



सत्यमेव जयते

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Procurement: Principles, Methods & and its life cycle

Presentation

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Procurement : Hierarchical Framework

Statutory Framework

- The Constitution of India
- Indian Contract Act, 1872; Sale of Goods Act, 1930 and Mercantile Law
- Laws relevant to Public Procurement (Right To Information Act, 2005; The Micro, Small and Medium Enterprises Development Act, 2006; Prevention of Corruption Act, 1988)

Rules and Regulations

- General Financial Rules, 2017
- Delegation of Financial Power Rules
- Any other financial, vigilance, security, safety, counter- trade and other regulatory aspects; orders and guidelines of the Government on the subject of Public Procurement

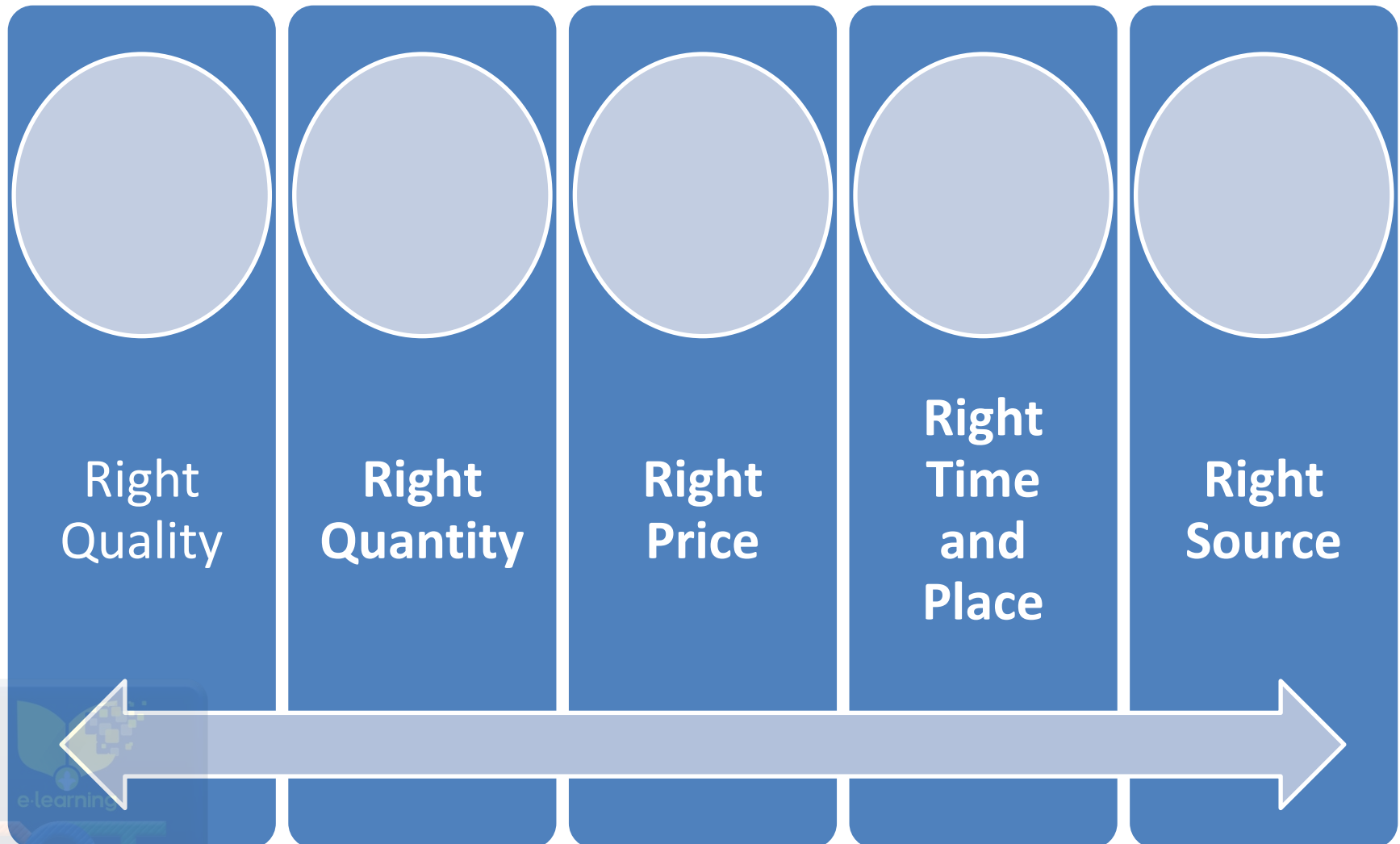
Ministry of Finance's Manuals

- Ministry of Finance's Manual of Policies and Procedures for the Procurement of Good/Works and Consultancy Services (including non-consultancy services)

Procuring Entities' Codes/Manuals and Standard Bidding Documents

- More Comprehensive and detailed Codes and Manuals for Public Procurement for various categories issued by 'Procuring Entities' for their own use
- Standard Bidding Documents for Procurement of Goods/Works/Consultancy Services etc.

Basic Aims of Procurement – the Five R's of Procurement



Fundamental Principles of *Public* Procurement



Transparency
Professionalism
Broader Obligations
Extended Legal Responsibilities
Public Accountability

Modes of Procurement

Open Tenders

Procurement through Selected Suppliers

Nomination Basis Tenders

Procurements without Calling Tenders

Mandatory Procurement of Goods and Services for Goods or Services available on GeM (Rule 158 of GFR 2017)

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Procurement Cycle

Need Assessment

- Need assessment, formulation of Specifications and Procurement Planning

Bid Invitation

- Preparing bid documents, publication, receipt and opening of bids

Bid Evaluation

- Evaluation of bids and award of contract

Contract Execution

- Contract management and closure

Disposal of Scrap

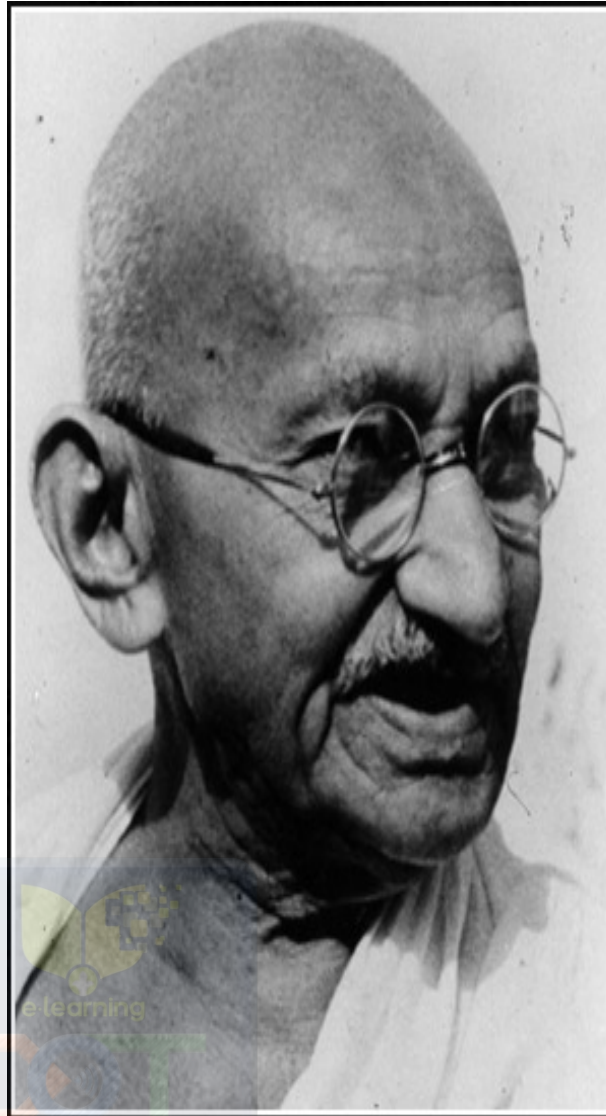
- Disposal of Scrap through various modes of disposal.



Everyone can be great, because
everyone can serve.

— *Martin Luther King* —

AZ QUOTES



The best way to find yourself is to
lose yourself in the service of
others.

— *Mahatma Gandhi* —

AZ QUOTES

Procurement is a Service

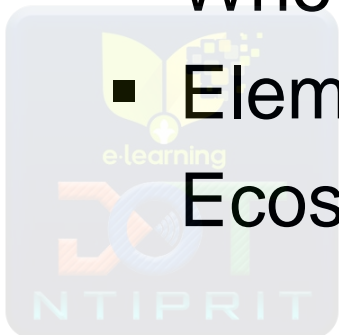


In this presentation

- Introduction
- Fundamental principles of public procurement
- Powers for procurement
- Purchase of goods without quotation
- Purchase of goods by purchase committee
- Purchase of goods directly under rate contract
- Purchase of goods by obtaining bids (tendering)
- Transparency, Competition and Fairness in Procurement Process
- Efficiency, Economy and Accountability in Procurement System
- Tender Opening and Evaluation
- Some common mistakes observed in tendering
- CVC Guidelines
- Practical tips for successful tendering
- Conclusions

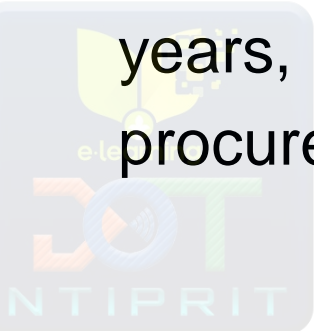
Public Procurements

- Why?
- What (degree/variety/volume/complexity)?
- When?
- How?
- What if not?
- How will it look if everything is perfect (Innovation Potential)
- Who are stakeholders?
- Elements of Public Procurement Infrastructure & Ecosystem



Procurement Manuals

Government organizations procure a wide variety of goods and services and undertake execution of works in pursuance of their duties and responsibilities. With a view to *improving transparency in decision making in public procurement and reducing the scope for subjectivity*, Department of Expenditure in 2006 had prepared a set of three Manuals on Policies and Procedures for Procurement of Goods, Works and hiring of Consultants, in conformity with the General Financial Rules (GFR), 2005. Over the years, these Manuals have served as a guide book for procurement.



GFR 2017

In the last few years, the Government of India has incorporated changes in the domain of public procurement which include introduction of Central Public Procurement Portal (CPPP), Government e-Marketplace (GeM), Preferential Market Access(PMA) for micro and small enterprises, preference for domestic manufacturers of electronic goods, inclusion of integrity pact, etc. The GFR has been revised comprehensively in March 2017 covering inter-alia these set of new instructions.



Guidelines and Orders

- However, comprehensive Rules and Regulations in this regard are available in the General Financial Rules (GFR), 2017, especially chapter 6; Delegation of Financial Powers Rules (DFPR); Government orders regarding product reservations or purchase preference or other facilities to sellers in Micro and Small Enterprises, Domestically Manufactured Electronic Products, Pharmaceutical Central Public Sector Enterprises, Khadi/Handlooms goods, etc. and the guidelines issued by the Central Vigilance Commission to increase transparency and objectivity in public procurement.



Introduction

- **General Financial Rules, 2017 contains general rules applicable to all Ministries or Departments, regarding procurement of goods.**
- **Detailed instructions relating to procurement of goods may be issued by the procuring departments broadly in conformity with the GFR, 2017.**

Introduction – Policies and Principles

- **Procurement Rules and Regulations**
- Various Ministries, Departments, attached and subordinate offices, local urban bodies, public sector enterprises and other Government (including autonomous) bodies (hereinafter referred as '*Procuring Entities*') spend a sizeable amount of their budget on procurement of goods, works and services to discharge the duties and responsibilities assigned to them.
- The Ministries/Departments have been delegated powers to make their own arrangements for procurement of goods under the Delegation of Financial Power Rules, which have to be exercised in conformity with the 'Procurement Guidelines'.

Introduction – Policies and Principles

To ensure that these procurements are made by following a **uniform**, **systematic**, **efficient** and **cost-effective** procedure and also to ensure **fair** and **equitable treatment of suppliers**, there are statutory provisions, rules, financial, vigilance, security, safety, counter- trade and other regulations; orders and guidelines of the Government on the subject of public procurement (hereinafter referred as 'Procurement Guidelines') which provide framework for the public procurement system.

Standards (Canons) of Financial Propriety

- i) Every officer is expected to exercise the same vigilance in respect of expenditure incurred from public moneys **as a person of ordinary prudence would exercise in respect of expenditure of his own money.**
- ii) The expenditure should not be prima facie more than the occasion demands.
- iii) No authority should exercise its powers of sanctioning expenditure to pass an order which will be directly or indirectly to its own advantage.
- iv) Expenditure from public moneys 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.
- v) 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.
- vi) While discharging the duties of financial concurrence of any public expenditure, such authorities subsequent to such decision, shall not be involved in any future financial/audit/payment responsibilities which may create conflict of interest.

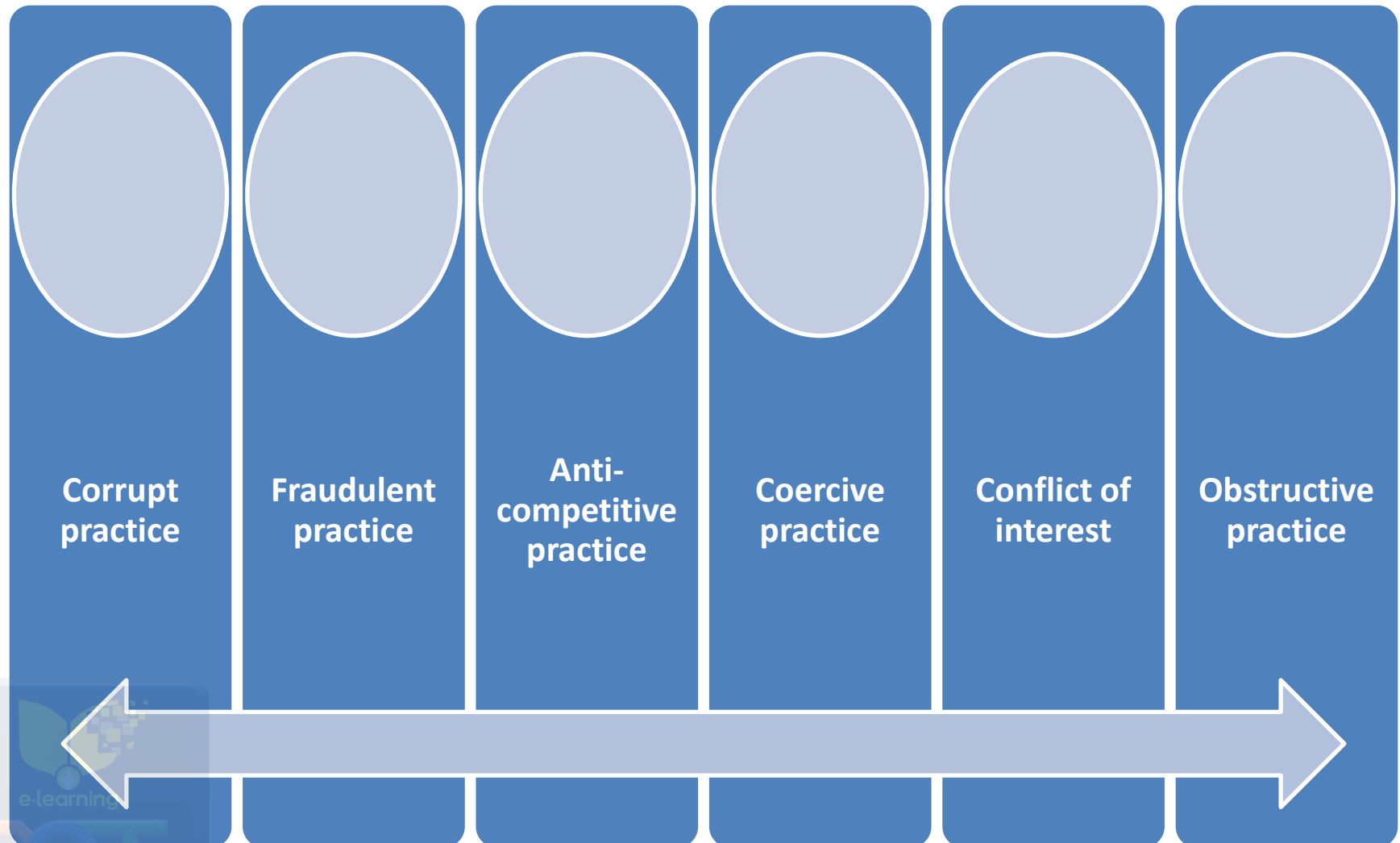
Definition of Goods (GFR Rule-143)

Goods includes all articles, material, commodities, livestock, furniture, fixtures, raw material, spares, instruments, machinery, equipment, industrial plant vehicles, aircraft, ships, medicines, railway rolling stock, assemblies, subassemblies, accessories, a group of machineries comprising of an integrated production process or such other category of goods or intangible products like software, technology transfer, licenses, patents or other intellectual properties purchased or otherwise acquired for the use of Government but excludes books, publications, periodicals, etc. for a library.

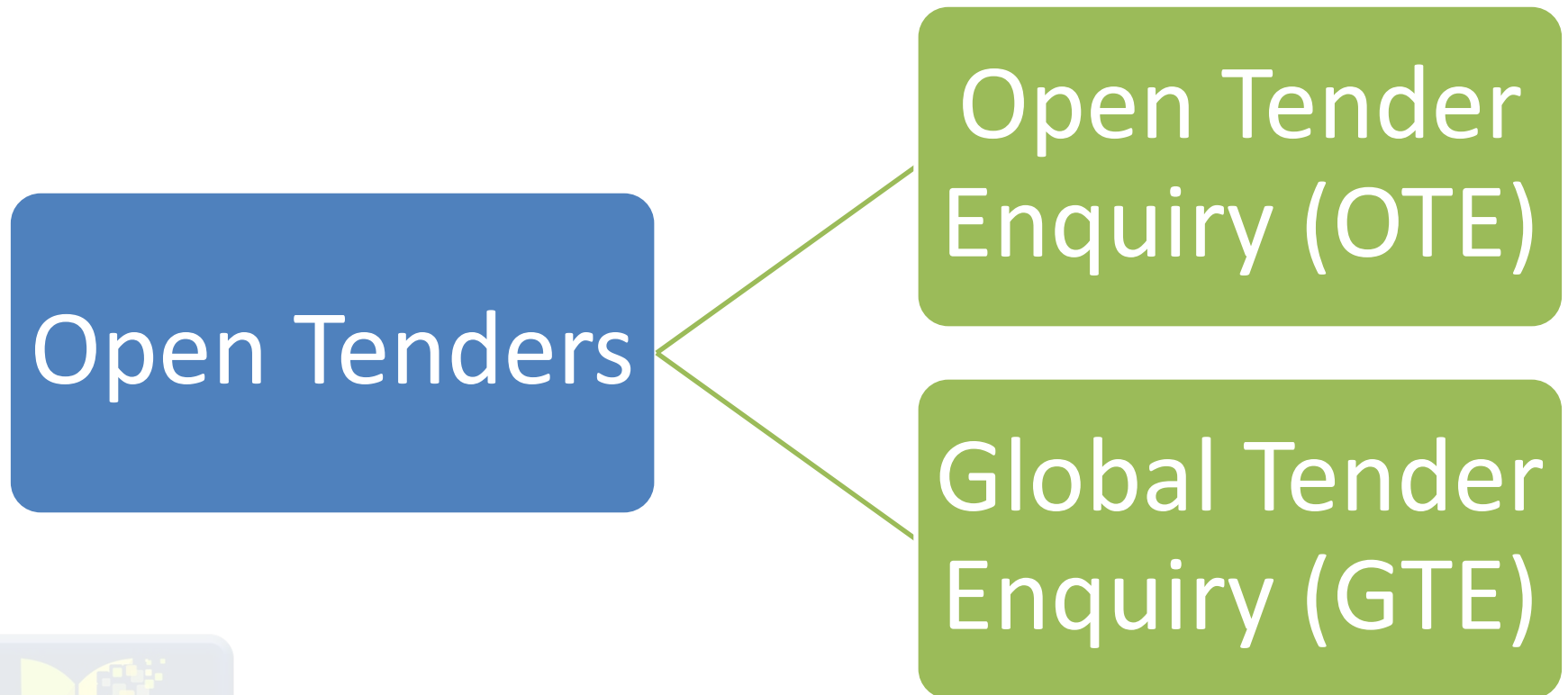
The term 'goods' also includes works and services which are incidental or consequential to the supply of such goods, such as, transportation, insurance, installation, commissioning, training and maintenance.

Authorities competent to purchase goods. (Rule 145)

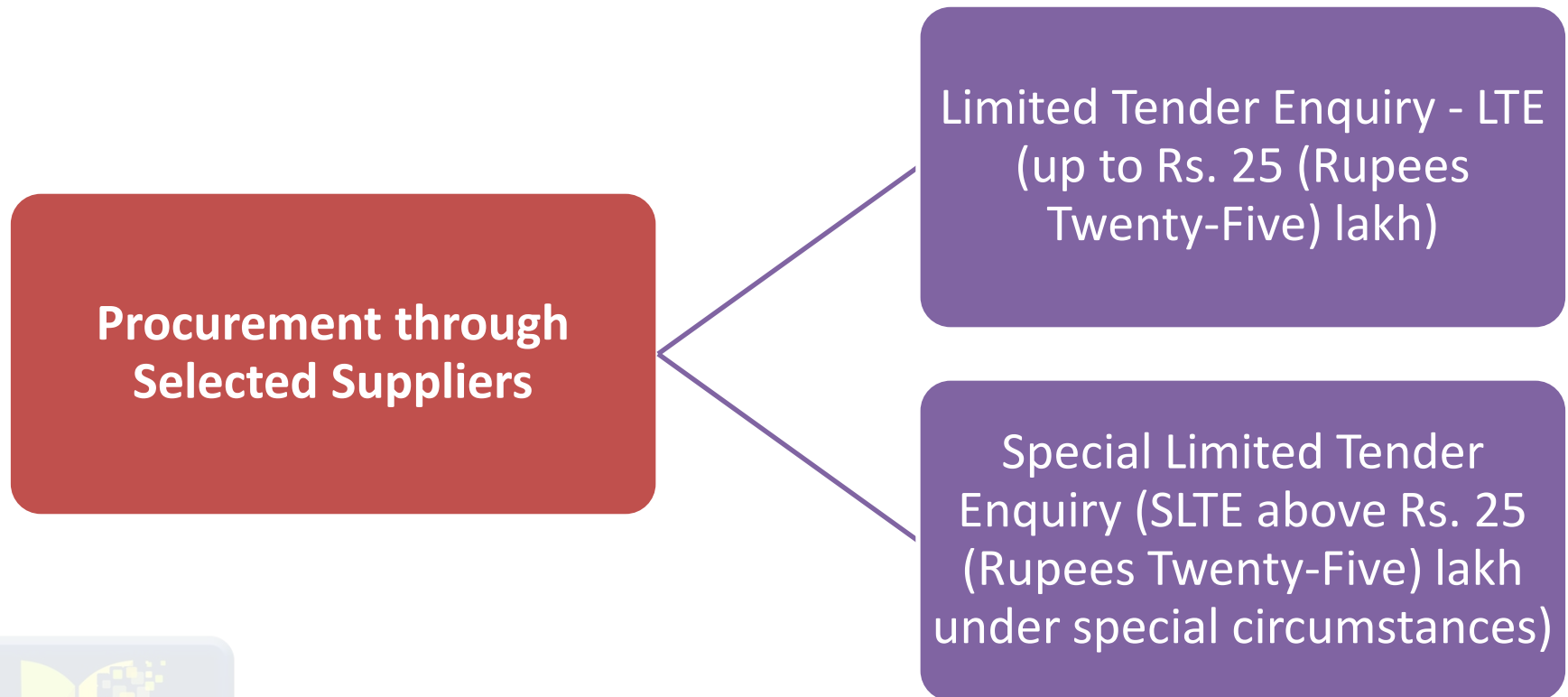
- A Competent authority which is competent to incur expenditure may sanction the purchase of goods required for use in public service in accordance with the Delegation of Financial Rules by following the 'Procurement Guidelines' described in this Manual (Rule 145 of GFR 2017) . Each 'Procuring Entity' may issue a Schedule of Procurement Powers (SoPP) adding further details to the broad delegations in the DFPR, based on the assessment of risks involved in different decisions/approvals at various stages of Procurement Cycle. A suggested structure of such SoPP is enclosed as Annexure 2C. An authority which is competent to incur expenditure may sanction the purchase of goods required for use in public service in accordance with provisions in the Delegation of Financial Powers Rules, following the general procedure contained in the following rules.



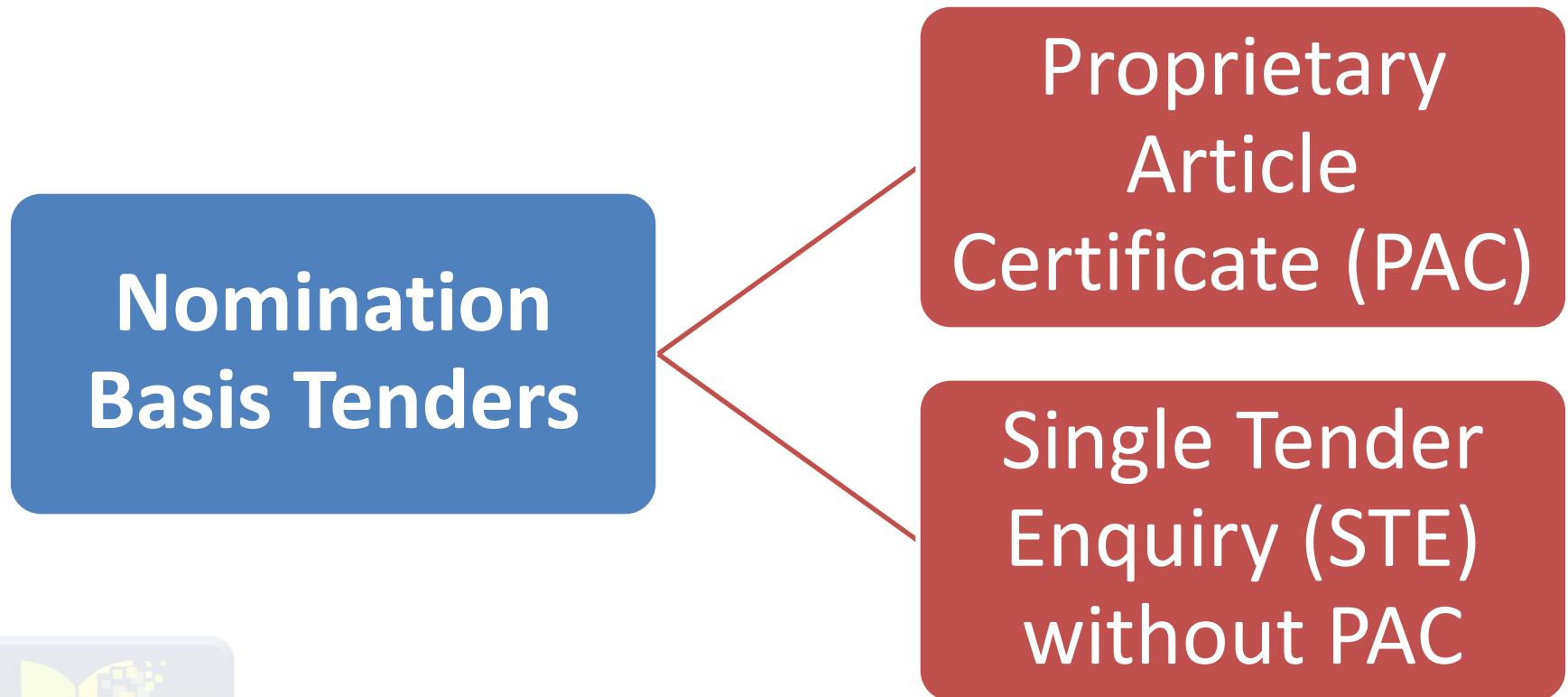
Open Tenders



Procurement through Selected Suppliers



Nomination Basis Tenders



Procurements without Calling Tenders

Procurements without Calling Tenders

Withdrawals against Rate Contracts (RC)

Direct Procurement without Quotation

Direct Procurement by Purchase Committee

Purchases through Central Purchase Organisation (DGS&D) or other such agencies



Fundamental principles of public procurement

□ Procuring authorities have the responsibility and accountability:-

- To bring efficiency, economy, transparency in matters relating to public procurement.
- To ensure Fair & Equitable treatment of suppliers.
- To promote Competition in public procurement.



Fundamental principles of public procurement

PUBLIC PROCUREMENT: some yardsticks-

- **Specifications in terms of quality, type etc should be clearly spelt out. Avoid superfluous and non-essential features, which may result in unwarranted expenditure.**
- **Procurement should be need based. Purchasing quantities in excess of requirement is to be avoided so as avoid inventory carrying costs.**

Fundamental principles of public procurement

- **Offers should be invited following a fair, transparent and reasonable procedure.**
- **Selected offer should adequately meet the requirements in all respects.**
- **Reasonableness of the offered rates and consistency with the quality required should be established.**
- **Each stage of procurement should be recorded in precise terms, the consideration which weighed with it while taking a decision.**



Powers for Procurement

- Powers For Procurement Of Goods: The Ministries Or Departments Have Been Delegated Full Powers To Make Their Own Arrangements For Procurement Of Goods And Services, That Are Not Available On GeM. Common Use Goods And Services Available On GeM Are Required To Be Procured Mandatorily Through GeM As Per Rule 149 **(Rule 147).**



Government e-Market place (GeM)

Government of India has established the Government E-Marketplace (GeM) for common use Goods and Services. GeM SPV will ensure adequate publicity including periodic advertisement of the items to be procured through GeM for the prospective suppliers. The Procurement of Goods and Services by Ministries or Departments will be mandatory for Goods or Services available on GeM. The credentials of suppliers on GeM shall be certified by GeM SPV. The Procuring Authorities will certify the **reasonability of rates. (Rule 149).**

3 Ways of Procurement on GeM

The GeM portal shall be utilized by the Government buyers for direct on-line purchases as under :-

- (i) Up to Rs.25,000/- through **any** of the available suppliers on the GeM, *meeting the requisite quality, specification and delivery period.*
- (ii) Above Rs.25,000/- and up to Rs.5,00,000/- through the GeM Seller having **lowest price amongst the available sellers, of at least three different manufacturers**, on GeM, *meeting the requisite quality, specification and delivery period.*
- (iii) Above Rs.5,00,000/- through the supplier having lowest price *meeting the requisite quality, specification and delivery period* **after mandatorily obtaining bids, using online bidding or reverse auction tool** provided on GeM.

- The invitation for the online ebidding/reverse auction will be available to all the existing Sellers or other Sellers registered on the portal and who have offered their goods/services under the particular product/service category, as per terms and conditions of GeM.
- The above mentioned monetary ceiling is applicable only for purchases made through GeM. For purchases, if any, outside GeM, relevant GFR Rules shall apply.

- The Ministries/Departments shall work out their procurement requirements of Goods and Services on either “OPEX” model or “CAPEX” model as per their requirement/ suitability at the time of preparation of Budget Estimates (BE) and shall project their Annual Procurement Plan of goods and services on GeM portal within 30 days of Budget approval.



- The Government Buyers may ascertain the reasonableness of prices before placement of order using the Business Analytics (BA) tools available on GeM including the Last Purchase Price on GeM, Department's own Last Purchase Price etc.



- A demand for goods shall not be divided into small quantities to make piecemeal purchases to avoid procurement through L-1 Buying /bidding / reverse auction on GeM or the necessity of obtaining the sanction of higher authorities required with reference to the estimated value of the total demand.



Registration of Suppliers (Rule 150)

- Credentials, manufacturing capability, quality control systems, past performance, after-sales service, financial background etc. of the supplier(s) should be carefully verified before registration.



Registration of Suppliers (Rule 150)

- The supplier(s) will be registered for a fixed period (between 1 to 3 years) depending on the nature of the goods. At the end of this period, the registered supplier(s) willing to continue with registration are to apply afresh for renewal of registration. New supplier(s) may also be considered for registration at any time, provided they fulfil all the required conditions.



Registration of Suppliers (Rule 150)

Performance and conduct of every registered supplier is to be watched by the concerned Ministry or Department. The registered supplier(s) **are liable to be removed** from the list of approved suppliers if they fail to abide by the terms and conditions of the registration or fail to supply the goods on time or supply substandard goods or make any false declaration to any Government agency or for **any** ground which, in the opinion of the Government, is **not in public interest**.

Registration of Suppliers (Rule 150)

- V) The List Of Registered Suppliers The Subject Maner Of Procurement Be Exhibited On Websites Of The Procuring Entity / E-Procurement / Portals.



Benefits of Registered Suppliers (Rule 150 ?)

- **Ministries/Departments may utilise these “registered suppliers”. as and when necessary.**
- **Registered suppliers are eligible for consideration for procurement of goods through limited tender enquiry.**
- **Registered suppliers are ordinarily exempted from furnishing bid security along with their bids.**
- **A Head of Department (HoD) may also register suppliers of goods specifically required for that Department.**

Registration of Suppliers

- **Credentials, manufacturing capability, quality control systems, past performance, after-sales-service, financial background etc., of the suppliers should be carefully verified before registration.**
- **Suppliers are to be registered for a fixed period (1 to 3 years) depending upon the nature of goods.**
- **Performance and conduct of every registered supplier is to be watched.**



Purchase of goods without Quotation (Rule 154)

- Purchase of goods up to the value of Rs. 25,000 only on each occasion may be made without inviting quotations or bids on the basis of a certificate to be recorded by the **competent authority** in the following format:-
“I,-----, am personally satisfied that these goods purchased are of the requisite quality and specification and have been purchased from a reliable supplier at a reasonable price.”



Purchase of goods by Purchase Committee (Rule 155)

- **Purchase of goods costing above Rs. 25,000 and up to Rs. 2,50,000 only on each occasion may be made on the recommendations of a duly constituted local purchase committee.**
- **Committee consists of three members of an appropriate level as decided by HoD.**
- **Committee's responsibilities include:-**
 - a) Market Survey**
 - b) Ascertaining reasonableness of Rates,**

Purchase of goods by Purchase Committee (Rule 155)

c) Identification of appropriate supplier

Committee will jointly record a certificate in its report in the format as given under:-

“Certified that we, members of the purchase committee are jointly and individually satisfied that the goods recommended for purchase are of the requisite specification and quality, priced at the prevailing market rate and the supplier recommended is reliable and competent to supply the goods in question, and it is not debarred by

Purchase of goods directly under rate contract (Rule 156)- *Deleted now*

- Direct procurement of DGS&D rate contracted goods can be made from the suppliers.
- The prices to be paid for such goods shall not exceed those stipulated in the rate contract.
- The other salient terms and conditions of the purchase should be in line with those specified in the contract.
- Own arrangement for inspection and

Purchase of goods by obtaining bids (Tendering)

- **Under Rule 158, Ministries/Departments shall procure goods (except in cases covered under rules 154,155,and 156(1),) by following the standard method of obtaining bids in:-**
 - **Advertised tender enquiry**
 - **Limited tender enquiry**
 - **Two stage bidding**
 - **Single tender enquiry**
 - **Electronic Reverse Auctions**

E-Publishing (Rule 159)

It is mandatory for all Ministries/Departments of the Central Government, their attached and Subordinate Offices and Autonomous/ Statutory Bodies to publish their tender enquiries, corrigenda thereon and details of bid awards on the Central Public Procurement Portal (CPPP)



E-Procurement (Rule 160)

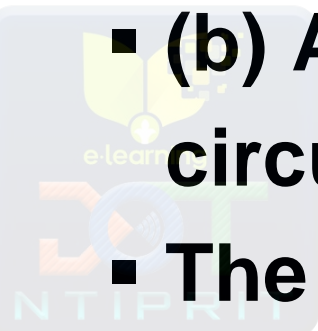
It is mandatory for Ministries/Departments to receive all bids through e-procurement portals in respect of all procurements.

These instructions will not apply to procurements made by Ministries / Departments through DGS&D Rate Contracts.

In individual case where national security and strategic considerations demands confidentiality, Ministries/ Departments may exempt such cases from e-procurement after seeking approval of concerned Secretary and with concurrence of

Advertised Tender Enquiry (Rule 161)

- **Invitation to tenders by advertisement is to be used for procurements of goods of estimated value Rs 25 Lakh and above.**
- **Ad to be given in:-**
 - **(a) Indian Trade Journal published by Director General of Commercial Intelligence, Kolkata**
 - **(b) At least one National Daily having wide circulation**
 - **The advertisement should contain**



Advertised Tender Enquiry (Rule 161)

- **Publish advertised tender enquiries at own website & NIC website.**
- **The complete bidding document is to be posted on the website and permit prospective bidders to make use of the document downloaded from the website.**
- **If it is felt that goods of the required quality, specifications etc., may not be available in the country and it is necessary to also look for suitable competitive offers from abroad, copies of tender notice may be sent to Indian**



Advertised Tender Enquiry (Rule 161)

- Ordinarily, the minimum time to be allowed for submission of bids should be three weeks from the date of publication of Notice Inviting Tender (NIT) or availability of the bidding document for sale, whichever is later.
- In case of obtaining bids from abroad, the minimum period should be kept four weeks for all bidders.

Limited Tender Enquiry (Rule 162)

- This method may be adopted when estimated value of the goods to be procured is up to Rs. 25 lakhs.
- Bid document should be sent to Registered Suppliers by Speed Post / Registered Post / Courier / e-mail etc.
- No. of supplier firms in Limited Tender enquiry should be more than three.
- Web based publicity should be given.



Limited Tender Enquiry (Rule 162)

- **Efforts should be made to identify a higher number of approved suppliers to obtain more responsive bids on competitive basis.**
- **Sufficient time should be allowed for submission of bids in Limited tender enquiry cases.**
- **Purchase through limited tender enquiry may be adopted even where the estimated value of the procurement is more than Rs. 25 Lakhs in following cases:-**



Limited Tender Enquiry (Rule 162)

- ✓ **The competent authority certifies that the demand is urgent and any additional expenditure involved by not procuring through advertised tender enquiry is justified in view of urgency.**
- ✓ **The nature of urgency and reasons why the procurement could not be anticipated are to be recorded.**



Limited Tender Enquiry (Rule 162)

- ✓ There are sufficient reasons, to be recorded in writing by the competent authority, Indicating that it will not be in public interest to procure the goods through advertised tender enquiry.
- ✓ The sources of supply are definitely known and possibility of fresh sources beyond those being tapped, is remote.



Two Bid System (Rule 163)

- Bids may be obtained in two parts:-
- Technical bid consisting of all technical details along with commercial terms and conditions.
- Financial bid indicating item-wise price for the items mentioned in the technical bid.
- Technical bid and Financial bid are to be sealed by the bidder in different envelopes duly superscribed.
- Both sealed envelopes are to be put in a

Two Bid System (Rule 163)

- **Technical bids are to be opened first.**
- **Technical bids are to be evaluated by a competent committee for techno-commercial responsiveness.**
- **Financial bids of only technically responsive bidders are opened for further evaluation.**
- **Bidders are ranked as per the quoted price.**



Late Bids (Rule 165)

- **In the case of advertised tender enquiry or limited tender enquiry, late bids (i.e. bids received after the specified date and time for receipt of bids) should not be considered.**



Single Tender Enquiry (166)

- **Procurement from a single source may be resorted to in following cases:-**
 - **Only a particular firm is the manufacturer of the required goods.**
 - **In case of emergency, the required goods are necessarily to be purchased from a particular source and the reasons for such decision is to be recorded and approval of competent authority obtained.**

Single Tender Enquiry

- For standardisation of machinery or spare parts to be compatible to the existing sets of equipment , the required item is to be purchased only from a selected firm. Advice of technical expert and approval of competent authority is to be obtained before procurement.
- Proprietary article certificate in the following format is to be provided by the procuring officer before purchase.



Single Tender Enquiry

- (i) The indented goods are manufactured by
M/s
- (ii) No other make or model is acceptable for
the following reasons:-

.....

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- (iii) Concurrence of finance wing to the

Contents of the bidding document

- **Instruction to Bidders**
- **Conditions of Contract**
- **Schedule of Requirement**
- **Specifications & allied Technical details**
- **Price Schedule (to be utilised by the bidders for quoting their prices)**
- **Contract Form**
- **Other Standard Forms**



Bid Security or Earnest Money Deposit

- Bid security or EMD is to be obtained from the bidders in the case of advertised or limited tender enquiry to safeguard against a bidder's withdrawing or altering its bid during the bid validity period.
- Bidders registered with Central Purchase Organisation (DGS&D)/ National Small Industries Corporation or concerned Ministry/Department are exempted from payment of EMD.

Bid Security or Earnest Money Deposit

- EMD of 2 % to 5% of estimated value of the goods to be procured is to be submitted along with the bid.
- EMD can be in the form of Demand Draft / Fixed Deposit Receipt/Banker's Cheque /Bank Guarantee.
- Bid security is normally to remain valid for a period of forty-five days beyond the final bid validity period.
- Unsuccessful bidders EMD should be returned /refunded at the earliest after expiry

for the final bid validity period. If the bid is successful, the EMD will be retained as a part of the bid security.

Performance Security (Rule 171)

- **To ensure due performance of the contract, performance security is to be obtained from the successful bidder awarded the contract.**
- **Performance security is to be obtained from every successful bidder irrespective of its registration status, etc.**
- **It should be for an amount of five to ten percent of the value of the contract.**
- **It may be in the form of DD/FDR/BG.**

Performance Security (Rule 171)

- **It should remain valid for a period of sixty days beyond the date of completion of all contractual obligations of the supplier including warranty obligation.**
- **EMD should be refunded to the successful bidder on receipt of performance security.**



Advance payment to Supplier (Rule 172)

- Ordinarily, payments for services rendered or supplies made should be released only after completion of work.
- Advance payments permitted in following types of cases:-
 - Advance payment demanded by firms holding maintenance contracts for servicing of ACs, computers, other costly equipments, etc.
 - Advance payments demanded by firms

Advance payment to supplier (Rule 172)

- **Advance limits are as under:-**
- **30% of the contract value in case of private firms**
- **40% of the contract value to a Central/State govt agency or PSU;**
- **In case of maintenance contract, the amount should not exceed the amount payable for six month under the contract.**
- **Ministries/departments may relax, in consultation with their financial advisers**



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Part payments to the suppliers

- **Depending on the terms of delivery incorporated in a contract, part payment to the supplier may be released after it dispatches the goods from its premises in terms of the contract.**



Transparency, competition and fairness in procurement process (Rule 173)

- All government purchases should be made in a transparent, competitive and fair manner, to secure best value for money. This will also enable the prospective bidders to formulate and send their competitive bids with confidence.
- Some of the measures for ensuring the above are as follows:-
 - ✓ (i) the text of the bidding document should be self-contained and comprehensive



Transparency, competition and fairness in procurement process (Rule 173)

clearly spelt out in the bidding document in simple language. The bidding document should contain, inter alia;

- **(a) the criteria for eligibility and qualifications to be met by the bidders such as minimum level of experience, past performance, technical capability, manufacturing facilities and financial position etc.;**

Transparency, competition and fairness in procurement process (Rule 173)

- (b) eligibility criteria for goods indicating any legal restrictions or conditions about the origin of goods etc which may required to be met by the successful bidder;
- (c) the procedure as well as date, time and place for sending the bids;
- (d) date, time and place of opening of the bid;
- (e) terms of delivery;
- (f) special terms affecting performance, if any.

Transparency, competition and fairness in procurement process (Rule 173)

- ✓ (ii) Suitable provision should be kept in the bidding document to enable a bidder to question the bidding conditions, bidding process and / or rejection of its bid.
- ✓ (iii) Suitable provision for settlement of disputes, if any, emanating from the resultant contract, should be kept in the bidding document.



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Transparency, competition and fairness in procurement process (Rule 173)

- ✓ (iv) The bidding document should indicate clearly that the resultant contract will be interpreted under Indian Laws.
- ✓ (v) The bidders should be given reasonable time to send their bids.
- ✓ (vi) The bids should be opened in public and authorised representatives of the bidders should be permitted to attend the bid opening.

Transparency, competition and fairness in procurement process (Rule 173)

- ✓ (vii) The specifications of the required goods should be clearly stated without any ambiguity so that the prospective bidders can send meaningful bids. In order to attract sufficient number of bidders, the specification should be broad based to the extent feasible. Efforts should also be made to use standard specifications which are widely known to the industry.



Transparency, competition and fairness in procurement process (Rule 173)

- ✓ (viii) **Pre-bid conference** : In case of turn-key contract(s) or contract(s) of special nature for procurement of sophisticated and costly equipment, a suitable provision is to be kept in the bidding documents for a pre-bid conference for clarifying issues and clearing doubts, if any, about the specifications and other allied technical details of the plant, equipment and machinery projected in the bidding document.
The date, time and place

Transparency, competition and fairness in procurement process (Rule 173)

of pre-bid conference should be indicated in the bidding document. This date should be sufficiently ahead of bid opening date.

- ✓ **(ix) Criteria for determining responsiveness of bids, criteria as well as factors to be taken into account for evaluating the bids on a common platform and the criteria for awarding the contract to the responsive lowest bidder should be clearly indicated in the bidding**

Transparency, competition and fairness in procurement process (Rule 173)

- ✓ (x) Bids received should be evaluated in terms of the conditions already incorporated in the bidding documents; no new condition which was not incorporated in the bidding documents should be brought in for evaluation of the bids. Determination of a bid's responsiveness should be based on the contents of the bid itself without recourse to extrinsic evidence.

Transparency, competition and fairness in procurement process (Rule 173)

- ✓ (xi) Bidders should not be permitted to alter or modify their bids after expiry of the deadline for receipt of bids.
- ✓ (xii) Negotiation with bidders after bid opening must be severely discouraged. However, in exceptional circumstances where price negotiation against an ad-hoc procurement is necessary due to some unavoidable circumstances, the same may be resorted to only with the lowest evaluated responsive bidder.

Transparency, competition and fairness in procurement process (Rule 173)

- ✓ (xiii) In the rate contract system, where a number of firms are brought on rate contract for the same item, negotiation as well as counter offering of rates are permitted with the bidders in view and for this purpose special permission has been given to the Directorate General of Supplies and Disposals **(DGS&D)**.

Transparency, competition and fairness in procurement process (Rule 173)

- ✓ (xiv) Contract should ordinarily be awarded to the lowest evaluated bidder whose bid has been found to be responsive and who is eligible and qualified to perform the contract satisfactorily as per the terms and conditions incorporated in the corresponding bidding document. However, where the lowest acceptable bidder against ad-hoc requirement is not in a position to supply the full quantity required, the remaining quantity, as far as possible, be ordered from the next higher responsive bidder at the rates offered by the lowest responsive bidder.



Transparency, competition and fairness in procurement process (Rule 173)

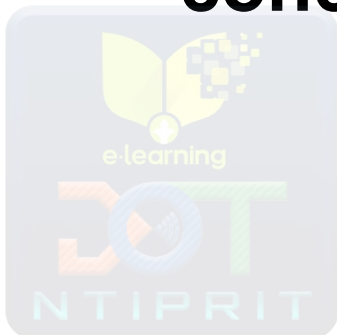
- ✓ (xv) The name of the successful bidder awarded the contract should be mentioned in the Ministries or Departments notice board or bulletin or web site



Efficiency, economy and accountability in procurement system (174)

❑ To ensure efficiency, economy and accountability in the system, the following keys areas should be addressed :-

(i) To reduce delay, appropriate time frame for each stage of procurement should be prescribed by the Ministry or Department. Such a time frame will also make the concerned purchase officials more alert.



Efficiency, economy and accountability in procurement system

- (ii) To minimise the time needed for decision making and placement of contract, every Ministry/Department, with the approval of the competent authority, may delegate, wherever necessary, appropriate purchasing powers to the lower functionaries.**
- (iii) The Ministries or Departments should ensure placement of contract within the original validity of the bids. Extension of bid validity must be discouraged and resorted to only in exceptional circumstances.**

Efficiency, economy and accountability in procurement system

(iv) The Central Purchase Organisation (e.g. **DGS&D**) should bring into the rate contract system more and more common user items which are frequently needed in bulk by various Central Government departments. The Central Purchase Organisation (e.g. **DGS&D**) should also ensure that the rate contracts remain available without any break

Tender Opening & Evaluation

- **Tender opening committee(TOC) and tender evaluation committee(TEC) are to be approved by the competent authority in advance.**
- **TOC consists of three members of appropriate level, one each from administration /planning /works section as the case may be, user section and finance wing.**
- **TEC may consists of three or more members of appropriate level from administration / planning /works section as the case may be, user section, finance wing, technical area etc.**

Tender Opening & Evaluation

- **Tenders are to be opened by the tender opening committee (TOC).**
- **TOC shall open the tender at the designated place, time and date in the presence of bidders or their representatives who may wish to be present there.**
- **TEC is responsible for the techno-commercial as well as financial evaluation of the valid bids.**

Jobs of TOC

- **Check whether bids received are in sealed condition?. Bids not found sealed are to be ignored/rejected.**
- **Before opening the bid envelop, the TOC members and concerned bidder put their signature on the body of the envelop. Similarly, signatures are put on both technical and financial bid envelops**
- **After opening the technical bid, TOC members put their signature on all documents received along with the technical bid document.**

Jobs of TOC

- **Check whether EMD is there with the bid? Bids without EMD are invalid bids and are not to be considered.**
- **The list of documents received along with the technical bid is announced for information of everybody present there.**
- **Details of EMD and documents received are entered into a bid opening register. TOC members as well as concerned bidder put their signature in the register**
- **Above process is repeated for every bid received.**

Jobs of TOC

- **Financial bids of all valid tenders are sealed in a envelop and TOC members as well as bidders present put their signature on the envelop.**
- **After completion of tender opening process, TOC members prepare a report along with a comparative chart showing various details / information about the bids / documents received and discrepancies noticed.**
- **The report of TOC along with the valid technical bids is sent to tender evaluation committee for techno-commercial evaluation of the bids.**



Jobs of the TEC

- **The TEC performs techno-commercial evaluation of each bid with the requirements as mentioned in the tender documents about eligibility conditions, documents required to be submitted, agreement to general/specific conditions of the contract etc.**
- **TEC may seek original documents from the bidders to establish truthfulness of the documents submitted with the bid.**

Jobs of the TEC

- **TEC may also visit the premise/office/works of the bidder to verify various details submitted by the bidder about infrastructure, resources, equipments etc.**
- **After thorough techno-commercial evaluation of bids on all fronts, the TEC prepares a report clearly mentioning which bids are techno-commercially responsive and which are not. It also recommends opening of financial bids of techno-commercial responsive bids.**



Jobs of the TEC

- **TEC report is submitted to the competent authority for approval.**
- **After approval of competent authority, opening date, time and place of financial bids are decided and intimated to all bidders so that they can be present at the time of financial bid opening.**
- **TOC opens the financial bids and announces the prices mentioned in it for information of all bidders.**

Jobs of the TOC for financial bids

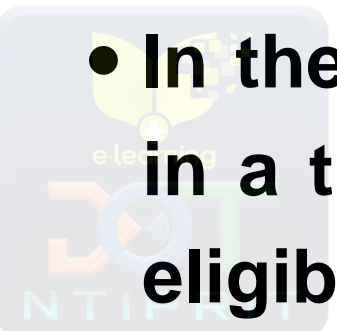
- **TOC members sign all the pages of the financial bids.**
- **Prices quoted by the bidders are entered into the bid opening register and TOC members as well as bidders put their signature in the register.**
- **TOC prepares a comparative chart of item-wise prices quoted by the bidders. Total quoted cost for each bidder is also calculated as per the evaluation criteria with marking of bidders as L-1, L-2 L-3 etc.**

Jobs of the TEC

- **The comparative financial chart prepared by TOC along with financial bids are submitted to TEC for further evaluation.**
- **TEC evaluates the financial bid of each bidder as per the evaluation criteria and confirms rankings of bidders as L-1, L-2, L-3 etc.**
- **The TEC carry out due diligence of rate quoted by L-1 bidder to establish its reasonableness and submit its report accordingly for acceptance by the competent authority.**

CVC Guidelines

- **Financial and Technical sanction of competent authority is available.**
- **Adequate and wide publicity is given. Advertisement is posted on website and tender documents are available for downloading.**
- **Convenient tender receiving/opening time and address of the tender receiving officials/tender box are properly notified.**
- **In the case of limited tender, panel is prepared in a transparent manner clearly publishing the eligibility criteria. The panel is updated**



CVC Guidelines

- **Pre-qualification criteria are properly defined/notified.**
- **Short listed firms/consultants are fulfilling the eligibility criteria. There is no deviation from notified criteria during evaluation.**
- **Experience certificates submitted have been duly verified.**
- **Tenders/bids are opened in the presence of bidders/their authorised representative.**

CVC Guidelines

- **Corrections/omissions/additions etc., in price bid are properly numbered and attested and accounted page–wise. Tender summary note/ Tender opening register is scrupulously maintained.**
- **Conditions having financial implications are not altered after opening of the price bids.**



CVC Guidelines: Negotiations

- **Circular No. 4/3/07, 3rd March, 2007**

As post tender negotiations could often be a source of corruption, it is directed that 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.

Latest guideline of CVC on negotiation

CIRCULAR No.01/01/10

Attention is invited to the Commission's circular No. 4/3/07 dated 3.3.07 on the issue of "**Tendering Process – Negotiations with L1**".

In the said circular it has, among other things, been stated "As post tender negotiations could often be a source of corruption, it is directed that there should be no post tender negotiations with L1, except in certain exceptional situations". It has come to Commission's notice that this has been interpreted to mean that there is a ban on post tender negotiations with L-1 only and there could be post tender negotiations with other than L1 i.e. L2, L3 etc. This is not correct.

It is clarified to all concerned that - 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 if the tender pertains to the award of work/supply orders etc. where the Government or the Government company has to make payment. However, if the tender is for sale of material by the Government or the Govt. company, the post tender negotiations are not to be held except with H1 (i.e. Highest tenderer) if required.

2. All other instructions as contained in the circular of 3.3.2007 remain unchanged.

3. These instructions issue with the approval of the Commission and may please be noted for immediate compliance.



(V. Ramachandran)
Chief Technical Examiner

Some common mistakes observed in tendering

- **There is a tendency in some organizations to go in for limited tenders for high value works– reasons given 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 favoritism to select firms.**

Some common mistakes observed in tendering

- **Notices published in 'local' dailies and not in any national newspaper.**
- **Surprisingly, in some cases, the notice was published only in the 'evening' newspapers.**
- **'Approved' list for limited tenders should be periodically updated .**
- **Some organizations 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**



Some common mistakes observed in tendering

- **The tender sale is closed much in advance of tender opening date.**
- **The time given for submitting the bids is unrealistically short and only such firms as are acquainted with the functioning of the organization and with prior preparations are able to participate in the bid.**
- **While re-tendering, the Pre-Qualification criteria is revised with a view to facilitate the entry of a particular firm.**



Some common mistakes observed in tendering

- Invariably the phrase 'similar work' is used in the tender notice and bid documents. This 'similar work' is interpreted differently by different agencies.
- Tender documents containing instructions to bidders, or the general and the special conditions of contract are not updated to suit the contract requirement. **Obsolete, irrelevant and sometimes conflicting, vague and incomplete clauses** are incorporated in the bid documents.

Some common mistakes observed in tendering

- 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 organization.



Some common mistakes observed in tendering

- **The amount of EMD asked for in some cases was found to be extremely low in comparison to the estimated amount of the work.**
- **A suitable arrangement for receipt of tenders at the scheduled date and time through conspicuously located tender boxes needs to be adopted.**



Some common mistakes observed in tendering

- **In order to give an equal opportunity to all the bidders and to maintain the sanctity of tendering system, it is of paramount importance that any change in the tender terms and conditions, specifications and tender opening date, etc. be notified to all the bidders sufficiently in advance of the revised tender opening date.**



Some common mistakes observed in tendering

- **Tenders are not opened in the presence of the bidders' representatives on the plea of maintaining absolute secrecy. *The possibility of tampering and interpolation of offers, after opening of tenders, in such cases cannot be ruled out.***
- **It needs to be ensured that each page of tender, *particularly the price and important terms and conditions should be encircled and initialed with the date.***



Some common mistakes observed in tendering

- The tender opening committee should also prepare an 'on the spot statement' giving details of the quotations received and other particulars like the *prices, taxes/duties, EMD, any rebates etc. as read out during the opening of tenders.*



Some common mistakes observed in tendering

- **No negotiations except in some cases (Proprietary item, items with limited source of supply, cartel formation).**
- **Minimum required quantity can be purchased & for the rest, re-tendering is to be done.**
- **Counter-offers to L-1, in order to arrive at an acceptable price, shall amount to negotiations. However, any counter-offer thereafter to L-2, L-3, etc., (at the rates accepted by L-1) in case of splitting of quantities, as pre-disclosed in the tender, shall not be deemed to be a negotiation.**

Some common mistakes observed in tendering

- It has been noticed that *works are awarded to the firms by virtue of being lowest among all the bidders without analyzing and establishing the reasonableness of the quoted rates vis-à-vis the estimated rates and the prevailing market rates.*
- In some works, either the Performance Bank Guarantee is not stipulated at all or even if it is stipulated *the amount of Performance Bank Guarantee/ Security Deposit is too low in comparison to the contract value.*

Some common mistakes observed in tendering

- **A number of instances have come to the notice where forged / fake bank guarantees have been submitted by the contractors / suppliers.**
- **Organizations concerned should take effective attempt to verify the genuineness / authenticity of these bank guarantees at the time of submission.**



Some common mistakes observed in tendering

- ***The validity of Bank Guarantees is also not being scrupulously monitored and extension in the BG commensurate with the time extensions being sought, is not asked for, which is detrimental to the Government interest in the event of non-performance of the contract.***



Some common mistakes observed in tendering

- The *factory inspection of certain items though incorporated in the contracts was however subsequently waived without any reasons, thus jeopardizing the quality aspects as per contractual requirement and financially benefiting the contractor.*



Some common mistakes observed in tendering

- Some organizations *do not incorporate a liquidated damages / penalty clause for imposing a penalty in case of failure by the contractors to complete the contract within the stipulated schedule.*



Practical tips for successful tendering

- **Keep terms and conditions of the tender as simple as it can be.**
- **Before framing terms and conditions, always seek feedback from user sections through meetings, written communications etc.**
- **In some cases, prior meeting with prospective bidders can help in framing terms and conditions as per the market conditions.**
- **Always maintain transparency and fairness in every stage of the tendering.**

Practical tips for successful tendering

- **Timelines in tendering can be strictly adhered by following a PERT chart showing all activities and their time duration.**
- **Ensure timely payments to bidder/contractor as per the payments terms prescribed in the contract.**
- **Tendering is to be treated an activity wherein both for department and bidder, it should be a win-win situation.**

References and reading materials

- GFR 2017 (specifically Chapter 6:Rule 142 to 176 for PROCUREMENT OF GOODS & Rule 177 to 206 for PROCUREMENT OF SERVICES)
- Manual for Procurement of Goods 2017
- Manual for Procurement of Consultancy and other Services 2017
- Delegation of Financial Powers Rules (DFPR)



