

Public Procurement Reforms to enhance value for money

1. It is my pleasure to be here in the inaugural function of the Seminar on “Public Procurement Reforms to enhance value for money” being organized by the Competition Commission of India. A follow on seminar with the presence of Prof. Christopher Yukins is certainly a very welcome and useful event. I consider it my privilege to deliver a keynote address on this occasion. Procurement of goods and services accounts for a large proportion of the financial outlay of Government or any organisation. Procurement capabilities, skills and standards within governments and outside stand to be enhanced through cooperation and exchange of knowledge. As such, the seminar organized today is a remarkable event. It is a great initiative which seeks to brainstorm and come up with ideas to improve procurement practices. I am sure, many valuable suggestions will flow from the deliberations in the Seminar.

2. Procurement in government is a process seeking to obtain services, supplies and equipment in conformity with applicable laws and regulations. It is the process by which Governments and public sector institutions buy inputs for vital public sector investments in physical infrastructure and for strengthening institutional human capacities which lay the foundation for national development. Procurement takes many forms. It encompasses the acquisition of goods, real property, capital equipment, built assets and services. Procurement costs in many Ministries and departments are

substantial, consuming scarce resources of tightly constrained Government budgets. Quality, timeliness, and appropriateness of the procured inputs largely determine whether the public investment will succeed. Efficient public procurement system is therefore vital for achieving accelerated growth and development of the country.

3. Fair and open competition is the best and the most transparent way of achieving value for money in large procurements having wide vendor base and also in cases of allocation or lease of public assets or natural resources for exploitation by private parties. Procurements not done in such a manner do not inspire public confidence at large. Allocation of spectrum and grant of mining concessions are two such areas not following the route of open competition and therefore raising concerns about achievement of value for money. Any reform in the process of public procurement must, therefore, ensure that not only the procurements of goods and services but also the sale or allocation of public assets and natural resources of the country to private entities must also satisfy the fundamental requirement of fairness, transparency and competitiveness.

4. Periodically, we have been conducting comprehensive review of procurement systems, procedures and practices in various Ministries and Departments of the Government. Such reviews are intended to identify major systemic weaknesses in the procurement systems and suggest ways to address them with the overall objective of enhancing value for money in public procurements. The major audit concerns pointed out in such reviews

relate to quality, timeliness and appropriateness of the procurements made by the departments. The public procurements in many departments and Ministries suffer from serious delays, indecisiveness, and frequent change of specifications, lack of accountability, inadequate competition and acceptance of goods of inferior quality. Procurements suffer from defective formulation of specification resulting in frequent change of specifications after invitation of bids, inefficient system of technical evaluation which normally leads to single source selection, improper financial evaluation and frequent misuse of special procedures like emergency procurements. Despite colossal loss to Government exchequer in such mis-procurements, the procuring officers are not held accountable for their inefficiencies and delays. Such procurements do not provide value for money and increase cost of public services substantially.

5. Uniform procurement procedures to promote best value for money

Value for money is the core principle underpinning procurements all over the world. This principle requires comparative analysis of all relevant costs and benefits of each proposal throughout the whole procurement cycle (whole of life costing). It is not about achieving the lower initial cost but getting optimum combination of whole life cost and quality. Adoption of an integrated procurement approach which incorporates whole of life costing models will increase overall effectiveness of the procurement activity. This principle must be adopted by Government departments in their strategic/complex procurements. There is a need to review procurement policies and procedures to achieve certain degree of consistency and

uniformity in procurement policies and procedures across Government Departments.

6. Improving accountability

Public procurements are often prone to fraud and corruption. The problem can be addressed by strengthening accountability framework in Government. Accountability is at once a key deterrent to collusion and corruption and a pre-requisite for procurement credibility. Successive Audit Reports have brought out that procurement regulations are not sufficiently followed and, therefore, there is no assurance that public sector entities select the most qualified suppliers at the best price. All Government officials and purchasing organisations must be obligated to comply with financial regulations and rules issued for public procurement. Liability and accountability of delinquent officers must be ensured. This would improve compliance and hence gain value for money.

7. e-procurement.

With the advancement of technology, e-procurement should become a standard way of procuring routine and non-strategic goods and services in the Government. Public procurements suffer from the problem of serious delays and lack of competition. e-procurement holds a huge promise and offers substantial reasons to Government to move its purchasing online. Doing procurements electronically offers the potential of faster purchasing and more reliable upto date information to secure better prices. It offers scope to aggregate purchasing across departments or divisions and enables

better compliance of rules and good practices. E-procurement certainly needs to be adopted to facilitate electronic tendering, monitoring prices and suppliers' performance. However, there is need to voice caution viz. e-procurement solution is not easy. It is not a quick fix to problems. It requires a thorough understanding of current processes. Adequate guidelines must be in place to facilitate e-procurement.

8. Standards of ethical behaviour

Officers in procurement, particularly those dealing directly with suppliers must demonstrate highest standards of ethical behaviour. This principle encompasses the concept of honesty, integrity, probity, diligence, fairness, trust and consistency. The Government should develop a code of good customer practices which should be effectively enforced by an independent agency to bring in greater accountability in public procurement. There is also a best practice in some international public sector organisations to include "Guidelines on staff ethics and professional responsibility" in the procurement manuals of the organisation to ensure that the procuring officers are aware of the Government instructions and policy on acceptance of gifts, favours, remuneration, economic benefits, hospitality, honours etc. from any non-Governmental source including the suppliers. Non compliance of such practices should invite adverse notice on vendors and officials.

The United Nations' procurement policy requires the vendor to allow UN or any person that the UN may designate, to inspect or carry out audits of vendors accounting records and financial statement in connection with the

contract. Such a practice is advised in public sector procurements in India to promote accountability and ethical behavior.

9. Integrity Pacts

Transparency International has developed Integrity Pact (IP) as a tool aimed at preventing corruption in public contracting. IP involves signing of an agreement between the Government department and all bidders containing rights and obligations to the effect that neither side will: pay, offer, demand or accept bribes; collude with competitors to obtain the contract; or engage in such abuses while carrying out the contract. The IP also introduces a monitoring system by an independent oversight and accountability authority and requires bidders to disclose all commissions and similar expenses paid by them to anybody in connection with the contract.

Worldwide, arms trade, oil and construction sectors are rated as most prone to corruption. Oil and Natural Gas Corporation Ltd. (ONGC) in India has already adopted the Integrity Pact system in 2006 to institutionalize transparency in its procurement practices. Defence Procurement Procedures 2006 for capital acquisitions as well revenue procurements have also incorporated provisions making it mandatory for the Defence Ministry to sign an Integrity Pact with the bidders in all procurements of value over Rs. 1 billion. Since Integrity Pact contributes in improving credibility of public procedures and administrations, it should be integrated with procurement procedures of all major procuring departments and agencies in India including DGS&D, Public works and Railways.

10. Green procurement

Green procurement is the purchase of environmentally preferable goods, services or works. Integration of environmental consideration in public procurement is an area that has remained largely unfocused in government buying in India, while other countries like US, Korea etc. have made rapid progress by mandating the purchase of energy efficient products in public procurement and installation in government buildings. Government needs to reform the existing procurement policy to promote purchase of energy efficient goods in public procurement. Products that are reusable, more durable and energy efficient may have higher initial cost. Yet the cost of these over their useful life may be significantly lower. There are economic benefits in form of efficiency gains from incorporating whole-life costing into decision making. Any development that is not sustainable will eventually destroy development itself. Green procurement must become a norm rather than an exception.

11. Procurements by agencies receiving funding from Government

A large number of bodies and authorities including non-Governmental organisations are receiving significant amounts of funds from government for implementation of various developmental programmes in social and economic sectors. Such bodies and authorities must use Government procurement procedures while spending Government money on procurement of goods and services. This will ensure that the tax payers'

money is spent by them in a transparent and fair manner to make cost effective procurements.

12. New and complex arrangements of procurement of goods and services.

Procurement takes many forms. It can be multifaceted and sometimes quite complex. For an effective delivery of goods and services, governments have embarked on innovative arrangements like the public-private partnerships. PPPs operate at the boundary of public and private sectors. Such arrangements often involve comprehensive risk allocation, long-term concession period, complicated revenue sharing mechanism and contract arrangements. These pose serious challenges to the executive and audit. New skills are needed to evaluate the complex transactions. Such arrangements must be subjected to an effective oversight to ensure that the objectives of bringing out an alliance are achieved in an economical and effective manner. An in-depth evaluation of all the stages of the PPP project cycle including procurement/ contracting process, against the core principles of competitiveness, value for money, transparency and accountability is essential.

13. Exploring aggregation opportunities

The government departments/agencies must try to maximize purchasing advantage by aggregating purchases. This calls for an effective system in place to review the short and long term purchase requirements and to initiate steps in advance. Aggregation opportunities would help to improve buying power of departments/agencies and secure better value for money.

14. Internal Controls, Assessment of Risks

A major reason for poor financial accountability is the weak internal controls in financial management of the Government. Internal controls serve to provide assurances on proper financial reporting, safeguarding of assets and achievement of organisational objective with due regard to economy, efficiency and effectiveness. Very importantly, it is the foundation of accountability. Unlike most countries in the world, we are yet to formally embrace a modern framework of internal control. A comprehensive framework for establishing and maintaining internal control needs to be developed. Government agencies must take effective steps to ensure that their organizational structures are robust and that public funds are not prone to misuse, waste and fraud. These departments must upgrade their control environment and plug weaknesses in key procurement control activities. Establishing effective internal control involves an assessment of the risks that a government agency faces. Government departments lack a proper risk assessment framework for identifying and managing procurement activities that are vulnerable to fraud, waste and abuse. Hence, development of risk management skills in government agencies would be necessary. Departments under the government have to bring themselves up to the task of formalizing their risk assessment and control processes in the interest of better financial management. The way forward would be to sensitise the Ministries/Departments on the need for risk management and initiate development of skills for risk management. The objective should be to ensure that risk management becomes a standard feature of the way departments carry out their activities. Without a risk management strategy

for procurement, the Government departments would not be fully equipped to identify areas that would require stronger oversight.

15. Following rules and regulations takes time. To speed up delivery, core corners cannot be cut. The acquisition time must be reduced by careful planning and better project management. Requirements must be carefully thought out and clearly defined to meet overall objectives. The bidding process must be fair and open. The key principles of contracting viz., competition, fairness and transparency must be consistently incorporated in each transaction. There should be an effective contract review process to provide reasonable assurance that high value contracts are undertaken in accordance with established rules. Important and critical risks must be clearly identified and managed. Government buyers must equip themselves with skills to identify and assess risks commensurate with significance of purchase. The procurement framework must operate with clearly defined accountabilities, open and competitive processes and highest standards of professionalism. Maintaining best practice procurement requires continuous improvement. Immediate attention and focus must be given to achieve excellence in procurement, in substance and not only as a formality.