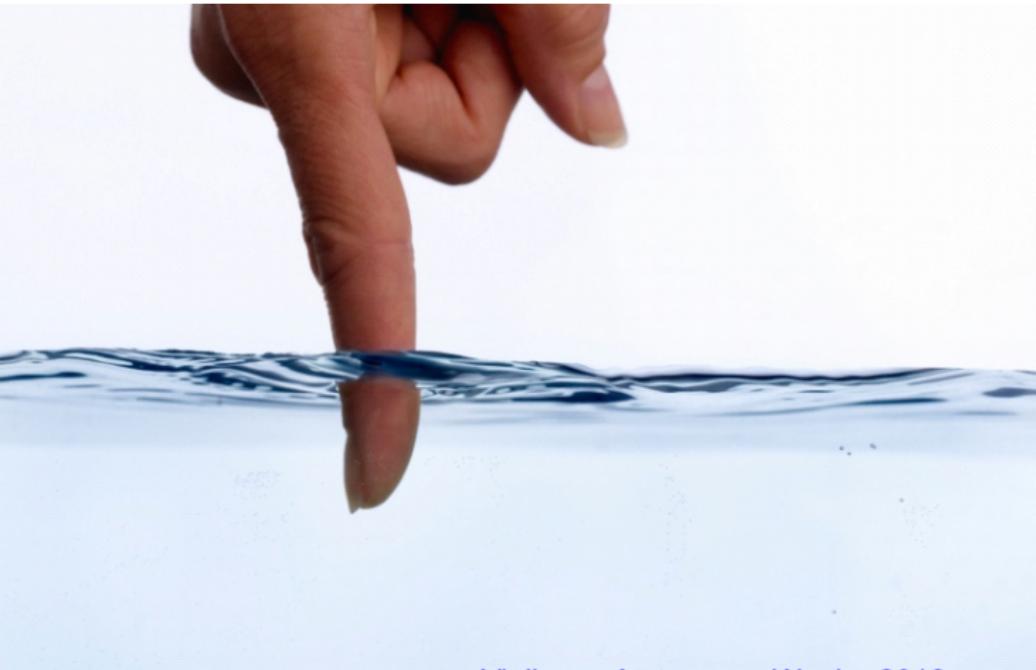




Transparency
in
Public Procurement



**“TRANSPARENCY
IN
PUBLIC PROCUREMENT”**

F O R E W O R D

The Theme for Vigilance Awareness Week 2012 is “Transparency in Public Procurement.” This booklet that is in your hands, is an attempt to collate the best practices to enhance transparency in procurement as available in the public domain through the CVC. Guidelines, Directives issued by the Ministry of Defence, Public Procurement Bill 2012, United Nations Convention Against Corruption (UNCAC), HAL Purchase Manual and also experiences gained from practical handling of issues by the Vigilance Department. These generic concepts when applied with understanding will result in efficient public procurement and meet the essential requirements of Transparency by providing level playing field to all participants, reduce discretion, cost and time.

The Officers of IMM Department of various Divisions have given their valuable suggestions on the draft, which have been suitably incorporated. In that sense, this attempt is a demonstration of participative vigilance in the Organization. It may, however, be noted that the check points and best practices mentioned in the booklet do not replace or interpret the HAL Procurement Manual, which shall remain the primary authority on the subject.

TEAM VIGILANCE

HINDUSTAN AERONAUTICS LTD.

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1. Cardinal Principles of Public Procurement

- ✓ To procure the materials / services of the specified 'quality' in specified 'time' at the most competitive 'prices' and in a 'fair, just and transparent manner'.

- ✓ To have uniform and well documented policy in compliance with the guidelines of the Central Vigilance Commission and the directives of the administrative ministry.

2. Pillars of Public Procurement

- ✓ Value-for-money
- ✓ Open and effective competition
- ✓ Ethics and fairness in dealings
- ✓ Accountability and Reporting
- ✓ Equity & Transparency

3. Why Transparency in Public Procurement?

- ✓ Transparency is needed to foster competition
- ✓ Competition is seen as the best way to get value for money
- ✓ Transparency fosters the confidence of the taxpayer in the public procurement institutions
- ✓ Most powerful way to fight corruption

4. Standards of Financial Propriety

✓ Every officer incurring or authorizing expenditure from public money should be guided by high standards of financial propriety.

✓ Every officer should also enforce financial order and strict economy and see that all relevant financial rules and regulations are observed, by his own office and by subordinate disbursing officers.

✓ Every officer is expected to exercise the same vigilance in respect of expenditure incurred from public money as a person of ordinary prudence would exercise in respect of expenditure of his own money.

✓ The expenditure should not be prima facie more than the occasion demands.

✓ No authority should exercise its powers of sanctioning expenditure to pass an order which will be directly or indirectly to its own advantage.

✓ Expenditure from public money should not be incurred for the benefit of a particular person or a section of the people, unless -

(a) a claim for the amount could be enforced in a Court of Law, or

(b) the expenditure is in pursuance of a recognized policy or custom

✓ The amount of allowances granted to meet expenditure of a particular type should be so regulated that the allowances are not on the whole a source of profit to the recipients

5. Ethics of Purchasing

✓ **Relationship with the suppliers:** In all their dealings and transactions, the personnel of the Purchase Departments:

a) shall conduct themselves in an exemplary manner in keeping with the best interest,

b) Dignity and tradition of the Company and their profession. In this connection, the Code of Conduct & Ethics' adopted by the Indian Institute of Materials Management, Which is reproduced below, shall serve to guide their actions:

i) To consider first, the TOTAL interest of one's organisation in all transactions without impairing the dignity and responsibility of one's office.

ii) To buy without prejudice, seeking to obtain the maximum ultimate value for each Rupee of expenditure.

iii) To subscribe and work for honest and truth in buying and selling, to denounce all forms and manifestations of commercial bribery, and to eschew anti social practices.

iv) To accord a prompt and courteous reception, so far as conditions will permit, to all who call upon a legitimate business mission.

v) To respect one's obligations and those of one's organisation, consistent with good business practices.

6. Procurement Procedures

- ✓ The Procurement Manual should aim to achieve reduced cycle time of procurement.

- ✓ Procurement procedure should leverage technology, automate the procurement process and should reduce human interface in procurement process.

- ✓ Procedure should be drafted with an objective to reduce the overall cost of the procurement, to promote efficient Procurement & Contract administration, to ensure effective competition and to promote transparency, equity, fairness, accountability in entire chain of procurement process

- ✓ It should enforce uniform practice in entire company.

- ✓ To guide the procurement officials, it is desirable to devise a detailed checklist for each stage of procurement, like provisioning, tendering, bid opening, bid evaluation, order processing and post contract monitoring. This checklist will also provide guidance to the procurement professionals and will be a practical tool for efficient procurement administration.

- ✓ Discretionary power needs to be supported by clear guidance and balanced with adequate accountability mechanisms

- ✓ It should contain model Contracts for various types of procurement. Such model contracts should be included in the bid documents for entering into contact with successful bidder.

- ✓ Code of Ethics should be formulated and notified to promote transparency in procurement administration and to avoid conflict of interest of the officials involved in the process.

7. Planning / Material Provisioning / MPR Stage

- ✓ Aggregating the requirements on an annual basis based on approved production program as per the Revenue Budget.
- ✓ To take into account of existing stock, ordered supplies in pipeline, Provisioning proposals in pipeline, WIP, Safety stock requirement, reorder level etc., as applicable.
- ✓ Provisioning only against firm order from Customer and should not include requirements against anticipated orders from Customers except in case of the anticipated requirement has already been considered and approved in the Revenue Budget.
- ✓ To consider nature of item, i.e., type of material, consumable, Shelf-life, lead-time, etc., involved in ordering and supply by the Vendor.
- ✓ Requirements should not be split as it will lead to multiple reordering.

- ✓ Unnecessary procurements should be avoided.

- ✓ Even for trial order / prototype requirements, tendering should consider total requirements covering entire project period to get lower price considering larger volume of business involved.

- ✓ Appropriate approving authority would be reckoned considering total value of procurement in respect of Long Term Business Agreements and value of future ordering during entire length of Project, in case of Design, Development and Indigenization.

8. Vendor Registration & Vendor Directory

- ✓ Press advertisement should be issued inviting Vendors for registration in respect of regular requirement of materials and services.
- ✓ Certain manufacturers of repute / PSUs normally do not apply for formal registration. In such cases, the procuring agency may register them after intimating them.
- ✓ Approved Vendors identified for a product or a class of product should be compiled, as Vendors Directory and hosted in the Company's website.
- ✓ In Vendor Directory, list of Vendors should be sorted category-wise to facilitate issue of NIT /RFQ to all registered Vendors in that category during Limited Tendering.
- ✓ Vendors Directory should be updated once in a month and uploaded in the Website of the Company.
- ✓ All the Vendors who had participated against Open Tender should be scrutinised and included in the Vendor Directory to consider them in the subsequent ordering.
- ✓ Last successful Vendor should be included in the Vendor Directory.

9. Pre-bid Stage

✓ Information / documents, which are considered unnecessary or irrelevant to the evaluation of the bid, should not be sought from bidders. It is needless to say that failure to submit these documents and fulfil these requirements can lead to the disqualification of the bidder leading to poor competition.

✓ Unjustifiably advanced technical requirements should not be specified in the RFQ /NIT that result in under-utilisation of equipment. **Over specification** will restrict competition and also result in increased procurement cost.

✓ At the same time, **Lesser / Very Few / Broad specification** will not meet the end use or result in compromising the required efficiency or performance standard and result in rejection of material procured causing avoidable loss to the Company.

✓ Specification should be generic and capable of being supplied by multiple Vendors.

✓ Specification should cover appropriate quality standard required for end use.

✓ **Tailor made specification** would result in single response to a competitive tendering process which is against the basic tenants of Public Procurement.

✓ Indenting officials at times simply **duplicate the specifications** used for preceding contracts. In such cases, it not only conveys simple inefficiency / negligence but may also result in restricting competition and increase in cost of procurement.

✓ In certain tenders, specifications are formulated **from a catalogue** of one of the firms that may participate in the tender leading to extending favour to that bidder in competitive tender process.

✓ In certain tenders, the specifications / performance criteria are more strict than necessary, limiting the number of bidders and making the contract needlessly more expensive. The costs increase because of lack of competition and excessive specificity of the products.

✓ While drawing specification / scope of supply, **life cycle requirements** including maintenance of the item / asset should be kept in mind.

✓ Appropriate quality certificate or test certificate to be furnished by the Vendor, should be specified in the bid documents, depending upon the end use requirements.

✓ Safety requirements should be elaborated in bid documents

✓ **Criteria for Technical evaluation** should be explicitly mentioned in the bid documents

✓ **Criteria for Commercial evaluation** should be explicitly mentioned in the bid documents

✓ Tender evaluation criteria should not be too stringent as it would restrict effective competition.

✓ Tender evaluation criteria should be clear, implementable, leaving no scope for ambiguity. It should not be subjective, vague and open to interpretation. It should be made known to the bidders upfront.

- ✓ Tender clauses and terms & conditions that are mandatory / essential should be specifically stated upfront in the bid documents

- ✓ Penalty / weightage, if any, for non-adherence of tender clauses / terms, should be spelt out in the bid documents.

- ✓ **Essential and desirable** parameters / specifications should be spelt out upfront in the bid document.

- ✓ **Realistic estimate** should be prepared and basis of estimation, factors considered should be recorded. Estimate should be prepared on landed cost to the Company, i.e., it should include all financial implications associated with the procurement like taxes and duties and installation and commissioning etc.

- ✓ In case of repeat order, laid down procurement procedure should be followed as there is no competition in placement of repeat acceptance parameters etc., should be clearly brought out in the bid documents.

10. Integrity Pact (IP)

- ✓ IP is a pre-bid agreement to be signed by all the Bidders who participate in the tender with the Buyer. Mandatory requirement of signing IP agreement and its terms and conditions should be stated in the bid documents.

- ✓ Integrity Pact preferably cover 90% of the procurements made by the Company.

- ✓ Deviations, if any, in the approved format of the Integrity Pact should be considered and approved by the Competent Authority.

- ✓ Adoption of Integrity Pact in an organization is voluntary, but once adopted, it should cover all tenders / procurements above a specified threshold value, which should be set by the organization itself.

- ✓ IP should cover all phases of the contract i.e., from the stage of Notice Inviting Tender (NIT) / pre-bid stage to the stage of last payment or a still later stage, covered through warranty, guarantee etc.

✓ IEMs are vital to the implementation of IP and at least one IEM should be invariably cited in the NIT. However, for ensuring the desired transparency and objectivity in dealing with the complaints arising out of any tendering process, the matter should be referred to the full panel of IEMs, who would examine the records conduct the investigation and submit a report to the management giving joint findings.

11. Tender Stage

- ✓ Adequate publicity should be given

- ✓ Adequate and effective competition should be ensured.

- ✓ Tender on nomination basis or single tender basis which restricts competition should be avoided. In case of unavoidable circumstances, reasons for the resorting to the same should be recorded in writing and price reasonability to be provided.

- ✓ There should be a **level playing field** among the bidders. For example, specifications, scope of supply, terms and conditions etc., should be general and applicable to all the bidders.

- ✓ **Entry barriers**, (stringent pre-qualification) should be avoided as it restrict or prohibit entry to new bidders and also may promote cartel formation.

- ✓ **Shortened deadlines**. Sufficient tender response time should be allowed depending upon the nature of the item / equipment being tendered and mode of tendering being adopted, i.e, Limited, Open and Global tender.

- ✓ **Mode of tender**, i.e., limited or open should be decided based on procurement procedure and also after considering availability of number of registered Vendors.

- ✓ Selection of Vendor from the Vendor Directory should be transparent and based on predetermined selection criteria.

- ✓ Middlemen and broker are not to be allowed to participate in the tender. This aspect is to be made known to all bidders upfront through bid documents.

- ✓ In case of OEM insisting on dealing with distributors / channel partners, due diligence is to be ensured to confirm the credentials of such authorisation documents, before dealing with them.

- ✓ In case of more than one distributor exists for a proprietary item, limited tender is to be issued to all such distributors.

- ✓ Basis of selection of Vendors and criteria adopted for their selection should be recorded in writing and approved.

- ✓ Requirement should not be split. As far as possible, demand / requirement should be aggregated and consolidated which will bring down cost of procurement due to higher volume of business involved.

- ✓ Wherever, technical evaluation is required, two-bid system should be followed.

- ✓ Bid documents, i.e., NIT or RFQ are not transferable. This aspect should be clearly brought out in the bid documents.

- ✓ Unsolicited bids are not to be accepted in limited tender process.

- ✓ Non-Disclosure Agreements (NDA), if any, should be signed by the bidders as per the terms of bid documents to ensure confidentiality of the data / documents being supplied to the bidders.

- ✓ Terms of supply of samples / documents, if any, by the tender agency and returning thereof by the bidders should be clearly brought out in the bid documents.

✓ Where the equipment / plant to be procured is of complex nature and the procuring organization may not possess the full knowledge of the various technical solutions available in the market to meet the desired objectives of a transparent procurement, it would be prudent to invite expression of interest and proceed to finalise specifications based on technical discussions / presentations with the experienced manufacturers / suppliers in a transparent manner. Once the technical specifications and evaluation criteria are finalized, the second stage of tendering could consist of calling for techno commercial bids as per the usual tendering system under single bid or two bid systems, as per the requirement of each case.

✓ Terms of **supply of samples** at various stages, if any, by the bidder, testing methodology, testing parameters, selection / acceptance parameters etc., should be clearly brought out in the bid documents.

✓ Last date and time of submission of the bids should be indicated in the bid documents. Late tenders should not be considered and to be returned to the bidders unopened.

- ✓ **Unsigned bids** and letters should not be accepted and considered.
- ✓ Tender details, bid documents, name of the successful bidder, and details of Contracts awarded are to be **hosted on the Website** to promote transparency.
- ✓ **Pre-bid conference** scheduled, if any, should be indicated in the tender documents to provide clarifications to the bidders and same should be hosted on the website of the Company.

12. Conflict of Interest

- ✓ Conflict of interest, if any, arising out of bidders and other entities or officials should be avoided. For example, consultant of the Project should not be allowed to bid for any of the tenders of that Project.

- ✓ All tender processing authorities should confirm that they do not have conflict of interest in the subject tender being processed.

- ✓ In a tender, either the Indian agent on behalf of the Principal / OEM or Principal / OEM itself can bid but both cannot bid simultaneously for the same item/product in the same tender.

- ✓ If an agent submits bid on behalf of the Principal / OEM, the same agent shall not submit a bid on behalf of another Principal / OEM in the same tender for the same item/product.

- ✓ Bid documents should clearly indicate whether one Vendor can submit more than one bid. For example, some bidders quote for option-1, option=2 etc. Tender should indicate whether multiple bids submitted by the same Bidder will be considered.

13. Tender Opening

- ✓ Date, time and venue of tender opening should be specified in the bid documents and bidders should be invited to witness the tender opening.

- ✓ Tenders should be opened by the tender opening committee, on the date and time of opening indicated in the tender documents, in the presence of the witnessing bidders.

- ✓ Each member of Tender opening committee should authenticate each and every page of tender documents submitted by the Bidders. Discrepancy, if any, noticed by the Committee should be recorded.

14. Tender Scrutiny

✓ Procurement officials should scrutinise the bids to confirm that the EMD, Integrity Pact. Samples, if any, and other pre-bid documents have been submitted by the each bidder to decide whether to accept or reject the bids which have not been complied with such tender conditions.

✓ There should be no scope for discretion in respect of acceptance or rejection of bids. Tender scrutiny will be carried out as per the criteria notified in the tender documents.

✓ Only such bids comply with tender conditions, should be subjected to the Technical Evaluation.

15. Pre-Qualification Stage

- ✓ In case of Three Stage Bidding, pre-qualification bids will be opened and evaluated first.

- ✓ Evaluation should be carried out by a committee duly nominated for evaluation of pre-qualification bids.

- ✓ Evaluation should be as per the evaluation criteria notified in the bid documents.

- ✓ Results of evaluation should be notified to all the bidders who have submitted the bids.

- ✓ Technical and commercial bids of rejected bidders should be returned unopened intimating reasons for rejection of their pre-qualification bid.

16. Tender Evaluation Stage (Technical)

- ✓ Evaluation should be done as per the Technical Evaluation criteria notified in the tender documents

- ✓ Technical Evaluation should be carried out by the duly constituted Technical Evaluation Committee (TEC).

- ✓ Point-wise or parameter-wise compliance of tender specifications and technical parameters spelt out in the bid documents by each bidder to be tabulated in a matrix form. This compliance statement to be signed and certified by each member of the TEC.

- ✓ Technical recommendation should be clear, unambiguous and unequivocal in respect of acceptability of each bid or otherwise. Reasons for acceptance or rejection should be recorded and approved by the TEC

- ✓ There should be no post tender change in tendered specification or scope of supply. In case of necessity, retender should be resorted to.

✓ Bids should be evaluated on the basis of bids submitted and clarification obtained from the Bidders. While seeking clarification from the bidders, equal opportunity should be provided to all the bidders.

✓ Bids should not be evaluated on the basis of presentation alone given by the bidders to the TEC and to be evaluated only on the basis of evaluation criteria notified in the bid documents. In case of presentation / demonstration being one of the bid requirement, criteria for such evaluation should also be notified in the bid documents.

✓ In case of on the spot inspection or evaluation of facilities of the Bidders is called for, detailed criteria for assessment and evaluation of such exercise should be notified in the bid documents to avoid evaluation of bids arbitrarily.

✓ Technical evaluation should be carried out as per the evaluation criteria notified in the tender documents and bids should not be evaluated arbitrarily.

✓ While it is recognized that samples may be required to be approved to provide a basis in respect of indeterminable parameters such as shade, feel, finish & workmanship for supplies of such items but system of approving / rejecting tender samples at the time of decision making is too subjective and is not considered suitable, especially for items which have detailed specifications. The lack of competition in such cases is also likely to result in award of contracts at high rates.

✓ It is thus advised that Government Departments/Organizations should consider procurement of such items on the basis of detailed specifications. If required, provision for submission of an advance sample by successful bidder(s) may be stipulated for indeterminable parameters such as, shade/tone, size, make-up, feel, finish and workmanship, before giving clearance for bulk production of the supply. Such a system would not only avoid subjectivity at the tender decision stage but would also ensure healthy competition among bidders and thus take care of quality aspect as well as reasonableness of prices.

17. Tender Evaluation Stage (Commercial)

- ✓ Unopened commercial bids of the bidders whose technical bids have been rejected, should be returned to the respective bidders unopened.

- ✓ Commercial evaluation should be carried out as per the evaluation criteria notified in the bid documents.

- ✓ Appropriate loading and levelling of bids is to be carried out to bring all bids in the same comparable level in the Comparative Statement of Quotes (CSQ) to decide on tender priority.

- ✓ Parameters or methodology for loading and levelling of bids should be spelt out in the bid documents

- ✓ Bids should be evaluated on cost to the Company basis. All financial implications arising out of bid conditions should be evaluated and loaded to the respective bids in the CSQ.

- ✓ Conditional bids should be rejected

- ✓ Bids to be evaluated and processed for approval within the validity period of the quote.

- ✓ Correspondence with the bidders should be avoided during commercial evaluation stage.

- ✓ CSQ should be evaluated and approved by the appropriate procurement authority and appropriate financial concurring authority.

- ✓ Upon finalisation of tender priority, EMD of unsuccessful bidders should be returned at the earliest.

18. Price Negotiation

- ✓ Price negotiation should be held by a duly appointed committee.

- ✓ Record of discussions of the proceeding of price negotiation held with bidder should be preserved in the concerned procurement proposal.

- ✓ It should be ensured that the price negotiation is held within validity of the quote and negotiation should not delay the procurement process.

- ✓ There should normally be no post tender negotiations. If at all negotiations are warranted under exceptional circumstances, then it can be with L1 (Lowest tenderer) only

- ✓ As post tender negotiations could often a source of corruption, there should be no post-tender negotiations with L-1, except in certain exceptional situations. Such exceptional situations would include procurement of proprietary items, items with limited sources of supply and items where there is suspicion of a cartel formation. The justification and details of such negotiations should be duly recorded and documented without any loss of time.

- ✓ Negotiations should not be allowed to be misused as a tool for bargaining with L-1 with dubious intentions or lead to delays in decision-making.

- ✓ Competent authority should exercise due diligence while accepting a tender or ordering negotiations or calling for a re-tender within a definite timeframe and it should be ensured that tenders are invariably finalised within their validity period.

19. Order Processing for approval of CFA

- ✓ Procurement proposal should be processed for prior approval of appropriate CFA with due concurrence of appropriate finance.

- ✓ Procurement proposal should be self contained, self explanatory with adequate justification for procurement, quality provisioned, price reasonability, price recoverability. It should also bring out total financial implication arising out of the subject procurement proposal.

- ✓ Procurement proposal should be processed by concerned authorities within the validity of the quote.

- ✓ Procurement proposal should be pre-audited by appropriate finance concurring authority to confirm that the subject proposal is in compliance with the laid down procurement procedure, standards of financial propriety and availability of funds in the sanctioned budget.

20. Order Execution Stage / Contract Administration Stage

✓ Bidders cannot transfer the bid they won to a third party. Hence, Contract should be entered only with the bidder who won the Bid. Sub-contracting of the contracted work is also not allowed except to the extent of the sub-contracting notified by the bidder in the bid documents which was evaluated and accepted by the Procuring agency.

✓ Tender conditions should not be waived in favour of the bidder. Like waiver of Security deposit, Performance Bank Guarantee, etc.,

✓ Tender conditions should not be relaxed in favour of the bidder. For example, relaxation in terms of delivery period, terms of payment, terms of inspection and acceptance etc.

✓ Post tender changes in specification or scope of supply should not be permitted

✓ Supply of goods or services should be inspected and accepted as per the terms and conditions stipulated in the Contract / Purchase Order.

✓ Payments to the Vendor should be released as per the terms of Contract and there should not be any delay in release of payments.

✓ Bank Guarantees submitted by the Vendor should be verified with issuing bank if the BG is not received directly from the issuing bank.

21. Re-tender:

- ✓ Reasons for proposing for re-tender should be recorded.
- ✓ Re-tender should not be resorted on flimsy grounds to deny order to the bidder (L1) identified through tender process.
- ✓ Re-tender should be resorted to only after prior approval of the competent authority.

22. Banning and removal of Vendor from Vendor Directory

- ✓ Vendor should be issued with show-cause notice in respect of action proposed to be taken and reasons for the same. Based on their response decision should be taken.

- ✓ Approval of Competent Authority is to be obtained before proceeding against Vendor. Reasons for taking action against Vendor should be recorded

- ✓ Action against Vendor should be taken as per the procedure laid down in the Procurement Procedure.

23. E-Procurement

- ✓ E-Procurement covers:
 - a) e-Tendering
 - b) e-Auctioning Forward Auction and Reverse Auction

- ✓ It should have provision for on-line registration of Vendors.

- ✓ The traditional auction is a **Forward Auction**. It normally involves a seller offering an item for sale, while potential buyers compete with each other for purchase. Thus price is driven up, until no buyer is willing to go up further. For scrap disposal, forward Auction could be ideal mode.

- ✓ In **Reverse Auction**, wherein, multiple sellers of a product bid competitively. Therefore the price is driven down. This mode is best suited for procurement of highly competitive item for which many vendors are available.

- ✓ E-Procurement means procurement of goods and services online using the internet. Ideally, it covers the **full 'process life cycle of procurement'**.

✓ The aim is to automate, possibly, the entire procurement process, along from tender bid submission stage to payments to the suppliers, in an online web-based real-time environment.

✓ E-procurement process should cover entire process of procurement for effective procurement administration, i.e., it ideally should cover, Pre-tender process, online Vendor directory, Bid hosting, Bid uploading, provision for online payment of EMD etc., It also includes, Tender opening, Technical Evaluation, Commercial Evaluation, Order placement, Post contract management and online Vendor rating processes.

✓ e-Procurement could resolve many of the constraints / delays of traditional procurement

✓ All registered Vendors in the E-procurement portal for that category of items should be considered for limited tender enquiry.

✓ Information on the issue of NIT /RFQ should be provided through all registered Vendors through E-Mail / SMS

- ✓ Soon after deciding on tender priority, all Vendors who had participated in the tender should be intimated regarding tender priority through E-mail / SMS, to promote transparency

- ✓ E-procurement portal should provide an online tool for Vendors to monitor the receipt, inspection and acceptance of materials supplied by them.

- ✓ E-procurement Portal should also provide tool for Vendors to monitor the status of payments released to them.

- ✓ Payments should be directly made to the Vendors / Contractors through online payment gateway integrated with ERP system to avoid manual payment processes.

24. General Principles of Procurement (as per Public Procurement Bill 2012)

✓ The procuring entity shall, in relation to a public procurement, have the responsibility and accountability to,

(a) ensure efficiency, economy and transparency;

(b) provide fair and equitable treatment to bidders;

(c) promote competition;

(d) ensure that the price of the successful bid is reasonable and consistent with the quality required; and

(e) evolve mechanisms to prevent corrupt practices

✓ **Technical Specification:** The description of the subject matter of procurement shall be set out in the prequalification document, bidder registration document and the bidding document, as the case may be, in such manner that

(a) it meets the essential needs of the procuring entity;

(b) to the extent practicable,

(i) it is objective, functional, generic and measurable;

(ii) it sets out required technical, qualitative and performance

Characteristics;

- (iii) it shall not indicate a requirement for a particular trade mark, trade name or brand;
- (c) it is in accordance with the guidelines as may be prescribed.

Where applicable, the technical specifications shall, to the extent practicable, be based on the national technical regulations or recognised national standards or building codes, wherever such standards exist, and in their absence, be based on the relevant international standards: Provided that a procuring entity may, for reasons to be recorded in writing, base the technical specifications on equivalent international standards even in cases where national technical regulations or recognized national standards or building codes exist

- ✓ **Bidding document** shall contain
 - (a) the description of the subject matter of procurement;
 - (b) in case of procurement of
 - (i) goods, its specifications including the nature, quantity, time and place or places of delivery;
 - (ii) works, the nature and location or locations of the works;
 - (iii) services, the nature of the services and the location or locations where they are to be provided;

- (c) the limitation for participation
- (d) the manner, date and time for presentation of bids;
- (e) the criteria for evaluation of bids;
- (f) the essential terms of the procurement contract;
- (g) any other information which the procuring entity considers necessary for the bidder to submit their bids.

✓ **Bid evaluation criteria** shall relate to the subject matter of procurement and may, as applicable, include

- (a) the price;
- (b) the cost of operating, maintaining and repairing goods or works;
- (c) the time for delivery of goods, completion of works or provision of services;
- (d) the characteristics of the subject matter of procurement, such as the functional characteristics of goods or works or the environmental characteristics of the subject matter;
- (e) the terms of payment and of guarantees in respect of the subject matter of procurement;
- (f) Where relevant, quality based criteria such as the experience, reliability and professional and

technical competence of the bidder and of the personnel to be involved in providing the subject matter of procurement.

(i) Where considered necessary, the procuring entity may also specify trials, sample testing and other additional methods of technical evaluation of a bid: Provided that the requirement of such trials, sample testing or additional methods of evaluation shall be indicated in the bidding document and a record of such trials and testing shall be maintained in such manner as may be prescribed.

(ii) As far as practicable, all non-price evaluation criteria shall be objective and quantifiable.

(iii) The criteria for evaluation of bids shall be contained in the bidding documents.

(iv) Where applicable, the relative weights to be attached to each criterion shall be specified in the bidding documents;

(v) No criteria or procedure, other than those mentioned in the bidding document, shall be used by the procuring entity in evaluating bids.

25. United Nations Convention Against Corruption: “Article 9”- Public procurement and management of public finances:

✓ Each State Party shall, in accordance with the fundamental principles of its legal system, take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption. Such systems, which may take into account appropriate threshold values in their application, shall address, inter alia:

a) The public distribution of information relating to procurement procedures and contracts, including information on invitations to tender and relevant or pertinent information on the award of contracts, allowing potential tenderers sufficient time to prepare and submit their tenders;

b) The establishment, in advance, of conditions for participation, including selection and award criteria and tendering rules, and their publication;

c) The use of objective and predetermined criteria for public procurement decisions, in order to facilitate the subsequent verification of the correct application of the rules or procedures;

d) An effective system of domestic review, including an effective system of appeal, to ensure legal recourse and remedies in the event that the rules or procedures established pursuant to this paragraph are not followed;

e) Where appropriate, measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements.

✓ Each State Party shall, in accordance with the fundamental principles of its legal system, take appropriate measures to promote transparency and accountability in the management of public finances. Such measures shall encompass, inter alia:

a) Procedures for the adoption of the national budget;

b) Timely reporting on revenue and expenditure;

c) A system of accounting and auditing standards and related oversight;

d) Effective and efficient systems of risk management and internal control; and

e) Where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph.

✓ Each State Party shall take such civil and administrative measures as may be necessary, in accordance with the fundamental principles of its domestic law, to preserve the integrity of accounting books, records, financial statements or other documents related to public expenditure and revenue and to prevent the falsification of such documents.

✓ Procurement is acknowledged to be a process vulnerable to corruption, collusion, fraud and manipulation. States Parties are required to develop procurement procedures covering above aspects.

✓ It is important to note that public procurement regulation is not about anticorruption per se the common objectives of most procurement systems include value for money, integrity, accountability, fair treatment, and social/industrial development

✓ Achieving the objectives of procurement including anti-corruption comes about not only through regulation but also as part of good governance.

✓ The main elements of national procurement systems are procedures to identify, specify, and announce goods to be procured and to determine which suppliers are eligible to participate, a requirement for open tendering or equivalent unless there is justification for restricting participation, pre-established evaluation and award procedures, and review or bid-challenge procedures.

✓ States Parties must have clear and comprehensive procedures that cover all aspects of contracting, including the role of public officials, which explicitly promote and maintain the highest standards of probity and integrity in all dealings.

✓ States Parties must also have similar requirements governing any deviation from stated procedures, with documented and publicly recorded reasons to justify this.

✓ It is essential that all decisions taken are transparent and accountable, and can withstand scrutiny by monitoring agencies, the legislature and the public.

- ✓ Transparency is one of the main means to achieve integrity in the procurement process
- ✓ A further important dimension of transparency is free, accurate and accessible information to all players.

26. Points to Remember

- ✓ Record reasons for deviations, if any, in real time and put up to Competent Authority for approval;

- ✓ Ensure pagination and clubbing of part files so that they are maintained compactly and future decisions are based on complete facts of the case;

- ✓ Avoid inordinate delays in disposing / deciding, as it would attract Vigilance angle;

- ✓ Transparency, equity and accountability are not clichés; they are blood, flesh and heart of public procurement;

- ✓ When in doubt ask; do not hesitate to get things clarified, a little alertness would save all of us, from adverse situations;

- ✓ Don't blame the rules for tardy progress, rules are made to enhance managerial efficiency and not to reduce them. It is how well, we understand them and at what speed we implement them is what decides the outcome;

✓ As Public Servants we are all trustees of Public Money;

✓ Success of leveraging technology in the field of procurement has more to do with the will to adapt and change, rather than relegating it to mechanical meaning of automation;

✓ When you have nothing to hide, nothing stops you from being transparent, as it is a mere reflection/disclosure of your actions;

✓ Early bird catches the prey; Planning well in advance, is the panacea for most of the problems encountered during procurement process; You push yourself to the 'last-minute-situation' and you tend to adopt shortcut / bypass procedures as fait accompli;

✓ Please keep a vigorous track of Slow Moving Inventory, and plan procurements accordingly, as they are the ones who would become Non-Moving inventory in no time;

✓ Finalise the Contracts/Tenders well within the validity period of quotations. Most of the times it is seen that owing to internal bureaucratic procedures, the order is not finalized, putting HAL to disadvantage;

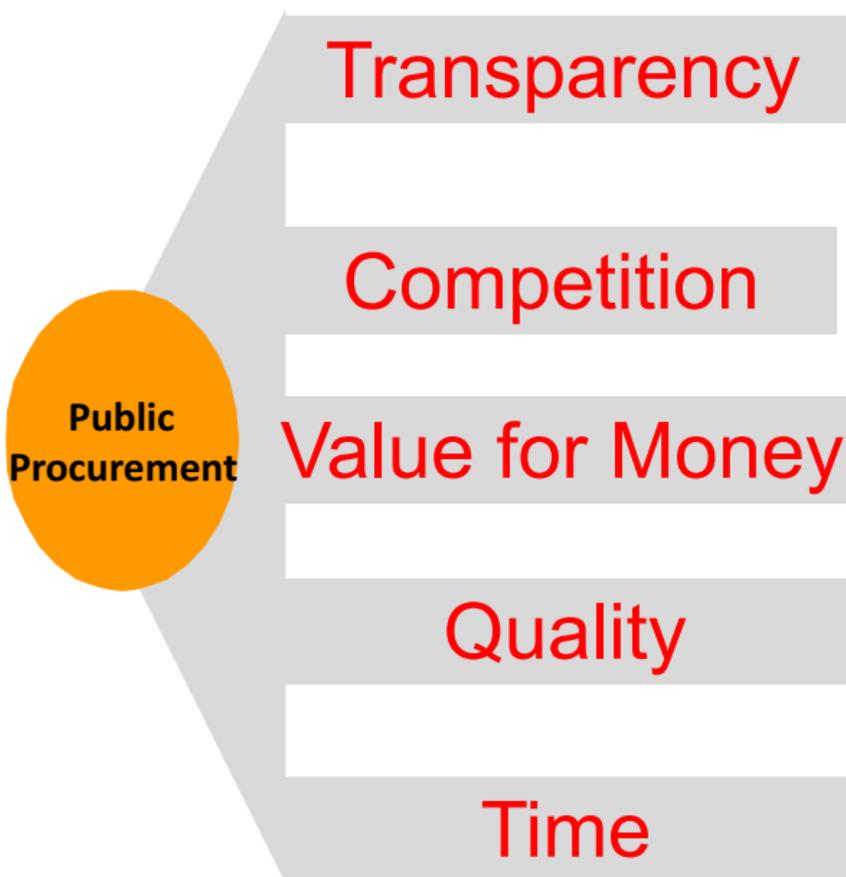
✓ Buying from L1 does not essentially mean that quality is being compromised. It is the quality of “selection process through tendering” that would determine the product, not merely the L1 position.

✓ Less discretion and more competition should be the mantra of public procurement.

✓ Following the principle of 'Just-in-time' reduces the burden of carrying inventory.

Disclaimer:

The objective of publishing this booklet is to sensitize our colleagues regarding the purpose and importance of Transparency in Public Procurements. This compilation is not an official policy of HAL. For specific issues, the relevant official policy / directives / guidelines may please be referred to.



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HINDUSTAN AERONAUTICS LIMITED