CHAPTER X : DEPARTMENT OF ATOMIC ENERGY

10.1 Avoidable expenditure of ₹ 3.32 crore

Failure of the Directorate of Purchase and Stores under the Department of Atomic Energy in adhering to the purchase procedure and consequent delay in finalising a purchase proposal within the validity period resulted in avoidable expenditure of ₹ 3.32 crore.

The General Financial Rules, 2005, enjoin that in the case of high value purchases, bids should be obtained in two stages, with the technical bid being evaluated first and the financial bid thereafter. As per the Exercise of Financial Rules, 1978 of the Department of Atomic Energy (DAE), cases involving limited tenders with financial outlays exceeding ₹ three crore are required to be sent for the concurrence of the Member (Finance), DAE. The timelines prescribed (2005) by the Directorate of Purchase and Stores (DPS), the centralized purchase unit of DAE, for processing two-part tenders specify that proposals for approval of the Member (Finance) should be sent within six months from the date of raising of indents.

The DPS received an indent raised in June 2007 for manufacturing of a discharge assembly transfer cask[1] from the Light Water Reactor Division of the Bhabha Atomic Research Centre. It invited (August 2007) limited tenders from three firms for manufacturing, material procurement, fabrication mockup, inspection testing and safe delivery of a discharge assembly transfer cask along with accessories at an estimated cost of ₹ 13 crore, with the due date for receipt of tenders being 24 September 2007.

The tender document included a Purchase Preference clause[2], according to which, a Central Public Sector Enterprise (CPSE) participating in a tender would get purchase preference over other participating private sector firms, provided, (i) its offer was technically suitable, (ii) the difference of price quoted by it and the lowest priced offer was within 10 *per cent* and (iii) the CPSE was willing to match the lowest quoted price. The Price Preference Policy (PPP) of the Department of Public Enterprises was valid only till 31 March 2008.

The DPS received offers from M/s. Godrej & Boyce, Mumbai (Godrej) and the Central Manufacturing Technology Institute (CMTI), Bangalore. On opening of the technical bids on 25 September 2007, both the bidders were

[1] Transfer cask is required to transfer the spent fuels to spent fuel storage pool.
[2] This clause was based on the Purchase Preference Policy prescribed by the Department of Public Enterprises, Government of India. This policy was discontinued after 31 March, 2008.

declared as technically qualified. The price bids were opened on 30 November 2007. Godrej quoted a basic price of ₹ 11.35 crore[3], whereas CMTI quoted ₹ 12.18 crore[4]. The indenting division conveyed (28 December 2007) its recommendation for placing the order on CMTI. After due negotiations, CMTI agreed (January 2008) to match its price with that of Godrej at ₹ 12.77 crore (post tax). The Stores Purchase Committee (SPC) approved the proposal for the purchase on 30 January 2008.

Scrutiny in audit revealed the following:

(i) Godrej was the lowest bidder after opening of the price bids. However, subsequent to opening the bids, CMTI submitted a letter on 6 December 2007, along with a certificate issued by the Ministry of Commerce and Industry, Government of India dated 5 December 2007 that the firm may be treated at par with CPSUs with regard to price preference. It is to be noted that CMTI was a registered society and not a CPSE and was thus not covered under the Purchase Preference Clause. The decision of DAE to accept the offer of CMTI, which was not a CPSE was, therefore, irregular.

(ii) Despite Godrej being the lowest and the only eligible bidder on the opening of price bids, DPS accepted the Ministry's certificate for treating CMTI at par with CPSEs with regard to price preference, even though this certificate was received after the opening of the price bid on 30 November 2007.

(iii) As this case was being processed on a limited tender basis and had a financial outlay exceeding ₹ three crore, it required the approval of the Member (Finance), DAE. While the instructions of DAE prescribed a time limit of six months for processing such purchase cases, it was observed that in the instant case, the proposal was sent to the Member (Finance) DAE for approval only on 21 April 2008, i.e. 10 months after raising of the indent. Secretary, DAE turned down the proposal on 29 July 2008 on the ground that the validity of the PPP was no longer valid and instructed the DPS to issue a fresh limited tender.

(iv) It was observed that there were considerable delays within the DPS in examining the proposal. As against the prescribed time limit of six months for processing such purchase cases, the DPS took two months to issue the limited tender inquiries to the three firms and a further

[3] Post tax price of ₹ 12.77 crore.
[4] Post tax price of ₹ 13.70 crore.

three months to approve the technical bid. The stages thereafter included opening and examining the financial bids and in the instant case, sending it to Member (Finance), DAE for obtaining his approval.

(v) The DPS again invited tenders in August 2008 from the same three firms. However, only Godrej responded to the tender notice and quoted a basic price of ₹ 15.80 crore[5]. DPS negotiated the price and a purchase order was placed on the firm at ₹ 16.09 crore (post tax) in February 2009. Godrej received final payment for this order in December 2010.

The procurement exercise adopted by DAE in the instant case revealed flaws in tender evaluation such as making an offer to an entity which was not eligible to be considered for the price preference benefit at the price evaluation stage. Further, there were protracted delays at various stages in processing of the purchase case, leading to rejection and retendering, which finally resulted in an additional expenditure of ₹ 3.32 crore.

DAE replied (May 2012) that the qualification process for any Company after submission of the offer is based on the status of the Company/its offer, on the due date of submission of the offer as per the purchase price procedure in vogue, which was 25 September 2007 in this case. Therefore, DPS had the perception that the PPP would be applicable to M/s CMTI in this purchase file. The offer of M/s CMTI, Bangalore was kept valid upto 31 July 2008.

The reply is not acceptable as DPS had overlooked the fact that the firm was not eligible for price preference benefit on the date of opening of the financial bid on 30 November 2007, since the certificate of eligibility for treating it at par with CPSEs with regard to price preference was issued to it only on 5 December 2007. Further, even if we consider that DAE was not aware of the fact that the benefit of price preference would lapse on 31 March 2008, the decision of DAE to accept the offer of CMTI, which was not a CPSE, was irregular.

Thus, by failing to place the purchase order on the lowest valid bidder in the first instance, DAE not only delayed the entire procurement process but also incurred an additional expenditure of ₹ 3.32 crore.

[5] Post tax price of ₹ 17.78 crore.