

# Setting up a Public Procurement Observatory in Rajasthan (ProOb)

(Assessing the ground realities of procurement processes in the Departments of Health and PWD, Government of Rajasthan)

## Key Performance Indicators

Prepared by

CUTS Institute for Regulation & Competition (CIRC)

and

CUTS Centre for Consumer Action, Research and Training (CUTS CART)



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# **Setting up a Public Procurement Observatory in Rajasthan (ProOb)**

## **Introduction**

Government procurement as an activity accounts for a public spending which comes close to around 29 to 30 percent of GDP which is a substantial portion of the total budgetary outlay at national and even at state level. Therefore, Public Procurement as an area of intervention has a great deal of importance attached to it. Public procurement by definition is the process of purchase of goods, works/construction and services by governments or public entities to fulfil needs of the public authorities to carry out their responsibilities towards its citizenries. Since the Public Procurement Bill 2012, which was tabled in Parliament in May 2014, has lapsed with the dissolution of the 14th Parliament, the lack of an overarching law governing public procurement in India has led to the subject being administered through a morass of rules set by different authorities, having no force of law.

At the moment, as far as the legal framework of Public Procurement in India is concerned, it has been governed by General Financial Rules (GFR), 2005, Delegation of Financial Power Rules (DFPR), 1978 and relevant guidelines of Chief Vigilance Commissioner (CVC) of India, High Court rulings and such diverse authorities have brought out directives on public procurement. So the matter is very confused and different organisations remain free to follow their own interpretation of various guidelines, leading to distortion of competition, lack of transparency and probity, which have in the past given rise to major incidents of diversion of public funds at national and state level. Moreover, some of the recent procurement deals and controversies have brought in open the major failures transparency, accountability, efficiency, competition and professionalism. It is therefore of utmost importance that the procurement process overcomes the impediments of collusion, bid rigging, fraud and corruption.

## **Public Procurement Observatory**

The World Bank, after successfully trying the Public Procurement Observatory model in some countries, has come forward to implement this model in India with the objective of helping the state governments to improve its public procurement practices and outcomes. In that backdrop, the World Bank has partnered with CUTS Institute of Competition & Regulation (CIRC), Delhi to set a procurement Observatory in Rajasthan at Jaipur, the state capital, which is an exigency. The Public Procurement Observatory will develop the Key Procurement Performance Indicators, collect and analyze procurement data, policies, rules etc. and the implementation of the same in the state in select departments. It will also share the findings and the best practices with the other state government and other stakeholders through workshops, seminars, website and other such mediums.

## **Objectives**

This observatory will impart public access to information and happenings in regard of current procurement and procurement process, in order to ensure transparency and thus, trigger a mechanism of public watch. This intervention will enable learnings from past good experiences and also learning from path dependent developments in order to shed some light on past failures and provide guidance for

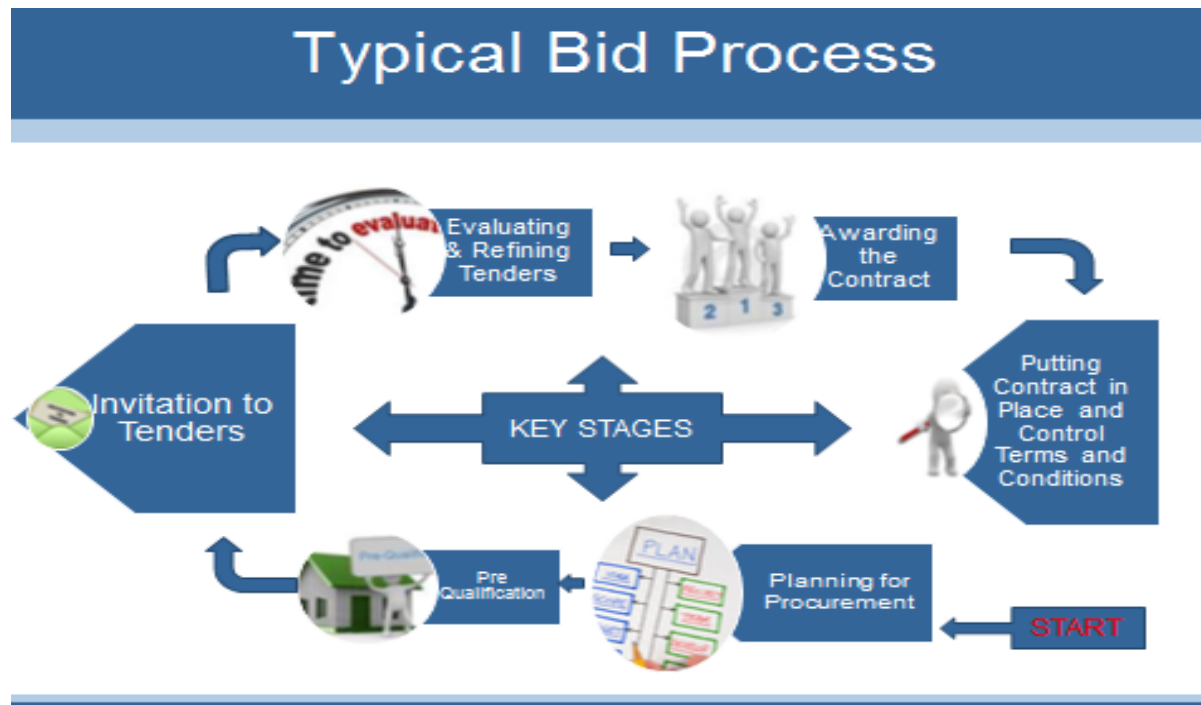
future reforms and innovations in the procurement process in the selected departments of the state which are Health and Public Works Department (PWD).

**Timeline**

November 20, 2014 to November 19, 2015.

**Bid Process Management**

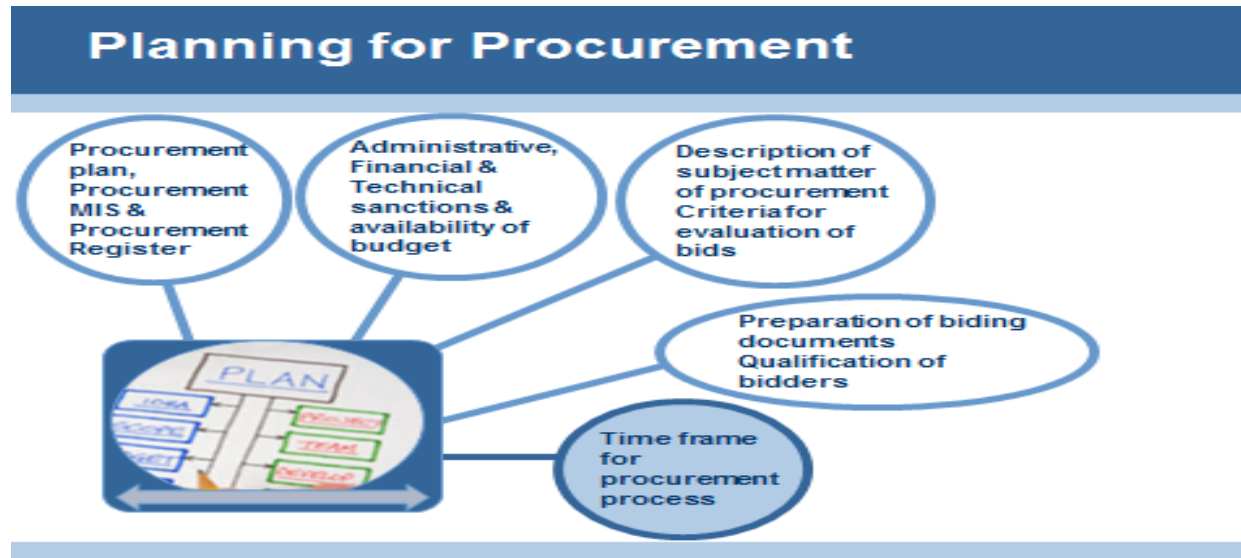
In today’s competitive global marketplace, the ability to respond quickly and accurately to ‘Notice of Inviting Bids (NIB)’ can give an added edge to anyone who needs to win the contracts. Bid Process Management (BPM) lets the procuring entity to process, manage, and document customer Request for Proposal (RFPs), and develop consistently precise bids for Work, material and/or services. In this Bid Management Process following are some of the key stages to follow.



The entire bid process includes many steps and staged but the above mentioned key stages and steps are essential any procurement to happen either in a sequential manner or parallel to each other as well during the bid process.

## Planning for Procurement

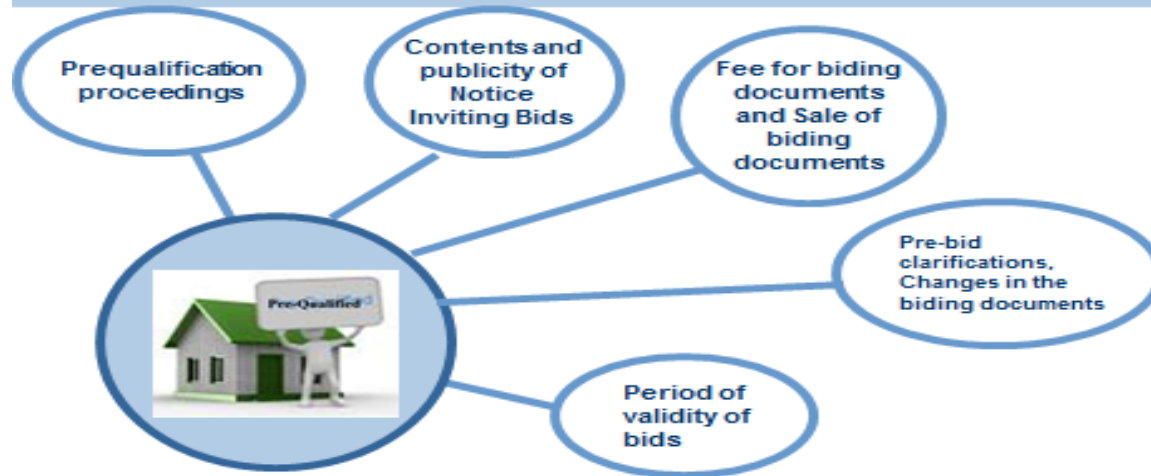
This first and foremost stage is very crucial in the sense that systematic planning for procurement ensures very good designing of the bid document which is essential for efficient public procurement. Some of the below mentioned key points are integral part of the bid planning process.



## Pre-Qualification

In the state, all the procuring entities have to follow the pre-qualification procedure specified in section 18 or registration / empanelment procedure specified in section 19 of the Rajasthan Transparency in Public Procurement Act, 2012 and invite bids from pre-qualified or registered / empanelled bidders only through this method. Pre-qualification means the procedure set out to identify, prior to inviting bids, the bidders that are qualified. There has to be a pre-qualification document which means the documents issued by a procuring entity, including any amendments thereto, that set out the terms and conditions of the pre-qualification proceedings and includes the invitation to pre-qualify. Following are the key points in this whole process.

## Pre Qualification

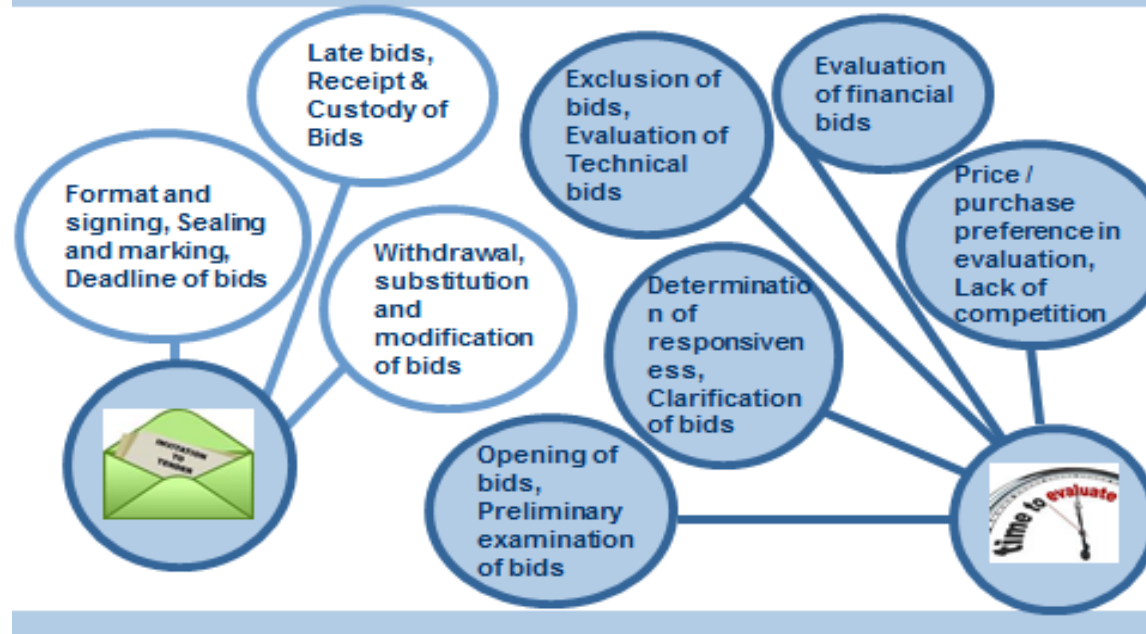


### **Invitation to Tender and Evaluating and Refining Tenders**

The process of invitation to tenders is based on a predefined and pre decided criteria and procedure for examining bids against the description of the subject matter of the procurement. The criteria and procedure for evaluating bids has a mathematical formula that is used in the evaluation procedure during the bidding process.

Once the tenders are submitted, they must be evaluated in order to arrive at the selection of the preferred bidder. Bids are generally first assessed on a number of pass/fail criteria before the single preferred bidder is decided. Even if the evaluation score is not based on a technical evaluation, a determination must be made that the technical solution proposed by a bidder is feasible, deliverable and robust, that it is based on reliable technologies, that it meets all minimum technical requirements set and that the costs and financial structure are consistent with the technical solution.

## Invitation to Tenders Evaluating and Refining Tenders

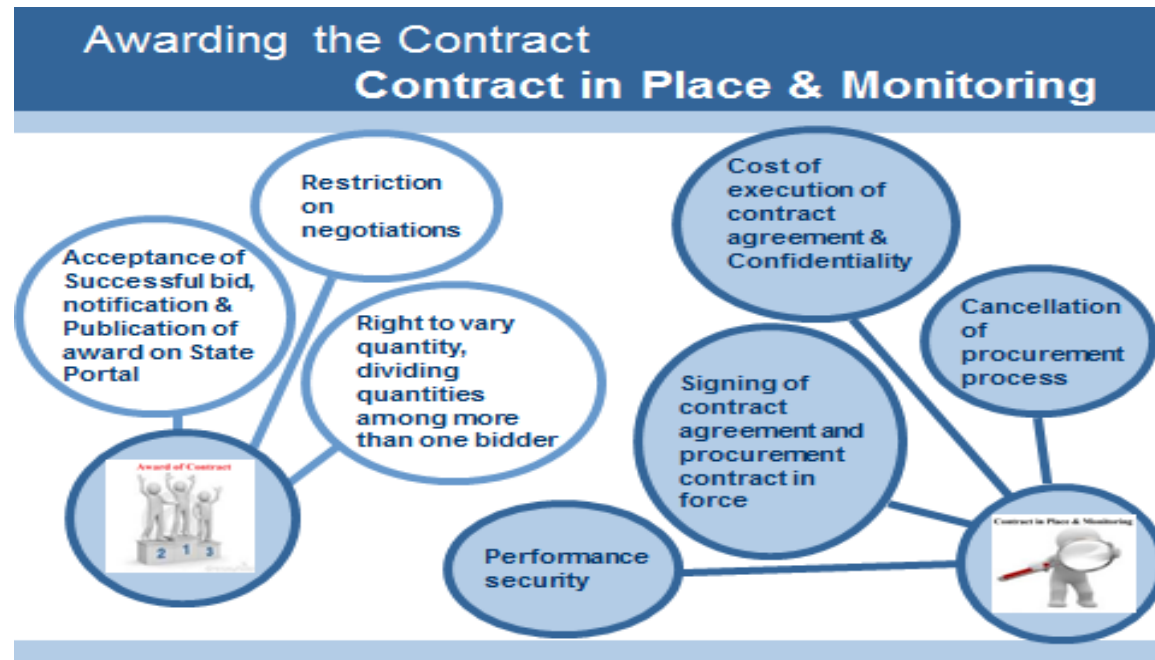


### **Awarding the Contract and Putting the Contract in Place & Contract Terms & Conditions**

Contract awarding is the method used during procurement in order to evaluate the proposals (Tender Offer) taking part and award the relevant contract. Usually at this stage the eligibility of the proposals has been concluded. So it remains to choose the most preferable among the proposed. There are several different methods for this, which are obviously related to the proposition method asked by the procurement management but strict adherence to the RTPP Act, 2012 in this process is mandatory in Rajasthan.

Contract management or contract administration is the management of contracts made with customers, vendors, partners, or employees. The personnel involved in Contract Administration required to negotiate, support and manage effective contracts are expensive to train and retain. Contract management includes negotiating the terms and conditions in contracts and ensuring compliance with the terms and conditions, as well as documenting and agreeing on any changes or amendments that may arise during its implementation or execution. It

can be summarized as the process of systematically and efficiently managing contract creation, execution, and analysis for the purpose of maximizing financial and operational performance and minimizing risk



The below mentioned indicators are coming out of above mentioned the steps and stages but some of the indicators are fall out effect of the actual implementation of these steps and stages on the ground so it's a mix of both types of practices.

### Key Performance Indicators (KPIs) of the Public Procurement Processes

SN	Primary Indicator	Sub-Indicators	Performance Measurement Approach	Remarks
1	Registration of Vendors	1.1 System of periodic revision (inclusion, exclusion & blacklisting of vendors)	<ul style="list-style-type: none"> <li>Provision for periodic revision in the procuring agency</li> <li>Mediums used to publish the invitation</li> <li>Number and percentage of vendors included, disqualified or blacklisted in reference period</li> </ul>	This has to be a regular phenomenon
		1.2 Online Registration Process	<ul style="list-style-type: none"> <li>Process of online registration of bidders</li> <li>The frequency of opening up the registration process in a year.</li> <li>Number/Percentage or Ratio of online registration</li> </ul>	Process shall be online
		1.3 List of registered, deregistered & debarred vendors	<ul style="list-style-type: none"> <li>Availability of the list of vendors in public domain or SPPP and other state portals.</li> <li>Number/Percentage or Ratio of registered, deregistered &amp; debarred vendors</li> </ul>	
		1.4 Tracking mechanism of blacklisted, debarred and deregistered firms/individuals getting business	<ul style="list-style-type: none"> <li>Having sister concerns or companies within or outside the state.</li> <li>No. of companies that have such concerns or companies</li> </ul>	It is noticed that few firms have sister concerns/ companies
		1.5 System of promotion/ demotion of contractors	<ul style="list-style-type: none"> <li>System and frequency of promotion or demotion of the contractors or firms</li> <li>Availability of the list on the concerned web portals and usage by procuring entities of the same</li> <li>Number/Percentage or Ratio of promotion/ demotion of contractors</li> </ul>	This is a regular exercise but the updated list shall be available online
		1.6 Final check on bidder	<ul style="list-style-type: none"> <li>Practice of checking the validity of registration of bidder before signing the contract.</li> <li>Number/Percentage or Ratio of final check on bidders before award the contract</li> </ul>	There has to be final check
		1.7 Comparison of registration process with the 'Rajasthan Transparency in Public Procurement Act, 2012 (RTPP)'	<ul style="list-style-type: none"> <li>The clauses of the RTPP Act, 2012 which are missing in the bid document related to registration of vendors as well as in practice</li> <li>Number/Percentage or Ratio of the cases reported not as per RTPP Act an rules</li> </ul>	Clause by clause comparison has to happen with RTPP Act and rules
2	Designing the Bid Document	2.1 System of identifying the need of procurement	<ul style="list-style-type: none"> <li>System of determination of need of procurement</li> <li>Decision making about terms, conditions and parameters of procurement</li> </ul>	The most appropriate authority shall to this



3			<ul style="list-style-type: none"> <li>• Process and frequency of having meetings for identifying the need, the quantity and other key parameters of products</li> <li>• Number/Percentage or Ratio of identifying the need as per system</li> </ul>	
		2.2 System of forming bid document	<ul style="list-style-type: none"> <li>• The process of designing the bid document</li> <li>• Persons who designs the bid document</li> <li>• The process of following the administrative, technical and financial approval</li> <li>• Number/Percentage or Ratio of forming the bid documents as per act and rules.</li> </ul>	This is a significant process so experts with procurement experience shall be involved
		2.3 System of setting up Objectives and standards for bidding	<ul style="list-style-type: none"> <li>• Standardized process of setting up the Objectives and standards for bidding with proper description of all specifications given in the bid document</li> <li>• Standard bid document format used as bid document</li> <li>• Number/Percentage or Ratio of setting up objectives and standards for bidding as per act and rules.</li> </ul>	Objectives and standards shall be promoting competition rather than restricting it
	Bid Validity Period	3.1 Basis of deciding the Bid Validity period (BVP)	<ul style="list-style-type: none"> <li>• Basis of deciding the Bid Validity Period</li> <li>• Number/Percentage or Ratio of deciding the BVP as per act or rules.</li> </ul>	Period shall be rational
		3.2 Time for responding to bids as per Request for Proposal (RFP)	<ul style="list-style-type: none"> <li>• Clear mention of Bid Validity Period in absolute numbers in bidding document</li> <li>• Time given for responding to a bid as per RTTP Act, 2012 and rules and in reality</li> <li>• Number/Percentage or Ratio of Strictly following the bid validity period given in bid document and as per act and rule.</li> </ul>	Strict adherence with the Bid Validity Period shows efficiency of Procurement Agency
		3.4 Time taken in technical and financial evaluations	<ul style="list-style-type: none"> <li>• Average Time taken in evaluations of technical and financial bids</li> <li>• Reasons of delay in opening and evaluating the technical bids and financial bids</li> <li>• Number/Percentage or Ratio of cases in which time taken was as per act/rule or RFP.</li> </ul>	This time period shall be minimum or as per RFP

4		3.5 Time taken in awarding the final contract	<ul style="list-style-type: none"> <li>• Average Days/Months taken in awarding a contract to the concerned bidder</li> <li>• Average Time taken to issue a letter of award after approval of the contract</li> <li>• Average Time taken to start the execution of the contract after signing of agreement from approval</li> </ul>	This time period shall be minimum or as per RFP
		3.6 Increase in bid validity period	<ul style="list-style-type: none"> <li>• Process, conditions and reasons of extending the Bid Validity period</li> <li>• Number/Percentage or Ratio of cases of the extended time of the Bid Validity Period</li> <li>• Issuance of the addendum or clarifications in case of extending Bid Validity Period</li> </ul>	The bid validity period shall be extended in exceptional cases, otherwise it becomes a usual practice
		3.2 Following the Bid validity period as per Request for Proposal (RFP)	<ul style="list-style-type: none"> <li>• Comparison of actual time taken in awarding a bid and actual Bid Validity Period</li> <li>• Number/Percentage or Ratio of bids in which BVP is as per RFP</li> </ul>	Shall be done as per RFP
	Rajasthan Government preferential policy	4.1 List of preferred items	<ul style="list-style-type: none"> <li>• Preferential list of the state/ department for Small Scale and Local Industries</li> <li>• Number of items in the preference</li> <li>• Criteria of including a particular firm/item in this preferred list</li> <li>• Availability of the list of preferred firms/items in public domain</li> <li>• Number/Percentage or Ratio of preferred items in comparison of the grand total</li> </ul>	Just to promote the Small scale industries the policy of preference or reservation exists
		4.2 Reservation of small scale industries/companies in RFPs	<ul style="list-style-type: none"> <li>• Reservation policy of the state/ department for Small Scale and Local Industries</li> <li>• Contracts/RFPs awarded to small scale industries of Rajasthan or outside and total valuations</li> <li>• Issuance of the notifications in case of reservations</li> <li>• Number/Percentage or Ratio of of the reserved RFPs in comparison to total no. of RFPs</li> <li>• Criteria for the domestic purchase through domestic firms and number of cases notifications were issues</li> </ul>	

5		4.3 International Competitive Bidding (ICB)	<ul style="list-style-type: none"> <li>Bids awarded to foreign bidders under ICB and with reasons/conditions for awarding the contract</li> <li>Number/Percentage or Ratio of ICB in comparison of the total no. of contract awards</li> </ul>	This norm is to promote the ICB
	Grievance Redressal Mechanism	5.1 System of grievance redressal by Administrative authorities	<ul style="list-style-type: none"> <li>Existence of any complaint redressal mechanism within the department</li> <li>Type and competent authorities who are entertaining the complaints</li> <li>The scale and speed of functioning of complaint redressal committee or admin body</li> </ul>	The system of grievance redressal must be quick, effective and online so that system can be made efficient
		5.2 Lodging the complaints at the level of procuring agency	<ul style="list-style-type: none"> <li>Number/Percentage or Ratio, Type, nature and frequency of the lodged complaints in the department</li> <li>Procedure of online complaints registration</li> <li>Disposal rate of complaint redressal</li> <li>Number/Percentage or Ratio of decisions gone in favour or against the complaint</li> <li>Pattern of complaints. Number/Percentage or Ratio of complaints against the officials, against the department and against successful bidders.</li> <li>Level of satisfaction from the decision given by administrative authorities.</li> </ul>	This process shall be as much smooth and accessible as possible
	5.3 System of complaint redressal by board	5.3.1 Setting up of Complaint Redressal Board	<ul style="list-style-type: none"> <li>Existence of a complaint redressal board with sufficient no. of members, adequate facilities to work efficiently</li> </ul>	Role of board is very crucial
		5.3.2 Registered cases for complaint redressal	<ul style="list-style-type: none"> <li>Volume of registered complaints and percentage of pendency at board level</li> </ul>	Boards must function effectively
		5.3.3 Time limit for complaint redressal	<ul style="list-style-type: none"> <li>The average time taken by the board in deciding any cases</li> <li>Rate of disposing off the complaints and pendency at board level</li> </ul>	Time taken shall be as less as possible
		5.3.4 Satisfaction of complainant	<ul style="list-style-type: none"> <li>Percentage of cases gone in favour and against of the complaints</li> <li>Level of satisfaction among the complaints from</li> </ul>	Satisfaction level should be high to very high

			the decision given by the board	
		5.3.5 Recommendation to change RFP	<ul style="list-style-type: none"> <li>Number/Percentage or Ratio of cases in which Recommendations given by board to change the criteria of Request for proposal (RFP) to administrative authorities</li> </ul>	More recommendations means weak RFPs
		5.3.6 Implementation of recommendation given by board	<ul style="list-style-type: none"> <li>Rate of Actual implementation of the recommendations given by the board</li> </ul>	It shall be quick
		5.3.7 Appeal to court	<ul style="list-style-type: none"> <li>Rate and grounds of appeals gone in court against the decision of board</li> </ul>	This shall be less
		5.4 Role of First & Second Appellate Authorities	<ul style="list-style-type: none"> <li>Effective disposal of the grievances at both first and second appellate level</li> <li>Number/Percentage or Ratio of redressing complaints at first appellate and second appellate level separately</li> </ul>	
		5.4 Complaint registration through other constitutional and administrative channels	<ul style="list-style-type: none"> <li>Number/Percentage or Ratio of complaints registered through other constitutional and administrative channels</li> <li>Decisions of these other constitutional and administrative channels gone in favour or against of the department/boards</li> </ul>	The rate of complaint registration through other channels shall be low
6	Maintenance of the procurement register	6.1 Maintenance of the procurement register	<ul style="list-style-type: none"> <li>Maintenance of a procurement register at procurement agency level as per RTPP Act and rules having all necessary details of the procurements meetings, RFPs and other processes.</li> <li>Mechanism and actors who maintain, own, monitor the procurement register as per rules, guidelines</li> <li>Number/Percentage or Ratio of selected cases in which details are mentioned in the register.</li> </ul>	This registered shall be maintained properly by the procurement entity
7.	Transparency Standards	<ul style="list-style-type: none"> <li>7.1 Disclosure of contract award</li> </ul>	<ul style="list-style-type: none"> <li>Number/Percentage or Ratio of disclosure of</li> </ul>	

		<p>information with quality and rates</p> <ul style="list-style-type: none"> <li>• 7.2 Disclosure of grievance redressal results</li> <li>• 7.3 Disclosure of the increase in the quantity of the procuring material</li> </ul>	<p>contract award information with quality and rates</p> <ul style="list-style-type: none"> <li>• Number/Percentage or Ratio of cases of disclosure of grievance redressal results</li> <li>• Number/Percentage or Ratio of cases disclosure of the increase in the quantity of the procuring material</li> </ul>	
8.	Performance of the Nodal Department for Public Procurement	8.1 Concept of Nodal officer	<ul style="list-style-type: none"> <li>• Work profile, roles and responsibilities of nodal officer.</li> <li>• Number of procurement agencies which designated/not designated the Procurement nodal officers with reasons of non-appointment</li> <li>• Number/Percentage or Ratio of appointment of nodal officers in comparison of total targeted number.</li> </ul>	Successful implementation of any act is directly proportionate with the effectiveness of the nodal department
		8.2 Rules and circulars	<ul style="list-style-type: none"> <li>• Rules, circulars, and other relevant documents like training manuals, standard bid documents etc. are send out by the nodal department which is 'Stat Procurement Facilitation Cell (SPFC)' under the finance department</li> <li>• Awareness among the nodal officers about the rules and circulars</li> <li>• Number/Percentage or Ratio of rules and circulars issues</li> </ul>	New rules and circulars shall be circulated on time to all concerned
		8.3 Training on procurement process	<ul style="list-style-type: none"> <li>• No. of training sessions organised by the SPFC. No. of nodal officers trained on public procurement process.</li> <li>• No. of resource materials or other relevant materials published and circulated on the trainings.</li> <li>• List of resource persons or agencies or departments or institutes identified for training</li> </ul>	Trainings shall be regular and effective
		8.4 Overall Functioning of the SPFC as per sections 17 and 50 of the RTPP Act and rule.	<ul style="list-style-type: none"> <li>• Availability of sufficient man power and resources for nodal department</li> <li>• Any internal/external evaluations done for overall functioning of the cell</li> </ul>	Evaluations, if done, shall be referred and overall targets shall be evaluated

**Impact/ Outcome**

The procurement Process of the selected departments is more transparent, accountable and competition among suppliers and contractors is fair along with enhanced economy and efficiency in the procurement system as a whole.

**References**

- Rajasthan Transparency in Public Procurement Act, 2012
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