

Revisiting Public Procurement

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Course of action

- A warm-up Quiz
- Importance of Public Procurement
- Process: Design and Implementation
- Issues and concerns
- Competition and Corruption
- New Legal and regulatory initiatives
- La L-1 affair
- Do's and don't's

Importance



Canvas

- As per World Bank government procurements (public buying of goods and services) accounts for 20% of global GDP !
- India's Public Procurement constitutes 30% of its GDP
- Better procurement – Better service delivery
- Even incremental cost saving measures can bring about huge savings and expenditure control in public procurement.

Assessment of the size of the Indian public procurement

Central Government	Rs. 2,51,501 crore
State Government	Rs 1,34,280 crore
All Government	Rs. 3,85,781 crore
Central PSUs	Rs. 2,68,100 crore
State PSUs	Rs. 1,46,374 crore
All PSUs	Rs. 4,14,474 crore
All Government and Public Sector	Rs. 8,00,255 crore

Rationale

Why should a country/ Government have a well- considered Public Procurement Policy?

- Government is a bulk buyer
- To assure the citizens that their money is being spent in a most judicious manner
- To build trust among the suppliers and the industry that everybody is free to participate in a most transparent manner
- An impetus to the industry and the economy, more demand : more production
- Preferential treatment to specific sectors – SSIs, Co-operatives, Departments, PSUs etc

Regulatory framework

- India does not have a single public procurement law, though policies, procedure and manuals are there
- General Financial Rules and Delegation of Financial powers Rules, although embodying some internationally accepted best principles, have no force of law. Marked differences in practices are followed across ministries and organisations and states.
- Only the states of Tamil Nadu and Karnataka have adopted transparency laws for public procurement

Process at a glance

- Need assessment
- Estimate (Qty. and Amount) – budgetary estimate (How many?)
- EOI – Expression of Interest
- RFP/RFO – Request for Proposal /Quotation
- NIT – Notice Inviting Tender
- PBC – Pre Bid Conference
- Bidding
- TOC – Tender Opening Committee
- TEC – Technical Evaluation Committee

- Purchase Committee (Financial Bid opening)
- Comparative Statement of Tenders
- Identification of L-1
- Approval of authority
- SD - Security Deposit
- Award of contract
- Agreement
- Refund of EMD
- Notice / web publicity about award of contract

Know your job

- Whether we know our needs?
- Have we planned the steps?
- Document framed properly?
- Are we archaic?
- Are we just reactive?
- Are we reasoned?



else;



aberrations



- ❑ Original flight limit of 18000 feet
- ❑ Lowered to 15000 feet to include Augusta Westland in the fray
- ❑ Slight modification in the specs or conditions may lead to complete change of course of action

2G



- Allotment of spectrum of 2G on FCFS basis
- Allotment at throwaway price : Unitech bought it for Rs. 1658 cr and sold it to Telenor for Rs. 6400 cr
- Preponing the cut-off date to September 25, from October 1, 2007
- Later on the same day, DoT posted an announcement on its website saying those who apply between 3.30 and 4.30 pm would be issued licences

Tatra truck



- ❑ Tatra, a Czech company sold trucks to Vectra worldwide at 35% discount
- ❑ Vectra worldwide sold it to Tatra sipox, and price goes up by 30%
- ❑ Tatra sipox sold it to BEML after adding 20% to its cost
- ❑ BEML sold it to Indian Army by adding 25-35% profit
- ❑ Clear violation of procurement rules which do not permit the involvement of middlemen. Purchase to be done directly from OEM

Competition issues in Public Procurement

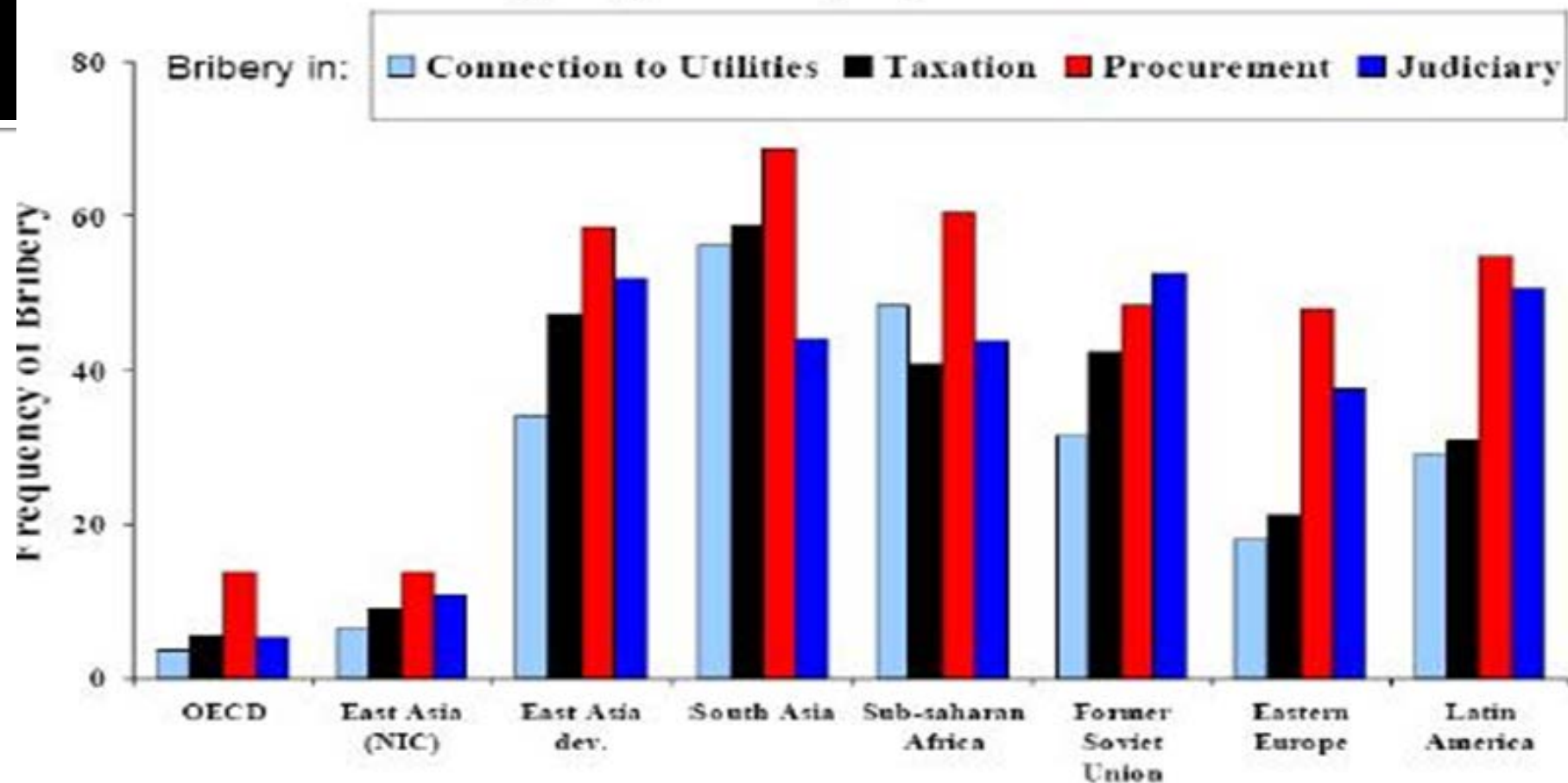
- Limited/Single Tender Enquiry (less opportunity, higher rate, favouritism....)
- Market sharing and cartel formations: quoting same price, distribution of order.....
- Bid rigging and collusive bidding: all united to favour one supplier, harm to exchequer.....
- Area division
- Tailor-made specifications
- High qualification barriers
- “Contractor should have experience of working at XYZ”

Corruption symbiosis

- Big value contracts, huge money
- Greater discretion, lack of control, oversight
- Inadequate transparency, Systemic constraints
- Results in poor quality, delays
- More and more public awareness
- Integrity pact, penal provisions
- ICT environment required

SAY NO TO
CORRUPTION

Frequency of bribery in procurement

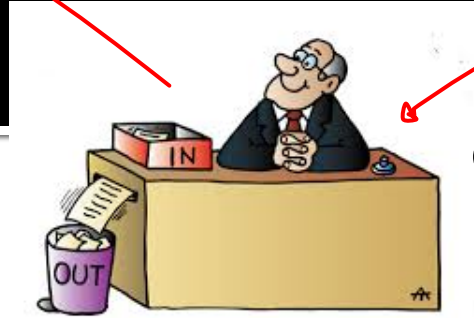


Source: Kaufmann, World Bank (2006), based on Executive Opinion Survey 2005 of the World Economic Forum covering 117 countries. Question posed to the firm was: In your industry, how commonly firms make undocumented extra payments or bribes connected with permits / utilities / taxation / awarding of public contracts / judiciary?

Leakages



Policy, Funds



Leakages

Contract, Funds



Execution



Leakages

Avoiding leakages can lead to Savings/Funds for development

Monitoring

- CAG
- CVC
- CCI
- CBI
- Courts
- And of course Media!

New initiatives

- Centralised Public Procurement Portal
- DGS&D e-procurement process
- Reverse Auctions
- Compulsory uploading on official websites tenders as well as contracts awarded
- New Public Procurement Bill 2012

La L-1 affair

- Rule 137(iv) – The procuring authority should satisfy itself that the price of the selected offer is reasonable and consistent with the quality required.
- Rule 160(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**
- Thoughtful pre qualification criteria and technical specs can ensure quality
- QCBS for consultancy services but not for goods and works

How to avoid Tend-err!

- Evaluation criteria to be clearly spelt out and evaluation to be done strictly as per this only and not invention of new criteria even if it is valid
- Framing of design, specifications, and vendor base selection is important for competition
- Benefits of OTE, lower prices obtained
- Specifications not to be tailor made, no brand name
- Budget estimate to be drawn thoughtfully
- Negotiation with L-1 only
- Variation clause, repeat clause, option clause, price escalation



- Adequate publicity
- Exchange rate variation, escalation, delay in Payment
- Purchase preference
- Liquidated damages
- Complex projects: invite consultancy
- Replying queries adequately
- Extension of contract: benefit to contractor?
- Worries of vagaries of Contractors.....
- Should we be against our contractors?

- Thank you

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