REGISTERED No. M - 302
L.-7646

The Gazette of Pakistan

EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, FRIDAY, DECEMBER 31, 2021

PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF GILGIT-BALTISTAN
LAW AND PROSECUTION DEPARTMENT
GILGIT-BALTISTAN SECRETARIAT

Gilgit, the 24th December, 2021

THE GILGIT-BALTISTAN PUCBLIC PROCUREMENT ACT, 2021

(ACT NO. IV OF 2021)

AN

ACT

To provide for establishment of Public Procurement Regulatory Authority or regulating public procurement of goods, services and works in the public sector.

Preamble WHEREAS it is expedient to provide for the establishment of Public Procurement Regulatory Authority for regulating procurement of goods, services and works in the public sector and for matter connected therewith or ancillary thereto;

It is hereby enacted as follows:—

Price: Rs. 20.00

[2007(2021)Ex.Gaz.]

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CHAPTER-I

1. Short title extent and commencement.—

i. This Act may be called the Gilgit-Baltistan Public Procurement Act, 2021.

ii. It extends to the whole of Gilgit-Baltistan.

iii. It shall come into force at once.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context —

i. **"Authority"** means the Gilgit-Baltistan Public Procurement Regulatory Authority established under section 3;

ii. **"Board"** means the Board of Directors of the Authority constituted under section 6;

iii. **"Chairman"** means the Chairman of the Board;

iv. **"Fund"** means the fund established under section 9;

v. **"Goods"** means articles and objects of every kind and description including raw materials, products, equipment, machinery, spares and commodities in any form (including solid, liquid and gaseous form), and includes services incidental to installation, transport, maintenance and similar obligations related to the supply of goods if the value of these services does not exceed the value of such goods;

vi. **"Government"** means the Government of Gilgit-Baltistan;

vii. **"Managing Director"** means the Managing Director appointed under section 8;

viii. **"Member"** means a member of the Board;

ix. **"Mis-procurement"** means public procurement in contravention of any provision of this Act, any rule, regulation, order or instruction made there under or any other law in respect of, or relating to, public procurement;

x. **"Prescribed"** means prescribed by rules made under this Act;

xi. **"Procuring agency"** means —

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a. any Department or Office of Government; or

b. District Government; or

c. any authority, corporation, body or organization established by law or which is owned or controlled by Government;

xii. **"Public Fund"** means the Provincial Consolidated Fund and the Public Account of the Province and includes funds of enterprises which are owned or controlled by Government;

xiii. **"Public interest"** (1) means the general welfare of a populace considered as warranting recognition and protection.

(2) Something in which the public as a whole has a stake; esp., an interest that justifies governmental regulation.

xiv. **"Public procurement"** means acquisition of goods, services or construction of any work financed wholly or partly out of the Public Fund, including projects of public-private partnership, unless excluded otherwise by Government;

xv. **"Regulations"** means regulations made under this Act;

xvi. **"Rules"** means rules made under this Act;

xvii. **"Services"** services includes physical, maintenance, professional, intellectual, consultancy or advisory services but does not include appointment of an individual to a post or office, advertisement, arbitration, conciliation or mediation services, services of an advocate in a court case or any other services specifically excluded under the rules.

xviii. **"Works"** means any construction work (including electrical and mechanical work) consisting of erection, assembly, repair, renovation, or demolition of a building or structure or part thereof, such as site preparation, excavation, installation of equipment or materials and decoration, finishing and includes incidental services such as drilling, mapping, satellite photography, seismic investigations and similar activities, if the value of those services does not exceed that of the works themselves.

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CHAPTER-II

Establishment of Authority

3. Establishment of Authority.—

i. An Authority shall be established to be called the Gilgit-Baltistan Public Procurement Regulatory Authority for carrying out the purposes of this Act.

ii. The Authority shall be a body corporate, having perpetual succession and a common seal with powers subject to the provisions of this Act, to acquire and hold property, both moveable and immovable, and, sue and be sued by the name assigned to it by sub-section (i).

iii. The headquarters of the authority shall be at Gilgit and it may establish its offices at such other place or places in Gilgit-Baltistan, as it may consider appropriate.

iv. Till finalization of its own rules and regulations, the Authority may adopt any or all relevant rules and regulations already issued by other Public procurement authorities of other sister provinces and Federal Government to avoid any delay in public procurement process in Gilgit-Baltistan.

v. Once fully established in all respects, the Authority shall issue a notification intimating all departments and organizations of Government of Gilgit-Baltistan to start sending their procurement related documents to the Authority. Till then the departments of Government of GB shall continue with the current practice of publishing their tenders in Federal PPRA website.

4. Power of Government to issue directives.—Government may, as and when it considers necessary, issue directives to the Authority on matters of policy, and such directives shall be binding on the Authority.

5. Functions and Powers of the Authority.—

i. Subject to other provisions of this Act, the Authority may take such measures and exercise such powers as may be necessary for improving governance, management, transparency, accountability and quality of procurements in the public sector and government owned entities.

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ii. Without prejudice to the generality of the powers conferred by sub-section (i), the Authority may —

a. examine, evaluate, assess the application of laws, rules, regulations, policies and procedures in respect of or relating to; procurement and also make recommendations thereof;

b. conduct research and recommend to Government formulation of new laws, rules and policies, in respect of or related to public procurement and revisions therein;

c. make regulations and lay down codes of ethics and procedure relating to public procurements, inspection of standards and quality of goods services and works;

d. With the approval of Board and concurrence of Finance Department GB, the Authority may, as it considers necessary for the efficient performance of its function, create, re-designate and abolish posts as per its need within its own resources to meet the expenditure thereupon.

e. provide and coordinate assistance to procuring agencies for developing and improving their institutional framework and public procurement activities;

f. study and report to Government on overall performance of procuring agencies and make recommendations for improvement in their institutional set up and practices;

g. call any functionary of procuring agencies to provide assistance in its functions and call for any information from such agencies in pursuance of its objectives and functions;

h. To provide guidance to procuring agencies regarding implementation of laws, rules, procedures relating to procurement which will not be questionable in any Court of Law or any agency.

i. organize and manage capacity building activities for the personnel of the procuring agencies;

j. provide for dispute resolution mechanism in line with the best international Practices; and

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k. Perform any other function and exercise such powers as may be prescribed through the rules framed in pursuance of this Act and may be assigned to it by Government or that is incidental or consequential to any of the aforesaid functions.

l. To perform its function independently as per the Act and the rules made there under, the actions taken by the Authority will not be questionable in any court of law or agency.

CHAPTER-III

Management and Administration of the Authority

6. Board.—

i. General directions and administration of the Authority and its affairs shall vest in a Board which may exercise all powers, perform all functions and do all acts and things which may be exercised, performed or done by the Authority.

a.	Chairman to be decided by the Government	
b.	Addl. Chief Secretary (Dev) P&DD	Vice Chairman
c.	Secretary Finance Department	Member
d.	Secretary Home Department	Member
e.	Secretary S&GAD	Member
f.	Secretary Law, Department	Member
g.	Secretary Water and Power	Member
h.	Secretary Works	Member
i.	Two Members of Provincial Assembly to be nominated by Speaker;	Members
j.	Two Members from Chamber of Commerce and Industry to be nominated by the Government.	Member
k.	Managing Director	Member

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ii. The Managing Director shall also act as a Secretary of the Board.

iii. Member(s) appointed from the private sector shall hold office for a period of two years and shall be entitled to such terms and conditions as the Board may determine.

iv. Member(s) from private sector must have relevant experience of at least 12 years alongwith relevant qualification.

v. Member(s) from the private sector may, by writing in his hand addressed to the Chairman of the Board, resign his office.

vi. A casual vacancy in the office of a private sector member shall be filled by appointment of another member from the private sector for the residue of the terms of his predecessor.

7. Meeting of the Board.—

i. The meeting of the Board shall be presided over by the Chairman or, in his absence the Vice Chairman shall preside the meeting of the Board.

ii. Seven members shall constitute a quorum for a meeting of the Board requiring a decision by the Board.

iii. The meeting of the Board shall be held at such times, places and in such manner as may be prescribed by regulation.

iv. The members shall have reasonable notice of the time and place of the meeting and matters on which a decision by the Board shall be taken in such meeting.

v. The decision of the Board shall be taken by the majority of its members present and, in case of a tie, the member presiding a meeting shall have a casting vote.

vi. All orders, determination and decision of the Board shall be taken in writing and shall be signed by the Managing Director.

8. Managing Director.—

i. Government shall select and appoint a full-time Managing Director to serve as member of the Board and shall be responsible for day-to-day administration of the Authority for

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such period and on such terms and conditions as determined by the Government on the recommendation of the Board.

ii. The Managing Director shall be appointed for three years and he shall be eligible for re-appointment but his total tenure shall in no case exceed five years.

iii. No person shall be appointed or continue his services as Managing Director, if he;

a. has not been in government service, BPS-19 or above;

b. has been convicted of an offence involving moral turpitude;

c. has been removed from service for misconduct;

d. has been adjudicated as insolvent;

e. is incapable of discharging his duties by reasons of physical or mental incapacity and has been so declared by a Medical Board appointed by Government; or

f. Fail to disclose any conflict of interest at or within the time provided for such disclosure by or under this Act or contravene any of the provisions of this Act;

g. A relevant resource available in any other provincial or federal Government or organization can be appointed on deputation basis as MD. Maximum period of deputation in such case shall not exceed beyond three years.

iv. The Managing Director may, at any time, submit his unwillingness/ resignation from this post by writing under his hand addressed to Government.

v. The Managing Director shall be paid such salary and allowances as the Board may determine but his salary and allowances shall not be varied to his disadvantage during his term of office.

vi. The Managing Director shall have power and responsibility to—

a. exercise administrative control over the personnel of the Authority;

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b. exercise, in respect of the Authority, such other management administrative and financial powers as deemed appropriate by the Authority;

c. submit the annual budget proposals of the Authority to the Board;

d. prepare the annual report of the Authority for the Board and Government;

e. exercise such powers as the Board may delegate to him; and

f. act on behalf of the Authority, in any emergency, subject to the obligation to report such action to the Board at its next meeting and to seek the Board's ratification of any action so taken.

CHAPTER-IV

Financial Provisions

9. Fund.—

i. There shall be a Fund to be known as the Gilgit-Baltistan Public Procurement Regulatory Authority Fund, which shall vest in the Authority and shall be utilized by the Authority to meet the charges in connection with its functions under this Act.

ii. To the credit of the Gilgit-Baltistan Public Procurement Regulatory Authority, a fund shall be placed comprising:

a. sums as Government may, from time to time, allocate to it in the annual budget;

b. grants;

c. penalties and fees;

d. Income from investment by the Authority; and

e. all other sums or properties which may in any manner become payable to, or vest in, the Authority in respect of any matter.

iii. The funds shall be kept in an interest bearing bank account in a government bank if not invested otherwise.

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iv. The Authority, while performing its functions and exercising its powers under the Act, shall exercise highest sense of prudence as far as expenditures are concerned.

10. Expenditure to be charged on the Fund.—

i. The Fund shall be expended for the purpose of :—

a. paying any expenditure lawfully incurred by the Authority, relating to remuneration of its members, employees, advisers, and consultants of the Authority, including provident fund contributions, superannuating allowances or gratuities, legal fees and costs as well as other fees and costs;

b. paying any other expenses, costs or expenditure properly incurred or accepted by the Authority in the performance of its functions or the exercise of its powers under this Act;

c. purchasing or hiring equipment, machinery and any other work and undertakings in the performance of its functions or the exercise of its powers under this Act;

d. repaying any financial accommodation received; and

e. Generally paying any expenses for carrying into effect the provisions of this Act.

11. Power to obtain finances and receive grants.—The Authority may, from time to time and with the approval of Government, accept grants from entities both domestic and international, including multilateral agencies for meeting any of its obligations or performing of any of its functions.

12. Investment.—The Authority may invest its surplus funds in accordance with the instructions of Government.

13. Budget and Accounts.—The Authority shall cause its accounts to be maintained properly and in respect of each financial year submit for approval of Government by such date and in such form as may be specified by Government a statement showing the estimated receipts and current expenditure and the sums to be required from Government during the next financial year.

14. Maintenance of Accounts.—The Authority shall cause proper accounts to be kept and shall after the end of each financial year cause to be prepared for that financial year a statement of accounts of the Authority which shall include a balance sheet and an account of receipt and expenditure.

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15. Audit.—The accounts of the Authority shall be audited every year through the Auditor General of GB.

CHAPTER-V

Regulatory and Other Provisions

16 Information.—

i. The Authority may call for any information required by it for carrying out the purposes of this Act, from any person or any institution in public procurement activities; and any such person or institution shall provide the required information called by the Authority.

ii. The Authority shall furnish to Government such information with respect to the policies and procedures it is pursuing or proposes to pursue in the performance of any of its functions under this Act as Government may, from time to time, require.

17. Annual Report.—Within three months from the end of each financial year, the Authority shall cause a report to be prepared on its activities including inquiries and investigations made by the Authority under this Act during that financial year and release to the public after it has been approved by the Cabinet.

CHAPTER-VI

Miscellaneous

18. Appointment of Officers and Staff etc.—

i. The Authority may, from time to time and within its resources, appoint such officers, servants, advisers, consultants and experts as it may consider necessary for performance of its functions.

ii. The Authority shall by regulations prescribe the procedure for appointment of its officers, servants, advisers, consultants and experts and the terms and conditions of their service.

19. Members, Officers, etc. to be public servant.—The Chairman, members, officers, servants, advisers, consultants and experts of the Authority shall, when acting or purporting to act in pursuance of any of the provisions of this Act or the rules and regulations made there under, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code.

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20. Delegation.—The Authority may, by such conditions and limitations as it may deem fit to impose, delegate any of its functions or powers to the Managing Director, or one or more members or any of its officers except the power to—

i. approve audited accounts;

ii. recommend exemption under section 21; and

iii. Make or repeal regulation made under this Act.

21. Powers to exempt.—

i. notwithstanding anything contained in this Act or any other law and rules or regulation made there under for the time being enforce, government shall have the powers to grant exemption to procurement of any object, a class of object or services in the national and public interest from the operations of this Act or any other law or rules or regulations made there under regulating public procurement.

ii. For implementation of Section 21(i) a committee comprising following ministers shall be constituted to determine public interest issues:

a.	Minister Law GB	Chairman
b.	Minister Finance GB	Member
c.	Minister P&DD GB	Member

iii. Terms of Reference of the Committee will be as follow:

a. Any department can take up proposal/ Summary through concerned minister for invoking section 21 (i).

b. The case will be referred to the notified Committee as referred in Section 21 (ii) by the Government. Concerned Minister will present the case.

c. The Committee will discuss and deliberate the case. Only the unanimous decision/ recommendation of the Committee will be deemed valid for further consideration as agenda of Cabinet.

d. In case of unanimous recommendation of the Committee, matter will be presented before Cabinet for further deliberation and decision for exemption of the

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recommended objects or class of object from the operation of the laws and rules and regulations made there under in public interest.

iv. The Authority may also, for reasons to be recorded in writing, recommend to Government that the procurement of an object or class of objects in the national and public interest be exempted from the operation of this Act or any rule or regulation made there under or any other law regulating public procurement and Government on such recommendations shall exempt the aforesaid objects or class of object from the operation of the laws and rules and regulations made there under.

22. Validity of proceedings.—No act or proceedings of the Authority or the Board shall be invalid by reason only of the existence of a vacancy in, or defect in the constitution of time Authority or the Board.

23. Indemnity.—No suit, prosecution, or other legal proceedings shall lie against the Authority, the Board, the Chairman or any member, officer, servants, advisers or consultants of the Authority in respect of anything done in good faith done or intended to be done under this Act or the rules and regulations made there under.

24. Common Seal.—

i. The Authority shall have a common seal and such seal shall be kept by the Managing Director or such other person as the Chairman may authorize.

ii. The seal shall be authenticated in the same manner as may be prescribed by Regulation and any document purported to be sealed with the seal so authenticated shall be receivable as evidence of the particulars stated in the document.

25. Winding Up.—No provision of law relating to winding up of bodies corporate shall apply to the Authority and the Authority shall not be wound up except by the orders of Government in the same manner as Government may direct.

26. Powers of Government to Make Rules.—Government may, by notification in the official Gazette make rules for carrying out the purposes of this Act.

27. Powers of the Authority to Make Regulations.—The Authority may make regulations, not inconsistent with the provisions of this Act and the rules made there under, for carrying out the purposes of this Act.

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28. The Public Procurement Ordinance, 2002 and rules made there under which were extended in GB are hereby repealed. However, all actions taken under the said Ordinance and rules shall be deemed to have been taken in accordance with the law and rules.

SYED AMJAD ALI ZAIDI,
Speaker
Gilgit-Baltistan Assembly.

RAJA JALAL HUSSAIN MAQPOON,
Governor
Gilgit-Baltistan.

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