



Chapter II

Project Management and Execution

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2.1 Absence of Agreement/ MoU with NIC for implementation of e-Procurement system

General Control

A service level agreement (SLA) is a contract between a service provider and the end user that defines the level of service expected from the service provider. The roles and responsibilities, timelines, and deliverables along with penalties for under or non-performance are clarified by executing the SLA between both the parties for smooth implementation of Project.

Government of Odisha (GoO) decided (May 2006) to sign a Memorandum of Understanding (MoU) with NIC for implementation of the e-Procurement project which was funded under National e-Governance Plan upto 2017. After which, the GoO had paid ₹790.41 lakh to NIC for implementation and maintenance of GePNIC from April 2018 to March 2024.

Audit, however, observed that agreement or Memorandum of Understanding (MOU) for customization/ implementation of the e-Procurement System had not been entered into with NIC.

Due to the absence of Agreement/ MoU, the roles and responsibilities, timelines, deliverables and service level metrics for performance of the system had not been clearly defined between both the parties, for smooth implementation of the project.

In reply the Department stated (December 2023) that initially the portal was handled by the IT Department, GoO and the same was handed over to Works Department GoO in 2010. Agreement had not been entered into and NIC has been requested to process the MoU, which is awaited.

The fact remained that GoO had implemented the e-Procurement system without an Agreement or MoU defining the roles and responsibilities of NIC, and as a result, it had no legal basis to approach NIC in case of any lapses noticed in implementing the application.

2.2 Non-implementation of key Modules of GePNIC

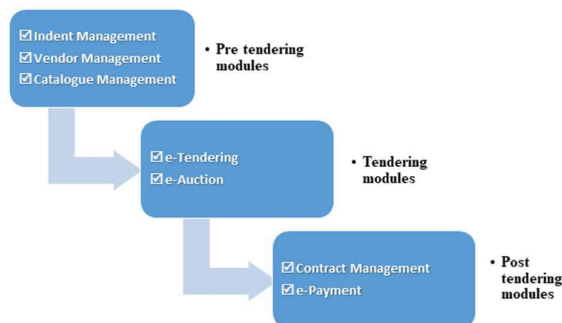
General Control

The e-Procurement application software envisaged modules such as Vendor Management, Indent Management, e-Tendering, e-Payment, Contract Management, e-Auction and Catalogue Management.

However, in the first phase it was decided to implement only the e-Tendering module, while the modules relating to pre-tendering and post-tendering stages were to be implemented in the second phase.

During August 2012, NIC informed the State Government regarding engagement of consultant to carry out required study for preparation of As-Is and To-Be documents for implementation of pre and post tendering modules and contractor database modules *etc.* The final study report of As-Is and To-Be documents were submitted during April 2013.

Figure No 3: Modules of e-Procurement



However, Audit observed that no action was taken after preparation of As-Is and To-Be documents for development of pre and post modules and modules like Vendor Management, Indent Management, e-payment, Contract Management, and Catalogue Management.

Though the e-Auction module was developed by NIC in 2012, it was not used by the Government of Odisha as of March 2022. Due to non-implementation of pre and post modules of the e-Procurement system, the objective of full-automation / elimination of human interface in the tendering process could not be achieved.

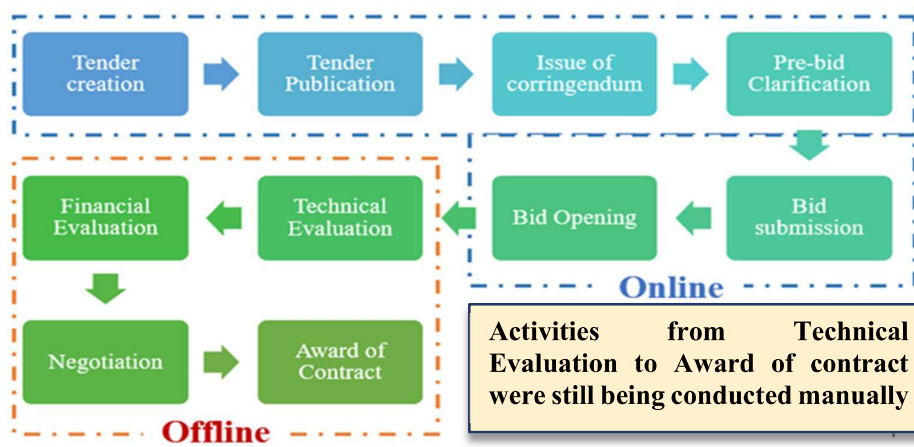
Department agreed (December 2023) about non-development of the modules by NIC. As a result, the pre and post tendering modules of the e-Procurement system are yet to be developed.

2.3 Partial implementation of the e-tendering module

General Control

The e-tendering module was designed to have the following processes:

Figure No 4: E-tendering module



Departmental users, having creator roles, could log on to the portal and create online tenders. Authorised departmental users having publisher roles could verify the created tenders and publish them online. Registered bidders/contractors could submit online bids and upload required documents till the time defined in the notice inviting tenders. On the bid opening date, departmental users responsible for bid opening could open/ decrypt the bids. The bid opening consisted of four stages *i.e.*, Technical Bid Opening, Technical Evaluation, Financial Bid Opening, and Financial Evaluation, followed by Award of Contract (AoC). Once the comparative statement of bids was generated through the system and L1, L2, L3...identified, L1 could be called upon for negotiation or sample checking. The last stage of e-tendering was the Award of Contract, where the departmental user could upload the award of contract mentioning the final rate finalised with the selected bidder.

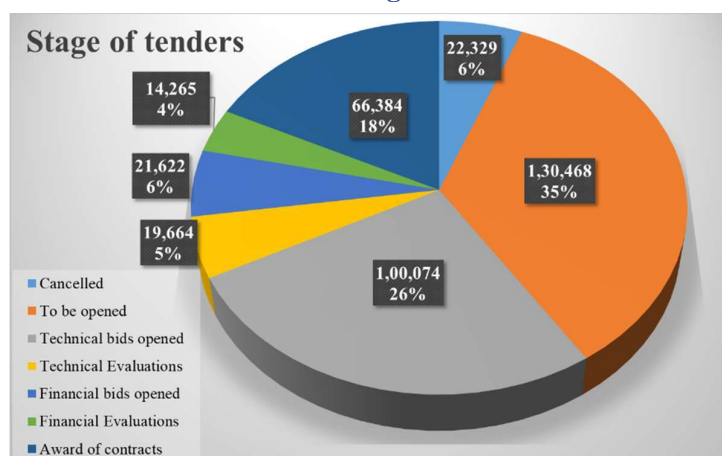
As shown in the schematic diagram above, critical functions such as technical evaluation, financial evaluation, negotiation, award of contract were still being carried out manually, outside the e-Procurement system. However, the details of such manual processing viz. technical evaluation minutes, financial evaluation minutes, negotiation minutes with L1 bidder, and award of contract, were required to be uploaded onto the e-Procurement portal, as part of the workflow for the application.

Audit noticed that the details of manual processes for technical and financial evaluation and award of contract were being uploaded onto the e-Procurement portal with significant delays (even up to four years). Thus, the e-Procurement portal did not reflect the real-time, actual status of various tenders in its MIS reports.

Analysis of the stages of tenders revealed that out of 3.75 lakh tenders that were published during 2008-09 to 2021-22, and excluding 22,329 tenders that were cancelled, details of only 0.66 lakh tenders (18.75 *per cent*) had been entered in the Award of Contract process.

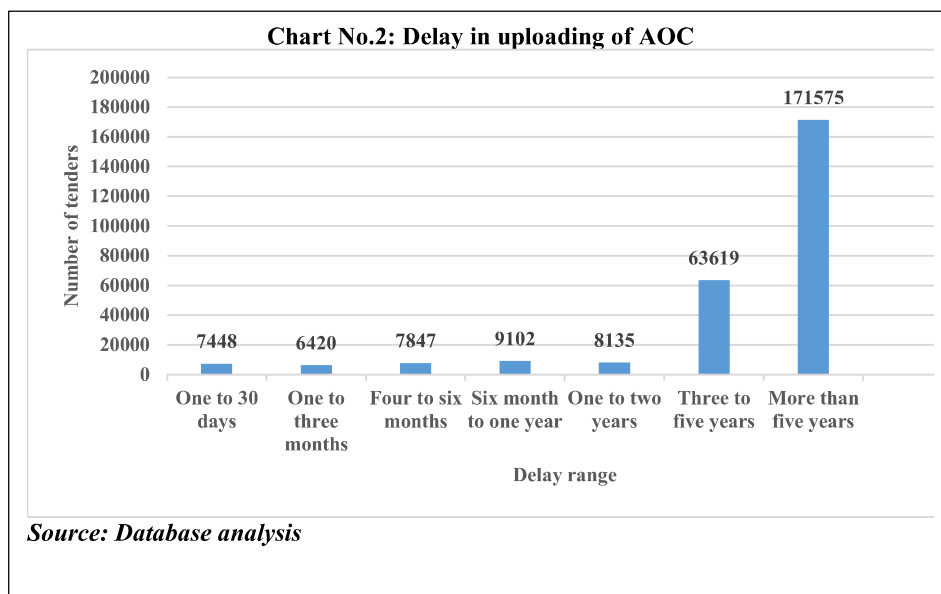
Out of the remaining 2.86 lakh tenders, 1.30 lakh tenders were depicted at “To be opened” stage, 1.00 lakh tenders at “Technical bid opened” stage, 0.20 lakh tenders at “Technical bid evaluated” stage, 0.22 lakh tenders at “Financial bid opened” stage and 0.14 lakh tenders at “Financial bid evaluated” stage. In 2.74 lakh out of these 2.86 lakh tenders, the delay after expiry of bid validity from the date of bid

Chart No 1: Stages of Tender



(Source: e-Procurement database)

opening to 31 March 2022 ranged between one to 5005 days, as depicted in the **Chart-2**.



Audit test checked 486 sample tenders at 48 selected TIAs to verify whether the status of the tender depicted on the e-Procurement system was correct, and noticed that Award of Contract (AoC) had been completed in 434 tenders as per manually maintained physical records. However, the e-Procurement system reflected the status of these tenders incorrectly, with 326 tenders depicted as at AoC stage while in the remaining 108 (25 per cent) tenders, the AoC details had not been uploaded into the system even after delays ranging up to 1773 days from the actual date of AoCs. Similarly, the details of tenders which had completed the Technical Evaluation and Financial Evaluation stages had not been uploaded into the system.

Further, in 248 out of the 486 test-checked tenders, portable document format (pdf) versions of unrelated/ irrelevant documents (documents containing designations of committee members who evaluated the technical and financial bids, Detailed Notice Inviting Tenders, *etc.*) had been uploaded into the system, instead of the actual minutes of proceedings of technical and financial evaluation committees. This indicated lack of due diligence by the users responsible for correct uploading of documents.

In the absence of online processing of technical and financial evaluation and award of contract through the system with the required application controls, there was avoidable risk of commission of errors/ deliberate irregularity on the part of the Tender Inviting Authorities (TIA) when carrying out these processes manually. One such example, where Audit noticed that the TIA had irregularly extended undue benefits to bidders during tender processing, is discussed in the case study below.

Case study

During test check of tenders Audit noticed that two TIAs- Bhubaneswar Municipal Corporation and Jeypore Municipality- had extended undue benefits to bidders in 30 tenders. This undue benefit was extended either through irregular increase of the value of bids submitted by the bidders or through irregular exclusion of the eligible L1 bidder and award of contract to other bidders with higher bids. Details are tabulated below:

Sl. No.	Nature of irregularity	Number of tenders	Total Tender amount (₹ in lakh)	Total Amount quoted by lowest bidder (₹ in lakh)	Total Amount Awarded (₹ in lakh)	Total Amount irregularly increased (₹ in lakh)
1	Manually increased the quoted value of bids	29	299.59	282.76	301.78	19.02
2	Excluded the eligible L1 bidder from the comparative statement	1	7.05	6.52	6.90	0.38
	Total	30	306.64	289.28	308.68	19.40

The total amount quoted by the Lowest (L1) bidders in these 30 tenders was ₹2.89 crore. However, the actual total amount awarded in these 30 tenders was ₹3.07 crore. This irregular increase would not have been possible, had the processes for technical and financial evaluation of bids and award of contract been carried out through the e-Procurement system, with the required application controls to ensure compliance with the executive instructions. In the absence of the use of the system for these processes, the TIAs had extended undue benefits as above.

Response of the concerned department is awaited (December 2024)

2.4 Absence of master data management functionality for contractors, in e-Procurement system

Project Management

NIC was to develop the Contractor Database Management System (CDMS) as part of the e-Procurement System, as per the As-Is and To-Be document prepared in 2012. However, NIC did not develop this module.

The CDMS was intended to provide functionality for master data management of contractors and was therefore essential to automate the processes of technical evaluation, financial evaluation and award of contract through the e-Procurement system.

As a result of non-implementation of the same by NIC and in the absence of a formal Agreement/ MoU to enforce the same, GoO decided (November 2017) that Works Department would develop the Contractor Database Management System (CDMS) through a different software vendor and to implement the same by April 2018.

Works Department, GoO approved (February 2018) the proposal amounting to ₹3.84 crore and requested the authorised GoO agency, M/s IDCOL Software Ltd (ISL) to initiate the tender process. ISL finalised (31 March 2018) the vendor M/s CSM Technologies Pvt Ltd for Development, Implementation, Maintenance and Support Services of web-based Contractor Database Management System at a cost of ₹3.58 crore and for Operating System and RDMBS (Operational) at ₹63.60 lakh. The project was to be completed within six months from date of award, in three phases.

In Phase II, there was provision for integration with e-Procurement portal for master data management for contractors. The Department issued (July 2019) User Acceptance Test (UAT) certificate for the developed CDMS software Phase-I, Phase II and Phase III.

However, Audit noticed that even as of December 2023, the integration of CDMS with e-Procurement had not been implemented, and the User Acceptance Test certificate had been issued by the Department without verifying the actual status of implementation. Such issue of the UAT certificate without exercising due diligence resulted in extension of a significant undue favour to the vendor.

Due to non-integration of e-Procurement system with CDMS, the processes of technical and financial evaluation and award of contract continued to be carried out manually outside the system, with the material risk of commission of errors/deliberate irregularities.

Accepting the facts, the Department stated (December 2023) that the UAT certificate had been issued by the Department, but later it was found that the assigned works had not been completed. As a result, an amount of ₹2.86 lakh had been withheld as payment to the vendor.

The response was not tenable, since the fact remained that due to the absence of master data management functionality for contractors in the e-Procurement system, key business processes continued to be carried out manually and the Department had not fixed any responsibility for the delay in implementation of CDMS or for the incorrect issue of the UAT certificate.

2.5 Absence of integration with Works and Accounts Management Information System

General Control

Works and Accounts Management Information System (WAMIS) was developed by Center for Development of Advanced Computing (C-DAC) for different Engineering Departments like Rural Development, Roads & Building, Water Resources and Housing & Urban Development in Government of Odisha and implemented (May 2009) the application through Rural Development Department. Along with other functionalities, WAMIS has a facility for pre-tender activities such as Administrative Approvals, Technical Sanctions, preparation of BoQ, Tendering, Quotations, Awarding, Negotiation and Execution of Works.

To minimise human intervention, introduce automated tendering process and bring transparency in procurement, Government decided (May 2016) for end-to-end integration of e-Procurement system with WAMIS, so that the inputs such as BoQ, e-Estimates could be transmitted from WAMIS to the e-Procurement system, and inputs on award of contract (contractor identity, contract value *etc.*,) from the e-Procurement system could be transmitted to WAMIS. The integration was to be completed in three phases.

- In Phase I, the scope of work included sharing of pre-tendering information such as BoQ from WAMIS to the e-Procurement portal, for creation and publication of tender.
- In Phase II, General Technical Evaluation (GTE) was to be enabled using information available from WAMIS and comparative statement of bidders for technical evaluation was to be auto-generated in the e-Procurement system.
- In Phase III, the scope of work included sharing of post-tender information such as letter of acceptance (e-LoA), Award of Contract/Agreement (e-AOC/e-Agreement) from the e-Procurement system to WAMIS.

The target date for completion of the above integration process was 01 June 2021. However, Audit observed that end-to-end integration of e-Procurement system with WAMIS had not been completed as of December 2023, despite the lapse of more than 2 years after the scheduled completion date.

In reply the Department stated (December 2023) that the integration with WAMIS would be completed after implementation of the new version of GePNIC.

The absence of the intended integration with WAMIS also contributed to the continued use of manual, offline processing of technical and financial evaluation of bids and award of contracts, which carried the significant risk of commission of errors/ deliberate irregularities.

2.6 Absence of executive instructions to revise the threshold value for mandatory e-procurement

General Control

Department of Commerce, Government of India (GoI) vide their letter 17 March 2015 suggested that all States/UTs irrespective of service provider may bring down the threshold value for e-Procurement to ₹1 lakh in a time bound and phased manner by 31 March 2016. All the Departments/Divisions/Rural Bodies/PSUs /Autonomous bodies would be brought under the purview of e-procurement by 30 September 2015. The above objectives regarding e-Procurement would be mandated through Legislation/Executive Orders.

Audit observed that despite implementation of e-Procurement since 2008 and GoI instructions in 2015, out of 40 Departments of Government of Odisha, only 29 Departments had registered in the e-Procurement system and the remaining 11 Departments had not registered themselves. Thus, these 11 Departments had

continued to use other channels for procurement for their Departmental requirements, even after 14 years of implementation of the e-Procurement system.

Further, the threshold value in respect of procurements by Departments of Government of Odisha had remained at ₹2 lakh for ULBs under the H&UD Department, and at ₹5 lakh for all other Departments, even after 6 years from the target date for revising the threshold value down to ₹1 lakh. This meant that there was avoidable risk of non-compliance with the applicable Rules for procurement in offline mode for values between ₹1 lakh and ₹5 lakh for Departments.

As per OPWD Code, contract for works having estimated cost up to ₹5 lakh may be awarded with or without invitation of open tenders, at the discretion of the Divisional Officer. Audit noticed that in the absence of executive instructions mandating the use of e-Procurement system for contract value of more than ₹1 lakh and in view of the provision to not opt for open tender in cases where contract value was less than ₹5 lakh, there were instances of TIAs splitting works to this range of contract value. One such example is described as a case study below.

Case Study **Splitting up of works to bypass e-tendering.**

For preparation of detailed architectural design and structural grid of various floors and areas of the 300-bed new building of District Headquarter Hospital at Bhadrak, the Executive Engineer Bhadrak R&B Division had submitted estimates splitting the original work into 22 works. The concerned Superintending Engineer had approved (June 2021) all the 22 split works limiting the amount in each case to below ₹5 lakh. Each of these 22 split works was awarded (21-24 May 2021) to the same contractor, for a total contract amount of ₹70.52 lakh across the 22 works.

If e-procurement had been mandated with threshold value revised to ₹1 lakh, the risk of such splitting of works could have been mitigated, as the system could have had application controls implemented to detect such instances of splitting of works (using the combination of data fields such as head of account, Division, contractor identity *etc.*) and report the same to senior Officers of the Department.

Thus, in the absence of executive instructions to mandate e-procurement for contract value above ₹1 lakh, there remained avoidable scope for TIAs to opt for offline procurement with attendant risks, as well as the material risk of splitting of works to avoid escalation to the competent authority.

In reply, the Department stated (December 2023) that the e-Procurement portal has been designed as per the provisions laid down in the OPWD Code. Necessary changes to the system will be made on revision of the Code. The response was not tenable, as the revision of the threshold value for mandatory e-procurement was required to have been implemented in a phased manner by

March 2016 itself, as per communication issued by Government of India and the same was to be incorporated in the OPWD code through revision.

2.7 Absence of functionality in the system to manage privileged bidders

System Design

OPWD Code provides for special privileges⁸ to 'B' class SC/ST contractors, Engineer Contractors who are Graduates and Diploma holders, physically handicapped 'D' and 'C' class contractors, Micro and Small Enterprises (MSEs) and Start-ups. Accordingly, the SRS had also provided for functionality in the system to define and manage such privileged bidders.

Audit, however, noticed that no functionality had been implemented in GePNIC to define, create and manage such categories of privileged bidders, except MSE category.

In the absence of such functionality, the TIAs had to adopt manual evaluation of technical bids when such privileged bidders participated in tenders.

Audit noticed that during such manual evaluation in three out of 48 test checked TIAs, there were errors in evaluation and award of contract as discussed below:

2.7.1 Wrongful selection of bidder

In two test checked cases Audit noticed that contractors were selected due to incorrect calculation of 10 *per cent* price preference manually.

- The work "Construction of Drain near proposed Poura Bhawan, ward No 15" was put to tender (June 2021) by Executive Officer (EO), Barbil Municipality with estimated rate of ₹4.46 lakh. Seven bidders participated and all were technically qualified by the committee. In the financial evaluation summary, it was seen that the L1 bidder had quoted ₹4.01 lakh being 9.99 *per cent* less than the amount put to tender. The ST Contractor had quoted ₹4.46 lakh (0 *per cent*) and other five bidders had quoted 9.9 *per cent* excess than the amount put to tender. The EO awarded the work to the ST contractor at ₹ 4.01 lakh by incorrectly calculating the price preference of 10 *per cent* on the quoted amount instead of calculating 10 *per cent* on the lowest quoted bid. The EO admitted (November 2022) the error.
- The tender for work "Construction of Chemical Laboratory Building at Kurmitar Iron Ore Mines in the District of Sundargarh" was floated by Odisha Mining Corporation with tender value ₹40.01 lakh. Two bidders

⁸ (a) **SC/ST contractors:** Tender of the individual registered contractors belonging to SC/ST within 10 *per cent* of the rate quoted by the lowest tenderer for any work, would be considered for award to him/her at the lowest tendered rate.

(b) **Engineer Contractor:** Graduate and Diploma Holder Engineer contractors would pay deposit the security deposits (EMD, Security Deposit, Performance Security) at half the usual rate against the prescribed percentage.

(c) **Physically Handicapped** (deaf or orthopedically handicapped upto 40 *per cent* disability) class D and C contractors are exempted for paying EMD and ISD and would be given 3 *per cent* price preference in the rate quoted in their tenders. The preference will be allowed upto a prescribed limit.

had submitted their bids in response to this tender. One bidder quoted at ₹34.01 lakh being 14.99 *per cent* less than the estimated cost and the other bidder as an SC contractor quoted ₹38.01 lakh being five *per cent* less than the estimated cost. The price preference to SC bidder was ₹37.41 lakh (₹34.01+10 *per cent*). Hence, the quoted amount of SC bidder was not within the price preference and the other bidder should have been declared the L1 bidder. Contrary to this, the TIA incorrectly conducted a lottery between those two bidders and awarded the work to the SC bidder.

2.7.2 Awarding contract at a higher price

In one out of the test checked tenders involving privileged bidders, Audit found that DFO, Bargarh floated tender for “Construction of Boundary Wall at Kamgaon Forest Section of Bargarh Range” with estimated cost of ₹4.00 lakh. Five bidders had submitted bids out of which three bidders had quoted ₹3.04 lakh being 14.99 *per cent* less than estimated cost, one SC Contractor bid ₹3.32 lakh being seven *per cent* less than estimated cost and other one had quoted at estimated cost. As the price preference of SC contractors was within 10 *per cent* of price quoted by the lowest bidder, the evaluation committee conducted lottery among four of the five bidders and the work was awarded to the SC contractor at an incorrect amount of ₹3.32 lakh instead of ₹3.04 lakh quoted by L1 bidder. This resulted in an extra obligation of ₹0.28 lakh on the Government exchequer. These errors in tender evaluation could have been prevented if the technical and financial evaluation and award of contract had been conducted in the e-Procurement system, with necessary functionality implemented in the system to fully map the business rules related to definition and management of privileged bidders.

In reply the Department stated (December 2023) that the functionality to define and manage privileged bidders had now been made available as a configuration option for TIAs. The response was not tenable, as the requirement of full mapping of business rules to ensure that the e-Procurement system generated comparative sheet of financial bids by taking into account the details of the privileged bidders in order to determine L1 through the system itself, had not yet been implemented.

Recommendations

Government may

- Ensure execution of Agreement/ MoU with NIC, to ensure clarity on timelines, deliverables and service levels.
- Implement the remaining Modules of the e-Procurement system and fully map all the relevant business rules into the system, to ensure that technical and financial evaluation and award of contract is only carried out through the system.
- Integrate WAMIS and CDMS with e-Procurement system, to minimise the risk of manual errors/ deliberate irregularities.
- Adopt the revised threshold value of ₹1 lakh for mandatory e-procurement as prescribed by Department of Commerce, Government of India.