CHAPTER VIII: MINISTRY OF HEAVY INDUSTRIES AND PUBLIC ENTERPRISES

Bharat Heavy Electricals Limited

8.1 Violation of CVC and internal guidelines resulted in avoidable expenditure

BHEL questioned the technical acceptability of the vendor after opening the price bids in violation of CVC guidelines and procurement policy of BHEL and ignored repeated positive feedbacks regarding the vendor and the machine leading to delay, price bid becoming invalid and re-tender. Eventually, in the re-tender, BHEL incurred an avoidable expenditure of ₹5.57 crore.

Heavy Electrical Equipment Plant (HEEP) Haridwar, a unit of Bharat Heavy Electricals Limited (BHEL), invited (May 2009) a tender for procuring Computer Numeric Control (CNC) Lathe machine. After evaluation of the offers received, five bidders were found (February 2010) technically acceptable. Reverse auction was then conducted in which all five bidders participated. The L1 bidder[1] quoted a price of ₹6.87 crore for the machine (19 February 2010).

At this stage, HEEP, BHEL decided (27 February 2010) to verify the relevant facts pertaining to the machine through BHEL's office in Shanghai in view of the huge price difference between L1 and L2; L2 having quoted nearly double the L1 price (at ₹12.84 crore). The China office of BHEL confirmed from an earlier customer, an existing user of the machine, visited two factories of the L1 bidder and reverted with satisfactory reports. HEEP, BHEL also independently obtained feedback from previous customers who stated that the machine was satisfactory. HEEP, BHEL, however, was not satisfied and decided to depute a technical team to China for physical verification at end users of the machinery. The vendor meanwhile extended the validity of the offer twice (from 31 May 2010 to 15 July 2010) and also issued an invitation for visit of the technical team of BHEL between 05 and 24 July 2010. But, as internal administrative formalities for arranging visa and other logistics could not be arranged in time, BHEL sought a further extension of offer validity till 31 August 2010 and requested for revised invitation from 22 July to 21 August 2010. The vendor refused further extension stating that they had been holding on to their quote for about one year and could not offer the machine at the same price any further.

A re-tender for the procurement was issued on 20 August 2010. The erstwhile L1 bidder was not allowed to participate in the tender as it had refused to extend bid validity in the previous enquiry. The L2 bidder in the previous enquiry emerged as the lowest bidder in the re-tender and the procurement contract was awarded to this vendor in March 2011 for ₹12.44 crore.

Audit observed that as per BHEL's internal guidelines, *viz.,* Corporate Purchase Policy 1998 and Tendering System for Procurement of Materials/Services 2011, technical cum commercial offer shall be opened first, discussed and finalised and only then price bid of technically acceptable vendor shall be opened. CVC guideline on 'Transparency in

[1] ***M/s Tianshui Spark Machine Tool Company Limited, China***

Tendering System' (December 2004) also stressed that in order to maintain transparency and fairness, it would be appropriate that organisations evolve a practice of finalizing the acceptability of the bidding firms in respect of qualifying criteria before or during holding technical negotiations with him. CVC guidelines on 'Irregularities in the award of contracts' (September 2003) also emphasize that pre-qualification criteria, performance criteria and evaluation criteria should be incorporated in the bid documents in clear and unambiguous terms and price bids opened only of those vendors who were technically qualified. The verification process initiated by BHEL, post evaluation of the tender ought to have been adequately addressed prior to or during the process of assessing technical competency of vendors. The decision to ascertain the performance credentials of the proposed machinery after opening the price bids of technically acceptable vendors was contrary to the CVC guidelines as well as the procurement policy of BHEL.

The Management stated (June/December 2015) that though technical evaluation was completed on the basis of documents submitted by the bidder, due to considerable price difference between the L1 and L2 vendors and owing to it being the first procurement from the vendor, it was prudent on their part to inspect and confirm the operational performance of machinery to be supplied. Even though the China office of BHEL had recommended that an order be placed on the L1 vendor, physical inspection of the operational performance of the machine could not be witnessed and it was felt prudent not to take a decision until it was physically witnessed. The efforts to complete the inspection, however, did not materialize since the vendor did not extend the offer validity. BHEL also stated that the lowest price cannot always be the only criterion for placement of an order.

The reply is not acceptable as the decision to ascertain performance credentials of the machine after opening price bids violated CVC guidelines and procurement policy of BHEL. Besides, BHEL did not consider the positive feedback regarding performance of the machine and the credentials of the vendor received both from its Shanghai office and independently from clients of the vendor. BHEL also failed to carry out inspection of the operational performance of proposed machinery even after the validity period of the tender was extended twice.

Thus, by questioning technical acceptability of the machine after opening the price bid in violation of Corporate Purchase Policy 1998, Tendering System for Procurement of Materials/Services 2011 as well as guidelines issued by CVC despite positive feedback received regarding the credentials of the vendor, the machine and its functioning, BHEL incurred avoidable expenditure of ₹5.57 crore (₹12.44 crore *minus* ₹6.87 crore).

The matter was reported to the Ministry in November 2016; their reply was awaited (January 2017).