

# **Recording of “Reasonableness of Rate” in The Minutes of Tender Committee Meeting etc.**

## **CONCEPT NOTE :**

### **1.0 Need for System Improvement:**

The need for the above system improvement will be evident from a recent Vigilance case where the Chief Technical Examiner (CTE) of Central Vigilance Commission (CVC) made some serious observation regarding lack of due diligence in appreciating reasonableness of recommended rate in a tender case pertaining to KoPT. It is important to mention here that the Vigilance department of KoPT too has come across similar lapse in several tender cases and hence the case narrated below can only be illustrative in nature.

**2.0 The Case** : A Consultancy Tender was floated by KoPT to hire a Project Management Consultant (PMC) for purpose of managing the contracting process of another high value Tender. Since the intended job to be undertaken by the PMC was merely to frame details of Bid Document, assist in Pre-bid meetings, make draft Agreement/Work Order etc. for the future tender, the then FA & CAO objected to float a consultancy tender for such purpose by expressing the view that such expertise was already available in KoPT. However, the competent authority decided to go ahead with the Consultancy Tender.

To determine the “estimated value” for this Tender, only one Organization was contacted and that too “verbally” without indicating any detailed scope of work. The value obtained through such verbal communication was adopted as “estimated value” for the consultancy tender.

When bids were opened, it was noticed that only one bidder had participated in the tender. It was the same Organization from whom the verbal quote had been obtained by KoPT authorities at pre-tender stage. Normally budgetary quotes for any item/work collected from market tend to be a little higher than the actual price. But, in this case, when their price bid was opened it was found that the said Organization had quoted a price that was 20% higher than what they had intimated to KoPT through their verbal budgetary quote barely 2 weeks ago. The Tender Committee who deliberated on this lone offer, recommended the same to Accepting Authority for award of consultancy contract without recording even a word about the reasonableness of the offered price. No justification was given as to why the same organization quoted 20% more than what they themselves intimated to KoPT only a few days before.

### **2.0 Analysis:**

The basic aim of a Tender committee is to examine the bids received, evaluate them in terms of various tender conditions and make a clear recommendation on the acceptability of the lowest-evaluated bid for placement of award provided the price offered is reasonable. If the price offered by the lowest evaluated bid is not reasonable, the Tender Committee may suggest to go for negotiation or retender the case altogether depending on circumstances.

Needless to say that the aspect of reasonableness of price of an offer upon whom an award is being contemplated goes into the very heart of procurement decision making by a public authority. That is why the General Financial Rule (which is being followed by Kolkata Port Trust ) mentions this as one of the **fundamental principle of public buying** under subsection (vii) & (viii) of **Section 144 (of GFR,2005 )** as quoted below :

***“Rule 144 : Fundamental principles of public buying (for all procurements including procurement of works)***

***vii) The procuring authority should satisfy itself that the price of the selected offer is reasonable and consistent with the quality required.***

***(viii) At each stage of procurement the concerned procuring authority must place on record, in precise terms, the considerations which weighed with it while taking the procurement decision.”***

Not only the GFR but even the **“Manual for Procurement of Goods 2017”** (whose **strict compliance by KopT and MbPT has been mandated by Ministry of Shipping** vide their recent directive No PD – 24015/23/2017 – PD –III dated 07/06/2017 ), says the following at Para 7.5.6:

***“Reasonableness of Prices : In every recommendation of the TC for award of Contract, it must be declared that the rates recommended are reasonable.***

## **PROPOSED SYSTEM IMPROVEMENT :**

**1.0** Any Tender Committee which recommends an offer for award of contract to the Accepting Authority, **must discuss in detail the “reasonableness of price”** of such recommended offer **and record the same in a distinct and transparent manner within** the Minutes of Tender Committee Meeting. A paragraph , preferable titled, *“Discussion on Reasonableness of Rate(s)”* must be incorporated in the Minutes of Meeting containing the reasons/factors/circumstances which justify the recommended offer's rate(s) in the perception of the Tender Committee Members.

**2.0 The said Paragraph in the TC Minutes relating to “Discussion on reasonableness of rate” must** additionally contain a declaration stating that the price(s) offered by the “recommended bidder” is reasonable.

**3.0** There are tender cases below certain threshold estimate value where constitution of a Tender Committee may not be mandatory as per stipulation made at Port level. In all such cases where a formal multi-member Tender Committee does not undertake the process of bid-deliberation and recommendation for acceptance/approval of a particular offer the authority competent to accept offer of such value (in terms of the relevant provision of the latest Delegation of Power circulated by Ministry) must ensure that detail justification and recording of reasonableness of rate is made on file.

*\* The term “Tender Accepting Authority” or “Accepting Authority” used here corresponds to officers of various ranks/levels who exercise procurement power within definite financial limits stipulated in the most recent Delegation of Power circulated by Ministry of Shipping.*

\*\*\*\*\*

**NOTE : THE SUGGESTED SYSTEM IMPROVEMENT HAS BEEN ACCEPTED AND IMPLEMENTED THROUGH AN ADMINISTRATIVE ORDER.**