

Guidelines on public works/contracts

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Sources

- CVC's circulars
- Common irregularities/lapses observed in stores/purchase contracts and guidelines for improvement in procurement system - CVC
- Problem areas of corruption in construction- CVC
- Common irregularities/lapses observed in award and execution of electrical, mechanical and allied contracts and guidelines for improvement thereof- CVC
- Shortcomings of general nature observed during intensive examination of works/contracts- CVC
- Manual on policies & procedure for procurement of works - MOF
- GFR Chapter 5 to 8

Watchwords of Public works/contracts

- Quality work
- Competitive price - Value for money
- On right time – No time/cost overrun
- Process to be fair and transparent

Stages of works/contracts

- **Pre-tender stage** – project genesis, appointment of consultant, Estimates of rates, Technical sanction, Administrative approval, Expenditure sanction
- **Tender stage** - NIT, Invitation & opening of tender, pre-qualification, evaluation & award
- **Execution stage** - Implementation of tender conditions, quality monitoring, post contract monitoring

Project Genesis

- Assessment of Need & viability, No new work without analysis of existing facilities/ available alternatives
- Modern techniques like pay back period, discounted cash flow, NPV, IRR, technical & Market analysis etc
- Av. Life of equipment/spares to be considered.
- Tender not to be split to avoid approval from higher authorities.
- One time purchase of equipments to be decided based on actual intended use, rate of return etc.
- Latest specifications & Technology

Appointment of Consultant

- Guidelines to be formulated
- Only when absolutely essential, for specialized jobs only
- Competitive tendering system
- Scope of work & Role to be well defined
- Decision making not to be delegated to them
- Penal clauses for deficient service
- **GFR 168-175** - Work < 25 lakhs, list of potential consultant
- > 25 lakhs, Two stage process - Expression of Interest - shortlist, Terms of reference, Request for proposal
- **OM No OFF1 CTE1 dt 25.11.02**

Estimate of rates & Technical sanction

- To be worked out in realistic and objective manner
- **Estimates** on SOR, for non-scheduled items- proper analysis of rates, prefer products with standard specifications
- **Basis**- Prevailing market price, last purchase price, economic indices for raw material / labour/equipment, other input costs, IEEMA formula, intrinsic value, rate obtained in similar tender etc.
- **Items** - Should include basic price, fabrication charges, inspection fee, duties, packing, handling, transportation charges, VAT, Octroi, installation, erection, commissioning charges, licence fee, contingencies.
- **Purpose of tech sanction** - proposal is structurally sound, estimate is economical

Administrative approval

- For every work (excluding petty works, repairs), concurrence of competent authority of Administrative Department needed.
- **Purpose** - justification of work, realistic estimate, adherence to yardstick of various provisions

Types of tender

- **Open** – GFR/MOF- compulsory above 5 lakhs
- **Limited** - small value, urgent & repetitive – panel of vendors in a transparent manner, to be periodically revised
- **Single Tender Enquiry**
- **Tender on nomination basis** - SC held it to be violative of Art 14 of Constitution, Bring to Board for vetting, audit committee to check 10% cases (**office order 23/7/07 dt 05.07.07**)
- **SC Exception** - natural calamities, emergency declared by govt., single source, tender called on several occasions, but no bid or reasonable bid
- **FAST-TRACK PROCEDURE** for emergency work can be prescribed

Publicity

- **Advertised/ Open tender** - publication in ITJ & national newspapers, Copies to registered/ past/ likely suppliers.
- **Global tender** - If import of goods involved, copies to Indian missions/Embassies of major trading countries.
- **For construction** - copy to building association.
- **Time** - 4 to 6 weeks for advertised tender, 3-4 weeks for limited tender
- To be put on website

Tender/Bid document

- **Standard tender form** with conditions, BOQ, set of drawings, specification of works
- All **important clauses** relating to earnest money, Completion period, Payment terms, Performance/Warranty BG, Pre-dispatch inspection, Comprehensive insurance cover, Contractor's liabilities, safety arrangements, Labour Welfare, Arbitration, Liquidation Damages, risk-purchase, evaluation/exclusion criteria, quality standards etc to be incorporated.
- **Earnest money** in two-bid system – fixed reasonable amount on the basis of estimated cost

Amount –MOF Manual

- **Earnest Money** - 2% for projects upto 25 cr, 50 lakhs +1% for work above 25 cr
- **Performance Guarantee** - 5% of contract value (GFR- 5-10%)
- **Security Deposit** - 5% of contract value (GFR- 2-5%)
- **Bonus** - 1% of contract value pm subject to max 5% of contract value
- **LD** - for repairs upto 10 lakhs- 1% per week
- **LD- Others**- 0.5% per week subject to max 10% of contract value

Bid Document

- Govt. policy on reservation of items to be incorporated. No purchase preference to public Sector Enterprises after 31.3.08
- Detailed **generic** technical specifications including performance parameters and technical evaluation criteria. Particular brand to be avoided, BIS marked can be mentioned. List of preferred makes of major equipments can be given.
- No conditional discounts to be considered.
- **Price variation** - MOF - no variation upto 18 months, above 18 months formulae for POL/Labour/Material with ceiling

Prequalification

- PQ criteria neither too stringent, nor too lax
- PQ criteria specific to requirement
- Evaluation criteria to be mentioned in PQ document
- Verification of PQ credentials to be done
- Experience certificate from pvt. organisations to be verified with TDS certificate etc.
- Re-tender if relaxation of PQ criteria is necessary.
- PQ- 12-02-1-CTE-6 dated 17.12.02

Bidding System

- **Single bid system** when specifications are adequately defined, item being procured are standard equipments designed as per general industry norms.
- **Negotiations** - In two bid system, techno commercial negotiations may be conducted to clarify deviations. After bringing acceptable offers on a common platform, all commercial terms and technical specifications should be frozen. In case, changes are made in terms/ conditions/specifications, bidders may be given chance to revise bids.
- **Revised bids** - Bidding firms meeting qualifying criteria may be finalised before or during technical negotiations with them. Revised price bid not to be taken from bidders not meeting qualifying criteria. Rejection to be intimated with unopened price bid.

Pre-bid conference

- Clarification of prospective bidders submitted prior to submission deadline to be responded promptly
- Any time prior to deadline, tender documents can be modified by addendum
- Pre-bid meeting to clarify provisions of tender. Modification of terms, if required. Minutes to be part of agreement
- Minutes of meeting to be issued promptly
- Deadline for submission of tender to be extended if necessary to afford contractors time to take clarification into a/c in their tenders.

Invitation & Opening of tender

- Tender sale and opening registers to be maintained.
- Any change in tender terms & conditions, specifications, opening date etc. to be notified to all bidders well in advance of revised opening date in addition to paper and website publicity.
- Opening in presence of representative of bidders
- Correction, omissions, over-writing etc to be attested and numbered
- On the spot summary
- Price bid to be signed by govt. official & 2 reps, put in a bigger box/envelope & signed

Evaluation of tender

- After technical evaluation, no grading
- **Indian Agent** - genuineness of quoted price, nature of service by agent, tax compliance, foreign exchange leakage to be considered
- Conditions of tenders are not to be altered after price bids.
- **Reasonableness of price** to be established before award of contract- based on estimate, market price (market rate justification statement), last purchase price, input / labour costs, intrinsic value, rate quoted for similar/identical works etc – Justification statement
- **AHR and ALR** items to be identified and control exercised.
- **Single tender** - detailed justification, approval of competent authority and Finance.

Negotiation with L-1

(Circular 4/3/07 dt 03.03.07)

- **No Negotiation with L-1**
- **Exception** - proprietary items, items of limited sources of supply, suspicion of formation of cartel
- Reasons for negotiations to be recorded
- **Time frame** - 1 month, 15 days at each higher level, within tender period
- If re-tender, bare minimum quantity with L-1 after negotiation
- **Split**- ratio to be indicated in tender

GFR-160 – Transparency

- Bidding document to be self contained & comprehensive
- Provision for bidder to question bidding condition, bidding process & rejection
- Provision for settlement of dispute
- Specifications to be unambiguous
- Pre-bid conference
- Criteria for responsiveness to be clearly indicated
- Evaluation only as per laid down conditions
- Bidders not to be allowed to modify bids after deadline of receipt of bids
- Successful bidders' name on notice board and website

Advance & BG

(Circular 10/4/07 dt 01.4.07)

- To be decided by Board with approval of Finance
- Interest free advance- Not encouraged by CVC
- If advance considered necessary, to be mentioned in tender
- Recovery time based & not linked to progress of work
- BG as per recovery installments
- Interest on delayed recovery, U.C. to be taken
- BG to be verified with bank
- **Secured advance** - upto 75% of materials adjust with intermediate bills for items to be used in work
- **Mobilisation advance** - upto 10% of est. @interest
- **Plant, Machinery Adv** - 50% of dep cost @interest

Execution Stages

- Agreement
- **Implementation of contract provisions** – insurance, deployment of technical persons, licences etc
- **Quality of work/ Inspection** - Check measurement-including hidden & high rate items to be checked by senior officers –Inspection note by senior officers.
- **SITE RECORDS** – Test record, site instructions & compliance, MAS A/c register for issue of items, hindrance register etc.
- **TIME AND COST OVERRUN** - Completion Schedule of activities to be taken in advance and progress to be monitored with schedule.
- **REPORT** - Authority granting administrative approval, should be kept informed of the progress of the work.
- **TIMELY PAYMENTS** - first come first serve basis

Monitoring & Quality Assurance

- Quality assurance cell
- System of monitoring to be prepared before start. Quarterly/monthly monitoring
- **Large project** - Monthly progress report by contractor indicating construction schedule, progress chart, plant & Machinery statement, man-power statement, Financial statement, Statement of extra and substituted items, progress photographs, quality control tests, hold ups etc.
- Commissioning & documentation

Contract management

- Performance BG upto warranty period
- Guarantee/warranty/DL from date of installation/ commissioning
- All post award deviations/relaxation having financial implications should be severely discouraged.
- Clauses of insurance, workmen compensation, labour licence, ESIC etc to be properly implemented
- Liquidation damage for delayed completion unless bonafide extension, L/C extension charges on supplier's account
- Completion of contract should imply completion of all events of the contract.



Thank You