

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার
লেজিসলেটিভ ও সংসদ বিষয়ক বিভাগ
আইন, বিচার ও সংসদ বিষয়ক মন্ত্রণালয়



পাবলিক প্রকিউরমেন্ট আইন, ২০০৬
ও
পাবলিক প্রকিউরমেন্ট বিধিমালা, ২০০৮

মুদ্রণ ও প্রকাশনা শাখা
(এই আইন ও বিধিমালা জানুয়ারি, ২০১৯ সন পর্যন্ত সংশোধিত)

উপ-পরিচালক (উপ-সচিব), গভর্নমেন্ট প্রিন্টিং প্রেস, তেজগাঁও, ঢাকা কর্তৃক মুদ্রিত।

জানুয়ারি – ২০১৯

তফসিল-৯

অংশ ক : [বিধি ৫৫ (১) দ্রঃ]

সারণী

(Consultant Conflicts of Interest: Range of Possible Cases)

Category of Consultant Conflicts	Example	Is the Consultant allowed to take part	Risk for Client: Consultant may	Mitigation of Risk
Supply of goods and works whose specifications were prepared by the consultants	Equipment, computers	No	Favor its associates	Disqualification of consultant and affiliates
Continuation assignments	Detailed design after feasibility study	Yes	Influence TOR, bias feasibility- study recommendations	TOR of continuation drafted by third party who validates feasibility
Conflicting assignments	Environmental audit of consultants' project design by the same consultants	No	Apply partiality in assessing its own designs	Disqualify the consultant
Related assignment other than continuation	Restructured study of a public asset after preparing privatization plan	Yes (permissible upon conditions)	Unduly influence TOR of related assignment	Have third party draft TOR, or disqualify the consultant
Related assignment for competing clients	Study of a project competing- with another client's project	No (permissible upon conditions)	Advice to client(s) may be biased	Disqualify the consultant, or both clients agree on scope of work

Category of Consultant Conflicts	Example	Is the Consultant allowed to take part	Risk for Client: Consultant may	Mitigation of Risk
Related unnecessary assignments	Study of superfluous alternatives	No	"Featherbedding" *	Disqualify the consultant
Unrelated useful assignments	Study of future projects	Yes	n.a	n.a.
Conflicting relationships	A consultant's staff has a family relationship with a client's staff involved in the selection process	No (permissible upon conditions)	Be unduly favored in the proposal evaluation process	Exclude the client's staff from the selection process, or disqualify the consultant
Conflicting relationships	The consultant includes a client employee in its technical proposal	No (permissible upon conditions)	Be unduly favored in the proposal evaluation process	The consultant shall attach to its proposal a client's certification stating that the involved client's employee is on leave without pay

* **Featherbedding** is the practice of requiring an employer to hire more workers than needed to handle a job

অংশ খ : [বিধি ১১২ (৮) দ্রঃ]

অংশ ক : General Considerations for the Employment of Consultants

- (1) Appointment of Consultants, local or international, at times is a crucial element in the project cycle. Depending on the nature of a project, combination of both local and International Consultants in implementing any project or activity can be more useful and effective. A project may not be ready for financing without Consultant's Services. An aid agreement may not be effective till a Consultant is in place. A tender document may not be issued or even prepared without a Consultant. A system may not be introduced or reformed without the Services of Consultant. At the conceptual or project preparation stage it is to be thoroughly scrutinized to identify the areas where the Services of the Consultant is necessary if the technology involved is complex and not locally available and the concerned agency has no experience. Therefore, where it is considered expedient that the service of a Consultant is required, appointment of local or International Consultants should be considered. However, the Procuring Entities should be selective in appointment of Consultants. International Consultants may be appointed when local expertise is not available. While using International Consultants arrangements should be made to ensure a mechanism for transfer of technology or expertise. Human resources development should form an integral part of any technical assistance programme.
- (2) Consultants are generally appointed for the following purposes:
- (a) Pre-investment Studies: These comprise the investigations that normally precede decisions to go forward with specific projects. These studies determine the investment needs and the type of interventions needed to attain the desired goal. These include identification of priority area of investment, need for policy adjustment, feasibility studies for project or programme, improvement of existing management practices etc.
 - (b) Preparation Services: These comprise the technical, economic or other assignment required to fully define a project and prepare it for implementation. These Services normally include the preparation of a project, collection of relevant Documents, information and data, setting objectives, identifying activities for attaining objectives, requirement of physical and financial resources, preparation of Procurement Documents.
 - (c) Implementation Services: These relate to actual implementation of the activities using resources already identified during preparation phase. Implementation shall follow the time chart already worked out and revised from time to time. Implementation may be of the nature of construction of a complex road, building or a bridge, procurement and installation of goods and equipment. It may be of the nature of reforming a system in order to improve efficiency and ensure better performance. This involves supervision, management, inspection and providing necessary technical Services.
 - (d) Technical Assistance: These comprise a wide range of intellectual and professional Services along with other support service, such as development and sector planning and institution building, including organization and management (O&M) studies, staffing requirement and training needs and assistance in the implementation of study recommendations.

- (3) Technical Assistance Projects have a clearly stated policy to build local capacity in course of execution of the projects. The objective is to facilitate transfer of knowledge and technology through the interaction between international and Local Consultants during the implementation of the project.
- (4) For each position created in consulting service appropriate attention should be made to compatible international/ local positions. International Consultants can be of any national of eligible countries including Bangladesh.

a. Association of Consultants with International & Local Consulting Firms:

- (1) For development projects implemented in Bangladesh by the GOB with the support of development partners, may require the engagement of international consulting firms. Each international consulting firm is encouraged to seek participation and obtain full range of expertise by associating with local consulting firm(s) or entities in a joint venture or sub-consultancy, as appropriate.
- (2) International consulting firms may include national Consultants in their payroll and are entitled to apply their Fees/Charges for the Local Consultants provided they are recruited as their team.
- (3) The local consulting firms will have Local Consultants in their payroll and are entitled to apply their Fees/Charges on the Local Consultants working for them.
- (4) If a Bangladeshi firm is short-listed to compete with international firms, it may use the Services of both international and local Consultants and is entitled to apply Fees/Charges for both categories of Consultants.
- (5) In a joint participation of international and local consulting firms member firms will mutually decide the payroll arrangements.

b. Billing Rates and Modus Operandi:

- (1) Billing rates shall be calculated on staff-month basis. The billing rates of consulting firms usually consist of staff remuneration, social charges, overhead charges, and the Consultant's fee.
- (2) The billing rate will vary depending on the nature of the consulting firm. As guidance, an example of typical billing rate calculation is provided below:

Item	Component	International/ National Firm
1	Staff Remuneration	
2	Social Charges	40% of Remuneration
3	Overhead	60—100% of Remuneration
4	Consultant's Fee	10—15% of (1+2+3)

অংশ গ : [বিধি ১১২ (৮) দ্রঃ]

General Considerations for Employment of Bangladeshi Nationals as Individual Consultants in Aided Projects

1. Employment of Bangladeshi Nationals as Consultants in Foreign Aided Projects: All Ministries, Divisions and Government agencies including local authorities shall, subject to agreement with the development partners employ qualified Bangladeshi nationals as Consultants, if available, in foreign aided projects under their execution.
2. Eligibility for applying for the posts of Consultants:
 - (a) Any Bangladeshi national including persons in the service of the Republic or the local authorities/corporations ¹[* * *] may, if he/she is qualified for any post of Consultant, apply for the post.
 - (b) No person who has been convicted by any Court of Law or dismissed from Services for misconduct shall be eligible for consideration for appointment to a post.
3. Educational qualifications and experience:
 - (a) Broadly, the Bangladeshi Consultants shall be divided into three main groups, namely :
 - (i) Junior Consultant ;
 - (ii) Consultant ;
 - (iii) Senior Consultant.
 - (b) A guideline for educational qualifications and experiences of the Local Consultants is provided below, however, educational qualifications and experience will vary according to the nature and scope of assignment and a Procuring Entity, taking this into account, will specify the requirements. Preference should be given to a person with intellectual and professional knowledge and skill for the required service :
 - (i) **Junior Consultant:** (i) Bachelor/ Masters degree or an equivalent (mention one depending on the type of assignment) for the following fields-medical/ engineering/ agriculture; and (ii) Masters degree or equivalent for other fields, with at least five (5) years of professional experience in the relevant field of assignment.

¹এস, আর, ও নং ৭৩-আইন/২০১১, তারিখ : ২৭ মার্চ, ২০১১ দ্বারা "(See Schedule M)" বঙ্গনী, শব্দগুলি ও বর্ণ বিলুপ্ত, সেকশন-২৭।

- (ii) **Consultant:** (i) Bachelor/ Masters degree or an equivalent (mention one depending on the type of assignment) for the following fields: medical/ engineering/agriculture; and (ii) Masters degree or equivalent for other fields, with at least ten (10) years experience in the relevant field of assignment with comprehensive intellectual and professional knowledge and skill.
- (iii) **Senior Consultant:** (i) Bachelor/ Masters degree or an equivalent (mention one depending on the type of assignment) for the following fields- medical/ engineering/agriculture; and (ii) Masters degree or equivalent for other fields, with at least fifteen (15) years experience in the relevant field of assignment with high level of intellectual and professional knowledge and skill Experience may be relaxed in the case of highly qualified person depending on the field of assignment.

¹[4. For an assignment, the Local Consultants' payments will be in commensurate with the qualification and expertise depending on the current market price.]

5. Advertisement procedure:

- (a) Advertisement shall be made in accordance with Regulation 21 of the Public Procurement Regulations 2003 stating clearly the name of the post, brief job description, tenure of employment, required educational qualifications, experience, age limit (or relaxation, if any) and time for receiving Applications. However, for hiring individual Local Consultant the time for the submission of Applications may be reduced to two weeks.
- (b) Persons who are already in employment shall send Application through proper channel, otherwise they shall not be considered for appointment.

Terms and Conditions of Employment of Government Servants and Employees of Statutory Bodies, Local Authorities, Etc.

- (1) The following terms and conditions of employment as Local Consultants shall apply to Government officials and civil servants including persons of autonomous bodies or corporations, namely;—
- (a) The person (i) will be on leave of absence without pay; (ii) is not being hired by the agency if he/she was working for immediately before going on leave; and (iii) his/her employment will not give rise to any conflict of interest.
- (b) On completion of his/her service on lien he/she shall be allowed seven day's time to join the post from which he/she was sent on lien and for these seven days, he/she shall be allowed his/her usual salaries and allowances of the post he/she joins. After assuming duties of the post of a Consultant, he/she shall inform in writing his/her parent Ministry, Division, or Government agency.
- (c) All expenses in connection with his/her joining as Consultant to any organization / project and his/her return to join his/her parent department / organisation on completion of his/her lien period shall be borne by the Procuring Entity (organization using the Services as Consultant).
- (d) **During the period of this deputation the Consultant:**
- (i) shall be entitled to get his/her fees and allowance, leave, medical benefits, etc. from the Procuring Entity that employs him/her as Local Consultant as per its terms and conditions of employment;
- (ii) shall not be entitled to any salary, leave salary, special pay, technical pay or any other allowances from his/her original Procuring Entity (Government of Bangladesh parent organization);
- (iii) shall be liable to pay to his/her original Procuring Entity (Government of Bangladesh parent organization) in time all his/her debts and dues, such as, subscription or contributions to provident and pension funds, house building advances, car advances, subscription to benevolent fund and group insurance;
- (iv) shall not be entitled to any medical allowance or other facilities for any member of his/her family from his/her original Procuring Entity ;
- (v) shall be allowed to reside in the Government accommodation, if allotted to him/her for a period not exceeding one year and, for that period, he/she shall be liable to pay standard rent fixed by original Procuring Entity and pay all utility and other charges in accordance with standing rules, orders and instructions of the original Procuring Entity.

- (vi) provided that, he/she resides in a Government accommodation, he/she may reside there for such further period as the Government may allow and he/she shall be liable to pay besides the standard rent all other dues in accordance with the rules of the Government;
 - (vii) shall bear subject to Government rules all charges in connection with the telephone, if any provided to him/her by his/her original Procuring Entity;
 - (viii) shall not be entitled to any transport facility, if any, provided to him/her by his/her original Procuring Entity;
 - (ix) shall obtain prior approval with respect to any change in the terms and conditions of his/her service which effect any provisions of this paragraph from the Ministry of Establishment and the concerned Ministry, Division or Government agency from where he/she went on lien;
 - (x) shall not join in any other project other than the one to which he/she has been sent on lien without the prior permission of his/her head of the organisation;
 - (xi) shall be liable to pay the amount of VAT deducted at source for consultancy service as per VAT Act and Rules.
- (e) The period of lien if necessary, may be extended with the permission of the appropriate authority following standing rules and orders Government/ other organisation.
- (2) The conditions mentioned in sub-paragraph (1) shall apply mutatis mutandis to an employee of a local authority.
- (3) Permission:

Subject to standing rules and orders concerned Ministry, Division or Government Agency may accord permission to an employee.