

## **Event report of Dissemination Workshop under ProOb-02 project**

### **Introduction:**

CUTS set up a Procurement Observatory in 2014 and scaled up its work. The current phase is supported by the Asian Development Bank. Collection and analyses of public procurement (including contract implementation) related quantitative/quantitative data to the best possible extent in the state. This will include development of procurement performance indicators such as average time taken to open tenders, average bid validity period, number of tenders, fairness in tendering process etc. Monitor the procurement policies, rules and practices in the state and actual implementation of the same. Share the findings of the mentioned analyses and its outcome with the Rajasthan Government and other relevant stakeholders through workshop, seminars, website and other means.

As one of the key project activity, the said Dissemination workshop was organised by CUTS Centre for Consumer Action, Research and Training (CUTS CART) in Jaipur dated November 03, 2016. The workshop was organised in collaboration with State Procurement Facilitation Cell (SPFC), Finance Department, Government of Rajasthan.

### **Participation:**

In the workshop total 54 procuring officials from various procuring entities participated in the dissemination workshop. The procuring entities which participated in the workshop are Department of Finance, Department of Medical Health and Family Welfare, Jaipur Metro Rail Corporation (JMRC), *Jaipur Vidyut Vitran Nigam Limited*, Rajasthan Police, Public Works Department (PWD), Rajasthan Urban Infrastructure Development Project (RUIDP), Department of Animal Husbandry and Department of Local Bodies.

### **Proceedings:**

#### **Inaugural Session:**

Welcome & Opening remarks:

George Cheriyan, Director, CUTS extended a warm welcome to all the participants and talked about the public procurement scenario in India and Rajasthan. He said public procurement refers to the process by which public authorities, such as government departments or local authorities, purchase work, goods and services from companies and constitute 25 to 30 percent of the GDP, hence an important component in the public finance management cycle. He further said that public procurement has an interface between government and private sector which has lots of potential of corruption and misuse of public money for personal gains. He shared that at national level there is absence of Public Procurement Act and a Public Procurement Bill, 2012 was tabled in parliament but it was dissolved with the change of UPA-02 government.

He further added that few states have come forward and passed State Procurement Acts to begin with Karnataka, Tamilnadu, Kerala and Rajasthan. Rajasthan has good public procurement act named as Rajasthan Transparency in Public Procurement Act (RTPP), 2012 and RTPP Rules, 2013. He also mentioned about the Swish Challenge System which promotes innovations and new ideas in the procurement process. He briefly touched upon the Rajasthan observatory and its objectives. He thanked the participants, Resource Persons and Mr. Hiroyuki Maruyama, Principal Procurement Specialist, ADB representative.

**Project Overview and research findings:**

Madhu Sudan Sharma, Senior Project Coordinator, had given the overview of 'Asia Pacific Electronic Procurement Network' project, its objectives and activities. He said that CUTS is working on the procurement programmatic area from trade and governance point of view and awards certificate and diploma courses as well but this particular intervention is being implemented from governance angle. MSS mentioned that legal and institutional framework related to the public procurement is very strong in comparison to the other states and not only the other states but international agencies like World Bank and Asian Development Banks are also started to think for considering the state procurement system as it is for sanctioning their grants rather than imposing their own. But anyway the current framework needs lots of improvement in its execution.

He defined the Key Performance Indicators and methodology used in the procurement analysis and said that as per project findings which related to the actual implementation of the RTPP Act, 2012 and RTPP Rules, 2013, most of the procuring entities are not uploading the documents related to the whole of procurement cycle which includes information related to the bidders participation, comparison charts, time taken in the procurement, award of contract and compliant redress system on SPPP as well as on their own website.

He further added that there is a need of capacity building of all the procuring officials on the RTPP Act and Rules as well as on overall Procurement Management Information System (PMIS). Although some initiative has been taken by SPFC, Finance Department at Officers Training School for the same but these efforts are minimal and need to be intensified. MSS appreciated some of the new initiatives of SPFC like redesigning the SPPP and making it more participatory and informative and developing an extensive list Frequently Asked Questions (FAQs) on RTPP Act and Rules and putting on the SPPP. MSS also appreciated to SPFC for engaging with some Civil Societies which are working on Public Procurement to make the processes more participatory.

Madhu Sudan further said that under the project 'Practices Gap Analysis' related to Public Procurement was done by S.S. Vaishnava, Procurement Consultant, Government of Rajasthan which talks about some areas where there is need of changing the old procurement practices which need to be changed as per the existing provisions of RTPP Act and Rules.

**Key Note Address:****Overall Public Procurement Framework of Rajasthan (Legal and Institutional): ADB's Experiences and Suggestions**

Hiroiyuki Maruyama, Principal Procurement Specialist, Asian Development Bank, New Delhi shared his experiences related to legal and institutional arrangements in South Asian Countries in general and some Indian States in particular in brief. He said that the legal mechanism of India to regulate and manage the domain of public procurement is comparatively strong and lots of new initiatives have been taken by the central and state governments. By referring the electronic procurement which is one of the transparent methods of procurement is increasing in India day by day which is good indicator on one side and these governments are adopting new methods of procurement in the form of best practices taken from other parts of the globe which is giving positive results and one of the examples is swish challenge system but as per ADB, there are several challenges attached with the swish challenge system.

He also shared this experiences related to some of big ticket projects funded by ADB to the Government of Rajasthan and said that because of good procurement setup and provisions ADB supported even some of the risky projects and thankfully all the projects are going in right direction and some of them concluded well. While appreciating the work done by the Rajasthan Procurement Observatory, he said that the recently done Practice Gap Analysis report really good in the sense of mapping the areas of improvement and shown hope that surely the proactive state government and Finance Department will

bridge these gaps. He thanked CUTS for inviting him and to Finance Department for their much appreciated pro activism and required support to such civil society initiatives.

### **Gap Analysis in the bid documents Report:**

S. S. Vaishnava, Procurement Consultant, Finance Department, Government of Rajasthan shared the key findings of the Gap Analysis done in the Bidding Documents as per requirements of RTPP Act, 2012 and RTPP Rules, 2013 under the project. Firstly he shared the methodology of the research and mentioned that four Procuring entities ULBs, PWD, RUIDP and JMRC were selected for this analysis.

While sharing the findings of review of bids by Local Bodies, he referred the NIT No.01 dated 11/07/2016 by Nagar Palika Ramgarh Shekhawati (Sikar) he said that the procuring entity has developed its own form of Notice Inviting Bids and bidding documents, Description of goods to be procured should have contained a reference to the relevant item of Bureau of Indian Standards as required by section 12 of RTPP Act, It is not mentioned as to it is an open competitive bidding or limited bidding, Nothing has been mentioned about bid security, its amount and form, the date of Notice Inviting Bids and receipt of bids is same which is 11/07/2016. Even if it is limited bidding, the period of publicity should have been 7 days and the appendices A,B,C and D for Code of Integrity, Appeals etc. as required by Finance (G&T) Department, Govt. of Rajasthan's circular No. 3/ 2013 dated 04/02/2013 have not been appended. Likewise he referred around 15 NITs and pin pointed the areas of improvement.

On conclusion of his findings he said that this is a desk review, therefore the material available for analysis was that which has been uploaded on the State Public Procurement Portal by the concerned procuring entities. As the RTPP Act and RTPP Rules apply equally to all the procuring entities irrespective of the fact as to whether the subject matter of procurement is in category of goods, works or services, most of the findings are common in procurement process of all the procuring entities taken for review, i.e. Urban Local Bodies, Public Works Department, Rajasthan Urban Infrastructure Development Project and Jaipur Metro Rail Corporation which have been given in para 6.1 of the review. The specific findings with respect to selected procurements of goods, works and services of particular procuring entity are given at para 6.2 to 6.5. One bidding document of procurement of works by Rajasthan Urban Infrastructure Development Project and one bidding document of procurement of services by Jaipur Metro Rail Corporation were, by and large, found conforming to the requirements of rule 36 of RTPP Rules. He suggested to the SPFC and Finance Department to look in to the highlighted areas of improvement so that these gaps can be bridged and overall implementation of the RTPP Act and Rules can be made more transparent and effective.

### **Technical Session: 01**

#### **Effective usage of RTPP Act & Rules in the day to day business:**

Arvind Deewan, Chief Accounts Officer, SPFC, Finance Department, Government of Rajasthan facilitated this interactive session and mainly talked about RTPP Act and Rule and its provisions in detail. In the beginning, he gave an overview of the role and responsibilities and initiatives taken up by SPFC and Finance Department to enhance the effective implementation of this act and rules.

He discussed about the obligations related to values of procurement, criteria for evaluation of bids, preparation of bidding documents, single part and two part bids, prequalification proceedings, bid security, content and publicity of NIT, pre-bid clarifications and changes in the bidding document etc. He later discussed about format and signing of bids, sealing and marking, late bids and custody of bids as well in detail. While talking about the opening process of bids he talked about the preliminary

examination and in detailed explained about determination of responsiveness as well. In between he replied all the queries as well which were raised by the participants about the issues or topics being discussed during the session.

Later he touched upon the provisions of rules and Act related to evaluation of technical and financial bids and issues related to the lack of competition as well and said that evaluation process of bids has to be done with utmost care and health competition among the bidders has to be maintained and promoted. He also described the technicalities around right to vary quantities, dividing quantities among more than two bidders and performance security. He mentioned about the reasons and conditions of forfeiting the bid-security and said that forfeiture of bid security is a weapon in the hand of procurer which creates deterrence among the bidders to behave and act responsibly.

Participants mainly enquired about the operational aspects of the RPPP Act and Rules and put up questions regarding definition of the emergency situations, oral instructions for selection of the bidders, performance security, role of SPFC in smooth functioning of Act and Rules and Complaint redressal processes and disclosure provisions for disclosure of such information on departmental website.

### **Technical Session: 02**

Second technical session was on the overview of Swish Challenge Method and effective usage of SPPP in the day to day business of procuring entities. The session was facilitated by Ramawatar Sharma, Joint Secretary and Yogendra Bagda, IT officer & SPPP Manager, SPFC, Finance Department, Government of Rajasthan.

Ramawatar Sharma defined the newly adopted procurement method which is swish challenge method. As per this method, new techniques, designs and innovative ideas of works, goods and services are accepted unsolicited. He further said that Rajasthan is the only state which has legalized the Swish challenge and made part of the Procurement act itself. Swish challenge is a very good method of procurement since it brings in the latest technology and expertise in the public system. He explained about the process through which bids are invited under this method and said that Planning Department is the nodal department for this and there is committee in the chairmanship of Chief Secretary which finally awards the contracts under this.

This session was mainly focused on the newly designed State Public Procurement Portal (SPPP) with new technical and other features. He mentioned the need of re-designing of the SPPP and expressed that the earlier version of the portal was not having enough features of disclosing the full range of information on the procurement cycle and was also having scope of making it more interactive and user friendly. But the current version of the redesigned portal is having all the features for accommodating entire information which need to be disclosed as per act and rules in a much convenient way.

Yogendra Bagda did a live demonstration of the newly designed SPPP and shared the usage of each and every functionality one by one and shown the manner in which the uploading, updating or change in the existing file without changing the file name and removal of any file from the portal. He also explained all the other required features related to accessing the desired Bids, related literature, notifications, instructions for the users, swish challenge bids separately, help for the departmental workers, FAQs and online support to be provided to the procuring entities and respective procuring officials across Rajasthan.

All the participants were quite enthusiastic and appreciated the utility of the session and participated in the session on an interactive way. The SPFC team also given their coordinates to the participants and asked to call them during the office hours if they have query, comment of suggestions regarding the portal or if they have any difficulty in using the portal for their procurement processes. SPFC team will be more than happy to provide their full support over phone, or e-mail or personal office visits as well so that the overall implementation of the RTPP Act and Rules is enhanced.

In this session there were several queries raised by the participants and one of the participant asked about problems in uploading information in the new SPPP portal, Type of software and hardware required for effective use of SPPP, type of orientation needed to use the SPPP flawlessly, uploading various types of files, excel sheets and scanned documents, Management of Procurement Information System and withdrawal of the uploaded documents and advancement uploading of the bid related docuemnts.

### **Summing up and Vote of Thanks:**

Madhu Sudan Sharma summed up the day long proceedings and said that today's workshop was extremely useful in the sense that more than 55 procuring officials actively taken part and more than that the SPFC and Finance Department officials facilitated the much required sessions in detail using the latest techniques and live, to demonstrate the things. He thanked all the resource persons of the day and Mr. Hiroyuki Maruyama for his presence and special word of thanks to SPFC, Finance Department officials, Procurement consultant and all the participants for their active participation and coming from various districts of Rajasthan.

### **Highlights:**

- Facilitation of both of the technical sessions by high level officials of SPFC and Finance Department itself with live demo of the SPPP and its features.
- Presence of 55 procuring officials coming from more than six procuring entities across the Rajasthan especially from Urban Local Bodies and PWD.

### **Low lights:**

- One day workshop is not enough for discussion range of issues related to RTPP Act and Rules and knowing about the new version of the SPPP. In fact it requires couple of days to get good orientation for the same.