बिहार सरकार
स्वास्थ्य विभाग
अधिसूचना

आ0सं0 –12/प0–क0–09–38/2018 – 870(12) /पटना, दिनांकः– 08/10/2018

सम्यक् विचारोपरान्त् बिहार चिकित्सा सेवाएं एवं आधारभूत संरचना निगम लिमिटेड, पटना द्वारा दवाओं और चिकित्सा उपकरणों के सार्वजनिक खरीद कार्यो के प्रभावी निर्वहन के लिए तैयार प्रोक्यूरमेंट मैनुअल–2018 (Manual for the Procurement of Drug and Medical Equipment-2018) को अधिसूचित किया जाता है।

यह मैनुअल वित्त विभाग द्वारा विधिक्षित है एवं इस पर वित्त विभाग की सहमति प्राप्त है।

बिहार राज्यपाल के आदेश से
29/5/2018
(संजय कुमार)
सरकार के प्रधान सचिव।

ज्ञापांक–12/प0–क0–09–38/2018 – 870(12) पटना, दिनांक 08/10/2018

प्रतिलिपिः–अधीक्षक, सचिवालय मुद्रणालय, गुलजारबाग, पटना को बिहार राजपत्र के आगामी अंक में प्रकाशनार्थ प्रेषित/ई–गजट शाखा, वित्त विभाग, बिहार, पटना को बिहार राजपत्र के आगामी अंक में प्रकाशनार्थ प्रेषित ।

29/5/2018
सरकार के प्रधान सचिव।

ज्ञापांक–12/प0–क0–09–38/2018 – 870(12) /पटना, दिनांक 08/10/2018

प्रतिलिपिः–मुख्य सचिव, बिहार, पटना/विकास आयुक्त, बिहार, पटना/मा0 मुख्यमंत्री के प्रधान आप्त सचिव/माननीय मंत्री के आप्त सचिव/प्रधान सचिव के आप्त सचिव, बिहार, पटना को सूचनार्थ प्रेषित ।

29/5/2018
सरकार के प्रधान सचिव।

ज्ञापांक–12/प0–क0–09–38/2018 – 870(12) /पटना, दिनांक 08/10/2018

प्रतिलिपिः–प्रधान महालेखाकार, बिहार, पटना को सूचनार्थ एवं आवश्यक कार्रवाई हेतु प्रेषित ।

29/5/2018
सरकार के प्रधान सचिव।

O/C

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ज्ञापांक–12/प0–क0–09–38/2018 - 870(12) /पटना, दिनांक 08/10 /2018

प्रतिलिपिः–कार्यपालक निदेशक, राज्य स्वास्थ्य समिति, बिहार, पटना/प्रबंध निदेशक, बिहार चिकित्सा सेवाएँ एवं आधारभूत संरचना निगम लि0, पटना/निदेशक प्रमुख, स्वास्थ्य सेवाएँ, बिहार, पटना/राज्य औषधि नियंत्रक, बिहार, पटना/निदेशक, इंदिरा गॉधी आयुर्विज्ञान संस्थान, पटना/सभी अधीक्षक, चिकित्सा महाविद्यालय अस्पताल/सभी क्षेत्रीय उप–निदेशक, स्वास्थ्य सेवाएँ, बिहार को सूचनार्थ एवं आवश्यक कार्रवाई हेतु प्रेषित ।

23/9/2018
सरकार के प्रधान सचिव।

ज्ञापांक–12/प0–क0–09–38/2018 - 870(12) पटना, दिनांक 08/10 /2018

प्रतिलिपिः–सभी विभाग/सभी विभागाध्यक्ष/सभी प्रमण्डलीय आयुक्त/सभी जिला पदाधिकरी/आई0टी0 मैनेजर, स्वास्थ्य विभाग, बिहार, पटना को विभागीय वेबसाईट पर अपलोड करने एवं अन्य आवश्यक कार्रवाई हेतु प्रेषित ।

23/9/2018
सरकार के प्रधान सचिव।

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बिहार सरकार
स्वास्थ्य विभाग
अधिसूचना

अ0सं0 –12/प0–क0–09–38/2018 - 870(12) /पटना, दिनांकः– 08/10/2018

सम्यक् विचारोपरान्त् बिहार चिकित्सा सेवाएं एवं आधारभूत संरचना निगम लिमिटेड, पटना द्वारा दवाओं और चिकित्सा उपकरणों के सार्वजनिक खरीद कार्यो के प्रभावी निर्वहन के लिए तैयार प्रोक्यूरमेंट मैनुअल–2018 (Manual for the Procurement of Drug and Medical Equipment-2018) को अधिसूचित किया जाता है।

यह मैनुअल विधि विभाग द्वारा विधिक्षित है एवं इस पर वित्त विभाग की सहमति प्राप्त है।

बिहार राज्यपाल के आदेश से

8/5/10/2018
(संजय कुमार)
सरकार के प्रधान सचिव।

O/C

AMENDED VERSION-5

MANUAL

For the

Procurement of Drugs & Medical Equipment / Devices – 2017

Foreword

Bihar, is undergoing a rapid transition in the area of Public health. The major health and demographic indicators of the State have been found to be consistently improving over the years. With the up gradation of health infrastructure, recruitment of doctors and paramedical staff on contract, outsourcing of diagnostic facilities, supply of free medicines, launching of Bal Kuposhan Mukt Bihar program to fight malnutrition, provision of ambulance services, increasing outreach through mobile medical units and through a mechanism of web-based monitoring, better health outcomes are clearly visible. The recent Annual Health and Sample Registration Surveys indicate improvements in immunization coverage, contraceptive use, institutional deliveries etc. All these have resulted in an unprecedented increase in foot falls in the OPD of government run health facilities, particularly the Primary Health Centers at the block level, across the state. The average monthly foot fall in the OPD of the health facilities in the state has risen from 39 in 2004-05 to around 11,000 in 2014-15. Future success of these programs rests substantially on ensuring timely supply of all categories of generic drugs and hospital supplies and various essential equipment at most competitive rates. Hence putting in place a set of rules and guidelines exclusively for adequate and timely procurement of generic drugs, hospital supplies and medical equipment ensuring clarity, uniformity, transparency, efficiency, economy, and speed, in consonance with the financial and procurement rules and regulations in force in the state has become imperative.

The current manual is intended to be a set of rules with guidelines for public procurement of generic drugs and medical equipment in the state. The rules and procedures outlined in the manual have been designed to achieve several complementary objectives necessary for advancing the cause of effective primary healthcare in the state namely:

1. Timely drug and medical equipment availability at all the healthcare facilities for the state of Bihar.
2. Detailed and coherent terms of reference for various procurement related committees to ensure quick decision making and assign accountability to members.
3. Warrant efficiency, economy and transparency in the procurement process to attain the best value for money – in short adoption of optimal criteria which would consider the total life cycle cost of goods in the state's medical supply chain.
4. Make the procurement process fair and transparent, uniform, systematic, efficient and cost-effective and in compliance with the various financial and procurement rules and regulations of the State and Central government.
5. Encourage maximum participation by qualified vendors for procurement of generic drugs and medical equipment by laying out clear payment and delivery terms.
6. Ensure a strong procurement planning framework, for achievement of its core objective – viz. strengthening the medical supply chain for the state.

I am happy to present such a Manual prepared and finalized laboriously after months of consultation with stakeholders including the top management. I am confident, this Manual will bring desired transparency, fairness and equity and policies and procedures will also bring uniformity and predictability. I express sincere thanks to teams of BMSICL officials and the appointed Consultants, who have worked to give final shape to this Manual.

Principal Secretary

Department of Health, GoB

Table of Contents

Abbreviation Description

S. No.	Acronym/Abbreviation	Meaning
1	AED	Additional Executive Director
2	BFR	Bihar Financial Rules
3	BMSICL	Bihar Medical Services and Infrastructure Corporation Limited
4	CGM	Chief General Manager
5	DPCO	Drug Price Control Order
6	DHS	District Health Society
7	DGS&D	Director General Supplies and Disposal
8	DDL	Desirable Drug List
9	EC	Equipment Committee
10	EDL	Essential Drug List
11	EEL	Essential Equipment List
12	EMD	Earnest Money Deposit
13	FDA	Food and Drug Administration
14	FEC	Financial Evaluation Committee
15	GoB	Government of Bihar
16	GM	General Manager
17	GMP	Good Manufacturing Practices
18	IFA	Internal Financial Advisor
19	IPHS	Indian Public Health Standards
20	ITJ	Indian Trade Journal
21	IT	Information Technology
22	LOI	Letter of Intent
22	MD	Managing Director
24	NAC	Non Availability Certificate
25	NHSRC	National Health System Resource Center
26	NLEM	National List of Essential Medicines
27	NIT	Notice Inviting Tender
28	NMCH	Nalanda Medical College and Hospital
29	NHM	National Health Mission
30	PIP	Project Implementation Plan
31	PMCH	Patna Medical College and Hospital
32	PSC	Project Steering Committee
33	SHSB	State Health Society, Bihar
34	TC	Tender Committee
35	TOC	Tender Opening Committee
36	TEC	Technical Evaluation Committee
37	TSC	Technical Specification Committee
38	VLDL	Vital Lifesaving Drug List
39	WHO	World Health Organization

1.INTRODUCTION

1.1 Scope of the Manual

This manual seeks to comprehensively prescribe policy guidelines pertaining to the procurement and supply of generic drugs and other essential medicines, surgical items, equipment/ devices and other hospital consumables by the Bihar Medical Services & Infrastructure Corporation Limited (BMSICL), the designated procurement agency for medical procurement in the state of Bihar. It is clarified that health services infrastructure (including construction of hospitals and other units), though within the mandate of BMSICL, is out of the scope of the current procurement manual.

Policies / Procedures incorporated in the manual shall be subsequently supported by "Standard Operating Procedures '' as and when approved by the Procurement Steering committee.

Several other initiatives encompassing effective usage of technology, downstream process streamlining and inventory planning in the distribution chain will also need to support effective procurement, and will need to complement the creation of this manual. These initiatives will need to complement and be well-aligned with the objectives of the manual.

1.2 Lifecycle, revisions and amendments to the manual

During the currency of its first year of implementation, the manual shall be reviewed on quarterly basis to incorporate changes as deemed fit by a committee comprising of:

- Managing Director, BMSICL
- Internal Financial Advisor, Department of Health
- Chief General Manager (Supply Chain), BMSICL
- General Manager (Procurement), BMSICL

The committee shall be empowered to effect changes to the manual, based on recommendations/suggestions of the procurement personnel of BMSICL, which in their opinion are in the best interest of Medicines and equipment procurement practices of BMSICL. However, any changes which do not subscribe to the exiting Bihar Financial Rules shall require approval for incorporation in the manual by the Finance Department, Government of Bihar.

After the first year of its implementation, the manual may be revised every 3 years by the above committee, though it would remain valid until a new version is published. However, in between, if the need arises, the manual may be amended by the above committee.

1.3 Rules and Guidelines referred to for framing the Manual

Legislation and directives which have been referenced to guide the creation of this manual, are mentioned below:

- Bihar Finance Rules
- Procurement and Operational Manual for Medical Store Organization and Government Medical Store Depots
- Procurement Manual issued by Ministry of Expenditure, Government Of India, March 2017.
- Indian Contracts Act
- Central Vigilance Commission Guidelines.
- Rules / laws as applicable for Government E Market (GeM)
- Best practices followed by other state and government procurement agencies within India

Nothing contained in this manual shall overlap the provisions of BFR, 2005 or any amendments thereafter i.e. in case of any contradiction/interruption, provisions of Bihar Financial Rules 2005 and any amendments thereafter shall prevail

1.4 Short Name, Extent and Commencement

(i) This manual shall be called "Manual for the Procurement of Drugs and Medical Equipment/ Devices -2017"

(ii) It shall extend to the Bihar Medical Services & Infrastructure Corporation Limited (BMSICL), the designated procurement agency for medical procurement in the state of Bihar. The purpose of the manual is to provide guidelines and policies for procurement and supply of Generic Drugs and other essential medicines, Surgical items, Equipment/Devices and other hospital consumables by the BMSICL.

(iii) It shall come into force with effect from the date it is notified in the official gazette by the Department of Health, Government of Bihar.

2. Formation of Committees – Composition and Role

For the purpose of effective discharge of procurement functions, the following committees will be constituted–

Management Committees

(i) Procurement Steering committee (PSC)- To supervise and monitor the entire procurement process of generic drugs and other essential medicines, surgical items, equipment/devices and other hospital consumables by BMSICL.

Functional committees

(i) Technical Specification Committee (TSC)
(ii) Technical Evaluation Committee (TEC)
(iii) Financial Evaluation Committee (FEC)

All these bodies will set a high public procurement standard by adopting transparent, fair and competitive procurement processes. The key functions of individual committees are given below.

2.1 Procurement Steering Committee

The Steering Committee will be an administrative body. The following will be the composition of the committee:

- Managing Director, BMSICL- Chairman
- Chief General Manager (Supply Chain) , BMSICL – Member
- General Manager Finance, BMSICL – Member Secretary
- Internal Financial Advisor, Department of Health - Member
- Additional Secretary/Joint Secretary, Department of Health as nominated by Principal Secretary, Health, GoB- Member
- State Drug Controller, Government of Bihar- Member
- Any other member as deemed fit by the Managing Director, BMSICL

The committee shall meet at least once every quarter in a year. The Chairman of Procurement Steering Committee shall have the power to convene meetings at any time on his own. The quorum for above meeting shall be minimum 4 members.

Role and Mandate

(i) Preparation and execution of Annual Procurement Plan.
(ii) Ensure that rate contracts for generic drugs and other essential medicines, surgical items, equipment/ devices and other hospital consumables are in place throughout the year and alternate options are available for supplies in case of any disruption of supplies and or if contracts cannot be finalized in time.
(iii) Liaison with other states and government procurement agencies, for emergency procurement, and interim procurement arrangements under exceptional situations.
(iv) Ensure accountability and transparency in all matters pertaining to tendering, procurement and contracting.
(v) Guide, Supervise, Monitor and Review the procurement status and suggest corrective actions.
(vi) Assess the functioning of various committees constituted within BMSICL.
(vii) Formulation and Standardization of the bidding documents for the procurement of equipment and generic drugs separately and to effect periodical changes as per norms.

2.2 Technical Specification Committee (for equipment and Drug)

The Technical specification committee shall be responsible for finalizing the exact specifications of generic drugs and other essential medicines, surgical items, equipment/devices and other hospital consumables that are to be procured by BMSICL from time-to-time. In principle, for procurement purpose specifications as laid down in the EDL/EEL will be considered. But, to decide the specification of new items not included in EDL/EEL, technical specification committee shall be responsible. The committee will comprise of the following members:

For Equipment/ Devices

- Director in Chief, Department of Health, Government of Bihar – Chairman
- General Manager (Procurement), BMSICL – Member Secretary
- Concerned representative from State Health Society, Patna - Member
- Head of Department of concerned departments from Patna Medical College and Hospital -Member
- Head of Department of concerned departments from Nalanda Medical College and Hospital - Member
- Deputy General Manager/Manager– Equipment from BMSICL - Member
- Biomedical engineer from BMSICL/SHSB -Member
- Any other member as deemed fit by the Managing Director, BMSICL - Member

For Generic drugs and other essential medicines, surgical items and other hospital consumables

- Director in Chief, Department of Health, Government of Bihar – Chairman
- General Manager (Procurement), BMSICL – Member Secretary
- Concerned representative from State Health Society, Patna - Member
- HOD of concerned departments from Patna Medical College and Hospital - Member
- HOD of concerned departments from Nalanda Medical College and Hospital -Member
- State Drug Controller, GoB or his nominated authority - Member
- Deputy General Manager/Manager– Drugs from BMSICL -Member
- Any other member as deemed fit by the Managing Director, BMSICL

Role and Mandate

(i) Decide on the specification:
(ii) Conduct Pre-bid meeting.
(iii) Publication of Minutes of Pre-bid meeting or Corrigendum if any.
(iv) The Quorum for the above meeting shall be minimum 50% of the members.

2.3 Technical Evaluation Committee (TEC)

The Technical Evaluation Committee is responsible for qualification and disqualification of bids under technical conditions. The following will be the composition of the technical evaluation committee: -

For Equipment/ Devices:

- Director in Chief, Department of Health, Government of Bihar- Chairman
- General Manager (Procurement), BMSICL- Member Secretary
- Representative from State Health Society, Bihar (not below the rank of Assistant Director)- Member
- Representative of the Department of Health, Government of Bihar (Not below the rank of Joint Secretary)- Member
- Nominated Doctor by Director in Chief, Department of Health, GoB - Member
- Deputy General Manager (Equipment), BMSICL - Member
- Any other member as deemed fit by the Managing Director, BMSICL

For Generic drugs and other essential medicines, surgical items and other hospital consumables:

- Director in Chief, Department of Health, GoB- Chairman
- General Manager (Procurement), BMSICL- Member Secretary
- Representative from State Health Society Bihar (not below the rank of Assistant Director)- Member
- Representative of the Department of Health, GoB (Not below the rank of Joint Secretary)- Member
- State Drug Controller, Government of Bihar - Member
- Nominated Doctor by Director in Chief, Department of Health, Government of Bihar- Member
- Deputy General manager (Drugs), BMSICL - Member
- Any other member as deemed fit by the Managing Director, BMSICL

The Quorum for the above meeting shall be minimum of 4 members. The presence of Director in Chief and General Manager (Procurement) is compulsory. The Chairman may call an expert from any Government Medical Institute for seeking advice on certain technical aspects.

Role and Mandate

The Technical Evaluation Committees will have the mandate to evaluate all the submitted bids which have complied to the bid submission clause as incorporated in the Bid document. The key functions of the committee are as follows:

- Opening of Technical bids.
- Evaluation of bids will be carried out strictly in terms of the provisions in the bid document to ensure compliance with the technical and commercial aspects. The evaluation criteria for evaluating the bid would be predetermined and published in the bid documents.
- The committee will prepare a detailed report on the technical evaluation of bids explaining clearly the specific reasons for recommendation for the financial evaluation of the technically qualified bidder. In case of generic drugs/other essential Medicines / consumables / surgical and other Hospital Consumables, Medical Equipment/ Devices the detailed technical evaluation report shall be prepared and validated with the help of a sub-committee of qualified personnel to be nominated by the Chairman of Technical Evaluation Committee with the help of State Drug Controller.
- Post validation the signed copy of the detailed technical report, shall be uploaded on the website of BMSICL and a Notice inviting evidence based objections shall be called from the bidders within 3 working days of the date of uploading of such notice. Bidders shall submit their objections through e-mail / submission of hard copy by hand or through Registered Post / Speed post. Objections shall be based on the uploaded tender documents only.

- In case of equipment, demonstration report shall also be prepared by this committee and this report shall form the part of the technical evaluation report.
- During evaluation of bid, Technical Evaluation Committee may ask the bidder for clarifications on the bid. The request for clarification shall be given in writing by Registered Post / Speed post/ Email /Publication on Website, asking the tenderer to respond by a specified date, and also mentioning therein that, if the tenderer does not comply or respond by the date, his tender will be liable to be rejected. Depending on the outcome, such tenders are to be ignored or considered further.

  No change in prices or substance of the bid shall be sought, offered or permitted. No post-bid clarification at the initiative of the bidder shall be entertained. The shortfall information/documents should be sought only in case of historical documents which pre-existed at the time of the tender opening and which have not undergone change since then. (Example: If the Permanent Account Number, registration with GST has been asked to be submitted and the tenderer has not provided them, these documents may be asked for with a target date as above). So far as the submission of documents is concerned with regard to qualification criteria, after submission of the tender, only related shortfall documents should be asked for and considered. For example, if the bidder has submitted a supply order without its completion/performance certificate, the certificate can be asked for and considered. However, no new supply order should be asked for so as to qualify the bidder.

2.4 Financial Evaluation Committee

The financial tender evaluation committee shall be responsible for evaluating the financial aspects of the bids and ranking of price bids to come up with L1, L2, L3 etc. Price bids of only technically qualified bidders will be opened for financial evaluation. .

The financial tender evaluation committee will comprise of:

- Managing Director, BMSICL - Chairman
- General Manager (Finance) - Member Secretary
- Representative from State Health Society Bihar (not below the rank of AED) - Member
- Director in Chief, Department of Health, Government of Bihar - Member
- Internal Financial Advisor (IFA), Department of Health, Government of Bihar - Member
- General Manager (Procurement), BMSICL- Member
- Any other member as deemed fit by the Managing Director, BMSICL

The Quorum for the above committee shall be minimum of 4 members. The presence of Chairman, Financial Evaluation Committee and Internal Financial Advisor, Department of Health, Government of Bihar, shall be mandatory in the meeting.

Role and Mandate

1. Opening of Financial bids
2. Evaluation and ranking of Financial bids to ascertain L1 bidder.
3. Negotiation with L1 bidder if required and counter offers to L2 & L3 bidders in the event of splitting of tender quantities.

3. Procurement Policies

3.1 Indenting Policy

- BMSICL will initiate the procurement process on receipt of official indents from the competent indenting authorities. Indent must include the following details from the competent indenting authority-
  - Name of item
  - Quantity of item
  - Specifications (if available with the indenter, which will later be reviewed and finalized by the Technical Specification Committee)
  - Available fund for the indented items if any.
- The indents must be addressed to MD BMSICL and routed to the Manager Drugs or Manager Equipment, as the case may be for initiating the tendering process.
- BMSICL may however initiate tendering without an indent for an item on approval by MD, BMSICL.
- All indents should be online through e-Aushadhi portal.

3.2 Tendering Policy

The procedure for procurement of goods will be as per the BFR prevailing at the time of procurement. Bihar Finance Rules, 2005 prescribes procurement of goods either through obtaining bids or without bids under the following rules:

A. Without Obtaining Bids:

1) Purchase of Goods without Quotations (Rule 131-C BFR, 2005 and any amendments thereafter)
2) Purchase of Goods by Purchase Committee (Rule 131-D BFR, 2005 and any amendments thereafter)
3) Purchase of Goods Directly Under Rate Contract (Rule 131-E (1) BFR, 2005 and any amendments thereafter)
4) Government E market (BMSICL shall follow the directions as laid under Finance Department, Govt. of Bihar notification no.9230 dated 27/11/2017 and amendments thereof).

B. By Obtaining Bids:

1) Advertised Tender Enquiry (Rule 131-H of Bihar Financial Rules, 2005 and any amendments thereafter preferably through E - tendering)
2) Limited Tender Enquiry (Rule 131-I of Bihar Finance Rules, 2005 and any amendments thereafter
3) preferably through E-tendering)
4) Single Tender Enquiry (Rule 131-L of Bihar Finance Rules, 2005 and any amendments thereafter)

1.Tender Opening

- Technical Evaluation Committee shall be responsible for opening of technical bids.
- The bids received after the specified date and time for receipt of bids will not be considered.
- Committee members shall put their initial on the Front Cover Page of all submitted bids.

2.Tender Finalization

- Financial Evaluation Committee shall open financial bids of bidders technically qualified by the Technical evaluation committee.
- All pages of Price bids shall be initialed by the members of the Financial Evaluation Committee.
- Based on the Financial Evaluation Committee report and on approval from MD- BMSIC, Rate Contract and supply order(s) shall be awarded to the L1 bidder by the concerned departments.
- BMSICL shall finalize a definite time schedule for completion of the tender process (from NIT till award of contract, as explained under procurement planning policy of this manual) within bid validity period.

3. Competitive bidding policy &Retender

A bid shall be reckoned as competitive if at-least 2 bids are technically qualified for financial evaluation for particular item.

- In cases where L1 bidder backs out BMSICL shall proceed for a re-tender of such items. However, if the L1 bidder is found to have violated any clause of the bid at any stage of the tendering process or post award of contract, BMSICL shall have the right to refuse placement of contract on the L1 bidder or terminate the existing contract with the L1 bidder. In such case on refusal to enter into a contract with the L1 bidder or after termination of the contract with the L1 bidder following due process, BMSICL shall first approach the L2 bidder to match the L1 price. Should L2 agree to match the L1 price, Rate contract shall be entered into with the L2 bidder failing which L3 shall be approached. If both L2 & L3 refuse to match the L1 price, retender for the item(s) shall be resorted to by BMSICL.
- Particular Items shall be retendered in following cases also -
  - Zero bids are received, or
  - All received bids are technically disqualified by the committee, or
  - Only single (one bid) bid qualifies for Financial evaluation after technical evaluation
- Under such circumstances mentioned above, upon retendering still after the technical evaluation of received bids by competent committee only Single (one bid) bid qualifies for Financial evaluation, then in such cases appropriate decisions shall be taken by the authority one level higher than the Managing Director, BMSICL.

In all situations, the relevant clauses of Bihar Financial Rules as applicable on the date of evaluation of competitiveness of particular tender shall be strictly adhered to.

4. Negotiation

- BMSICL shall not engage in any post tender negotiations with the L1 bidder except in certain exceptional situations which would include procurement of proprietary items, items with limited sources of supply and items where there is a suspicion of cartel formation. Financial Evaluation Committee shall be responsible for Negotiating with the L1 bidder in such cases.
- The committee without any loss of time shall duly record and document the justifications and details of such negotiations.
- The committee shall undertake negotiations with L1 bidder for supply of a bare minimum quantity only in cases where a decision is taken to go for retendering due to the unreasonableness of the quoted rates, but the requirements are urgent and a retender for the entire requirement would delay the availability of the item, thus jeopardizing the essential operations, maintenance and safety. The balance quantity shall however be procured expeditiously through a retender, following normal tendering process.

5. Splitting of supply order/quantities

- In the best interest of the people of Bihar and to ensure uninterrupted supplies in the state BMSICL thus decides to have more than one source of supply especially in case of procurement of medicines considering their criticality and vitality. BMSICL shall adopt policy on splitting of quantities.
- Splitting of supply orders/quantities shall be mandatorily included in tender document for procurement of Generic drugs and other essential medicines, Surgical items and other hospital consumables. This clause will not be adopted for procurement of Equipment/ Devices

- Where situation so warrants, tender quantity of one or all the item (s) may be split in favor of one or more firms on merit of each case and with the approval of competent authority after giving due regards to the following-
    (i) Vital/ critical nature of the item
    (ii) Quantity to be procured
    (iii) Delivery requirements
    (iv) Capacity of firms in the Zone of consideration, and
    (v) Past performance of firms.
- BMSICL shall pre-disclose the ratio of splitting the supply in the tender document for the sake of transparency and clarity for all prospective bidders.
- The Financial Evaluation Committee shall make counter offers thereafter to L2 and L3 at the rates accepted by L1 and the entire quantity shall be split among the L1 and agreed L1 bidders in a manner that is fair, transparent and equitable. The counter offers shall not be extended beyond L3 bidder.
- If both L2 and L3 agree to match the L1 rate, then the splitting will depend on percentage difference between the L1 and L2 offered rates.

Price differential between L1 and L2	**Quantity distribution ratio between L1, L2, L3**
Up to 3%	60:20:20
More than 3% and up to 5%	65:17.5:17.5
More than 5%	70:15:15

- In case, either of L2 or L3 only accepts the counter offer then the splitting shall be done according to the following table:

Price differential between L1 and L2/ L3	**Quantity distribution ratio between L1 and L2/ L3**
Up to 3%	60:40
More than 3% and up to 5%	65:35
More than 5%	70:30

- In case, both L2 and L3 disagree to match the L1 and refuses to accept the counter offer, then 100% quantity shall be ordered to L1 only.
- If on financial evaluation two or more bidders are found to have L1 rates, then total quantity to be split in equal proportion (e.g. if two bidders are found L1 then quantities shall be split in 50:50 proportion). In such a situation, offer will not be made to L2 & L3 to match the price.

6. Tender publication

- The concerned Manager shall be responsible for initiating the tendering process following the steps below-
    - Obtaining the technical specifications mentioned in EDL/EEL or those finalized by the Technical Specification Committee
    - Preparation of Notice Inviting tender (NIT) and Bid document
    - Seeking approval of Managing Director, BMSICL for uploading the NIT and Bid document to initiate the tendering process
    - Publication of the NIT and Tender document following below mentioned modes:

Mode of Procurement	**Mode of Advertisement** (Rule 131-H and 131-I of Bihar Financial rules 2005 and any amendments thereafter)

Advertised Tender Enquiry: (National competitive Bidding)	-One National Daily having wide circulation. (at least in English and Hindi/Regional language) -Website of BMSICL -Indian Trade Journal (ITJ), published by the Director General of Commercial Intelligence and Statistics, Kolkata -Copy of bid notices sent to Indian embassies (In case of International Competitive Bidding only)
Limited Tender Enquiry:	-Copies of the bidding document would be sent directly by speed post/ registered post /e-mail to firms which are borne on the list of registered suppliers for the goods -Website of BMSICL -Trade commission's abroad (In case of Limited International Bidding only)

3.3 Tender submission policy

- To ensure transparency in tendering process BMSICL shall strictly follow an e-tendering process pursuant to Finance Department resolution no.5188 dated 15th June 2009. Bidders shall upload all necessary Technical bid documents and Price bids into the e-tender portal as identified and authorized by BMSICL
- It shall be ensured through e-tendering that the bids be submitted tender wise only and not item wise. i.e. bidder while quoting for multiple items of a single tender may not need to upload all technical documents separately for each item. It shall be ensured to ease the submission process through e-tendering.

  For example, in case of equipment tender, if a bidder has quoted for 5 products out of 20 products of the same tender then the technical specifications and financial bids only shall be submitted separately. Other mandatory documents shall be uploaded once for this particular tender and will remain same for all the quoted products.
- EMD for individual items in the tender and the tender fee will have to be submitted Off-Line / ON- Line as per the guideline provided in the tender document.
- On-Line submission of bids to be done in compliance to the last date and time of bid submission indicated in the tender document.
- For the purpose of wider and successful participation in bidding, training work shop of prospective bidders may be organized by the BMSICL from time to time, with proper advertisement.
- The financial bids must indicate the rates excluding the GST which should be given separately in the financial bids. BMSICL shall comply all the provisions regarding Goods and Service Tax (GST) and other taxes as applicable.

3.4 Tender Acceptance Policy

- The Managing Director, BMSICL shall be the tender accepting authority.

3.5 Policy on Deciding the Rate Contract of items

- For drug items in no case the L1 so decided shall go beyond the ceiling price (DPCO schedule) and it should be less than 20% of its MRP and this limit can be relaxed in exceptional cases with due approval from Board of Directors of BMSICL only.

- **Benchmarking for rate contract during subsequent years**

For subsequent years for such items the benchmarking shall be the previous Rate Contract. The Financial Evaluation Committee shall ensure that currently quoted L1 rate shall not deviate in huge extent from the previous RC and is in line with the current financial guidelines and in the best interest of the GoB.

3.6 Performance Security Policy

- Performance security shall be solicited from all successful bidders irrespective of their registration status.
- Performance security will be an amount of ten (10%) percent of the basic value of the purchase order exclusive of the taxes, duties and transportation etc. in the form of Bank guarantee/demand draft from a scheduled commercial bank.

3.7 Policy on Release of Funds and payment to vendors

BMSICL shall endeavor to make timely payments to its suppliers as per tender conditions.

3.8 **Period of contract validity**

- The period of a Rate Contract shall be **2 years for drugs and 2 years for equipment** with an extension of further 1 year period as decided by the BMSICL.
- However, in special cases, shorter or longer period may be considered with proper justification in writing from the Managing Director, BMSICL. As far as possible, termination period of rate contracts shall be fixed in such a way as to ensure that budgetary levies shall not affect the price.
- **Tendering for an item(s) shall be initiated six months prior to the date of expiry of the existing rate contract.**
- BMSICL shall have the discretion to terminate any rate contract at any point of time without assigning any reason thereof.

3.9 De-registration/Debarment/Blacklisting Policy

3.9.1 Criteria prior to bid submission

- A blacklisted/debarred/deregistered agency/company shall not be eligible to participate in any of the tenders floated by the BMSICL until the period of such blacklisting/debarment/deregistration is over.
- If a particular item has been blacklisted, the agency/company shall not be eligible to participate in any of the tenders for that particular item floated by the BMSICL until the period of such blacklisting/debarment/deregistration is over.
- BMSICL shall ask from all firms desirous of participating in the tender process or seek registration as a vendor with BMSICL to submit an Affidavit regarding Non – Blacklisting status or Non conviction status separately in the respective formats to be provided by BMSICL.
- To the extent possible BMSICL shall utilize various resources to maintain a database/list of all the blacklisted firms and update it periodically.

3.9.2 Criteria prior to the commencement of technical evaluation of submitted bids

- BMSICL shall prepare a list of all vendors/agencies and their quoted products for which the technical bids are opened. This list shall be uploaded on the website of BMSICL for inviting objections/information regarding blacklisting/debarment/deregistration status of the vendors. Such objections/information, either through E-mail or letter, shall be provided to BMSICL within 3 days of the date of uploading of the list. Such objections/information must be supported by a valid evidence/proof along with full contact and identification details of the information/objection provider.

3.9.3 Criteria during the commencement of technical and financial evaluation of submitted bids or post evaluation phase

- The Managing Director, BMSICL shall reserve the right to blacklist/de-register/debar any supplier on following ground which are only illustrative and not exhaustive. The Managing Director, BMSICL may decide to debar or blacklist the agency for any good and sufficient reason.

- If it is established that the supplier is resorting to corrupt / fraudulent practices.
- Concealment of legal, financial and manufacturing supply status
- Significant deviation from the specified quality parameters
- Refusing to honor the tender conditions on being shortlisted / on placement of supply order

- The period of blacklisting to be enforced on the supplier shall be on the sole discretion of The Managing Director, BMSICL.
- Apart from Blacklisting, The Managing Director, BMSICL may also forfeit the entire deposit made by the agency and may also recover the losses incurred by BMSICL in due process.
- Debarment or Blacklisting or any other action in this regard as the case may be, shall be done transparently following due process of natural justice and after giving due opportunity to Agency concerned to defend and only after careful evaluation of the performance, facts and circumstances of the case by a duly constituted committee after issue of show cause notice to the Agency.
- The function of the committee shall include inter-alia-
  - To investigate facts and circumstances of the case and decide if a prima facie case for debarment/blacklisting exists. If not, send the case back to Managing Director, BMSICL.
  - To issue show cause notice to the Agency.
  - To examine the reply to show cause notice and call the Agency for personal hearing if required
  - In case no reply from the vendor is received within 15 days of the date of issue of show cause notice (which shall be either be faxed or sent through registered/ speed post/ courier with confirmation of receipt), Suo-moto action shall be taken by the Committee. However, before taking Suo-moto action the receipt of the show cause notice of the company must be ascertained.
  - To submit final recommendation to the Managing Director, BMSICL for Debarment/ Blacklisting or otherwise.
- The recommendation of the committee after following above process shall be put up to the Managing Director, BMSICL. If the Managing Director, BMSICL is prima facie of the view that debarment/ blacklisting is called for, a show-cause notice will be issued to the Agency to present its case in writing or in person as reply to the show cause notice. This will be last opportunity to Agency to defend its case, and after that, formal debarment/ blacklisting order will be passed and communicated to agency in writing by the ordering authority.
- The Agency may file an appeal against the order of the Managing Director, BMSICL Debarring/ Blacklisting the firm. The appeal shall lie to the Appellate Authority, being the Principal Secretary, Department of Health, GoB. Such an appeal shall be preferred within one month from the date of receipt of the order Debarring/ Blacklisting the Agency.
- Appellate Authority shall consider the appeal and pass appropriate order of rejection/acceptance/modification as well as of remanding back the matter to the Managing Director, BMSICL for reconsideration after giving an opportunity to the appellant as well as Managing Director, BMSICL. The order shall be communicated to the Agency as well as the Managing Director, BMSICL.

3.10 Modification to tender

- The bid can be amended by issuing corrigendum any time prior to the deadline for submission of the bids. However, care would be taken to ensure that bidders have sufficient time to respond to the additions and/or alterations.
- This corrigendum shall be published on the website of BMSICL and e-Procurement portal.

4. Procurement Planning Policy

4.1 Planning for NHM procurement

- BMSICL shall develop an annual roadmap for procurement of generic drugs and other essential medicines, surgical items, equipment/ devices and other hospital consumables for the year to ensure their timely availability at the facilities.

Procurement Activity	Responsibility	Timeline
Preparation / Revision of EDL and EEL	SHS	To be decided by SHS
Program Implementation Planning (For Procurement heads only)	SHS	To be decided by SHS
Finalization of Procurement Plan	BMSICL	Based On receipt of approved PIP from SHSB
Invitation to Tender Website	BMSICL	Within **2** months from the finalization of procurement plan
Finalization of Rate contracts	BMSICL	Within **3** months from the invitation of tender

4.2 Planning for Non NHM procurement

- For all the ad hoc requests of generic drugs and other essential medicines, surgical items, equipment/ devices and other hospital consumables, not communicated as part of PIP at the start of the year, BMSICL will follow the process of quarterly tendering (except for indents which require urgent attention), where all such requests will be consolidated and a tender will be floated for establishing the rate contracts.
- Tendering for an item(s) shall be initiated six months prior to the date of expiry of the existing rate contract.

Note: - Key considerations for drug, consumable and equipment related procurement and inventory planning is detailed in **ANNEXURE I**

4.3 Timeline for finalizing the tenders (Procurement lead time)

The indicative procurement lead time for different types of tendering is specified below. BMSICL shall endeavor to adhere to the set timeline for completion of tendering process and complete each activity within the stipulated timeline Only.

Activities under tendering of generic drugs and other essential medicines, surgical items and other Hospital consumables			
S. No.	**Activity**	**Timeline**	**Responsibility**
1	Publication of the Notice Inviting Tender (NIT) and uploading of tender document	0 days	Manager (Drugs)
2	Pre bid meeting from the date of NIT	on 7th day	Technical specification committee
3	Publication of Minutes of Pre-bid meeting and corrigendum if any	By 15th day	Technical specification committee

4	Opening of technical bids	By 30th day	Technical evaluation committee
5	Preliminary technical evaluation of the bids	By 45th day	Technical evaluation committee though sub committee
6	Vetting of Preliminary evaluation report	By 48th day	Technical evaluation committee
7	Publication of technical evaluation report inviting objections on BMSICL Website	By 50th day	GM (Procurement)
8	Evaluation of objections	By 54th Day	Technical evaluation committee
9	Finalization of technical evaluation report and uploading on BMSICL Website	By 55th day	Technical evaluation committee
10	Manufacturing site visit and physical verification for technically qualified bidders, Submission of report on site visit and Holding of Technical committee meeting for final inputs and publication of the final evaluation report on BMSICL website	By 64th day	Technical evaluation committee
11	Notice for Opening of Financial Bids	By 65th day	GM (Procurement)
12	Opening of Financial Bids, finalization of L1 bidder and Publication of the Financial Bid report on website of BMSICL	By 68th day	Financial evaluation committee
13	Issue of LOI to L1 Bidder	By 75th day	GM (Procurement) with approval of MD

Activities under tendering of Equipment / Devices			
S. No.	**Activity**	**Timeline**	**Responsibility**
1	Publication of the Notice Inviting Tender (NIT) and uploading of tender document	0 days	Manager (equipment)
2	Pre bid meeting from the date of NIT	On 7thday	Technical specification committee
3	Uploading of minutes of pre-bid meeting and corrigendum if any	By 15th day	Technical specification committee
4	Opening of technical bids	By 37thday	Technical evaluation committee
5	Preliminary technical evaluation	By 45thday	Technical evaluation committee though sub committee
	Vetting of Preliminary evaluation report	By 47th day	Technical evaluation committee
6	Uploading the report and inviting objections	By 48th day	GM (Procurement)
	Evaluation of objections, finalization of Technical Evaluation report, Demonstration of equipment by technically qualified bidders and publication of the final evaluation report on	By 60th day	Technical evaluation committee

	BMSICL website		
10	Notice for Opening of financial bids	By 62nd day	GM (Procurement)
11	Opening of Financial Bids, finalization of L1 bidder and Publication of Financial Bids on website of BMSICL	By 65th day	Financial Evaluation Committee
12	Issue of LOI to L1 Bidder	By 75th day	GM (Procurement) with approval of MD

5. Contents of the bidding/tender document

- The purpose of bidding/tender documents is to facilitate the bidders in arriving at an informed decision on whether or not to submit a bid, also at working out their rates for the items for a competitive bidding and to enable bidders to prepare responsive bids. Tender documents shall explain in detail the requirements of the bid, the instructions and conditions of bidding and the provisions of the proposed contract.
- All the terms, conditions, stipulations and information mentioned in **Rule 131-M of Bihar Financial Rules 2005** shall be incorporated in the bidding document along with the following mandatory clauses.
    - Submission of Earnest Money deposits (Rule 131-O of Bihar Financial rule 2005)
    - Submission of Performance Security (Rule 131-P of Bihar Financial rule 2005)
    - Clause on purchase preference policy for state suppliers (Provisions under Rule 131B of Bihar Finance Rules should be followed while providing purchase preference to industries located and registered in the State of Bihar)
    - Indemnification of BMSICL against Patents/Intellectual Property act by the successful bidder
    - Provision of warranty/defect liability period/Maintenance requirement
    - Liquidity damage clause
    - Provision of risk purchase clause
    - Inspection / Testing clause for items awarded for supply (documents shall define the tests, standards and methods that will be employed to judge the conformity of equipment as delivered, with specifications.)
    - Place of delivery
    - Schedule of delivery
    - Blacklisting and termination of contract clause
    - Arbitration clause
    - Legal Jurisdiction clause

5.1 Standardization of the bidding /tender document

- Procurement Steering Committee, BMSICL shall get the bidding document standardized for drug procurement and equipment procurement separately after appropriate legal vetting.

5.2 Bid Validity

- Bid validity shall be 180 days. If Managing Director, BMSICL concludes that bid evaluation and award of contract cannot be completed within original validity due to reasons beyond control, it shall ask for consent of bidders to extend validity period for such further period in which the process may practically be completed without waste of time.
- The request and the responses thereto shall be made in writing to all participating bidders.
- A bidder agreeing to the extension request shall also agree to suitable extension of validity period of EMD. Such a bidder shall not be required to or permitted to modify its bid;

- A bidder may refuse the request to extend the bid validity which would lead to his disqualification without forfeiting his EMD. In such a case this bid shall not be further considered for evaluation and EMD shall be returned within 15 days. But, this shall not preclude the BMSICL from going ahead with the bids of other bidders who have extended their EMD and Bid validity.

5.3 Amendments in the bidding document

- Managing Director, BMSICL reserves the right to amend or modify bidding documents for any reason by issue of addendum either on its own initiative or in response to a clarification request from the prospective bidders. Managing Director, BMSICL shall notify the amendments in the official website of BMSICL. It shall be the responsibility of prospective bidders to regularly visit the website for any amendment to the bidding documents until the last date of bid submission.

5.4 Extension of date for submission of Bids

- Taking into account the nature of amendment issued, the Managing Director, BMSICL may also extend the deadline for submission of bid to allow the bidders reasonable time for taking the addendum into account in preparation of their bids.
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5.5 Date for submission and opening of Bids

- Last date for submission of bids and date of opening of the bids shall be the same date, with a time lag of thirty (30) minutes between submission and opening of bids. The timings for submission of bids will be 15:00 hours and opening of bids at 15:30 hours.

5.6 Pre-Bid Meeting

- Pre-bid meeting shall be held either on date and time specified in the bid document or informed separately.
- Pre bid meeting shall be held with prospective bidders to clarify doubts and concerns and to seek clarification prior to submission of bids.
- Meeting shall be conducted by the Technical Specification Committee
- In case any changes in tender document or technical specifications of items/products is required with the consent and approval of all the members, the signed approved copy as corrigendum or addendum shall be put on the website of the BMSICL and the e-Procurement portal.
- Adequate time shall be allowed between pre-bid meeting and the last date of submission of bids, to allow bidders to adequately address the clarifications / issues discussed in the pre-bid meeting in their respective bids.
- Nonattendance in the pre-bid meeting, if conducted, shall not be a reason for disqualification of bidders.

5.7 Extension of Bid Opening date

- Need for extension of closing date for sale of bidding documents, or date and time for submission & opening of bids may arise due to reasons within or external to the control of BMSICL or on the request of the prospective bidders. Such extension shall be granted on merits with the approval of Managing Director, BMSICL.
- Where extension in bid opening date is made after the closing date of sale of bidding documents, all prospective bidders who have already purchased the bidding documents shall be informed in writing by registered/ speed post/official website or by courier, about extension of time and/or date.
- In case where closing date for sale of bidding documents itself is extended or bid opening date is extended prior to the expiry of the closing date of sale of bidding documents, a corrigendum would need to be published in the website of the BMSICL or any other medium as mentioned in the bidding document. While informing the extended date and time for submission of bid and bid opening, the bidders shall also be informed of the extended date of validity of EMD, if required in the same manner.

- The extension of validity period of EMD shall not be required in cases where BOD is extended for not more than thirty (30) days in aggregate for all extensions.
- The extension of BOD shall be posted on the website of BMSICL and e-Procurement portal. Extension of the last date of bid submission shall be done before expiry of time fixed for submission of bid, failing which it will be retendered.

5.8 Return of EMD

- The EMD of unsuccessful bidders shall be returned within 15 days of acceptance of award.
- The EMD of successful Bidder shall be returned after submission of acceptable Contract Performance Guarantee/Security and its verification from the issuing bank. Where EMD is provided in the form of DD/Pay Order, the successful bidder shall have liberty to use such converted EMD as part of Performance Guarantee/Security till it is submitted.
- In cases where a tender is not finalized within the original validity period and a bidder refuses to extend its bid on the same price, terms and conditions, the EMD of such bidder shall be returned forthwith.

5.9 Forfeiture of EMD

EMD shall be forfeited in the following conditions:

- If a bidder withdraws or revokes its bid during the period of bid validity specified in the bid document;
- If a bidder modifies its bid in any manner after its opening but before the validity of the bid expires;
- If a bidder does not accept arithmetical corrections of its bid price;
- In the case of successful bidder, if the bidder fails to sign the contract within the prescribed time and or to furnish the Performance Guarantee within the prescribed time.
- Any other condition as specified in bid documents.

6. Documentation Policy (Record of procurement proceedings)

BMSICL will maintain a record of their procurement proceedings along with all related documentation for a minimum period of 10 years. The following basic records should be maintained:

- PURCHASE ORDER LOG --- It contains a numerical brief record of all Purchase Orders issued. It contains Purchase Order nos., supplier's name, brief description of purchase, total value of the order etc.
- OPEN ORDER FILE --- contains status of all outstanding orders.
- CLOSED ORDER FILE --- contains historical data of all completed purchases.
- VENDOR RECORD FILE --- contains the names, addresses of suppliers, materials that a vendor can supply, delivery and quality records.
- RATE CONTRACT FILE --- contains the purchase records of items under a term contract. It is especially important when the contract is an open one against which orders may be placed.

Besides the above, BMSICL will maintain all the records of issue, receipt, opening, evaluation of tenders, award of contracts i.e. all pre-order and post-order records in chronological order and the files kept in an identified place and should be retrievable for scrutiny whenever needed without wastage of time.

The records of complaint handling, correspondence with clients, consultants, Bank vendors etc. also will be kept separately and should be retrievable. All records will be maintained for a period of not less than three years after the closure of the Project.

7. Quality Control and Inspection Policy

- In order to ensure the availability of quality products to the people of Bihar, BMSICL shall ensure a strict quality assurance and inspection process during the complete procurement cycle.
- This policy shall be supported by standard operating Procedure on quality assurance and inspection
- **For generic drugs, other essential medicines, Hospital consumables, surgical and suture items the quality assurance process shall include the following types:**
    - Inspection of the manufacturing unit as far as practicable
    - Inspection on receipt at warehouse
    - Testing from NABL accredited Laboratories/ Government Laboratories
- **For equipment/ devices the quality assurance process shall include the following types:**
    - Demonstration of equipment
    - Inspection of the manufacturing unit as far as practicable
    - Inspection on receipt
    - Inspection during installation and commissioning
    - Post installation monitoring and inspection

8. Complaint Redressal Policy

- **Redressal of complaints from BMSICL employee and /or members of any committee associated with the procurement process**: If any member of the committee wishes to file a complaint of any kind about the quality, price, or procedures for any specific purchase, a protest should be submitted in writing. It shall be the responsibility of the Tender Committee to take note of the comment and probe the protest. A written communication must be sent to the protesting signatory by the Tender Committee on its findings.
- **Redressal of complaints / Objections from bidders**:

a) Redressal through appellate authority

- If any bidder/supplier has any complaint of whatsoever nature regarding the procurement process at BMSICL they shall be entitled to approach the Managing Director, BMSICL, for redressal of their complaints/Grievances.
- Managing Director, BMSICL shall direct the concerned Officials of BMSICL for looking into the complaint and provide their recommendation and comments to him for his understanding of the veracity of the complaint. Based on the recommendations of the concerned Officials and his judgement, Managing Director, BMSICL, shall decide on the complaint and intimate his decision to the concerned bidder/ supplier.
- Should the bidder / supplier be discontent with the decision of Managing Director, BMSICL, they shall have the option of approaching the Appellate authority, in this case the Principal Secretary, Department of Health, Government of Bihar for review of their complaint.
- The appellate authority shall direct the concerned official at the BMSICL as the case may be for looking into the complaint and provide their recommendation and comments to the appellate

authority. The appellate authority after consideration of the views, recommendations of all concerned and based on his judgement shall arrive at a decision and intimate the same to all concerned.

b) Redressal through Arbitration

- If, after, decision of the Appellate authority, the bidder/ supplier have failed to resolve their dispute or difference with BMSICL, then either the Bidder/ Supplier or BMSICL may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.
- Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under the Contract in the event the dispute or difference is in respect to a contract.

The dispute resolution mechanism to be applied shall be as follows:

- In case of Dispute or difference arising between BMSICL and a supplier relating to any matter arising out of or connected with this agreement, such disputes or difference shall be settled in accordance with the Arbitration and Conciliation Act, 1996 and subsequent amendments thereafter. The arbitral tribunal shall consist of 3 arbitrators one each to be appointed by BMSICL and the Supplier. The third Arbitrator shall be chosen by the two Arbitrators so appointed by the Parties and shall act as presiding arbitrator.
- **Appointment of arbitrators**
  1. A person of any nationality may be an arbitrator, unless otherwise agreed by the parties.
  2. The parties are free to agree on a procedure for appointing the arbitrator or arbitrators.
  3. Each party shall appoint 1 arbitrator each. The two arbitrators so appointed shall appoint the 3rd arbitrator who shall act as the presiding arbitrator.
  4. (a) If, a party fails to appoint an arbitrator within 30 days from the receipt of the request to do so from the other party; or, (b) the two appointed arbitrators fail to agree on the 3rd arbitrator within 30 days from the date of their appointment,

     The appointment shall be made upon request from the party, by the High Court at Patna or any person or institution designated by the High Court.
- The venue of Arbitration shall be the place from where the contract is issued i.e. Patna, and the language of the arbitration proceedings and that of all councils and communications between the parties shall be English.
- The decision of the majority of arbitrators shall be final and binding upon parties. The cost and expenses of Arbitration proceedings will be paid as determined by the arbitral tribunal. However, the expenses incurred by each party in connection with the preparation, presentation, etc. of its proceedings as also the fees and expenses paid to the arbitrator appointed by such party or on its behalf shall be borne by each party itself.
- The Arbitration and Conciliation Act of 1996 and subsequent amendments thereafter, the rules herewith and any statutory modification or reenactment thereof shall apply to arbitration proceedings.

Notwithstanding any reference to arbitration herein,

- The parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and
- BMSICL shall pay the Supplier any monies due the Supplier.

c) Redressal through court of law

- All Tenders initiated by BMSICL and contracts entered into by BMSICL shall be governed by and interpreted in accordance with the laws of India from the time being in force. All disputes arising out of a procurement process as related to a tender / contract will be subject to jurisdiction of courts of law in Patna.
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9. Emergency Procurement Policy

Whenever generic drugs and other hospital supplies, Essential medicines , equipment / devices are required on an emergency basis due to unforeseen events like natural calamities, riots, epidemics, etc. the procurement may be done as per requirement in keeping with the instructions of the department of health, Government of Bihar and circulars in force as per the provisions in Bihar Financial Rules.

BMSICL shall prefer the **'Government e-Marketplace (GeM)'** portal for procurement of generic drugs, surgical items and equipment in cases where the decision is taken to purchase these items from agencies authorized by central government. (BMSICL shall follow the directions as laid under Finance Department, Govt. of Bihar notification no. 9230 dated 27/11/2017 and amendments thereof).

10. Vendor Registration Policy (Registration of suppliers- Bihar Financial rules 2005, rule no 131)

- Objective of this policy is to replace the present time consuming, repetitive system of compulsory case to case basis vendor approval for every item under every contract / tender. The new policy also aims to ensure that project time and cost overrun on account of present aberration in vendor approval system are eliminated. Advantages of vendor registration are-
  - A readymade vendor data base shall be available with the procurement team for a product and can be immediately contacted by the concerned procurement team for participating in the tender.
  - All registered vendors shall be provided a financial limit to which they can participate in a tender floated by BMSICL.
  - Lead time for Tender finalization process shall be drastically reduced as registered vendors participating in the tender process need not be assessed for Technical/ financial capability. Only unregistered vendors need to be assessed for the same and if found suitable to be duly registered with BMSICL.
- BMSICL shall adopt a policy of pre-qualification of vendors through the process of '**vendor registration'** to have readymade data base of vendors for both equipment and drug procurement.
- The pre-qualified vendors shall be approached for participating in an ensuing tender to ensure maximum participation of bidders and also approach them at times when emergency procurement needs to be undertaken by BMSICL.
- **Registration period-**The registration shall be **valid for three (3) years** from the date of the certificate. To avoid multiple expiry dates, registration of all vendors in a year to be made in the month of April.
- **Renewal of registration**- The firm would apply for renewal of registration before expiry of its registration if so desired. The firm will submit its application for renewal of registration at least 90 days before expiry of initial registration. Such renewal shall follow the process prescribed in this manual only.
- Vendors shall apply afresh for registration of any new product / list of products which are not a part of existing registration.
- **Registration Fee-** BMSICL shall not charge any fee for the vendor registration and will be completely free.
- **Registration Process-** Vendor Registration process shall be undertaken by a vendor registration committee headed by CGM (Supply Chain), BMSICL. The other members shall be as follows. Quorum shall be 4 members.
  1. General Manager (Procurement), BMSICL
  2. General Manager (Finance), BMSICL
  3. Deputy General Manager (drugs/equipment)
  4. State Drug Controller, Department of Health, GoB in case of drugs and Director in chief, Department of Health, GoB in case of equipment
  5. Representative of State Health Society
- The activity chart and persons responsible shall be as below:

Sl. No	Activity	Person Responsible
1	Insertion of Advertisement in Newspapers	Departmental Managers
2	Uploading of Vendor Registration Request forms in Website	IT department
3	Receipt of Registration Applications	Office of GM
4	Technical Assessment	GM, Departmental Managers,
5	Financial Assessment including assigning of tender limits	Finance
6	Commercial Assessment	Departmental Managers
7	Vendor rating	Departmental Managers
8	Compilation of Assessments for approval to GM	Departmental Managers

9	Issuance of Certificate	MD BMSICL

- For the purpose of registration, prospective applicants shall apply on-line in the prescribed format uploaded on the website of BMSICL. Proposed Vendor Registration Form and list of required documents for various items is provided in **Annexure II**
- The application will be scrutinized in respect of all the documents called for and entries in each column of the application. If the application is incomplete in any respect, it will be rejected and the rejection advice will be issued to the firm.
- BMSICL will write to the Bankers of the firm to give a confidential report on the financial standing of the firm and its monetary limit (if any) provided by the bank to the firm.
- **Vendor registration for generic drugs and other essential medicines, surgical items and other hospital consumables -** Apart from seeking confidential report on financial standing BMSICL will also seek confidential report from the Licensing Authority/Drugs Controller of the state in whose jurisdiction the firm exists on the following.
  - Standing and performance of the manufacturing unit of the firm.
  - Whether the firm has the necessary facilities to carry out all the tests for the generic drugs. Either of its own or throughout sourcing.
  - Whether the provisions of schedule M of the Drugs and cosmetics Rules are strictly observed by the firm encompassing the activities of good manufacturing practices and the firm fulfils all statutory requirements under Drugs and cosmetics Act.
  - Whether the firm has ever been convicted during last three years.
  - Whether manufacturing license of the firm for any item has been suspended/ cancelled during last three years due to substandard or any other reason.
- Drug manufacturing unit shall also be assessed by a team comprising of a Drug Inspector from Drug Control Authority and a Representative of appropriate level from BMSICL. On receipt of the State Drug Controller and Bankers confidential reports as well as the recommendation of the expert committee, mentioned above, result of the references to various authorities to check the bona fides will be compiled and final decision on the registration of the supplier will be taken. But before finally rejecting any offer for registration, the concerned firm shall be given an opportunity to clarify its position. The decision of BMSICL in this regard will be final.
- The vendor registration process for generic drugs and equipment shall be completed in all respects within 60 days from application date. Information of registration to the successful vendors and information of rejection to the unsuccessful vendors (quoting the reason for rejection) shall be sent by registered post/ courier/email. The list of registered vendors with validity of registration will also be uploaded on the website of BMSICL.
- **Resubmission after rejection-** If rejected due to incompleteness of the required documents or in case deficiencies are found in factory inspection or due to other relevant reasons, the applicant can resubmit a fresh application duly rectifying all the deficiencies of earlier application. Such resubmitted fresh applications shall be deemed as fresh applications and shall follow the process as mentioned in the manual.
- **Performance of registered suppliers**- performance and conduct of every registered supplier shall be monitored by the concerned department. The registered suppliers 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 falls declaration to BMSICL or any such ground which in the opinion of BMSICL is not in public interest.

11. Communication, Transparency and Efficiency policy

11.1 Information Policy

- BMSICL shall make all efforts to provide complete and updated information on its procurement / Tendering process; technical and financial assessments; existing rate contracts for equipment, generic drugs, consumables and surgical-suture items; redressal of grievances etc. to bring transparency in the process.
- Mediums that shall be used for information dissemination are BMSICL website, e-tender portal, National and local newspapers, e-mails, official letters, meetings etc.

11.2 Transparency Policy

- This will be followed as per the Rule 131R of BFR, 2005and any amendments thereafter, regarding Transparency, competition, fairness and elimination of arbitrariness in the procurement process.

11.3 Efficiency Policy

- This will be followed as per the Rule 131S of BFR, 2005 and any amendments thereafter, regarding Efficiency, Economy and Accountability in Public Procurement System.
- To bring more efficiency in the generic drugs and equipment procurement processes, supply chain management, logistics and ware house systems, BMSICL shall endeavor to recruit adequate number of eligible staff and shall adopt capacity building programs based on periodic need assessment.

12. Policy on procurement ethics and responsibility of people involved

12.1 Public Procurement Code of Ethics

- A procurement official will be honest and will not be afraid to stand up for the truth.
- A procurement official will possess integrity.
- A procurement official will put character above wealth.
- A procurement official will not lose individuality in a crowd.
- A procurement official will make no compromise with a wrong.
- A procurement official will not do it simply because everyone else does it
- A procurement official will not believe that shrewdness, cunning and hard headiness are best qualities for winning success.
- A procurement professional will not be ashamed or afraid to stand for the truth even at the cost of being unpopular.
- A public procurement official will have respect for the law and system of government.

12.2 Responsibilities of Procurement officials

- To conduct pre tender market surveys to identify prospective vendors for the ensuing tenders
- Avoid the intent and appearance of unethical behavior and practices.
- Diligently follow procurement laws and rules.
- Refrain from any activity that would create or appear to create conflict of interest between personal interests and interests of the government agency. Identify and eliminate conflicts of interest.
- Refrain from soliciting or accepting money, loans, credits, discounts, favors, or services from present or potential suppliers or service providers which may influence or appear to influence purchasing decisions.
- Ensure that all persons are given equal opportunity to compete in a fair and open process.
- In performing his/her official duties, a public official would ensure that public resources are not wasted, abused, or used improperly or extravagantly.

12.3 Responsibilities of public procurement Authorities

- Implement a code of conduct that commits the contracting authority and its employees to a strict anti-corruption policy. The policy would take into account possible conflicts of interest; provide mechanisms for reporting corruption and protecting whistle-blowers.
- Maintain a blacklist of companies for which there is sufficient evidence of involvement in corrupt activities; alternatively, adopt a blacklist prepared by an appropriate international institution. Bar blacklisted companies from tendering for the authority's projects for a specified period of time.
- Ensure that all contracts between the authority and its contractors, suppliers and service providers require the parties to comply with strict anti-corruption policies. This may best be achieved by requiring the use of a project integrity pact during both the tendering and project execution phase, committing the authority and bidding companies to refrain from bribery.
- Ensure that public contracts above a threshold limit are subject to open competitive bidding. Exceptions must be limited and clear justification given.
- Provide all bidders, and preferably also the general public, with easy access to information about:
  - -Activities carried out prior to initiating the contracting process
  - - Tender opportunities
  - - Selection criteria
  - - The evaluation process
  - - The award decision and its justification
  - - The terms and conditions of the contract and any amendments
  - - The implementation of the contract
  - - The role of intermediaries and agents

- Dispute-settlement mechanisms and procedures.

- Confidentiality would be limited to legally protected information (for example Trade secrecy of particular bidder in respect of pricing, technical collaboration or association). Equivalent information on direct contracting or limited bidding processes would also be made available to the public.
- Ensure that no bidder is given access to privileged information at any stage of the contracting process, especially information relating to the selection process.
- Allow bidders sufficient time for bid preparation and for pre-qualification requirements when these apply. Allow a reasonable amount of time between publication of the contract award decision and the signing of the contract, in case of any complaints regarding the decision.

13. Procurement at District level by DHS/Civil Surgeon office

It shall be the responsibility of BMSICL to ensure uninterrupted supply of commodities in the state through centralized tendering process. However, if due to various unavoidable reasons the rate contracts are unavailable with BMSICL either for all items or for few items, as decided by the Government of Bihar in the larger benefit of people of Bihar, the procurement process shall be decentralized for temporary duration till the time rate contracts are available with BMSICL again. Following rules shall be applicable in such situations.

- Districts (DHS/Civil Surgeon) shall obtain a 'Non Availability Certificate (NAC)' from the BMSICL.
- BMSICL shall provide NAC for specific items included in EDL and EEL or as required for the Central or State specific programs only for which BMSICL previously had the rate contract.
- Districts shall follow BFR and state guidelines/directives for its procurement process.
- Once BMSICL re-establishes its rate contracts the districts rate contracts shall withdraw automatically. Therefore, district shall opt for short term tenders only.

14. Nothing contained in this manual shall overlap the provisions of BFR, 2005 or any amendments thereafter i.e. in case of any contradiction/interruption, provisions of Bihar Financial Rules 2005 and any amendments thereafter shall prevail.

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ANNEXURE-I

SOP for Key considerations for procurement / Inventory planning

The following guidelines would be adhered to while creation of procurement plans

A. The procurement plan for **generic drugs and other essential medicines, surgical items and other hospital consumables** would consider the following:
   a. Average time period required in a complete procurement cycle
   b. The trends in usage and the schedule of requirement
   c. Current stock of the store, location of the stock, expiry date of the product and the projected time scale for distribution
   d. Storage capacity for receiving the bulk consignment. In case of limited storage capacity, the procurement/supply of commodities could be phased over time rather than arriving as a one- time consignment
   e. The procurement plan would also cover situations when the rate contracts are not in place or couldn't be established even after repeated tendering. In such cases, suitable protocols for approaching other state and central agencies would be adopted.
   f. Cases of problems encountered with procurement along with issues relating to distribution over the last few years would be documented, along with lessons learnt and best practices for the future.

Purchase order planning- To ensure timely availability of generic drugs at each of the health facilities in state of Bihar, BMSICL shall do the following analysis pertaining to the inventory management of generic drugs and consumables.

1. **ABC analysis (based on item value and quantity)**

Item Category	Item (%)	Money Value (%)	Inventory Guidelines for such items
A	10	70	Keep low stock (monthly). Requires close monitoring.
B	20	20	Keep medium (quarterly) stock. Requires monitoring.
C	70	10	Keep yearly stock. Requires casual monitoring.

2. **VED analysis (based on the criticality of an item)**

Item Category	Inventory Guidelines for such items
V (VITAL)	Avoid stock out situation. Depending upon cost and shelf life we may go for monthly replenishment and stocking. Requires close stock monitoring.
E (ESSENTIAL)	Depending upon cost and shelf life may go for quarterly replenishment and stocking. Requires close stock monitoring.
D (DESIRABLE)	Procurement and stocking shall be done as per need. Requires casual stock monitoring.

3. **FSN analysis (based on the level of movement of items)**

Item Category	Inventory Guidelines for such items
F (FAST MOVING)	Depending upon cost and shelf life may go for monthly procurement
S (SLOW MOVING)	Depending upon cost and shelf life may go for quarterly procurement and stocking
N (NON MOVING)	Depending upon stock position, cost and shelf life may go for quarterly of half yearly procurement and stocking

Safety stock, reorder frequency and order quantity at BMSICL warehouses will be arrived on the basis of ABC / VED classification for all the generic drugs as described below:

Step 1: Categorization of Items as per ABC-VED Matrix:

Combined Category	V	E	D
A	Category I	Category I	Category I
B	Category I	Category II	Category II
C	Category I	Category II	Category III

Step 2: Define Safety Stock Levels, Re-Order Frequency and Order Quantity for all EDL Items:

Particulars	Category I	Category II	Category III
Safety Stock	2-months' requirement	2months' requirement	1 months' requirement
Re-order frequency	Quarterly	Half Yearly	Half Yearly
Order Quantity	3 months' requirement	6 months' requirement	6 months' requirement

B. The procurement plan for **equipment** will be based on the following considerations:

a. On the basis of State funded plan / PIP based plan provided by the SHS, the technical specification committee for equipment would come up with a standard set of detailed requirement for all equipment to be procured by BMSICL.

b. Warranty for a period of 3 years would be considered for the instruments being procured. Bank guarantee would be mandated to ensure service performance during the warranty period. Contact no. to be used in case of breakdown should be pasted on the equipment to facilitate ease of contact in case of service issues.

c. Total Lifecycle cost of the equipment including the cost of Maintenance and consumables would be considered while evaluating the tenders. Total cost would be arrived at by considering the cost of equipment, cost of Annual Maintenance Contract and cost of consumables/ reagents. Cost of Annual / comprehensive maintenance and cost of consumables/reagents would be forecasted for the lifecycle of the instrument (usually 10 years) at the standard rate of usage.

d. Technical capability of existing operators and conformance with relevant national and international quality standards would also be taken into account.

ANNEXURE- II

Application form for vendor registration for generic drugs and other essential medicines, surgical items, equipment/ devices and other hospital consumables.

1.	Item for which registration is sought		1. Generic drugs and other essential medicines	
			2. Consumables/ surgical items	
			3. Equipment / Devices	
			Attach list of items for which registration is being sought	
2.	Name of the firm			
3.	Full address of the firm. (in block letters)			
	Post Office		Pin Code	E-mail ID
	Telephone	Fax	Mobile	
4.	Full address of the manufacturing unit (in block letters)			
	Post Office		Pin Code	
	Telephone	Fax	Mobile	E-mail ID
5.	Name under which licensed and the period for which the same are in force			
6.	Who is the owner, please give full name and			
	Post Office		Pin Code	
	Telephone	Fax	Mobile	E-mail ID
7. (i)	Are you a manufacturer?			
(ii)	If so, please give details quoting your manufacturing License No.			
8.	Are you a manufacturer's agent? If so, please give details.			
i.	Name of each manufacturer.			
ii.	Address of each manufacturer.			
	Post Office		Pin Code	
	Telephone	Fax	Mobile	E-mail ID
iii.	Stores manufactured /Dosage form manufacturing sections.			
iv.	Letter of authority appointing you as agents in original which must indicate whether the manufacturer will also deal with Govt. direct or only through your Agency.			
9.	Are you a stockiest only? If so, please give details.			
10.	Name of your Bankers.			

	The name of the party in which the account stands			
	Address of your Bankers			
	Post Office		Pin Code	
	Telephone	Fax	Mobile	E-mail ID
11.	Are you on the list of approved Contractors of BMSICL, State Govt.? If so, please furnish copies of letters issued by the Dept. Concerned for registration of your name as approved contractors.			
12.	Did you apply for registration with BMSICL before under existing or other name? If so, with what			
13.	Are you already doing business with BMSICL under some other name, if so please give details.			
14.	Have you ever been convicted for contravening the provision of Drugs & Cosmetics Act and Rules there under in the past? If so, furnish details.			
15.	Was your manufacturing License suspended or cancelled in the past? If so, furnish particulars.			
16.	Please State whether in the event of rejection etc. you would take back the rejected stores from the warehouse at your cost.			
17.	Declaration to be made by the applicant. (Vide question 4 above).			
18.	Whether all the documents listed in Checklist are enclosed?			

NAME OF PARTNERSHIP FIRM / PROPRIETORSHIP FIRM/ COMPANY

I/We do hereby declare that the entries made in this application form are true to the best of my/our knowledge and also that we will be bound by the acts of our constituted attorney.

PARTNER/ PROPRIETOR/AUTHORISED REPRESENTATIVES

Check list of documents to be enclosed for Registration for generic drugs and consumables-

1. List of products for which registration is being sought
2. Memorandum and Article of association/ Partnership Deed /Constitution of the firm.
3. Valid GMP Issued by FDA/Drug controller/ licensing authority
4. Non Conviction Certificate issued by FDA /Drug controller/ Licensing authority
5. Performance Certificate issued by FDA /Drug controller/ Licensing authority
6. Annual Report/Latest statement of P & L Account and Balance Sheet of your firm/ concern & Turnover for the last 3 financial years.
7. Detailed Lay Out of your Factory with Measurements, Dimensions for each Manufacturing Section
8. List of Equipment and Plants & utilities - for each Manufacturing Section

9. Particulars of Technical Persons (Approved by the Licensing authority under the Drugs & Cosmetics Act &Rules).
10. Copy of valid Drug License and list of items for which Drug Control Authority issued the License
11. Details of orders received from various Government Departments and execution made thereof. Reasons for rejections and unsupplied portion (Copies of Supply Order).
12. Latest Therapeutic Index and Price List
13. Monetary limit of your firm duly certified by Bank or Chartered Accountant
14. The manufacturing capacity of a dosages forms / products for each manufacturing section calculated on per shift, per day and annual basis
15. PAN Number/Copy of Pan Card & latest Income Tax
16. Return Filed/Acknowledgment of Income Tax deposited
17. Ownership document of Firm's Land/Plot/Property
18. Pollution control clearance certificate
19. GST registration

Check list of documents to be enclosed for Registration for equipment-

1. List of items for which registration is being sought
2. Memorandum and Article of association/ Partnership Deed /Constitution of the firm.
3. Non Conviction Certificate (self-certified)
4. Performance Certificate issued by customers
5. Annual Report/Latest statement of P & L Account and Balance Sheet of your firm/ concern & Turnover for the last 3 financial years.
6. Detailed Lay Out of Factory with Measurements, Dimensions for each Manufacturing Section
7. List of Equipment and Plants & utilities - for each Manufacturing Section
8. Particulars of Technical Persons
9. Details of orders received from various Government Departments and execution made thereof. Reasons for rejections and unsupplied portion (Copies of Supply Order).
10. Monetary limit of your firm duly certified by Bank or Chartered Accountant
11. The manufacturing capacity products for each manufacturing section calculated on per shift, per day and annual basis
12. PAN Number/Copy of Pan Card & latest Income Tax
13. Return Filed/Acknowledgment of Income Tax deposited
14. Ownership document of Firm's Land/Plot/Property
15. GST registration
16. Manufacturing license
17. Pollution control clearance certificate

Note: -All the above documents along with the application for registration of a manufacturing unit are mandatory. Incomplete application will be rejected.