PUBLIC PROCUREMENT OF GOODS & WORKS BY VIGILANCE WING PRASAR BHARATI



SCOPE OF WORK

 It is essential for any procurement case to have its scope clearly defined, in specific term. The genesis of any procurement lies in the realization of a need for betterment of existing system in terms of efficiency, economy, convenience of use /assets creation /day to day maintenance and operational requirements etc.

CONTD. CVC MANUAL 2017 CHAPTER- 9.9.1

> Public procurement means acquisition by purchase, lease, licence or otherwise of goods, works or services or any combination thereof, including award of Public Private Partnership projects, by a public procuring entity, whether directly or through an agency with which a contract for procurement services is entered into, but does not include any acquisition of goods, works or services without consideration.

PROCUREMENT MANUAL

CVC MANUAL 2017 CHAPTER- 9.9.2

>Important Ingredient of Public Procurement Process : Public constitutes procurement substantial part of Government spending; as such there is a need to create adequate safety mechanism to arrest any possibility of misuse of public funds.

PROCUREMENT MANUAL

Contd...

- Cardinal principle of public procurement is to procure the materials services/ works of the specified quality, at the most competitive prices and in a fair, just and transparent manner. To achieve this end, it is essential to have uniform and well documented policy guidelines and procedures in the organisation, so that this vital activity is timely executed in a well-coordinated manner, with least cost overruns. Procurement(work/purchase/services) Manual should be regularly updated. Delegation of power and commensurate accountability, at various levels of decision-making, should be essential feature of the Procurement Manual.
- In some organisation, Procurement Manuals is either not in place or has not been updated for years together, which renders the system of procurement ad-hoc and arbitrary. Such organisations are required to prepare Procurement Manual, in keeping with instructions of Government of India and guidelines of Central Vigilance Commission.

PROCUREMENT MANUAL Contd...

Financial Rules 2017, Manual for Procurement of Goods 2017, Manual on Policies & Procedures for Procurement of Works 2019 and Manual for Procurement of Consultancy & other Services, 2017 are to be followed while processing procurement cases.

DETAIL PROJECT REPORT / DETAILED ESTIMATE

CVC MANUAL 2017 CHAPTER -9.9.2 (v) GFR 2017 RULE - 139

- > DPR is to be prepared on actual ground conditions.
- Detailed preparatory work must be undertaken before finalising the technological aspect determining tender terms and conditions.
- Detailed estimate should be based upon last accepted rates (open tender), standard schedule of rate, proper cost analysis on different inputs and market survey

HISTORY SHEET OF ESTIMATE (CPWD WORKS MANUAL 2019 - PARA 3.1.1.2)

•	Estimate No.:		fc	or	
•	State	:			
•	Branch:				
•					
			Division		
•	Name of Work:				
•	Fund	:			
•	Major Head	:			
•	Minor Head	:			
•	Detailed Head	:			
•	Estimate frame probable cost of		.Engineer	of the	
•					
	REPORT				

ABSTRACT OF COST - ORIGINAL ESTIMATE

(CPWD WORKS MANUAL 2019 - PARA 3.1.1.2)

State	Division
Branch	Sub-Division

Name of work.....

Serial No.	Sub- head & item of work	Quantity or no.	Rate	Unit	Amount	Remarks

ADMINISTRATIVE APPROVAL AND EXPENDITURE SANCTION CVC MANUAL 2017 CHAPTER -9.9.2(iii) GFR- 2017 RULE -132

- No procurement shall be commenced or any liability incurred in connection without administrative approval and sanction to incurred expenditure from competent authority
- Preparation of preliminary cost estimate is necessary after preparation of preliminary project report.

DESIGN AND DRAWINGS

CVC MANUAL 2017 CHAPTER -9.9.2 (vi)

- Designing of products / structures /service modules is an important aspect of any procurement
- Design should be in keeping with the prevailing ground conditions and include all necessary details leaving no room for ambiguity.

TECHNICAL SANCTION

(CPWD WORKS MANUAL -2019 PARA 3.1.1.6)

- Detailed estimate shall be prepared based on applicable schedule of rates. Market rate shall be followed for items not covered under schedule of rates.
- For powers of Technical Sanction allotted by PB/DD/AIR should be followed.

NOTICE INVITING TENDER CVC MANUAL 2017 CHAPTER -9.9.2 (ix)

- The award of any public contract must be through transparent, fair and competitive process, ensuring at the same time, economy and efficiency of the procurement process.
- The Commission vide circular no. 98/ORD/1 dated 18.12.2003, issued guidelines for uploading the Notice Inviting Tender and also tender documents in a down loadable form on the web site of the organisation. The web site publicity is to be given even in the case of limited tenders.

NIT REGISTER

(CPWD WORKS MANUAL - 2019 PARA - 4.10)

- Register of NIT's issued during the year.....
- Name and address of the Division.....

SI.	Date	Sub.	S. No.	Name of	Estima	Date of	Remarks
No.		Div./	Assigned by	work	ted	opening	
		Divisi	Sub –Div. (if		cost		
		on	located				
			outside)				

TENDER DOCUMENTS

(CVC MANUAL 2017 CHAPTER -9.9.2 (vii)

- The tender documents must, at least, contain information as to the complete description /specifications of the subject matter of the procurement
- Various information /documents, normally included in the tender documents, are as follows:
 - (i) Notice Inviting Tender (NIT)
 - (ii) Instructions to Bidders (ITB)
 - (iii) Additional Instructions to Bidders (AITB) (instead of modifying ITB, it is better to have information specific to a procumbent as a separate section).
 - (iv) Eligibility and qualification criteria
 - (v) Schedule of requirements
 - (vi) Technical specification (including drawings) and Quality Assurance (Inspections and tests)
 - (vii) General Conditions of contracts (GCC)
 - (viii) Special Conditions of contracts (SCC)
 - (ix) Standard formats, including Bid Cover letter, price schedules, bank guarantees and contract format.

PRE-QUALIFICATION / BID ELIGIBILITY CONDITIONS CVC MANUAL 2017 CHAPTER -9.9.2 (viii)

- Pre-qualification aims at selection of competent contractor/s, having technical and financial capacity-cum-capability,.
- The Commission issued guidelines vide Circular No. 12-02-1-CTE 6 dated 17.12.2002 and 07.05.2004 advising framing of the pre-qualification/eligibility criteria in such a way that they are neither too stringent nor too lax to achieve the purpose of fair competitions.

TWO BID SYSTEM

(GFR-2017 RULE-163 & MANUAL FOR PROCUREMENT OF WORKS-2019 PARA 3.5)

- Adopted for procurement of high value plant, machinery etc. of complex and technical nature.
- Technical Bid and Financial Bid are submitted in separate and sealed covers.
- Both the bids to be put in other bigger cover duly sealed.
- Technical Bid to be opened first and technical evaluation made.
- Financial Bid of only the technically acceptable offers are opened.

PRE-QUALIFICATION BIDDING

(MANUAL FOR PROCUREMENT OF WORKS -2019 PARA 3.3.6)

- For high value contracts /complex technical requirement /capability of source of supply is crucial
- Pre-qualification criteria should be un-restrictive so as not to leave out even one capable bidder.
- > The criteria should be restrictive enough so as not to allow even one incapable bidder.
- Similar completed works during last 7 years
 - 1.1 Three similar completed works costing not less than the amount equal to 40 %of the estimated cost; or
 - 1.2 Two similar completed works costing not less than the amount equal to 50% of the estimated cost; or
 - 1.3 One similar completed work costing not less than the amount equal to 80% of the estimated cost; and
 - 1.4 The applicant should also have achieved the minimum annual production value of the key construction activities (e.g. dredging, piling, or earth works etc.) stipulated

MODES OF TENDERING CVC MANUAL 2017 CHAPTER -9.9.3

- Procuring entity can adopt any of the following methods of tendering for procurement of goods, works or services on the basis of their approved policy/procedure, in line with GFR provisions and guidelines issued by the CVC, from time to time –
- (a) Open tender
- (b) Limited tender
- (c) Single tender/ Nomination
- (d) Spot purchase /tender
- (e) Govt. e-market place

(A) OPEN TENDER (GFR 2017 RULE-161)

• Open / Advertised tendering is the most preferred competitive public procurement method. In case of procurement of goods, having estimated tender value Rs. 25 lakh or above, invitation to tenderers should normally be through advertisement [Rule 150 of GFR 2005 (161 of GFR 2017)]; in case of works tenders, open tenders will be called for works having estimated value more than Rs. 5 lakh and above (para 4.2.5.1 of Manual on Policies and Procedure for Procurement of Works, 2006 issued by Department of Expenditure, Ministry of finance). All other organisations, not with in the ambit of these instructions, may follow their respective Purchase manuals for threshold values to float open tender. It is imperative that all such organisations have Purchase Manuals, duly approved by the competent authorities, dealing with all necessary instructions on complete procurement process.

(b) LIMITED TENDER (GFR 2017 RULE -162)

> Limited Tenders are also known as short term, closed or selective tenders. Also, limited tendering can be adopted in case of limited sources of supply /contractors who can perform the work, emergency or to meet the specific safety technical requirements, with the approval of the competent authority as per the laid down instructions.

(c) SINGLE TENDER (GFR 2017 RULE -166)

Single tendering means sending the tender enquiry to one particular party only. Single tenders should be avoided, as far as possible. Single tender process is to be followed only in exceptional and unavoidable conditions with proper reasoned justification.

(d) SPOT TENDER

This type of tendering may also be resorted to in case of immediate requirement or where it is difficult to determine exact specifications due to inadequate market information. As tendering process is not adopted for spot purchase, special attention is required for ascertaining rate reasonability.

BID SECURITY OR EARNEST MONEY (GFR-170)

- Required in case of Advertised or Limited Tender Enquiry.
- Firms registered with CPO, MSME or the concerned Ministry/Deptt. exempted from Bid Security.
- > Range: 2 to 5% of the estimated value.
- Acceptable modes: DD, Banker Cheque, FDR or Bank Guarantee from a commercial Bank or payment online in an acceptable form.
- Should be valid for 45 days beyond the bid validity period.
- Bid Securities of unsuccessful bidders should be returned on expiry of bid validity or latest by 30th day after the award of the contract.

PERFORMANCE SECURITY (GFR-171)

- > To be obtained from the successful bidder awarded the contract.
- > To be obtained irrespective of registration status of the firm.
- > Range: 5 to 10% of the value of the contract.
- > Mode: same as for Bid Security.
- Validity: sixty days after date of completion of contract.
- Bid Security to be refunded after receipt of Performance Security.

TENDER EVALUATION AND AWARD CONTRACT

CVC MANUAL 2017 CHAPTER -9.9.2 (x)

- Evaluation of tenders is done strictly as per pre-notified criteria.
- There is no inordinate delay in processing of the tender for award, and preferably, the tender is finalised within original bid validity period.
- Commission's guidelines on negotiation with the bidder /s are complied with.

TENDER EVALUATION AND AWARD CONTRACT CONTD....

CVC guidelines in this regard have been issued vide following circulars:

- CVC circular no. 8(1)(H)/98(1) dated 18.11.1998
- CVC circular no 98/ORD/1 dated 24.08.2000
- CVC circular no 98/ORD/1 dated 15.03.1999
- CVC office order no. 13/3/05(005/VGL/4 dated 16.03. 2005
- CVC circular no 06-03-02-CTE-34 dated 20.10.2003
- CVC circular no. 004/DSP/11-6594 dated 24.02.2005
- CVC circular no .005/CRD/012 dated 03.03.2007

CONTRACT AGREEMENT

CVC MANUAL 2017 CHAPTER -9.9.2 (xi) GFR 2017 RULE - 224 & 225

- Contract agreement is a legal document, including letter of acceptance, which is signed at the final and conclusive stage of tendering process.
- > The basic principles, to be always kept in view, by those who are authorised to enter into agreements are as follows:
- (i) the terms of contract must be precise and define.
- (ii) What the contractor is to do; when, where and to whose satisfaction it is to be done;
- (iii) What the procuring entity is to do; and on what terms;
- (iv) What payment is to be made; to whom it is to be made; and the method and basis of making it;
- (v) The terms on which variations and modifications, if any, are to be permitted, the authority competent to order and to assess them, and the occasion and basis of such assessment.
- (vi) The measures to be adopted in the event of a breach of the contract by either party thereto; and the method of and grounds for the determination thereof;

PAYMENT TO THE CONTRACTORS

(CVC MANUAL 2017 CHAPTER - 9.9.2 (xii)

- > Payment to the contractors should be made strictly as per the terms of contract. It should be ensured that:
- (a) Payment is made as per the terms of the contract.
- (b) There is no duplicate/overpayment to the contractor/supplier
- (c) Rates for extra /substituted items are derived as per the provision in the contract agreement / Procurement Manual.
- (d) Advances are paid to the contractors /suppliers for the amount specified in the contract agreement.
- (e) Recovery of advances is made as per the terms of the contract agreement.
- (f) Recovery of mandatory taxes and cuties is done as per the extant statutory provisions and instructions of the Central and / or State Government/s, as the case may be, and as per the terms of the contract agreement.
- (g) Reimbursement of service tax, Excise Duty, etc. is done against documentary proof.
- (h) Some of the contracts provide escalation clause. In such cases, payment must be as per the provisions of the contract.
- (i) Hire charges of Plant and Machineries are recovered from the contractor as per the specified rate.

COMPLETION REPORT CVC M&NU&L 2017 CH&PTER -9.9.2(xiv)

A Completion Report must be prepared at the end of procurement process in time bound manner. The primary objective of preparing Completion Report is expenditure compare actual made to procurement with cost estimates provided in the last sanctioned estimate; the comparison should carried out across all the heads/sub heads of credit and debit, as included in the estimate. Items having substantial variations, on either side, are explained. The Report, after vetting from the associated finance must be put to the competent authority, as per the Purchase Manual, as tool of financial appraisal of the procurement process.

RELEASE OF GUARANTEE/SECURITY DEPOSITS

CVC MANUAL 2017 CHAPTER -9.9.2 (xiii)

An employer must ensure that guarantee/security deposits are release as soon as the stage, associated with such guarantee/security deposit, is reached to the satisfaction of the procuring entity, on due certification and recording of the facts and as per the terms and condition of the contract agreement.

GOVT. E-MARKET PLACE (GFR 2017 RULE - 149)

- > The procurement of goods and services is mandatory to purchase available on GeM
- > The monetary limit should considered while purchasing through GeM.

LEVERAGING TECHNOLOGY PUBLICITY CVC MANUAL 2017 CHAPTER 9.10

LEVERAGING TECHNOLOGY CONTD.....

- > (a) E-Procurement e- procurement means use of information and communication technology for procurement of goods, works, services or any combination thereof. E-procurement in respect of all procurements having estimated tender value of Rs.2 lacs or more, in a phased manner. Procurement covers complete tendering process, staring from online publishing of tender enquiries, online bid submission by the bidders, online bid evaluation and publication of award of contract. All authorised users in the procuring entity are required to have valid digital signature certificate along with user ID and password to carry out e-procurement process. It also requires all prospective bidders to register/enrol on Central Public Procurement Portal (CPPP) or any other e-procurement portal under use by a procuring entity, use of valid digital signature and valid e-mail address.
- (b) E- Sale e-Sale refers to sales activities carried out with the help of information and communication technology, especially internet.
- (c) Reverse Auction Reverse auction is a process of online, real-time purchase, adopted by procuring entities to select the successful bid.

PUBLICITY

(GFR 2017 RULE -159 & 160)

- > It is mandatory to publish tender inquiries, corrigendums and awards on the Central Public Procurement Portal.
- > To publish on GeM and organisations websites
- ➤ All the public procurement agencies are required to e-publish information regarding tender enquiries, on Central Public Portal, accessible at the URL Procurement (http://eprocure.gov.in) or e-procurement sites under use by them, duly providing a link or mirroring information between the two sites.

OPENING OF TENDERS (MANUAL) PROCUREMENT OF GOOD -2017 PARA - 5.3

- Presence of authorized representatives of tenderers during opening of tenders.
- Each bid should be numbered serially and dated on the first page and the envelope.
- Tender opening officers should sign with date on each page of tender documents.
- The price, important terms and conditions should be encircled and initialed.
- Cuttings, overwriting and alterations should be initialed and number thereof should be recorded on the same page.
- Signature of the authorized signatory of the firm on each page of the tender be ensured.
- Entry should be made in the Tender Opening Register

OPENING OF E-TENDERS

- Bids opened to be entered in bid opening register.
- ➢ Bid opening authority download schedule of quantities of each bidder with put a seal downloaded by me on dated..... and page no. of sheets and sign on each page.
- ➤ The comparative statement automatically generated to be checked by Account Officer.

EXTRA SUBSTITUTE AND DEVIATED ITEM

CPWD WORKS MANAUAL - 2019 PARA 5.11.1
MANUAL FOR PROCUREMENT OF WORKS -2019 PARA 6.5.1

- The powers of officers to sanction EI/SI/deviations for works are given compendium of financial power delegated to CPWD officers.
- After sanction of EI/SI/Deviations should not exceed 10% of A/A & E/S amount
- Items prepared with proper nomenclature and specific reasons to execute the item. Casual remarks like required at site etc. should not be recorded.

EXTENSION OF TIME

(CPWD SECTION 9 & 29)

- > The contractor is required to prepare the bill in one of the forms prescribed as applicable in each case.
- > EOT can be granted on certain conditions.
- Contractor must apply to Engineer-in-C in writing.
- > Application must state the grounds that hindered the contractor in execution of work within stipulated time.
- > EOT must be submitted by contractor.

MEASUREMENT BOOKS (CPWD WORKS MANUAL -2019 PARA 5.12.1 and Manual for procurement of Works – 2019 para 6.5.2)

- Payment to contractors for the work done are made on the basis of measurement recorded in the measurement book.
- All the measurement book are numbered serially and register maintained for MB.
- Entries should be made like full name of work, location of work, name of contractor, agreement no., date of commencement, date of actual completion and date of recording measurements.
- Abstracts should be prepared in case of work done.
- Signature of the contractor obtained in the MB for each set of measurement
- No entry is erased or overwritten .
- The pages of MB are machined numbered.
- No measurement need for petty purchased made from permanent imprest account. Endorsement should be made on the cash vouchers/ bills of the suppliers.
- > Test check should be done by AE /EE , 50%/10% of work done respectively . In case of hidden and costly items 100% test should be done by AE.

COMPARATIVE STATEMENT & JUSTIFICATION

(CPWD WORKS MANUAL 2019 PARA - 5.1.6 & CVC guidelines Aug. & Nov. 2002)

- Comparative statement made by the Account Section with the certificate of correctness and percentage of each tenderer with respect to estimated cost.
- Justification should be prepared before opening the price bid.
- Justification should be prepared on the prevailing market rates.
- > 90% of the Estimated cost to be considered in the justification.

ACCEPTANCE OF TENDERS & NEGOTIATIONS (CVC GUIDELINES AND CIRCULAR NO. 01/01/10 DATED 20.01.2010)

- There should normally be no post tender negotiations except in certain exceptional situation with L-1 only.
- Variation upto 5% over justified rates may be ignored and upto 10% for peculiar situation and special circumstances. Reasons to be recorded by competent authority.

SITE RECORDS

- > Site order book.
- > Hindrance register
- > Material test register
- > Sample approval register
- > Calibration record of plant
- > Approvals of designs material etc.
- > Payment records
- In principal approval of deviation/extra/substitute items
- > Extension of time
- > Labour register
- > Measurement book.

WORK INSPECTION

- Measurement cross check
- Items provided as per specifications
- Stores maintained properly
- Payment of advances
- Test checks at site/Manufacturers
- Extra/substitute/deviation item
- Workmanship
- Safety precautions
- Testing of equipment
- Payments as per agreements
- Part rate payments.

MAINTAINING VARIOUS LEDGERS AS HEALTHY PRACTICE

- Administrative Approval and Expenditure Sanction
- > Technical Sanction
- > Noting Inviting Tender
- > Tenders Sale Register
- Agreement Register
- Work Order Register
- Supply Order Register
- Extra, Substitute and Deviation Item
- Bill Register

COMMON IRREGULARITIES IN PUBLIC PROCUREMENT CVC MANUAL 2017 CHAPTER -9.12

COMMON IRREGULARITIES IN PUBLIC PROCUREMNT CONTD....

9.12.1

Some of the areas of concern where irregularities in procurement cases have been observed on regular basis are as follows:

- (i) Improper estimation of cost; cost estimation without due regard to detailed specifications, site conditions and other procurement specific requirements for the tendered item may result incorrect decision.
- (ii) Bid eligibility conditions; Deviation from the laid down instructions on the subject either due to ignorance or vested interest, making eligibility criteria either too lax or restrictive.
- (iii) Bid evaluation criteria
- (iv) Verification of the credentials submitted by the bidders; Verifications of documents, submitted by the bidders in support of their credentials, is not undertaken with due diligence.
- (v) Participation by JVs: Just to meet the requirements of the bid eligibility conditions, constituent firms of a joint venture, join together in a loose manner without bringing out specific credentials and roles to be played by each one of them in contract execution.

WORKS CONTRACTS – IRREGULARITIES: VARIOUS SHORTCOMINGS / DEFICIENCIES CVC MANUAL 2017 CHAPTER 9.12.2

- Common irregularities / lapse observed in Award and Execution of Electrical, mechanical and other Allied Contracts and Guidelines for improvement thereof dated 21.11.2002 and
- Shortcomings of General Nature Observed during intensive examinations of Works Contracts dated 07.04.2004.

SUPPLY CONTRACTS - IRREGULARITIES CVC MANUAL 2017 CHAPTER - 9.12.3

Common irregularities /lapses observed during the Intensive Examination of stores / purchase contracts by CTEO were compiled in form of a booklet titled 'Common Irregularities /Lapses Observed in stores / purchase Contracts and Guidelines for Improvement in the Procurement System dated 15.01.2002.

CONSULTANCY / SERVICE CONTRACTS CVC MANUAL 2017 CHAPTER -9.12.4

- Guidelines in connection with selection of consultants have been issued by the Commission as follows:
- > CVC circular No. 3 L PRC 1 dated 12.11.1982
- > CVC Circular No. 3 L PRC 1 dated 10.01.1983
- CVC Circular No. OFF-1-CTE-1 dated 25.11.2002 reiterated its previous guidelines and listed out commonly observed lapses / irregularities.
- CVC Circular no. 98/DSP /3 dated 24.12.2004 clarified that consultants and any of its affiliates who are engaged for the preparation or implementation of a project, should be disqualified from participating in subsequent tenders for providing goods or works or services related to the initial assignment for the same project.

IT PROCUREMENT

CVC MANUAL 2017 CHAPTER: 9.12.5

- While procuring computer systems, it is advisable to go for generalized specifications and not to specify the international brands. Several instances of malpractices and irregularities were observed in the procurement contracts of IT and related products. Accordingly, the commission issued instructions vide following Circulars:
- > (i) No. 000/VGL/14 dated 06.03.2000
- > (ii) No. 98/ORD/1 dated 05.05.2003
- > (iii) No. 004/ORD/8 dated 03.11.2004
- > (iv) No. 007/CRD/008 dated 15.02.2008

CHECK LIST FOR PUBLIC PROCUREMENT PROCESS

CVC MANUAL 2017 CHAPTER: 9.12.5

 The compendium of check-points in public procurement for the purpose of ensuring fairness, equity and transparency is available on <u>Illustrative check Points on</u> <u>various stages of Public Procurement'</u> <u>issued by CTEO</u>.

COMPILATION OF GUIDELINES ON PUBLIC PROCUREMENT CVC MANUAL 2017 CHAPTER 9.14

Guidelines issued by CTEO on public procurement, from time to time, are available at www.cvc.nic.in

RELEVANT INSTRUCTION FROM MANUALS

CVC MANUAL 2017 CHAPTER: 9.15

Relevant instructions from Ministry of Finance

- General Financial Rules 2017
- Manual for Procurement of Goods, 2017
- Manual for Procurement of Works 2019
- Manual for Procurement of Consultancy & other Services 2017
- > CPWD Works Manual 2019
- Delegation of Financial Powers Rules
- > CVC guidelines

