

Chapter IV

Tender Creation and Publication

Work Flow of eProcurement System





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4.1 Deficiencies in the workflow for tender creation

As per system design, the tender creator was required to complete the tender publishing process by providing information like basic details such as notice inviting tender, work details, fee details, critical dates, and Bill of Quantity (in MS Excel format) *etc.* The tender documents were required to be uploaded into the e-Procurement system. According to the BoQ template, the bidders were required to submit their bids in the system by digitally signing, encrypting and uploading the technical and financial bid documents. After opening of the bids, details of the opened bids such as bid documents, decryption date, file names, uploaded dates, file sizes against each bid were required to be stored in the system.

Figure No 5: Tender process flow



Audit analysed the dataflow in the system for the above processes and observed the following inconsistencies:

4.2 Absence of application control to enforce minimum period for submission of bids

System Design

As per OPWD Code Vol-II, Annexure XI as amended on 19.01.2004, time limit between issue/publication/sale and receipt of bids is stipulated as follows:

Table No. 1: List showing threshold limit of time limit between issue/publication/sale and receipt of bids

Estimated cost put to tender	Minimum number of days	Maximum number of days
Not exceeding ₹50 lakh	10	15
More than ₹50 lakh but not exceeding ₹3 crores	15	21
More than ₹3 crores	15	30
Very large and complex project	21	45

(Source: OPWD Code)

Further, in case of corrigendum issued to the tenders, minimum seven days' time is to be provided for bid submission from the date of publication of corrigendum.

Data analysis revealed that out of 3,74,806 tenders published up to 31 March 2022, fewer days than stipulated were provided for submission of bids in 82,994 tenders. The fewer days provided for submission of bids ranged between 1 and 14 days as follows:

Table No. 2 : List showing deviations in threshold limit of time limit between issue/publication/sale and receipt of bids

Tender value	Minimum permissible days	Number of tenders where fewer days provided
<=5000000	10	64,199
>5000000 and <=30000000	15	16,604
>30000000	15	2,191
Total		82,994

(Source: Database analysis)

Further, in 421 out of 69,163 corrigenda, the time given from date of publication of corrigendum to date of bid submission closing date was less than seven days. The fewer days given ranged between one to six days.

During the test check of tenders, Audit found that in 168 out of 486 tenders, fewer days were allowed than prescribed for bid submission ranging between one to nine days. There was no reason for giving fewer days to bidders for submission of bids.

Audit concluded that the business rule specifying the minimum period for submission of bids had not been mapped into the system in the form of application control to enforce the minimum period for submission of bid based on tender value.

Department stated (December 2023) that while OPWD Code has provisions for different time periods for submission of bids based on tender value, TIAs can reduce the time prescribed.

The response was not tenable, since lack of this application control meant that the possibility of prospective bidders being deprived from participation in the tendering process due to lack of adequate time and the possibility that TIAs could favour certain selected bidders by giving them the tender details in advance of the tender publication date on the system, could not be ruled out. The lack of compliance with the minimum prescribed time period for submission of bids adversely impacts the objectives of transparency and fairness in the procurement process and hence, this is a major control failure in the system.

4.3 Absence of application control to enforce two-cover process for tenders with value more than ₹50 lakh

General Control

OPWD Code provided for two cover process for tenders costing above ₹50 lakhs - one cover containing technical bid and other containing financial bid.

Data analysis revealed that out of 3,74,806 tenders, single cover process had been followed in 4,045 tenders despite the tender value ranging between ₹50.10 lakh and ₹752.00 crore, instead of following the two cover system. The year wise details of number of tenders with single cover with minimum and maximum value of tender is given as below:

Table No.3: Statement showing year-wise number of tenders invited with single cover instead of double cover with minimum and maximum value of tenders

Year	Number of tenders	Minimum tender value (₹ in crore)	Maximum tender value (₹ in crore)
2008-09	4	0.90	3.77
2009-10	25	0.50	141.20
2010-11	68	0.51	138.87
2011-12	189	0.50	181.35
2012-13	101	0.51	11.23
2013-14	736	0.50	187.06
2014-15	670	0.50	224.13
2015-16	377	0.50	752.00
2016-17	334	0.50	221.88
2017-18	431	0.50	116.17
2018-19	432	0.50	9.57
2019-20	221	0.50	13.00
2020-21	210	0.50	22.23
2021-22	247	0.50	22.23
Total	4045	0.50	752.00

(Source: e-Procurement database)

Audit noticed that the number of tenders irregularly following single cover process instead of the applicable two cover process had been increasing over the above period.

Audit test checked 486 tenders for detailed scrutiny and found that out of 129 tenders with tender value more than ₹50 lakh, in case of seven tenders, single cover process had been irregularly followed, without recording any reasons for the non-compliance with the Code.

Audit concluded that the business rule for following two cover process for tenders having value more than ₹50 lakh had not been mapped as an application control in the e-Procurement system. The workflow permitted the Departmental user to opt for single cover process even when the tender value was more than ₹50 lakh.

The Department accepted (December 2023) that NIC had not implemented the application control to make two cover process mandatory for tenders with value more than ₹50 lakh.

4.4 Loss of tender fees due to absence of mapping of fees based on the tender value

System Design

As per Rule 15 to Appendix IX of OPWD Code Vol-II, the tender fees is based on the value of tender, as follows:

Table No.4: Statement showing cost of tender papers according to tender value

Tender Value	Tender Fees
Tenders costing up to ₹ 10,000	₹200
Tenders costing over ₹10,000 but below ₹1.00 lakh	₹400
Tenders costing over ₹1.00 lakh but below ₹2.00 lakh	₹600
Tenders costing over ₹2.00 lakh but below ₹5.00 lakh	₹2,000
Tenders costing over ₹5.00 lakh but below ₹10.00 lakh	₹4,000
Tenders costing over ₹10.00 lakh but below ₹50.00 lakh	₹6,000
Tenders costing over ₹50.00 lakh and above	₹10,000

(Source : OPWD Code)

In the “As-is and To-be” document the same was also considered for development of software.

Data analysis revealed that out of the 3.75 lakh tenders published up to 31 March 2022, in 10,152 tenders the Tender Inviting Authority (TIA) had invited tender with less than the prescribed and applicable tender fees. The shortfall in tender fees ranged between ₹75 and ₹9,999. In eight tenders, the tender fees had been fixed as ₹1 instead of ₹10,000. On verification with the DTCN, Audit noticed that these had arisen due to manual computation by users and subsequent data entry errors.

Hence, due to non-mapping of the business rule for computation of tender fees based on tender value in the system as a processing control, incorrect data had been manually entered into the system by users, resulting in non-compliance and loss of revenue for the Government.

The tender value wise number of tenders and number of bids for which less tender fees was collected was as follows:

Table No.5: Statement showing tender value wise number of tenders and number of bids for which less tender fee was collected

Sl No	Tender value range	Number of tenders	Number of bids	Tender fees applicable based on tender value (₹ in lakh)	Tender fees actually paid by bidders (₹ in lakh)	Shortfall in tender fees paid by bidders (₹ in lakh)
1	Tenders costing over ₹50.00 lakh and above	13	23	0.09	0.06	0.03
2	Tenders costing over ₹10.00 lakh but below ₹50.00 lakh	742	1550	9.30	7.19	2.11
3	Tenders costing over ₹5.00 lakh but below ₹10.00 lakh	1061	3434	206.04	151.65	54.39
4	Tenders costing over ₹2.00 lakh but below ₹5.00 lakh	2008	4866	97.32	34.19	63.13
5	Tenders costing over ₹1.00 lakh but below ₹2.00 lakh	1798	5168	206.72	111.73	94.99
6	Tenders costing over ₹10,000 but below ₹1.00 lakh	366	1862	186.20	110.01	76.19
	Total	5,988	16,903	705.67	414.83	290.84

(Source: e-Procurement database)

The above finding was verified during test-check of tenders in selected TIAs, wherein it was found that in 16 tenders, tender fees of ₹2.13 lakh was collected against the applicable fees of ₹3.46 lakh resulting in shortfall of ₹1.33 lakh.

The Department accepted (December 2023) the Audit observation and stated that the business rule would be mapped into the system.

4.5 Deficiencies in computation of tender value

As per para 3.5.6 of OPWD code and Appendix IX of OPWD Code volume - II, tender for works should be invited only after a detailed estimate showing quantities, rates and amounts of various items of works and specifications to be adopted are prepared and sanctioned by competent authority. The tender documents comprise (i) the notice inviting tenders (NIT) in the prescribed form, (2) the schedule of quantities of works, (3) complete specifications of the work to be done, (4) a set of complete drawings and (5) the form of tenders be used along with a set of special conditions.

In the notice inviting tender, the BoQ is also required to be uploaded by the Tender Inviting Authority (TIA). The amount put to tender (tender value) in the Notice Inviting Tender should match the total estimated amount in the BoQ.

4.5.1 Deficiency in validation controls in BoQ template published in tenders

Input Control

As per system design, the BoQ template (in MS Excel format) containing details of various items, quantities, rate and amount for the work and NIT was to be uploaded by the TIA while creating the tender.

After submission of bids as per BoQ template and during financial evaluation, comparative statement is generated by the system, with the total amount of the BoQ computed as tender value.

Analysis of the e-Procurement system data revealed that in four out of 3.75 lakh tenders, the total amount of the BoQ were stored as 'NaN', instead of the correct numerical tender value.

Further, in 257 tenders, the items in the BoQ had been irregularly recorded more than once in the database, resulting in mismatches between the tender value stored in the system and the total amount of the BoQ. The year wise details of such tenders were as follows:

Table No.6 : Statement showing discrepancy between figures of BoQ and database

Year	Number of tenders	Total amount put to tender (₹ in crore)	Total BoQ amount of tenders (₹ in crore)	Difference between tender value and BoQ amount (₹ in crore)
2010-11	12	3.94	7.87	3.94
2011-12	5	2.07	4.13	2.07
2012-13	8	14.54	29.09	14.54
2013-14	70	81.97	163.93	81.97
2014-15	81	30.2	60.41	30.2
2015-16	24	6.88	13.76	6.88
2016-17	3	2.66	5.32	2.66
2017-18	1	0.04	0.07	0.04
2018-19	14	27.83	55.67	27.83
2019-20	2	0.09	0.19	0.09
2020-21	1	11.1	22.2	11.1
2021-22	36	265.64	531.28	265.64
Total	257	446.96	893.92	446.96

(Source : e-Procurement database)

Due to irregular recording of BoQ items more than once by bidders and the storage of such data in the database, the total BoQ amount did not match the tender value declared in the published documents. This mismatch had occurred due to deficiencies in the validation controls implemented for recording inputs from bidders in the published BoQ templates.

In the absence of automated processes within the system for technical and financial evaluation and award of contract, this deficiency created material risk of errors/ deliberate irregularities during manual processes for bid evaluation in these tenders.

4.5.2 Deficiency in processing controls to compute tender value based on BoQ

Input Control

The tender value, *i.e.*, the amount put to tender in the Notice Inviting Tender should match with that of the total estimated amount in the BoQ for which tender was invited, as tender fee and Earnest Money Deposit (EMD) amount to be deposited is dependent on the tender value.

Analysis of database revealed that in 1.34 lakh out of 3.75 lakh tenders, the BoQ amount did not match the tender value.

The year wise details of the number of tenders in which tender value and BoQ amount differed were as follows:

Table No.7 : Statement showing year-wise discrepancy between figures of BoQ and tender amount in database (₹ in crore)

Year	Number of tenders	Total amount put to tender	Total BoQ amount of tenders	Difference between tender value and BoQ amount
2010-11	2,899	976.77	970.94	5.83
2011-12	7,598	5,336.83	5,306.57	30.26
2012-13	10,125	6,420.57	6,335.26	85.31
2013-14	14,487	7,365.23	7,147.65	217.58
2014-15	11,393	5,009.27	4,877.33	131.94
2015-16	11,697	5,049.20	4,872.79	176.42
2016-17	13,095	4,651.51	4,402.66	248.85
2017-18	15,677	12,897.30	7,430.40	5,466.92
2018-19	15,264	9,514.87	9,500.49	14.38
2019-20	8,979	3,203.64	3,180.55	23.09
2020-21	9,074	5,016.01	4,153.16	862.85
2021-22	14,018	8,198.88	7,892.92	305.96
Total	1,34,306	73,640.08	66,070.72	7,569.39

(Source: e-Procurement database)

Audit noticed that these differences had arisen because the Departmental users were expected to manually enter the tender value into the concerned data field, instead of the system computing the same based on the details entered in the BoQ. The absence of this processing control resulted in material risk of incorrect manual entry of tender value, and consequent shortfalls in collection of tender fees and Earnest Money Deposit.

The Department stated (December 2023) that the responsibility of entering the correct tender value was that of the concerned TIAs.

The response was not tenable, as it only reflected the fact that the responsibility for ensuring compliance remained on the individual users instead of shifting to the system through the implementation of necessary controls.

Recommendation

Government may consider to

- Implement mapping of business rules for minimum period for submission of bids, mandatory two-cover process for tenders with value more than ₹50 lakh and computation of tender fees based on tender value;
- Implement validation controls to ensure correct recording of bids in the BoQ template and processing controls for correct computation of tender value based on BoQ in the system.