



Report on National Seminar on Best Practices in Public Procurement in ICT

The Centre for Digital Economy Policy Research (C-DEP), in partnership with IIT Delhi, conceptualized and created a national level platform for Best Practices in Public Procurement held on 17th July 2013 at IIT Delhi.

Due to C-DEP's position as a trusted advisor to the Directorate General of Supplies and Disposal (DGS&D), DGS&D partnered with C-DEP and IIT Delhi for this event, which was a first of its kind where stakeholders from the government and industry captains from the top digital economy companies of India interacted on policy mechanisms that would strengthen the nation's public procurement process.



Prof. Kanika Bhal, Head of Department, Dept. of Management Studies, IIT Delhi giving the welcome address at the National Seminar in Public Procurement. Seated from Left to Right Mr. J V Ramamurthy, President, MAIT, Dr. Satya Narayan Mohanty, Director General, DGS&D and Additional Secretary, Ministry of Commerce, Dr. Jaijit Bhattacharya, President, C-DEP, Mr. Sanjeev Gupta, Managing Director, Accenture India



Background

While each Industry Association independently works to frame policies that would benefit the ICT sector, there is no common platform where they can share views. There would be a greater impact on influencing the government's mindshare if all the associations were aligned, and put forth the same views.



Dr. Satya Narayan Mohanty, Director General, DGS&D and Additional Secretary,
Ministry of Commerce



Dr. Jaijit Bhattacharya, President, C-DEP during the Inaugural Session



Mr. J V Ramamurthy, President, MAIT giving his views to the audience



Mr. Sanjeev Gupta, Vice President C-DEP and Managing Director Accenture, India,



Mr. H A Sharma, Deputy Director General, DGS&D



Ms. Anubhuti Kaul Bhrany, Head – Government Business, Wipro

Purpose

The Government of India has come out with a slew of policies on public procurement that has far reaching consequences. The Indian ICT hardware sales to Central Government through the DGS&D is approximately INR 5000 crore per annum. The Central government is the single largest customer for the ICT industry, procuring around Rs. 5,000 crores of ICT equipment annually. The purchase preference and decisions of the Central Government not only define the trend for technology absorption within the Indian government, but also and more importantly they signal to the IT industry the direction in which their R&D should be channelized.

There were several issues pertaining to the DGS&D that the digital economy needed clarity on, and the National Seminar on Best Practices in Public Procurement provided a platform to do that. These included deliberations on the key issues of policymaking that was impacting the digital economy's public sector sales to DGS&D, and which would catalyst growth in the digital economy, and bring change in terms of progress.



The key issues which impact the digital economy that were discussed were:

- Implementation of the ERV Clause in DGS&D RCs
- Continuation of Centralized payment structure through CCA
- Recognizing Existing IPR in Government Procurement Contracts.
- Strengthening Quality Control through DGS&D Green Channel.
- Standards Aware Procurement
- Setting mechanisms for procuring the New Way of IT – Cloud, managed services etc
- Creating a mechanism to support innovation procurement by the government

External Participants

1. Dr. Satya Narayan Mohanty, Director General, DGS&D and Additional Secretary, Ministry of Commerce
2. Prof. Kanika Bhal, Head of Department, Dept. of Management Studies, IIT Delhi
3. Mr. J V Ramamurthy, President, MAIT
4. Mr. Sanjeev Gupta, Managing Director, Accenture India
5. Mr. H A Sharma, Deputy Director General, DGS&D
6. Ms. Aastha Saxena Khatwani, Chief Controller of Accounts, Ministry of Finance
7. Ms. Parminder Bajaj, Director – Technical, Bureau of Indian Standards
8. Mr. S N Srivastava, Deputy Director General, DGS&D
9. Lt. General S P Kochhar, Signals-Officer-In-Chief, Indian Army
10. Mr. Rajan Gandhi, CEO, GIZ
11. Mr. Naveen Sharma, Head, Public Sector Business, Intel South Asia
12. Mr. Suraj Singh, Head, RC Business, Dell India
13. Ms. Anubhuti Kaul Bhrany, Head – Government Business, Wipro
14. Ms. Ambika Khurana, Head, Government Business, HCL
15. Mr. Y K Pathak, Director, Quality, DGS&D
16. Mr. Rajesh Gupta, Director, Green Channel, DGS&D
17. Mr. Subhraneel Bose, Head, Government Affairs, Lenovo India
18. Mr. Anwar Shirpurwala, Executive Director, MAIT
19. Mr. V K Pandey, Head, Public Sector Sales, Canon India
20. Ms. Valsa Williams, Head, Government Affairs, Intel South Asia



(LtoR) Lt. General S P Kochhar, Signals-Officer-In-Chief, Indian Army (at the podium), Mr. Parminder Singh Kakria, Chair IPR Cell, C-DEP, Dr. Jaijit Bhattacharya, President, C-DEP, Mr. Rajan Gandhi, CEO, GIZ, Mr. Sanjeev Gupta, Vice President C-DEP and Managing Director Accenture, India, and Mr. Arijit Sen, Chair, Procurement Cell, C-DEP



(LtoR) Mr. Naveen Sharma, Head, Public Sector Business, Intel South Asia, Mr. S N Srivastava, Deputy Director General, DGS&D, Dr. Jaijit Bhattacharya, President, C-DEP, and Mr. Suraj Singh, Head, RC Business, Dell India,



(LtoR)Ms. Ritu Ghosh, Secretary C-DEP, Mr Amit Anand, and Ashish Sharma of Hewlett Packard

Agenda

The seminar highlighted the 7 key industry concerns, and sought resolution of the same from DGS&D.

The following are the most important digital economy asks:

1. Implementation of the ERV Clause in DGS&D RCs
2. Continuation of Centralized payment structure through CCA
3. Recognizing Existing IPR in Government Procurement Contracts.
4. Strengthening Quality Control through DGS&D Green Channel.
5. Standards Aware Procurement
6. Setting mechanisms for procuring the New Way of IT – Cloud, managed services etc
7. Creating a mechanism to support innovation procurement by the government



Detailed analysis of industry asks:

1. Implementation of the ERV Clause in DGS&D Rate Contracts

- The Exchange Rate Variation (ERV) Clause notified by the Ministry of Finance is as per the General Financial Rules (GFR)
- It provides a fluctuation buffer for contracts of 18 months and above.
- However, DGS&D Rate Contracts (RC), are for a period of 1 year only
- Rupee has depreciated by almost 12% in last quarter and by 20% in last one year
- Need to modify GFR and incorporate the same in DGS&D RC's

2. Continuation of Centralized payments through CCA for IT Industry

Directorate General of Supplies and Disposal (DGS&D) has notified end-customers that unless they revert to the contrary by June 10, 2013, payments will be made by the end-customers directly and not through the CCA

Expected Impact

- Numerous delivery locations for even a single order
- Transactional costs will increase which will introduce inefficiencies in the economy
- Additional costs will get passed back to the government
- Challenge in recovery of payments from several end-users, such as the paramilitary, whose personnel are often rotated at quick intervals, with the locational changes being sensitive in nature and thus not disclosed to vendors

3. Strengthening Quality Control through Green Channel

- Current terms for green channel ensure financial credibility of a company
- Need to weed out poor quality.
- Relevant Quality parameters need to be set in place to protect end-users as well as vendors
- DGS&D rule prescribes forfeiture of Rs. 50 lakh deposit by green channel vendors in case of any complaint related to quality

Expected Impact

Green Channel privilege need to be linked to the quality parameters such as power efficiency, environment friendly standards, life-cycle management, safety and security standards, and general compliance to the RC specifications.



4. Standards Aware Procurement

- DeitY is moving towards standards based access to market
- Safety
- Security
- Energy Efficiency
- Performance
- EMC, etc.
- Need to incorporate Internationally Harmonized Standards in the procurement process
- Need to be aware of the scope and limitations of Standards
- Application of standards to be judicious and centered around the usage requirements to avoid introducing unnecessary complexity
- Need to hand-hold industry, especially smaller players and startups

5. Recognition of Existing IPR in Government Procurement Contracts

The government procurement terms often stipulate that upon purchase of a specific IT solution or system, the ownership of the IP of that solution too must get transferred to the government.

Expected Impact

- Solutions are built on top of existing IPR stack
- IT companies invest significant R&D into building the base IP, and most end-user solutions are customized by adding to this base pyramid.
- It is therefore a challenge for an IT company to share / sell this pre-existing IPR to any specific customer

6. Creating a mechanism to support Innovation Procurement

- There exists special provisions whereby the government can procure from a single vendor in cases where the national security is concerned
- Generally, minimum of three bids required, without which the DGS&D Rate Contracts (RC) stand cancelled

Expected Impact

- Barrier to domestic innovation



- For IT, innovation is key to growth
- Discourages government procurement from domestic start-ups
- IP drain for India as start-ups end up selling their innovations to non-Indian entities

Outcome

The National Seminar on Best Practices in Public Procurement created a platform where the Directorate General of Supplies and Disposal (DGS&D) clarified their position on key industry issues listed above. Based on C-DEP's inputs, DGS&D also agreed to reconsider their existing policy position on creating a well defined quality parameter framework within DGS&D for awarding green channel privileges to suppliers. C-DEP's inputs have been sought to create this framework, and this opens a window for the digital economy to structure the parameters in a manner aligned to its business interests.

Through this interactive platform, C-DEP was recognized by the Ministry of Commerce and the Ministry of Finance as a key thought leader for defining Public Procurement processes for the IT industry. C-DEP shared the digital economy's views and concerns on various policy bottlenecks and sought inputs from the Ministry of Commerce and Ministry of Finance.

Based on the inputs received during the conference, DGS&D has requested C-DEP to organize a series of workshops over 2013-14, with each one taking a deep dive into ONE of the specific issue respectively, that was highlighted by the industry during the National Seminar on Best Practices in Public Procurement. Accordingly, C-DEP will, in partnership with IIT Delhi and the DGS&D, be organizing these workshops from August 2013 through June 2014. A calendar of events for the same would be put up on the C-DEP site after confirming the same with all stakeholders.





Annexure

BACKGROUND:

Procurement by Government of India accounts for approximately 29% of India's GDP, and is a critical component of the nation's development. The Central government is the single largest customer for the ICT industry, procuring around Rs. 5,000 crores of ICT equipment annually. The purchase preference and decisions of the Central government not only define the trend for technology absorption within the Indian government, but also and more importantly they signal to the IT industry the direction in which their R&D should be channelized.

While the Government of India has formulated a draft Public Procurement Bill 2012 designed to govern the procurement process for all central government and Public Sector Units (PSUs) in the country, it is necessary to address the challenge of aligning all other regulations and legislations that impact public procurement in India with this Bill.

The Centre for Digital Economy Policy Research (C-DEP), in partnership with the Directorate General of Supplies and Disposals (DGS&D), Ministry of Commerce, GoI, and the Department of Management Studies (DMS), IIT-Delhi, and in collaboration with MAIT has jointly organized today's 'National Seminar on Best Practices in Public Procurement', a platform which brings together thought leaders and policy decision makers to deliberate on some of the key issues in public procurement and explore potential means to address these challenges.

ISSUE: Decentralized payments through CCA

Directorate General of Supplies and Disposal (DGS&D) has notified end-customers that unless they revert to the contrary by June 10, 2013, payments will be made by the end-customers directly and not through the CCA. On June 20, 2013 C-DEP met with DG, DGS&D who mentioned that the DGS&D, in an effort to remove the payment bottleneck created by the centralized payment process of the Chief Controller of Accounts (CCA), will be giving end-users (procuring Ministries and Departments) an option to select as to whether they would like to avail of the payment option through the existing CCA route or make direct payments to the vendors. While DGS&D is still working out which specific products will fall in the scope of this mechanism, there is a high possibility that end-users (procuring ministries and departments) who are buying IT products through DGS&D will get to choose whether they prefer to make the payment through CCA or directly to the vendor.



Industry position:

The decentralized form of payment implies that the IT industry will need to allocate at least three times as many manhours for tracking payments from the government, with a host of other challenges. A considerable anticipated challenge will be recovery of payments from several end-users, such as the paramilitary, whose personnel are often rotated at quick intervals, with the locational changes being sensitive in nature and thus not disclosed to vendors. The industry is of the opinion that for the IT sector the payments should remain centralized through the CCA since the delivery locations are numerous for even a single order, and the cost of doing business will go up significantly if payments are decentralized.

ISSUE: Creating a mechanism within DGS&D/Ministry of Commerce to support innovation procurement by the government

As of now there are special provisions whereby the government can procure from a single vendor in cases where the national security is concerned. However, in other cases, which do not concern the national security, there are a minimum of three bids without which the DGS&D Rate Contracts (RC) stand cancelled. From a government perspective this is to ensure proper price discovery and a level playing field.

Industry position:

“The industry perceives the current procurement process as a barrier to domestic innovation since there is no provision for the R&D efforts of the industry to translate into government sales. For a sector like IT, where innovation is key to growth, this process discourages government procurement from the industry including the domestic start-ups, which often develop more cost effective, efficient, and path-breaking home grown products. This process also results in IP loss to India as the start-ups end up selling their innovations to private and public sectors outside India. C-DEP is of the view that DGS&D should introduce provisions that enable end-users to procure cost effective innovative products outside the scope of national security as well.”

ISSUE: Implementation of the ERV Clause in DGS&D Rate Contracts

The Exchange Rate Variation (ERV) Clause notified by the Ministry of Finance is aligned to the General Financial Rules (GFR), which means that it provides a fluctuation buffer for contracts of 18 months and above. This implies that the DGS&D Rate Contracts (RC), which are for a period of 1 year, are outside the scope of this clause. This can be resolved by the Ministry of Commerce and the Ministry of Finance if revise this clause in the interest of the



long-term benefits that will accrue to both the industry and the government. Notifying the ERV Clause for contracts of one year will enable the DGS&D to pass the benefits to end-users when the Rupee strengthens.

Industry position:

“DGS&D Rate Contracts (RC) are currently not in the scope of the Exchange Rate Variation (ERV) Clause notified by the Ministry of Finance because of their duration of 12 months. Over the last quarter, the Rupee has depreciated by almost 12% against the dollar, resulting in industry margins to significantly get eroded. Implementation of the ERV Clause by the DGS&D will protect both the industry and the DGS&D from the cyclical nature of exchange rate fluctuation. When the Rupee is depreciating the industry will be able to protect its margins, and when the Rupee is appreciating, DGS&D will be able to pass the benefits to the end-customers.”

ISSUE: Strengthening Quality Control through Green Channel

While the current terms outlined for qualifying for the green channel are adequate to ensure financial credibility of a company, they do not weed out poor quality. Relevant Quality parameters need to be set in place to protect end-users as well as vendors. This is all the more relevant because of the current DGS&D rule of forfeiture of the Rs. 50 lakh deposit by green channel vendors in case of any complaint related to quality.

Industry position:

A clear parameter defining quality needs to be introduced as part of the DGS&D Green Channel system. This will ensure a transparent mechanism that demarcates complaints based on quality from the general customer grievances. Also, in addition to the profitability and turnover criteria, the Green Channel privilege should be linked to the quality parameters such as power efficiency, environment- friendly standards, life-cycle management, safety and security standards that are harmonized to international norms, and general compliance to the RC specifications.

ISSUE: Non-Recognition of Existing IPR in Government Procurement Contracts

The government procurement terms often stipulate that upon purchase of a specific IT solution or system, the ownership of the IP of that solution too must get transferred to the government.

Industry position:



Any solution, even one that is tailor-made for a specific government customer, is built on top of an existing IPR pyramid. The existing foundation building blocks of this pyramid are common, and are an IT company's primary strength, used simultaneously on a global basis by the company. All IT companies invest significant R&D into building the base IP, and most end-user solutions are customized by adding to this base pyramid. It is therefore not possible for an IT company to share / sell this existing IPR to any specific customer.

ISSUE: Lack of Standards Aware Procurement

Government procuring agencies need to be aware of International and National Standards in the area of Safety, Security, Energy Efficiency, Performance, EMI/ EMC, etc.

Industry position:

There is a need to incorporate Internationally Harmonized Standards in the procurement process of Central and State government. Procuring agencies need to be aware of the scope and limitations of Standards, and the application of standards has to be judicious and centered around the usage requirements to avoid introducing unnecessary complexity.