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Common irregularities / lapses observed in award and execution of Electrical, Mechanical and other allied contracts and guidelines for improvement thereof (Part-II)

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For every action 5 men are responsible: One who performs, One who is the cause of the action, One who encourages the cause of action, One who shows ways and means and finally One who witnesses the action. And men can make or mar an Organisation. If Opportunity is Virtue, Business opportunities must be pursued through Business Ethics. At VSP, Vigilance is perceived as an effective tool to assist and advise the organization for creating and sustaining an honest, transparent, ethical and efficient work culture. Vigilance always identifies strengths and paves way for rooting out inadequacies in the system and procedures.

I am glad that the efforts of Vigilance Department in the Financial year i.e., 2013-14 have been successful. Vigilance could contribute in a purposive manner leading to substantial savings for the company. Impacts of all these resulted in the department bagging prestigious "Corporate Vigilance Excellence Award as well as three Individual Excellence Awards."

I whole-heartedly congratulate the vigilance team and award winners for the excellent work done. Our endeavour towards excellence will continue and hope the accolades received will empower the team to excel this year and also in the years to come.

With best wishes,


(B Siddhartha Kumar)

RINL VIGILANCE BAGS CORPORATE VIGILANCE EXCELLENCE AWARD FROM INSTITUTE OF PUBLIC ENTERPRISE, HYDERABAD FOR THE YEAR 2013-14

"Corporate Vigilance Excellence Award 2013-14" was bestowed on Rashtriya Ispat Nigam Limited on 6/03/14, for its outstanding initiatives in vigilance arena, particularly for taking proactive & predictive vigilance measures that resulted in substantial savings to the Company.



Sri B Siddhartha Kumar, IFS, CVO, RINL receiving the "Corporate Vigilance Excellence Award" from Sri B Surender Mohan, CMD, Neyveli Lignite Corporation

Toll free number for lodging complaints with Vigilance Department
1800 425 8878

(available from 09.00 -17.30 on all working days)



राष्ट्रीय इस्पात निगम लिमिटेड
Rashtriya Ispat Nigam Limited



COMMON IRREGULARITIES / LAPSES OBSERVED IN AWARD AND EXECUTION OF ELECTRICAL, MECHANICAL AND OTHER ALLIED CONTRACTS AND GUIDELINES FOR IMPROVEMENTS THEREOF

Chief Technical Examiner's organisation of Central Vigilance Commission (CTE of CVC) had earlier released a booklet on "Common irregularities/lapses observed in award and execution of Electrical, Mechanical and other allied contracts and guidelines for improvement thereof". It is being reproduced for information and guidance of our readers. This is the **Second part** of the same and the subsequent issues of Spandana will carry the remaining parts of the booklet.

2. ESTIMATES

• Preparation of estimates for contracts is an area that needs special emphasis. A well-defined scope of work and a realistic market rate estimate can prove to be a vital input for successful execution of a contract with high standards of quality. The estimates should take into consideration all relevant factors based on the prevailing market price of various inputs such as labour, material, equipment, etc. at the concerned locations. The estimates inter-alia should include the basic price, fabrication charges, inspection fees, duties, packing, handling and transportation charges, sales tax on works (WCT), octroi or any other statutory levies and installation, erection, testing and commissioning charges, licence fees, contingencies, etc. as applicable at the time of conception of the project. For big projects like Hydro-electric projects and other turnkey contracts where financial assessment of the project is done well in advance, before the finalisation of the contracts, the financial amount indicated in Techno-Economic clearance / Techno-Commercial feasibility reports should be duly analysed and updated before converting the same into a workable estimate. Any deficiency or inadequacy of data (in terms of rates or quantity) found in such reports should be highlighted beforehand in

order to prepare a realistic estimates for the tenders.

3. NOTICE INVITING TENDER

3.1 The most preferred, competitive and transparent mode of tendering is to go in for Open /Advertised tenders. However, there is a tendency in some organisations to go in for limited tenders for high value works. The reasons given for this are, either that the work has to be completed in a very short time or that the firms known for carrying out a particular work are very few in number. In the process, the competition is restricted which in turn results in cartel formation, higher rates and favouritism to select firms. At times, even in cases where advertised/global tender notices are issued, the same are published in 'local' dailies and not in any national newspaper. Surprisingly, in some cases, the notice was published only in the 'evening' newspapers. There are cases of the tender notice being published in a leading national newspaper but not on the page dedicated to the advertisements for tenders, thus partly restricting the competition and defeating the purpose of issuing advertised tenders. Some PSUs routinely follow the limited tendering system for all works and issue tender documents to contractors on their approved list. In one oil PSU, limited tenders were issued to 6/7 approved contractors but only one offer was

received. Though this was almost 20% higher than the estimated rate, it was accepted and the contract awarded, without any negotiations. On further examination, it was found that the other 'approved contractors' had not even bothered to respond or to send a regret letter which established that they were either no longer interested in dealing with the organisation or had formed a cartel to divide different works of the said organisation among themselves. Ironically, the 'approved contractors' list had not been updated for years giving credence to the cartel theory.

• In order to generate wide publicity for better competition and to avoid cartel formation and favouritism to select firms, it is imperative that the advertised/global tender notice should be published in select 'national' and 'local' dailies having wide circulation. Tender notices may also be displayed on the notice boards of other organisations. In case of global tenders, copies of the tender notices should be sent to Indian Missions / Embassies in major trading countries. In addition to the paper advertisements, the tender notices should also be put on the web-site indicating all the details of the tender. In case of limited tenders to 'approved contractors', due care should be taken to generate adequate competition and reasonableness of rates should be

established. The 'approved' list should be periodically updated weeding out the non performers and including fresh entrants in the field.

3.2 The Notice Inviting Tenders (NIT) should contain all the relevant information in an explicit and categorical manner. Some organisations do not indicate the estimated value in the tender notice with the apprehension that the bidder will come to know their estimates and who may then give biased offers. Some other organisations put forth a fraction of estimates in the tenders. And at times such information as may not be relevant and rather may mislead the bidders is also indicated in the tender notice. In one case of supply and installation of a DG set by a hospital in Delhi, the tender notice indicated an initial security deposit of Rs.1,00,000/- This amount was to be deposited by the successful bidder after award of the contract but the bidders after seeing high value as initial security deposit probably mistook this amount to be deposited with tenders in addition to the EMD. As a result some firms refrained from buying the bid documents and only one tender was sold despite repeated extensions and eventually the work was awarded on single offer basis. It has also been noticed that the tender sale and tender opening dates are not indicated in the tender notices and the tender sale is closed much in advance of tender opening date.

3.3 In some cases, the time given for submitting the bids is unrealistically short and only such firms acquainted

with the functioning of the organisation and with prior preparations are able to participate in the bid. One such case regarding execution of a very large hydroelectric project on turnkey basis is illustrative. The large and complex work running into thousands of crores involved a lot of spadework before submitting the bids. But the time given for submitting the bids for such a large project was only 45 days. During the pre-bid conference and through correspondence almost all the firms requested for an extension of the bid submitting date which was not granted to them. Due to abnormally short time given, only two contractors submitted the bids in time. On examination of the case, it was found that these two contractors had participated in the first round of tendering for this work but the tender had to be cancelled due to non-conclusion of the financial tie up for the project. The re-bids for the same work were invited almost after four years and on the plea of urgency sufficient time was not granted to the bidders to quote. However, these two contractors were fully prepared as they had already done their spadework and were therefore in a position to submit their bids in such a short period. The contract was also awarded at very high rates. Thus, the purpose of floating global tenders to give wide publicity and generate sufficient competition seems to have been defeated.

- In order to generate fair and adequate competition, It is important that sufficient time, depending upon

the magnitude and complexity of the project should be given to the bidders to submit their bids. For big projects, extensions if asked by a majority of the bidders may be considered in the larger interest of the project. Any corrigendum issued in support of extension of dates or any other information should be individually intimated by various means and also be published in the media for wider publicity.

4. PRE-QUALIFICATION CRITERIA (PQC)

4.1 The pre-qualification criterion is a yardstick to allow or disallow the firms to participate in the bids. A vaguely defined PQ criteria results in stalling the process of finalising the contract or award of the contract in a non-transparent manner. It has been noticed that organisations, at times pick-up the PQ criteria from some similar work executed in the past, without appropriately amending the different parameters according to the requirements of the present work. One such case of defective PQ criteria which resulted in restriction of competition and apparent favouritism to a particular firm, pertained to design, manufacture and installation of a cooling tower in one of the thermal power units of a PSU. The PQ criteria kept in the bid documents envisaged a condition of minimum capacity (in M3 /Hr) of cooling tower to have been executed in past by the prospective bidders. The minimum capacity was taken from the PQ conditions of a similar work but of higher capacity, executed in the past. On examining the case, it was found that this particular

threshold value resulted in qualifying only one bidder while a reputed PSU company that was L-1 got disqualified by a very narrow margin. Thus, the work was awarded to L-2 firm with a huge difference of amount. Had the threshold value kept in the PQ criteria been amended in proportion to the in capacity of cooling towers, probably L-1 firm would have qualified. Therefore, keeping a threshold value in a manner, which disqualifies the reputed and big firms out of the very few bidding firms not only results in restriction of competition but smacks of non transparency and favouritism.

4.2 At times the cases are re-tendered without adequate justification. While re-tendering, the PQ criteria is revised with a view to facilitate the entry of a particular firm. In one such case for the supply and installation of an AC plant in a PSU's corporate office building, the tenders were originally called with the condition that prospective bidders with an experience of installing 1000 tonne capacity only were eligible. The case was retendered without convincing justification and the experience criteria was reduced from 1000 tonne capacity to 600 tonne capacity. The firm that was awarded the work finally, had not qualified in the first round of tendering.

4.3 Another important criterion for pre-qualification of bidders is the period for which the work experience is to be considered. The cut off dates regarding work experience are not clearly indicated. In one such case, regarding the hiring of DG sets by a

PSU, on an annual basis, the PQ criteria required the prospective bidders to have three years experience in supplying DG sets to any Government PSU company on hire basis. Thus, the firms that had conducted such a business for 3 years, even 20 years back had qualified. On account of this vague condition, some firms that were currently not even in this business also participated in the tender.

4.4 The most important aspect of the PQ criteria is of course the nature of work for which the experience is required. Invariably the phrase 'similar work' is used in the tender notice and bid documents. This 'similar work' is interpreted differently by different agencies. In one case surprisingly, the supply and installation of AC ducting and the work of installing a false ceiling in the corporate office building of a PSU were combined in one tender. Such works are normally not executed together as ducting is normally executed as a part of the AC works while false ceiling forms part of civil construction or interior design works. Therefore, strictly speaking no firms can possibly qualify for such works with experience of 'similar work'. On examination, all the firms who participated in the bid were AC contractors and none of them had any experience of false ceiling work which constituted a large portion of the total work.

- While framing the pre-qualification conditions, the end purpose of doing so should be kept in view. The purpose of any selection procedure is to attract the participation of

reputed and capable firms with proven track records. The PQ conditions should be exhaustive, yet specific. For bigger and new projects, as far as possible a preliminary survey may be conducted to collect relevant data from the market about the firms of repute in the field. The factors that may be kept in view while framing the PQ criteria are namely,

- (a) the nature of the work;
- (b) the scope of work involved in the project;
- (c) likelihood of availability / experience of firms for such works;
- (d) volume/amount of the work;
- (e) financial status.

In addition to above, the cut off dates for the period of work experience, the volume in terms of minimum capacity of equipments as well as in terms of monetary amount should be clearly indicated in the pre-qualification criteria so as to avoid any ambiguity at the time of evaluating the bids.

5. TENDER/BID DOCUMENTS

5.1 It has been noticed that tender documents containing instructions to bidders, or the general and the special conditions of contract are not updated to suit the contract requirement. As a result, obsolete, irrelevant and sometimes conflicting, vague and incomplete clauses are incorporated in the bid documents. Sometimes the ambiguities in the contract clauses are detected at the time of execution of works and due to wrong interpretations / disputes,

contracts get delayed.

5.2 All the important clauses pertaining to earnest money deposit, completion schedule, factory testing of equipments, performance bank guarantee, payment terms, penalty for delayed completion, comprehensive insurance cover, contractors liability, safety arrangements, statutory arrangements for labour welfare, arbitration, etc. are at times not properly incorporated in the bid documents resulting in disputes and loss. to the organisation. These clauses are important for safeguarding the interest of the organisation and also have an indirect financial bearing on the evaluation of offers and execution of the contracts.

- All the important clauses as brought out above, need to be incorporated in the bid documents, in a proper and explicit manner so as to fully safeguard the interest of the organisation. The bidders are required to be made aware of what is expected to be done by them after award of the contract so that all factors may be considered by them while submitting the bids.

5.3 The amount of EMD asked for in some cases was found to be extremely low in comparison to the estimated amount of the work. At times, the limit of EMD had not been revised for 20 years. In such cases, the organisation's interest is not adequately safeguarded, in case the bidder rescinds the offer. Some organisations entertain bids that are not accompanied with earnest money and at times, the firms are asked to

submit EMD after the tender opening. This violates the sanctity of tenders.

5.4 At times, the amount and form in which the EMD is required to be submitted are not mentioned properly or the same is accepted violating the stipulations of bid conditions. In one case, the bid documents did not specify any mode in which the EMD was to be submitted but at the time of opening of tenders, some of the offers were rejected on the plea that the EMD was not submitted in the form of a demand draft which of course was not specifically mentioned in the bid documents. In some other cases where tenders were invited in the two bid system, the EMD was stipulated as percentage of tender cost instead of fixed amount. In the two bid system, if the EMD is taken on the basis of some stated percentage of tender value and with the announcement of the amount of EMD submitted by the bidders at the time of tender opening, the same will give every bidder a good indication of the prices quoted by the competitors by calculating backwards. A bidder can use this information to the disadvantage of this competitor, if prices are subsequently modified.

- The primary objective of submission of EMD is to establish the earnestness of the bidder so that he does not withdraw, impair or modify the offer within the validity of the bid. It also helps in restricting, if not eliminating 'speculative', frivolous' or 'wait and see' bids. Since any relaxation regarding

submission of EMD has financial implications; the terms and conditions should clearly stipulated that the offers without EMD would be considered as unresponsive and rejected.

- The amount of earnest money deposit particularly in the two bid system needs to be indicated as a fixed and reasonable amount on the basis of an estimated value of the proposed work. Also the form in which EMD is acceptable should be clearly mentioned in the tender documents.

5.5 The evaluation/loading criteria on account of acceptable range of deviations in the commercial terms and conditions viz. payment terms, request for advance, security deposit, completion schedule, performance bank guarantee, etc. are either not incorporated in the bidding documents or even if mentioned, these are not considered, while evaluating the bids and the offers are evaluated simply on the basis of quoted prices which is not in order. In some cases relating to works involving equipments having minimum guarantee loss, provisions are not made for proportionate loading on account of deviation in minimum guarantee loss. The equipments such as AC plants, transformers, cooling towers, generating stations, etc. come under this category. The comparative assessment of offers in a true sense would be complete only if it is made while taking into account the deviations in terms and conditions, minimum guarantee loss, etc. with unequivocal evaluation criteria

specified in the bidding documents, so that the evaluation of bids after tender opening could be made in a transparent manner without any subjectivity.

5.6 In some cases, only the nomenclature and capacity along with some broad technical details of equipments are incorporated in the bid documents and the generic specifications with complete details of performance parameters and the technical evaluation criteria are not mentioned. In the absence of detailed specifications / technical evaluation criteria, the evaluation of offers on an equitable basis and in a transparent manner would not be possible and would be prone to subjectivity. One such case of misinterpretation of specification because of vaguely defined bid conditions relates to the manufacture, supply and transportation of elbow liners required in a hydro-electric project. The elbow liners were to be supplied by properly welding all the segments before transportation to the site. But in the specifications, one clause that was vaguely incorporated stipulated that the segments to be dispatched for easy transportability. After dispatching the segments, the contractor claimed the full payment of elbow liners leaving the major portion of welding of segments as part of erection which had to be done departmentally. In another case, the list of preferred 'makes' of major equipments was neither included in the bid documents nor was asked from bidders. The specifications included only the

names and capacity of equipments and the details of materials, dimensions while other parameters of the equipments were not mentioned, thereby leaving everything to the whims of the contractor/supplier.

- The detailed generic technical specifications along with a list of preferred makes of major equipments, should be incorporated in the bid documents. In addition the performance parameters and the technical evaluation criteria, if any, need to be specified in the bidding documents in unequivocal terms. However, despite all precautions there may be some contradicting and conflicting specifications / conditions. In order to overcome such crisis, an order of precedence i.e. which part of contract will prevail over the others should also be mentioned in tender documents.

6. RECEIPT OF TENDERS

6.1 The receipt of tenders in some organisations is done in a disorganised and adhoc manner. Sometimes the bidders representative leave the tenders with the concerned staff or send these through post addressed to some officer without having proper superscription over the envelopes resulting in the accidental opening of such tenders. This practice is highly objectionable and has to be severely discouraged, as it may cause tampering of offers and leakage of sensitive information.

- A suitable arrangement for receipt of tenders at the scheduled date and time through conspicuously located

tender boxes needs to be adopted. The tender notice should categorically contain the information regarding receipt of bids, viz. designation and address of officer to whom the tender should be addressed, the superscription / reference number to be indicated on the envelopes and most importantly, the due date of opening of tenders to be written on the envelope containing tenders.

7. POSTPONEMENT OF TENDER OPENING

7.1 It has been noticed that whenever extension in tender opening is given due to any reason (like change in scope of work or changes in specifications of some of the equipments, etc.), the intimation regarding the extension is sent only to such bidders who had purchased tender documents originally even if the extension is regarding opening of first bid like pre-qualification in case of single bid system and techno-commercial bids in case of two bid system. By doing so, the competition is restricted to the firms who had purchased tender documents within the original date of tender sale. The corrigendum for such extensions is not being published in newspapers. In some cases, the time given to submit the revised bids is quite insufficient.

..... to be continued

SYSTEM / CASE STUDIES

1. Study of Pre-Qualification Criteria in Projects division

To avoid stipulation of erroneous Pre-Qualification Criteria by Consultants resulting in re-tender and incurring additional expenditure, the Department concerned was advised to verify/cross check the documents furnished by the Consultants, before further processing.

2. Maintenance of hindrance register

To keep track of the reasons for delays in execution of the work related to Projects, the zone concerned was advised to maintain Hindrance Register.

3. Study of contracts for Canteens

The Department concerned was advised to prepare estimate for award of contract for running canteens by considering all relevant factors like labour, differential cost of food items, payments to supervisors etc., in line with CVC guidelines.

4. Study of Recruitment and Advertisement conditions

The following were suggested with respect to study done on recruitment process and advertisement conditions:

- i) To indicate the number of vacancies to be filled among Displaced Persons and Non-Displaced Persons for different reservation categories and disciplines in all future advertisements for recruitment.
- ii) To explore the feasibility of publishing the calendar of publication of important dates like date of written test, publication of examination key, interview, medical examinations etc., so as to enable the candidates to download the instructions/conditions.
- iii) To indicate Toll Free number of Vigilance (1800 425 8878) and "link" to information on 'Complaint Handling' suitably in all future recruitment advertisements.

5. Study on CA Tenders of Marketing Division

To get price competitiveness as in the case of Handling Contract tenders and ensure fair competition, the Department was advised to take appropriate immediate action for modifying the terms and condition of Consignment Agency tenders relating to land.

6. Study on issue of GARNs

The concerned Departments were advised to devise a suitable mechanism for tracking of the 'Goods Acceptance Rejection Notes (GARNs)' sent from Store Dept., to Finance dept., so as to ensure that they reach the proper section and results in timely release of payment to the suppliers after raising of GARNs, eliminating delays and/or any need for party's follow-up/intervention.

SAVINGS ACCRUED DURING THE YEAR 2013-14

Vigilance activities during the year 2013-14 have resulted in a savings/recoveries of ₹ 6.67 Crores, primarily due to suggestions resulting in improved systems, increased transparency, improved competition in tenders and reduced scope for corruption. Also examination of certain PQC resulted in correcting the terms and conditions without retendering, saving both time and cost. Certain benefits accrued are recurring in nature.

NEWS AND EVENTS

VIGILANCE EXCELLENCE AWARDS



'Vigilance Excellence Awards in individual category' were received by Vigilance Officers of RINL for their meritorious services and contribution.

Clock-wise from top left : Sri S R Das, AGM (Vigilance), Sri D Prabhakara Rao, Sr.Manager (Vigilance), Sri M V Narasimha Murty, Dy. Manager (Vigilance) and Sri P S Naidu, Dy. Manager (Vigilance) receiving the awards from Sri B Surender Mohan, CMD, NLCL in the presence of CVO, RINL and others.

Shri R.K.L. Bhatia, GM(Vig) superannuated on 28.02.2014. Spandana wishes him a happy retired life.

Shri S Jaganathan, DGM(MD) assumed charge as DGM (Vig) I/c on 17.03.2014.

S/Shri M Sudhakar, AGM (ETC), PVR Kishore, Dy.Mgr (Const), S Sreekanth, Dy Mgr (CR) and Ch Ravi, Asst Mgr (Opr) have joined Vigilance Dept. Spandana welcomes them.

CHECKS CARRIED OUT BY VIGILANCE DEPARTMENT DURING JANUARY - MARCH 2014

Activity	Numbers
1. Surveillance / checks	45
2. Road/Rail Re-Weighments	10
3. Quality checks	5
Total	60

Editorial Board: Raju Isaac, DGM (Vig), M Sudhakar, AGM (Vig) and GY Rama Mohana Rao, Sr. Mgr (Vig)

Please visit <http://comatvsp.vpsite.org/vigilance/Spandana/tabid/70/Default.aspx> to read Spandana online.

Feedback for improvement is welcome and may be sent to spandana@vizagsteel.com