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Combating Corruption in Indian Public Procurement- some exploratory case studies

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Abstract

This paper has adopted the exploratory case study method of analyzing a few recent cases of public procurement irregularities on Indian Railways documented by the vigilance departments and the CAG available in public domain to inquire into the following issues: (a) how do irregularities and instances of corruption persist in spite of safeguards and thereby find the deficiencies of the current procurement pro

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1. Introduction

Public procurement in the Indian context is the (a) procurement of goods under Sales of Goods Act, 1930 for buying assets for replacement or expansion of services, maintenance and repair spares, plant and machinery, and (b) procurement of works and services under Indian Contracts Act, 1872 for construction of buildings, providing security to premises, maintaining computer assets etc by the public sector. Public procurement in India has been growing at a compound annual growth rate of 14% over the last three decades and currently accounts for nearly 25-30% of India's GDP (CUTS International 2012, 2). Indian Railways (IR) has been chosen for this study of Indian public procurement since IR is one of the largest public procurers of goods and services in India, possessing a monopsony position, since firms engaged in transactions with them have no other alternatives to pursue business. (Bovis 2007, 7) About 75 percent of IR's annual procurement expenditure of around Rs.360 billion (Indian Railways 2014) was for procurement of works (such as building of offices, bridges and railway tracks) and services (such as maintenance of computers, coach air conditioners or railway tracks) and remaining for procurement of goods (such as rails, electric motors, paints, diesel oil, medicines and office stationery). (Ministry of Railways(Railway Board) n.d.) Further, IR was also chosen for this study since IR is the only Indian public sector organization whose working and procurement processes, along with recent cases of public procurement irregularities documented by the vigilance departments and the Comptroller and Auditor General (CAG) are available in detail in the public domain. These cases pertain to procurement of works and services as well as for procurement of goods by various departments of IR and are thus quite representative of the procurement activities on IR. Since the gamut of procurement activities on IR is quite comprehensive, it can be safely assumed that these cases are representative of public procurement y the pub

decides what to buy, how and from whom and what to sell- often without having enough commercial experience" (Asian Development Bank and Organisation for Economic Cooperation

Source: (Transparency International 2006, 17-20)

Research question and motivation

India has been a corruption-ridden society, as described by (Kohli 1975, 67):"Corruption is the single largest element to be found most in India. All roads, from the maternity hospital to the crematorium, smell of corruption. No individual

Government ministries, departments and sub agencies works satisfactorily when compared to public procurement in other developing countries."

IR has been diligently pursuing its goal of eliminating corruption in public procurement, as is

research questions. The deficiencies of the current procurement processes and control mechanisms can be obtained from answers to the first question. The efficacy of corruption prevention methods can be gauged from answers to the second question. These research questions are of utmost concern, given the growing public procurement activities in a developing country. It may also be noted that the different anti-corruption methods require different levels of resources and time for implementation. Given the constraints of resources, this exploratory study would aid researchers and policy makers in deciding the focus of anti-corruption efforts.

Irregularities

While corruption has been defined in literature and irregularities have been discussed in literature (Tabish and Jha 2011, 262) (Sohail and Cavill 2007, 115), there is no definition of irregularities in literature. Irregularity is defined in this paper as instances where (a) there has been a deviation from the standard operating procedure of procurement, (b) interests of the public agency has been compromised (thereby resulting in lower quality of material received or higher costs incurred, for example), (c) rights of vendors have been compromised (in terms of delay in payment or unfair evaluation of bids, for example). An instance of irregularity could contain one or more of the conditions (a), (b) and (c). It will be appreciated that an irregularity is easier to detect than proving the element of "private gain" of a corrupt act. Irregularity has been an area of scrutiny by oversight bodies since "one of the fundamental obstacles in combating fraud and corruption in public procurement is the sheer difficulty in detecting wrong doings..this difficulty stems from the fact that there is ofte

and a fresh tender issued. The bids for a fresh tender must be opened after a mandatory period (a minimum of one month in case of IR) and again there would not be any guarantee that bids would be received for the equipment conforming exactly to specifications. Thus, such instances

Palvia 2012) and combination of strategies such as rules and regulations,

favor particular firms) in addition to nearly all the risks listed in Table 2 (iii) (Nag 2013)'s paper which examines issues of IR's organizational structure, procurement organization, source selection methodology, procurement oversight and regulation and their impact on the economy, efficiency, transparency and accountability aspects of procurement. The literature on public procurement in India is again quite sparse; few papers and reports have been published in recent years in the context of the proposed Public Procurement Act (PRS Legislative Research 2013), WTO negotiations (CUTS International 2012), Free Trade Negotiations with the European Union (Khorana and Asthana 2014) and country assessment by the World Bank (World Bank 2003). None of these papers or reports directly addresses the research questions posed in this paper. The author has come across only two papers examining the efficacy of anti-corruption methods: (i) a case study on reduction of public procurement expenditure in Japan's municipal public works, wherein it was found that transparency reduced expenditure by 8% (Ohashi 2009) and (ii) a study of impact of tender evaluation models in Portuguese public procurement. (Mateus, Ferreira and Carreira 2010) Thus this research will fill an important gap in understanding the impact of corruption prevention methods especially in the Indian context.

Theoretical Framework and Research Method

Various reports and academic papers have listed different methods of preventing corruption. These have been compiled in Table 2. Most of these methods are incorporated in the United Nations Convention against Corruption (United Nations Office on Drugs and Crime 2006), which having being ratified by India in 2011. Analysis of IR's procurement process indicates that many methods have either been partially or not implemented at all- a detailed discussion on the extent of implementation is given in Section 2. Methods which are partially or not implemented at all can be considered as i

public officials to report on the usage of public resources and answerability of government to the public to meet stated performance objectives" (Lourenco 2013, 243); lack of accountability encourages corruption; further transparency is seen as a "tool for accountability" (Michener and Bersch 2013, 235) (iii) lack of time limits in the procurement process; if the procurement process is not time bound, procurement officials may deliberately delay decision making and payments thereby discouraging suppliers who are not willing to cater to demands of corrupt officials   (iv) inadequacy of monitoring and oversight mechanisms; this aspect is discussed in detail elsewhere in the paper (v) single agency involved in all stages of procurement; this encourages corruption since it is easier for procurement officials and suppliers to collude and compromise on the performance and quality aspects (vi) lack of grievance handling mechanism; such a mechanism while giving confidence of fair play to suppliers, may also bring to light corrupt practices (vii) lack of databases; databases assist in fair evaluation of supplies (viii) inadequate conduct code, salaries, training etc of procurement officials (ix) inadequate whistleblower encouragement and protection mechanisms; whistle blowing has been defined as "the disclosure by organization members (former or current) of illegal, immoral or illegitimate practices under the control of their employers, to persons or organizations that may be able to effect action" (Near and Miceli 1995, 680); whistle blowers are very useful in bringing corrupt practices to the notice of authorities (x) Inadequacies in processes; inadequacies in processes lead to irregularities, which may or may not be due to mala fide intentions- corruption may thus thrive on inadequacies in processes taking advantage of benefits of doubt (xi) inadequate accountability of suppliers which results in promotion of corrupt activities by suppliers (xii) inadequate civil society engagement; the aspect of civil society engagement through integrity pacts is discussed in detail in Section 2. Predominance of certain independent predictor variables in understanding cases of corruption and irregularity will thus answer the research questions and can be recommended as credible solutions for combating corruption in public procurement in India. These predictor variables are chosen such that can be qualitatively assessed in the context of this paper.

Singapore's then Prime Minister Lee Kuan Yew had stated that "the strongest deterrent is in a public opinion which censures and condemns corrupt persons, in other words, in attitudes which make corruption so unacceptable that the stigma of corruption cannot be washed away by serving a prison sentence" (J. S. Quah 1988, 93). However, such predictor variables as social attitudes, cultural traditions (Quah. 2006) (Smith 2008, 128), religious beliefs (Tummala 2002, 64) or

group culture (Graaf 2007, 52) are not considered in the theoretical framework of this paper due to the paucity of data in this regard.

The exploratory case study method has been chosen to address the research questions posed in this paper, since "case studies are the preferred strategy when "how" or "why" questions are being posed, when the investigator has little control over events, and when the focus is on a contemporary phenomenon within some real-life context" (Yin 2003, 1). (Graaf 2007)' s paper opines that the case study method is appropriate for corruption studies since case studies "offer the advantage of richer details of actual cases and that contextuality" and "attention can be paid to individuals within the culture and organisation". In this paper, cases have been analysed using the theoretical framework to address the research questions and thereby propose solutions for combating corruption in public procurement which are grounded in reality.

Seven cases of public procurement irregularities on IR documented by the vigilance departments and the CAG available in public domain have been taken up for this purpose. These cases have been chosen to represent a wide variety of situations: (a) cases detected by internal (cases A,E,F,G) and external (cases B,C,D) monitoring agencies (b) cases of procurement of works and services (cases A,D,F,G) and goods (cases B,C,E) (c) cases involving situations where IR has contested findings of external monitoring agencies(case B,C,D) (d) cases involving disciplinary proceedings (cases A,E,G) and prosecution under the Prevention of Corruption Act (case F) (e) cases involving contractor selection and award phase (cases A,B,C,D) and contract implementation phase (cases E,F,G) (f) cases which pose different degrees of assessment of
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organized as follows: the organizational structure and procurement process of IR is discussed in Section 2; discussion on execution and monitoring process lacunae using cases is discussed in Section 3 followed by analyses and future research directions in Section 4.

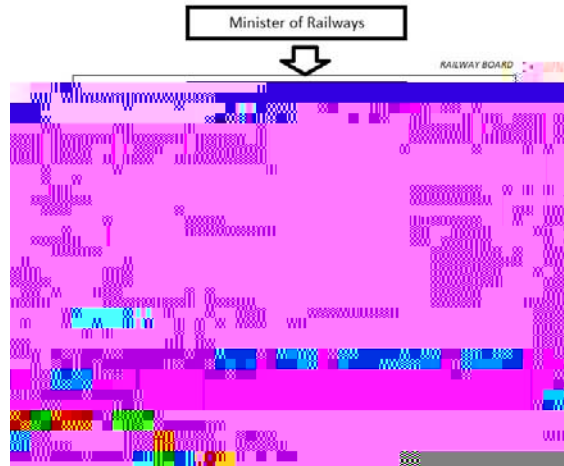2. Organizational structure and procurement process of IR

Fig 1: Organizational structure of IR
Source: created by author from (Ministry of Railways 2009, 13)

Organization structure of IR

The IR network is carved into geographical zones and divisions for administrative convenience. IR has a matrix form of organization at three levels, as shown for the Electrical Department in Fig 1.

Table 3: Activities involved in procurement of works/services and goods on IR

Goods Procurement						Works/Services Procurement				
		Role of Dept						Role of Dept		
Phase	Activity	User	Finance	Stores	Related Case	Phase	Activity	User	Finance	Related Case
0	a. Vendor approval					0	a. Vendor approval			
I	a. demand estimation					I	a. demand estimation			
	b. cost estimation						b. cost estimation			
II	a. Preparation of specifications					II	a. Preparation of specifications			
	b. Determination whether bidding will be restricted to approved vendors only						b. Determination whether bidding will be restricted to approved vendors only			
	c. Preparation of bid documents						c. Preparation of bid documents			
	d. calling for bids						d. calling for bids			
III	a. opening of bid documents					III	a. opening of bid documents			
	b. preparation of bid evaluation documents						b. preparation of bid evaluation documents			
	c. evaluation of bids and				B,		c. evaluation of bids and			D

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	recommendation for award of contract		C		recommendation for award of contract		
	d. award of contract				d. award of contract		A
IV	a. inspection of goods	*done by external agency*	E	IV	a. inspection of works/services		F, G
	b. acknowledging receipt of goods				b. acknowledging completion of works		
	c. payment based on acknowledgement				c. payment based on acknowledgement		

Source: created by author using procurement procedure outlined in Indian Railway Financial Code (Ministry of Railways 1998), Indian Railway Code for the Accounts Department (Ministry

Many of the corruption prevention methods recommended in Table 2 have not been incorporated in IR's procurement process. The status of implementation of the methods on IR is discussed below:

(i) Transparency: The transparency of contract opportunities is amply ensured through newspaper advertisements and availability of tender notices/documents on websites of various IR zones. However there is no transparency of processes and decisions- even the details of winning bids are not posted on websites (though CVC guidelines exist (Central Vigilance Commission 2005)). Theoretically however the Right to Information Act 2002 can be applied by stakeholders to access the relevant documents. IR's codes lay down clear rules and regulations, including exceptions to competitive bidding. However, there is no pre-disclosure of the bid evaluation process and no disclosure of reasons for acceptance or rejection of bids.

(ii) Accountability: There is currently no statutory procurement framework and hence transgressions have to be dealt with disciplinary proceedings only. Criminal liability for bribery is covered by the Prevention of Corruption Act 1988, while confiscation of bribery proceeds is covered under the Code of Criminal Procedure (Asian Development Bank & Organisation for Economic Cooperation and Develoment 2011, 217,224). Penalties for misconduct can range from reduction in rank to imprisonment and hence is substantial.

(iii) Fairness and time bound procurement process: IR's rules and regulations emphasize equal opportunities and equal treatment of suppliers. CVC rules require time bound conduct of procurement process (Central Vigilance Commission 2008).

(iv) Monitoring: The monitoring and oversight agencies are not adequately staffed, as discussed later. There is no information regarding the expertise of their staff or the equipment and financial resources or methodology of monitoring of procurement officials in the public domain. The CVC draws its powers from the Central Vigilance Commission Act 2003, the CBI draws its powers from the Delhi Special Police Establishment Act 1946 and the CAG draws its powers from Articles 148 to 151 of the Constitution of India; thus they do not draw their powers from a comprehensive anti-corruption legislation. The CBI has itself admitted of political control in its investigations (Mahapatra 2013), whilst there have not been any such reports of political control of the CAG or CVC. The CAG and CVC are removed from police control, while CBI is a police organization. There is no report available regarding the corruptibility of personnel of monitoring and oversight agencies except a recent case (DNA India 2013). The internal vigilance officials

are empowered to "gather intelligence from its own sources in whatever manner he deems appropriate about the misconduct/malpractices having been committed or likely to be committed" (Central Vigilance Commission 1991).

(v) Multiple agencies: IR's procurement processes are built such that multiple departments (such as Stores and Finance departments) are involved in all the procurement phases (Nag 2013, 64-67). However, the same agency (for example the Divisional Engineer) may be involved in all the phases of procurement from needs assessment to contract implementation, thus increasing the risk of collusion between the procurement officials and the supplier.

have been instituted so far (Asian Development Bank & Organisation for Economic Cooperation and Develoment 2011, 222).

(xii) Civil Society involvement: The civil society engagement can be done through integrity pact mechanism, which was developed by Transparency International. The pact involves all parties in public procurement making a commitment to eschew bribery and disclose all payments to third parties by bidders. The most critical element of integrity pacts is monitoring of the entire procurement process by independent civil society monitors. (Asian Development Bank and Organisation for Economic Cooperation and Development 2008, 189, Transparency International 2013, 11). CVC has recommended implementation of integrity pacts in Central Public Sector Enterprises (CPSE) and defense procurements (Central Vigilance Commission 2007). About 39 CPSEs have adopted integrity pacts (Verma 2010, 10). The implementation of integrity pacts requires civil society involvement through Independent External Monitors (IEM) who is empowered to enquire into protests by bidders regarding the tender evaluation process. A maximum of three IEMs are allowed to be appointed on each CPSE and integrity pacts should cover 90-95% of total value of procurements in an organization according to CVC guidelines (Verma 2010, 12). IR is yet to adopt integrity pacts.

Oversight of IR procurement

Oversight of IR's procurement activities is maintained by both internal agencies (vigilance and finance departments) and external agencies (CVC, CBI, and CAG). The internal vigilance and accounts departments play a complementary role with the CVC, CBI and CAG in providing the set of skills, access and involvement to prevent and detect instances of corruption in procurement.

Oversight bodies such as the CVC or CAG do not have powers of prosecution in criminal courts or powers to take disciplinary action.CVC can only advice IR regarding disciplinary action. The reports of CAG are submitted to the Public Accounts Committee (PAC) of Parliament, which in turn can recommend disciplinary action. Except

PAC's reports tabled in Parliament lists IR's non-compliances of their recommendations. The final responsibility of oversight

be apprehended at the exact time of committing the act. Such criminal cases are reported to "take a long time with remarkably low conviction rates: as low as 6 percent" (Vittal 2001, 25). Irregularities can be prosecuted in court of law under provisions of the proposed Public Procurement Bill (Government of India, Ministry of Finance 2012) tabled in the Parliament in 2012, when enacted; once enacted, irregularity in terms of violation of rules framed under this legislation will involve breach of law.

The IR vigilance department and the IR monitoring wings of the CVC, CBI and CAG have less than a thousand employees; on the other hand the IR's stores and user departments have over 14 thousand executives in decision making positions. Further it is physically impossible to cross-check each and every procurement case, numbering about 120 thousand annually (Aggarwal and Srivastava 2013, 1). However, in spite of being out numbered these oversight bodies are able to exercise some degree of control through the element of uncertainty; no one knows which procurement will be taken up for intensive scrutiny by these oversight agencies. If a person is habitually corrupt, the person will definitely come under the scanner of any of the oversight agencies. However if there is also an uncertainty in the corrupt behavior of the person, there is a likelihood that the person may never be apprehended; it is therefore imperative to strengthen procurement processes and incorporate more checks and balances. In this regard, there is no information in the public domain regarding the manner in which a procurement case is taken up for investigation by monitoring and oversight agencies. It is quite possible that the resources of the monitoring and oversight agencies are wasted in the absence of reliable methodology of selection of cases. This might also explain the low conviction rates mentioned earlier.

No measures of effectiveness of oversight mechanisms have yet been devised. However a comparative study of anti-corruption agencies of Singapore(Corrupt Practices Investigation Bureau) , Hong Kong(Independent Commission against Corruption), Thailand(National Counter Corruption Commission), South Korea(Korea Independent Commission Against Corruption), and India(the CBI) found that countries such as Singapore and Hong Kong with low

Commission and the Central Bureau of Investigation appear to have been given just enough powers and resources to permit some activity, but not enough to make them effective".

3. Case Studies

In this section, we examine a few recent cases of irregularities in the procurement process recorded by oversight bodies to seek appropriate corruption methods that can be adopted to avoid the recurrence of deficiencies in IR's procurement processes and control mechanisms. Thus both the research questions are addressed simultaneously. The theoretical framework discussed in Section 1 is used to seek appropriate corruption methods. The cases discussed below pertain to phases III & IV of Transparency International's framework of Table I. The author did not come across any recent case pertaining to the other phases of procurement, contrary to the opinions of CVC and CBI officials. (Tabish and Jha 2011, 272, Singh 1999, 183).

It will be seen in all the cases that there have been failings of the TAA/TC (Cases A, B, C and D) or contract implementation officials (Cases E, F and G). Provision for "substantial penalties for misconduct" (Asian Development Bank and Organisation for Economic Cooperation and Development 2008, 51) along with adequate monitoring are likely to deter such failings.

3.1 Phase III: Contractor selection and award phase

Firms submit bids for procurement tenders, which are valid over a certain period of time only. Bid evaluation is done by a tender committee (TC) comprising of officials of different departments. The TC can recommend acceptance or rejection of offers or negotiations with the lowest bidder. The recommendations of the TC are examined by the Tender Acceptance Authority (TAA), who is vested with powers to accept, reject or amend the recommendations of the TC. The decision of the TAA leads to acceptance or rejection of bid offers and the award of contract. It is the responsibility of the TC and the TAA to evaluate and decide the bid offers within the validity period. There is presently no institutional mechanism to monitor the decisions of the TC/TAA on a regular basis.

Firms are at liberty to refuse extension of the period of validity of the bid offer. Negotiations cannot be held with a firm after expiry of its period of validity of offer. Neither can a contract be awarded to a firm after the expiry of its period of validity of offer.

It is permissible under IR's procurement rules to split the quantity under procurement between two or more firms. This is done under circumstances where the TC/TAA is of the opinion that a single firm will not be able to deliver the entire quantity under procurement due to its capacity constraint or the firm's quality/performance is yet to be validated. Under such circumstances, firms are usually requested to supply at the lowest bid offer; firms are at liberty not to agree to the request.

3.1.1 *Case A Facts*: *A tender T1 was called for various items of work involved in the construction of a road over bridge (ROB), for which only one offer was received. The TC recommended negotiations with the sole bidder in view of rates being quoted being higher than last accepted rates. The TAA accepted the TC's recommendations for negotiations, following which a round of negotiations was held with the sole bidder. The TC considered the negotiated rates and recommended for acceptance of the negotiated rates. The TAA accepted the recommendations of the TC. However, 5 days later the TAA amended his acceptance to delete an item pertaining to earthwork, without recording reasons for the same. The negotiated rate for earthwork was Rs.110 per cu.m. and the total earthwork involved in tender T1 was 20,000 cu.m. Another tender T2 was called by the same office a month later for various items of work involved in the construction of two ROBs located 3 km away from the ROB of tender T1. A major component of tender T2 was earthwork of 80,000 cu.m. Again only one offer was received, which was from the contractor of tender T1. The TC examined the offer and recommended calling for fresh tenders after discharging the tender T2. The TC justified its recommendations citing that rates quoted were higher by 45% over the estimated cost and re-tendering is likely to yield lower rates as rates had fallen recently. The TAA (same person as TAA of tender T1) rejected the unanimous recommendation of TC to re-tender and decided to give a counter offer of Rs.130 per cu.m. The contract was awarded using the counter offer rates.*
The TAA was taken up for departmental action by IR internal vigilance for giving a counter offer in T2 at a higher rate than that accepted (and later deleted) in T1, without giving any satisfactory reasoning. (Railway Board 2011)
Case A Discussion: This case was detected by IR's internal vigilance. The TAA considered the rate of Rs.130 per cu.m. as reasonable and justified for award of contract in the tender T2, whereas the same TAA did not consider the rate of Rs.110 per cu.m. as reasonable in the tender T1 pertaining to the same work and nearly the same location. It is quite likely that the deleted

earthwork of T1 would be re-tendered at a later date by the TAA and contract awarded at a rate of Rs. 130 per cu.m. causing a loss of public money amounting to Rs.2 million for the total quantity of 100,000 cu.m. of both the tenders T1 and T2.

It is apparent that the TAA did not cause of loss of public money through a careless action. Rather there is an element of deliberate action by the TAA in ignoring TC's recommendations in both the procurement cases. Further the TAA reversed his own decision after 5 days of accepting TC's recommendations in tender T1. Though this appears to be a case of corruption on part of the TAA, even though the element of "private gain" is not visible. This case highlights the distinction between irregularities and corruption and the importance of detecting irregularities in preventing corruption.

IR's procurement processes could not detect these irregularities before it was detected by oversight bodies. Red flags should have been raised when (a) a TAA reverses the decision of the TC, (b) TAA changes his own decision, as in the case of T1, (c) rate of Rs.130 per cu.m. accepted when there existed an earlier offer of Rs.110 per cu.m. Further, these red flags should be taken seriously, especially in

Further, such situations may be avoided through adequate training of the procurement officials in regard to pitfalls in the procurement process.

The TC then suggested two options. The first option was to call a fresh tender for these 35 items. The second option was to place order for these 35 items on the next highest bidder. The TAA took a correct decision in accepting the first option. If the TAA had decided to accept the second option, questions would have been raised considering the hypothetical possibility of obtaining a

Case C Discussion: This case was detected by CAG. In this case splitting of order has been

3.1.4 *Case D Facts*: *As per extant instructions on IR, purchase preference for products and services has to be granted to the Central Public Sector Enterprises (CPSEs) at the lowest valid price bid if the price quoted by a CPSE was within 10% of the lowest valid price bid. A tender was invited in December 2003 with the provision of purchase preference for execution of earth work for construction of fourth line between Tikiapara and Santragachi. F1, bidding at Rs.111.1 million was the lowest bidder. The second lowest offer of Rs.123 million (10.7% higher than F1) was received from F2, which is a CPSE. At the instance of TC, F2 agreed to lower their bid to Rs.111.1 million. TC then recommended award of the work to F2 in April 2004. The recommendation of the TC was accepted and work awarded to F2 with completion date of 12 October 2005.*

However F2 could not complete the work even after extension of completion time to July 2006 and the contract was terminated in August 2006 at 'risk and cost'. The work executed by F2 till the termination of the contract was valued at Rs.23.4 million. The balance work was subsequently awarded to another contractor F3 in March 2007 at a cost of Rs.144.5million.

CAG opined that the price preference clause had been incorrectly applied to F2 since its offer was 10.7% higher than F1. Further the TC or the TAA failed to take into account the poor performance record of F2 in finalizing the tender.

The Railways countered that F2's negotiated rates made it eligible for application of price preference clause and F2's bid could not be ignored. (Comptroller and Auditor General of India 2010)

Case D Discussion: This case was detected by CAG. According to IR's procurement rules, price preference to CPSE are to given if its offer is within 10% of the lowest offer. However F2's offer was 10.7% higher than that of the lowest bid. The TC negotiated with F2 to reduce its offer to that of the lowest offer, and then recommended that the contract be awarded to F2. The subsequent failure of F2 resulted in the work being done at an additional cost of Rs.56.8 million, which would have recovered from F2. The completion of the work was also delayed by nearly two years. Had the work been awarded to F1, the work would have been probably completed in time, without the additional administrative cost of contract termination and re-tendering. The absence of an independent grievance redress mechanism would probably have encouraged F1 to contest the decision of award of contract to F2, and thereby avoiding such a situation. F1 could also have approached the IEM in the event of the tender being covered by an integrity pact.

According to CVC guidelines, negotiations can be conducted by the TC only with the lowest bidder after negotiations are approved by the TAA. In this case, the TC negotiated with the second lowest bidder. This irregularity would probably not have been noticed by the oversight body had F2 completed the work within time. Transparency of tender decisions would probably have enabled the public or civil society to notice this irregularity and seek rectification. This situation would have been avoided if this had been red flagged by a information system in time, which could alert supervisor authorities of three irregularities being committed: (i) conducting negotiations with the second lowest bidder (ii) incorrect price preference being given to the CPSE (iii) poor performance record of F2 being ignored. Such situations may be avoided through adequate training of the procurement officials in regard to pitfalls in the procurement process. Further a proper database of supplier performance would have probably highlighted the poor performance record of F2 to the TC/TAA.

The actions of TC/TAA are an irregularity since rules have been violated as well as IR's interests in terms of performance and costs have been compromised. The TC's action of negotiation with the second lowest bidder would have seemed suspicious, if F2 not had been another government body. This case also highlights the difficulty in assessment of wrongdoing in cases of irregularities.

3.2 Contract Implementation Phase

This is an extremely important part of the procurement process. The supplier stands to gain enormously if goods or works are supplied at quality or performance norms below that which is contracted. Thus there is a substantial motivation on part of the supplier to compromise the inspection process. The risk is exacerbated in situations where the bid evaluator is also the person inspecting the goods and works.

Whilst the responsibility of inspection of IR's procured goods is entrusted to an external agency (RITES (RITES n.d.)) to obviate the possibility of collusion of public official with the supplier to accept goods below acceptable quality, the responsibility of inspection of IR's procured works lies with the user department. IR's procurement of works/services, which constitute the bulk of its procurements, thus carries an enormous risk of corruption since the user department is involved in both the bid evaluation and inspection. IR has chosen to mitigate this risk through a process of sample checking at two levels, to obviate the possibility of collusion.

The (World Bank 2003, 19) has observed in this regard that "Supervision of contract performance can be influenced for a consideration. In public works contracting, corrupt payments for timely and sympathetic inspection and for timely payments have been a well-established tradition for decades. Both the officials and the contractors, who were interviewed, confirm to its prevalence; but while the officials believe that it does not exceed 5% of the contract price, the contractors assert that the amount may be as much as 15% to cover all branches of the government (tax, customs, excise, etc., besides the engineering), and is built into the price. The corruption in the States is more widespread than in the center, and some States are worse than others. No state or central agency or state enterprise is exempt".

3.2.1 *Case E Facts*: *Rolling Shutter is used in the manufacture of passenger coaches. A consignment of Rolling Shutter was ordered by Integral Coach Factory (ICF). The consignment was inspected by RITES and sent to ICF after being certified as conforming to specifications by the RITES Inspection Engineer.*

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of work. A sample measurement for 20% of the contracted length was carried out by the next higher supervisor S2, followed by another sample measurement of 5% of contracted length by the next higher supervisor S3 and found to be in order. Payment was made to the contractor for

integrity pacts with the suppliers/contractors. These cases of irregularity do not pose difficulty in assessment of wrongdoing.

4. Case Analysis

It is found that risks (a) and (b) of phase III and (a) and (e) of phase IV, as indicated in Table 1, are manifested in the cases analyzed. The corruption prevention method(s) which may have prevented the irregularity for each case is given by a ' ' symbol in Table 4.

Table 4: Summary of cases and their prevention methodologies

Sl.No.	Phase of Procurement	III			IV		
	Methods of Prevention of Public Procurement Corruption & Irregularity	Cases					
		A	B	C	D	E	F/G
1	Adequate Transparency						
2	Adequate Accountability						
3	Fairness & time bound procurement process						
4	Adequate Monitoring & oversight						
5	Multiple agencies						
6	Grievance Handling						
7	Database						
8	Procurement Officials code, salaries, training						
9	Whistle Blower mechanisms						
10	Adequate Procurement Process						
11	Adequate provisions for sanctions against Suppliers and Contractors						

It is observed that the above findings do not entirely agree with the opinions of CVC experts wherein the following issues were ranked as most important for curbing corruption in public procurement in the order stated: (i) transparency (ii) professional capabilities of procurement officials (iii) proper contract monitoring and (iv) monitoring of compliance with procedures (Tabish and Jha 2011, 272). The difference in findings might be the result of limitations of this study. The major limitations are the paucity of wide range of cases, absence of complete details of the cases and absence of cases involving other public organization in the public domain; the last aspect makes it difficult to generalize the findings across all public sector organizations in India.

However this exploratory study of determination of efficacy of different methods of prevention of corruption in public procurement , is in an area yet in academic infancy, given that there are very few studies in the area especially in the Ic   h

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