



सत्यमेव जयते

Case Study

On

Avoidable Expenditure and Excess Procurement



April 2022

REGIONAL TRAINING INSTITUTE
RANCHI

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From Director General's Desk

Regional Training Institute, Ranchi is the designated Knowledge Center with areas of specialization topics “Public Works Audit” and “Public Procurement”. In pursuit of excellence in the assigned areas, the institute focuses on development of knowledge and skills of IA&AD personnel by organizing trainings, workshop & seminars.

The case study on “Avoidable Expenditure and Excess Procurement of Desk-cum-Benches” has been prepared based on para No. 3.1.1 of CAG’s Audit Report No. 2 of 2020 (General, Social & Economic Sector), Government of Jharkhand

The focus of the case study is to impart training to civil audit officials with the objective of providing skill and job related hands on knowledge.

We look forward to the suggestions and feedback from the user offices.

(Uday Shankar Prasad)
Director General
RTI, Ranchi

Date: 15.04.2022

Place: Ranchi

Case Summary

The case study is in the form of a fictional story that revolves around looking into procurement followed by the audited entity. The case study relies on procurement of goods as envisaged in the Bihar Financial Rules, 1950 and related orders, directives of the competent authorities viz. Finance Department, Govt. of Jharkhand from the viewpoint of a Senior Audit Officer.

The story is seen through the eyes of the protagonist Shri A. K. Pandey, Sr. Audit Officer of an audit party. The other characters in this case study are Ms. Kasturi, AAO and Shri Saket Singh, Sr. Auditor, all of them being in the same audit party.

Disclaimer: The case study has been designed as a story taking place during an audit of District Planning Officer, Chaibasa and is meant to provide a glimpse of procurement audit. However, the characters' activities and attributes are primarily fictional. The instances detailed in the case study are meant to foster an appreciation of challenges that may be faced by officials in conducting such audits. This is only a guide to be used in training and should not be considered as being at par with audit reports or regulations or manuals or other instructions for audit.

Subject: “Avoidable Expenditure and Excess Procurement of Desk-cum-Benches”

Shri A.K. Pandey, a Senior Audit Officer in-charge of a local audit party had been assigned the task of undertaking a compliance audit of District Planning Officer, Chaibasa, Jharkhand. He had been asked to assess level of compliance with procurement rules and other related procedures prescribed in this regard. Ms. Kasturi, AAO a professionally competent and hardworking officer was posted in audit party along with Shri Saket Singh, Sr. Auditor.

The audit team commenced its audit on 13 November 2017 with entry conference with the Head of the Office informing him of the scope, extent and objective of audit along with the procedure by which the audit was planned to be conducted. The period of the audit was 13.11.2017 to 20.11.2017. Scope of the audit was from April 2016 to October 2017 and detailed test check months were May 2016, February 2017, June 2017 and September 2017.

After going through the files, Shri Pandey came across a purchase file of DPO, Chaibasa. After thorough examination he observed that in March 2014 a five member committee of Additional Central Assistant(ACA) approved the purchase of 16,416 number of Desk-cum-Benches(DBs) for 76 high schools of the Left Wing Extremist(LWE) affected area of the district from M/s Godrej. On seeing the name of the company in the proposal, Shri Pandey smelled something fishy and asked Ms. Kasturi, AAO to examine the file thoroughly and carefully.

Ms. Kasturi, a promising officer examined the file with Shri Saket and reported back to the Sr.AO with following observations next day:

Brief summary of the procurement:

- i) In January 2014 the District Education Officer, Singhbhum, Chaibasa submitted a proposal for procurement of 16,416 number of DBs at the cost of ₹12.32 crore for 76 high schools in the LWE affected area of the West Singhbhum District to a five members Committee of ACA. The Committee approved (Administrative Approval) the procurement of these DBs from M/s Godrej.
- ii) To procure these, a Purchase Committee was constituted with Deputy Development Commissioner, Chaibasa as its chairman.
- iii) The Deputy Commissioner, Chaibasa while according expenditure sanction of ₹1232.34 lakh (@ ₹16.215 lakh per school for purchase of 216 DBs) for purchase of 16,416 DBs vide his Memorandum No. 31 dated 03.02.2014 directed the DEO, Chaibasa to complete the process of procurement from M/s Godrej by June, 2014 strictly adhering to the instructions of Finance Department in this regard.
- iv) The DEO, Chaibasa issued a Short Notice Tender on 12 February 2014 allowing the probable bidders 7 days to respond. Three bids were received by due date. The

bids were opened on 19 February 2014 by the Purchase Committee. The Purchase Committee taking note of the extremely short notice period cancelled the tender.

- v) Cancelling the tender, the Purchase Committee, instead of retendering or extending the time allowed to bid, ordered to procure the DBs by inviting quotations from authorized dealers of Godrej.
- vi) The quotations were invited by the DEO on 20 February 2014 with deadline at 3:00PM on 24 February 2014. Six quotations were received. The quotations were evaluated on 04 March 2014 and M/s Lakshmi Distributors, Chaibasa was selected as L1 bidder and issued purchase order for procurement at the rate of ₹7507 (₹5348 + 14% tax) per DBs and at the total cost of ₹1232.34 lakh for procurement of 16,416 DBs.
- vii) It has been observed that the supplier has supplied 16,213 DBs between March 2014 to January 2016 against which the DEO made payment of ₹12.16 crore during March 2014 to February 2017.

Observations thereon:

- i) Finance Department instruction of February 2011¹ stipulates procurement of goods valued above 1.5 lakh to be made by open tender after wide circulation. However, in this case the procurement was made by inviting quotations.
- ii) Proviso (v) of rule 131H of Bihar Financial Rules, 1950² provides that the minimum time to be allowed for submission of bids should be three weeks from the date of publication of the tender notice or availability of the bidding document for sale, whichever is later. However, only 7 days were allowed to the bidders.
- iii) On noticing that the time allowed was extremely short, the Purchase Committee cancelled the tender and ordered to procure goods by inviting quotations. It could instead have extended the date of submitting the bids by a supplementary notice. It could have also directed re-tendering. Order of procurement by calling quotations was in contravention of the rules.
- iv) It has also been observed that the procuring authority has not taken pain to ascertain whether the rate quoted by the L1 bidder is reasonable or not. The DBs of same specification was available in contracted list of DGS&D at ₹6,097³ (including 14% VAT) per unit which was cheaper by ₹1,410.

¹ Govt of Jharkhand, Finance Department, Letter No. 221 dated 03.02.2011

² 131H (v) Ordinarily, the minimum time to be allowed for submission of bids should be three weeks from the date of publication of the tender notice or availability of the bidding document for sale, whichever is later. Where the department also contemplates obtaining bids from abroad, the minimum period should be kept as four weeks for both domestic and foreign bidders.

³ Rate contract No. GIOF/HW-H7010000/1214/43/05553/868 dated 01.01.2014

On seeing this, Shri Pandey appreciated the effort and observations made by the AAO and the Sr. Auditor. After going through the case carefully, he further directed to examine following issues:

- i) Whether all the 76 schools were covered under the scheme?
- ii) Did all the schools need exactly 216 benches? Was a need assessment exercise conducted?
- iii) The money value of loss due to not putting the cap of DGS&D rate while procuring the DBs.
- iv) On what ground was the Godrej company selected for procurement which resulted in absence of competitive price?

The AAO after making enquiry with the officials of the audited entity, examined the replies and after going through the relevant files again, reported the following to the Sr. AO:

- i) The whole of Chaibasa District is covered under the Integrated Action Plan scheme. Hence, all the 76 schools of this district may be treated covered under this plan.
- ii) Nothing has been found in the records made available to audit to show that any need assessment exercise had been conducted for the said procurement.
- iii) Money value of loss due to not putting the cap of DGS&D rate while procuring the DBs has been calculated to be ₹2,28,60,330
- iv) No justification for selection of Godrej company which resulted in absence of competition in procurement of DBs has been found on record.

On receipt of this, Shri Pandey discussed each and every detail with the AAO and Sr. Auditor and requested Ms. Kasturi to prepare an audit memo including the above observations and taking into account the points raised in the discussion. In the meanwhile, he worked with Shri Saket to collect and organize all the key document required to sustain the audit observations.

Audit memo was issued. In the exit conference, the DPO, Chaibasa replied that the matter will be examined and the result communicated to audit.

The audit party reported to the Headquarters and submitted the draft IR to the Sr.AO/Headquarters. On examination of the draft IR and all the audit memos along with key documents, the Sr. AO/Headquarters felt the need of a joint verification of some of the schools to see whether the DBs procured are put to proper use. A joint physical verification of 22 schools was carried out by audit with the officials of DEO, Singhbhum. In the joint verification it was observed that:

- in 18 schools, 1,765 DBs worth ₹1.32 crore were purchased in excess of enrolled students.
- in the rest four schools 1,249 DBs were additionally required to accommodate the enrolled students

- it was also observed that 1087 DBs worth ₹81.54 lakh were lying idle since their procurement.

On the basis of above observations, DP was prepared for inclusion in the audit report and forwarded to the DPO, Chaibasa for their final comment thereon. In their reply, the DPO stated that the purchase was made in compliance of the relevant rules in this regard by inviting quotations from the authorized dealers. Reply was not found to be tenable and thus the para stood.

In this context please analyze the following:

- Whether this para would sustain had the purchase been made at DGS&D rate?
- 16,416 DBs were proposed to be procured at the cost of ₹12.32 crore initially and finally the procurement was made at more or less the same cost of ₹12.16 crore. What is your opinion? Can you prove that the matter was fixed beforehand?

Teaching Notes: The District Planning Officer functions under the overall control of Deputy Commissioner(DC) of respective Districts. DC is the chairman of the scheme and DPO is the operational head or implementing agency for the earmarked fund of Integrated Action Plan(IAP).

This IAP fund was for development of education of naxal affected area of Jharkhand.

Teaching Objective: The objectives of this case study are to enable the participants (a) to identify deviations from Bihar Financial Rules as adopted by Jharkhand and Finance Department instructions (b) to correctly apply the relevant provisions of the above rules/provisions.

Target Audience: This case study is meant for use in civil audit training conducted for Group 'A' and 'B' officers of the Indian Audit & Accounts Department.

References:

- Rule 131E of the Bihar Financial Rules, 1950 (as adopted by Govt. of Jharkhand on 15 November 2000) stipulates that in case a Department directly procures Central Purchase Organization(DGS&D)/State Purchase Organization rate contracted goods from suppliers, the prices for such goods shall not exceed those stipulated in the rate contract.
- Finance Department instruction of February 2011 stipulates procurement of goods valued above 1.5 lakh by open tender after wide circulation.
- Proviso (v) of rule 131H of Bihar Financial Rules, 2005 provides that the minimum time to be allowed for submission of bids should be three weeks from the date of publication of the tender notice or availability of the bidding document for sale, whichever is later.

Background of the Case:

The District Education Officer (DEO), West Singhbhum submitted (December 2013) requirement of 16,416 desk-cum-benches (DBs) worth ₹12.32 crore for 76 high schools to District Planning Officer (DPO), West Singhbhum for inclusion in the Work Plan (2013-15) under Additional Central Assistance for Left Wing Extremist affected districts.

- (i) In January 2014 the District-level Committee, West Singhbhum approved the proposal and constituted a purchase committee headed by the Deputy Development Commissioner (DDC), West Singhbhum.
- (ii) In February 2014 the Deputy Commissioner (DC), West Singhbhum directed DEO, West Singhbhum to procure the DBs by June 2014.
- (iii) On 12 February 2014, the DEO, West Singhbhum invited tenders for the procurement of DBs allowing only 7 days to the bidders. Three bids were received.
- (iv) On 19 February 2014, the purchase committee, convened for opening of the bids, cancelled the tender on the grounds of insufficient time for bidding.
- (v) The purchase committee, instead of re-tendering, decided to procure the DBs through quotations from authorised dealers of Godrej and six quotations were obtained. The decision of the purchase committee to do away with the tender requirements was in violations of FD directions.
- (vi) Further, there was nothing on record to suggest that the purchase committee had ensured that the rates quoted by the bidders were the most economical in the market including the DGS&D rate.
- (vii) DEO procured (between March 2014 and January 2016) 16,213 DBs and paid ₹12.16 crore (between March 2014 and February 2017) to the supplier.

Teaching Plan:

1. The case study has been prepared with the intention of making the participants understand an important aspect of management and gain knowledge on audit of '*avoidable expenditure and excess procurement*' and participants' ability to form
 - (i) audit opinions;
 - (ii) anticipate responses to the audit opinions; and
 - (iii) collate or collect all essential evidences so that responses received from the auditee can be suitably analyzed and addressed.
2. The case study is divided into two parts. The first part describes the background and facts of the event. In the second part, the participants will have an opportunity to study the case and present their audit opinions.
3. By this method, participants will not only gain knowledge about the necessity of proper planning and contract management, but also hone their skills of addressing responses to the audit observations. Further, participants will also learn and appreciate the need to collect sufficient, reliable and relevant audit evidences to be able to form opinion addressing the responses from the auditee.

Studying the Case:

The participants may be organized into groups of 4-5 members each. Individual reading time	10 minutes
Group Discussion Time	10 minutes
Discussion in the plenary: 5 minutes for each group + 5 minutes for other groups to respond: 10 minutes per group x (say) 4 groups	40 minutes
Summing up and recounting of similar observation by faculty	10 minutes
Time for final summing up by groups:	5 minutes

Possible Responses/Red flags:

While reading and discussing this case study, participants may be asked to highlight the red flags of this case.

1. Need based assessment was not done
2. For the purchase of goods worth ₹1.5 lakh and above, open tender was mandatory
3. Out of turn selection of Godrej Company right from the initial proposal stage.
4. Procurement should not be made above the DGS&D price.

Summing Up: While summing up, the trainer should mention that the case is based on para 3.1.1 of the CAG's Audit Report No. 2 of 2020(General, Social & Economic Sector) Government of Jharkhand, attached as Annexure II.