. LOCAL GOVERNMENT ORDINANCE 2002

NO: SLGB/CAO/2001/7482: In exercise of the powers conferred under Section 191 Sub Section 1 of the Sindh Local Government Ordinance, 2001 read with item No.01 Vth. Schedule thereto the Government of Sindh are pleased to make the follows Rules –

The authority shall be personally responsible for ensuring that:

(ii) The contract is made without coercion, undue influence, fraud or misrepresentation of parties.

(iii) The parties are competent to make the contract.

(iv) The contract does not involve any favoritism.

(v) The contract is in the best interest of the Administration and is made at the competitive rates prevailing in the market.

(vi) The contract is legally in order.

(vii) No official or member of council is directly or indirectly interested in the contract.

3. NATIONAL ANTI CORRUPTION STRATEGY RECOMMENDATIONS 2002.

All consultancy contracts except single source selection of engineering experts, should be processed on the two envelope system, evaluated on the basis of technical competence with minimum passing marks of 75%. **The financial proposals of firms lower than 75% should be returned unopened, the remaining financial proposals should be publicly opened, and the contract awarded to the lowest bidder.**

4. PAKISTAN ENGINEERING COUNCIL GUIDELINES (1986)

The evaluation process as per SRO 809 (I)/86 is as follows;

7 (3) On receipt of the proposals, the employer will appoint a suitably qualified committee to valuate the technical proposals of all the consultants, the committee will evaluate each technical proposal as regards the understanding of project needs, methodology, work plan, time schedule, experience and qualification of personnel to be assigned, present work load and other pertinent aspects in relation to the services required of the consulting engineer. No special weight age in the evaluation will be given to any Consulting Engineer for reason of his being in public sector or the private sector. The committee will rank the consulting engineers in order of their suitability for the particular project.

7 (4) The employer will then open the financial proposals of the three top ranking consulting engineers in the presence of such consulting engineers who care to be present and will publicly announce the prices and terms of all three proposals.

7 (5) **The top ranking consulting engineer will first be invited to negotiate a contract with the employer.** If agreement is not reached, the negotiations will terminate and the consulting engineer will be notified in writing to this effect by explaining the points of disagreement. A similar negotiation will then follow with the second consulting engineer and failing accord with the second, the third consulting engineer will be called in for the negotiations in a similar manner.

NATIONAL ANTICORRUPTION STRATEGY 2002

The following are some of the Major Guidelines for Development, Procurement and Contracting as recommended by the NACS.

Systemic weakness	Proposed strategy	Proposed measures	Responsibility
Failures in mechanisms to ensure sound use of development funds	Introduce wider participation and transparency in development process	Development projects to be based on independent community needs assessment with broad local public participation	All tiers of Local Government
		Laid down requirements for details of all projects to be made public at planning stage, either in local community (local projects) or in the media (national projects) Aid agencies and International	All concerned organizations
		Tenures to be fixed for Project Directors. In case of short duration projects of unto three years, posting for the entire project period. For projects of longer duration, there must be a criteria of minimum three years	All concerned organizations
Lack of clear, standard, coherent and transparent set of laws and procedures	Create standard, coherent and transparent set of laws and procedures	Either the Pakistan Quick win GoP Engineering Council (PEC) byelaws or the World Bank guidelines should be uniformly implemented until such time the Public Procurement Regulatory Authority prepares its own laws and procedures	GoP
Procurement rules and practices outdated, anti-competitive, non-transparent	Ensure that new law and procedures facilitate fair competition, transparency and public participation	High value and high profile procurements in particular, above Rs 5 Million for procurement of services, and over Rs 50 Million for procurement of works, goods and equipment, to be based on Integrity Pacts. These shall serve as model for inclusion in law	All concerned organizations

		All consultancy contracts except single source selection of engineering experts, should be processed on the two envelope system, evaluated on the basis of technical competence with minimum passing marks of 75%. The financial proposals of firms lower than 75% should be returned unopened, the remaining financial proposals should be publicly opened, and the contract awarded to the lowest bidder	PPRA
		Project specifications to be widely publicized/circulated/ advertised with defined minimum period before invitations to bid	PPRA
		Bill of Quantity (BOQ) Format requires change, to include breakdown against each BOQ item cost of material, equipment, labour & overhead costs	PPRA
		Evaluations should be on pre-determined and pre-publicized criteria	
		Evaluation committees for procurement over defined amount should include members of civil society, for example from Institute of Chartered Accountants, PEC and FPCCI	
		Evaluation reports should be made public, e.g. by placing on website or locally by the clients 10 days prior to award of contracts to invite any objections from any sector for the purpose of making any re-evaluation, if needed	
		Introduce standard systems of required documentation, reasons for decisions and procedures for audit	
Foreign governments, multinational/ national companies and donor agencies encourage or fail to prevent corruption	Build the willingness, capacity and confidence of the governments/ multinational/ donor agencies to fight corruption	All companies operating in Pakistan to have Code of Conduct, Good Governance Corporate policies, including no bribery provisions in conformity with US Foreign Corrupt Practices Act and the OECD Convention etc.	Transparency International (embassies, donor agencies and PPRA
		Provide guidance to all businesses to inform their employees about the tougher anti-bribery arrangements, and	FPCCI, TI Pakistan, American Business Council,

		the definition of bribery i.e. includes entertainment of officials etc.	Overseas Investment, Chamber of Commerce and Industry
		All companies operating in Pakistan to have Code of Conduct, Good Governance Corporate policies, including no bribery provisions in conformity with US Foreign Corrupt Practices Act and the OECD Convention etc.	FPCCI, TI Pakistan, American Business Council, Overseas Investment, Chamber of Commerce and Industry
Honest bidders dissuaded from bidding	Reform procedures and practices to incentives wider group of bidders	GoP to put in place arrangements to guarantee swift payment of consultants, contractors' invoices	PPRA, Ministry of Finance
		Introduce system of milestone payment release system, i.e. opening of local Letter of Credit (LC), and development funds for projects should be placed with Bank for opening of LC for full duration of Project	PPRA, Ministry of Finance
		Effective system for blacklisting corrupt contractors	PPRA, Ministry of Finance
Projects offer opportunities for corruption and fail to meet development needs	Strengthen functional specialization and professionalism in technical/ developmental areas	Ensure all projects planned, and payments made, on the basis of milestones and outputs	PPRA,
		In key technical/ developmental depts., amend service laws to provide for: continuity of professional officers on projects and in technical departments and prevent rotation to different dept; technical depts. to be headed by technical professionals	Ministry of Law, Ministry of Finance, Establishment Division and Provincial Governments

Tendering Process for Prequalification and Invitation of Tenders.

Flow Chart showing Prequalification, Bidding and Indicative Time

Organize Project Management / Implementation Teams

- Designate staff and facilities
- Establish Independent Evaluation Committee, with 3 Independent Members nominated by Authority

0– 12weeks

Prepare Prequalification Documents

- Review procurement strategy and confirm packaging
- Establish explicit, transparent and fa ir criteria for the evaluation of firm's applications
- Confirm adequacy of draft technical specifications
- Prepare the Instructions to Applicants including the procedural and substantive qualifications aspects
- Obtaining agency clearance

1-3 weeks

Revise and Clear Prequalification Document (if necessary)

- Revise documents
- Obtain Approval

1 week

Obtain Approval

1 week

Advertise Prequalification Documents

1-4 weeks

Prepare Applications (Suppliers)

- Organize joint-venture partners, if any
- Identify project teams and resources
- Compile supporting materials
- Complete application

Manage Application Process

- distribute documents to purchasers
- Organize evaluation teams
- Organize and hold clarification meetings and site visits if appropriate

Draft Bidding Documents

Technical specifications (2-8w)

- schedule of requirements
- special conditions of contract & sample forms
- instructions to bidders and bid data sheet, including supplier qualifications and bid evaluation method
- invitation to bid & procurement notice
- assemble documents & obtain agency approval

Obtain Approval of Bid Documents

(1 week)

Evaluate and Select Pre-qualified Firms

- Confidentially evaluate applicants in terms of their: experience and financial and technical resources
- Select qualified applicants
- Prepare full prequalification report and submit to approving authority
-

1- 2 weeks

Obtain approval

1 week

Distribute List of Pre-qualified Firms to All Applicants

Issue Bidding Documents

- Distribute invitation to bid (4-8weeks)

Opening of Bids

- Open Bids in presence of Bidders.
- Announce the Bidders name, Bid Security, Bid Price, and any discount bidders have offered.
- Get the signatures of all Bidders and Bid Opening Committee Members.
- After Bidders leaves the meeting, Bid Committee members shall sign all the Bids, including the prices, rates offers, and initial all pages, and initial all the corrections made by the bidders in the Bid Documents.

TI Pakistan

Evaluate and Select Lowest Responsive Bid

. 1 week

Evaluation Report Declaration on CDGK Website for inviting Objections

10 Days

.

Re Examine Evaluation Report and Objections. Revise and Finalize Evaluation Report and Submit the Recommendation to Award the Bid to the Lowest Responsive Bidder to Authority for Approval, and Award the Bid to the Lowest Responsive Bidder

. ***13 Days***

Chapter: 3

Procurement of Services.

a) PREQUALIFICATION

Prequalification of Consultants is an important step in the selection process to ensure high quality proposals for a meaningful proposal evaluation in shorter time for grading of firms for ultimate selection of suitable consultants. It may be remembered that registration of firms in PEC in general terms is not a substitute for Prequalification before inclusion in the shortlist. The qualifications and experience of the qualifying consultant should be such as to reflect its previous association with such project(s) and capability to handle the project with dexterity.

Unlike in procurement of goods and works in which all interested qualified bidders are publicly invited to present their bids, the process of consultant selection is based on obtaining a limited number of proposals from a shortlist prepared by the CDGK. Because it is too time consuming to invite and evaluate proposals from all consultants who want to compete, selection is based on limited competition among qualified firms who have the required experience and are capable of delivering the required services and desired level of quality.

From the consultants' point of view, the use of a shortlist reduces the number of proposals to be prepared, raises proposal quality, and increases the chances of the consultant winning the competition. For the CDGK, it is an effective way of attracting the best candidates for the assignment.

CDGK procedures for hiring consultants provide that, first, consultant opportunities are advertised. Then, on the basis of those consultants who submitted expressions of interest in response to the advertisement the CDGK prepares a shortlist of consultants who will be invited to present their proposals.

B) STANDARD GUIDELINES FOR EVALUATION.

I) Use Standard Guidelines for Pre-Qualification of Consultants (First Edition) May 2002, issued by the Pakistan Engineering Council Islamabad.

II) Copy of the PEC Standard Guidelines for Pre-Qualification of Consultants is attached as **Annexure I**.

III) Amendments to be made in these PEC documents incorporating NACS 2002 policy.

i) Integrity Pact.

High value and high profile procurements in particular, above Rupees Five Million for procurement of services, works, goods and equipment, to be based on Integrity Pacts. Standard Integrity Pact is prescribed below;

ii) Associations between Consultants

Consultants may associate with each other. Such an association may be for the long term (independent of any particular assignment) or for a specific assignment. The "association" may take the form of a joint venture or of a sub-consultancy. In case If the an association in the form of a joint venture, the association should appoint one of the firms to represent the association; all members of the joint venture shall sign the contract and shall be jointly and severally liable for the entire assignment. Once the short list is finalized, and Requests for Proposals (RFPs) are issued, any association in the form of joint venture or sub-consultancy among short- listed firms shall be permissible only with the approval of the CDGK.

iii) Fraud and Corruption

Following clause is to be added in the prequalification documents.

It is the CDGK's policy to require its staff and the consultants to observe the highest standard of ethics during the selection and execution of such contracts. In pursuance of this policy, the CDGK:

(a) defines, for the purposes of this provision, the terms set forth below as follows:

(i) "corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, of any thing of value to influence the action of a public official in the selection process or in contract execution; and

(ii) "fraudulent practice" means a misrepresentation or omission of facts in order to influence a selection process or the execution of a contract;

(iii) "collusive practices" means a scheme or arrangement between two or more consultants with or without the knowledge of the CDGK, designed to establish prices at artificial, noncompetitive levels and to deprive the CDGK of the benefits of free and open competition;

(iv) "coercive practices" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract.

(b) will reject a proposal for award if it determines that the consultant recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for the contract in question;

(c) will sanction a consultant, including declaring the consultant ineligible, either indefinitely or for a stated period of time, to be awarded a CDGK contract if it at any time determines that the consultant has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices ; and

iv) Evaluation Committee.

Evaluation committees for procurement over defined amount (Rs. 5 million)should include 3 members of civil society/elected members, for example from Institute of Chartered Accountants, PEC and FPCCI.

v) Allocation of Sub Criteria.

Sub-criteria and their weighting determine the outcome of the evaluation, they should be chosen considering the aspects that are critical to the success of the assignment. Evaluation criteria and sub-criteria, associated points, and the rating system form an arithmetic model to assess the technical merit of the proposals. The more reliable the model, the more accurate the evaluation and the greater the possibility that the CDGK will select the proposal of the consultants who are best suited for the assignment. All sub- criteria points shall be included in the prequalification documents for information of the applicants.

vi) Fair Competition.

Sub Clause 6.3 of the PEC Standard Guideline restricting the number of qualified firms, is deleted, to enable all qualified firms to have fair opportunity to participate in the competition.

This has therefore to be ensured that the Prequalification should not be used to limit competition to a predetermined number of potential bidders. All applicants who have the qualifications to perform the proposed contract should be pre-qualified and bidding documents made available to all those who stands pre-qualified. No upper limit therefore should be imposed on the number of pre-qualified potential bidders.

vii) Evaluation

The Evaluation Committee shall evaluate the proposals in accordance with PEC Standard Guidelines for Pre-Qualification of Consultants. Approval of DCO shall then be obtained. This activity shall be completed in Seven days.

viii) Invitation of Proposals.

Proposals for Procurement of Engineering Services on the standard format shall then be invited.

C) PROPOSAL FOR CONSULTING SERVICES.

The Use of the Standard Guidelines For Evaluation of Proposals for Procurement of Engineering Services issued on May, 2002 by Pakistan Engineering Council Islamabad along with the with modifications is prescribed by the NACS. All consultancy contracts except single source selection of engineering experts, should be processed on the two envelope system, evaluated on the basis of technical competence with minimum passing marks of 75%.

Pakistan Engineering Council Procedure for Selection of Consultants.
According to the Pakistan Engineering Council Act 1975 [V of 1976] as per SRO No 809 (1)86 dated 24 August 1986, following Selection Procedure for Consulting firm is the mandatory requirement for all public bodies.

> *7 (3) On receipt of the proposals, the employer will appoint a suitably qualified committee to valuate the technical proposals of all the consultants, the committee will evaluate each technical proposal as regards the understanding of project needs, methodology, work plan, time schedule, experience and qualification of personnel to be assigned, present work load and other pertinent aspects in relation to the services required of the consulting engineer. No special weight age in the evaluation will be given to any Consulting Engineer for reason of his being in public sector or the private sector. The committee will rank the consulting engineers in order of their suitability for the particular project.*
>
> *7 (4) The employer will then open the financial proposals of the* ***three top ranking*** *consulting engineers in the presence of such consulting engineers who care to be present and will publicly announce the prices and terms of all three proposals.*
>
> *7 (5) The top ranking consulting engineer will first be invited to negotiate a contract with the employer. If agreement is not reached, the negotiations*** *will terminate and the consulting engineer will be notified in writing to this effect by explaining the points of disagreement. A similar negotiation will then follow with the second consulting engineer and failing accord with the second, the third consulting engineer will be called in for the negotiations in a similar manner.*

The PEC Selection Criteria for Consultancy Services is to be read with following explanation to Section 7 (5);

****Clarification to be a part of the Procurement manual**

> *"It is clarified that Negotiation means negotiation with the First Ranked Consulting Engineer who must accept the contract at the lowest of the three tenders submitted. i.e. If his bid price is lowest then he shall be awarded the contract at his price. If his bid is not the lowest tendered price he is given the option to accept the contract at the lowest price tendered without any change/readjustments in the services offered and the Man Months or refuse. If the Top ranked Consulting Engineer refuses to accept the contract at the lowest price, then the second ranked bidder – if his price is not the lowest, he will then be asked to accept the lowest bid price, failing to do so, the third Ranked Consulting Engineer will be called for negotiation and awarded the contract which is assumed to be the lowest tendered bid."*

Single Source Selection of consultants
Under Single Source Selection CDGK will ask a specific consultant to prepare technical and financial proposals, which are then negotiated. Since there is no competition, this method is acceptable only in exceptional cases and made on the basis of strong and convincing justifications where it offers clear advantages over the competition. This is because;

- The assignment represents a natural or direct continuation of a previous one awarded competitively, and the performance of the incumbent consultant has been satisfactory; or
- A quick selection of the consultant is essential, for instance, in emergency operations such as natural disasters and financial crisis; or
- The contract is very small in value; or
- Only one consulting organization has the qualifications or experience of exceptional worth to carry out the assignment.

If continuity of downstream work by retaining an incumbent consultant for a downstream assignment is essential to the project and is in the interest of the CDGK, the RFP for the original assignment should indicate this likelihood. Satisfactory performance in the first assignment has to be a precondition for continuation. In these cases, the CDGK should balance the importance of continuing with the same technical approach, the experience acquired, and the continued professional liability of the incumbent against the benefits of renewed competition such as fresh technical approaches and competitive remuneration rates.

If the RFP for the original assignment has indicated the likelihood of continuity of downstream work by retaining an incumbent consultant for a downstream assignment, and once valid causes have occurred under the four situations described above, the CDGK may agrees to an SSS on a continuation basis. The CDGK then should ask the consultant to prepare technical and financial proposals on the basis of the TOR prepared by the CDGK, or by an independent adviser with no relation to the incumbent. This is the basis for negotiating a continuation contract.

Copy of the PEC Standard Guidelines for Evaluation of Proposals for Procurement of Engineering Services issued on May, 2002 by Pakistan Engineering Council Islamabad is attached as **Annexure II.**

The Amendments to be made in these PEC Standard Guidelines for Evaluation of Proposals for Procurement of Engineering Services issued on May, 2002 for incorporating the NACS 2002 policy as described in the prequalification chapter are:

i) The Integrity Pact.

ii) Associations between Consultants.

iii) Fraud and Corruption
Following clauses are to be added in RFP documents.

It is the CDGK's policy to require its staff and the consultants to observe the highest standard of ethics during the selection and execution of such contracts. In pursuance of this policy, the CDGK:

(a) Defines, for the purposes of this provision, the terms set forth below as follows:

(i) "Corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, of any thing of value to influence the action of a public official in the selection process or in contract execution; and

(ii) "Fraudulent practice" means a misrepresentation or omission of facts in order to influence a selection process or the execution of a contract;

(iii) "Collusive practices" means a scheme or arrangement between two or more constructors/suppliers with or without the knowledge of the CDGK, designed to establish prices at artificial, noncompetitive levels and to deprive the CDGK of the benefits of free and open competition;

(iv) "Coercive practices" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract.

(b) The CDGK will reject a proposal for award if it determines that the constructors/suppliers recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for the contract in question;

(c) The CDGK will sanction a consultant, including declaring the consultants ineligible, either indefinitely or for a stated period of time, to be awarded a CDGK contract if it at any time determines that the consultant has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices ; and

iv) The Evaluation of proposals by the Evaluation Committee

Evaluation committees for procurement over defined amount (Rs. 5 million)should include two or three members of civil society as public representation. At the time of opening of the Tenders, all members of Evaluation Committee shall sign each and every page of the Proposal, quoted costs, cuttings and overwriting at the time of opening of Technical and Financial proposals as the case may be.

Standard Evaluation based on the RFP and PEC Evaluation Form be carried out by the Evaluation Committee. PEC Evaluation Form is attached as **Annexure III**. The method of selection is either Single Source Selection or QCBS Selection method (PEC 1986). Each proposal shall score at least 75% in each category, and also in aggregate. Proposals not complying to this requirement will be declared as non responsive.

The Evaluation Committee shall evaluate the proposals in accordance with Standard Guidelines for Evaluation of Proposals for Procurement of Engineering Services along with the amendments prescribed in this chapter.

v) Establishment of Sub Criteria for evaluation.

Sub-criteria and their weighting determine the outcome of the evaluation, they should be chosen considering the aspects that are critical to the success of the assignment. Evaluation criteria and sub-criteria, associated points, and the rating system form an arithmetic model to assess the technical merit of the proposals. The more reliable the model, the more accurate the evaluation and the greater the possibility that the CDGK will select the proposal of the consultants who are best suited for the assignment.

All adopted sub-criteria should be specified in the RFP. The points allocated to each of the sub-criteria under "qualifications and competence of key staff" must be indicated in the RFP. It is also recommended to disclose in the RFP the points allocated to the sub-criteria of "adequacy of the proposed methodology and work plan" and "suitability of the transfer of knowledge program", since it increases the transparency of the evaluation. The weight of each sub-criterion will vary according to its relative importance to the specific assignment. To avoid over detailed lists of sub-criteria, it is recommended that no fewer than three points be allocated to each sub-criterion. Allocation of fewer than three points would imply that the sub-criterion is of only minor importance to the overall evaluation.

vi) Evaluation of Personnel.

There is an ambiguity in allotting scores for personnel in the PEC Bidding Documents. LOI Section 3.iv on status of personnel says that " The majority of the key professional staff proposed shall be permanent employees of the firm or have an extended and stable working relation with it unless otherwise indicated in the Data Sheet."

Delete following clause.

Section 5.6.7 of the Standard Guidelines for Evaluation of Proposals for Procurement of Engineering Services " It is accordingly desirable that no undue importance and weight age may be assigned to this element except that the consultants may be required to provide a certificate that the services of the nominated experts will be available up to the end of the validity period of the consultants proposal".

vii) Financial Evaluation.

a) The financial proposals of firms lower than 75% shall then be returned unopened, the remaining financial proposals should be publicly opened by inviting all the remaining bidders.

b) On the date and time set for opening the financial proposals, the appointed CDGK's official delivers them to the Evaluation Committee. The opening is public. The Evaluation Committee verifies that the financial proposals have remained sealed and then opens them.

The Evaluation Committee should first review the financial proposals for arithmetical errors and consistency between the financial and technical proposals (for example, omissions of items included in the technical proposals). Arithmetical errors should be corrected, omitted items evaluated, and the corresponding adjustments made to he offered prices to obtain the final evaluated prices. For example, if a technical proposal indicates the presence of the team leader at the assignment site for 12 months and the financial

proposal indicates only 8 months, and should be calculated by adding the corresponding amount of staff remuneration to the proposed amount.

The Financial proposals shall be evaluated by the Evaluation Committee, and Evaluation Report prepared.

viii) Finalization and Public Declaration of Evaluation Report.
The Evaluation Report shall be published on CDGK website for a minimum period of 10 days for inviting objections.

ix) Publication of the Evaluation Report, Review, approval and Award of Contract.
CDGK shall publish in its website the following information: (i) name of all bidders who submitted a bid; (ii) bid prices as read out at bid opening; (iii) name and evaluated prices of all bids that had been evaluated; (iv) name of bidders that were disqualified and the reasons for their disqualification; and (v) name of the bidder recommended for award and reason for recommendation, price, duration and summary scope of the contract.

After 10 days, all objections shall be examined by the evaluation committee, and evaluation report to be finalized in 3 days, signed by all committee members. The ER shall then be approved by the Project Award Committee in 2 days, After 10days, all objections shall be examined by the evaluation committee, and evaluation report to be finalized in 3 days, signed by all committee members. The ER shall then be approved by the Project Award Committee in 2 days, City Nazim in 2 Days and letter of Award issued in 2 days and Contract Agreement Signed in 4 days.

Negotiation of Contract.
The top ranking consulting engineer will first be invited to negotiate a contract with the employer. If agreement is not reached, the negotiations will be terminated and the consulting engineer notified in writing to this effect by explaining the points of disagreement. A similar negotiation will then follow with the second consulting engineer and failing accord with the second, the third, consulting engineer will be called in for negotiations a similar manner.

Note: The top ranking firm will have to match the lowest price, without any change in the Man Months, Man-months Rates, and compliance to TOR.

e) A copy of the Executed Contract of over Rupees Fifty Million shall be forwarded to the National Accountability Bureau for information.

x) Standard Contract Documents
The RFP shall also include one of the following three appropriates form of Standard Contract Documents issued by PEC,

1. Small Projects
2. Large Time based Projects
3. Large Lump Sum Projects

These Standard Contract Documents are attached as **Annexure IV, V and VI.**

xi) Amendments in the Standard Contract Documents

Following amendments are to be made in the Contract documents.

Clause 3.8 , "The Client and Consultant shall not use these documents for the purpose unrelated to this contract without the prior written approval of the other party" is to be substituted with following;

"Any studies, reports or other material, graphic, software or otherwise, prepared by the Consultant for the Client under the Contract shall belong to and remain the property of the Client."

xii) Milestone Payments.

These Contracts shall be amended to include NACS recommendations quoted above and also the system of milestone payment release system, i.e. opening of local Letter of Credit (LC), and development funds for projects should be placed with Bank for opening of LC for full duration of Project

xiii) Project Director

According to the NACS Tenures are to be fixed for the Project Directors. In case of short duration projects of up to three years, posting for the entire project period. For projects of longer duration, there must be a criteria giving employment for a minimum of three years.

xiv) Time Frame.

This process shall be completed within the time prescribed below;

- Prequalification and notification in the press. 03 Days.
- Receipt of Prequalification from bidders 25 Days
- Evaluation of Prequalification. 07 Days
- Invitation to Bidders. 01 Day
- Receipt of Tenders (minimum) 21 Days
- Opening & Evaluation of tenders 07 Days
- Public Declaration of Evaluation Report 10 Days
- Evaluation Report
  - Finalization of ER 03 Days
  - Approval of ER by Project Award Committee. 02 Days
  - Approval of Award of Contract by Nazim CDGK. 02 Days
  - Issue of Letter of Award by EDO 02 Days
  - Signing of Agreement 04 Day

Note:

Tender Opening & Evaluation Committee: Comprises of EDO (Concerned group of officers), DO's, Representatives of EDO (F&P), EDO (Law) and three Representatives from Civil Society / elected members. (example from FPCCI, Institute of Chartered Accountants,. Pakistan Engineering Council etc.)

Project Award Committee. Comprises of DCO, EDO (Works & Services), EDO (F & P), EDO (Law), EDO (Concerned group of officers), Representative of City Nazim.

Chapter 4

Procurement of Works & Goods

a) PREQUALIFICATION.

A Prequalification is aimed at ensuring that only contractors and suppliers who have the required experience, technical and financial resources bid for a contract. Prequalification screens potential bidders and is designed to provide the following benefits:

- Unqualified bidders save the cost of bid preparation which results in lower overhead costs to them and, therefore presumably lower bid prices in the long run, to the benefit of the CDGK.
- Leading contractors and suppliers, particularly the reputable ones, are more likely to bid knowing that competition is confined to only those qualified. This is also to the benefit of the CDGK.
- The scale of interest by potential bidders can be measured, affording the opportunity to revise bidding conditions as necessary to develop adequate competition.
- The evaluation of only bids from qualified bidders may result in time and cost savings to the CDGK, as well as a reduction (or elimination) of the threat of pressure being applied by marginally or unqualified bidders for their low prices to be considered.
- An early indication of the CDGK's procurement capability is provided, allowing necessary improvements to be made at the initial stages of procurement.
- The creation of appropriate joint ventures is encouraged.

This has to be ensured that the Prequalification should not be used to limit competition to a predetermined number of potential bidders. All applicants who have the qualifications to perform the proposed contract should be pre-qualified and bidding documents made available to all those who pre-qualified. No upper limit should be imposed on the number of pre-qualified potential bidders, but, if the pre-qualified applicants are too few to ensure competition, a reassessment of the situation can be carried out. This includes:

- further advertising for prequalification submission;
- extension of the deadline for applications;
- review of the proposed contract conditions to reduce contractors' risks; and
- improvement of advance mobilization payments. The CDGK may also review prequalification requirements but should not lower them merely to increase competition. Setting of standards/requirements at different well defined levels may be justified when a contract is divided into several smaller, less complex contracts, and bidding is on a slice or package basis.

After prequalification, pre-qualified bidders are invited to submit bids which are eventually evaluated. The CDGK is required to award the contract to the bidder offering the lowest evaluated responsive bid. The CDGK should ask bidders to confirm and update essential prequalification information at the time of bid submission. The lowest apparent evaluated responsive bidder may be denied the contract if evaluation of the updated information indicates that the bidder, no longer possesses the necessary capabilities. This could occur because of changed financial situation, loss of equipment or key personnel, or lack of capacity because of new contract commitments on the bidder's part.

Prequalification documents should enlarge on the information provided in the notification advertisement and contain a description of:

- the proposed procurement;
- the estimated value of the contract and major quantities of work;
- location of the work;
- procurement scheduling of goods or works to be procured;
- abbreviated specifications and conditions of contract;
- main quantities to be procured;
- delivery or implementation schedules;
- requirements for bid and performance securities;
- prequalification evaluation criteria and sub criteria,
- how the project is to be financed;
- payment terms;
- price adjustment provisions;
- the language and governing law of the contract;
- other information in sufficient detail to enable bidders, suppliers or contractors to assess their interest and respond appropriately; and
- The name and address of the CDGK and of the CDGK's official in charge of the procurement with a statement of their roles.
- Registration with Pakistan Engineering Council and the Current license issued by the Council;
- Consent to sign " Integrity Pact" and
- Any other relevant factors..

For purposes of evaluating the applicants, the prequalification documents should include a questionnaire, requiring applicants to respond to direct questions as well as to complete a series of forms. The information solicited and the number of forms to be filled should be the minimum essential required to make an objective decision as to the bidder's capabilities. The CDGK should avoid requesting excessive form-filling, testimonials, affidavits from bidder's former or current CDGK's, notarized documents and any other non-essential documents and information which will deter some of the qualified firms from applying. Properly designed and completed, the questionnaire should provide the CDGK with a good framework for evaluation, while encouraging applicants to provide full pertinent details on their capabilities.

Prequalification Documents

Prequalification documents should specify the submissions required, such as completed questionnaire forms and supporting documents and their number and the deadline for their submission. **They should also contain a clear statement on the criteria and sub criteria for evaluation of prequalification applications**. The anticipated period for evaluation after receipt of prequalification applications, usually 2 to 3 weeks and the method of notification to all applicants of the results should be indicated in the documents and displayed on website. The CDGK should not consider prequalification applications received after the time stipulated.

B) STANDARD GUIDELINES FOR EVALUATION.

I) Use Standard Guidelines for Pre-qualification of Constructors issued by Pakistan Engineering Council Islamabad, in May 2002, with amendments prescribed by NACS 2002.

II) Copy of the PEC Standard Guidelines for Pre-Qualification of Constructors is attached as **Annexure VII.**

III) Amendments to be made in these PEC documents incorporating NACS 2002 policy.

i) Integrity Pact.

Same as prescribed in Consultants procedures.

ii) Evaluation Committee.

Evaluation committees for procurement over defined amount (Rupees Five Million) shall include 3 members of civil society/elected members, for example from Institute of Chartered Accountants, PEC and FPCCI.

iii) Allocation of Sub Criteria.

Sub-criteria and their weighting determine the outcome of the evaluation, they should be chosen considering the aspects that are critical to the success of the assignment. Evaluation criteria and sub-criteria, associated points, and the rating system form an arithmetic model to assess the technical merit of the proposals.

The more reliable the model, the more accurate the evaluation and the greater the possibility that the CDGK will select the proposal of the consultants who are best suited for the assignment.

iv) Financial Evaluation and Litigation history.

Criteria and Sub-criteria for Financial Evaluation and litigation history shall be modified to following;

In the PEC Standard Guidelines for Pre-Qualification of Constructors, clause 3.2.5 shall be examined in the following manner;

Financial Position- General Information

1 The purpose of assessing the financial soundness of the Applicants is to reassure the Employer that the individual Applicant's financial standing in its whole does not have structural weaknesses that may result in the Applicant's financial inability to perform, and to give an indication of the scope and value of the work the Applicant would be able to undertake. To place a detailed analysis in context, it is necessary to look at trends in key figures over a number of years and to make comparisons of the firm's annual activities to the same firm's results from previous years.

2 Because of differing international accounting practices and tax laws, published information on the financial position of companies and financial ratios derived there from do not provide a uniform and satisfactory basis to compare the financial standing of an Applicant with other Applicants for prequalification purposes. Nevertheless, audited financial statements or balance sheets should be sought as a general guide to the financial

situation of the Applicant. Firms owned by individuals and partnerships may not be required to maintain audited accounts by the laws of their countries of origin. In such cases, balance sheets should be certified by a registered accountant and supported by tax returns.

3 In any case, the CDGK should require applicants to provide the following background information to support the presentation in the Information Forms:

- Audited or certified financial statements for the last five years or for the period stated in the prequalification notice, supported respectively by audit statements or tax returns; and
- Names and addresses of the Applicant's banker(s), as well as the names and addresses of clients or organizations familiar with its financial standing.

Development of Indicators and Ratios

4 The financial information provided by an Applicant should be reviewed in its entirety to allow a truly informed judgment, and the pass–fail decision on the financial position of the Applicant should be given on this basis. To assist in this review, the indicators used most frequently are **working capital** and **net worth**. The following table summarizes the financial information of an example firm as would be reported by an Applicant in the Form A 10, as well as an evaluation by the Employer of the Applicant's **working capital** and **net worth**.

The example for financial capability to be provided under Form A-10 is given below for information.

EXAMPLE

Financial Information (Rs. million equivalent)

	Actual: previous five years						Projected: next two years	
	5	4	3	2	1	0	1	2
1. Total assets	185	190	200	230	250		255	253
2. Current assets	120	130	145	140	150		160	162
3. Total liabilities	90	105	100	110	115		120	126
4. Current liabilities	70	65	70	75	78		90	95
5. Profits before taxes	14	13	13	14	18		21	21
6. Profits after taxes	10	9	9	10	13		15	15
Overview Analysis								
7. Net worth (1) - (3)	95	85	100	120	135		13.5	127
8. Current ratio (2)/(4)	1.7	2.0	2.1	1.9	1.9		1.8	1.7
9. Return on equity % (5)/(7 of prior year)		13.7	15.3	14.0	15.0		15.5	15.5

Working capital is the difference between current assets and current liabilities, and measures the firm's ability to generate cash in the short term. Current assets are cash and other assets suitable for conversion into cash within one year. Current liabilities are monetary obligations that must be paid out within the current year. To help in the interpretation of the adequacy of **working capital**, the **current ratio**, which compares the current assets with the current liabilities, is more helpful than a figure for working capital.

In the example, the current ratio of the firm varies from 1.7 to 2.1 over the previous five years and the projected ratios for the next two years are also within this range. This indicates that the firm has had a consistent record of its working capital with at least Rs. 1.7 in current assets to back each rupee of its current liabilities. Construction firms normally have small inventories and accounts receivable are easy to collect; they can therefore operate safely with a low current ratio. The example firm appears healthy from its **working capital** point of view.

Net worth or **net equity** is the difference between total assets and total liabilities. The **net worth** measures a firm's ability to produce profits over the long run as well as its ability to sustain losses. Although the yearly figures for the **net worth** indicate the growth of the firm, the **return on equity** gives a better indication of the efficiency with which equity is employed within the firm. This is obtained by dividing the annual profit before taxes by the net worth of the previous year and expressed as a percentage. In the example, for every rupee of equity, the firm made 13.7 to 15.3 paisa during the five-year period. The example firm shows a rather consistent net worth record.

Example : Estimating minimum "Cash-flow" Requirement

Consider a Rs. 100 million Contract of Road Work with a Two year completion period.

Estimated Cost:		Rs. 48 m
Duration:		2 years
Average monthly "cash flow" amount:		Rs. 48 m ÷ 24 = Rs. 2.0m
Elapsed period (sample)		
(a)	Interim construction period	1 month
(b)	Engineer issues payment certificate	5 days
(c)	Employer pays invoice	45 days
(d)	Contingency period	1 month
	Total	4 months

"Cash flow" requirement for four months: = 4 × Rs. 2.0m = Rs. 8.0m

v) Contract Evaluation

(a) The average annual amount of the Applicant's past turnover on general construction stated by the Applicants in should be equal to or greater than that stated in Prequalification documents. If there has been a downward trend in turnover in more recent years over the specified period, a clarification should be sought by the evaluator with a view to a possible weighting of the more recent years in determining the annual average (see example below).

Example:

Year	Turnover	Rs. equivalent in M
20. 1998 (to end June)	(completed in different currencies)	
2. 1999	"	40
3. 2000	"	80
4. 2001	"	120

5.	2002	"	100
Totals: 4.5 years			R. 360 m
Average T/O p.a.:		360÷4.5 =	Rs. 80m p.a.
Minimum Average Requirement stated in PQ Doc:			Rs. 60m p.a.

Note : Although appearing to pass the qualifying criterion, the Applicant has only averaged Rs.56 m/per annum (140÷2.5) in the last two and one-half years, with decreasing turnover. In such cases, the Employer should make a thorough investigation of the financial soundness of the Applicant and, failing a satisfactory resolution, the Applicant could be disqualified.

(b) The particular experience on similar contracts, and minimum key production rates as stated in PQ Doc., should be compared with information provided by applicant. The contribution of named specialist subcontractors may be a factor in satisfying these criteria.

(c) The minimum required cash flow amount stated in PQ Doc. should be adequately supported by the Applicant's statements .. If the Applicant is a JV, the available contribution of each partner may be aggregated.

(d) The sources of financing for "Works in Progress" should be satisfactory.

vi) The Analysis of Litigation History

1 The execution of any construction contract will normally result in the payment by the Employer of a number of reasonable claims from the Contractor, e.g., for defaults of the Engineer/Project Manager, delays, unforeseeable ground and climatic conditions, etc. However, some Contractors have an established business practice of bidding low to obtain award of contract; and then flooding the Employer with excessive or frivolous claims to increase their income. Employers should be on guard against any Contractor who habitually resorts to excessive claims, arbitration, and litigation in the execution of contracts.

2 Applicants with a consistent and significant history of excessive contract arbitrations and litigation resulting in awards or decisions against them should not be qualified to bid. So that the litigation history may be evaluated, Applicants should be required to list all contracts over a stated period of time (normally five years) that resulted in litigation or arbitration proceedings, with an indication of the matters and amounts in dispute, the parties involved, and the resolution of the dispute.

3 The criterion for rejection should be that of numerous arbitral awards or court decisions **against** the Applicant in relation to awards **for** the Applicant, taking the number and amount of contracts executed. As an indicative example, the occurrence of one or two adverse cases over five years for a Contractor handling, on average, ten construction jobs simultaneously, should not be a cause for rejection. If dispute resolution is found relatively frequently in the business of the Applicant, it may indicate an attitude of the management of the firm that could be dangerous for the Employer if the Applicant were awarded the contract, and further investigation with previous Employers may be warranted.

vii) Evaluation

The Evaluation Committee shall evaluate the proposals in accordance with PEC Evaluation Form is attached as **Annexure VIII**. Approval of DCO shall then be obtained. This activity shall be completed in Seven days.

viii) Invitation of Tenders.

Tenders shall then be invited from the Pre-qualified Contractors.

C) INVITATION OF TENDERS.

I) Use Standard Form of Bidding Documents (Civil Works) issued by Pakistan Engineering Council in August 2002, with amendments prescribed by NACS 2002.

II) Copy of the PEC Standard Form of Bidding Documents (Civil Works) is attached as **Annexure IX.**

III) Amendments to be made in these PEC documents incorporating NACS 2002 policy.

i) Integrity Pact.

Same as prescribed in Consultants procedures.

ii) Evaluation Committee.

Evaluation committees for procurement over defined amount (Rupees Five Million) shall include members of civil society, for example from Institute of Chartered Accountants, PEC and FPCCI. The Evaluation Committee members shall sign each and every page of the Tenders, quoted costs, cuttings and overwriting at the time of opening of the Tenders.

iii) Allocation of Sub Criteria and Financial Evaluation.

Sub-criteria and their weighting determine the outcome of the evaluation, they should be chosen considering the aspects that are critical to the success of the assignment. Evaluation criteria and sub-criteria, associated points, and the rating system form an arithmetic model to assess the technical merit of the proposals.

The more reliable the model, the more accurate the evaluation and the greater the possibility that the CDGK will select the proposal of the consultants who are best suited for the assignment.

iv) Check for balanced bid prices, to evaluate determination of enhancement of performance security.

Bill of Quantity (BOQ) Format requires change, to include breakdown against each BOQ item cost of material, equipment, labour & overhead costs.

v) Amendments in the Tender Documents for Civil Works.

a) In Standard Form of Bidding Documents Civil Works also the Arithmetic Check and Correction of error should be included at the preliminary checking stage.

b) The IT.26 and IT. 27 Examination of Tenders and Determination of Responsiveness may therefore be substituted with IT 24.1 a & b, 24.2 and 24.3 of the Tender Documents for Electrical and Mechanical Works.

c) The IT.18 Format and Signing of Tender. Wording of 18.6 is substituted with new wording. 18.6.

"The tender shall contain no alterations, omissions or additions, except to comply with instructions issued by the Employer, or as are necessary to correct errors made by the bidder, in which case such corrections shall be initialed by the person or persons signing the tender".

"The Correction shall be made by striking a line over the wrong amount, and writing the correct amount separately. The use of White Fluid for correction of error is not allowed. The Correction shall be made by striking a line over the wrong amount, and writing the correct amount separately"

vi) Amendments in the Tender Documents for Electrical and Mechanical Works.

The PEC Standard Form of Tender Documents for Procurement of Works (Electrical & Mechanical) includes following clause.26.2 Evaluation and Comparison of Tenders

Commercial Evaluation

It will be examined in detail whether the tenders comply with the commercial/contractual conditions of the Tender Documents. It is expected that no major deviation/stipulation shall be taken by the bidders.

However there is no information on the procedure of commercial evaluation. The procedure for commercial evaluation has to be defined in the Tender Documents for transparent evaluation. For this purpose following Clause is to be included in the Tender Documents for Electrical & Mechanical Works. This clause has been borrowed from the "Standard Bidding Documents for the Supply and Installation of Plant and Equipment" prepared by the World Bank, issued in November 1997, Revised January 1999 and March 2002.

25 Commercial Evaluation

25.1 The comparison shall be of the EXW price of plant and equipment offered from within the Employer's country, such price to include all costs as well as duties and taxes paid or payable on components and raw material incorporated or to be incorporated in the plant and equipment, with the price of the CIF-named port of destination (or CIP border point or CIP-named place of destination) offered from outside the Employer's country, plus the cost of local transportation, all installation and other services required under the contract. The Employer's comparison will also include the costs resulting from application of the evaluation procedures described in ITB Sub-Clause 25.3.

25.2 The Employer's evaluation of a bid will take into account, in addition to the bid prices indicated in Price Schedule Nos. 1 through 5, the following costs and factors that will be added to each Bidder's bid price in the evaluation using pricing information available to the Employer, in the manner and to the extent indicated in ITB Sub-Clause 25.3 and in the Technical

Specifications:

(a) the cost of all quantifiable deviations and omissions from the contractual and commercial conditions and the Technical Specifications as identified in Attachment 6 to the bid, and other deviations and omissions not so identified

(b) compliance with the time schedule called for in the corresponding Appendix to the Form of Contract Agreement and evidenced as needed in a milestone schedule provided in the bid

(c) the projected operating and maintenance costs during the life of the facilities

(d) the functional guarantees of the facilities offered

(e) the extra cost of work, services, facilities, etc., required to be provided by the Employer or third parties.

The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the contract, shall not be taken into account in bid evaluation.

25.3 Pursuant to ITB Sub-Clause 25.2, the following evaluation methods will be followed:

(a) ***Contractual and commercial deviations***
The evaluation shall be based on the evaluated cost of fulfilling the contract in compliance with all commercial, contractual and technical obligations under this bidding document. In arriving at the evaluated cost, the price for withdrawal of deviations shown in Attachment 6 of the bid will be used, if necessary. If such a price is not given, the Employer will make its own assessment of the cost of such a deviation for the purpose of ensuring fair comparison of bids.

(b) ***Time schedule (program of performance)***
The plant and equipment covered by this bidding are required to be shipped and installed, and the facilities shall have the pre-commissioning completed within the period named in the Bid Data Sheet after the effective date specified in the Form of Contract Agreement. **Bidders are required to base their prices on the time schedule given in the corresponding Appendix to the Form of Contract Agreement (Time Schedule) or, where no time schedule is given, on the completion date(s) given in the Bid Data Sheet.** No credit will be given for earlier completion. Where an Alternative Time Schedule is accepted, pursuant to ITB Sub-Clause 9.3 (g) (i), and where the completion date offered is within the limits specified in the Bid Data Sheet, bids offering a completion date beyond the minimum designated period shall be adjusted in the evaluation by adding a factor specified in the Bid Data Sheet to the bid price. Bids offering a completion date beyond the maximum designated period shall be rejected.

(c) ***Operating and maintenance costs***
(i) Since the operating and maintenance costs of the facilities being procured form a major part of the life cycle cost of the facilities, these costs will be evaluated according to the principles given in the Bid Data Sheet, including the cost of spare parts for the initial period of operation stated in the Bid Data Sheet and based on prices furnished by each Bidder in

Price Schedule Nos. 1 and 2, as well as on past experience of the Employer or other employers similarly placed. Such costs shall be added to the bid price for evaluation.

(ii) The price of recommended spare parts quoted in Price Schedule No. 6 shall not be considered for evaluation.

(d) ***Functional Guarantees of the facilities***

(i) Bidders shall state the functional guarantees (e.g., performance, efficiency, consumption) of the proposed facilities in response to the Technical Specifications. Plant and equipment offered shall have a minimum (or a maximum, as the case may be) level of functional guarantees specified in the Technical Specifications to be considered responsive. Bids offering plant and equipment with functional guarantees less (or more) than the minimum (or maximum) specified shall be rejected.

(ii) For the purposes of evaluation, the adjustment specified in the Bid Data Sheet will be added to the bid price for each drop (or excess) in the responsive functional guarantees offered by the Bidder, below (or above) either a norm of one hundred (100) or the value committed in the responsive bid with the most performing functional guarantees, as specified in the Bid Data Sheet.

(e) ***Work, services, facilities, etc., to be provided by the Employer***

Where bids include the undertaking of work or the provision of services or facilities by the Employer in excess of the provisions allowed for in the bidding documents, the Employer shall assess the costs of such additional work, services and/or facilities during the duration of the contract. Such costs shall be added to the bid price for evaluation.

(f) ***Specific additional criteria***

The relevant evaluation method, if any, shall be detailed in the Bid Data Sheet and/or in the Technical Specifications.

25.4 Any adjustments in price that result from the above procedures shall be added, for purposes of comparative evaluation only, to arrive at an "Evaluated Bid Price." Bid prices quoted by bidders shall remain unaltered.

vi) Evaluation Form.

PEC Standard Form of Evaluation report is to be used, with amendments prescribed by NACS. Copy of the PEC Standard Form of Evaluation report is attached as **Annexure X.**

vii) Declaration of Evaluation Report for Transparency of decision.

Evaluation reports should be made public, e.g. by placing on website or locally by the clients 10 days prior to finalization of Evaluation Report to invite any objections from any sector for the purpose of making any re-evaluation, if needed.

Note: Publication of the Evaluation Report

CDGK shall publish in its website the following information: (i) name of all bidders who submitted a bid; (ii) bid prices as read out at bid opening; (iii) name and evaluated prices of all bids that had been evaluated; (iv) name of bidders that were disqualified and the

reasons for their disqualification; and (v) name of the bidder recommended for award and reason for recommendation, price, duration and summary scope of the contract.

viii) Finalization of Evaluation Report.
After 10 days, all objections shall be examined by the evaluation committee, and evaluation report to be finalized in 3 days, signed by all committee members. The ER shall then be approved by the Project Award Committee in 2 days, City Nazim in 2 Days and letter of Award issued in 2 days and Contract Agreement Signed in 4 days.

ix) Award of Contract.
The negotiations for award of Contract shall be held with the responsive evaluated lowest bidder, and the contract awarded to the at the quoted cost. This process shall be completed within the prescribed time frame quoted below

- Receipt of Tenders (minimum) 21 Days
- Opening & Evaluation of tenders 07 Days
- Public Declaration of Evaluation Report 10 Days
- Evaluation Report
  - Finalization of ER 03 Days
  - Approval of ER by Project Award Committee. 02 Days
  - Approval of Award of Contract by Nazim CDGK. 02 Days
  - Issue of Letter of Award by EDO 02 Days
  - Signing of Agreement 04 Day

Note:
Tender Opening & Evaluation Committee: Comprises of EDO and Concerned group of officers, DO's, Representatives of EDO (F&P), EDO (Law) and three Representatives from Civil Society / elected members. (example from FPCCI, Institute of Chartered Accountants,. Pakistan Engineering Council etc.)

Project Award Committee. Comprises of DCO, EDO (Works & Services), EDO (F & P), EDO (Law), EDO (Concerned Department), Representative of City Nazim.

x) Publication of evaluation Report.
The Evaluation Reports shall then be placed on the CDGK website for public comments..

xi) Copy of Contract for National Accountability Bureau.
A copy of the Executed Contract of over Rupees Fifty Million shall be forwarded to National Accountability Bureau for information.

xii) Standard Contract Documents
The tender Documents shall also include one of the following two appropriate form of Standard Contract Documents issued by PEC,

1. Standard Form of Bidding Documents (Civil Works)
2. Standard Form of Tender Documents (electrical & mechanical)

These Standard Contract Documents are attached as Annexure XI AND XII.

xiii) Milestone Payments.

These Contracts shall be amended to include NACS recommendations quoted above and also the system of milestone payment release system, i.e. opening of local Letter of Credit (LC), and development funds for projects should be placed with Bank for opening of LC for full duration of the Project.

Transparency International Pakistan

Strives to build a better country to live in

" Integrity Pact" in CDGK

We are aware that the present Government of Pakistan has embarked on a program to curb corruption. The CDGK has agreed to implement the Integrity Pact (IP) concept for the "Works & Services Department of the City District Government – Karachi (CDGK) which is an important tool developed by the Transparency International in its fight against corruption.

Purpose of the Integrity Pact (IP).

Apart from imbibing and disseminating values, principles and policies against corruption, Transparency International, as the only Organization with the sole objective of mobilizing civil society and building coalition for combating corruption, has also developed certain helpful instruments for application in government and individual organizations and entities. The concept of an Integrity Pact designed to make public procurement practices transparent is one of them.

TI has developed and adjusted the model for the " Integrity Pact" on the basis of extensive discussions with governments and international agencies such as the World Bank, the Inter-American Development Bank, the Asian Development Bank, the International Finance Corporation, UNDP, the Court of Arbitration of the International Chamber of Commerce and FIDIC. The Project Director has also stated that IP is at present already in practice on various procurement projects in Argentina, Colombia, Italy, Korea, Nepal , Ecuador and Panama.

"Integrity Pact" is a system which insures that all activities and decisions of public offices are transparent and that the projects/works are implemented, services are provided or taken, and goods/materials are supplied without giving or taking any kind of benefit, financial or otherwise. Justification of the decisions taken is provided without much ado to the parties concerned or to any interested individual or institution/organization.

The Integrity Pact (IP) is intended to accomplish two objectives:

i) to enable companies to abstain from bribing by providing assurances to them that

ii) their competitors will also refrain from bribing and

iii) government procurement agencies will undertake to prevent corruption, including extortion, by their officials and to follow transparent procedures; and

iv) to enable governments to reduce the high cost and the impact of corruption on public procurement.

The IP concept could also be applied in similar situation, e.g. when a government as part of its privatization program, invites bidders to tender for the acquisition of government assets, or for the granting of telecommunications, transport, mining logging or other such licenses.

Considering the critical role normally played by consulting engineers (or other consultants) in preparing the procurement documents, evaluating the bids and supervising the contract execution, their selection should be subject to the IP concept as well.

In practically all countries, all forms of domestic corruption are illegal, and one should assume that the government will continue to prosecute all offenders.

The IP however focuses on bribery in order to obtain or retain a contract or other improper advantage

This includes any payments or other favors offered or granted in order to

i) win a contract award
ii) get a contract change order (adjusting the price, the specifications, the time frame for implementation or any other important contract components) approved by the government,
iii) get sub-standard or sub-specification performance approved by a public official or the supervising consultant and their staff,
iv) circumvent tax, duty, license or other legal obligations, or
v) induce an official to breach his/her official duties in any other way.

Main Features of the IP.

The IP is an agreement among the government/government agency and the bidders/companies, who participate in the bidding process for the supply of goods or services for a selected contract/project, that bribes will not be offered, granted or sought, both during the bidding process and during implementation of the contract by the successful bidder. The IP has the following main features:

- A formal no-bribery commitment by the bidder, as part of the signed tender document, [supported by a company Code of Conduct and a Compliance Program];
- A corresponding commitment of the government to prevent extortion and the acceptance of bribes by its officials;
- Disclosure of all payments to agents and other third parties;
- Sanctions against bidders who violate their no-bribery commitment; and
- An involvement of Civil Society in monitoring the bid evaluation, the award decision process and the implementation of the contract. Alternatively to the involvement of Civil Society, or preferably in addition to it:
- Public disclosure of the award decision, including the major elements of the evaluation and the reasons for the selection of the successful bidder.

The IP would function as follows:

The CDGK, when inviting contractors or supplies of goods or services to tender for a specific contract, informs the potential bidders that their tender offer must contain a formal commitment, on behalf and in the name of the bidder's CEO, not to offer or grant any payments or favors in order to obtain or retain this contract or other improper advantage, and not to collude with other actual or potential bidders with the aim of restricting competition. The bidder's commitment will have to cover all managers and employees of the company as well as gents consultants, subcontractors and consortium partners of the bidder. The government on its part will commit itself to prevent extortion and the acceptance of bribes by its officials, and to follow transparent procurement rules. In substance, these commitments are nothing other than an agreement to respect and apply the existing laws of the country.

Because a bidding company acts through many employees and agents, the company's and CEO's commitment should (not least for the CEO's own protection) be supported by a company-wide no-bribery policy (a "Code of Ethics" or "Code of Conduct") and implemented through a compliance program which assures that all employees and agents will be familiar with, and observe, the no-bribery policy and commitment. Where the company already has a written no- bribery policy in effect, it can furnish a copy of that policy together with the compliance program implementing that policy. Where a company does not have such a policy, or does not have a written compliance program, it can prepare a compliance program for the particular contract.

A Code of Conduct and compliance program would normally address the following issues:

- An unequivocal statement of the company's policy prohibiting all forms of bribery and collusion;
- The company's policy regarding gifts and entertainment, travel and lodging expenses, political contributions etc;
- Distribution of the policy (in appropriate languages) to all managers and employee;
- An acknowledgement of receipt and acceptance by the employees, to be renewed annually;
- Training controls, external audit and record keeping; and
- Application of appropriate sanctions (including possibly termination of employment) in case of violation.

The government would not need to evaluate the no-bribery policy /code of conduct and the compliance program adopted by every bidder at the time of bid submission. Only if and when there is cause to suspect malpractice by one of the bidders, that bidder's policy and compliance program will be evaluated. Any shortcomings identified then would be relevant to the sanctions, including the length of any period of debarment to be imposed for breach.

While it is highly desirable that all companies develop and apply a no-bribery policy and a compliance program, its existence is not mandatory under the IP. Disclosure of Payments to Agents and other Third PARTIES.

One key lies in transparency relating to payments to agents and other third parties in connection with the contract. There are, of course, good and valid reasons why agents may be engaged to perform legitimate services, and be paid an appropriate amount for such services. However, agents' commissions are a traditional avenue for the concealing of bribes. The IP concept therefore requires that all past and intended future payments to agents and other third parties be disclosed at the bidding stage, and that they be formally recorded and reported during the execution stage by the successful bidder, with certification by an appropriate senior manager. This certification is necessary so that senior managers and the CEO will not be able to disclaim knowledge of malpractice as presently often is the case. This requirement is bolstered by the compliance program which the successful bidder should have in place.

Sanctions.

Bidders who violate their no-bribery commitment during the contract award process, or the successful contractor or supplier who violates the no- bribery commitment during the contract execution phase, will be subject to significant sanctions.

Sanctions normally will include denial/cancella tion of the contract, liability for damages (to the government as well as to the competing bidders), and forfeiture of the bid security and debarment of the offender from all business with that government for an appropriate period of time.

In case where he government debars an offender from government business because of a violation of the no-bribery commitment under an IFI/external donor financed contract, the IFI/external donor should also seriously consider debarring that offender from eligibility for contracts financed by it globally.

Damage claims by the government could be open-ended or they could be in the form of liquidated damages where a certain percentage of the contract value (say, five or ten percent) is pre-agreed as "the damage" unless either party can demonstrate and prove that the actual damage is larger or smaller. Damage claims by competitors could also be pre-set as a percentage of the contract value (say, one-half of one percent or one percent), unless higher or lesser damage can be proven. The legal route for enforcing the damage claims, to be announced in advance by the government, may

be any suitable national court system, or it may be arbitration e.g. under the auspices of the International Chamber of Commerce. By empowering unsuccessful bidders to enforce sanctions themselves (through the courts or by international arbitration) their confidence in the integrity of the process as w hole will be increased.

Role of Civil Society.

It is essential that a process be employed which involves consultation among key parties and which leads to the adoption of a methodology which enjoys the confidence of the private sector. Where an effective civil society structure exists, possibly also a National Chapter of TI, it will be highly desirable to enlist its support by providing access for an effective monitoring role – directly or through expert consultants – and thereby create transparency and credibility to the process. It is therefore important that a government does not seek unilaterally to impose such system but it is recommended that the government arrange for prior consultation, possibly in the form of a hearing or hearings with the key actors.

A government may also, either in addition to the involvement of Civil Society, or possibly in its place, adopt a policy of total transparency of the bidding, bid evaluation, award selection and contracting process, through outright publication of all the critical documents or by giving easy access to relevant documents and information to any interested party.

Provision for suggestions and complaints:

i) A suggestions box should be placed in the office premises to encourage suggestions from the concerned or other interested parties.

ii) Arrangements for the analysis of and implementation of feasible suggestions be made.

iii) An official should be designated to respond to the suggestions and complaints thus received. Complaints be studied and redressed as soon as possible. All these processes be made public.

Concluding Remarks.

The IP concept should be presented to the respective bidders as early in the process as possible, so as to assure that the new rules are established before interested parties have had the opportunity to enter into different (traditional) arrangements. This means inter-alia that for any contract with pre-qualification procedures (e.g. major civil works contracts) the bidders are requested to present their commitment as part of their submission for pre-qualification, or at least that the companies invited to apply for pre-qualification are informed of the use of the IP concept in the bidding process.

The government may begin by testing this IP concept on major contracts for one or several selected projects, or for all projects in a particular sector. Broader application could then follow at a later date when sufficient experience has been gained, and any desirable modifications may have been introduced.

The attachments to this memorandum contain:

i) A model communication Attachment I, from the CDGK to the bidders for the selected contract, which would normally be incorporated into the government's Invitation to Tender; and

ii) A model of " Integrity Pact" Attachment-II by the CDGK.

iii) A model "Memorandum of Understanding" between CDGK and TI-Pakistan, for inclusion of the "Integrity Pact' in implementation of contracts / Tenders of Works and Services in its relevant department.

iv) These "Models"" would be attached to the government's invitation to bidders. These model documents would be adjusted to the specific requirements of the selected contract.

Applying the Integrity Pact concept would be one step for the government towards bringing more transparency and integrity into its procurement process. The broader government program to combat corruption should be implemented concurrently as rapidly as possible.

Communications by the CDGK to all Firms for Short listing / pre-qualification for Contracts / Tenders in Works and Services Departments.

Attachment 1

Invitation to Firms for CDGK Contract

1. The Government of Pakistan (GOP) is committed to fight corruption in public contracting As part of this program, the City District Government Karachi (CDGK) has reviewed its arrangements for the letting and implementation of contracts against criteria of transparency and accountability.

2. In an effort to limit the scope for abuse, CDGK is introducing new procedures, which CDGK is sure your company will wish to support. The objective is to ensure that there is fair competition for government business, and that competition takes place openly and in a manner that provides fair and equal opportunity for all competitors. The new procedures will also apply to the execution of contracts by the successful bidder/supplier. The new Procurement Procedures will be set out in the Letter of Invitation/Tender Documents.

3. As part of our confidence building strategy, CDGK will treat the oversight and monitoring of the implementation of these new procedures with the highest priority. CDGK will pay particularly close attention to the need to prevent any case of extortion, or acceptance of bribes, by CDGK officials. We are asking all those bidding for CDGK business to assist the government by reporting any instances of this occurring.

4. A special office for the investigation and handling of any reports of extortion or bribery in public procurement has been set up in the Managing Director's Office.

5. CDGK hopes to obtain your company's endorsement of these procedures as fair and reasonable, and as having your full support.

Attachment 2

The Integrity Pact

1. The City District Government Karachi (CDGK) Procedures for Bidding for Public Sector Contracts:

2. The following procedures will apply to the letting of contracts for Short-listing / pre-qualification of Works and Services for Contracts / Tenders in its Works and Servic es department.

3 These procedures are in addition to the standard legal and administrative requirements.

4 They will form part of the terms and conditions of each contract and will be actionable, in the event of breach, by the CDGK and any of the competing bidders.

5 Each bidder must submit a statement, as integral part of the Tender documents, with the following text:

a) This Company places importance on competitive tendering taking place on a basis that is free, fair, competitive and not subject to abuse. This Company is pleased to confirm that (i) it has not offered or granted, and will not offer or grant, either directly or indirectly through agents or other third parties, any improper inducement or reward to any public official, their relations or business associates, in order to obtain or retain this contract or other improper advantage, and (ii) it has not colluded, and will not collude, with others in order to limit competition for this contract.

b) This Company has a No-Bribery Policy/Code of Conduct and a Compliance Program which includes all reasonable steps necessary to assure that the no-bribery commitment given in this statement will be complied with by its managers and employees, as well as by all third parties working with this company on Contracts / Tenders with the Works and services Department CDGK including agents, consultants, consortium partners, subcontractors and suppliers. Copies of our No-Bribery Policy/Code of Conduct and Compliance Program are attached.

Or

In cases where companies participate in the bidding which do not yet have a general no bribery policy/Code of Conduct:"

c. This Company has developed, for the purposes of this tender, a Compliance Program – copy attached – which includes all reasonable steps necessary to assure that the no- bribery commitment given in this statement will be complied with by its managers and employees, as well as by all third parties working on Contracts / Tenders with the Works and services Department CDGK including agents, consultants, consortium partners, subcontractors and suppliers.

d. This commitment is in the name and on behalf of this Company's Chief Executive Officer

e. This Company agrees for the resolution of any damage claims arising from this contract under Law of Pakistan."

6 Where a bidding company is a foreign company and has a subsidiary in Pakistan, the commitment must extend to that subsidiary and its managers and employees as well. If

the tender is submitted by the subsidiary in Pakistan, the no-bribery commitment needs to extend also to the parent company and its managers and employees.

7 Bidders will also be required to submit similar no-bribery commitments from their subcontractors and consortium partners. The bidder may however cover the subcontractors and consortium partners in its own statement, provided the bidder assumes full responsibility.

All payments shall be limited to appropriate compensation for legitimate services.

8. Each bidder will make full disclosure in the bid documentation of the beneficiaries and amounts of all payments made, or intended to be made, relating to the bid and, if successful, the implementation of the contract.

9. The successful bidder will also make full disclosure semi-annually of all payments to agents and other third parties during the execution of the contract.

10. Within one year of the completion of the performance of the contract, the successful bidder will formally certify that no bribes or other illicit commissions have been paid in order to obtain or retain this contract. The final accounting shall include brief details of the goods and services provided that are sufficient to establish the legitimacy of the payments made.

11. Statements required according to subparagraphs (b) and (d) of paragraph 5 will have to be certified by an appropriate senior corporate officer.

12. In Pakistan, all forms of corruption are illegal, and the Government will continue to prosecute offenders.

13. This IP however focuses on bribery in order to obtain or retain the contract or other improper advantage, including collusion with others in order to limit competition for this contract. This includes any payments or other favours offered or granted in order to

i) win a contract award,
ii) get a contract change order (adjusting the price, the specifications, the time frame for implementation or any other important contract components) approved by CDGK,
iii) get sub-standard or sub-specification performance approved by a public official the supervising engineer or his staff,
iv) circumvent tax, duty, license or any other legal obligations that should be met, or v) Induce an official to breach his/her official duties in any other way.

If a bidder fails to comply with its no-bribery commitment, the following sanctions will apply:

i) denial or cancellation of the contract;
ii) liability for damages to CDGK, in the amount of five percent of the contract value, unless CDGK can demonstrate a higher damage, or the bidder can demonstrate a lesser damage;
iii) forfeiture of the bid security; and
iv) debarment by CDGK from bidding for further public contracts for such period as the CDGK may deem appropriate.

14 CDGK has made special arrangements for adequate oversight and monitoring of the procurement process and the execution of the contract. In this regard, CDGK has provided for public hearings on the procurement process, and for access by Civil Society

including representatives of the local TI-Pakistan, to the minutes of the meetings of the Tender Board and to all documents relating to the evaluation of the competitive tenders, the award decision process and the execution of the project.

15 CDGK shall set up a special office in the Office of the Nazim CDGK for the investigation and handling of any reports of extortion or bribery in public procurement.

16 The CDGK will publicly disclose the award decision including the evaluation report and the reasons for the selection of the successful bidder.

Bids which do not conform to the requirements of these procedures will not be considered.

GOVERNMENT OF PAKISTAN
MINISTRY OF COMMUNICATIONS

Islamabad, the 18th January, 2000.

OFFICE MEMORANDUM

SUBJECT:- CHIEF EXECUTIVE DIRECTIVE-2/2000

The undersigned is directed to enclose a copy of Chief Executive Secretariat's P.O.No.16-1/SO(A-1)/2000-142 dated 12th January,2000 along with its enclosure on the above endorsed subject for compliance/implementation.

Some as Above:

(SAMINA NOOR)
Section Officer (Coord/Imp)

1. IC(E/PMP), Islamabad.
2. DIG, Ports & Shipping Wing, Karachi.
3. Chairman, PTA, Islamabad.
4. Chairman, PTCL, Islamabad.
5. Chairman, NHA, Islamabad.
6. Senior Chief NTRC, Islamabad.
7. DIG, PPO, Islamabad.
8. Chairman, NTC, Islamabad.
9. Vice Chairman, FAE, Islamabad.
10. Chairman, KPT, Karachi.
11. Chairman, PQA, Karachi.
12. MD, PSEB, Islamabad.
13. MD, TIP, Haripur.
14. Chairman, NMTA, Islamabad.
15. DIG, EP/Cell, Islamabad.

Copy of DIS(I), DS(II) and Director (R&RT) for follow up-action.

(SAMINA NOOR)
Section Officer(Coord/Imp)

Subject: Chief Executive's Directive – 1/2000

1. While showing concern over undue and avoidable delays in the processing of cases at various levels, the Chief Executive has desired greater efficiency and removal of bottlenecks.

2. The Chief Executive has directed that the Ministers/Heads of Departments should evolve measures whereby a case is disposed of within SEVEN DAYS of its initiation/receipt. Delays, if any, must be brought to the notice of concerned Secretaries on the 8th day for remedial action.

3. A flow chart, as per proposed specimen at Annex-A, may please be placed on every file, to monitor the progress of processing of every case.

Major General
COS to the Chief Executive
(Anis Ahmed Bajivo)

All Federal Ministers/Heads of Departments

No.16-1/SO(A-1)/2000-142 dated/2 Jan 2000

Annex-A

CASE FLOW CHART

Serial	Office Where Case is Received	Date In	Date Out	Remarks & Reasons For Delay	Signature Of Concerned Officer

"ENGINEERS CODE OF CONDUCT"

Pakistan Engineering Council
(SRO 1463(1) / 78)
All Engineers working in CDGK are now to comply.

Article 1

1. **This Code Conduct may be called the Pakistan Engineering Council Code of Conduct**
2. **This shall come into force at once**
3. **This shall apply to all members of the Pakistan Engineering Council.**

Article 2

1. **To maintain, uphold and advance the honor and dignity of the engineering profession in accordance with this Code, a member shall-**

(a) uphold the ideology of Pakistan;
(b) be honest, impartial and serve the country, his employer, client and the public at large with devotion;
(c) Strive to increase the competence and prestige of the engineering profession;
(d) Use his knowledge and skill for the advancement and welfare of mankind;
(e) Promote and ensure the maximum utilization of human and material resources of Pakistan for achieving self-reliance; and
(f) Not sacrifice the national interest for any personal gain.

Article 3

A member shall be guided in all professional matters by the highest standards of integrity and act as a faithful agent or a trustee for each of his client and employer.

2 A member shall-

(a) be realistic and honest in all estimates, reports statements and testimony and shall carry out his professional duties without fear or favor;
(b) admit and accept his own errors when proved and shall refrain from distorting or altering the facts justifying his decision action;
(c) advise his client or employer honestly about the viability of the project entrusted to him;
(d) not accept any other employment to the detriment of his regular work or interest without the consent of this employer;
(e) not attempt to attract an engineer from another employer by false or misleading pretenses;
(f) not restrain an employee from obtaining a better position with another employer; and
(g) Not endeavor to promote his personal interest at the expense of the dignity and integrity of the profession.

Article 4

1. **A member shall have utmost regard for the safety, health and welfare of the public in the performance of these professional duties and for the purpose he shall-**

(a) regard his duty to the public welfare as paramount;

(b) Seek opportunities to be of service in civic affairs and work for theadvancement of the safety, health and well being of the community.

(c) not undertake, prepare, sign approve or authenticate any plan, design or specifications which are not safe for the safety, health, welfare of a person or persons, or are not in conformity with the accepted engineering standards and if any client or an employerinsists on such unprofessional conduct, he shall notify heauthorities concerned and withdraw from further service on the project; and

(d) Point out the consequences to his client or the employer if his engineering judgment is over-ruled by any non-technical person.

Article 5

1. **A member shall avoid all acts or practices likely to discredit the dignity or honor of the profession and for that purpose he shall not advertise his professional services in a manner derogatory to the dignity of the profession. He any, however, utilize the following means of identification.**

a) Professional cards and listing in recognized and dignified publications and classified section of the telephone directories,

b) sign boards at the site of his office or projects for which he renders services; and

c) Brochures, business cards, letter-heads and other factual representations of experience, facilities, personnel and capacity to render services.

2. A member may write articles for recognized publications but such articles should be dignified, free from ostentatious or laudatory implications, based on factual conclusions and should not imply other than his direct participation in the work described unless credit is given to others for their share of the work

3 A member shall not allow himself to be listed for employment using exaggerated statements of his qualifications.

Article 6

1. **A membershall endeavor to extend public knowledge and appreciation of engineering profession, propagate the achievements of the profession and protect it from misrepresentation and misunderstanding.**

Article 7

1. **A membershall express an opinion of an engineering subject only when foundedon adequate knowledge, experience and hones conviction.**

Article 8

1. **A member shall undertake engineering assignments only when he possesses adequate qualifications, training and-experience. He shall engage or advice for engaging of the experts and specialists whenever the client's or employer's interest is best served such service.**

2. **A member shall both discourage the necessity of other appropriate engineering services, designs, plans or specifications or limit-free competition by specifying materials of particular make or model.**

Article 9

1. **A member shall not disclose confidential information concerning the business affairs or technical processes of any present or former client or employer without his consent.**

Article 10

1. **A member shall uphold the principles of appropriate and adequate compensation for those engaged in engineering work and for that purpose he shall not-**

a) undertake or agree to perform any engineering service free except for civic, charitable, religious, or non-profit organizations or institutions;

b) Undertake professional engineering work at a remuneration below the accepted standards of the profession in the discipline; and

c) Accept remuneration from either an employee or employment agency for giving employment.

2 A member shall offer remuneration commensurate with the qualifications and experience of an engineer employed by him.

3. A member working in any sales section of department shall not offer or give engineering consultation, or designs, or advice other than specifically applying to the equipment being sold in that section or department.

Article 11

1. A member shall not accept compensation, financial or otherwise, from more than one party for the same service, or for services pertaining to the same work unless all interested parties give their consent to such compensation.

2. A member shall not accept -

a) Financial or other consideration, including free engineering design, Form material or equipment suppliers for specifying their products; and

b) Commissions or allowances; directly or indirectly, from contractors or other parties dealing with his clients or employer in connection with work for which he is professionally responsible.

Article 12

1. A member shall not compete unfairly with another member or engineer by attempting to obtain employment, professional engagements or personal gains by taking advantage of his superior position or by criticizing other engineers or by any other improper means or methods.

2. **An engineer shall not attempt to supplant another engineer in a particular employment after becoming aware that definite steps have been taken towards other's employment.**

3. **A member shall not accept part-time engineering work at a fee or remuneration less than that of the recognized standard for a similar work and without the consent of his employer if he is already in another employment.**

4. **A member shall not utilize equipment, supplies, and laboratory or office facilities of his employer or client for the purpose of private practice without his consent.**

Article 13

1. **A member shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practices or employment of another engineer or member.**

2. **A member engaged in private practice shall not review the work of another engineer for the same client, except with knowledge of such engineer or, unless the connection of such engineer with work has been terminated;**

3. **Provided that a member shall be entitled to review and evaluate the work of other engineers when so required by his employment duties.**

4. **A member employed in any sales or industrial concern shall be entitled to make engineering comparisons of his products with products of other suppliers.**

Article 14

1. **A member shall not associate with, or allow the use of his name by an enterprise of questionable character nor will he become professionally associated with engineers who do not conform to ethical practices or with persons not legally qualified to tender the professional services for which the association is intended.**

2. **A member shall strictly comply with the bye-laws, order and instructions issued by the Pakistan Engineering Council from time to time in professional practice and shall not use the association with Non-engineering Corporation, or partnership as a cloak for any unethical act or acts.**

Article 15

1. **A member shall give credit for engineering work to those to whom credit is due, recognize the proprietary interest of others and disclose the name of a**

person or persons who may be responsible for his design, inventions, specification, writings, or other accomplishments.

2. **When a member uses designs, plans specifications, data and notes supplied to his by a client or an employer or are prepared by his in reference to such client or the employer's work such designs, plans, specification, data and notes shall remain the property of the client and shall not be duplicated by a member for any use without the express permission of the client.**

3. **Before undertaking any work on behalf of a person or persons for making improvements, plans designs, inventions or specifications which may justify copyright or patent, a member shall get ownership of such improvements, plans, designs, inventions or specifications determined for the propose of registration under the relevant copyright and patent laws.**

Article 16

1. **A member shall disseminated professional knowledge by interchanging information and experience with other members or engineers and students to provide them opportunity for the professional development and advancement of engineers under his supervision.**

2. **A member shall encourage his engineering employees to improve their knowledge, attend and present papers at professional meetings and provide a prospective engineering employee with complete information on working conditions and his proposed status of employment and after employment keep his informed of any change in such conditions.**

Article 17

1. **A member employed abroad shall order his conduct according to this code, so far as this is applicable, and the laws and regulations of the country of his employment.**

Article 18

1. **A member shall report unethical professional practices of an engineer or a member with substantiating data to the Pakistan Engineering Council and appear as a witness, if required.**

(*Authority:* THE GAZETTE OF PAKISTAN EXTRAORDINARY)

DECEMBER 20, 1978