

Government of Bihar  
Finance Department  
Notification

S. No. 6076 F(2)

Patna-15, Dated 10-11-2005

Whereas over the last so many years, many developments, including a rapid growth of alternative service delivery systems, development in information technology, outsourcing of services and liberalization of the system of procurement, inventory management in line with the international practices have taken place, and

whereas keeping in view these developments, based on the report of the task force of experts, extensive review and consultations, Government of India has notified General Financial Rules, 2005 with effect from July 1, 2005, and

whereas Bihar Finance Rules are primarily based on Government of India's General Financial Rules, and

whereas keeping in view above mentioned changes there is a need for amendment in Bihar Finance Rules for economy and increasing the efficiency of the government,

Now, therefore, in exercise of the powers conferred under sub-sections(1) and (3) of the Bihar Finance Act, 1981, the State Government of Bihar makes the following "The Bihar Finance (Amendment) Rules, 2005" to amend the Bihar Finance Rules :-

**The Bihar Finance (Amendment) Rules, 2005**

**1. Short title, extent and commencement:**

- (a) These rules may be called "The Bihar Finance (Amendment) Rules, 2005.
- (b) It shall extend to the whole of the state of Bihar.
- (c) It shall come in to force at once.

**2. Substitution of Title of Section XI before Rule 30 of the Bihar Finance Rules**

The title of Section XI "Contracts" will be substituted by "Contract Management"

**3. Substitution of Rule 29 and 30 of the Bihar Finance Rules relating to Contracts.**

Rule 29 to 30 of the Bihar Finance Rules will be substituted by the following rules :-

**"Rule 29.**

(1) All contracts shall be made by an authority empowered to do so by or under the orders of the Governor in terms of Article 299 (1) of the Constitution of India.

(2) All the contracts and assurances of property made in the exercise of the executive power of the State shall be executed on behalf of the Governor. The words “for and on behalf of the Governor of Bihar” should follow the designation appended below the signature of the officer authorized in this behalf.

**Rule 30. General principles for contract :** The following general principles should be observed while entering into contracts:

(i) The terms of contract must be precise, definite and without any ambiguities. The terms should not involve an uncertain or indefinite liability, except in the case of a cost plus contract or where there is a price variation clause in the contract.

(ii) Standard forms of contracts should be adopted wherever possible, with such modifications as are considered necessary in respect of individual contracts. The modifications should be carried out only after obtaining financial and legal advice.

(i) In cases where standard forms of contracts are not used, legal and financial advice should be taken in drafting the clauses in the contract.

(iv) (a) A Ministry or Department may, at its discretion, make purchases of value upto Rupees one lakh by issuing purchase orders containing basic terms and conditions:

(b) In respect of Works Contracts, or Contracts for purchases valued between Rupees one lakh to Rupees ten lakhs, where tender documents include the General Conditions of Contract (GCC), Special Conditions of Contract (SCC) and scope of work, the letter of acceptance will result in a binding contract.

(c) In respect of contracts for works with estimated value of Rupees ten lakhs or above or for purchase above Rupees ten lakhs, a Contract document should be executed, with all necessary clauses to make it a self-contained contract. If however, these are preceded by Invitation to Tender, accompanied by GCC and SCC, with full details of scope and specifications, a simple one page contract can be entered into by attaching copies of the GCC and SCC, and details of scope and specifications, Offer of the Tenderer and Letter of Acceptance.

(d) Contract document should be invariably executed in cases of turnkey works or agreements for maintenance of equipment, provision of services etc.

(v) No work of any kind should be commenced without proper execution of an agreement as given in the foregoing provisions.

(vi) Contract document, where necessary, should be executed within 21 days of the issue of letter of acceptance. Non-fulfilment of this condition of executing a contract by the Contractor or Supplier would constitute sufficient ground for annulment of the award and forfeiture of Earnest Money Deposit.

(vii) Cost plus contracts should ordinarily be avoided. Where such contracts become unavoidable, full justification should be recorded before entering into the contract. Where supplies or special work covered by such cost plus contracts have to continue over a long duration, efforts should be made to convert future contracts on a firm price basis after allowing a reasonable period to the suppliers/contractors to stabilize their production /execution methods and processes.

Explanation : A cost plus contract means a contract in which the price payable for supplies or services under the contract is determined on the basis of actual cost of production of the supplies or services concerned plus profit either at a fixed rate per unit or at a fixed percentage on the actual cost of production.

(viii) (a) Price Variation Clause can be provided only in long-term contracts, where the delivery period extends beyond 18 months. In short-term contracts firm and fixed prices should be provided for. Where a price variation clause is provided, the price agreed upon should specify the base level viz, the month and year to which the price is linked, to enable variations being calculated with reference to the price levels prevailing in that month and year.

(b) A formula for calculation of the price variations that have taken place between the Base level and the Scheduled Delivery Date should be included in this clause. The variations are calculated by using indices published by Governments or Chambers of Commerce periodically. An illustrative formula has been appended to these rules at Appendix -1A for guidance.

(c) The Price variation clause should also specify cut off dates for material and labour, as these inputs taper off well before the scheduled Delivery Dates.

(d) The price variation clause should provide for a ceiling on price variations, particularly where escalations are involved. It could be a percentage per annum or an overall ceiling or both. The buyer should ensure a provision in the contract for benefit of any reduction in the price in terms of the price variation clause being passed on to him.

(e) The clause should also stipulate a minimum percentage of variation of the contract price above which price variations will be admissible (e.g. where resultant increase is lower than two per cent. no price adjustment will be made in favour of the supplier).

(f) Where advance or stage payments are made there should be a further stipulation that no price variations will be admissible on such portions of the price, after the dates of such payment.

(g) Where deliveries are accepted beyond the scheduled Delivery Date subject to levy of liquidated damages as provided in the Contract, the liquidated damages (if a percentage of the price) will be applicable on the price as varied by the operation of the Price variation clause.

(h) No price variation will be admissible beyond the original Scheduled Delivery Date for defaults on the part of the supplier.

(i) Price variation may be allowed beyond the original Scheduled Delivery Date, by specific alteration of that date through an amendment to the contract in cases of Force Majeure or defaults by Government.

(j) Where contracts are for supply of equipment, goods etc, imported (subject to customs duty and foreign exchange fluctuations) and / or locally manufactured (subject to excise duty and other duties and taxes), the percentage and element of duties and taxes included in the price should be specifically stated, along with the selling rate of foreign exchange element taken into account in the calculation of the price of the imported item.

The mode of calculation of variations in duties and taxes and Foreign exchange rates and the documents to be produced in support of claims for such variations, should also be stipulated in the Contract.

(k) The clause should also contain the mode and terms of payment of the price variation admissible.

(ix) Contracts should include provision for payment of all applicable taxes by the contractor or supplier.

(x) "Lumpsum" contracts should not be entered into except in cases of absolute necessity. Where lumpsum contracts become unavoidable, full justification should be recorded. The contracting authority should ensure that conditions in the lump sum contract adequately safeguard and protect the interests of the Government.

(xi) Departmental issue of materials should be avoided as far as possible. Where it is decided to supply materials departmentally, a schedule of quantities with the issue rates of such material as are required to execute the contract work, should form an essential part of the contract.

(xii) (a) In contracts where government property is entrusted to a contractor either for use on payment of hire charges or for doing further work on such property, specific provision for safeguarding government property (including insurance cover) and for recovery of hire charges regularly, should be included in the contracts.

(b) Provision should be made in the contract for periodical physical verification of the number and the physical condition of the items at the contractors premises. Results of such verification should be recorded and appropriate penal action taken where necessary.

(xiii) Copies of all contracts and agreements for purchases of the value of Rupees Twenty-five Lakhs and above, and of all rate and running contracts entered into by civil departments of the Government other than the for which a special audit procedure exists, should be sent to the Audit Officer and /or the Accounts officer as the case may be.

(xiv) (a) The terms of a contract, including the scope and specification once entered into, should not be materially varied.

(b) Wherever material variation in any of the terms or conditions in a contract becomes unavoidable, the financial and other effects involved should be examined and recorded and

specific approval of the authority competent to approve the revised financial and other commitments obtained, before varying the conditions.

(c) All such changes should be in the form of an amendment to the contract duly signed by all parties to the contract.

(xv) Normally no extensions of the scheduled delivery or completion dates should be granted except where events constituting force majeure, as provided in the contract, have occurred or the terms and conditions include such a provision for other reasons. Extensions as provided in the contract may be allowed through formal amendments to the contract duly signed by parties to the contract.

(xvi) All contracts shall contain a provision for recovery of liquidated damages for defaults on the part of the contractor.

(xvii) A warranty clause should be incorporated in every contract, requiring the supplier to, without charge, repair or rectify defective goods or to replace such goods with similar goods free from defect. Any goods repaired or replaced by the supplier shall be delivered at the buyers premises without costs to the buyer.

(xviii) All contracts for supply of goods should reserve the right of Government to reject goods which do not conform to the specifications.

#### **Rule 30A. Management of Contracts :**

(1) Implementation of the contract should be strictly monitored and notices issued promptly whenever a breach of provisions occur.

(2) Proper procedure for safe custody and monitoring of Bank Guarantees or other Instruments should be laid down. Monitoring should include a monthly review of all Bank Guarantees or other instruments expiring after three months, alongwith a review of the 83 progress of supply or work. Extensions of Bank Guarantees or other instruments, where warranted, should be sought immediately.

(3) Wherever disputes arise during implementation of a contract, legal advice should be sought before initiating action to refer the dispute to conciliation and/or arbitration as provided in the contract or to file a suit where the contract does not include an arbitration clause. The draft of the plaint for arbitration should be got vetted by obtaining legal and financial advice. Documents to be filed in the matter of resolution of dispute, if any, should be carefully scrutinized before filing to safeguard government interest."

#### **4. Substitution of Title of Chapter 8 before Rule 124 of the Bihar Finance Rules**

The title of Chapter 8 "Stores" of the Bihar Finance Rules will be substituted by "Procurement of goods and Services"

#### **5. Substitution of Rules 124 to 131 of the Bihar Finance Rules relating to purchase of stores**

Rules 124 to 131 of the Bihar Finance Rules will be substituted by the following rules:-

##### **"PROCUREMENT OF GOODS**

**Rule 124.** This chapter contains the general rules applicable to all Ministries or Departments, regarding procurement of goods required for use in the public service. Detailed instructions relating to procurement of goods may be issued by the procuring departments broadly in conformity with the general rules contained in this Chapter.

**Rule 125. Definition of Goods :** The term 'goods' used in this chapter includes all articles, material, commodities, livestock, furniture, fixtures, raw material, spares, instruments, machinery, equipment, industrial plant etc. purchased or otherwise acquired for the use of Government but excludes books, publications, periodicals, etc. for a library.

**Rule 126. Fundamental principles of public buying :** Every authority delegated with the financial powers of procuring goods in public interest shall have the responsibility and accountability to bring efficiency, economy, transparency in matters relating to public

procurement and for fair and equitable treatment of suppliers and promotion of competition in public procurement.

The procedure to be followed in making public procurement must conform to the following yardsticks :-

- (i) the specifications in terms of quality, type etc., as also quantity of goods to be procured, should be clearly spelt out keeping in view the specific needs of the procuring organisations. The specifications so worked out should meet the basic needs of the organisation without including superfluous and non-essential features, which may result in unwarranted expenditure. Care should also be taken to avoid purchasing quantities in excess of requirement to avoid inventory carrying costs;
- (ii) offers should be invited following a fair, transparent and reasonable procedure;
- (iii) the procuring authority should be satisfied that the selected offer adequately meets the requirement in all respects;
- (iv) the procuring authority should satisfy itself that the price of the selected offer is reasonable and consistent with the quality required;
- (v) at each stage of procurement the concerned procuring authority must place on record, in precise terms, the considerations which weighed with it while taking the procurement decision.

**Rule 127. Authorities competent to purchase goods :** An authority which is competent to incur contingent expenditure may sanction the purchase of goods required for use in public service in accordance with Appendix 5, Compendium of Financial Delegations and Bihar Stationary Manual, following the general procedure contained in the following rules.

**Rule 128. Powers for procurement of goods :** The Departments have been delegated full powers to make their own arrangements for procurement of goods. In case however, a Department does not have the required expertise, it may purchase through the Central Purchase Organisation (e.g. DGS&D) or State Purchase Organisation with the approval of competent authority. The purchase shall be done on direct payment basis and not on book transfer basis.

**Rule 129. Designation of State Purchase Organisation:**

State Government can designate one or more organizations as State Purchase Organisation for the procurement of any particular class of goods keeping in view the expertise developed or to be developed.

**Rule 130. Rate Contract :** The State Purchase Organisation shall conclude rate contracts with the registered suppliers, for goods and items of standard types, which are identified as common user items and are needed on recurring basis by various Departments. Definition of Registered suppliers is given in **Rule 131 below**. The State Purchase Organisation will furnish and update all the relevant details of the rate contracts in its web site. The Departments shall follow those rate contracts to the maximum extent possible on direct payment basis and not on book transfer basis.

**Rule 131. Registration of Suppliers :**

(i) With a view to establishing reliable sources for procurement of goods commonly required for Government use, the State Purchase Organisation will prepare and maintain item-wise lists of eligible and capable suppliers. Such approved suppliers will be known as "Registered Suppliers". All Departments may utilize these lists as and when necessary. Such registered suppliers are prima facie eligible for consideration for procurement of goods through Limited Tender Enquiry. They are also ordinarily exempted from furnishing bid security along with their bids. A Head of Department may also register suppliers of goods which are specifically required by that Department or Office.

(ii) Credentials, manufacturing capability, quality control systems, past performance, after-sales service, financial background etc. of the supplier(s) should be carefully verified before registration.

(iii) The supplier(s) will be registered for a fixed period (between 1 to 3 years) depending on the nature of the goods. At the end of this period, the registered supplier(s) willing to continue with registration are to apply afresh for renewal of registration. New supplier(s) may also be considered for registration at any time, provided they fulfil all the required conditions.

(iv) Performance and conduct of every registered supplier is to be watched by the concerned Department. The registered supplier(s) are liable to be removed from the list of approved suppliers if they fail to abide by the terms and conditions of the registration or fail to supply the goods on time or supply substandard goods or make any false declaration to any Government agency or for any ground which, in the opinion of the Government, is not in public interest.

**Rule 131A. Enlistment of Indian Agents :** As per the Compulsory Enlistment Scheme of the Department of Expenditure, Ministry of Finance, Government of India it is compulsory for Indian agents, who desire to quote directly on behalf of their foreign principals, to get themselves enlisted with the Central Purchase Organisation (eg. DGS&D). Such Indian agents will have to get themselves registered with State Purchase Organisation. However, such enlistment is not equivalent to registration of suppliers as mentioned under **Rule 131 above**.

**Rule 131B. Price Preference and other concessions for public sector and state suppliers:** A maximum of 2 (two) percent price preference will be given to the goods produced by the large/medium industries (including Public Sector Undertakings) located and registered in the State over the goods produced by the large/medium industries located outside the State of Bihar . Similarly, 7 (seven) percent price preference will be given to the goods produced by the small scale units located and permanently registered in the State of Bihar over the goods produced by the small/medium/large industries located outside the State. While giving price preference, no relaxation is to made in terms of quality and specifications. The small scale units located in Bihar shall not be liable to deposit earnest money. They will have to deposit only 20 percent of the general security amount. however, after receiving the purchase order, if they fail to supply the goods, without any appropriate reason, they will be blacklisted as per the procedure laid down.

**Rule 131C. Purchase of goods without quotation :** Purchase of goods upto the value of Rs. 15,000/- (Rupees Fifteen Thousand) only on each occasion may be made without inviting quotations or bids on the basis of a certificate to be recorded by the competent authority in the following format.

"I, \_\_\_\_\_, am personally satisfied that these goods purchased are of the requisite quality and specification and have been purchased from a reliable supplier at a reasonable price."

**Rule 131D. Purchase of goods by purchase committee :** Purchase of goods costing above Rs. 15,000/- (Rupees Fifteen Thousand) only and upto Rs. 1,00,000/- (Rupees One lakh) only on each occasion may be made on the recommendations of a duly constituted Local Purchase Committee consisting of three members of an appropriate level as decided by the Head of the Department. The committee will survey the market to ascertain the reasonableness of rate, quality and specifications and identify the appropriate supplier. Before recommending placement of the purchase order, the members of the committee will jointly record a certificate as under.

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

**Rule 131E. Purchase of goods directly under rate contract :**

(1) In case a Department directly procures Central Purchase Organisation (e.g. DGS&D)/State Purchase Organisation rate contracted goods from suppliers, the prices to be paid for such goods shall not exceed those stipulated in the rate contract and the other salient terms and

conditions of the purchase should be in line with those specified in the rate contract. The Department shall make its own arrangement for inspection and testing of such goods where required.

(2) The State Purchase Organisation (e.g. DGS&D) should host the specifications, prices and other salient details of different rate contracted items, appropriately updated, on the web site for use by the procuring Department.

**Rule 131F.** A demand for goods should not be divided into small quantities to make piecemeal purchases to avoid the necessity of obtaining the sanction of higher authority required with reference to the estimated value of the total demand.

**Rule 131G. Purchase of goods by obtaining bids:** Except in cases covered under **Rule 131C, 131D and 131E(1)**, Departments shall procure goods under the powers referred to in **Rule 128** above by following the standard method of obtaining bids in :

- (i) Advertised Tender Enquiry;
- (ii) Limited Tender Enquiry;
- (iii) Single Tender Enquiry.

**Rule 131H. Advertised Tender Enquiry.**

(i) Subject to exceptions incorporated under **Rules 131I and 131J**, invitation to tenders by advertisement should be used for procurement of goods of estimated value Rs. 25 lakh (Rupees Twenty Five Lakh) and above. Advertisement in such case should be given in the Indian Trade Journal (ITJ), published by the Director General of Commercial Intelligence and Statistics, Kolkata and at least in one national daily having wide circulation.

(ii) An organisation having its own web site should also publish all its advertised tender enquiries on the web site and provide a link with NIC web site. It should also give its web site address in the advertisements in ITJ and newspapers.

(iii) The organisation should also post the complete bidding document in its web site and permit prospective bidders to make use of the document downloaded from the web site. If such a downloaded bidding document is priced, there should be clear instructions for the bidder to pay the amount by demand draft etc. along with the bid.

(iv) Where the Department feels that the goods of the required quality, specifications etc., may not be available in the country and it is necessary to also look for suitable competitive offers from abroad, the Department may send copies of the tender notice to the Indian embassies abroad as well as to the foreign embassies in India. The selection of the embassies will depend on the possibility of availability of the required goods in such countries.

(v) Ordinarily, the minimum time to be allowed for submission of bids should be three weeks from the date of publication of the tender notice or availability of the bidding document for sale, whichever is later. Where the department also contemplates obtaining bids from abroad, the minimum period should be kept as four weeks for both domestic and foreign bidders.

**Rule 131I. Limited Tender Enquiry.**

(i) This method may be adopted when estimated value of the goods to be procured is up to Rupees Twenty-five Lakhs. Copies of the bidding document should be sent directly by speed post/registered post/courier/e-mail to firms which are borne on the list of registered suppliers for the goods in question as referred under **Rule 131 above**. The number of supplier firms in Limited Tender Enquiry should be more than three. Further, web based publicity should be given for limited tenders. Efforts should be made to identify a higher number of approved suppliers to obtain more responsive bids on competitive basis.

(ii) Purchase through Limited Tender Enquiry may be adopted even where the estimated value of the procurement is more than Rupees twenty five Lakhs, in the following circumstances.

(a) The competent authority in the Department certifies that the demand is urgent and any additional expenditure involved by not procuring through advertised tender enquiry is justified

in view of urgency. The Department should also put on record the nature of the urgency and reasons why the procurement could not be anticipated.

(b) There are sufficient reasons, to be recorded in writing by the competent authority, indicating that it will not be in public interest to procure the goods through advertised tender enquiry.

(c) The sources of supply are definitely known and possibility of fresh source(s) beyond those being tapped, is remote.

(iii) Sufficient time should be allowed for submission of bids in Limited Tender Enquiry cases.

**Rule 131J. Two bid system :** For purchasing high value plant, machinery etc. of a complex and technical nature, bids may be obtained in two parts as under :-

(a) Technical bid consisting of all technical details alongwith commercial terms and conditions; and

(b) Financial bid indicating item-wise price for the items mentioned in the technical bid.

The technical bid and the financial bid should be sealed by the bidder in separate covers duly superscribed and both these sealed covers are to be put in a bigger cover which should also be sealed and duly superscribed. The technical bids are to be opened by the purchasing Department at the first instance and evaluated by a competent committee or authority. At the second stage financial bids of only the technically acceptable offers should be opened for further evaluation and ranking before awarding the contract.

**Rule 131K. Late Bids :** In the case of advertised tender enquiry or limited tender enquiry, late bids (i.e. bids received after the specified date and time for receipt of bids) should not be considered.

**Rule 131L. Single Tender Enquiry.**

Procurement from a single source may be resorted to in the following circumstances :

(i) It is in the knowledge of the user department that only a particular firm is the manufacturer of the required goods.

(ii) In a case of emergency, the required goods are necessarily to be purchased from a particular source and the reason for such decision is to be recorded and approval of competent authority obtained.

(iii) For standardisation of machinery or spare parts to be compatible to the existing sets of equipment (on the advice of a competent technical expert and approved by the competent authority), the required item is to be purchased only from a selected firm.

Note : Proprietary Article Certificate in the following form is to be provided by the Department before procuring the goods from a single source under the provision of sub **Rule 131L (i) and 131L (iii)** as applicable.

'(i) The indented goods are manufactured by M/s.....

(ii) No other make or model is acceptable for the following reasons :

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(iii) Concurrence of internal finance wing/Finance Department to the proposal vide :

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(iv) Approval of the competent authority vide :.....

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(Signature with date and designation  
of the procuring officer)'

**Rule 131M. Contents of Bidding Document :** All the terms, conditions, stipulations and information to be incorporated in the bidding document are to be shown in the appropriate chapters as below :-

Chapter – 1 : Instructions to Bidders.

Chapter – 2 : Conditions of Contract.

Chapter – 3 : Schedule of Requirements.

Chapter – 4 : Specifications and allied Technical Details.

Chapter – 5 : Price Schedule (to be utilised by the bidders for quoting their prices).

Chapter – 6 : Contract Form.

Chapter – 7 : Other Standard Forms, if any, to be utilised by the purchaser and the bidders.

**Rule 131N. Maintenance Contract :** Depending on the cost and nature of the goods to be purchased, it may also be necessary to enter into maintenance contract(s) of suitable period either with the supplier of the goods or with any other competent firm, not necessarily the supplier of the subject goods. Such maintenance contracts are especially needed for sophisticated and costly equipment and machinery. It may however be kept in mind that the equipment or machinery is maintained free of charge by the supplier during its warranty period or such other extended periods as the contract terms may provide and the paid maintenance should commence only thereafter.

**Rule 131O. Bid Security :**

(i) To safeguard against a bidder's withdrawing or altering its bid during the bid validity period in the case of advertised or limited tender enquiry, Bid Security (also known as Earnest Money) is to be obtained from the bidders except those who are registered with the Central Purchase Organisation/State Purchase Organisation, National Small Industries Corporation (NSIC) or the concerned Department. The bidders should be asked to furnish bid security along with their bids. Amount of bid security should ordinarily range between two percent to five percent of the estimated value of the goods to be procured. The exact amount of bid security, should be determined accordingly by the Department and indicated in the bidding documents. The bid security may be accepted in the form of Account Payee Demand Draft, Fixed Deposit Receipt, Banker's Cheque or Bank Guarantee from any of the commercial banks in an acceptable form, safeguarding the purchaser's interest in all respects. The bid security is normally to remain valid for a period of forty-five days beyond the final bid validity period.

(ii) Bid securities of the unsuccessful bidders should be returned to them at the earliest after expiry of the final bid validity and latest on or before the 30th day after the award of the contract.

**Rule 131P. Performance Security :**

(i) To ensure due performance of the contract, Performance Security is to be obtained from the successful bidder awarded the contract. Performance Security is to be obtained from every successful bidder irrespective of its registration status etc. Performance Security should be for an amount of five to ten per cent. of the value of the contract. Performance Security may be furnished in the form of an Account payee Demand Draft, Fixed Deposit Receipt from a Commercial bank, Bank Guarantee from a Commercial bank in an acceptable form safeguarding the purchasers interest in all respects.

(ii) Performance Security should remain valid for a period of sixty days beyond the date of completion of all contractual obligations of the supplier including warranty obligations.

(iii) Bid security should be refunded to the successful bidder on receipt of Performance Security.

**Rule 131Q.**

**(1) Advance payment to supplier :** Ordinarily, payments for services rendered or supplies made should be released only after the services have been rendered or supplies made. However, it may become necessary to make advance payments in the following types of cases :-

(i) Advance payment demanded by firms holding maintenance contracts for servicing of Air-conditioners, computers, other costly equipment, etc.

(ii) Advance payment demanded by firms against fabrication contracts, turn-key contracts etc. Such advance payments should not exceed the following limits :

(i) Thirty per cent. of the contract value to private firms;

(ii) Forty per cent. of the contract value to a State or Central Government agency or a Public Sector Undertaking; or

(iii) in case of maintenance contract, the amount should not exceed the amount payable for six months under the contract.

Departments may relax, in consultation with Internal Finance Advisor/Finance Department concerned, the ceilings(including percentage laid down for advance payment for private firms) mentioned above. While making any advance payment as above, adequate safeguards in the form of bank guarantee etc should be obtained from the firm.

**(2) Part payment to suppliers :** Depending on the terms of delivery incorporated in a contract, part payment to the supplier may be released after it despatches the goods from its premises in terms of the contract.

**Rule 131R. Transparency, competition, fairness and elimination of arbitrariness in the procurement process :** All government purchases should be made in a transparent, competitive and fair manner, to secure best value for money. This will also enable the prospective bidders to formulate and send their competitive bids with confidence. Some of the measures for ensuring the above are as follows:-

(i) the text of the bidding document should be self-contained and comprehensive without any ambiguities. All essential information, which a bidder needs for sending responsive bid, should be clearly spelt out in the bidding document in simple language. The bidding document should contain, inter alia;

(a) the criteria for eligibility and qualifications to be met by the bidders such as minimum level of experience, past performance, technical capability, manufacturing facilities and financial position etc.;

(b) eligibility criteria for goods indicating any legal restrictions or conditions about the origin of goods etc which may required to be met by the successful bidder;

(c) the procedure as well as date, time and place for sending the bids;

(d) date, time and place of opening of the bid;

(e) terms of delivery;

(f) special terms affecting performance, if any.

(ii) Suitable provision should be kept in the bidding document to enable a bidder to question the bidding conditions, bidding process and/ or rejection of its bid.

(iii) Suitable provision for settlement of disputes, if any, emanating from the resultant contract, should be kept in the bidding document.

(iv) The bidding document should indicate clearly that the resultant contract will be interpreted under Indian Laws.

(v) The bidders should be given reasonable time to send their bids.

(vi) The bids should be opened in public and authorised representatives of the bidders should be permitted to attend the bid opening.

(vii) The specifications of the required goods should be clearly stated without any ambiguity so that the prospective bidders can send meaningful bids. In order to attract sufficient number of bidders, the specification should be general and broad based to the extent feasible. Efforts should also be made to use standard specifications which are widely known to the industry.

(viii) Pre-bid conference : In case of turn-key contract(s) or contract(s) of special nature for procurement of sophisticated and costly equipment, a suitable provision is to be kept in the bidding documents for a pre-bid conference for clarifying issues and clearing doubts, if any, about the specifications and other allied technical details of the plant, equipment and machinery projected in the bidding document. The date, time and place of pre-bid conference should be indicated in the bidding document. This date should be sufficiently ahead of bid opening date.

- (ix) Criteria for determining responsiveness of bids, criteria as well as factors to be taken into account for evaluating the bids on a common platform and the criteria for awarding the contract to the responsive lowest bidder should be clearly indicated in the bidding documents.
- (x) Bids received should be evaluated in terms of the conditions already incorporated in the bidding documents; no new condition which was not incorporated in the bidding documents should be brought in for evaluation of the bids. Determination of a bid's responsiveness should be based on the contents of the bid itself without recourse to extrinsic evidence.
- (xi) Bidders should not be permitted to alter or modify their bids after expiry of the deadline for receipt of bids.
- (xii) Negotiation with bidders after bid opening must be severely discouraged. However, in exceptional circumstances where price negotiation against an ad-hoc procurement is necessary due to some unavoidable circumstances, the same may be resorted to only with the lowest evaluated responsive bidder.
- (xiii) In the rate contract system, where a number of firms are brought on rate contract for the same item, negotiation as well as counter offering of rates are permitted with the bidders in view and for this purpose special permission should be given to the State Purchase Organisation.
- (xiv) Contract should ordinarily be awarded to the lowest evaluated bidder whose bid has been found to be responsive and who is eligible and qualified to perform the contract satisfactorily as per the terms and conditions incorporated in the corresponding bidding document. However, where the lowest acceptable bidder against ad-hoc requirement is not in a position to supply the full quantity required, the remaining quantity, as far as possible, be ordered from the next higher responsive bidder at the rates offered by the lowest responsive bidder.
- (xv) The name of the successful bidder awarded the contract should be mentioned in the Departments notice board or bulletin or web site 66.

**Rule 131S. Efficiency, Economy and Accountability in Public Procurement System :**

Public procurement procedure is also to ensure efficiency, economy and accountability in the system. To achieve the same, the following key areas should be addressed :-

- (i) To reduce delay, appropriate time frame for each stage of procurement should be prescribed by the Department. Such a time frame will also make the concerned purchase officials more alert.
- (ii) To minimise the time needed for decision making and placement of contract, every Department, with the approval of the competent authority, may delegate, wherever necessary, appropriate purchasing powers to the lower functionaries.
- (iii) The Departments should ensure placement of contract within the original validity of the bids. Extension of bid validity must be discouraged and resorted to only in exceptional circumstances.
- (iv) The designated State Purchase Organisation(s) should bring into the rate contract system more and more common user items which are frequently needed in bulk by various Government departments.

The State Purchase Organisation should also ensure that the rate contracts remain available without any break.

**Rule 131T. Buy-Back Offer :** When it is decided with the approval of the competent authority to replace an existing old item(s) with a new and better version, the department may trade the existing old item while purchasing the new one. For this purpose, a suitable clause is to be incorporated in the bidding document so that the prospective and interested bidders formulate their bids accordingly. Depending on the value and condition of the old item to be traded, the time as well as the mode of handing over the old item to the successful bidder should be decided and relevant details in this regard suitably incorporated in the bidding document. Further, suitable provision should also be kept in the bidding document to enable the purchaser either to trade or not to trade the item while purchasing the new one.

## II. PROCUREMENT OF SERVICES

**Rule 131U.** The Departments may hire external professionals, consultancy firms or consultants (referred to as consultant hereinafter) for a specific job, which is well defined in terms of content and time frame for its completion or outsource certain services.

**Rule 131V.** This chapter contains the fundamental principles applicable to all Departments regarding engagement of consultant(s) and outsourcing of services. Detailed instructions to this effect may be issued by the concerned Ministries or Departments. However, the Departments shall ensure that they do not contravene the basic rules contained in this chapter.

**Rule 131W. Identification of Work / Services required to be performed by Consultants :** Engagement of consultants may be resorted to in situations requiring high quality services for which the concerned Department does not have requisite expertise. Approval of the competent authority should be obtained before engaging consultant(s).

**Rule 131X. Preparation of scope of the required work / service :** The Departments should prepare in simple and concise language the requirement, objectives and the scope of the assignment. The eligibility and pre-qualification criteria to be met by the consultants should also be clearly identified at this stage.

**Rule 131Y. Estimating reasonable expenditure :** Department proposing to engage consultant(s) should estimate reasonable expenditure for the same by ascertaining the prevalent market conditions and consulting other organisations engaged in similar activities.

**Rule 131Z. Identification of likely sources :**

(i) Where the estimated cost of the work or service is upto Rupees twenty-five lakhs, preparation of a long list of potential consultants may be done on the basis of formal or informal enquiries from other Departments or Organisations involved in similar activities, Chambers of Commerce & Industry, Association of consultancy firms etc.

(ii) Where the estimated cost of the work or service is above Rupees twenty-five lakhs, in addition to (i) above, an enquiry for seeking 'Expression of Interest' from consultants should be published in at least one national daily and the Department's web site. The web site address should also be given in the advertisements. Enquiry for seeking Expression of Interest should include in brief, the broad scope of work or service, inputs to be provided by the Department, eligibility and the pre-qualification criteria to be met by the consultant(s) and consultant's past experience in similar work or service. The consultants may also be asked to send their comments on the objectives and scope of the work or service projected in the enquiry. Adequate time should be allowed for getting responses from interested consultants

**Rule 131ZA. Short listing of consultants :** On the basis of responses received from the interested parties as per **Rule 131Z above**, consultants meeting the requirements should be short listed for further consideration. The number of shortlisted consultants should not be less than three.

**Rule 131ZB. Preparation of Terms of Reference (TOR) :** The TOR should include

- (i) Precise statement of objectives;
- (ii) Outline of the tasks to be carried out;
- (iii) Schedule for completion of tasks;
- (iv) The support or inputs to be provided by the Department to facilitate the consultancy.
- (v) The final outputs that will be required of the Consultant;

**Rule 131ZC. Preparation and Issue of Request for Proposal (RFP) :** RFP is the

document to be used by the Department for obtaining offers from the consultants for the required work / service. The RFP should be issued to the shortlisted consultants to seek their technical and financial proposals. The RFP should contain :

- (i) A letter of Invitation
- (ii) Information to Consultants regarding the procedure for submission of proposal .
- (iii) Terms of Reference (TOR).
- (iv) Eligibility and pre-qualification criteria incase the same has not been ascertained through Enquiry for Expression of Interest.
- (v) List of key position whose CV and experience would be evaluated.
- (vi) Bid evaluation criteria and selection procedure.
- (vii) Standard formats for technical and financial proposal.
- (viii) Proposed contract terms.
- (ix) Procedure proposed to be followed for midterm review of the progress of the work and review of the final draft report.

**Rule 131ZD. Receipt and opening of proposals :** Proposals should ordinarily be asked for from consultants in ‘Two-bid’ system with technical and financial bids sealed separately. The bidder should put these two sealed envelopes in a bigger envelop duly sealed and submit the same to the Department by the specified date and time at the specified place. On receipt, the technical proposals should be opened first by the Department at the specified date, time and place.

**Rule 131ZE. Late Bids :** Late bids i.e. bids received after the specified date and time of receipt, should not be considered.

**Rule 131ZF. Evaluation of Technical Bids :** Technical bids should be analysed and evaluated by a Consultancy Evaluation Committee (CEC) constituted by the Department. The CEC shall record in detail the reasons for acceptance or rejection of the technical proposals analysed and evaluated by it.

**Rule 131ZG. Evaluation of Financial Bids of the technically qualified bidders :** The Department shall open the financial bids of only those bidders who have been declared technically qualified by the Consultancy Evaluation Committee as per **Rule 131ZF** above for further analysis or evaluation and ranking and selecting the successful bidder for placement of the consultancy contract.

**Rule 131ZG. Consultancy by nomination :** Under some special circumstances, it may become necessary to select a particular consultant where adequate justification is available for such single-source selection in the context of the overall interest of the Department. Full justification for single source selection should be recorded in the file and approval of the competent authority obtained before resorting to such single-source selection.

**Rule 131ZH. Monitoring the Contract :** The Department should be involved throughout in the conduct of consultancy, preferably by taking a task force approach and continuously monitoring the performance of the consultant(s) so that the output of the consultancy is in line with the Department’s objectives.

## **OUTSOURCING OF SERVICES**

**Rule 131ZI. Outsourcing of Services :** A Department may outsource certain services in the interest of economy and efficiency and it may prescribe detailed instructions and procedures for this purpose without, however, contravening the following basic guidelines.

**Rule 131ZJ. Identification of likely contractors :** The Department should prepare a list of likely and potential contractors on the basis of formal or informal enquiries from other Ministries or Departments and Organisations involved in similar activities, scrutiny of 'Yellow pages', and trade journals, if available, web site etc.

**Rule 131ZK. Preparation of Tender enquiry :** Department should prepare a tender enquiry containing, inter alia :

- (i) The details of the work or service to be performed by the contractor;
- (ii) The facilities and the inputs which will be provided to the contractor by the Department;
- (iii) Eligibility and qualification criteria to be met by the contractor for performing the required work / service; and
- (iv) The statutory and contractual obligations to be complied with by the contractor.

**Rule 131ZL. Invitation of Bids :**

(a) For estimated value of the work or service upto Rupees ten lakhs or less : The Department should scrutinise the preliminary list of likely contractors as identified as per **Rule 131ZJ** above, decide the prima facie eligible and capable contractors and issue limited tender enquiry to them asking for their offers by a specified date and time etc. as per standard practice. The number of the contractors so identified for issuing limited tender enquiry should not be less than six.

(b) For estimated value of the work or service above Rupees ten lakhs:

The Department should issue advertised tender enquiry asking for the offers by a specified date and time etc. in at least one popular largely circulated national newspaper and web site of the Department.

**Rule 131ZM. Late Bids :** Late bids i.e. bids received after the specified date and time of receipt, should not be considered.

**Rule 131ZN. Evaluation of Bids Received :** The Department should evaluate, segregate, rank the responsive bids and select the successful bidder for placement of the contract.

**Rule 131ZO. Outsourcing by Choice :** Should it become necessary, in an exceptional situation to outsource a job to a specifically chosen contractor, the Competent Authority in the Department may do so in consultation with the Internal Financial Adviser. In such cases the detailed justification, the circumstances leading to the outsourcing by choice and the special interest or purpose it shall serve shall form an integral part of the proposal.

**Rule 131ZP. Monitoring the Contract :** The Department should be involved throughout in the conduct of the contract and continuously monitor the performance of the contractor.

**6. Deletion of Appendix 8 of the Bihar Finance Rules relating to rules for the supply of articles of stores**

Appendix 8 of the Bihar Finance Rules will be deleted.

**7. Substitution of Title of Chapter 8 of the Bihar Finance Rules**

The title of Chapter 8 "Receipts of Stores" of the Bihar Finance Rules will be substituted by "Inventory Management"

**8. Substitution of Rules 132 to 153 of the Bihar Finance Rules relating to stores**

Rules 132 to 153 of the Bihar Finance Rules will be substituted by the rules which are as follows :-

**"Rule 132.** This chapter contains the basic rules applicable to all Ministries or Departments regarding inventory management. Detailed instructions and procedures relating to inventory

management may be prescribed by various Ministries or Departments broadly in conformity with the basic rules contained in this chapter.

**Rule 133. Receipt of goods and materials from private suppliers :**

(1) While receiving goods and materials from a supplier, the officer-in-charge of stores should refer to the relevant contract terms and follow the prescribed procedure for receiving the materials.

(2) All materials shall be counted, measured or weighed and subjected to visual inspection at the time of receipt to ensure that the quantities are correct, the quality is according to the required specifications and there is no damage or deficiency in the materials. Technical inspection where required should be carried out at this stage by Technical Inspector or Agency approved for the purpose. An appropriate receipt, in terms of the relevant contract provisions may also be given to the supplier on receiving the materials.

(3) Details of the material so received should thereafter be entered in the appropriate stock register. The officer-in-charge of stores should certify that he has actually received the material and recorded it in the appropriate stock registers.

**Rule 134. Receipt / issue of goods and materials from internal divisions of the same organisation :**

(1) The indenting officer requiring goods and materials from internal division(s) of the same organisation should project an indent in the prescribed form for this purpose. While receiving the supply against the indent, the indenting officer shall examine, count, measure or weigh the materials as the case may be, to ensure that the quantities are correct, the quality is in line with the required specifications and there is no damage or deficiency in the materials. An appropriate receipt shall also be given to this effect by the indenting officer to the division sending the materials.

(2) In the case of issue of materials from stock for departmental use, manufacture, sale, etc., the Officer-in-charge of the stores shall see that an appropriate indent, in the prescribed form has been projected by the indenting officer. A written acknowledgement of receipt of material issued shall be obtained from the indenting officer or his authorised representative at the time of issue of materials.

(3) In case of materials issued to a contractor, the cost of which is recoverable from the contractor, all relevant particulars, including the recovery rates and the total value chargeable to the contractor should be got acknowledged from the contractor duly signed and dated.

(4) If the Officer-in-charge of the stores is unable to comply with the indent in full, he should make the supply to the extent available and make suitable entry to this effect in the indenter's copy of the indent. In case alternative materials are available in lieu of the indented materials, a suitable indication to this effect may be made in the document.

**Rule 135. Custody of goods and materials :** The officer-in-charge of stores having custody of goods and materials, especially valuable and / or combustible articles, shall take appropriate steps for arranging their safe custody, proper storage accommodation, including arrangements for maintaining required temperature, dust free environment etc.

**Rule 136. Lists and Accounts :**

(1) The Officer-in-charge of stores shall maintain suitable item-wise lists and accounts and prepare accurate returns in respect of the goods and materials in his charge making it possible at any point of time to check the actual balances with the book balances.

The form of the stock accounts mentioned above shall be determined with reference to the nature of the goods and materials, the frequency of the transactions and the special requirements of the concerned Ministries /Departments.

(2) Separate accounts shall be kept for

(i) Fixed Assets such as plant, machinery, equipment, furniture, fixtures etc. in the Form F.R. - 5A.

- (ii) Consumables such as office stationery, chemicals, maintenance spare parts etc. in the Form F.R. - 5B.
- (iii) Library books in the Form F.R. 5C
- (iv) Assets of historical / artistic value held by museum / government departments in the Form F.R. - 5D.

**Note :** These forms can be supplemented with additional details by Departments as required.

**Rule 137. Hiring out of Fixed Assets :** When a fixed asset is hired to local bodies, contractors or others, proper record should be kept of the assets and the hire and other charges as determined under rules prescribed by the competent authority, should be recovered regularly. Calculation of the charges to be recovered from the local bodies, contractors and others as above should be based on the historical cost.

**Rule 138.**

**(1) Physical verification of Fixed Assets :** The inventory for fixed assets shall ordinarily be maintained at site. Fixed assets should be verified at least once in a year and the outcome of the verification recorded in the corresponding register. Discrepancies, if any, shall be promptly investigated and brought to account.

**(2) Verification of Consumables :** A physical verification of all the consumable goods and materials should be undertaken at least once in a year and discrepancies, if any, should be recorded in the stock register for appropriate action by the competent authority.

**(3) Procedure for verification :**

(i) Verification shall always be made in the presence of the officer, responsible for the custody of the inventory being verified.

(ii) A certificate of verification alongwith the findings shall be recorded in the stock register.

(iii) Discrepancies, including shortages, damages and unserviceable goods, if any, identified during verification, shall immediately be brought to the notice of the competent authority for taking appropriate action in accordance with provision given in **Rule 31 to 35**.

**Rule 139. Buffer Stock :** Depending on the frequency of requirement and quantity thereof as well as the pattern of supply of a consumable material, optimum buffer stock should be determined by the competent authority.

**Note :** As the inventory carrying cost is an expenditure that does not add value to the material being stocked, a material remaining in stock for over a year shall generally be considered surplus, unless adequate reasons to treat it otherwise exist.

**Rule 140. Physical verification of Library books :**

(i) Complete physical verification of books should be done every year in case of libraries having not more than twenty thousand volumes. For libraries having more than twenty thousand volumes and upto fifty thousand volumes, such verification should be done at least once in three years. Sample physical verification at intervals of not more than three years should be done in case of libraries having more than fifty thousand volumes. In case such a verification reveals unusual or unreasonable shortages, complete verification shall be done.

(ii) Loss of five volumes per one thousand volumes of books issued / consulted in a year may be taken as reasonable provided such losses are not attributable to dishonesty or negligence. However, loss of a book of a value exceeding Rs. 1,000/- (Rupees One thousand only) and rare books irrespective of value shall invariably be investigated and appropriate action taken.

**Rule 141. Transfer of charge of goods, materials etc. :** In case of transfer of Officer-in-charge of the goods, materials etc., the transferred officer shall see that the goods or material are made over correctly to his successor. A statement giving all relevant details of the goods, materials etc., in question shall be prepared and signed with date by the relieving officer and the relieved officer. Each of these officers will retain a copy of the signed statement.

**Rule 142. Disposal of Goods.**

- (i) An item may be declared surplus or obsolete or unserviceable if the same is of no use to the Department. The reasons for declaring the item surplus or obsolete or unserviceable should be recorded by the authority competent to purchase the item.
- (ii) The competent authority may, at his discretion, constitute a committee at appropriate level to declare item(s) as surplus or obsolete or unserviceable.
- (iii) The book value, guiding price and reserved price, which will be required while disposing of the surplus goods, should also be worked out. In case where it is not possible to work out the book value, the original purchase price of the goods in question may be utilised. A report of stores for disposal shall be prepared in Form F.R. - 5E.
- (iv) In case an item becomes unserviceable due to negligence, fraud or mischief on the part of a Government servant, responsibility for the same should be fixed.

**Rule 143. Modes of Disposal :**

(i) Surplus or obsolete or unserviceable goods of assessed residual value above Rupees Two Lakh should be disposed of by :

- a) obtaining bids through advertised tender or
- b) public auction.

(ii) For surplus or obsolete or unserviceable goods with residual value less than Rupees Two Lakh, the mode of disposal will be determined by the competent authority, keeping in view the necessity to avoid accumulation of such goods and consequential blockage of space and, also, deterioration in value of goods to be disposed of.

(iii) Certain surplus or obsolete or unserviceable goods such as expired medicines, food grain, ammunition etc., which are hazardous or unfit for human consumption, should be disposed of or destroyed immediately by adopting suitable mode so as to avoid any health hazard and / or environmental pollution and also the possibility of misuse of such goods.

(iv) Surplus or obsolete or unserviceable goods, equipment and documents, which involve security concerns (e.g. currency, negotiable instruments, receipt books, stamps, security press etc.) should be disposed of / destroyed in an appropriate manner to ensure compliance with rules relating to official secrets as well as financial prudence.

**Rule 144. Disposal through Advertised Tender.**

(i) The broad steps to be adopted for this purpose are as follows :

- a) Preparation of bidding documents.
- b) Invitation of tender for the surplus goods to be sold.
- c) Opening of bids.
- d) Analysis and evaluation of bids received.
- e) Selection of highest responsive bidder.
- f) Collection of sale value from the selected bidder.
- g) Issue of sale release order to the selected bidder.
- h) Release of the sold surplus goods to the selected bidder.
- i) Return of bid security to the unsuccessful bidders.

(ii) The important aspects to be kept in view while disposing the goods through advertised tender are as under :-

(a) The basic principle for sale of such goods through advertised tender is ensuring transparency, competition, fairness and elimination of discretion. Wide publicity should be ensured of the sale plan and the goods to be sold. All the required terms and conditions of sale are to be incorporated in the bidding document comprehensively in plain and simple language. Applicability of taxes, as relevant, should be clearly stated in the document.

(b) The bidding document should also indicate the location and present condition of the goods to be sold so that the bidders can inspect the goods before bidding.

(c) The bidders should be asked to furnish bid security along with their bids. The amount of bid security should ordinarily be ten per cent. of the assessed or reserved price of the goods. The exact bid security amount should be indicated in the bidding document.

(d) The bid of the highest acceptable responsive bidder should normally be accepted. However, if the price offered by that bidder is not acceptable, negotiation may be held only with that

bidder. In case such negotiation does not provide the desired result, the reasonable or acceptable price may be counter-offered to the next highest responsive bidder(s).

(e) In case the total quantity to be disposed of cannot be taken up by the highest acceptable bidder, the remaining quantity may be offered to the next higher bidder(s) at the price offered by the highest acceptable bidder.

(f) Full payment, i.e. the residual amount after adjusting the bid security should be obtained from the successful bidder before releasing the goods.

(g) In case the selected bidder does not show interest in lifting the goods, the bid security should be forfeited and other actions initiated including re-sale of the goods in question at the risk and cost of the defaulter, after obtaining legal advice.

(iii) Late bids i.e. bids received after the specified date and time of receipt should not to be considered.

**Rule 145. Disposal through Auction :**

(i) A Department may undertake auction of goods to be disposed of either directly or through approved auctioneers.

(ii) The basic principles to be followed here are similar to those applicable for disposal through advertised tender so as to ensure transparency, competition, fairness and elimination of discretion. The auction plan including details of the goods to be auctioned and their location, applicable terms and conditions of the sale etc. should be given wide publicity in the same manner as is done in case of advertised tender.

(iii) While starting the auction process, the condition and location of the goods to be auctioned, applicable terms and conditions of sale etc., (as already indicated earlier while giving wide publicity for the same), should be announced again for the benefit of the assembled bidders.

(iv) During the auction process, acceptance or rejection of a bid should be announced immediately on the stroke of the hammer. If a bid is accepted, earnest money (not less than twenty-five per cent. of the bid value) should immediately be taken on the spot from the successful bidder either in cash or in the form of Deposit-at-Call-Receipt (DACR), drawn in favour of the Department selling the goods. The goods should be handed over to the successful bidder only after receiving the balance payment.

(v) The composition of the auction team will be decided by the competent authority. The team should however include an officer of the Internal Finance Wing of the department.

**Rule 146. Disposal at scrap value or by other modes :** If a Department is unable to sell any surplus or obsolete or unserviceable item in spite of its attempts through advertised tender or auction, it may dispose off the same at its scrap value with the approval of the competent authority in consultation with Finance division. In case the Department is unable to sell the item even at its scrap value, it may adopt any other mode of disposal including destruction of the item in an eco-friendly manner.

**Rule 147.** A sale account should be prepared for goods disposed of in Form F.R. 5F duly signed by the officer who supervised the sale or auction.

**Rule 148.**

**(1) Powers to write off :** All profits and losses due to revaluation, stock-taking or other causes shall be duly recorded and adjusted where necessary. Formal sanction of the competent authority shall be obtained in respect of losses, even though no formal correction or adjustment in government accounts is involved. Power to write off of losses are available under the Compendium of Financial Delegations.

**(2) Losses due to depreciation :** Losses due to depreciation shall be analyzed, and recorded under following heads, as applicable :-

(i) normal fluctuation of market prices;

(ii) normal wear and tear;

(iii) lack of foresight in regulating purchases; and

(iv) negligence after purchase.

**(3) Losses not due to depreciation :** Losses not due to depreciation shall be grouped under the following heads :-

- (i) losses due to theft or fraud;
- (ii) losses due to neglect;
- (iii) anticipated losses on account of obsolescence of stores or of purchases in excess of requirements;
- (iv) losses due to damage, and
- (v) losses due to extra ordinary situations under 'Force Majeure' conditions like fire, flood, enemy action, etc.;"

## **9. Substitution of Rules 199 to 322 of the Bihar Finance Rules relating to works**

Rules 199 to 322 of the Bihar Finance Rules will be substituted by the following rules :-

**"Rule 199. Original works** means all new constructions, additions and alterations to existing works, special repairs to newly purchased or previously abandoned buildings or structures, including remodeling or replacement.

**Repair works** means works undertaken to maintain building and fixtures.

**Rule 200. Administrative control** of works includes:

- (i) assumption of full responsibility for construction, maintenance and upkeep;
- (ii) proper utilization of buildings and allied works;
- (iii) provision of funds for execution of these functions.

**Rule 201. Powers to sanction works :** The powers delegated to various subordinate authorities to accord administrative approval, sanction expenditure and re-appropriate funds for works are regulated by the Compendium of Financial Delegation and other orders contained in the respective departmental regulations.

**Rule 202.**

(1) A Ministry or Department at its discretion may directly execute repair works estimated to cost upto Rupees ten Lakhs after following due procedure indicated in **Rule 208**.

(2) A Ministry or Department may, at its discretion, assign repair works estimated to cost above Rupees ten Lakhs and upto Rupees thirty Lakhs to any Public Works Organisation, which includes State Public Works Divisions, other Central Government organisations authorised to carry out civil or electrical works such as Central Public Works Department (CPWD), Military Engineering Service (MES), Border Roads Organisation etc. or Public Sector Undertakings set up by the Central or State Government to carryout civil or electrical works.

(3) All original works costing upto Rupees ten Lakhs may be assigned by the Ministry or Department concerned to a Public Works Organisations as defined in **Rule 202(2)**.

(4) All original works estimated to cost above Rupees ten Lakhs and repair works estimated to cost above Rupees thirty Lakhs may be got executed through a Public Works Organisations as defined in **Rule 202(2)** after consultation with the Building Construction Department.

### **Rule 203. Work under the administrative control of the Public Works**

**Departments :** Works not specifically allotted to any Ministry or Department shall be included in the Grants for Civil Works to be administered by Building Construction Department. No such work may be financed partly from funds provided in departmental budget and partly from the budget for Civil works as mentioned above.

**Rule 204. General Rules :** Subject to the observance of these general rules, the initiation, authorization and execution of works allotted to a particular Ministry or Department shall be regulated by detailed rules and orders contained in the respective departmental regulations and by other special orders applicable to them.

**Rule 205.**

(1) No works shall be commenced or liability incurred in connection with it until, -

- (i) administrative approval has been obtained from the appropriate authority in each case;

- (ii) sanction to incur expenditure has been obtained from the competent authority;
- (iii) a properly detailed design has been sanctioned;
- (iv) estimates containing the detailed specifications and quantities of various items have been prepared on the basis of the Schedule of Rates maintained by PWD or other Public Works Organisations and sanctioned;
- (v) funds to cover the charge during the year have been provided by competent authority;
- (vi) tenders invited and processed in accordance with rules;
- (vii) a Work Order issued.

(2) On grounds of urgency or otherwise, if it becomes necessary to carry out a work or incur a liability under circumstances when the provisions set out under sub rule 1 of rule 205 cannot be complied with, the concerned executive officer may do so on his own judgement and responsibility.

Simultaneously, he should initiate action to obtain approval from the competent authority and also to intimate the concerned Accounts Officer.

(3) Any development of a project considered necessary while a work is in progress, which is not contingent on the execution of work as first sanctioned, shall have to be covered by a supplementary estimate.

**Rule 206.** For purpose of approval and sanctions, a group of works which forms one project, shall be considered as one work. The necessity for obtaining approval or sanction of higher authority to a project which consists of such a group of work should not be avoided because of the fact that the cost of each particular work in the project is within the powers of such approval or sanction of a lower authority. This provision, however, shall not apply in case of works of similar nature which are independent of each other.

**Rule 207.** Any anticipated or actual savings from a sanctioned estimate for a definite project, shall not, without special authority, be applied to carry out additional work not contemplated in the original project.

**Rule 208. Procedure for Execution of Works :** The broad procedure to be followed by a Department for execution of works under its own arrangements shall be as under :-

- (i) the detailed procedure relating to expenditure on such works shall be prescribed by departmental regulations framed in consultation with the Finance Department, generally based on the procedures and the principles underlying the financial and accounting rules prescribed for similar works carried out by the Public Works Department (PWD);
- (ii) preparation of detailed design and estimates shall precede any sanction for works;
- (iii) no work shall be undertaken before Issue of Administrative Approval and expenditure Sanction by the competent Authority on the basis of estimates framed;
- (iv) open tenders will be called for works costing Rupees five lakhs to Rupees ten lakhs;
- (v) limited tenders will be called for works costing less than Rupees five lakhs;
- (vi) execution of Contract Agreement or Award of work should be done before commencement of the work;
- (vii) final payment for work shall be made only on the personal certificate of the officer-in-charge of execution of the work in the format given below:

“ I ....., Executing Officer of (Name of the Work), am personally satisfied that the work has been executed as per the specifications laid down in the Contract Agreement and the workmanship is upto the standards followed in the Industry.”

**Rule 209.** For original works and repair works entrusted to a 'Public Works Organisation' as defined in **Rule 202(2)**, the administrative approval and expenditure sanction shall be accorded and funds allotted by the concerned authority under these rules and in accordance with the Compendium of Financial Delegation. The Public Works Organisation shall then execute the work entrusted to it in accordance with the rules and procedures prescribed in that organisation.

**Rule 210. Review of Projects :** After a project costing Rupees ten crores or above is approved, the Administrative Ministry or Department will set up a Review Committee consisting of a representative each from the Administrative Ministry, Finance (Internal Financial Advisor) and the Executing Agency to review the progress of the work. The Review Committee shall have the powers to accept variation within 10% of the approved estimates. For works costing less

that Rupees ten crores, it will be at the discretion of the Administrative Department to set up a Review Committee on the above lines.

**10. Insertion of Appendix 1A in Bihar Finance Rules.**

The following will be inserted as appendix 1A in the Bihar Finance Rules :-

**"Formula for Price variation Clause**

The formula for Price Variation should originally include a fixed element, a material element and a labour element. The figures representing the material element and the labour element should reflect the corresponding proportion of input costs, while the fixed element may range from 10 to 25%. That portion of the price represented by the fixed element, will not be subject to variation. The portions of the price represented by the material element and labour element alone will attract Price variation. The formula for Price Variation will thus be :

$$P_1 = P_0 \{ F + a(M_1/M_0) + b(L_1/L_0) \} - P_0$$

where  $P_1$  is the adjustment amount payable to the supplier (a minus figure will indicate a reduction in the Contract Price)

$P_0$  is the Contract Price at the base level.

F is the Fixed element not subject to Price variation.

a is the assigned percentage to the material element in the Contract price.

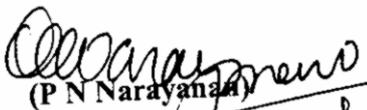
b is the assigned percentage to the labour element in the Contract price.

$L_0$  and  $L_1$  are the wage indices at the base month and year and at the month and year of calculation respectively.

$M_0$  and  $M_1$  are the material indices at the base month and year and at the month and year of calculation respectively.

If more than one major item of material is involved, the material element can be broken up into two or three components such as  $M_x$ ,  $M_y$  &  $M_z$ . Where price variation clause has to be provided for services (with insignificant inputs of materials) as for example in getting Technical assistance normally paid in the form of per diem rates, the price variation formula should have only two elements viz. a high fixed element and a labour element. The fixed element can in such cases be 50% or more, depending on the markup by the supplier of the per diem rate vis-a-vis the wage rates."

*By the order of Governor, Bihar*

  
(P N Narayana)  
Commissioner and Secretary  
Finance Department  
10/11/05

Memo No.-6976F(2)

Patna, dated-10-11-2005

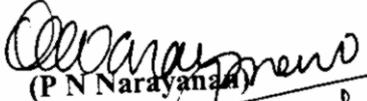
Copy forwarded to- The Superintendent, Government Press, Patna for publication in extraordinary issue of Bihar Gazette. He is also requested to make arrangement for providing 500 copies of the Gazette published to this department.

  
(P N Narayana)  
Commissioner and Secretary  
Finance Department  
10/11/05

Memo No.-6976F(2)

Patna, dated-10-11-2005

Copy forwarded to- Chief Secretary, Bihar/ Principal Secretary to Governor/Development Commissioner/Secretary, Cabinet and Co-ordination Department/All Commissioners and Secretaries/ All Secretaries/ Resident Commissioner, Bihar Bhawan/All Divisional Commissioners/ All District Magistrates/ All Deputy Development Commissioners for information and necessary action.

  
(P N Narayana)  
Commissioner and Secretary  
Finance Department 10/11/05

Memo No.-6976F(2)

Patna, dated-10-11-2005

Copy forwarded to- All concerned officers for information and necessary action.

  
(P N Narayana)  
Commissioner and Secretary  
Finance Department 10/11/05

Memo No.-6976F(2)

Patna, dated-10-11-2005

Copy forwarded to-Accountant General, Patna for information and necessary action.

  
(P N Narayana)  
Commissioner and Secretary  
Finance Department 10/11/05