

Module 4

Approaches to Vigilance: Punitive, Preventive
and Participative

Chapter 2

Preventive Vigilance

Leveraging Technology in Anti-corruption Efforts

Technology has emerged as a powerful tool in the fight against corruption. With the power of technology, governments, civil society, and other stakeholders can share information and resources to reduce, detect, and prevent corruption. Technology can be used to improve transparency and accountability. Digital footprints, Data analytics and Artificial Intelligence can be used to generate red flags , monitor activities, identify patterns of suspicious transactions and flag potential cases of corruption. Several areas have been identified where use of technology can bring efficiency, economy as well as transparency thus, curbing corruption. Some of these ideas are as follows: -

- ❖ **e-Procurement:** e-Procurement means use of information and communication technology by the procuring entity, to carry out the procurement process with the prospective bidders, for procurement of goods, works, services or any combination thereof. The very basic aim of e-Procurement is to leverage technology for ensuring transparency, fairness, and efficiency in the procurement process, ruling out any undue human intervention. Procurement covers complete tendering process, starting from online publishing of tender enquiries, online bid submission by the bidders, online bid evaluation and publication of award of contract. e-Procurement has been recognised internationally as an important instrument for checking corruption by reducing face-to-face interaction where most requests for bribes take place. It can help to reduce cartelization, collusions, and bid rigging etc.
- ❖ **e-Payment:** The intention is to bring economy and efficiency, reduce delays, while at the same time, reducing corruption. This system helps in significantly reducing transaction costs involved in making payments by way of cheques and sending the payment through couriers and also curbs corruption.
- ❖ **e-Sale:** e-Sale refers to sales activities carried out with the help of information and communication technology, especially internet. The main objective is to sell goods, natural resources, scrap, land, etc., making use of technology in a

transparent, fair, and efficient manner. Any public entity, having decided to resort to e-Sale, needs to start with wide publicity of sale schedule for information of prospective buyers; the object(s) under sale, its / their complete description, general terms & conditions of e-Sale along with object specific sale terms & conditions are required to be duly publicized in transparent and fair manner. Since nobody needs to meet anybody else, the chances of collusion are minimized.

- ❖ **e-Reverse Auction:** Reverse Auction is a process of online, real-time purchase/sale, adopted by procuring entities to select the successful bidder. Reverse auctions help buyers to lower purchase costs through increased competition and avoid having to individually negotiate with several different suppliers. Reverse auctions generally work best when there are many sellers in the market and price is a key factor. The benefits of 'e-Reverse Auction' extend beyond cost savings. It provides transparency and level playing field to all participating bidders.
- ❖ **Geo-tagging:** The monitoring of any project at scale becomes challenging issue and most of the monitoring systems are not strong enough to effectively monitor the project across difficult geographies. Geo-tagging is a process of assigning a 'geo-tag' or adding some 'geographical information' in various 'media' forms such as a digital photograph, video or even in a SMS message.
- ❖ **Use of Analytics and AI:** Advanced analytics and AI can be used to analyse vast amounts of data and detect patterns of questionable transactions. These tools can be very useful in platforms like GeM. Use of AI across a wide range of business processes and functionalities, should be considered (1) to detect Fraud, anomaly detection and market sanity; (2) Procurement planning, forecasting and monitoring; (3) Intelligent virtual assistant to aid buyer/seller journeys; (4) Catalogue management including automatic tagging and text description; (5) Customer service automation including helpdesk/call-centre.
- ❖ **Other IT Interventions:** Apart from the above mentioned there are very many other areas where technology can be leveraged simultaneously for efficiency, economy, and corruption control. The key idea being that risk management tools are made integral part of the main business processes. For example, there are frequent cases of frauds in availing various employee benefits like medical expenses, LTC, TA/DA etc. The accounting software can be built in such a manner that the computer system generates 'exception report' and gives alerts wherever there are significant deviations from certain benchmarks and

norms. Extensive use of website can be made both as a tool for disseminating information to the stake holders as well as for accessible feedback.

- ❖ **Preventing misuse of IT:** Instances of cyber frauds, cyber-crimes, malpractices by Govt/PSU/PSB officials and employees of vendors manning the IT systems and outsiders are being reported and Commission has received reports /complaints, regarding incidents of such malpractices of misuse of E-Platforms. Vigilance Manual 2021 has separate chapter on E-Vigilance. E-vigilance is a modern tool of watchfulness, prevention, and detection by leveraging of modern technology. E-vigilance is to ensure compliance of law, rules, and instructions of government activity by means of inbuilt system of machine intelligence, and thereby detecting violations. Vigilance needs to play a proactive role to adapt to such organizational changes so that the processes and information in such an environment are within their ambit for scrutiny against vigilance angle or systemic deficiencies.

Procurement – Pitfalls and best practices

Public Procurement means acquisition by purchase, lease, licence or otherwise of goods, works or services or any combination thereof, including award of Public Private Partnership projects, by a public procuring entity, whether directly or through an agency with which a contract for procurement services is entered. Public procurement normally involves expenditure from public funds by public procurement entities. Transparency, fairness, equality of treatment to the prospective bidders / bidders and probity are the hallmarks of public procurement process. The prime objective is to achieve best value for the money spent in transparent and fair manner.

Public procurement as a percentage of GDP is estimated between 20-22% in India. It is one of the major corruption prone areas in all organisations. 10-15% of the Public Contracts overall value may be lost due to corruption. Given the rising concerns about irregularities in the expenditure channelled through public procurement, more effective monitoring, and complete transparency is needed. Pitfalls through red flags are linked both to the prevention and to the detection of irregularities and frauds. Some of the major

Pitfalls in public procurement and how organizations can mitigate them using best practices have been listed below:

Pre tendering Phase

Improper need assessment and market analysis

- ❖ **Pitfalls:** The indenter is not clear on the precise needs for which the procurement is being planned and goes ahead with the process even without understanding and considering the market. If the assessment of product quality and quantity with respect to needs is improper, budgeting can be inadequate and time frames can be unrealistic.
- ❖ **Best Practices:** Having a clear assessment of what you need, when you need it, is important for success of any procurement organization. Such risks can be curbed by ensuring proper assessment of the need. The scope of procurement should be clearly defined. Estimation of the procurement should be done using Last Accepted Rates, Market Analysis Tools, etc. and considering the inflation and technological changes in the scope of procurement. The need should be checked through finance vertical through process of concurrence, vetting and finally by the administrative heads through sanction, so that multiple hierarchies in the organisation can justify and rationalise the requirement of the procurement.

Planning and Budgeting of Procurement plans not in line with overall budget

- ❖ **Pitfalls:** Public institutions are often unaware of a consolidated view of their expenditure as purchasing responsibility is spread across many divisions.
- ❖ **Best Practices:** As a mitigation measure, the indenter should be cautious while defining the procurement estimates and same should be checked by Finance at Nodal level so that holistic check on the procurement can be ensured. Contract variations and escalations leading to change in the cost of work should be checked and discouraged. The procurement requirements should be brought in line with the overall budget provision of the department/organisation by rationing at various level.

Improper framing of requirements/specifications

- ❖ **Pitfalls:** If the requirement/Specification is not clear than the bidder also not able to understand the actual requirement of the organisation which may results in money and time loss.

- ❖ **Best Practices:** As far as possible, generic, and standard specifications should be adopted while defining the procurement. The procurement should be subjected to technical vetting by authorities so that fairness can be ensured. Organisations should ensure adoption of standards, codes, and manuals to define the procurement process. Organisations should adopt Expression of Interest modes, consultancy services, etc. in case of lack of clarity on the procurement or related processes.

Undefined Procurement procedures

- ❖ **Pitfalls:** Absence of procurement procedures leaves a huge margin of discretion of official that may result in manipulation and hence, restrict the participation of vendors resulting in cost implications.
- ❖ **Best Practices:** To avoid any manipulations, pre-defined guidelines to be formulated by the organizations. Organizations also frame separate guidelines for Goods, Services, Works, and Consultancy since procurement is different for each case. Type of tender whether open/limited or single to be adopted, should be pre-defined in the manuals to stop malpractices and procedural lapses. Organizations to frame a Standardized bidding document. Deviations should be discouraged through checks defined in the tender document.

Tendering Phase

Irregularities in Request for proposal

- ❖ **Pitfalls:** Irregularities in request for proposal/bid may result in non-participation or rejection of genuine bidder that may have vast experience in that area.
- ❖ **Best Practices:** To get value for money wider participation of vendors are requisite. For ensuring this, wide publication through e-platform, embassies etc. needs to be done. RFP evaluation should be objective as far as possible by incorporating balanced evaluation criteria i.e. neither restrictive nor liberal and these evaluation criteria framed may be checked by statutory bodies etc. at a regular interval to bring more robust system.

Issues related to bid submission

- ❖ **Pitfalls:** Issues related to bid submission makes it difficult for the bidders to prepare the bid. In this way, bidders cannot determine whether it is in their interest to undertake the specific tendering process, such as giving insufficient time-extension for bid submission due to changes in conditions, glitches observed during submission, etc.

- ❖ **Best Practices:** The irregularities that come to notice during Bid submission should be checked promptly. The irregularities can be minimised through leveraging technology for e-publication, e-tendering, use of Government e-marketplace etc. The time schedule for various stages/activities of bid submission should be clearly defined in the tender documents.

Unfair bid evaluation

- ❖ **Pitfalls:** This is another major area of concern that may result in rejection of bids due to lack of clarity of credential or due to non-submission of supplementary documents not forming part of eligibility or based on samples etc.
- ❖ **Best Practices:** Bid evaluation is a process of examining and comparing bids to select the best offer to acquire goods, works and services necessary to achieve the goals of an organization. Firstly, to achieve fair bid evaluation, it is necessary that Evaluation Committee should have No Conflict of Interest and may submit an undertaking in this regard. The Bid Evaluation Committee should be as per defined SOP. Secondly, Evaluation should be based on Objectivity and the confidentiality in evaluation to be maintained till award of Contract. Organizations need to frame departmental rules of Conduct for accepting gifts, etc. to avoid any influence from the bidders.

Post Award Phase

Poor Contract Management & Performance

- ❖ **Pitfalls:** Poor contract management standards is a major reason for cost implications and delays in project completion.
- ❖ **Best Practices:** The procurement phases should be subjected to different levels of supervision to eliminate possibilities of lapses or quality compromises during the post award phase. Hierarchy of supervision at different levels to be included in department's Work Manual. The poor performance of the agencies should be checked by means of incorporating some clauses regarding milestones, key performance indicators etc. Liquidity Damages/ Penalty, debarment, suspension, holiday listing, blacklisting against contractors may be incorporated in the tender to avoid any compromise at later stages. In case of change in Contract

Conditions or any technical amendments higher authority approval to be required. There should be a provision for Random Checks of Contracts at different stages by statutory bodies through Intensive Examinations, Audits, Investigation, etc.

Issues related to Payments

- ❖ **Pitfalls:** The mechanism of payments to the contractor becomes a potent tool for corruption. Lack of timely payment results in delay in projects and less participation of prospective bidders in future tenders.
- ❖ **Best Practices:** There should be a separate channel for passing bills and should be kept separate from executing wing of the organisation. Bills should be processed and passed as per laid down clauses of the tender and in compliance to budget head allocation, measurement records, statutory deductions, etc. E-payments, e-measurements, geo-tagging of measurements, e-verifications of BGs should be enforced in the organisation. The account details of the bidder should be taken at the time of bid submission to avoid payment manipulations at later stage.

Improper dispute addressal system

- ❖ **Pitfalls:** The aggrieved bidders are allowed to file complaints with procuring entities, but the process often appears to be not much clear/accessible as to whom they may approach for their complaint or may be the process itself is of much time-consuming.
- ❖ **Best Practices:** The contract award information should be displayed in public domain. Tools like Right to Information should be provided to ensure transparency in the processes. Integrity Pacts should be encouraged along with Independent External Monitors to minimise post contract issues. Tender Documents should clearly spell out the clauses on appeal, dispute resolution and arbitration. Rules should be defined for investigating the contract and the parties by Investigating Agencies. Government should define external and internal anti-corruption teams to detect irregularities.

Government e- Marketplace (GeM)

Public procurement in India has faced challenges of inefficiency, delays, time-delay, complex, and fragmented policies, and manual processing.

This has led to charges of its affliction with non-transparency, lack of competition and hence corruption. These issues result in limitation to Buyer organizations in terms of lack of competitive prices, unreliable quality of products/services and the burden of manual process flows. This also results in challenges/issues faced by Suppliers/service providers such as cumbersome vendor registration processes, non-transparent verification, and procurement processes, in addition to long and protracted payment cycles. Based on recommendations of the Group of Secretaries, Government decided to set up a dedicated Government e-market (GeM) for different Goods & Services procured by Government Organizations / Departments/PSUs which will provide a complete end to end, contactless, cashless, and paperless procurement system.

GeM has adopted measures to improve systems and procedures to eliminate / reduce corruption, promote transparency and ease of doing business. GeM use of automation and digitization of processes enabled by technology and analytics, has the potential leading to higher process efficiencies, better information sharing, enhanced competition, reduced process cycle time. Some key features of GeM that may help in reducing corruption are Mode of Tendering, Techno-Commercial Loading in Bids (Load Based Bidding, Incident Management System, Audit Trail, and User authentication.
