

**Case Studies**  
**of Vigilance Interest**  
**in**  
**Stores & Purchase**



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# **Case Study No. 1**

## **Sub: Setting up of Chilli Plant on Turnkey Basis**

Reference No 15-41(15)/2007-Vig

1. An institute of CSIR bagged a prestigious project from one of the PSUs for setting up of a Chilly Plant at a certain place. After bagging the project, the institute constituted a Project Management Committee (PMC) comprising, amongst others, the SPO, the FAO and the COA. The PMC decided to go in for an Open Tender. The indenter also supplied names of three probable firms. NIT was published in The Hindu, The Times of India and the Indian Trade Journal on 24.12.2005 with deadline for submission of bids as 16.01.06.
2. No tender was, however, received by the deadline. On 18.01 06 a request was received from one of the firms named by the IO requesting for extension of the last date for submission of tender as the time given was insufficient. The IO accordingly moved a proposal for extension of time. With the approval of PMC the necessary corrigendum was issued to the same newspapers/journals. The Regional Manager of Times of India got the corrigendum published in The Economic Times by mistake which went unnoticed by the Purchase Department. Even the bill was passed by Finance without noticing this mistake.
3. By the extended date only one firm viz. M/S Japro, the same firm which had requested for extension, had submitted the bid. The PMC found the technical bid of the said firm deficient in many respects and hence decided to go in for fresh Limited Tender. The PMC further authorized the SPO to send enquiries to as many parties as possible and obtain quotations by 28.02.06. Accordingly, the SPO and his Assistant floated an LTE amongst 15 firms including the only respondent to the Open Tender but excluded the two firms initially named by the IO. There was one M/S Rinac which had evinced some interest and had made some technical queries in response to the earlier Open Tender. This firm was also not included in the LTE. Incidentally only one firm viz. M/s Japro who had quoted earlier also quoted this time in response to LTE. Another firm M/s Chempro had simply expressed its inability to undertake such turnkey project. On technical scrutiny the IO found the bid of M/s Japro meeting all the technical requirements.
4. In view of the above the IO suggested that the single bid of M/s Japro could be accepted under Cls 18.4.0 of the PP2002 which provided that even a single responsive bid could be accepted by recording cogent and detailed reasons for accepting the same. The recommendation of the IO was accepted by the PMC on 03.03.06 and the commercial bid was opened. After rounds of

negotiation the order was placed on M/s Japro at Rs 2.43 Cr. The turnkey project was completed successfully to the satisfaction of the sponsors.

5. Meanwhile the matter came under the investigation of the CBI as well as CSIR vigilance. The investigation revealed the following irregularities and responsibility was fixed on the erring officials accordingly:

- **Exclusion of names of some potential firms from the LTE.** Two out of the three firms initially recommended by the IO were missing from the LTE. Besides the name of M/s Renac, who had at one point made some technical queries, was also not included in the LTE.
- **Omission of few pages of technical specification from the Bid documents supplied to the firms.**
- **Erroneous Estimated Cost.** Although the Institute had projected Rs. 280 Lakhs to the sponsors, the IO had mentioned Rs. 150 lakhs as the estimated cost in the Indent.
- **Mobilization Advance:** The institute had given the advance payment (Mobilization Advance) without stipulating any interest on the same as per CVC guideline dated 10.04.2007.
- **Absence of LD Clause:** There was no LD clause in the contract with the suppliers. The institute adduced the argument that since the sponsors had not put any LD Clause on them, they in turn did not put any such condition with the suppliers. This was not acceptable.
- **Release of advance without Bank Guarantee in Advance:** Since the vendor had exhausted its BG limit with its Bank, as a special case, the PMC had allowed advance payment without getting the BG in advance. The supplier, however, arranged the BG within a day of receipt of the Advance. This had been done purportedly to help the supplier get over the problem BG limit.
- **Personal delivery of DD for advance payment and collection of the BG:** Investigation revealed that the IO carried the DD for delivery to the firm while going on LTC to Mumbai. Incidentally the firm was situated in Mumbai. It was the decision of the PMC that the IO would carry the DD and collect the BG although the IO was on LTC.

6. The above matter was taken up for investigation by the CBI. CBI viewed the transaction as a criminal conspiracy amongst the IO, SPO, Purchase Assistant and the vendor. Accordingly, CBI recommended RDA for Major Penalty. However, after clarification by CSIR, CVC found fault only with the SPO and the Purchase Assistant. Since the SPO had already retired by then, only the Purchase Assistant was advised cautioning.

## Case Study No. 2

### **Sub: Improper Pre-Dispatch Inspection**

One CSIR Institute placed an order for a TGA-MS on M/S Thermo Electron Corporation (now known as M/S Thermo Fisher Scientific, USA) at a total value of US \$ 295473.31 (Rs 13279590 appx) on 20.01.06. In addition to the above import order two indigenous orders worth Rs 3.15 lakhs were also placed on the Indian Agent. Pre-Dispatch Inspection (PDI) was one of the conditions of the contract. The Indian Agent was required to bear all expenses towards the visit of two scientists to their works for PDI.

The agreed payment term was “100% Letter of Credit, 95% against dispatch documents and satisfactory PDI report submitted by the scientists of the Institute visiting USA, and 5% after satisfactory installation and commissioning.” Accordingly, LC was opened by the institute and the Indian Agent arranged to send two scientists to the works of their principal for PDI. The two scientists signed a PDI on the letter Heads of M/S Thermo as follows: ***“Subject: Pre – Dispatch Inspection (PDI) Letter, Order No ..... As the representing scientists for the ---Institute, we have completed our PDI on the equipment located in Newington, New Hampshire. Thermo Electron Corporation, Control Technologies Division will not present the Letter of Credit for payment until all the documentation and conditions stated in the Letter are met”***. The same was also countersigned by the representative of the principal.

Upon arrival in India, within a matter of few days, the PL and the other visiting scientist submitted a note to the Director of the Institute saying that ***PDI was conducted on such and such dates at Newington, USA for the followings.....but no gasification experiment has been shown. It was further remarked that both instruments worked satisfactorily. However, online MS experiments along with gasifying agents are to be shown at our site with complete gasification conditions. It was also recommended that the shipment may be allowed to see a complete demonstration of the experiments and the LC for payment may be done after satisfactory demonstration.***

Upon receipt of the above note a meeting was urgently held with the Indian Agent. It was clearly conveyed to the agent that their principal has not shown complete demonstration of the system. In a joint minute drawn up with the signature of the participants from the Indian Agent and the Institute it was recorded that ***the PDI signed by the scientists of the Institute in USA is not complete as the equipment was only partly demonstrated. The principal should have shown complete demonstration as per the agreement. They (the principal) need to confirm to claim the order amount after delivery and successful demonstration of the entire equipment at CFRI as agreed by their***

***letter stated above and discussed with the visiting scientists. They (the principal has to take entire responsibility of giving successful demonstration of the equipment at the Institute after which the instruction will be issued to the Banker to release the payment.***

Accordingly, the principal communicated. But the principal reacted sharply immediately (on 14<sup>th</sup> July 2006) by terming the proposal as “unacceptable” as it meant making 100% payment only after successful demonstration at the Institutes site in India. Interestingly, however, the principal dispatched the equipment in spite of clear communication not to dispatch the consignment till they confirmed that full demonstration would be given at Dhanbad, and payment would be claimed after that. M/S Thermo, however, had already made the shipment by then. The shipment was also received by the consolidator and brought to India as he had no instructions to the contrary. Upon arrival the consignment was also cleared by making a payment of Customs to the tune of Rs 16 lakhs.

The consignments remained unopened for months. Several meetings were held, and correspondences exchanged. Even ultimatums of cancellation of Order with action for recovery of losses were also issued but to no avail. The principal one way or the other remained adamant that at least a part of the payment up to 60 % should be released immediately. The institute did not agree to that at all. The matter went on and on for years. And finally on 18.01 2008 the Institute served the final ultimatum that if the party fails to comply with the contractual obligations the order will stand automatically cancelled w.e.f 31.01.08. There was neither any response from the principal nor from the side of the Institute till March 2009.

### **Case Study No. 3**

#### **Sub: Supply & Installation of Liquid Nitrogen Plant - Non-verification of Credentials of the Vender & Indian Agent and Wrong Specification Leading to Non-installation of the Plant**

*Non-verification of Credentials of the Vender & Indian Agent and Wrong Specification in the Procurement of Liquid Nitrogen Plant Leading to Non-installation of the Plant & Wasteful Expenditure to the tune of Rs. 22 Lakhs (1998 prices)*

CSIR Ref No. 15-41(23)/2008-Vig

One particular national Laboratory intended to set up one Liquid Nitrogen Plant to ensure uninterrupted supply of Liquid Nitrogen (LN) to the existing NMR facility. The NMR required 50 liters of Liquid Nitrogen per week with 99.7% or above purity for its efficient functioning. Accordingly, the indenter raised an indent in September 1997 for supply and installation of a Liquid Nitrogen Plant (LNP). The indenter collected some technical literature from the Purchase Division and raised the indent based on the specification given in the said literature.

A global tender was floated for the purpose. In response altogether six bids were received including that of M/s Peak Scientific Instruments, UK. The Purchase Department prepared the Comparative Statement (CS) and sent to Indenting Officer for his recommendation. The indenter recommended inviting four firms for negotiation. One M/s Integra was technically disqualified on the grounds of low capacity of production. M/s Chemito was also technically eliminated for being the highest quoting firm. Techno-Commercial negotiation was held on 17.02.98 with the remaining four firms. M/s Sumka Sons expressed their inability to attend the aforesaid negotiation due to communal riots in their city. Therefore, only three parties viz., M/S Versatile Consultancy Services (M/S VCS), M/S ESS Instruments (M/S ESS), M/S Philips India attended the negotiation on 17.02.98. During the negotiation all the three parties were asked by the Institute to agree for air cooled system instead of water-cooled system. This, however, was not specifically mentioned in the original tender specification. Stores & Purchase Officer recorded in the noting that all the three parties had agreed to supply air cooled system instead of water-cooled system. No signature of the participating parties was, however, taken. A separate meeting was held subsequently with M/s Sumka Sons on 24.02.1998 but the offer of the firm was found technically unsuitable on the grounds of low production capacity. Eventually only three firms namely M/s ESS, M/s Versatile Consultancy Services (representing M/S Peak Sc. India) and M/s Philips India were technically qualified. The above three firms were then asked to submit revised bids. The revised rates of the firms were: M/S ESS: USD 49000, M/S PSI (M/S VCS): GBP 28600, and M/S Philips: NLG 106000. The Indenter recommended the offer of M/s Peak Scientific (Indian Agent M/S VCS) on L -1 basis. The price was also certified

to be reasonable. The indenter had also prepared a technical comparative statement for the three qualified firms detailing their respective advantages & disadvantages. The indenter had awarded 15 marks to Peak Sc. Instruments, 14 marks to Philips India, New Delhi and 12 marks to M/s ESS New Delhi. Based on the recommendation of the indenter, the SPC-II also recommended purchasing of the Liquid Nitrogen plant from M/s Peak Sc. Instruments. Finally, the order was placed on 11.03.98 and 100% irrevocable LC was opened in favor of M/s Peak Scientific Instruments, UK for GBP 28,600.

It is worthwhile to mention here that the specification for LNP was written not as if it was an integrated system but as though the indent was for two separate components of LNP viz., (I) Nitrogen Generator and (II) Liquefier. For most of the scientists a LNP is normally an equipment comprising a Nitrogen Generator and a Liquefier. But it is not quite the same thing as an integrated LNP. Incidentally not only the indent and the NIT mentioned the two components as distinct items but also the order was placed accordingly as though the two components were two separate items. In fact while all the respondents had quoted for integrated LNP systems only M/S PSI (M/S VCS) had quoted for the two components as distinct items. This aspect was not properly examined either by the IO or by the SPC.

In pursuance of the supply order the Indian Agent arranged to supply the Nitrogen Generator and Liquefier. The consignment was received in store on 24.8.1998 and Stores Receipt Voucher (SRV) cum Inspection Report was prepared and forwarded to Indenter for his acceptance. On acceptance of the same by the Indenter the items were taken in the stock register. On 20.9.1998 the Indenter wrote to the Purchase Division stating that the supplier has supplied a water-cooled liquefier instead of air cooled one contrary to what was agreed during the technical negotiations. The Indian Agent accepted that the supply of the water-cooled liquefier was made by mistake due to mix up. Several correspondences continued but to no avail. It was then decided at a highest level to let the plant be installed with the supplied water cooled system. But unfortunately, the Nitrogen Generator and the Liquefier could never be successfully integrated and installed. The matter was also referred to Indian High Commissioner at London for his intervention with M/S Peak Scientific Instruments, UK. The foreign principal in UK raised his hands off saying that the supply was executed as per order i.e for one Nitrogen Generator and one Liquefier. They disowned all responsibility for the successful integration of the two components.

When the supplier/their Indian Agent could not install the equipment, it was decided to get the same installed with the help of a third party. M/s Techscience Chennai was assigned the job. The installation was said to be completed on 22.10.05 and the plant somehow started producing Liquid Nitrogen. However, the plant continued to be plagued with problems. M/s Techscience was reported attending to problems till the expiry of warranty. M/s



Techscience attributed the frequent breakdown to poor quality of Nitrogen Generator supplied by M/s Peak Scientific and recommended its replacement. Ultimately the LNP purchased at a cost of GBP 28,600/- (equivalent to Rs. 20 lakhs in 1998) could not be successfully commissioned to yield the desired result. All effort to make use of the equipments failed. The matter was investigated by CBI. The investigations however, unraveled several startling facts which were hitherto unknown.

One Mr. P. Sundermurthy used to market, install and support gas monitoring systems for his own company by the name of M/s VXL Scientific India. He was also extending technical support to M/s Peak Scientific UK for their Gas Generators since 1996. M/s VXL had no registered office or license or specific authorization for supply of LNP. On hearing about the requirement of LNP by the Institute he conjured up a plan. He first persuaded one of his acquaintance to float a company by the name of M/s VCS. Then he posed himself as the proprietor of M/s Peak Scientific India (M/s PSI), the Indian counterpart of M/s Peak Scientific Instruments, UK. Mr. Sundermurthy then issued a certificate saying that M/s VCS is the sole authorized agent of M/s PSI for dealing with their products in India. Meanwhile Mr. Sundermurthy also got in touch with M/s Peak Scientific Instruments, UK and managed a quotation for the LNP. This quote was submitted by M/s VCS as the sole authorized agent of M/s PSI to bag the order.

It was also revealed that the Institute had not properly scrutinized the credentials of the three firms viz., M/s Peak Scientific Instruments, UK, M/s Peak Scientific India and M/s VCS. First of all M/s PSI, UK did not manufacture any LNP. It had expertise only in Nitrogen Generator one of the two basic components of a LNP viz., Nitrogen Generator and Liquefier. The quotation of M/s PSI, UK stated to supply its own Nitrogen Generator and a Liquefier sourced from another company from USA. It also quoted to supply the two components as two distinct items and not as an integrated LNP. As for M/s Peak Scientific India, it was a fake company which did not have any registration or license etc. M/s VCS was floated as a company for the purpose of participating in the particular tender. The Purchase Department failed to notice that the authorization letter was not issued by M/s PSI UK, the foreign principal but by the so called Indian counterpart M/s Peak Scientific India (M/s PSI). Even the logo and letter heads were different. Besides not ascertaining the credentials of the companies, it was also not ascertained whether the so called Indian Agent was registered with DGS&D or not. No PBG was also asked for in the tender.

On the technical side the indenter also copied the specification for the LNP from one of the leaflets supplied by the above said firm. The specification was in two parts viz. for (i) Nitrogen Generator and (ii) Liquefier whereas LNP comes as an integrated system by the known market players for LNP. As a result the quotation of the firm was also accordingly for the two components separately but not as an integrated system. The consequence of such indenting was that the

foreign principal escaped all responsibility for non-integration of the two systems to yield Liquid Nitrogen saying that it had only quoted for two separate systems.

Further it was also revealed by CBI through one correspondence between M/s PSI and M/s PSI, UK that the price of the Nitrogen Generator was only GBP 3000 whereas it was quoted at GBP 10000 to the Institute.

Based on the above irregularities and evidences CBI concluded criminal conspiracy between M/s Sundermurthy of M/s PSI, the Indenter and the Purchase Officer and finally prosecution was sanctioned under Section 120 B r/w 420 of IPC and Section 13(2) r/w 13 (1) (d) of Prevention of Corruption Act.

## Case Study No. 4

### **Sub: Ultra Low Temperature Deep Freezer- Finalization of Order at Higher Price through Re-tender**

CSIR Vigilance Reference No: 15-14(60)/ 2008-Vig

One Institute intended to purchase an Ultra Low Temperature Deep Freezer. Accordingly an indent was raised by the Indenter on Proprietary basis in favor of M/s Thermo Electron Corporation. The Indenter wanted to buy a specific make viz., Revco, Ultima II series, Ultra low temperature Upright Freezer, Range -50 to -86 degree Centigrade, Power Supply 220 v , 50 Hz. At the same time the IO also wanted proforma Invoice from three other companies viz., New Brunswick, Heto and Heraus. SPC II however recommended for Limited Tender. Accordingly Purchase Section sent enquiries to the Indian office of M/s Thermo Electron, New Delhi and M/s Lab India Instruments, Gurgaon (Indian Agent of M/s New Brunswick, USA). The enquiry was not sent to M/s Heraus, & M/s Heto , the two other companies suggested by the Indenter, because M/s Heraus did not deal in Deep Freezer while M/s Heto had already been acquired by M/s Thermo Electron. While floating LTE the specification was edited by the Purchase Department to eliminate the specific make and series name. IO was, however, not asked to give detailed generalized specification when it was decided to go in for LTE instead of Proprietary purchase.

Both the firms responded to the LTE. M/s Mejay Services, Lucknow quoted on behalf of M/s Thermo Electron. M/s Lab India Instrument Gurgaon, quoted on behalf of their principal M/s New Brunswick, USA. When asked to give his recommendation the Indenter observed as follows:

***“We had indented a deep freezer, Revco make, Ultima II Series, ultra-low temp. as propriety(sic) item and/or on repeat order basis. However, it was not acceptable to SPC II and it was suggested that the item cannot be purchased either as propriety(sic) or on repeat order. Hence a limited tender enquiry was initiated after obtaining names of few more suppliers from us for this kind of freezer. Two quotations were received for Revco and New Brunswick makes respectively and we have been asked to give our recommendations for the purchase of deep freezer. We find it difficult to compare both models with each other for the following reasons:***

- (1) The enquiries were floated to suppliers for the supply of simply upright deep freezers in the temperature range of- 50°C to -90°C.***
- (2) The enquiries did not mention that we needed deep freezer equivalent to ultima II series of Revco make which has special features. Neither a detailed technical specification was asked from us for resubmission before floating the enquiries.***
- (3) M/s Thermo Electron though have quoted for upright deep freezer but of lower range series and not ultima II series, ultra low temp. which was***

**our original requirement and indicated in our indent in the first instance.**

- (4) Because of this discrepancy it is not possible for us to compare two models quoted respectively for Revco & New Brunswick. The technical specifications do not match, hence costs cannot be compared.**

**The deep freezer quoted for New Brunswick make does comply with our technical specification and equivalent to ultima II series as was our original requirement. We should either ask for fresh quotation for deep freezer, upright, ultima II series for Revco and then compare with New Brunswick for pricing or else New Brunswick is acceptable to us as has been quoted. SPO may take necessary action."**

The SPC examined the above observation of I/O and and observed as follows:

- (i) A general/essential technical specification may be made available to purchase section so that fresh quotation may be invited from the both firms.
- (ii) Further, model/brand can't be mentioned in the enquiry/tender as per purchase procedure.
- (iii) SPC II recommended for fresh Limited Tender from the two parties based on the revised specification.

Accordingly the IO submitted detailed revised specification and fresh Limited Tender was floated. Once again both the parties responded to the LTE. The Indenter recommended the Purchase from M/s New Brunswick, USA on L -1 basis. Finally order was placed on M/S New Brunswick and LC was opened. The firm also supplied and installed the equipment.

Later on a complaint was received from CVC that in the first tender M/S New Brunswick had quoted for the same model at FOB UKP 4850 where as in the second tender the firm quoted a higher price of FOB UKP 5450. Incidentally the order was placed at UKP 5450 (higher price) even while the first quote was still valid. The order was therefore, placed at 600 UKP higher than what was quoted earlier and was still valid as on the date of placement of the Order against the re-tender.

Advising on the matter the Commission observed that **"even though an offer complying with the technical specification was available in the first instance, fresh quotation was invited with general specifications to bring clarity to the issue, which has resulted in the firm quoting a higher price when giving subsequent offer. This situation could have been avoided and the item could have been ordered in the first instance itself. Though no malafide intent is noticed, it is observed that officials concerned have not observed financial prudence while taking a decision to for a revised quotation. For this the Commission advises that the concerned officials may be cautioned to be more careful in future."** Subsequently the Indian agent agreed to adjust UKP 600 from its 10% bill. But the entire SPC including the IO were cautioned to be more careful in future.

## **Case Study No. 5**

### **Sub: Fraudulent Practices in Claiming Air Freight Charges by C&F Agent**

Ref File No 15-26(41)/2009-Vig

1. One CSIR Lab. (the Lab.) had engaged a C&F agent (the Agent) for consolidation, clearing and inland forwarding of its import consignments from abroad. While the Agent had offered discount on IATA freight rates for the international segment of the transportation (i.e. from foreign port of shipment to New Delhi Airport), the inland air-transportation from New Delhi to the concerned city was on actual basis as per the Air Way Bill of the Carrier. The consignment in question was booked from New Delhi by M/s Indian. While claiming the freight charges the firm enclosed a self-certified scanned copy of the Air Way Bill as a supporting document. The bill was paid by the Lab. accordingly.

2. In pursuance of a complaint, when the matter was investigated, it was found out that the scanned copy of the AWB was at variance with the original AWB of the Airlines. The Agent had in fact forged the AWB and inflated the unit rate of freight, taxes etc. and the total bill amount was made two and half times the actual amount charged by the airlines. The Agent had clearly produced the scanned copy of a forged AWB bearing identical number and other details except the price components which had clearly been manipulated. The design, style and the printing format was such that it looked almost like a genuine replica of an original AWB. Thus it passed off as a genuine supporting document. The Institute ended up paying more freight charges than what was actually charged by the airliner.

3. The above instance of fraudulent practice serves as an eye-opener. All the dealing officers are therefore, required to be more vigilant against such malpractices. In this regard the following preventive steps may be followed while scrutinizing and admitting the bills of C&F agents:

- (i) Always insist on the original Air Way Bills of the Airlines. Develop familiarity with the style and design of AWB of major airliners. In case of doubt, do cross-check with the Cargo Managers of the concerned airlines.
- (ii) Always tally the weight and dimension of the consignment (including packaging) as given by the supplier (OEM) in its commercial invoice or otherwise with that of the House AWB and the Manifest attached to the MAWB. It is always desirable to ask for copies of MAWB and the Manifest along with HAWB. The MAWB/Manifest is issued by the airliners whereas the HAWB is issued by the shipping agent. There are

possibilities of manipulation in the weight and dimension of the consignment.

- (iii) Fuel and Security Sur-charge components charged by the C&F agent needs to be meticulously checked and calculated. These charges are levied by the Airlines and vary from time to time. Thus the rates of these charges can be verified either from the websites of the concerned airlines or their MAWBs. Such charges shown in the MAWB needs to be correctly apportioned amongst all the HAWBs issued against the said MAWB in proportion of their respective actual or chargeable weights as the case may be.

## Case Study No. 6

### Sub: Shortlisting of Vendors for supply, installation & Commissioning of Laboratory Furniture and Hoods

CSIR Ref. No. 15-4(48)/2008-Vig.

One CSIR Laboratory needed to buy laboratory steel furniture of high standards and contemporary design matching with the best in India and abroad. The specifications were drawn keeping in mind aesthetics, durability and functionality. The fume hoods were required to be compliant with international standards such as ASHRAE/EN/SEFA.

The tender document was quite elaborate and detailed. It laid out the criteria for evaluation in terms of Quality, Manufacturing facility, Qualified manpower, Performance, timely completion, customer satisfaction, financial standing, organizational information and warranty as per details below:

Table 1: Criteria for evaluation of suppliers for furniture/fume hoods to N

No	Criteria	Methods for Determination/ Measurement
1	Quality	a) Testing Facilities and measurement expertise for carrying out tests; b) Certifications of raw materials- Specify TISCO/SAIL c) Quality Management Systems (ISO 9001:2000) d) Finished product inspection e) Comply with International Standards such as ASHRAE/EN/SEFA
2	Manufacturing facilities	a) CNC cutting and punching machines b) Edge binding machine c) Pre-coating process d) Powder coating method
3	Qualified manpower	a) No. of Graduate Engineers b) No. of Diploma Engineers c) No. of ITI passed workers
4	Performance (80% value 1 Supply and 60% value 2 suppliers)	Proof of satisfactorily executed/completed orders of similar items of prescribed value for the last 2 years
5	Timely Completion	Time allocated as per the works order and Actual time taken for completion.
6	Customer satisfaction	List of clients where vendor work has been executed and their completion certificate.
7	Financial standing	a) No loss in 3 years during the previous 5 years etc. P&L Account/Balance sheet certified by CA b) Please specify your annual Turnover for the last 3 years
8	Organizational Information	a) Legal Status – Registration Certificate b) IT – PAN of the firm c) Sales Tax Registration Certificate d) Central Excise Certificate e) Litigation if any
9	Warranty	2 Years

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The national Laboratory also held a pre-bid. Conference on 26<sup>th</sup> February in which seven firms had participated except one firm M/s X. In the pre-bid conference various queries of the bidders were addressed. Certain commercial aspects such as payment terms, BG etc. were also modified.

Some of the participants/representatives raised queries regarding evaluation of technical bids. The Committee explained that “a technical Committee duly constituted by the Director will evaluate the technical bids in the first instance with reference to specifications & standards mentioned in the tender. The Technical Committee may formulate its evaluation criteria and also seek additional information from bidders if required”.

The Committee appointed by the Director met subsequently on 25<sup>th</sup> March and decided the following major criteria for evaluation of technical bids.

1. Professional experience in manufacturing high quality laboratory furniture and fume hood.
2. Absence of legal cases/poor appreciation by clients.
3. Quality of furniture/hoods as experienced by NCL scientists and during inspection by our team – Grades A/B/C (A= High, B= Medium and C= Average quality) be given to each of the bidders and only those securing Grade A be considered for next stage.
4. Financial strength of the firm (a minimum turn over of Rs. 20 crore per annum during the last 3 years).

By applying the above evaluation criteria the Technical Committee rated the bid of M/s X as Grade-B i.e. Medium and disqualified as the minimum benchmark fixed was A Grade.

M/s X made a complaint to CVC alleging manipulation and fraud in selection of vendors. The firm alleged, inter-alia, that the criteria adopted for rejection of their bid by NCL was not mentioned in the NIT. Hence, it contended that the entire process of evaluation was illegal and *malafide*.

The facts and circumstances of the case were reported to CVC. After careful consideration CVC made the following observation:

“The Commission has examined the case. From the documents furnished, it observes that the grounds on which the vendor, M/s Steelcase has been rejected, do not find mention in the tender document. Neither have the pre-bid conference minutes been conveyed to the vendor. As such, the complainant is justified in feeling aggrieved. Though the organization does not appear to have acted with malafide intention, it is still necessary that the evaluation methodology is clearly spelt out in NIT itself ensuring transparency. And that in case such post-facto modifications are felt unavoidable, all vendors must be kept informed and equal opportunity provided to them”.



## Case Study No. 7

### **Sub: Camera System for Gait-Lab - Non-adherence to Tender Conditions**

CSIR Ref. No. 15-1(127)/2007-Vig.

One national Laboratory floated a tender on two bid system for purchase of Camera system for Gait Lab. The technical specification was finalized by the Technical Committee. Three firms responded to the bid. After rounds of clarifications, the TEC found two out of three bids technically qualified and recommended for opening of their price bids. The T&PC also approved the recommendations of TEC.

Meanwhile one of the two qualified respondents M/s X made a complaint alleging inter-alia, that the qualification of M/s Y is ab initio invalid and wrong. To substantiate his contention M/s X pointed to a note below the technical specification which read as follows:

“The make and model of Video Camera for reference application should be clearly specified. Further parameters like sub-pixel accuracy, compatibility with Kistler Force Plate, compatibility with Bio Metrics EMG system, Lens Type Support, Calibration Kit Hardware & software clearly indicated”.

To further substantiate the importance of compliance to the above condition, M/s X quoted cls 10 of Chapter XIV (Qualification Requirements) of the Tender Document which read as follows:

“Any additional bid participation criteria/eligibility conditions etc. mentioned in the Technical Specification sheet will also form part of the qualification requirements along with those mentioned in this chapter”.

M/s X, therefore, argued that since M/s Y had not mentioned the make and model of the Camera it should have been disqualified on that very ground *ab initio* without giving any opportunity to clarify.

Further, M/s X pointed out that M/s Y does not comply with cls 3 of Qualification requirements which read as follows:

“The bidder should have supplied at least one such system/equipment to any Central Govt./State Govt./PSU/Autonomous bodies. The details should be incorporated in the performance statement form along with documentary evidence”.

M/s X alleged that M/s Y has neither supplied the equipments as claimed nor is the one claimed to have been supplied (to a private organization) similar in application. The Institute admitted that M/s Y had not mentioned anything about

supplying the quoted equipment to any Central Govt./State Govt./PSU or Autonomous body”. However, the TEC and T&PC contended that the non-compliance of the said condition (cls. 3) is more than compensated by compliance to cls. 6 & 7 which read as follows:

**Cls 6:** “That in case of a Bidder not doing business in India, the Bidder is/or will be (if successful) represented by an Agent in India who shall be equipped and able to carry out the supplier’s maintenance, repairs and spare parts, stocking obligations presented by the conditions of the Contract”.

**Cls. 7 :** “That adequate and specialized expertise is already available or well be made available following the execution of the contract in the Purchaser’s country to ensure that the support services and responsive are adequate”.

Further, the Purchase Officer also informed that the bids of the qualified bidders were no more valid as on the date of reporting as the technical bids were opened about a year back against the asked for validity of only 90 days in the NIT.

After careful consideration the following observations were made:

1. The issue of what deficiencies/shortfalls can be rectified through clarifications and what would constitute a material deviation warranting summary (*ab initio*) rejection should have been clearly spelled out in the tender without leaving any scope for complaint on this account.
2. As for compliance to cls. 3 (Qualification requirement) of supplying at least one equipment (similar to the one quoted) to a Central/State Govt./PSUs/Autonomous Bodies, the firm has not mentioned anything in this regard. This aspect had not been got clarified at the technical evaluation stage although informally it was known that they had supplied one similar equipment to a private company. There was no supply to any PSU/Autonomous body as required under cls. 3 *ibid*.
3. The contention of the TEC and T&PC that non-compliance of cls. 3 *ibid* is more than compensated by their compliance of cls. 6 & 7 was not found tenable because the three clauses were disparate ones. One could not substitute or compensate for the other. If the intention of the Laboratory was not to make cls. 3 a substantive requirement, then it should not have been kept in qualification requirement; instead it could have been put as a general feedback requirement in other sections.
4. Moreover, the bids were stated to have expired as the technical bids were opened a year ago.

In view of the above the Laboratory was advised to cancel the tender and reprocess the case.