


BUREAU OF INDIAN STANDARDS
(Headquarters)

Our Ref: Admn./09/04/2014

31 August 2020

**Subject: Systemic improvements suggested by Vigilance Department
for procurement of goods & services**

Vigilance Department during examination of tenders for contracts and purchases, has suggested some systemic improvements to make the process more transparent and competitive. These suggestions are being circulated herewith for information and compliance of all concerned, please.


31/8/2020
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Director (Admn.)

Encl: As above

**Circulated to all Department at HQs, ROs/BOs/Labs/NITS thorough
BIS intranet**

Subject: Systemic Improvement Suggestions as Preventive measures towards avoidance of common irregularities during awards of contracts/ purchases in BIS

Various tenders/ contracts, awarded in the past two years, have been examined as a part of regular preventive vigilance checks and investigations. Examination of the documents and files has revealed that there are serious flaws in the manner in which tenders are being handled in BIS. The award and execution of the contracts have many irregularities which have led to some financial imprudence, unnecessary expenditure and procedural lapses. Therefore, to mitigate the extent of irregularities and to prevent recurrence, some systemic improvement suggestions are given hereunder. These also have the purpose of improving transparency in the procurement and tendering process, thus avoiding potential complaints.

1. Preparation of Manual for Procurement of Works/ Goods/ Services

A manual for procurement /purchase of goods and services based on GFR and the Manuals for Procurement of Goods & Services/ Works must be brought out which would encompass the specific needs of BIS. The manuals are generic guidelines and need to be supplemented by BIS to suit their specific needs.

A well documented policy/ manual is required to bring a system of procurement of goods/ services at competitive prices in a fair, fast and transparent manner.

In view of the newly formed procurement cell, the need for a codified manual becomes all the most urgent. The codified and detailed manual may contain standard bidding documents, standard agreement templates, schedule of powers for sanction, etc.

2. Filing System

The tender files are not being maintained properly. Decisions, deliberations and approvals are taken on the basis of long notings as a single step. In tender cases, step by step approvals must be taken so that the files pass the test of scrutiny. Post facto approvals must be avoided to as much extent as possible. All decisions and deliberations taking place at all levels must be recorded and specific approvals taken for each decision.

In this regard, it has been noted that some discussions and deliberations happen through email or through verbal communication. Whenever a verbal communication is made, it must be recorded in the file. Similarly whenever some discussion or deliberation happens through email, a copy of the same may be placed on the file for maintaining proper chronology. Such deliberations must be mentioned on file noting in all cases.

3. Estimation of Rates:

It has been observed that the tender cases are often processed without framing the estimated cost for the goods/services/works. It is not possible to evaluate the commercial bid for reasonableness of rates without an estimated cost. Nor is it possible to frame an EMD amount without the estimated cost.

The estimated rate/ cost is vital to establish the reasonableness of rates received. It should be worked out on the basis of prevailing market rates/ last purchase price/ budgetary quotes, etc. The estimated rates must be an essential component of the tender process. If in a particular case, rate estimation is not possible due to limited information/ knowledge about the goods/ services/ works, an Expression of Interest (EoI) may be floated separately for estimation of rates, know potential suppliers, fine tuning the RFP/ Tender document and explicitly mentioning/ defining the deliverables in tangible terms, leaving no scope of ambiguity.

In one case of purchase (as a support of on ongoing work's contract), the rate was estimated on the basis of the working contractor's quote. The item was finally procured through GeM at almost double the estimate. This irregularity could have been avoided by simply conducting a market survey for the item and/ or calling for budgetary quotes from known sources who were original manufacturers of the product.

4. Adherence to Delivery Schedules and Imposition of Penalty for late delivery as per Penalty Clause in RFP/ Tender Document:

Proper delivery schedules must be given in the Bid documents and in purchase documents on GeM Portal. It has been seen in some cases that delivery schedules and estimates are not given in the bid documents leading to delayed delivery and delayed start times of works/ services.

In case there is a perceptible and willful delay, penalty clause as given in the RFP/ Tender document must be invoked.

5. Legal and Financial Vetting of documents:

It has been observed in many cases in BIS that neither the Tender Documents nor the contracts/ agreements are vetted by either the Finance or the Legal Department. This must be done in all cases unless previously vetted templates are being used. Even then, financial vetting of tender documents and contracts/ agreements is a must. Financial vetting of estimates, other financial contract conditions and agreements and legal vetting of agreements/contracts are mandatory. Moreover, at all stages administrative approval is an absolute must.

6. Notice Inviting EoI/ RFP/Tender:

This must be framed properly and in great detail. It has been observed that in some cases criteria/ credentials of the firm required were not given leading to favoritism (lack of competition). All tender inquiry must be given wide publicity as required as per GOI rules. Normal time as given in GFR and Manual for Purchase, etc. must be given. Exceptions for cases where time is to be curtailed must be made rarely and only after due justifications are given and administrative approvals at appropriate levels (as per schedule of powers) are obtained.

Even in cases of recorded emergency reasonable time must be given after employing all means for informing of potential bidders. Suitable delegation of powers must be made for acceptance of tenders, single tenders, curtailing of normal time, single bids received in cases of open/ invited tenders. As per GFR Rule 173(xxi) when a limited or open tender results in only one effective offer, it shall be treated as a single tender contract.

7. BID Document:

The EMD must be sufficient to protect BIS interest. A reasonable amount must be fixed which cannot be a percentage of the tender value.

A delivery schedule for consultancy contracts as well as purchase contracts must be formed a part of the tender document.

Break up of costs must be according to what is available in the format of the CPP portal. If anything different is required, then modification may be requested from the competent authority administering the CPP portal.

8. Extension of the Time period for submission of bid:

It has been observed in a case that sufficient time was not given to the tenderers to submit their bids after issuance of the corrigendum giving sufficient time to submit bids to all eligible bidders promotes competition.

9. Receipt of Tender Document:

Proper arrangements have to be made for receipt of tender documents in cases where hard copies of the tender are also being accepted. Otherwise all tender bids are to be received electronically on the portal. Records of receipt must be available on files.

Further, in case of receipt of Tender documents in Hard Copies, the envelope containing such bid documents shall also be signed by Bid opening members while opening the Hard copy, and such envelope shall also be made part of the Tender file and time and date of receipt must be mentioned clearly.

10. Evaluation of Bids:

During the evaluation of the bids – technical and financial, only the members nominated to be part of the committee by the Competent Authority, as per delegation of powers, must be present.

The Committees must be nominated prior to the last date for submission of bids (wherever possible). In a case, it was observed that the accepting authority for the Tender Committee recommendation, was present during the technical evaluation of the tender. This is highly irregular.

11. Conflict of Interest vis-à-vis Appointment as Bid evaluation committee member:

It has been observed that the Bid evaluation committee also comprises of outside experts. It must be ensured that there shall be no apparent Conflict of Interest emanating from having such experts on the evaluation committee vis-à-vis their involvement in the process for formulating specification, price estimation etc.

12. Evaluation of Technical Bid vis-à-vis Presentation/ Interview taken and Freezing

(Recording) of Points/Scores:

In many cases, presentation or interview of bidders are taken during the course of Technical Bid evaluation. The bid evaluation committee assesses the same and gives points/ score, which are assessed subsequently to arrive at the best bidder during technical bid evaluation process.

It has been observed that there have been multiple instances, when the technical bid evaluation committee failed to record/ freeze their score just after the presentation/ interview was over. The scores/points must be frozen by each member of technical committee on the same day and at the end of the presentation/interview. Otherwise, there is a scope of outside influence.

In cases where all the presentations cannot be scheduled on a single day, the scores to individual presenter shall not be kept for awarding/finalization for end of the process. Ideally, scores by each technical bid evaluation committee member should be recorded and frozen just after the end of the presentation/ interview.

13. Evaluation of Financial Bid:

Reasonableness of rates must be discussed and placed on record during evaluation of financial bids. The reasonableness of rates must be based on the estimated rates which could be based on market surveys, last accepted rates, budgetary quotes. In most of the cases examined, the reasonableness of the rates was not established rendering the process highly subjective.

14. Negotiation after Financial Bid Evaluation:

CVC instructions are very clear in such cases. Negotiation must be avoided to as much extent as possible as it leads to corruption. However, negotiations, if they must be conducted in exceptional circumstances (which must be recorded) are to be done with L1 only. Existing

instructions in GFR, the Manuals for procurement/works/ goods and service and CVC OMs may be consulted.

15. Signing of Contracts

The contracts/ agreements after award of tenders must be signed at the earliest to avoid any ambiguity in the services required by BIS from the contractors. This is not a difficult thing to do as all the tender documents, contract conditions and deliverables are to be vetted legally and financially prior to being uploaded on the CPP portal.

In a particular case, a limited tender was called for and the normal time for receipt of bids was curtailed citing urgency of the work required. However, the agreement for that work was signed almost two months of award of work. This negated the urgency which had required the call for limited tender and the compression of time for submission of bids. Fair competition was curtailed in this case.

16. Consultant Appointments:

BIS has resorted to the appointment of consultants very frequently stating lack of in house expertise. These appointments have not been done in a transparent manner. There have been cases when consultants have been appointed on a nomination basis without any reasonable justification for it and the cases did not meet with the criteria for single tender. In other cases the time allowed for submitting the bids was compressed reducing competition, as it was much less than specified in GFR 2017 and Manual for Procurement of Services. In another case, it has been observed that the need to hire the consultant was for a different purpose as stated in the proposal, but after hiring the consultants were made to do work different from what was stated in the need.

Hiring of consultants should only be resorted on need based basis, where there indeed is lack of expertise in BIS, and this too should only be with a defined time line and pre-defined set of deliverables/ work expected out of engagement of such consultants. The work so done

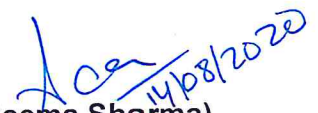
Hiring of consultants should only be resorted on need based basis, where there indeed is lack of expertise in BIS, and this too should only be with a defined time line and pre-defined set of deliverables/ work expected out of engagement of such consultants. The work so done by consultants should be reviewed at the appropriate level and at fixed definite intervals, and continuation of the services of the consultant should be done only based on the outcome of such review. The review needs to be done based on the deliverables/ work identified initially as per the proposal for engagement of the consultant. In a particular case, it was observed that the consultant was given a different set of deliverables after award of contract than what was in the tender document or the justification given on the file.

17. Providing complete Background/ genesis of any new Project proposal along with detailed justification and Benefits to be accrued by BIS on implementation of the Project:

It has been observed that whenever a new proposal had been taken in BIS, there had been no background/ genesis of idea given in the proposal by proponent department. Further, a detailed justification vis-à-vis mode of execution and benefits to be accrued by BIS had also not been made part of the proposal.

Further, the proposal should mention the Budget Head, and availability of funds must be certified by the appropriate authority.

If above systemic improvement suggestions are meticulously adhered to and followed in BIS, it will enhance the transparency during the process of awarding contracts/ purchases.


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14/08/2020

DG