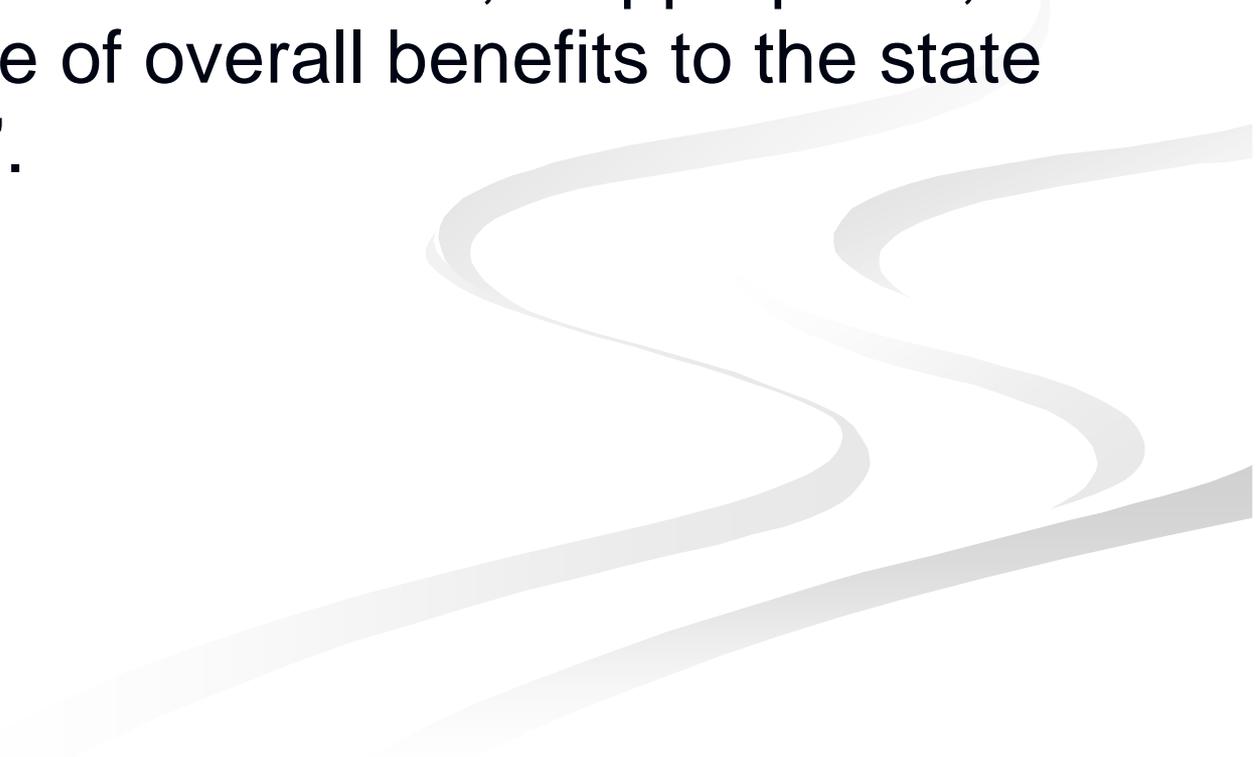


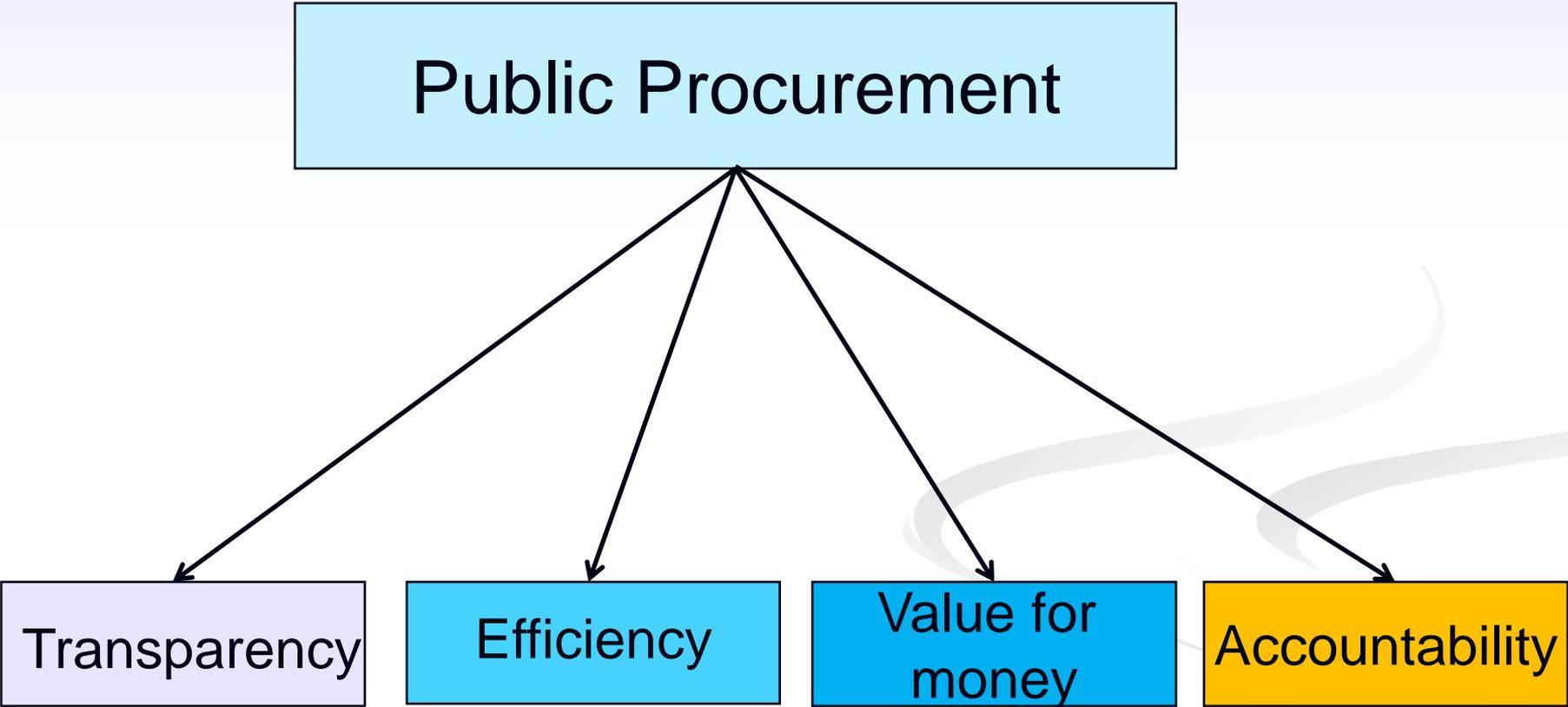
# Procurement Management

# Procurement objectives

“To acquire goods and services in a manner that **enhances access, competition and fairness and results in best value** or, if appropriate, the optimal balance of overall benefits to the state and its people”.

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# Four pillars of Public Procurement



# Best value

- It represents the best combination of price and qualitative merit among offers.
- In determining best value, the buyer considers other variables besides the quoted price, such as total acquisition cost, technical sophistication, service & spare parts support, previous performance, security considerations and any other factor that has value to the buyer.
- **The considerations have to be within the tender terms & Conditions only**

**The latest Guidelines of 2017 have brought in concept of VfM, Value for Money**

# Procurement Risk Management

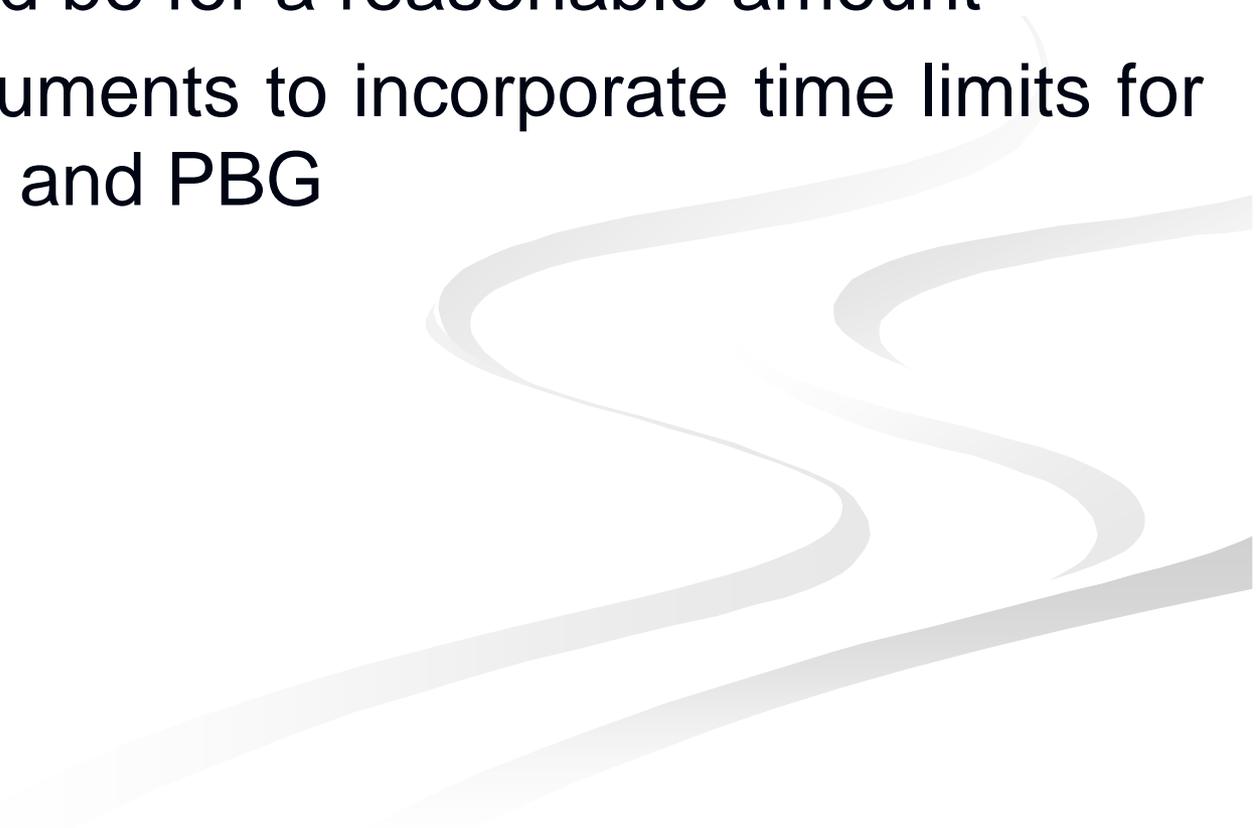
# Inflexible specs inflate price

- Rigid (closed) Specs tend to increase the price due to lack of competition / **single-vendor-situation** .
- The Specs should be broad-based to the extent possible to promote competition.
- Standard specification should be adopted to further promote competition.
- **GFR also prescribes for Description and specs to avoid any ambiguity, vagueness or bias apart from being able to generate competition**

# Additional features enhance price

- **Every requirement included in the Specs tends to increase the price.**
- So it should be need-based
- To achieve this, it should be subjected Value Analysis
- **Standards of Financial Propriety in GFR also require this**

# Stringent terms push price up

- Stringent terms tend to increase the price.
  - So the terms should be balanced.
  - The EMD should be for a reasonable amount
  - The tender documents to incorporate time limits for release of EMD and PBG
- 
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# Stringent terms push price up

- The delivery schedule should allow reasonable time to the supplier.
- The payment terms shouldn't be open-ended
- The L/D provisions should incorporate a ceiling
- FM clause to be incorporated if requested by the supplier

**More and Stringent the conditions in tender – be sure to see the impact in bids**

# Greater risk leads to higher price

- Risk is an uncertain event that will have adverse impact. **It should not be too great for the supplier.**
- Risk should be borne by the party best able to carry.
- **Risks passed on to the supplier tend to increase the price.**

**Bidders will seek higher margins  
for higher risks**

# **Intricacies in Public Procurement**

- Formulating broad-based specifications
- Promoting competition
- Providing equal opportunity
- Allowing reasonable time
- Securing best value for money
- Ensuring fairness and transparency
- Implementing Government / PSU policy
- Minimizing emergency procurement
- Obtaining approval of Competent Authority

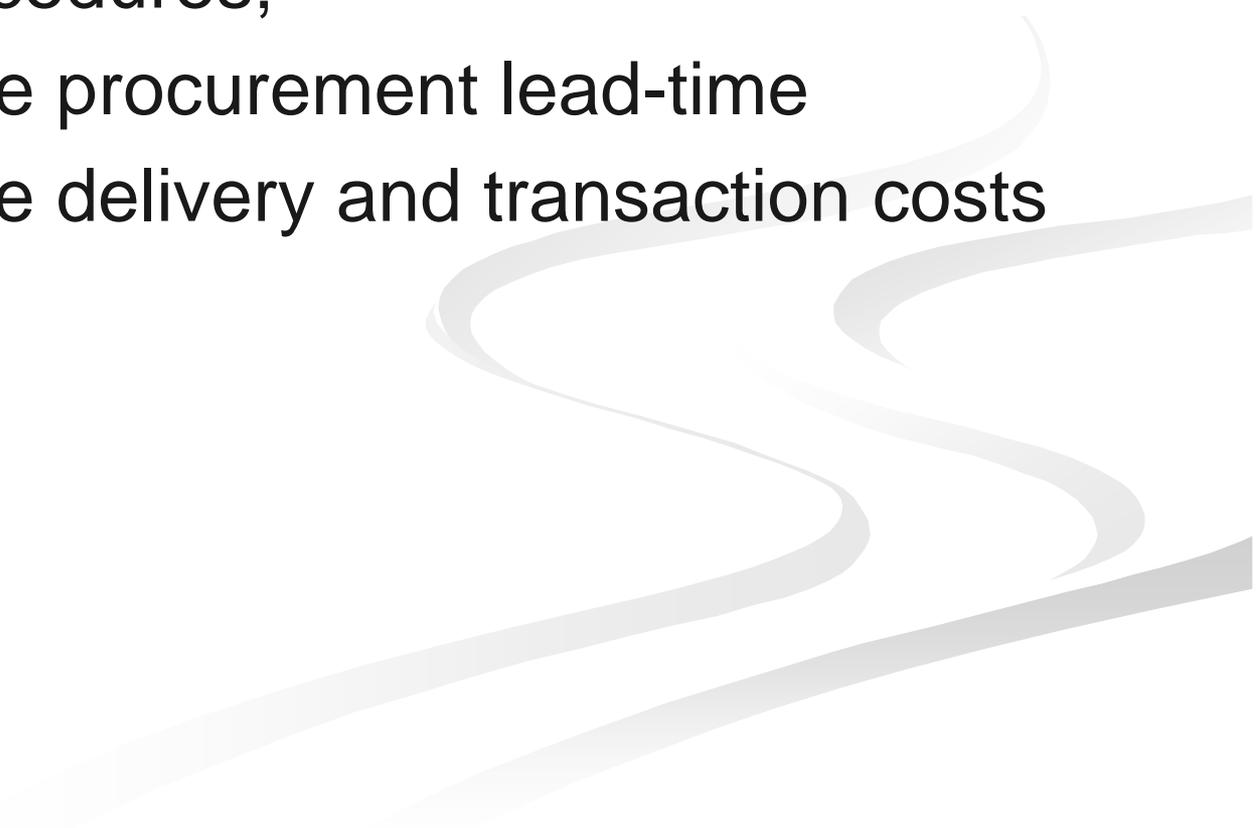
**Financier determines the Rules  
GoI Policy & Framework**

# Trends in proc procedure

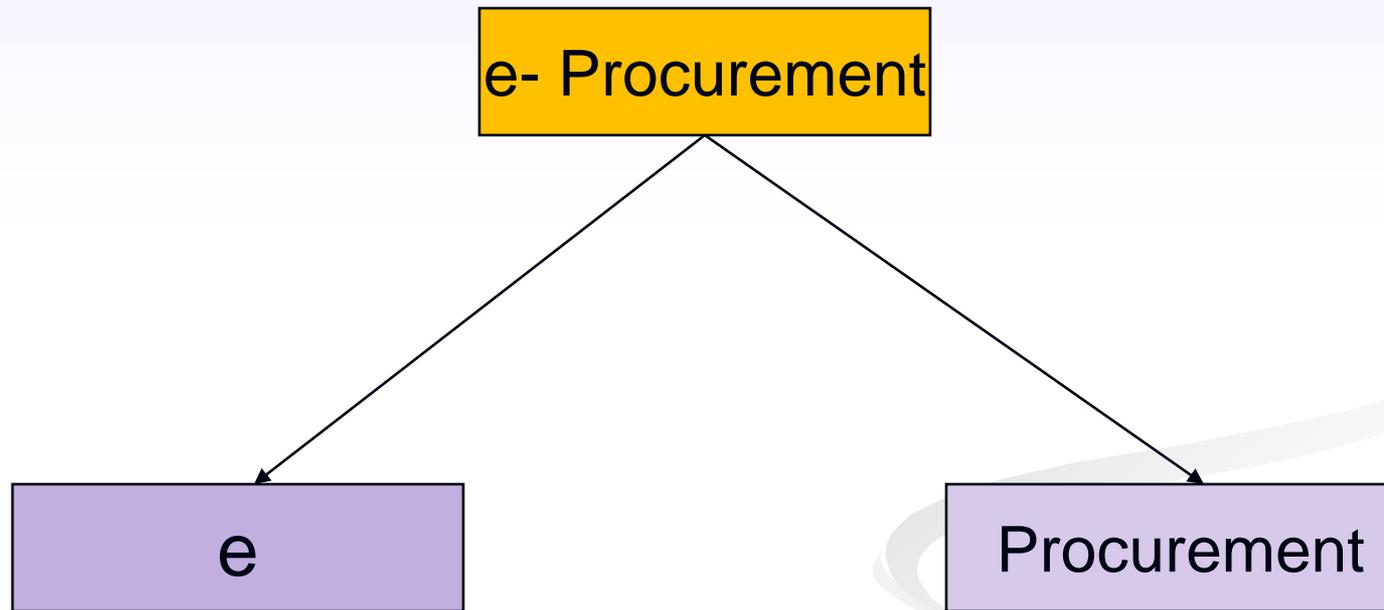
- Introduction of GeM
- Inclusion of provisions in the tender documents reg critical aspects of specs
- Incorporation of price discovery clause in the tender documents
- Efforts to take decision on the date of opening of price bid

**MII policy, MSME policy,  
VfM concept, e-tenders**

# Trends in proc procedure- Efficiency

- By making optimum use of available resources
  - By discarding unproductive activities from the processes/procedures;
  - By reducing the procurement lead-time
  - By reducing the delivery and transaction costs
- 

# e-Procurement



'e' means it is electronically enabled

# e-Procurement

- e-Procurement applies Information and Communication Technologies (ICT) to the procurement process.
- The prefix 'e' simply denotes that the latter is electronically enabled. That is to say, it is an approach that enables organisations to communicate with interested parties via internet.

# e-Procurement process

- Procurement planning
- e-Notification
- e-Tendering
- e-Submission of offer
- Date and time-locking of e-tenders
- Opening of e-tenders with public key of two officials of the procurement organisation

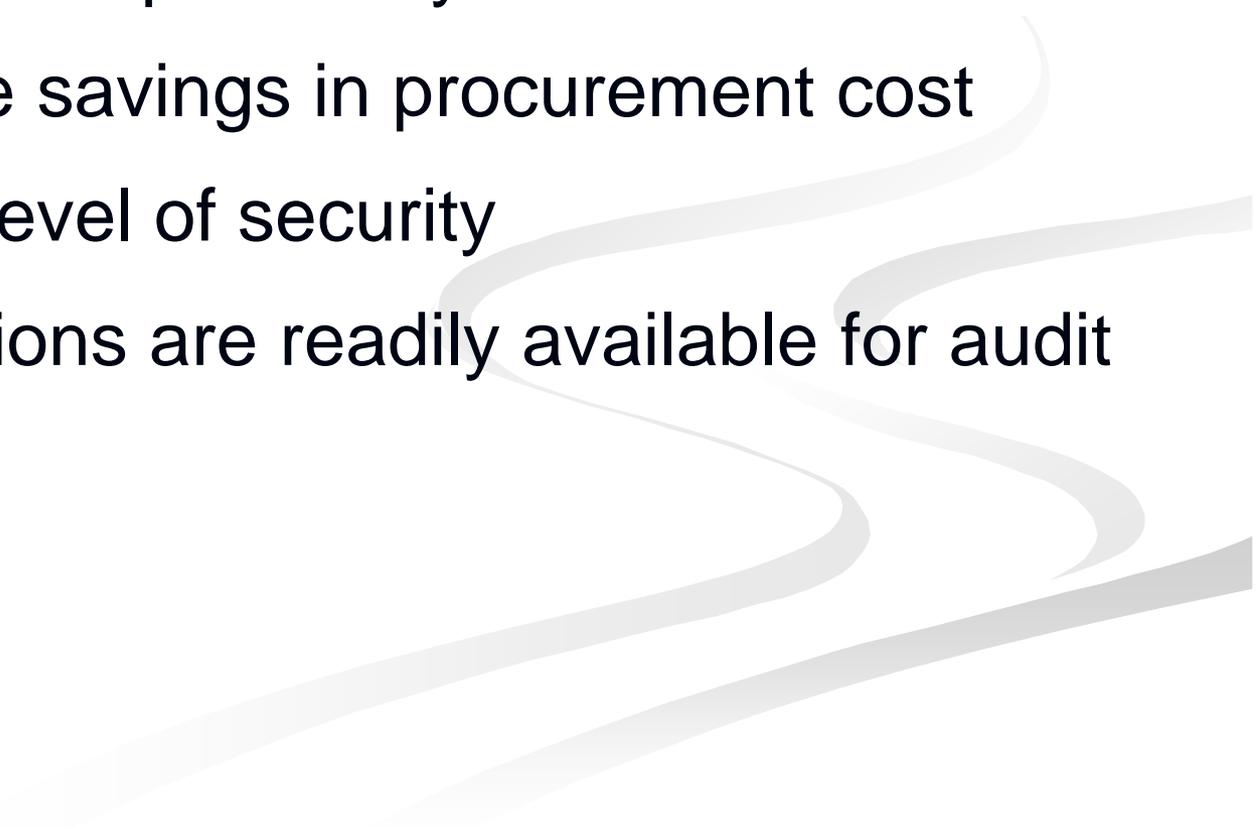
# e-Procurement process

- Evaluation of offers and award decision
  - e - Auction
  - e-Ordering
  - Inspection of goods/works/services
  - e-Invoicing
  - e-Payment
  - Dispute Resolution
- 
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# Advantages of e-Procurement

- Greater transparency in tendering process
- Reduction in tender-process cycle time
- Reduction in procurement lead time
- Reduction in administrative cost
- Real time access to information for decision makers
- Instant and round-the-clock access to information on internet

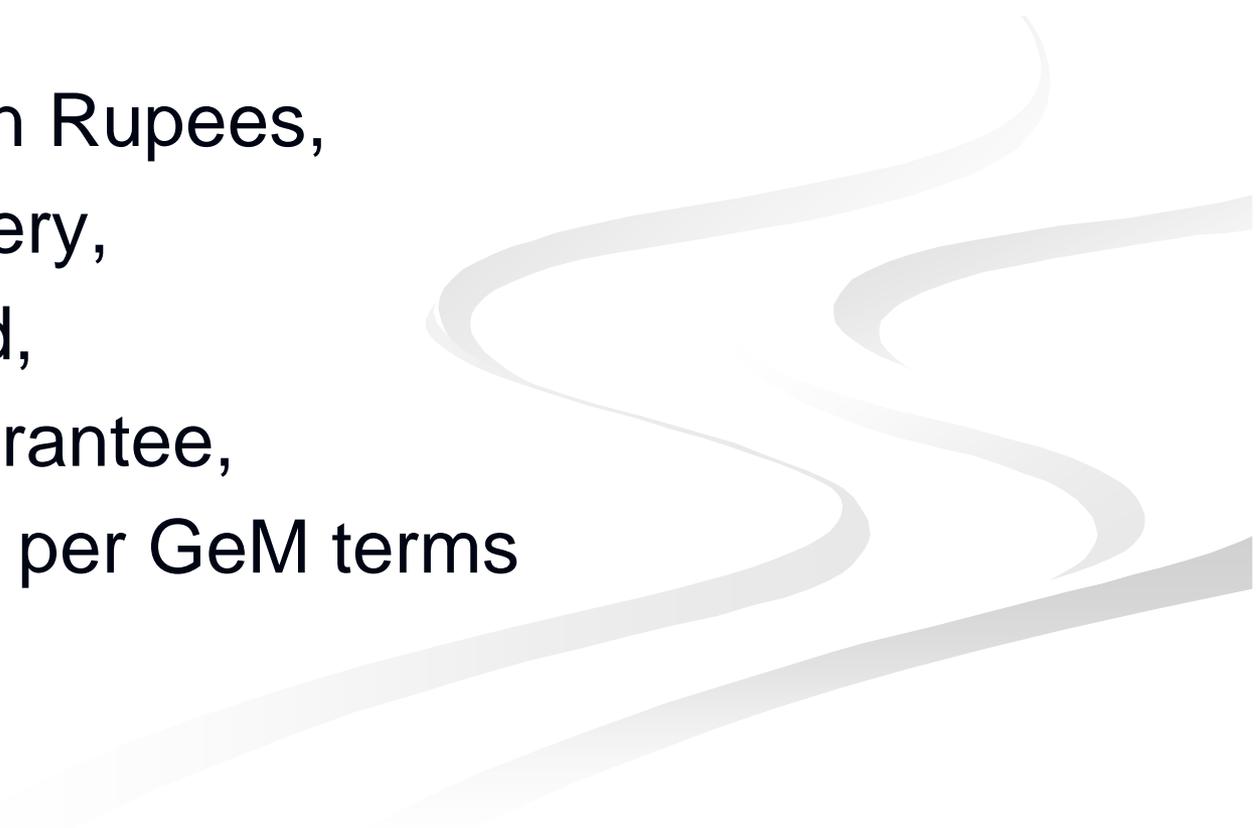
# Advantages of e-Procurement

- Standardisation of proc. procedure across depts
  - Minimisation of possibility of cartel formation
  - Appreciable savings in procurement cost
  - Enhanced level of security
  - All transactions are readily available for audit
- 

# What is GeM?

- Government e-marketplace (GeM) is for Govt. users to cater to their demand for goods/services
- Purchaser is the contract placing authority, i.e. Govt. Departments, CPSUs etc
- Vendors / Sellers are the firms who offer their goods/services on gem as per gem terms. They may be OEMs or their channel partners.

# What will Sellers offer on GeM?

- Sellers shall offer their Goods/Services indicating:
  - Specifications,
  - Prices in Indian Rupees,
  - Terms of delivery,
  - Delivery period,
  - Warranty/ Guarantee,
  - Validity etc as per GeM terms
- 
- A decorative graphic consisting of several thick, light gray wavy lines that flow from the right side of the slide towards the left, creating a sense of movement and depth.

## Price to remain firm for 10 days

- Seller to ensure Goods/Services would be New, Latest and complete in all respects
- These can be **changed by seller at any time.**
- When a buyer selects a product at any point of time, **the same shall be valid for a period of 10 days regardless increase in price elsewhere.**

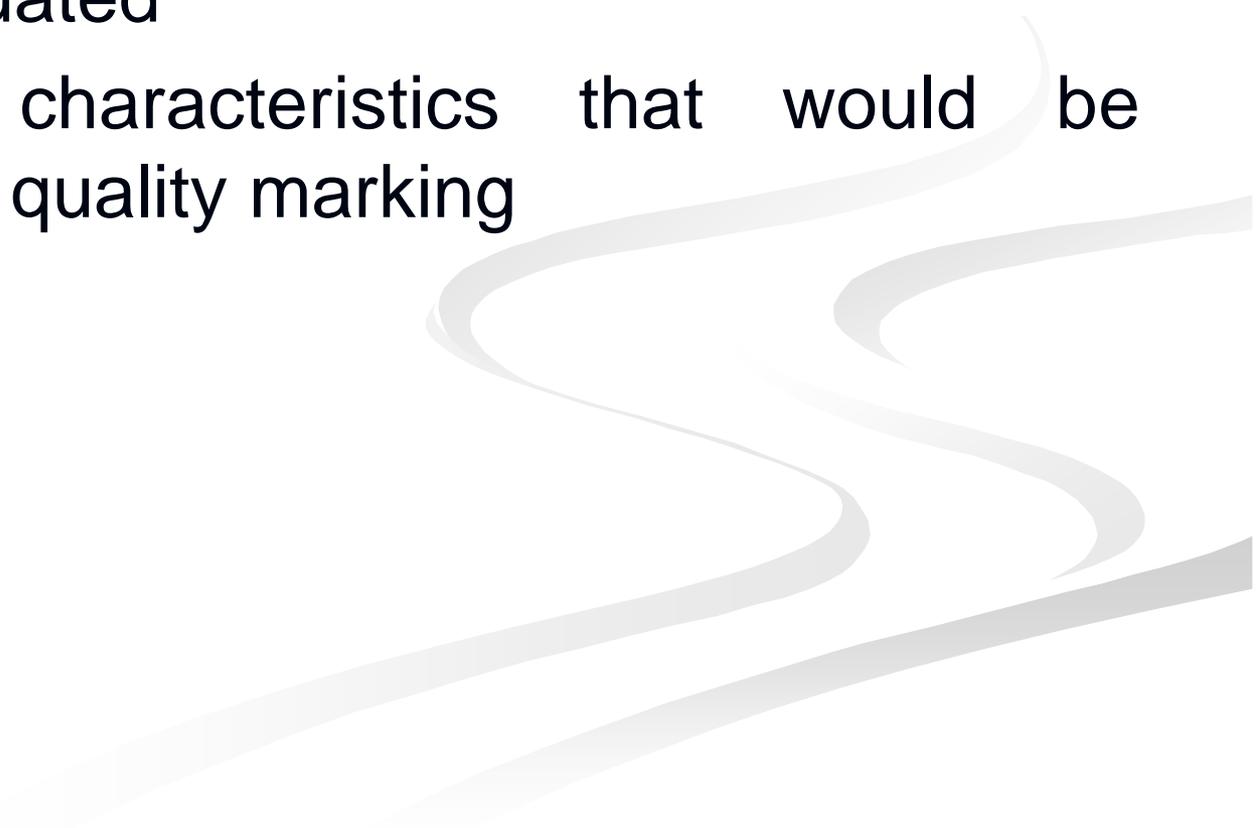
# Duties and Taxes

- Prices shall be on inclusive basis
- Statutory variations in taxes and duties if any shall be applicable during the Original / Refixed delivery period.
- Bill form shall be on line and will be provided by the purchaser. The Seller is to give certain undertakings on this form regarding passing on the benefit of refund to the purchaser

## How to place Contract?

- Purchaser to award the contract digitally signed on line on GeM;
- Purchaser to obtain necessary administrative and financial approval **within 5 days**, ensure adequate funds are available and indicate head of account to which the amount will be debited.

# Weightage for Quality

- Determine weightage for quality and price and state in the tender documents how the bids would be evaluated
  - Specify the characteristics that would be considered for quality marking
- 
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# Quality considerations

- L1-- Rs 1 Cr ; Tech Ev —80 Marks
- L2-- Rs 1.2 Cr; Tech Ev—90 Marks
- $F1=100$                        $F2 = 1/1.2 \times 100=83$
- If weightage for quality is 90% & price 10%,
- L1 scores  $80 \times 0.9 + 100 \times 0.1 = 82$
- L2 scores  $90 \times 0.9 + 83 \times 0.1 = 89.3$
- If weightage for quality is 50% & price 50%
- L1 scores  $80 \times 0.5 + 100 \times 0.5 = 90$
- L2 scores  $90 \times 0.5 + 83 \times 0.5 = 86.5$

# Price Variation clause

$$P_1 = P_0 \left( F + a \frac{M_1}{M_0} + b \frac{L_1}{L_0} \right) - P_0$$

- Where  $P_1$  is the adjustment amount payable
- $P_0$  is the Contract Price at the base level
- $F$  is the Fixed element
- $a$  is the assigned percentage to the material element
- $b$  is the assigned percentage to the labour element
- $L_0$  and  $L_1$  are the wage indices at the base month and year and at the month and year as stipulated in the contract
- $M_0$  and  $M_1$  are the material indices at the base month and year and at the month and year as stipulated in the contract

# Life Cycle Cost of Plant & Machinery

Discounting Method is adopted to determine the present value (PV) of future payments ( Annual Op & M cost or AMC charges ). This facilitates LCCA and equitable comparison of offers

$$PV = \frac{R_1}{(1+i)} + \frac{R_2}{(1+i)^2} + \dots + \frac{R_n}{(1+i)^n}$$

- $i$  = Interest Rate
- $R_1, R_2$  = Rates ( Expenses ) each Year
- $n$  = No of years

# Qualifying criteria- Broad features

- A minimum average turnover
- Experience in similar projects
- Successful track record of timely completion of similar projects
- Availability of qualified manpower and P&M and quality control facilities
- Availability of service facility near the site

## Qualifying criteria-Works (Est 100crs)

- Completed in last 5 years at least (i) one similar project of Rs 80 crs (or more) **or**
- (ii) 2 similar projects of least Rs 50 crs each **or**
- (iii) 3 similar projects of at least Rs 40 crs each .
- **End-users' certificate to be submitted** in the requisite format regarding completion of project

# Technical Committee

- One or two reps of User (major users)
  - Rep of Procurement Division
  - An external expert
  - Committee to be constituted with the approval of competent authority.
- 
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# Purchase Committee

- One or two reps of User (major users)
- Rep of Procurement Division
- Rep of FA
- Committee to be constituted with the approval of competent authority.
- In high value cases, the committee only makes recommendation to the competent authority who takes the decision. It is then named: Purchase Advisory Committee

# Tender custody and opening

- To the extent possible tenders should be received and opened by officer(s) who would not deal with that case at the tender processing, contract award and contract management stage.
- After public opening, the tenders should be passed on to the concerned officer for tender evaluation and other activities assigned to him

# Evaluation of bids

- Bids received should be evaluated in terms of the conditions already incorporated in the bidding documents;
- No new condition which was not incorporated in the bidding documents should be brought in for evaluation of the bids. Rule 173 (xii)
- Determination of a bid's responsiveness should be based on the contents of the bid itself without recourse to extrinsic evidence. Rule 173 ()xii

# Rejection of Bids

- Rejection of all bids is justified when:
  - (a) Effective competition is lacking.
  - (b) None of the bids is substantially responsive
  - (c) Bids' prices substantially higher than the cost estimate or available budget
  - (d) None of the proposals meets the minimum technical qualifying score. Rule 173 (xix)

# Lack of competition

- Lack of competition should not be determined solely on the basis of number of bidders. Even when only one bid is submitted, the process may be considered valid provided following 3 conditions are satisfied: Rule173 (xx)

# Lack of competition

- The conditions are:
- (a) The procurement was satisfactorily advertised and sufficient time was given for bid submission,
- (b) The qualifying criteria was not unduly restrictive and
- (c) Prices are reasonable in comparison to market value. Rule 173 (xx)

# Single-tender contract

- When a Limited or Open tender results in only one effective offer, it shall be treated as a single tender contract. Rule173 (xxi)

# Contract award

- Contract should ordinarily be awarded to the lowest evaluated bidder whose bid has been found to be responsive and who is eligible and qualified to perform the contract satisfactorily as per terms and conditions incorporated in the bidding documents. Rule 173 (xvi)

# Contract award

- However, where the lowest acceptable bidder against ad-hoc requirement is not in a position to supply the full quantity required, the remaining quantity, as far as possible, may be ordered from the next higher responsive bidder at the rates offered by the lowest responsive bidder.  
Rule 173 (xvi)

# Negotiation

Step 1

Planning- 'Cases are won in advocate's chambers' is the guiding principle in pre-negotiation stage

Step 2

The parties outline their preferred option

Step 3

A series of offers/ suggestions/ new ideas as parties discuss and modify their preferred option

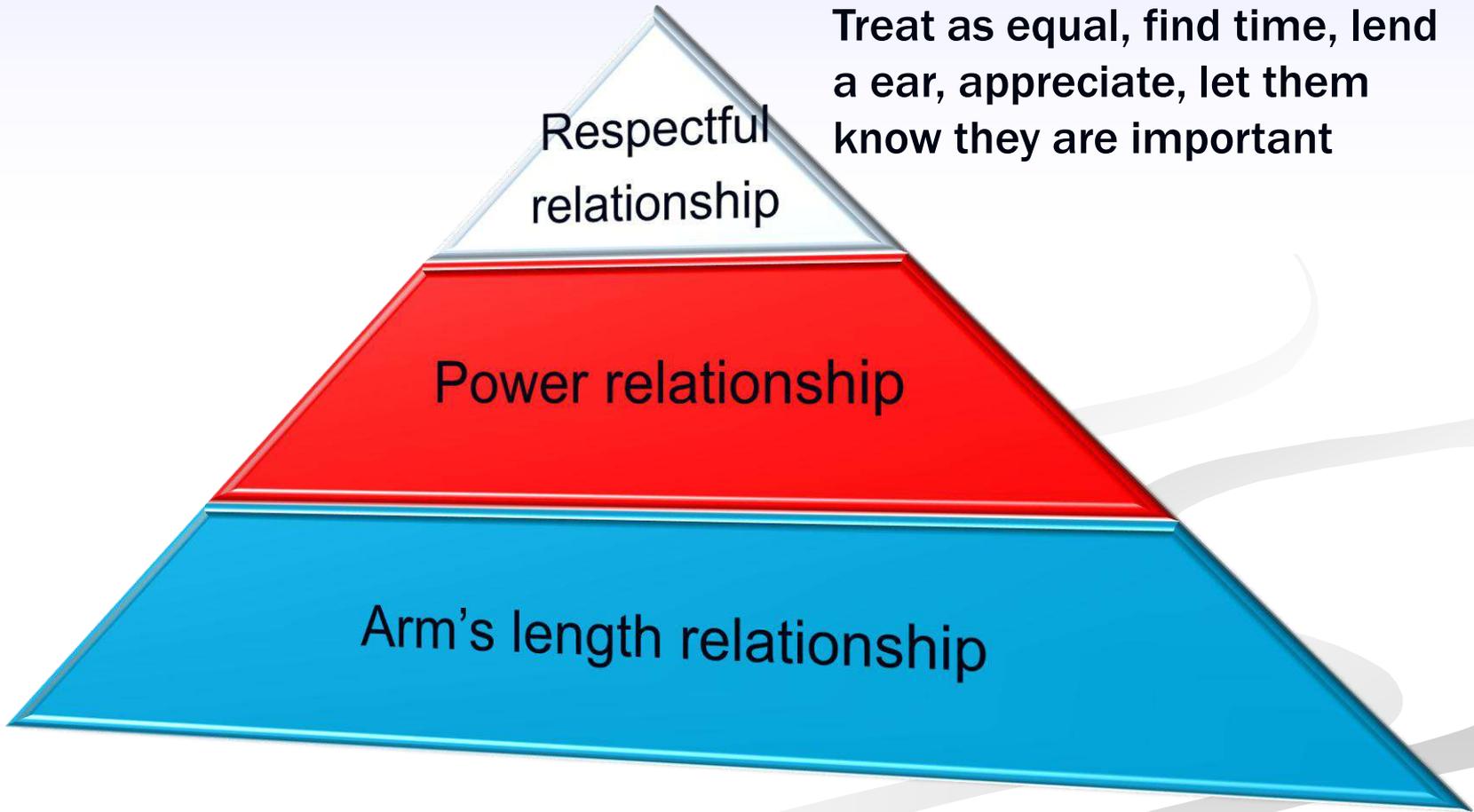
Step 4

The parties reach an agreement

# When you negotiate...

- Get a detailed exercise done regarding **cost analysis** or price analysis before entering into negotiation
- For major negotiation have a rehearsal. Tell yourself what you're going to say, how will you say and in what order. Try to imagine all the possible responses and develop your counter moves.
- **Do your research, gather relevant data, develop solid logic and argument for seeking price reduction**

# Treat the other party with respect



# All-important law in human conduct

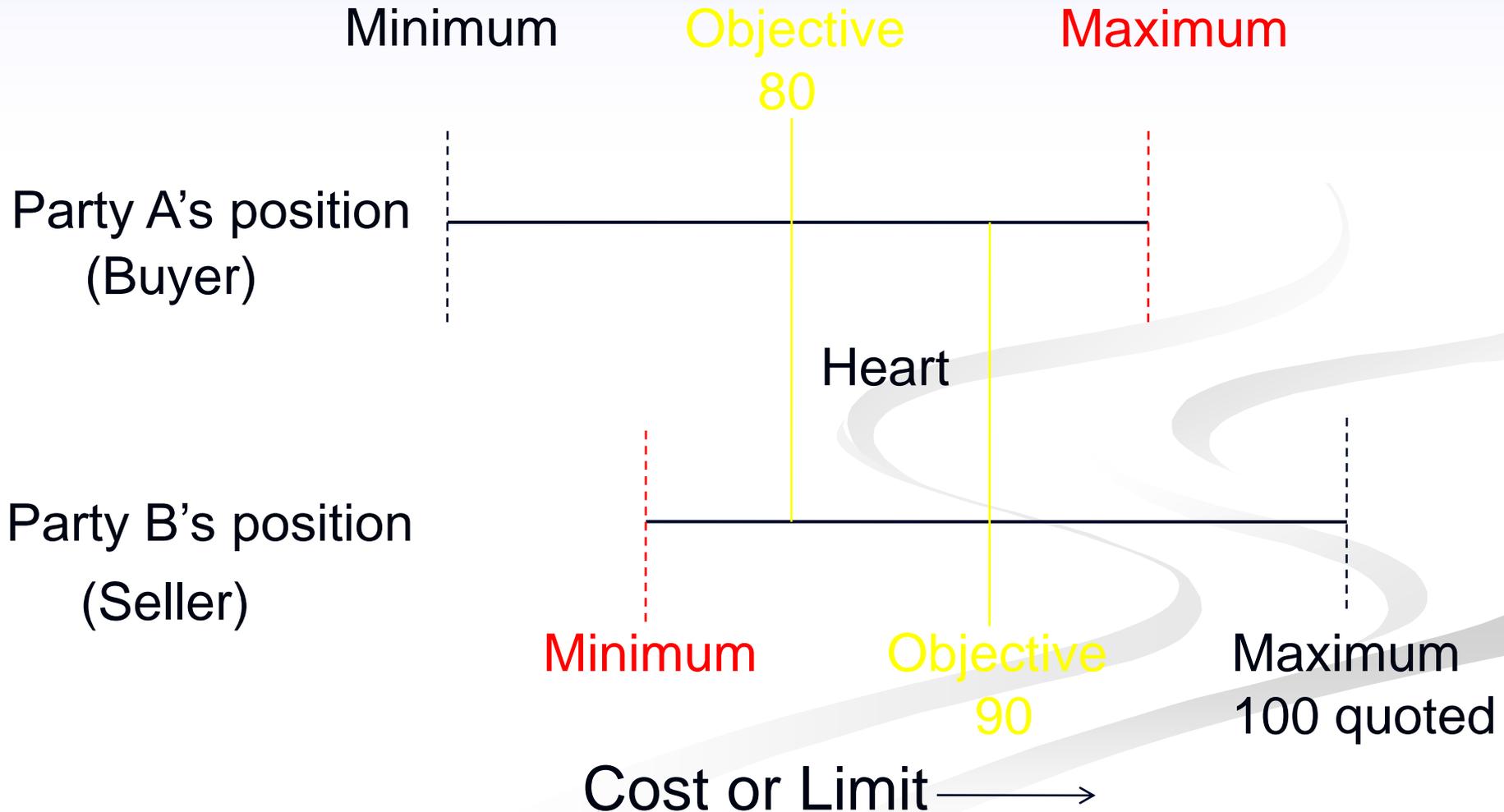
**Always make the other person feel  
important**

**Dale Carnegie**

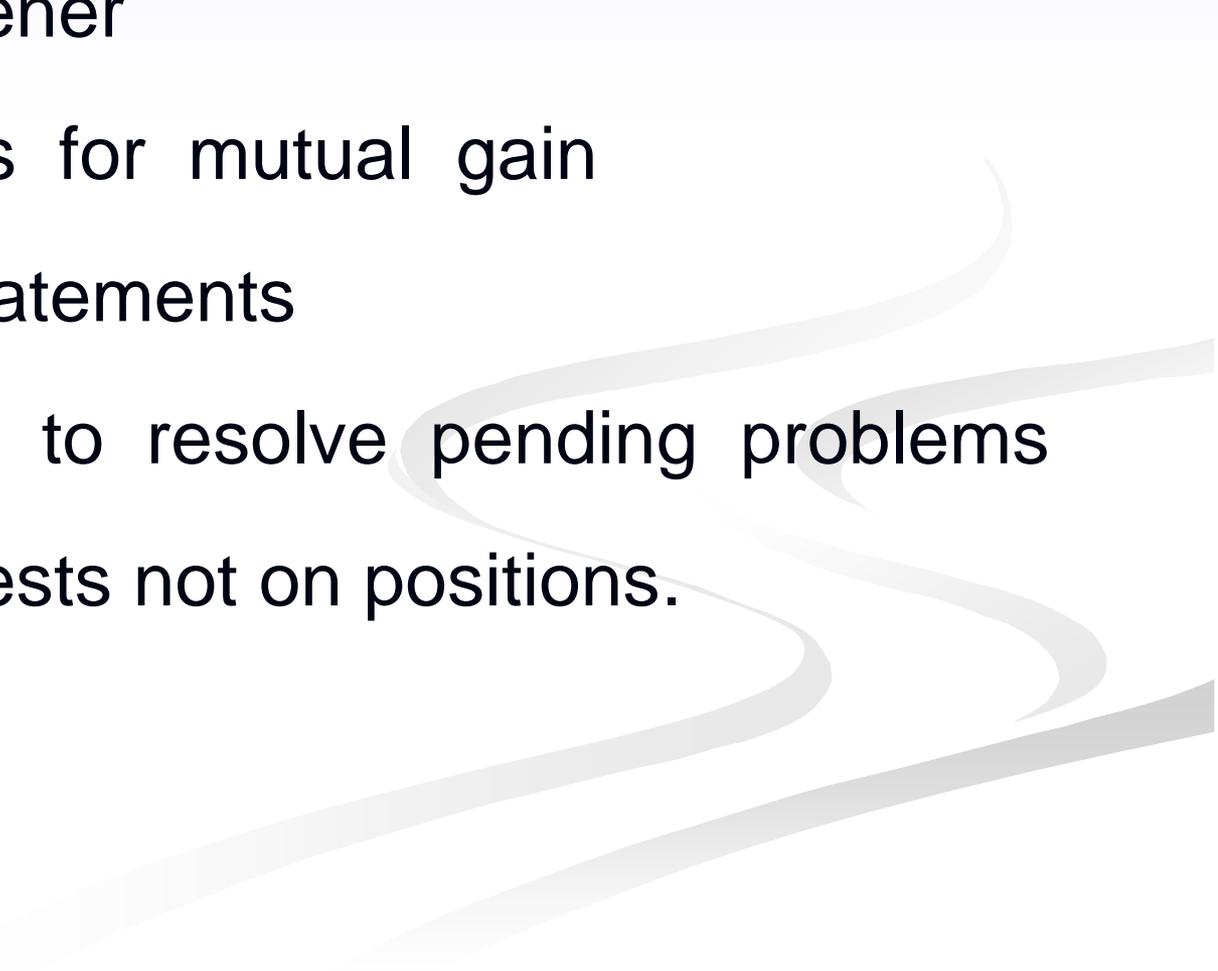
# Negotiation- Planning

- ❑ Know the item .
- ❑ Collect information reg cost.
- ❑ Assess your bargaining strength
- ❑ Ascertain seller's bargaining strength
- ❑ Know the seller's reps
- ❑ Be clear about your negotiational limits
- ❑ Decide team composition & roles

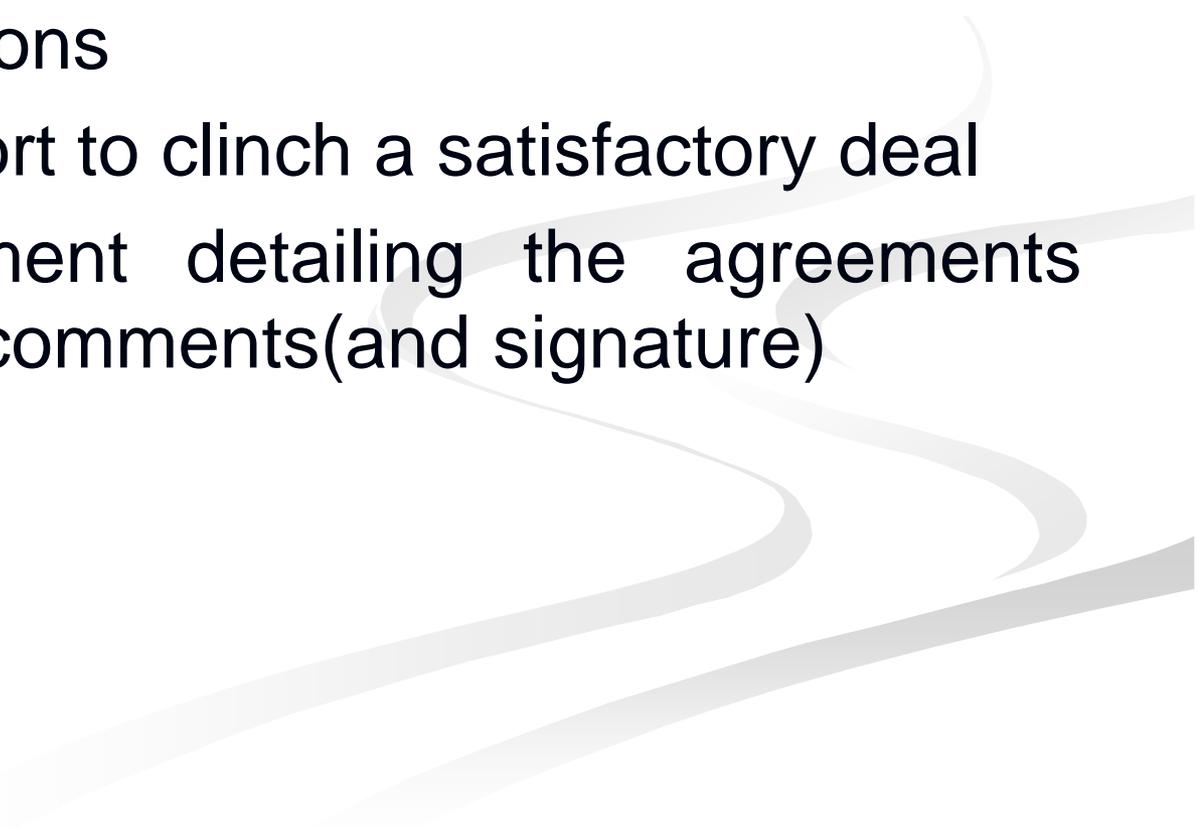
# Negotiating positions



# Narrowing the differences

- ❑ Give respect to seller's reps
  - ❑ Be a good listener
  - ❑ Develop options for mutual gain
  - ❑ Use positive statements
  - ❑ Give assurance to resolve pending problems
  - ❑ Focus on interests not on positions.
- 
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# Reaching an agreement

- Employ objective criteria
  - Separate people from the problems
  - Be considerate of sellers
  - Provide diversions
  - Make every effort to clinch a satisfactory deal
  - Draft a statement detailing the agreements reached; seek comments (and signature)
- 

## QCBS Formula (Fin Min)

$$CS = \frac{P_L}{P} (x) + \frac{T}{T_H} (1-x)$$

P = Bid Price (evaluated)

P<sub>L</sub> = Lowest Bid Price (evaluated)

T = Tech Score of the Bid

T<sub>H</sub> = Highest Tech Score

X = Weightage for the Price

CS = Combined Score

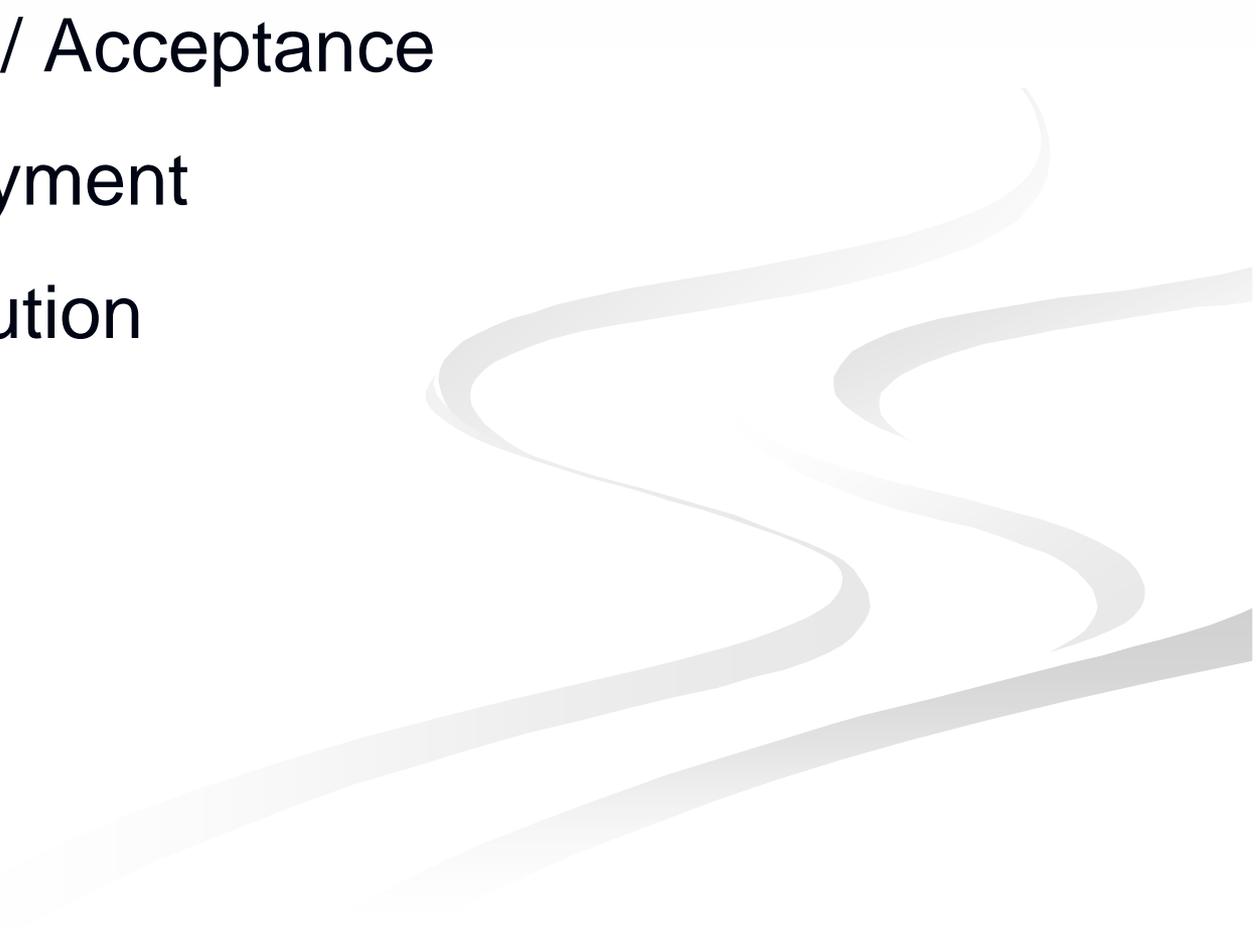
# QCBS example

- L1-- Rs 1 Cr ; Tech marks —80 Marks
- L2-- Rs 1.2 Cr; Tech marks —90 Marks
- $F1=100$                        $F2 = 1/1.2 \times 100=83$
- If weightage for quality is 80% & price 20%,
- L1 scores  $89 \times 0.80 + 100 \times 0.20 = 91.2$
- L2 scores  $100 \times 0.80 + 83 \times 0.20 = 96.6$
- If weightage for quality is 50% & price 50%
- L1 scores  $89 \times 0.5 + 100 \times 0.5 = 94.5$
- L2 scores  $100 \times 0.5 + 83 \times 0.5 = 91.5$

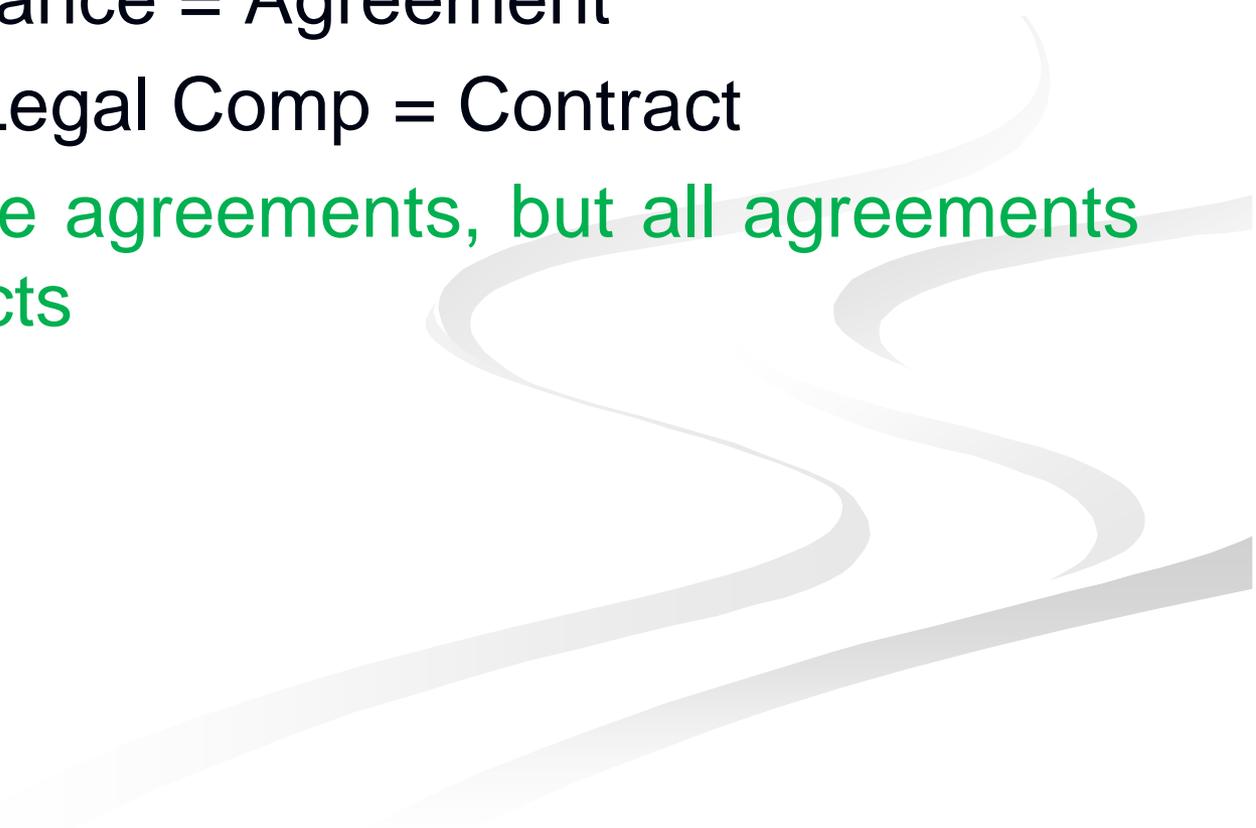
# Steps in contract management

- Preparation of LOI/ LOA
  - Drafting of Contract
  - Contract Acknowledgment
  - Submission of Performance Security
  - Opening of Letter of Credit
  - Extension of delivered period
- 
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# Steps in contract management

- Inspection of Stores/ works
  - Transportation/Clearance of stores
  - Site inspection/ Acceptance
  - Release of Payment
  - Dispute Resolution
- 
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# What is a contract?

- A contract is a promise or set of promises between the parties which the law will enforce.
  - Offer + Acceptance = Agreement
  - Agreement + Legal Comp = Contract
  - All contracts are agreements, but all agreements are not contracts
- 

# What makes an agreement?

Set of Promises

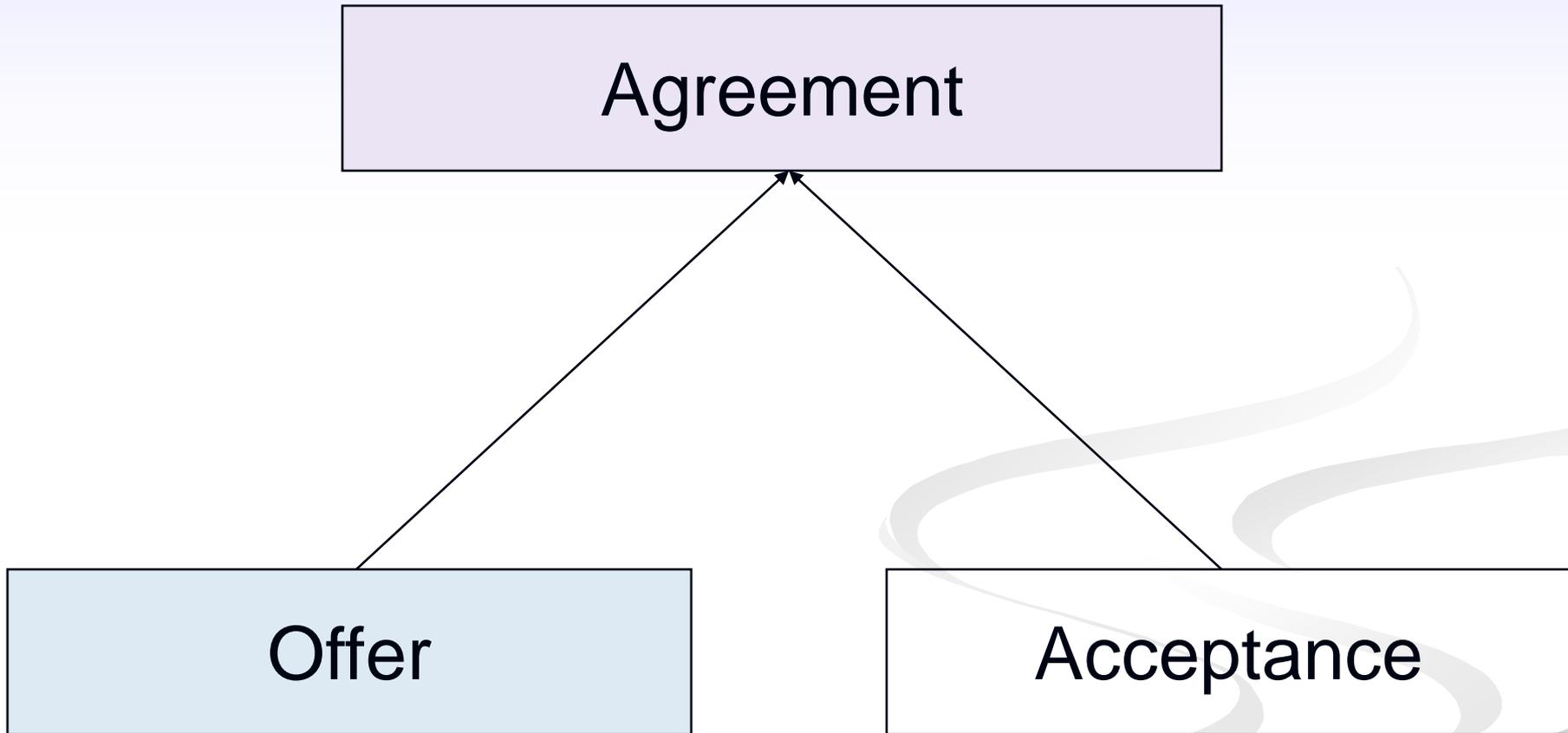
Agreement

Offer

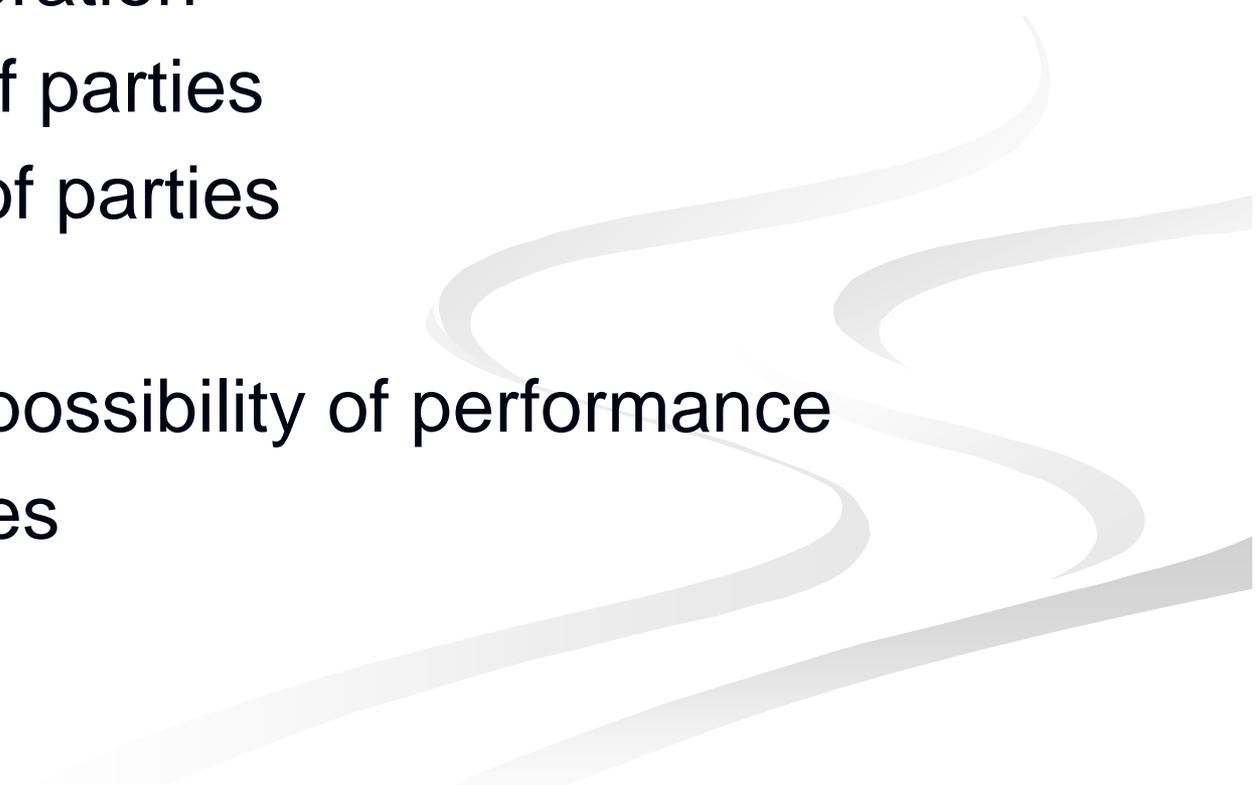
Acceptance

Promise made by S

Promise made by P



# Elements of contract

- Offer and Acceptance
  - Intention to create legal relationship
  - Lawful consideration
  - Competency of parties
  - Free consent of parties
  - Lawful object
  - Certainty and possibility of performance
  - Legal formalities
- 
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# Legal aspects of contract

## Offer and Acceptance

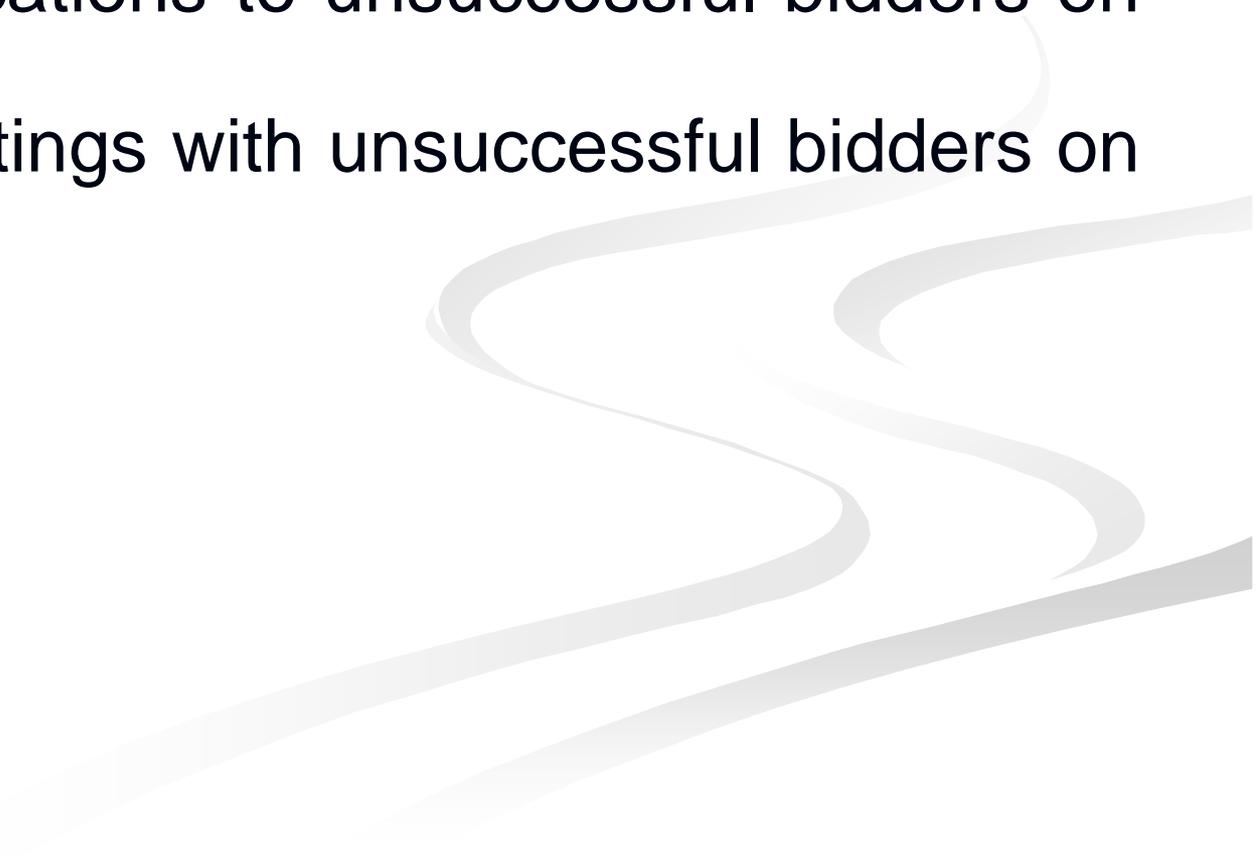
- A contract results from an offer and acceptance
- Until there is an agreement either party may withdraw from the incompletely formed transaction
- Once acceptance is made, no new terms and conditions can be introduced unless mutually agreed

# Legal aspects of contract

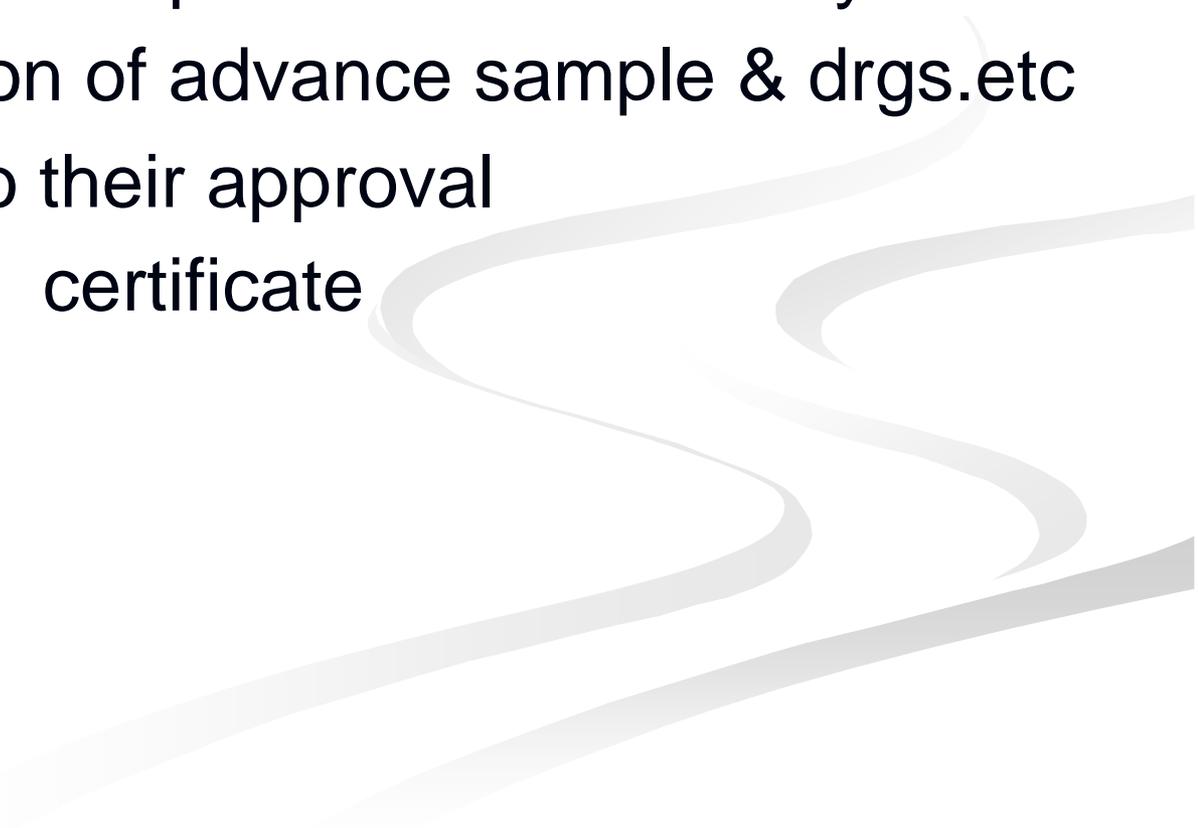
## Consideration

- Consideration is an essential element of contract
- It must move at the desire of promisor
- It may move from promisee or any other person
- It may be past, present or future
- It must be something of value - S 2(d)
- Offer, acceptance and consideration are called **trinity of contract**

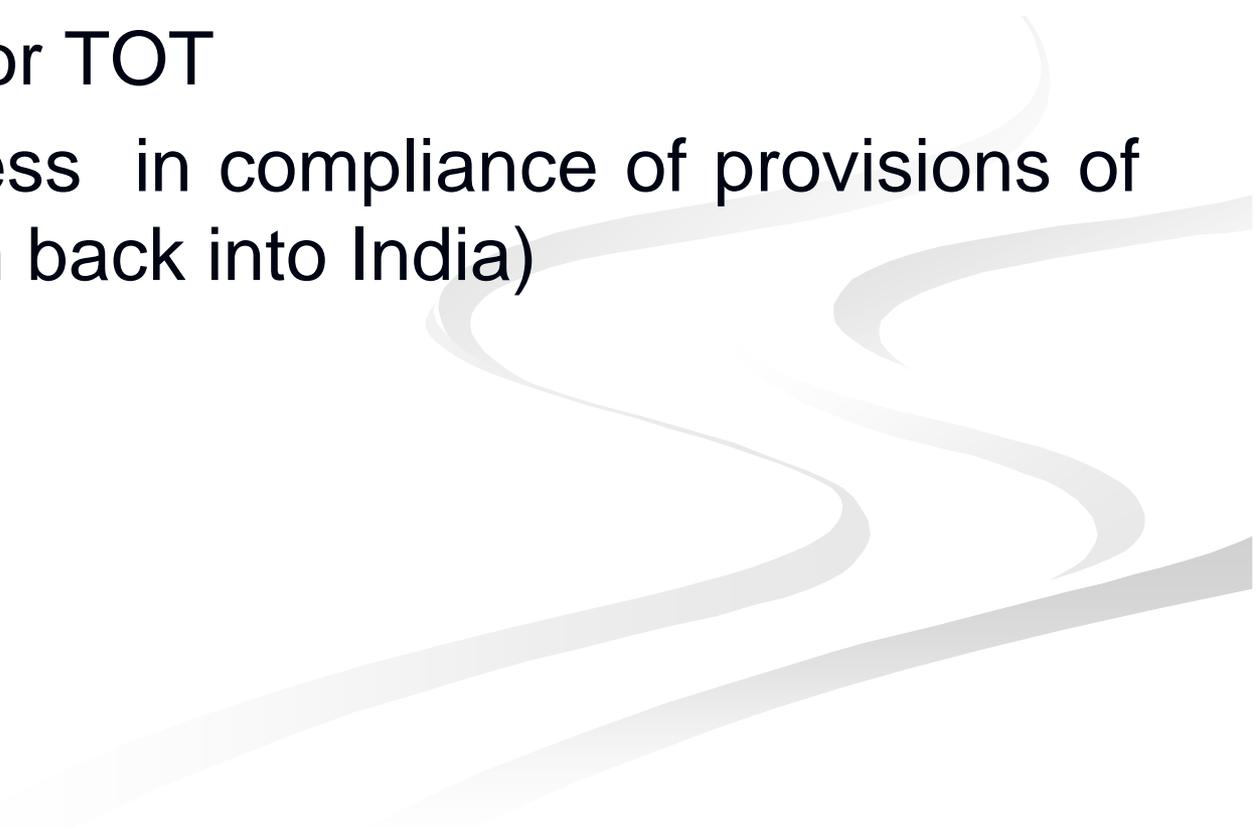
# Contract Management-LOI

- Place LOI after settling all the terms.
  - Release promptly bid security of unsuccessful bidders.
  - Provide clarifications to unsuccessful bidders on request.
  - May hold meetings with unsuccessful bidders on request
- 

# Contract Management- Ack

- Obtain acknowledgment
  - Issue required A / L promptly
  - Watch submission of performance security
  - Watch submission of advance sample & drgs.etc
  - Accord priority to their approval
  - Obtain C .D . E. certificate
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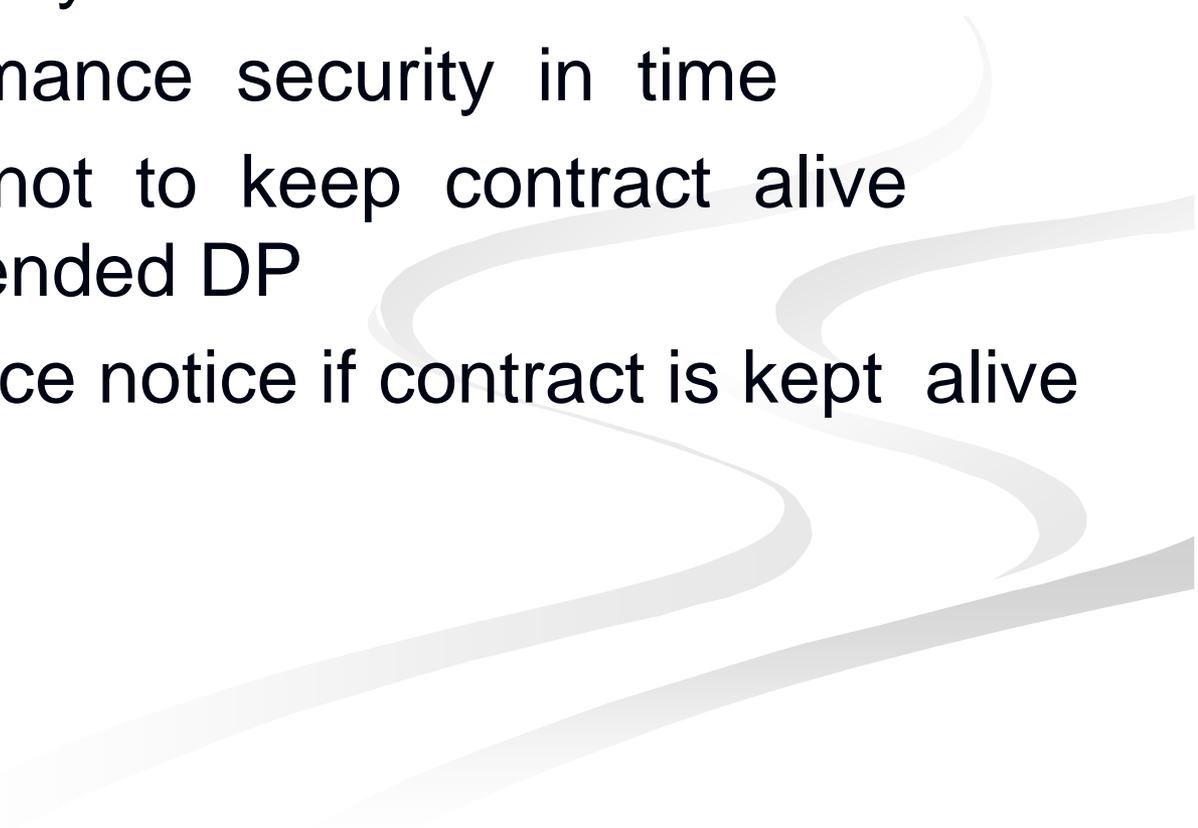
# Contract Management- L. C.

- Arrange prompt opening of L . C.
  - Ensure timely completion of civil works
  - Request for monthly supply plan
  - Initiate steps for TOT
  - Monitor progress in compliance of provisions of offsets (plough back into India)
- 

# Contract Management- Inspection & Delivery

- Monitor progress in supply /performance
- Keep watch on DP
- Take prompt decision on request for DP extn.
- Extend DP with LD and denial clauses
- Inspect stores at mfr's works within DP
- Arrange prompt clearance at Port of entry
- Inspect stores / works at site

# Contract Management- LD and Payment

- Issue CRC promptly to supplier
  - Settle P V & LD claim quickly
  - Ensure timely payments
  - Release performance security in time
  - Advise parties not to keep contract alive beyond DP/ extended DP
  - Issue performance notice if contract is kept alive
- 

# Dispute resolution

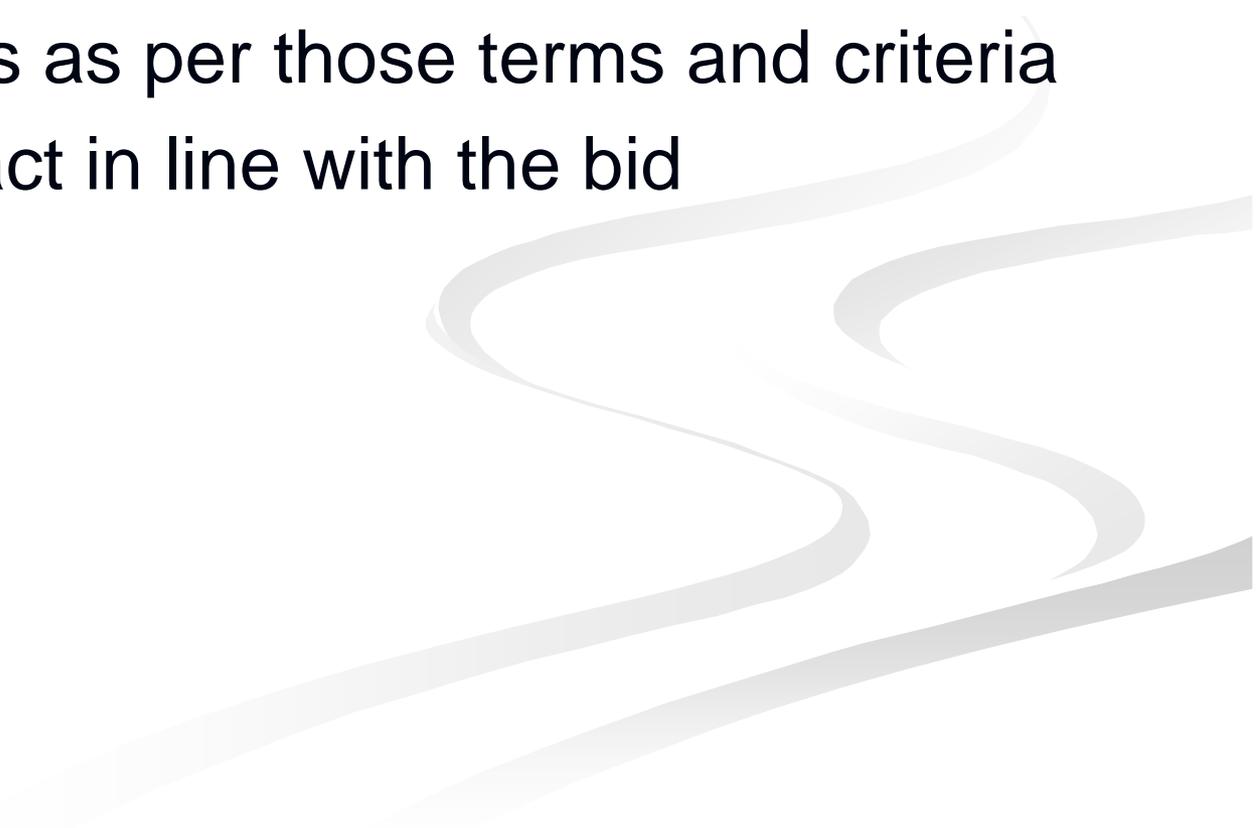
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graph TD; A[Strategy for dealing with disputes] --> B[Prevention of disputes]; A --> C[Settlement of disputes];
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Strategy for dealing with disputes

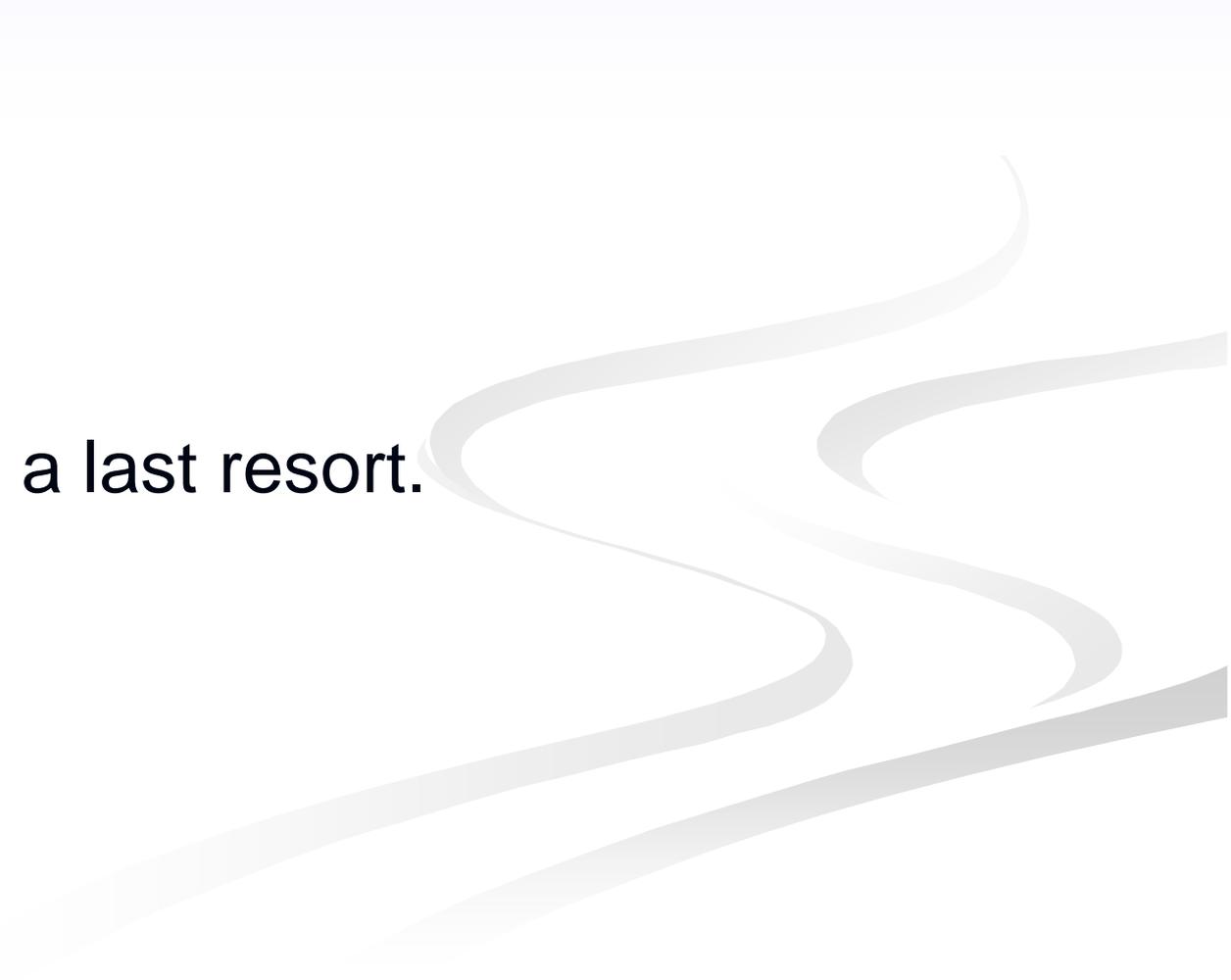
Prevention of disputes

Settlement of disputes

# Prevention of disputes

- Preparing broad-based specifications
  - Drafting unambiguous T/E terms and non-restrictive qualifying criteria
  - Evaluating bids as per those terms and criteria
  - Drafting contract in line with the bid
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# Dispute resolution

- Bilateral settlement
  - Conciliation
  - Arbitration
  - Court battle as a last resort.
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# Periodic review of contract

- Monitor the Contract regularly
- Check whether you (purchaser) have performed your part- adv payment, providing facilities, approving drawings, opening LC, Clearances
- Check whether supplier's performance is as per contract schedule
- Arrange site visit by your officer located nearer to the Plant
- Hold meetings in ur office to monitor progress

# Economic evaluation of long term Contracts and Price Agreements

- These contracts, normally, stipulate a clause providing option to both the parties to terminate the contract after serving a notice with a prescribed time period and on expiry of the said time period
- The purchaser may consider termination if the price trend is downward.
- Simultaneously, prompt action may be taken to conclude a fresh contract

# Monitoring/Renewal of contract

- Are supplies being made in time?
- Is user satisfied with the quality?
- Is the contractor making service calls as scheduled in the contract?
- Does the contractor quickly corrects the problems?
- What is the price trend?
- Consider renewal if the trend is not downward and their performance is satisfactory

# Contract termination

- Cancel contract only when breach/anticipatory breach occurs
- Give performance notice before cancellation if necessary
- Fulfill all laid-down requirements while making Risk Purchase after cancellation
- Claim General Damages if valid R/P has not been made

# Requirements for valid Risk Purchase

- Specs must be same as was adopted initially
- Mode of procurement same or ATE
- Risk purchase contract must be concluded within a reasonable time which is normally 6 months from the date of breach
- Lowest acceptable offer should not be ignored
- If it is ignored, risk purchase loss will not be legally recoverable

**Thank you**

The background features a light blue gradient at the top, transitioning to white. In the lower right quadrant, there are several thick, light gray wavy lines that curve and flow across the page, adding a decorative touch to the minimalist design.