Public Procurement World - India

7. Exemptions to Competitive Bidding

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# a. Are there any exemptions to competitive bidding, i.e. under what conditions is a direct award/single sourcing permissible?

In addition to the specific instances covered under our response to Section 3(a) above, the separate guidelines for defence procurement prescribe certain exemptions.

Rule 194 of the GFR permits 'Single Source Selection/Consultancy by Nomination'. The selection by direct negotiation/nomination, on the lines of Single Tender mode of procurement of goods, is considered appropriate only under exceptional circumstance such as:

tasks that represent a natural continuation of previous work carried out by the firm;

in case of an emergency situation, situations arising after natural disasters, situations where timely completion of the assignment is of utmost importance; and

situations where execution of the assignment may involve use of proprietary techniques or only one consultant has requisite expertise.

under some special circumstances, it may become necessary to select a particular consultant where adequate justification is available for such single-source selection in the context of the overall interest of the Ministry or Department. Full justification for single source selection should be recorded in the file and approval of the competent authority obtained before resorting to such single-source selection.

it ensures fairness and equity, and a procedure in place to ensure that the prices are reasonable and consistent with market rates for tasks of a similar nature; and the required consultancy services are not split into smaller sized procurement.

# b. What are the consequences for violation of the competitive bidding requirement?

While the GFR is silent on this issue, in the event any contract award is found in contravention of competitive bidding requirements, upon such tender awards being challenged before Courts, there is a possibility of the tender award being held invalid. Indian Courts have consistently emphasised that bidders participating in the tender process have no other right except the right to equality and fair treatment in the matter of evaluation of competitive bids offered by interested persons in response to notice inviting tenders in a transparent manner and free from hidden agenda.[[1]](https://resourcehub.bakermckenzie.com/en#_ftn1)

[[1]](https://resourcehub.bakermckenzie.com/en#_ftnref1) Meerut Development Authority vs. Association of Management Studies and Anr. (2009) 6 SCC 171

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