



INDIAN INSTITUTE OF MANAGEMENT CALCUTTA

WORKING PAPER SERIES

WPS No. 698/ May 2012

Public Procurement- a case study of the Indian Railways

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Abstract

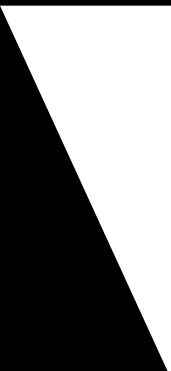
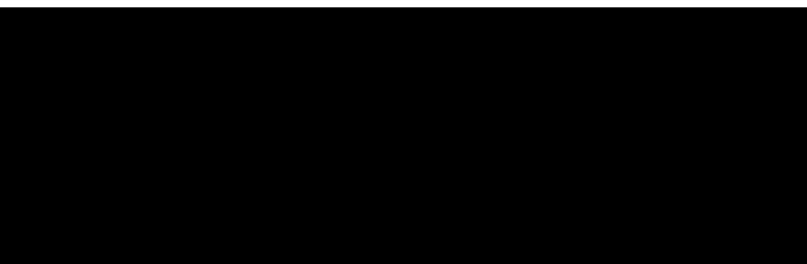
Indian Railways is one of the world's largest public sector organizations. Its network, traffic, organization and external vertical integration are gigantic. This paper

IR has a very high degree of vertical integration. It manufactures about 250 electric locomotives, 250 diesel-electric locomotives and 3000 passenger coaches annually at six manufacturing units for its own use and for export. Railway workshops manufacture items such as traction motors, switch gears and control gears, cast fabricated bogies, cast steel railroad wheels and forged axles. It owns and operates 125 hospitals with a capacity of 14,000 beds. It runs 316 schools for employees' children with enrolments of only 100 thousand students. IR provides accommodation to about 45 percent of its non-executive personnel and nearly all its executive personnel in 600 thousand apartments owned and maintained throughout the network. It runs mechanized laundries for cleaning bed linen provided on passenger trains and kitchens for preparing food for 9 million passengers travelling daily on long distance trains.

During the year 2009-10 the total expenses of IR was Rs.829 billion, of which expenses for procurement alone was Rs.279 billion (about USD 18 billion at current exchange rate of 1 USD=Rs.45 and a PPP correction factor of 2.9 (Ministry of Finance, Government of India 2011)). About 40 percent of the procurement expenditure was for purchase of items required for manufacturing, 30 percent for purchase of items required for repairs, operation and maintenance, 27 percent for purchase of fuel and remaining for purchase of items required for construction. Items as diverse as rails, motor paint, diesel, office supplies and medicines are regularly procured by IR in substantial quantities. (Ministry of Railways 2011)

IR has been growing rapi

Freight Traffic (billion tonne-km)	38	111	222	601	4.8
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2.1.2 Relation between Board, Zones and Divisions The Indian Railways has a matrix form of organization at three levels. The levels, in descending order hierarchy are the Railway Board, Zones and the Divisions. The Railway Board, which reports to the Minister of Railways, comprises the Chairman and members designated as Member (Staff), Member (Traffic), Member (Engineering), Member (Electrical), Member (Mechanical) and the Financial Commissioner; all Members are assisted by two Additional Members. While the Railway Board is headed by the Chairman, the Zones are headed by General Ma

2.1.4 Recruitment: The age limit for recruitment to all positions is around 30 years. Recruitment to the lowest rank of all Group A cadres is done through the Union Public Service Commission through open competitive examination. Employees join in the different Groups through the UPSC or Railway Recruitment Boards and work their way up the hierarchy till their retirement at the age of 60. There is no lateral induction at any level in the organization.

2.1.5 Protection and Discipline: Being public servants, all employees of IR enjoy protection against arbitrary dismissal or demotion under Article 311(2) of the Constitution of India which states "No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges." However, both executive and non-executive employees are also subject to statutes governing their conduct and deviations are taken up for disciplinary action under procedures laid in The Railway servants (Discipline & Appeal) Rules, 1968; disciplinary proceedings could lead

180 thousand stock items of various descriptions. The stocking depots perform the basic unit of the materials management organization and are attached to track maintenance units, loco sheds, carriage and wagon shops, signal shops, repair and overhaul workshops and manufacturing units. The stocking depots are responsible for inspection, receipt, storage and issue of the stock materials to the consuming departments. The procurement of the stock items is not done by the stocking depots. Instead, the stocking depots are required to periodically inform inventory positions to the Controller of Stores (COS) and raise tenders based on estimation of rate of consumption, through the RDBM based online Material Management Information System.

2.2.3 COS Office: The COS at the zonal manufacturing unit headquarters is responsible for actual procurement of items, send on tenders sent by the stocking depots. The COS has to ensure that the inventory is within limits, while ensuring that there are no stock outs in the stocking depots.

2.2.4 Board and DGS&D: There are certain items which are centrally procured only by the Railway Board or manufacturing units or the DGS&D (the Director General of Supplies & Disposals which is central procurement unit of the federal Government of India). Certain items are also marked for manufacture at in-house workshops or manufacturing units. The COS is responsible for sending the zonal tender to the central procurement agencies or the in-house workshops or manufacturing units.

2.2.5 Local Procurement: Procurement of low value items can be made by executives of other departments too, for which guidelines for procurement procedure and maximum limits of expenditure are specified. The functional departments can also procure stock or non-stock items of very low value directly from the market, in event of stock outs or urgency.

2.3 Source selection procedure

In order to ensure reliability, availability and safe working of railway assets, IR has been following the practice of maintaining lists of approved vendors for certain specific items. The Railway Board decides the items for which lists of approved vendors are to be maintained, as well as the agency responsible for maintaining the lists. The responsibility is generally given to RDSO or the manufacturing units. The Railway Board might itself decide the approved vendors for certain items, in rare instances. Further, certain zones or manufacturing units might decide to

maintain lists of approved vendors for a few ~~more~~ items (other than those specified by the Railway Board), which in their ~~opinion~~ is critical to maintaining ~~reliability~~, availability and safe working of assets.

RDSO requires that ~~vendors~~ register online for inclusion ~~in~~ the approved vendors list, following which RDSO examines the firm's ~~financial and technical~~ capacity, infrastructure, manufacturing practices, quality assurance ~~plans~~ etcetera through examination ~~of~~ documents and plant visits. If the vendor is found suitable for enlistment, the ~~firm~~ is usually first placed ~~in~~ a Part 2 list; orders for only a limited portion (usually 20%) of the ~~full~~ tendered quantity ~~are~~ placed on Part 2 vendors. Vendors on Part 2 list are

the accounts department for allocation of funds from the budget of the zone before sending them to the central agencies.

3.2.1 Type of Tendering: In case the procurement is to be done by the COS office, decision has to be taken about the type of tendering process to be adopted. The type of tendering process depends on the nature of the item under procurement and the total estimated value of procurement. The different methods of tendering used are: (a) "Open" Tender where tenders are invited by advertisement in the media. Procurement is always done by the open tendering method under the usual circumstances. (b) "Limited" Tender where tenders are invited from a limited number of firms; Limited tender systems are adopted in cases where a list of approved vendors have been drawn up. Such limited tenders are also given publicity in media from time to time (say every third procurement cycle) to seek out vendors who might not be on the approved list but have the capability to supply the material; in such cases the issue of the tender forms is not restricted to firms whose names are on the list of approved contractors. If the offer of firm and credentials submitted are found satisfactory for such firms, a portion of the ordered quantity may be placed with the firm. If the order is satisfactorily executed, the name of the firm is added to the list of approved contractors. (c) "Single Tender" or "Private purchase" where tender is invited from one firm only. It is used when a specific item has to be procured from a specific

A comparative statement of offers, conditions and validity for all bids is prepared by the COS office. The statement is then checked by the accounts department before being sent to the Tender Committee set up for consideration of tender offers. The user department might also be asked to evaluate the technical suitability of the offers received for the Tender Committee.

A Tender Committee comprising representatives from stores, accounts and user department has to be constituted for evaluation of tenders valued above Rs.1 million. The Tender Committee evaluates the offers and submits its written recommendations (with reasons) to the accepting authority. The rank of tender committee members and accepting authority for different tender values is given in Table 2. The accepting authority is usually executive of the COS office; the GM is the accepting authority for tender values exceeding Rs.150 million. The accepting authority has the authority to accept, modify or reject the recommendations of the Tender Committee; reasons for not accepting the recommendations of the Tender Committee must be recorded by the accepting authority.

Table 2: Tender Committee Composition & Accepting Authority

Tender Value	Tender Committee			Accepting Authority
	Stores	Accounts	User	
Rs.1 million to 3 million	SS	JS	SS	JAG
Rs.3 million to 10 million	JAG	SS	JAG	SAG
Rs.10 million to 20 million	JAG	JAG	JAG	SAG
Rs.20 million to 150 million	SAG	SAG	SAG	HAG
Rs.150 million to 250 million	HAG	SAG	HAG	GM
Rs.250 million to 500 million	HAG	HAG	HAG	GM

Source: (Ministry of Railways 1990)

3.3 Inspection, receipt and payment

3.3.1 Inspection The inspection is carried by personnel from specialized inspection agencies hired by IR. RITES, a subsidiary consultancy company of IR, DGS&D is generally engaged by IR for carrying out such inspections. The vendor usually dispatches the supplies after inspection through railway transport. The vendor applies for 95% of total payment along with proof of dispatch.

3.3.2 Receipt & Payment The consignee stocking depot on receipt of the supplies, will intimate the COS office and accounts personnel designated to make payments in a standard form, the date

of supply, along with details of quantities received, rejected or accepted. While making the final payment, accounts department checks whether the purchase order has been placed by a competent authority (in terms of financial powers granted), whether purchased items are not required to be purchased by DGS&D or Railway Board, whether the accepted rates for purchase order are not in large variance with earlier purchase order for same item and whether the purchase orders and receipt notes exhibit any evidence of tampering (such as over writing, defacement or erasure).

3.4 It is seen that multiple agencies are involved in the procurement process: the indenting unit, the COS office, the user department, the accounts department, RDSO, RITES and DGS&D. It is also observed that the accounts department maintains oversight on procurement issues through financial scrutiny of all procurement proposals, participation in the tender process and payment. The associated accounts department also conducts regular checks on stocking depot to verify whether the physical inventory matches all in the records.

The accounts department of IR is uniquely positioned for this role of oversight, since it is different from the other functional departments. The role of the accounts department is to protect the financial interests of the Government of India; the objective being to "secure maximum efficiency in railway operations at the minimum cost, without unduly sacrific

Accounts Department (Ministry of Railways 1997) and the Indian Railway Code for the Stores Department (Ministry of Railways 1990).

The Indian Railway Financial Code lays down the fundamental principle that should govern the entire procurement process. It is known as the 'canons of financial propriety' and reads as follows:

“(i) The expenditure should not prima facie be more than the occasion demands, and that every government servant should exercise the same prudence in respect of expenditure incurred from public moneys as a person of ordinary prudence would exercise in respect of the expenditure of his own money.

(ii) No authority should exercise its powers of sanctioning expenditure to pass an order which will be directly or indirectly to its own advantage

However, there is no legal framework governing procurement in India. Procurements in the public and private sector are governed by the same prism of laws- The Indian Contract Act 1872 and the Sale of Goods Act 1930. All disputes related to procurement contracts are required to use the arbitration mechanism (set in The Arbitration & Conciliation Act 1996 and SCC) before approaching courts for settlement.

4.2 Procurement oversight

A large number of internal and external agencies exercise oversight of the procurement activities of IR. The internal agencies are the vigilance and accounts departments. The major external agencies are the Central Vigilance Commission, Central Bureau of Investigation, Comptroller & Auditor General and the Parliament.

4.2.1 Central Vigilance Commission The Central Vigilance Commission (CVC) along with vigilance organizations in IR units were created following the recommendations of the Santhanam Committee on Prevention of Corruption in 1964. The Central Vigilance Commission functions under the jurisdiction of the Ministry of Personnel, Public Grievances and Pensions. The total manpower in the CVC organization is around 300.

4.2.1.1 CVC Act 2003 The CVC draws its power from the Central Vigilance Commission Act 2003. The major provisions of the Central Vigilance Commission Act of interest are: (a) CVC can institute an inquiry or investigation on receipt of complaint of offence under the Prevention of Corruption Act 1988 from the Government or any private person, the CVC will have all the powers of a Civil Court while conducting such an inquiry in respect to summoning and enforcing attendance and requisitioning records and documents. (b) CVC will submit a annual report of its activities to the President of India, who will send it to both houses of the Parliament.

4.2.1.2 Central Bureau of Investigation The Central Bureau of Investigation (CBI) was set up in 1963, following the enactment of Delhi State Police Establishment Act 1946 (DSPE Act). CBI has 16 zones and 60 branches throughout the country. CBI has manpower strength of about 6000 officers.

Superintendence of the CBI rests with the Central Vigilance Commission (CVC) in regard to cases booked under the Prevention of Corruption Act, otherwise the governance of CBI rests with the Ministry of Personnel, Pensions & Grievances. The cases booked under the Prevention of Corruption Act relate to: (a) Public servant "taking gratification other than legal remuneration in respect of an official act" (Any person "taking gratification to influence a public servant" (c) Public servant obtaining valuable without adequate consideration from a person with whom the public servant has official dealings (d) Public servant appropriating or converting any public property for own use or allowing any other person to do so (e) Public servant in possession of assets (property or) acquisition of which cannot be explained by "known sources of income". Under the Act, all such offences are punishable with imposition of fine and imprisonment.

The CVC can direct the CBI to investigate allegations of corruption against IR officials. Offences that require examination of non-official witnesses where there is a possibility of suspected official tampering or destroying evidence are also referred to CBI by IR for investigation. CBI draws its legal powers from the DSPE Act to investigate, search, arrest and prosecute IR personnel for offences listed under the Prevention of Corruption Act 1988, Railways Act 1989 and the Railway Stores (Unlawful Possessions) Act 1955.

CBI acts on receipt of complaints

cases involving preparation of charge sheets, appointment of inquiry officers, monitoring of inquiry and action taken on recommendations of inquiries (iii) Surveillance and detection: collecting intelligence about the corrupt practices committed or likely to be committed, conducting preventive checks; preventive checks may pertain to pre-assessment of quantity, mode of tendering, selection of firms, verification of antecedents of firms, examination of offers, checks on proper procedure of issue of tenders, availability of tenders on website, maintenance of list of registered suppliers, checks on the inspection of stores, checks on the local purchase both by the stores department and the consuming department regard to sources of purchase and reasonableness of prices, checks on the stores held in stock to pilferages, misappropriation of stores etc.

The major irregularities detected and punishments awarded in their recent years relate to: (a) Award of contracts at exorbitant rates (b) Acceptance of substandard supplies (c) Failure to carry

- d. The Estimates Committee examines the budget estimates and suggest reforms to bring about administrative efficiency.
- e. The Committee on Railways is a standing Pa

the item is required either urgently or will improve efficiency or is economical in some way. The explanation given by the Functional Department can be subjected to scrutiny by the CVC or CAG.

2. Stores and Accounts Departments might be "ordered" to procure through intervention of an authority higher up in the echelon (say the GM or

f. Excessive (unnecessarily high) complaint with IR's vigilance, CVC or CBI there are price as a result of limited or non-established procedures for investigation of such complaints. existent competition.

The concerned official may be required to explain lapses and/or the tender may be cancelled in such eventualities.

A situation of excessive price due to limited competition, as described in item (f), should be discussed in the Tender Committee and appropriate action taken by the Tender Accepting Authority. Otherwise it might attract attention of CVC and CAG.

Contract implementation phase a. Winning bidders/contractors compensate bribes and other extra payments with poor quality, defective or different specifications than those

payment had been made to the contractor on basis of documents of proof of dispatch, the Accounts Department will also investigate the issue. Such investigations are also

ensures quality and value for money. A decentralized procurement organization also ensures that its sensitivity to user quality requirements, since it is also accountable to the zonal head.

IR's scale of operations requires an efficient and economical procurement system in order that it can maintain its 24 by 7 services. It thus maintains a fine balance between aspects such as central and de-centralized procurement or open tenders and limited tenders for critical spares. While ensuring that there are strong oversight mechanisms in place, it cannot allow demoralization to set in its work force due to punishments meted out for minor infractions. IR's over-riding powers to the top management in this regard is again subject to Parliamentary oversight.

IR's distinctive set of procurement processes and safeguards which have evolved over time are therefore worth emulating in other public systems.

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