CHAPTER IX : MINISTRY OF HEALTH AND FAMILY WELFARE

International Institute for Population Sciences (IIPS), Mumbai

9.1 Irregularities in award of contracts

The tender evaluation committee for procurement of human resource service irregularly disqualified two bidders in contravention of procurement policy of the Government thereby vitiating the procurement process and defeating the objective of the policy. In another case, deviation from the evaluation criteria stipulated in bid document led the work being awarded to second ranked agency resulting in additional expenditure of ₹ 2.42 crore.

The International Institute for Population Sciences, Mumbai (IIPS), was established in July 1956 to serve as the regional institute of training and research in population studies for countries in the Asia and Pacific region. IIPS also conducts a large number of research projects, undertakes evaluative studies and large-scale surveys. A test check of contracts entered into by the Institute revealed the following:

A. Irregular disqualification of bidders

The Ministry of Micro, Small and Medium Enterprises issued a public procurement policy[1] which *inter alia* stated that micro and small enterprises registered with the National Small Industries Corporation (NSIC) shall be facilitated by providing them tender sets free of cost and exemption from payment of Earnest Money Deposit (EMD). Further, Rule 157 (i) of GFR, 2005, provides that Bid Security, also known as Earnest Money, is to be obtained from the bidders except those who are registered with the Central Purchase Organization, National Small Industries Corporation (NSIC) or the concerned Ministry or Department.

IIPS invited tender for providing Human Resources Services in September 2016. In response, offers were received from five firms of which two bidders submitted NSIC certificate for exemption. Technical bids were opened in October 2016 by a committee who disqualified these two bidders on the ground that they had not paid EMD and tender fees though they had submitted NSIC certificate for exemption of the same. Thereafter, the financial bid of the remaining three bidders were opened in November 2016 and the work was awarded to the lowest bidder.

[1] Notification No. 503 dated 26 March 2012.

IIPS stated (November 2017) that the two bidders were rejected owing to several factors such as non-payment of tender fees, non-submission of audited account statement, satisfied client certificate and registration certificate. Further both the agencies had not objected to the decision of IIPS.

The reply is not tenable as both the bidders were MSMEs who were exempted from payment of tender fee and EMD in terms of the procurement policy and GFR mentioned above. Further, the contention that agencies had not objected for disqualifying them is not correct since one firm had represented for disqualification due to non-acceptance of NSIC certificate which was not considered by the Institute (December 2016). Thus, disqualification of the bidders in contravention of the extant policy was not only irregular but it limited the vendor field and provided no assurance that the Institute was able to obtain the most competitive price for the contracted services.

B. Irregular selection of field agencies

IIPS was entrusted with inviting tenders and technical and financial evaluation of bids for selection of field agencies for conducting the National Family Health Survey-4 (NFHS-4). Rule 160 of GFR 2005, stipulates *inter alia* that all government purchases should be made in a transparent, competitive and fair manner and that the bid document should be self-contained and comprehensive without any ambiguities with the criteria/factors for evaluation of bids and criteria for awarding the contract to responsive lowest bidder being clearly indicated. The bids should be evaluated in terms of the conditions already incorporated in the bidding documents and no new condition which was not incorporated in bidding documents should be brought in for evaluation of the bids. The 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 as per the terms and conditions of the bid document.

As per the bid document of NFHS-4, bids were to be evaluated on the basis of Combined Quality cum Cost Based Selection (CQCCBS) criteria wherein weightage for technical and financial proposal was 75 *per cent* and 25 *per cent,* respectively.

Scrutiny of records revealed that Ministry of Health and Family Welfare (MoHFW) awarded (June 2014) the survey work to two field agencies that were ranked second in the evaluation statement for the states of Assam and Manipur instead of to the first ranked field agency. The additional expenditure that was incurred in awarding the work to the second ranked field agency worked out to ₹ 2.42 crore as of March 2017 as detailed in **Table No. 1** below:

Table No. 1: Additional expenditure that was incurred in awarding the work

State	Bidder selected			No. of HH[2]	Total cost (₹ in lakhs) (4 x 5)	Bidder ranked first		Total cost (₹ in lakh) (5 x 8)	Differential cost (₹ in lakh) (6 - 9)
	Score[3]	Rank	Rate quoted (₹)			Score	Rate (₹)		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Assam	87.00	2	1,854	23,220	430.50	87.30	1,371	318.35	112.15
Manipur	85.40	2	2,615	11,180	292.36	85.50	1,458	163.00	129.36
Total								**481.35**	**241.51**

IIPS stated (November 2017) that the Project Management Committee (PMC) was of the opinion that the quoted prices of the first rank agency were too low (20 *per cent* lower than the minimum estimated price for hilly areas) and it would not be viable for the agency to deliver the outputs without compromising on the quality. Therefore, the PMC allocated the survey work of Assam and Manipur to second ranked field agency.

The reply is not tenable since the bids were to be evaluated strictly in accordance to the evaluation criteria stipulated in the bid document and there was no leeway for deviation therefrom. Exercise of discretion deviating from the express criteria in the bid document undermined the principle of transparency and fairness and was in violation of the GFRs cited above.

The matter was reported to the Ministry in September 2017; its reply was awaited as of December 2017.

Indian Council of Medical Research

9.2 Improper procurement planning resulting in idle equipment

Improper planning in procurement of equipment by National Institute of Nutrition as well as failure to enforce performance on terms of supply order by supplier resulted in equipment worth ₹ 1.52 crore lying idle and equipment worth ₹ 2.13 crore not being put to optimal use for more than five years.

Automated Protein Digester (APD) and Robotic Spot Picker (RSP) work in conjunction to generate digested sample which is analysed by a Matrix Assisted Laser Desorption/Ionization-Time of Flight (MALDI-ToF) machine. These three equipment together constitute the Proteomics System.

The National Institute of Nutrition (NIN), Hyderabad, a unit of the Indian Council of Medical Research (ICMR), New Delhi, proposed (August 2007) the procurement of APD and RSP. However, ICMR approved (July 2008) procurement of only the APD due to constraint of funds. The APD was

[2] Households.

[3] Score is determined on the basis of points allotted to the bidder in technical and financial evaluations.

subsequently procured in April 2009 at a cost of ₹ 95.07 lakh and installed in October 2009.

Subsequently in February 2011, the Technical Committee of ICMR approved the procurement of the RSP and supply order was placed by NIN in March 2011 on a foreign supplier for US$ 1,14,438.52 (₹ 56.55 lakh[4]). The terms of the supply order stipulated that the Indian agent of the foreign supplier had to submit a bank guarantee for 10 *per cent* of CIF[5] value (₹ 5.27 lakh appx.) of the equipment as performance guarantee from the date of proper installation which will be retained by ICMR till the end of warranty period i.e. three years. The supplier was to provide preventive maintenance visits and breakdown visits as and when required. Further, the supplier also agreed to pay 0.1 *per cent* of FOB[6] (₹ 0.052 lakh appx.) as penalty per week till the warranty period, if the instrument remains in non-working condition for more than 18 days.

The RSP was delivered in September 2011 but the installation and technical demonstration of the equipment could be done only in October 2013 due to non-availability of technically skilled personnel with the Indian agent of the supplier. During installation, the technical personnel of the supplier found that the Printed Circuit Board (PCB) of the equipment was defective and needed replacement. The supplier replaced the PCB in November 2016 i.e. after three years from the date of installation. However, the application demonstration of the equipment was yet to be completed by the supplier (October 2017).

Audit observed the following:

(i) Even though NIN was aware of the fact that RSP and APD were inter-dependent and both were necessary for the optimal use of the MALDI-ToF, NIN failed to explore the possibility of re-prioritisation of procurement proposals and re-allocation of funds to enable procurement of both APD and RSP together. Funds were available with ICMR since the Technical Committee of ICMR approved (March 2009) procurement of another eight machines worth ₹ 6.08 crore for NIN.

(ii) Though the supplier did not install the RSP for two years after delivery, failed to provide the bank guarantee, took further three years to replace the faulty part (PCB) and had even yet to complete the application demo, NIN did not invoke the penalty or performance guarantee as per the terms and conditions of the supply order. The penalty to be levied on the supplier as the equipment remained in non-working condition since delivery amounts to ₹ 16.67 lakh[7].

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4 Landed cost - ₹ 56,54,893 = ₹ 52,75,616 (US$ 1,14,438.52 * ₹ 46.10 (as of August 2011) *plus* ₹ 3,79,277 (Duties and Other expenses).

5 Carriage Insurance and Freight.

6 Free on Board.

7 Penalty = ₹ 16,67,095 {0.1 *per cent* of ₹ 52,75,616 * 316 weeks (24 September 2011 to 31 October 2017)}.

(iii) Failure of NIN to get RSP functional resulted not only in idling of APD but also impacted the working of MALDI-TOF that had been installed in December 2011 at a cost of ₹ 2.13 crore. MALDI-TOF was to analyse 1000-2000 samples per year with less manual intervention. The RSP and APD were meant to reduce manual procedures for analysis of large number of samples. Due to non-integration of these two equipment with MALDI-TOF, it could analyse only 200 samples until September 2017 apart from its utilization for conducting trainings and workshops.

NIN stated (June 2017) that the supplier is organizing the application demo of RSP apart from giving the bank guarantee and extending the warranty.

Thus, inadequate procurement planning and non-synchronization of procurement of APD and RSP by NIN coupled with failure to invoke terms of supply order to enforce performance by the supplier resulted in the equipment (RSP & APD) procured at a cost of ₹ 1.52 crore remaining unusable and sub-optimal utilization MALDI-ToF procured at a cost of ₹ 2.13 crore.

The instances of idle equipment mentioned in this audit observation are those which came to the notice of audit during the test check of records of NIN and do not exclude the risk of similar other instances. Ministry may thus review the utilisation of assets in all autonomous bodies under their control to obviate the possibility of similar cases.

The matter was reported to the Ministry in (May 2017); its reply was awaited as of December 2017.

9.3 Procurement and maintenance of Equipment in Post Graduate Institute of Medical Education and Research, Chandigarh

The Institute lacked an established procedure in the form of a Procurement Manual that could ensure effective procurement management and timely acquisitions of equipment based on a holistic and systematic assessment of requirements. This resulted in procurements being made on an ad hoc basis, rush of expenditure towards the end of the financial year and delays in progressing of procurement cases. The Institute also failed to effectively invoke contractual remedies available to it where the supplier did not fulfil their contractual obligations with delay in levy of penalty amounting to ₹ 72.77 lakh for delay in supply or installation of equipment and incorrect calculation of downtime and non-recovery of penalty of about ₹ 1.46 crore for excess downtime with reference to the contractual terms. This undermined both the deterrent effect of the penal provisions as well as the Institute's ability to enforce due performance of the contract by the suppliers.

9.3.1 Introduction

The Post Graduate Institute of Medical Education & Research (Institute), Chandigarh, was established through an Act of Parliament (51 of 1966) with the primary objective of promoting post-graduate medical education to meet the

country's needs for specialists and medical teachers. Fulfilment of this objective requires, *inter alia*, the creation of requisite infrastructure and facilities as well as timely procurement and installation of various equipment necessary to impart quality medical education and patient care. The Institute is under the administrative control of the Union Ministry of Health and Family Welfare.

An audit was undertaken of the procurement of equipment by the Institute to assess whether the equipment were being procured based on assessed requirements and in accordance with the General Financial Rules (GFR). The audit covered a period of five years from 2012-13 to 2016-2017. Audit selected 81 out of 491 cases of procurement costing above ₹ 10 lakh for detailed scrutiny. Further, 11 out of 49 departments were selected on random basis for detailed audit relating to operation and maintenance of equipment.

9.3.2 Budget Allocation and Expenditure

The Institute receives Plan Grants from the Ministry of Health and Family Welfare (MoH&FW) for purchase of equipment and creation of other assets. The budget allocation under Plan Grant *vis-a-vis* actual expenditure during the audit period 2012-17 was as detailed in **Table No. 2** below:

Table No. 2: Budget Allocation vis-a-vis Actual Expenditure (2012-17)

(₹in crore)

Year	Opening Balance	Budget Allotment	Total	Expenditure	Saving (+)/ Excess (-)
2012-13	42.77	118.23	161.00	158.10	(+) 2.90
2013-14	2.90	150.00	152.90	153.58	(-) 0.68
2014-15	Nil	135.00	135.00	135.45	(-) 0.45
2015-16	Nil	125.00	125.00	125.14	(-) 0.14
2016-17	Nil	168.00	168.00	135.40	(+) 32.60

9.3.3 Financial Management

Rule 56 (3) of the General Financial Rules (GFR), 2005, states that rush of expenditure, particularly in the closing months of the financial year, shall be regarded as a breach of financial propriety and should be avoided. Further, as per the Compendium of Instructions issued from time to time by the Ministry of Finance, Government of India, expenditure both under the plan as well as non-plan heads in the last quarter of the financial year should be restricted to the 33 *per cent* of the total budget and to 15 *per cent* in the last month i.e. March.

Test check of supply orders above ₹ five lakh revealed that the Institute issued 41 *per cent* to 80 *per cent* of the total supply orders for equipment in the month of March during the period 2012-17. Further, the Institute booked 80 *per cent* of the amount of the supply orders as expenditure immediately resulting in heavy outgo of expenditure at fag end of the financial year as given in **Table No. 3** below:

Table No. 3: Expenditure at fag end of the financial year

(₹in crore)

Sl. No.	Year	Total Number of Purchase Orders issued vis-s-vis value during a Financial Year							
		During the year		During April to Feb of F.Y.			During month of March		
		Number of POs	Value of POs	Number of POs	Value of POs	% age	Number of POs	Value of POs	% age
1.	2012-13	160	113.72	94	66.55	59%	66	47.17	41
2.	2013-14	193	124.40	82	28.43	23%	111	95.97	77
3.	2014-15	186	89.55	63	24.59	27%	123	64.96	73
4.	2015-16	144	80.77	66	15.54	20%	78	65.23	80
5.	2016-17	134	72.82	56	18.87	26%	78	53.95	74
		Total	**481.26**		**153.98**			**327.28**	

Ministry stated (September 2017) that although the purchase cases had been initiated well in time, the expenditure could not be incurred without the concurrence of the Institute Purchase Committee (for purchases from ₹ five lakh to ₹ 25 lakh) and the Standing Purchase Committee (for cases above ₹ 25 lakh). Generally, the meetings of the Standing Purchase Committee was conducted on not more than two or three occasions in a year and the majority of the meetings held were in the last two quarters of the financial year. Hence, expenditure could be incurred only at the end of the financial year. Ministry however added that the Institute was taking corrective action by conducting the meetings more frequently so that expenditure could be made evenly throughout the year.

Audit observed that the Institute could have scheduled the meetings well in time to prevent rush of expenditure during March. Further, substantial funds were in fact available in the first three quarters itself in four out of the five years covered during the audit *viz.* 100 *per cent*, 84 *per cent,* 96 *per cent* and 81 *per cent* in the years 2013-14, 2014-15, 2015-16 and 2016-17 respectively. Thus, the requisite funds were available with the Institute for better planning of the procurement process.

9.3.4 Absence of established procedure or mechanism for procurements

Timely procurement and maintenance of medical equipment is a vital pre-requisite for efficient functioning of the Institute and delivery of medical services. Towards this end, it is essential to have uniform and well documented policy/guidelines in place.

9.3.4.1 Lack of Purchase Manual

As per extant practice in the Institute, after receipt of sanction letter regarding allocation of funds, the user department frames the technical specifications and sends the proposal to the Procurement Branch for further processing. The Procurement Branch thereafter submits the proposal to the concerned Core Technical Committee (CTC) for approval of the technical specifications. After

approval, tenders are floated with due date of minimum 21 days from the Notice Inviting Tenders (NIT). After opening of the tender, the proposal is sent to the concerned departments for preparation of technical bid evaluation statement. This Statement is then placed before the concerned CTC for approval. After approval of the technical bids, price bids are opened by the Procurement Branch which are then sent to the concerned Department for drafting price bid evaluation statement. Price bid evaluation statements are again placed before respective CTC for approval of lowest bid. Thereafter, case is sent to Accounts Branch for financial clearance. Once cleared, the case then is placed before the competent Purchase Committee.

However, the Institute had no purchase/procurement manual that could guide procurement actions within given time frames and ensure effective contract formulation and consistent implementation. The Institute had got prepared a purchase/procurement manual through the Institute of Public Auditors of India, Chandigarh, in 2009 but it had yet to be approved by the Ministry.

Ministry stated (September 2017) that though the draft Purchase Manual was not approved yet, the Institute was following the GFRs in procurement cases. The Institute added (October 2017) that the Ministry had also opined that there was a need to constitute a committee to prepare an uniform Purchase Manual for all the three Autonomous Institutes i.e. AIIMS New Delhi, PGIMER Chandigarh and JIPMER Pondicherry.

Audit noted that no such committee had been formed to draft a uniform purchase manual for all the three Institutes so far (October 2017).

9.3.4.2 Lack of systemic assessment of requirements

Meeting the multifarious requirement of an Institute of this size and complexity requires planning and prioritization of procurements so as to ensure optimal utilization of available resources. As per the DGHS Manual (Hospitals), each hospital should prepare a prospective master plan, broken into phases, which should *inter-alia* include department level requirement of equipment. Annual plans prepared by the hospital should be based on the master plan.

Audit noticed that a comprehensive plan for procurement of equipment was not prepared either centrally at the Institute level or at the Department level and procurements were based on indent/requirements received from Departments on ad-hoc case-to-case basis. There was no prioritization of procurement or holistic assessment of overall requirement that could provide assurance that the needs of the Institute were being met in a systematic and optimal manner.

9.3.4.3 Lack of monitoring and information systems for efficient procurements

The Institute entered into an agreement with M/s Centre for Development of Advanced Computing (C-DAC) in March 2007 for a Hospital Information System that included a procurement module. The project was to be implemented in three phases[8] which were scheduled for completion by April, 2008, October, 2008 and March, 2009 respectively at a total cost of ₹ 20.21 crore. Phase-I included the procurement module. Phase-I of the project was however only partially completed as of September 2015 after a delay of more than seven years from the scheduled completion in April 2008.

Institute stated (October 2017) that phase-I was completed in September 2015 and that Procurement Branch had conducted the trial run of the procurement module.

Audit observed that it had been brought out in the trial run that the procurement module had failed and that it would become functional only after the system starts from the base point i.e. the Central Store. Completion of the computerisation of procurement process could have facilitated streamlining the purchase processes and avoiding delay in various stages of procurement and tracking of procurement proposals.

9.3.5 Delay in processing of procurement proposals

The lack of established and clear guidelines as well as inadequate monitoring systems contributed to delay in processing of procurement proposals. The Institute stipulated that technical specifications were to be submitted by the concerned departments to the procurement branch within a period of two months and that the entire process of purchase of equipment should be completed within a period of four months. However, there was no clarity as to whether the four months for the entire purchase process to be completed was to be reckoned from the date of financial sanction or receipt of technical specification from the Department.

Audit evaluated the purchase process based on the criteria of four months' duration from the receipt of indent with technical specification from respective departments in the procurement branch. Based on this yardstick, Audit noted delays ranging from one month to over four years in 80 out of the 81 cases test

[8] Phase-I: covered services *viz*. Patient Registration, Lab services, Patient Billing, Blood Bank, Central patient Enquiry, Procurement System and Online Inventory, Accounts and Administration, Phase-II: covered the services of Hospital Equipment maintenance/ Infrastructure maintenance, Clinical data capture and Phase-III: covered Appointment and Scheduling, Diet and Kitchen, Duty Roster, Central Sterile Supply Department, Support Services.

checked in audit against the time of four months prescribed by Accounts Branch for completing the entire purchase process. The value of the 80 delayed cases was ₹ 136.92 crores.

Ministry stated (September 2017) that tenders were often scrapped due to technical reasons i.e. Earnest Money Deposit (EMD) not being submitted or no bid or only one bid being received or not quoting as per specifications or as per Institute policy. These situations led to re-tendering with consequent delay in getting the equipment.

Audit observed that out of 69 files provided for audit scrutiny, re-tendering occurred only in 28 cases (41 *per cent*) whereas delay in 41 cases (59 *per cent*) was not attributable to re-tendering. The delays were thus largely attributable to administrative laxity in progressing of the procurement proposals and cumbersome procedures which could have been reviewed and streamlined.

9.3.6 Poor contract management

Good procurement management includes ensuring adherence to the terms of the contracts or supply orders entered into relating to their installation and operationalization through effective enforcement of the contractual provisions. Audit noted that the Institute failed to ensure due performance by the suppliers of their obligations under the contracts/supply orders and failed to enforce its terms.

9.3.6.1 Short levy of penalty for delay in supply/installation of equipment

The terms and conditions of the NIT/supply order stipulate that in case the supplier fails to install the equipment within the specified time schedule, the purchaser had the right to levy penalty @ half *per cent* per week subject to a maximum of 10 *per cent* of the accepted tender value up to 20 weeks. For delay beyond 20 weeks, purchaser may terminate the contract. The standard terms of tender also include submission of performance bonds in the form of bank guarantee which may be invoked in case of failure of the supplier to perform his contractual obligations. The performance bond was 10 *per cent* of the FOB[9] value of the equipment being procured. There are also provisions for recourse to arbitration in case of disputes.

Audit noted delays ranging from one week to over two years in installation of equipment in 58 procurement cases. Of these 58 cases, equipment were installed with delay beyond 20 weeks ranging up to 110 weeks in 17 cases. Penalty in two of these cases amounting to ₹ 64.12 lakh for delay till 20 weeks was yet to be recovered from the suppliers as of October 2017. Of the balance 41 cases where

[9] Free on Board.

delay was within 20 weeks, penalty was recovered or delay condoned by competent authority in 39 cases while neither delay was condoned nor penalty of ₹ 8.65 lakh levied in the remaining two cases.

Thus, penalty amounting to ₹ 72.77 lakh remained to be recovered from four suppliers for delayed installation of equipment. The Institute also failed to either invoke the performance bond for delay beyond 20 weeks in installation of the equipment or take recourse to other measures to enforce compliance of the contract terms by the supplier.

Institute stated (October 2017) that in three out of the four cases, recovery was to be worked out on receipt of information from the concerned departments while the firm had been asked to deposit the penalty in the remaining case.

9.3.6.2 Incorrect calculation of down time

The contract/supply orders provided for a guarantee/warranty period effective from date of installation that was to be followed by Annual Maintenance Contract (AMC)/Comprehensive Maintenance Contract (CMC) for 2/5 years after expiry of warranty/extended warranty period. Further, the supplier was contractually obligated to ensure an uptime[10] of 95 *per cent* during the warranty period as well as during the service contract period i.e. the equipment and the accessories will be maintained in good working condition for a minimum period of 347 days in a year. If the machine is out of order for more than five hours during a day, it shall be considered as one day down time. If the downtime period exceeds 18 days (five *per cent*) in a year, a penalty as stipulated in the contract will be imposed. Further, warranty/guarantee period will be extended by the days for which the downtime during warrantee/guarantee period exceed the permissible downtime period (18 days) in year.

Scrutiny of log books of a CT Scan Machine installed in the Department of Radiology in December 2011 revealed that the total downtime period of the machine was 157 days during its warranty period. Hence, the warranty period of the equipment was to be extended by 83 days. However, the warranty of the machine was extended by only 36 days i.e. short by 47 days. Moreover, this was not taken into account while releasing payment for the first quarterly CMC bill of the equipment covering the extended warranty period resulting in excess payment of ₹ 4.23 lakh to the supplier. Similarly, warranty of three other machines was extended by 108, 148 and 16 days respectively which was short by 52, 54 and 47 days respectively with reference to their downtimes during their

[10] Uptime refers the time when the equipment remains in working order.

warranty periods. However, payment of the maintenance bills was not made by the department till date (October, 2017) as these cases were under review by a special committee of the Institute.

The department replied that downtime has been calculated as per clause 12.1 of the contract agreement wherein five days are allowed for putting the unit in working order. The reply is not tenable since clause 12.1 of the contract stipulates that the five days will be allowed only to procure spares where they had to be imported whereas the allowance of five days was being permitted routinely in every instance. The CT Scan Machine had broken down 37 times in five years and the Institute reduced the down time period by five days on all 37 occasions. Moreover, the Institute could not furnish any document in support of import of spare parts even in a single case. The Institute followed the same practice of short extension of warranty periods for the other three equipment also.

9.3.6.3 Non recovery of penalty for downtime period

Test check of log book of equipment maintained by the Department of 'Radio-diagnosis and Imaging' during 2012-17 revealed that the down time period recorded for 21 equipment[11] was beyond the permissible limit by three days to over eight months. Accordingly, penalty amounting to ₹ 2.10 crore was leviable/recoverable from suppliers out of which only ₹ 9.34 lakh had been recovered leaving a recoverable balance of over ₹ two crore.

Audit also noticed cuttings and tampering in the log books whereby days initially marked as 'Not working' were subsequently shown as 'working'. In some cases, tampering in the timings of repair of equipment were also noticed thereby reducing the down time period of that particular equipment. Further, the cutting and tampering were not attested by any officer/authority which clearly left scope for manipulation. Hence, Audit could gain no assurance as to the credibility or validity of the changes made.

The Institute stated (August and September 2017) that (i) the department had imposed a penalty of ₹ 1.17 crore in 11 out of 21 cases out of which ₹ 9.34 lakh had been recovered, (ii) downtime period would be calculated after expiry of guarantee/warranty period in respect of eight cases, and (iii) in respect of one equipment, penalty would be calculated after submission of Bill while in another equipment penalty was calculated as 'nil'.

Audit noted that against an amount of ₹ 1.17 crore calculated by the Institute in 11 cases, the penalty worked out to ₹ 1.55 crore as per the entries in log

[11] Equipment namely various types of Ultrasound machines, X-Ray machines, MRI machine, CT scanner, Angio- Simulator machines etc.

books without considering the unattested cutting/tampering and as per the contract provisions for calculation of down time.

9.3.6.4 Non-maintenance of proper record of log books of equipment

AMC/CMC of equipment becomes effective automatically after expiry of the guarantee period or extended warranty period and payment would be released to the firm in four equal instalments after verification of all service reports and downtime period of equipment in excess of the permissible period of 18 days in a year.

Test check of record of 10 departments[12] revealed that departments did not maintain the log book in the prescribed format and details of down time and repairs were recorded without time and date. In absence of such details, neither the downtime nor the penalty due to breakdown of the equipment could be accurately calculated. However, CMC bills of above departments amounting to ₹ 4.33 crore were verified by the respective departments without calculating the downtime periods of the equipment and full payments released to the suppliers.

9.3.7 Conclusion

The Institute lacked an established and approved procedure and mechanism that could ensure effective procurement management and timely acquisitions as well as optimal utilisation of resources in a planned manner. This was reflected in procurements on essentially ad-hoc basis in the absence of any comprehensive plan, the rush of expenditure at the fag end of the financial year and delays in progressing of procurement cases. The Institute also failed to invoke the contractual remedies where the suppliers did not fulfil their contractual obligations thereby undermining the deterrent effect of penal provisions in the contract and compromising its ability to enforce contractual terms relating to delivery and operationalization of equipment. Delayed installation of equipment would evidently have an adverse impact on the delivery of patient care as well as conduct of medical courses.

Jawaharlal Institute of Postgraduate Medical Education and Research, Puducherry

9.4 Failure to claim refund of customs duty exemption availed by the firm

Jawaharlal Institute of Postgraduate Medical Education and Research, Puducherry failed to claim refund of customs duty exemption availed by a firm on imported equipment resulting in loss of ₹ 1.08 crore.

M/s HLL Lifecare Limited (HLL) was appointed in March 2009 as in-house Consultant by the Ministry of Health and Family Welfare (Ministry) for setting

[12] Advanced Eye Centre, Anaesthesia, Gynaecology, Histopathology, Microbiology, Nephrology, Neuro-Surgery, Orthopaedics, Paediatric Medicine and Urology.

up of a teaching block, a 400 bed women and child hospital, a hostel complex and augmentation of existing Specialties (Project) at Jawaharlal Institute of Post-graduate Medical Education and Research, Puducherry (JIPMER).

In December 2009, JIPMER signed a contract for consultancy service with HLL wherein HLL was required to make payments to the Engineering, Procurement and Construction (EPC) developer and submit adjustment bills to JIPMER for reimbursement. As per Clause 3.4 of the contract, HLL shall be liable to JIPMER for the performance of the services in accordance with provisions of the contract and for any loss suffered by JIPMER as a result of a default of HLL.

In the meanwhile, HLL invited (April 2009) Expression of Interest (EoI) from eligible EPC developers for executing the project on turnkey basis. It subsequently short-listed two firms and issued a Notice Inviting Tender (22 October 2009) to the two short-listed firms.

As per Clause 3.1(d) of the Request for Proposal (RFP) under Section 3 on Tender Prices and Schedule of Payment, the tenderer had to include in its quoted price all taxes (VAT, Service Tax), fees and other levies payable by the tenderer under the contract. JIPMER was to assist the tenderer wherever feasible for getting customs duty exemption. Further, in the Special Conditions of Contract of the RFP, against Item No. 19 in Section III on Special Conditions of Contract, it was notified that for medical equipment, 'the contractor shall submit his prices for equipment as a lumpsum price which is the total of all the equipment prices and the contractor shall bear all charges for the order, purchase, transport, supply, erection and commissioning of the equipment including taxes, duties etc. wherever applicable and the same shall be deemed to have been included in his contract price'. Further, it was clarified[13] to the bidders in the pre-bid meeting (November 2009) that prices should include customs duty and in case of any exemption, such amount shall be credited to JIPMER.

HLL awarded (March 2010) the Project to one of the short-listed firms and entered (March 2010) into an agreement, for and on behalf of JIPMER, for execution of the Project which included, *inter alia,* procurement, installation and commissioning of medical equipment.

JIPMER issued (April 2011) 175 numbers of N.M.I & C.D.E Certificates[14] to the firm to avail customs duty exemption as JIPMER fell under category (f) (1) of the condition 77 of Ministry of Finance (Department of Revenue)

[13] Clarification (No. 10) on RFP furnished to a query raised by one of the firms on whether quoted rates should include customs duty or not.

[14] Not Manufactured in India & Customs Duty Exemption Certificates.

Notification No. 21/2002-Cus. dated 1 March 2002. Based on these certificates, the firm had imported 256 equipment between April 2011 and March 2013.

Audit test checked[15] the customs duty payment in case of 128 out of 256 equipment imported by the firm and noticed that the firm had availed of the customs duty exemption of ₹ 1.08 crore while importing these equipment. However, HLL had not insisted on the refund of customs duty exemption availed of by the firm and failed to pass it on to JIPMER as envisaged under the provisions of the agreement between HLL and JIPMER. Thus, HLL failed to safeguard JIPMER's interest by not claiming refund of ₹ 1.08 crore from the firm for 128 equipment.

Ministry stated (August 2017) that it has been decided by JIPMER to recover the amount from the firm.

Safdarjung Hospital

9.5 Incorrect pay fixation resulting in excess payment

Failure of Safdarjung Hospital to ensure that the quantum of Non Practicing Allowance (NPA) used for pay fixation in terms of Rule 7 B of Central Civil Services (Revised Pay) Rules, 2016, did not exceed NPA being paid based on the stipulation that the Basic Pay plus NPA does not exceed ₹ 85,000 resulted in excess payment of Non Practicing Allowance aggregating ₹ 70.85 lakh.

Rule 7 B of the Central Civil Services (Revised Pay) Rules, 2016, stipulates that in the case of medical officers in respect of whom Non Practicing Allowance (NPA) is admissible, the pay in the revised pay structure shall be fixed by multiplying the existing basic pay by a factor of 2.57 and the figure so arrived at shall be added to by an amount equivalent to Dearness Allowance on the pre-revised NPA admissible as on 1st day of January 2016. The figure so arrived at will be located in that level in the Pay Matrix and if such an identical figure corresponds to any cell in the applicable level of the Pay Matrix, the same shall be the pay, and if no such cell is available in the applicable level, the pay shall be fixed at the immediate next higher cell in that applicable level of the Pay Matrix. The pay so fixed shall be added by the pre-revised NPA admissible on the existing basic pay until further decision on the revised rates of NPA is taken.

As per Department of Expenditure, Ministry of Finance's O.M. dated 30 August 2008, NPA payable was 25 *per cent* of Basic Pay subject to the condition that the Basic Pay plus NPA does not exceed ₹ 85,000. Hence, the pay fixation

[15] Out of 256 equipment procured by the firm, details of 199 equipment could be extracted from the Dump Data available with Customs Audit Wing and from 199, only 128 equipment could be cross checked with NMI&CDE Certificates issued by JIPMER, installation reports available with JIPMER and list of equipment furnished by the firm.

under Rule 7 B ibid, DA as on 1 January 2016 on reduced NPA was to be added in all cases where pre-revised Basic Pay plus NPA exceeded ₹ 85,000. Further, in such cases, the NPA to be paid on the revised Pay fixed as above was also to be restricted to the pre-revised level. The rate of allowances including NPA have however since been revised with effect from 01 July 2017.

Test check of records of Safdarjung Hospital (Hospital) relating to pay fixation of Doctors/Consultants revealed that the condition that the sum of Basic Pay plus NPA should not exceed ₹ 85,000 for calculating NPA and DA thereon was not adhered to. The pay of 52 Doctors/Consultants was fixed by taking NPA at the rate of 25 *per cent* of the pre-revised Basic Pay without restricting NPA with reference to the stipulation that Basic Pay plus NPA should not exceed the ceiling of ₹ 85,000. This resulted both in higher fixation of pay with effect from 1 January 2016 as well as excess payment of NPA aggregating ₹ 70.85 lakh during the period 01 January 2016 to 30 June 2017.

On being pointed out by Audit (August 2017), the Hospital stated (November 2017) that the Pay of the Doctors/Consultants has been re-fixed and recovery has started from September 2017 onwards.

Audit also noticed that there was no internal mechanism for post facto checks of pay fixation thereby entailing a risk of discrepancies remaining undetected for prolonged periods. In this case, the incorrect fixation remained undetected till pointed out by Audit.

The matter was reported to the Ministry in October 2017; its was awaited as of December 2017.