

## ENSURING “BEST VALUE FOR MONEY” IN PUBLIC PROCUREMENT

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Procurement of goods, services and works is one of the most important functions in any organization whether private or public. This function has special significance when the procuring organization is a government entity. In developing countries like India it is estimated that the volume of procurement is nearly 25% to 30% of GDP. This is nearly double of the total revenue collected by India from all taxes combined.

Given the importance of procurement function it is vital to maintain an enhanced degree of transparency, objectivity and fairness. Government contracts are also a source of business and livelihood for many in the private sector. One of the requirements of a public procurement contract is to ensure nondiscrimination and equity among people desirous of participating in it. In other words every public tender and its resulting contract must conform to Article 14 of Indian Constitution.

At present India does not have a national Procurement Act. In such a situation one may ask as to what are the rules and procedures to be followed by various government organizations in the matter of procurement.

While many government Organizations and public sector units have framed their own detail rules/procedures regarding procurement, they are invariably subject to **(a) Indian contracts act,1872 (b) sales of goods act,1930 (c) Guidelines framed by CVC (d) General Financial Rules (recently amended in 2017).**

For Port Trusts, the power to make policy is entrusted with the central government under section 111 of Major Port trust act,1963. As per the policy guidelines on procurement issued by Ministry of Shipping, purchase of goods/services/work in the various Port Trusts are also governed by the above acts and instructions. Recently another regulatory pillar has been added to the procurement policy regime of Ports i.e. “Manual of Procurement of Goods-2017” made by Ministry of Finance and implemented vide Ministry of Shipping’s directive Number PD – 24015/23/2017 – PD –III dated 07/06/2017 .

The fundamental principles of public procurement have been enunciated at Section 144 of GFR-2017 which states as follows:

***“Every authority delegated with the financial powers of procuring goods in public interest shall have the responsibility and accountability to bring efficiency, economy, and transparency in matters relating to public procurement and for fair and equitable treatment of suppliers and promotion of competition in public procurement”***

Stated under the same article are the following words:

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

Out of the principles enunciated in GFR , perhaps the most important is the concept of “best value for money” spent by public authorities. This is also one of the 3 basic pillars upon which the foundation of

international procurement stands. This is called the VFM Principle ( as depicted below) which is followed by World Trade Organization's Agreement on Government Procurement as depicted below :

**a) Transparency**

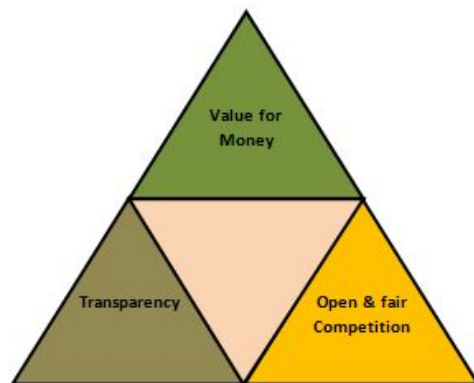
The government's procurement requirements, procedures and evaluation criteria for quotations and tenders are to be published openly on the Government entities.

**(b) Open and Fair Competition**

An open and competitive environment to encourage suppliers /contractors to give their best offers. Bidders are to be given equitable opportunities and access to compete on a level playing field without any barrier to entry through restrictive conditions , prior-approvals etc.

**(c) Value for Money**

Value for money is derived from the optimal balance of benefits and costs on the basis of total cost of ownership. As such, value for money does not necessarily mean that a tender or quotation must be awarded to the lowest bidder.



**How the principle of “Best value for Money” is followed in actual practice in Indian Scenario?**

This principle is typically administered by the procurement authorities through a detailed and rational justification of procurement prices before entering into a contract. In organizations where procurement is done through tender committee, the members of such committee tried to ascertain the reasonableness of the lowest technically acceptable offer in response to the tender floated by the organizers. During many of the interaction meetings conducted by vigilance in the past, many have varied as to what methods should be adapted to determine reasonableness of bidder's price. Notwithstanding the fact that there can be myriad ways of determining the justification to recommend /accept a particular price and the fact that a tender committee might use any of the several means available to them to achieve this objective, a particular section of the recently circulated “Manual of Procurement of Goods-2017” does deal with this subject in an exhaustive manner. The same is extracted below for guidance:

### Para 2.1.1 (iii)(e)

#### “Estimation of cost:

1. *The estimated cost in the indent is a vital element in various procurement processes, approvals and establishing reasonableness of prices at the time of evaluation of the bids. Therefore, it should be worked out in a realistic and objective manner. The prevailing market price ascertained through a market survey or budgetary quotations from one or more prospective suppliers or published catalogues/Maximum Retail Price (MRP) printed on the item is the main source for establishing the estimated cost of items for which there no historic data available. It may be noted that MRPs usually include significant margins for distributors, wholesalers and retailers;*
2. *For equipment/craft which are uniquely custom-built to buyer’s specifications, the best way to get a fair assessment of costs is by obtaining budgetary quotes from potential parties. Ideally, there should be three quotes. However, there is need to have a time schedule for receipt of quotes to ensure some timeframe for this activity. Thus:*
  - a) *An attempt should be made to obtain as many budgetary quotes as possible from reputed/potential firms and a time of 21 (twenty-one) days be indicated therefore. In the event of receipt of less than three budgetary quotes, two extensions of up to 10 (ten) days each may be considered; and*
  - b) *In the event of non-availability of three quotes within the above extended period, the estimates should be prepared on the basis of the number of budgetary quote(s) received, which may even be one; and where more than one budgetary quote is received, the estimate should be framed on an average of the quotes which will reduce variations and fluctuations;*
3. *In addition, wherever they are available Directorate General of Supplies and Disposals (DGS&D) rates should be considered. Likewise rates should be compared with recent orders/purchases of similar equipment by other states/ Departments. Other methods for establishing the estimated cost in the indent and tender evaluation are:*
  - a) *Estimated rate in past indents of the same goods;*
  - b) *Last purchase price of this or similar or nearly equivalent requirements;*
  - c) *Costing analysis based on costs of various components/raw materials of the item;*
  - d) *Rough assessment from the price of the assembly/machine of which the item is a part or vice versa;*
  - e) *Through the internal or external expert costing agencies; and*
  - f) *As a last resort, rough assessment from the opportunity cost of not using this item at all;*

### Para 2.1.1 (iv)

*“These methods are not mutually exclusive and can be supplemented with escalations to cater for inflation, price increases of raw materials, labour, energy, statutory changes, price indices, and so on, to make them usable in conditions prevailing currently. In case of foreign currencies, the rate should be reduced to a common denomination of Indian Rupees.....”*

### 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.***

*(For more details on judging reasonableness of prices, please see para 2.1.1 (iii)(e) in Chapter 2 above).*

*Where there is no estimated cost, a comparison with Last Purchase Price (LPP - the price paid in the latest successful contract) is the basis for judging reasonableness of rates. The following points may be kept in mind before LPP is relied upon as a basis for justifying rate reasonableness:*

- i) *The basic price, taxes, duties, transportation charges, Packing and Forwarding charges should be indicated separately;*
- ii) *Where the firm holding the LPP contract has defaulted, the fact should be highlighted and the price paid against the latest contract placed prior to the defaulting LPP contract, where supplies have been completed, should be used;*
- iii) *Where the supply against the LPP contract is yet to commence, that is, delivery is not yet due, it should be taken as LPP with caution, especially if the supplier is new, the price paid against the previous contract may also be kept in view;*
- iv) *Where the price indicated in the LPP is subject to variation or if it is more than a year old, the updated price or as computed in case of the Price Variation Clause (PVC) may also be indicated;*
- v) *In the case of wholly imported stores, the comparison of the last purchase rate should be made with the net CIF value at the current foreign exchange rate;*
- vi) *It is natural to have marginal differences in prices obtained at different cities/offices for the same item, due to their different circumstances. The prices obtained are greatly influenced by quantity, delivery period, terms of the contract, these may be kept in view;  
and*
- vii) *Prices paid in emergencies or prices offered in a distress sale are not accurate guidelines for future use. Such purchase orders and TC proceedings should indicate that "these prices are not valid LPP for comparison in future procurement".*

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