

Public Procurement of Goods

Procurement Process

Public Procurement in Practice

Tender – Local purchase or otherwise

Communications of Requirements

(Electronic or Paper based)

- Clarity
- Completeness
- Un-ambiguous
- Documentation
- Units
- Conditions

Buying System

Main Features

- Authorization - must as per Powers/ Delegation
- System - verifiable, recorded
- Checks & counter checks : Accounts, Audit, Parliament, Vigilance, CBI, Courts
- Scope for arbitrariness, laid down acceptable terms and conditions in governmental contract provisions
- Equal consideration with given criterion
- Sometimes efficiency and objectivity suffers
- 'Find a Way' to get things done
- Thrust: to reach out as many suppliers as practicable
- Responsiveness with regard to bid documents is must

Purchase Contract

- Buyer's obligation
- Seller's obligation
- Product description
- Quality & Quantity
- Terms & conditions
- Payments
- Remedies

Governing Principles

- Applicable Laws - mainly
 - ICA, SOGA, Arbn & Conciliation Act
- National Policy
 - KVIC, SSI, MSME, Regional development, Make in India
- Delegation - SOP
 - Authority for sanction / Purchase
- Guiding principles
 - Canons of Financial Proprietary

The Objectives

In short

delivering the RIGHT PRODUCT

(Quality & Quantity)

to the RIGHT PLACE,

at the RIGHT TIME,

at the RIGHT PRICE

(Value for money)

to be SOURCED RIGHTLY

(Capability, Capacity, Reliability)

Buying Situations

- Normal, Planned
- Urgency/ Criticality
- Low value
- Proprietary
- Policy restricted
- Externally funded

Buying Impediments

- Within accepted standards of norms & quality
- Competing Sources
- Quality to serve the purpose not best available
- Acquire materials, when needed
- Economical & Reasonable price
- Law & Regulation defines purchasing authority & responsibility
- Actions & documentation are Public
- Aggrieved parties have legal right to protest
- Procurement process can stop until protests have been resolved

Public Procurement Process

Important considerations

- The purchase function is Need/Demand based, non-speculative, participative decision making process.
- The function is normally guided by detailed instructions on the subject, existing in the organization.
- The purchases are guided by Law of the land, mainly Indian Contract Act & Sale of Goods Act. Most Govt. organizations have standardized the conditions of contract.

Public Procurement Process

Important considerations (contd.)

- The procurement method is mainly based on value of purchase, nature of item, criticality of use identified for the item.
- The contracts are to be entered into after specific allocation of funds to meet the payment obligation by an appropriately authorized competent authority.
- The materials are normally to be pre-inspected against all orders placed by the nominated agency.

Public Procurement Process

Important considerations (contd.)

- Buying organization, in general prefers payment for materials after their receipt & acceptance by the consignee, however payment against specified documents is also allowed.
- The contracts contain clauses for dealing with failures.
- For disputes resolution Arbitration clause exist in purchase contracts.

Basis of Procurement

- **Contract** is the basis for procurement
 - ✓ Enables supplies
- **Tender** is the tool for entering into contract
 - ✓ Enables vendor selection

Tenders

{Tenders, Offers, Bids, Quotations, Proposals}

Pre-bid stage:

- Need/Demand assessment & indents compilation
- Estimated value assessment
- Mode of Tendering
- Purchase proposal and approval by CA
- Preparation of Bid Documents
- Bid Invitation, Pre-bid meeting and
- Bid Opening

Procurement stages



```
graph TD; A[Assessment of need] --> B[Procurement planning]; B --> C[Bid invitation]; C --> D[Bid evaluation];
```

Assessment of need

Procurement planning

Bid invitation

Bid evaluation

Procurement stages

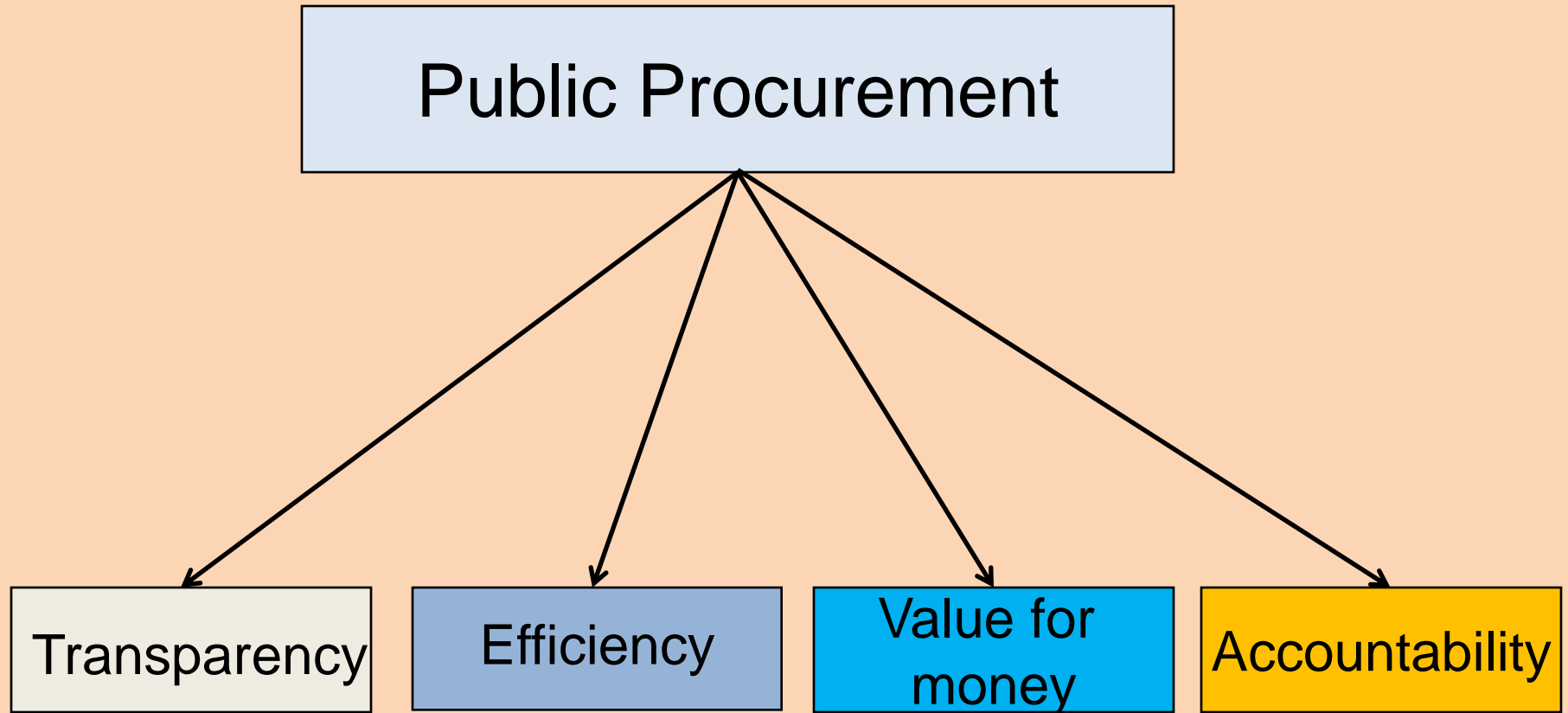
```
graph TD; A[Contract award] --> B[Contract management]; B --> C[Dispute resolution];
```

Contract award

Contract management

Dispute resolution

Four pillars of Public Procurement



Need - Quantity Assessment

- **Periodic Review Method** - Annual procurement system for procurement of Regular Items
- Purchase orders are placed well in advance to maintain continuity of supply
- **Continuous Review Method** - Re-order Level System, based on Lead time of item
- Purchase orders are placed in time ensuring supplies reach before stocks are exhausted
- Purchases are made against specific demands

Need based purchase - No speculation

Modes of Tendering or Method of obtaining Bids

- Procurement through e-Tender System
 - Open Tender or Open Global Tender
 - Limited Tender
 - Single Tender
- Other variants
 - Two packet bids
 - e-Reverse auction (e-RA)
 - e-RA with initial bid

Tendering Process

- Open e-tender is the norm.
 - Most competitive bidding process
 - All high value tenders above **specified value** must be open e-Tenders (**Rs 25 Lakh**)
- Limited e-Tenders are issued in specific cases
 - Competition is restricted
 - For low value purchase
 - issued to approved/registered/selected suppliers
- Single e-tender
 - No competition
 - adopted in exceptional cases
 - For propriety articles
 - For petty value purchase
 - In emergency
 - For procurement from KVIC, ACASH etc

Essentials in tendering process

- NIT (Notice Inviting Tender): Advertisement
- Preparation of tender documents:
 - ✓ Tender information: Tender no., Closing date & Time, EMD, Tender Document cost (Now free)
 - ✓ Bid Evaluation criteria, Eligibility criteria, Delivery requirements, Other terms & conditions
 - ✓ Schedule of requirement: Description, drawing, specification of goods, Quantity, Units, place of requirement, consignee, inspecting authority etc.
- Transparency, Fairness, Cost effectiveness, Efficiency
- **Avoid conditions that Restrict the Competition**

Major areas of Procurement Planning

Procurement Planning

```
graph TD; A[Procurement Planning] --> B[Specs]; A --> C[Firm/ variable price]; A --> D[Qual Criteria & Terms]; A --> E[Mode of Procurement];
```

Specs

Firm/ variable price

Qual Criteria & Terms

Mode of Procurement

Preparation of Bid Documents,
Contents,
Bids Invitation and Bid Opening

Bid document

- Most important document in procurement process
 - Conveys the buyers exact requirements to the market
 - It lays down the rules of the game
- Review the Bid document to consider
 - For difficulties faced in settling past tenders and taking due care in easing them
 - For any new policy changes and incorporating them
- To ensure effective and efficient procurement it is absolutely essential to give proper time and thought in preparation of the bid document

Pre-tender work on Bid document will smoothen & speedup the tender finalization process

Bid document Contents

- Consists of:
 - Bid notice or Notice Inviting Tender (NIT)
 - Schedule of Requirements (SOR)
 - Instructions to Bidders (ITB)
 - Standard Forms & Formats
 - Check list
 - Drawing and specifications
 - General conditions of contract
 - Special conditions of contract

Bid Notice/Bid Invitation/NIT

- Must be published in leading News Papers & website of organization (CVC requirement) (Latest GFR has relaxed it)
- It must contain:
 - Description in brief, specification etc.
 - Quantity and unit
 - Cost of Bid document and how to procure tender document.
 - Earnest Money deposit (EMD)
 - Bid opening date – at least 30/45 days from publication of Bid Notice.
 - Contact person, address, website (It must be small in size to reduce advertisement cost)
- As per latest instructions in Railways - publish only a fortnightly advertisement in Newspapers giving website address where tenders are published and tender documents are available for download

Schedule of Requirements (SOR)

- Detailed description, Specification, Drawings etc
- Quantity, unit
- Destination/port
- Time frame of delivery
- Bid receiving and opening – time and date
- Quantity variation clause – if any
- Exemptions for paying cost of tender
- Conditions on which bid would be summarily rejected
 - Cost of bid document not paid
 - EMD not enclosed
 - Late bids
 - Bids with shorter validity than required-say 90/180 days
 - **Any other critical requirement to be specified**

Schedule of Requirements (SOR)

- Details of tender document:
 - Bid Notice/Bid Invitation
 - Schedule of Requirements (SOR)
 - Instruction to Bidders
 - Forms
 - Check lists
 - Drawings and Specifications
 - General/Special conditions of contracts
 - Amendments/Corrigendum of bid

Instructions to Bidders (ITB)

Earnest money Deposit (EMD)

- Amount
- Forms acceptable-cash/BG/FD/Bank Draft etc
- For BG/FD-acceptable banks – Nationalised, Foreign, Scheduled banks
- Format of BG
- Validity Required When EMD will be returned
- Waivers permissible-if any
- Applicable Laws

Instructions to Bidders (ITB)

Submission of Offers

- Types of firms eligible-manufacturers, Authorized agents, traders etc
- Reference of forms for rates submission
- Documents required with bid
- In two bid systems-separate technical & commercial offers required and details of procedure for opening financial bids
- Each page is to be signed and uploaded
- Language for interpretation
- Statement of deviations
- Interpretation for discrepancies
- How, where and up to when bid is to be submitted

Instructions to Bidders (ITB)

Statements and Reports to be submitted

- Authority letter from manufacturer (if needed)
- Performance statement
- Banker's Report/Annual Financial Statement
- Details of equipments and Quality control
- Statement of Deviations-technical and for other clauses of tender document-preferably nil

(Forms, formats are to be part of tender document)

Instructions to Bidders (ITB)

Basis of Price Bid

- FOR Destination/Ex works/FOB/CFR/CIF etc
- Agency Commission (if any) – for imported offer
- Taxes and duties to be paid in India by purchaser
- Statutory variation permissible for GST etc
- Taxes, duties, inland freight – in foreign country by bidder
- Permissible bidding currencies - imported bid
- PVC applicability
 - if yes give PVC formula & base parameters
 - PVC formula quoted by bidders not acceptable
 - GFR – PVC should be given for contracts running for more than 18 months

Instructions to Bidders (ITB)

Security Deposit (SD) or Performance Guarantee

- Amount
- Forms acceptable-Cash/BG
- For PBG – acceptable banks – Nationalized, Foreign with countersign, scheduled banks
- Format of PBG
- Validity Required
- When SD/PBG will be returned
- Waivers permissible – if any
- Applicable Laws

Instructions to Bidders (ITB)

Payment terms

- For foreign bidders in general
 - 90% on Inspection and shipment by Letter of Credit on certain documents submitted to bank at sight/with inspection of correctness of documents
 - Bill of lading
 - Invoice
 - Insurance particulars
 - Inspection Certificate of buyers agency/by bidder
 - Packing list
 - 10% after receipt at port through LC on submission of Warranty BG of 10% amount (**Format, validity, claim period of WBG is to be specified in tender documents**)
 - Agency commission is to be paid in INR only after part/full completion of supply

Instructions to Bidders (ITB)

Payment terms

- For Indian bidders in general
 - 90/95% on proof of inspection & Receipted challan and balance 10/5% after receipt at destination & acceptance and submission of WBG for 10% value (now option for payment through LC at nominal cost also to be given in contracts above Rs 10 Lakh)
 - OR 100% on proof of Inspection, receipt at destination & acceptance and WBG for 10% value as applicable
 - Installation commissioning etc as per item under procurement

Instructions to Bidders (ITB)

Evaluation of Offers

- All inclusive price FOR destination for Indigenous offers (depending on the type of contract)
- For imported offer – Total landed cost after clearance at Indian port which includes
 - FOB + Agency commission + sea freight + Insurance + Port handling + Custom Duty (Foreign Exchange rate as on date of tender opening)
- It is to be clearly specified if other charges such as training, installation & commissioning, AMC etc will be added for bid evaluation and ranking
- All bids are converted to INR for comparison

Other Important conditions

- Full details of purchaser/manufacturer required
- Alternate offers acceptable or not
- Special requirements for Indian Agents
- Splitting of quantity will be done or not
- Tender for part quantity acceptable or not
- Know local conditions – Any plea of not knowing local conditions after contract will not be acceptable

General & Special conditions of contract

- Definitions of various terms
- Inspections
 - Responsibility for boarding, lodging, travel etc
 - Facilities for inspection
- Subletting of contract not permissible
- Mistakes in drgs/specs to be pointed out before contract
- Liquidated Damages
- Default and Risk purchase
- Arbitration clause for disputes resolution

General & Special conditions of contract

- Force Majeure clause
- Laws governing contracts - Indian laws
- Jurisdiction of court - purchaser's city/state
- Corruption and payment of commission
- Secrecy clause
- Warranty clause
- Packing requirements
- Transit risk or risk till delivery to consignee

Forms and formats in Bid documents

- Offer form for Indigenous bid
- Offer form for Imported bid
- Performa for performance statement
- Performa for equipments and quality control
- Performa for authority from manufacturer
- Performa for statement of deviations
- Formats for BGs (EMD, SD, WBG)

Check List

- Have you submitted cost of bid document?
- Have you submitted bid guarantee?
- Have you submitted letter of authority from manufacturer?
- Have you submitted performance statement?
- Have you submitted banker's Report?
- Have you submitted details of equipments and quality control?
- Have you submitted statement or deviations?
- Have you quoted in prescribed Performa

All answers are to be Y/N with remarks as applicable

These check lists can be modified as required for specific tender

Bid Opening

- Bids to be electronically submitted by an authorized official using encryption and digital signatures
- Bids are to be submitted up to time specified in tender and revised any number of times superceding earlier bids, latest bid at the time of opening will only be considered as valid. System time stamps all bids and allots bid-id to each bid
- No bids can be submitted after the due time
- Bid opening is jointly by Authorised officers of Stores and Accounts using their Digital signatures and decryption keys.
- After tenders are opened bidders can see the tabulation statement instantly

Supply e-Tenders on opening

- Financial Tabulation is instantly generated
 - As per evaluation criteria stipulated
 - Tabulation of Remarks, Part qty offers, Superseded offers
- Techno-Commercial Tabulation is also instantly generated
 - Part A: Eligibility Criteria
 - Part B: Terms And Conditions
 - Part C: Performance Statement
 - Part D: Technical Specifications
 - Part E: Technical Deviation Statement
 - Part F: Commercial Deviation Statement
 - Part G: Special Conditions & Checklist for Bidders
 - Part H: List of Document(s) Attached
 - Part I: Documents in support of exemption for TDC or EMD
 - Enterprise Details
 - Digital Signature Certificate Details of Vendor User who have signed and submitted Financial Rate Page

After e-Tender is Opened

- All the participating vendors who have submitted valid electronic offers can view
 - their own offer details as well as
 - the tender complete tabulation statement
- using internet access by visiting the web site **instantly**

Process after bid opening

- Consideration of offers
- Technical scrutiny & suitability of offers
- Rates reasonableness
- Tender consideration by competent TC and TAA or Purchase officer as per value of lowest bid
- Placement of Supply Contracts
- Contract Management

MSE provisions in Procurement tenders

Provisions

(Refer tender documents on website for details)

- Cost of tender documents exemption
- Preferential treatment in consideration
 - Within L1+15% price band
 - Match L1 price, if L1 not MSE
 - Can get upto 25% value of NPQ
- Earnest money deposit exemption
- Security deposit exemption
- Annual procurement goal of 25% including 6.25% & 3% from reserved category entrepreneurs

Thank You