

CHAPTER-2 Pre-Tender Stage

Pre-tender stage can further be sub divided into two stages-

- i) Appointment of consultant
- ii) Preparation of Detailed Project Report (DPR)/Detailed Estimate

Appointment of Consultants

Earlier the public organizations were undertaking the planning and supervisory activities in-house. Nowadays, in this era of large-scale infrastructure development, the in-house resources available with public organisations are felt inadequate to deal with the growing demand. Therefore, outsourcing various project activities such as Architectural services, preparation of DPR, Project Management Consultancy, and Quality Assurance etc. has become necessary. The Commission has issued instructions regarding appointment of Consultants vide circular No.3L PRC 1 DT. 12.11.1982, the same were reiterated vide circular No. OFF1-CTE-1 DT. 25.11.2002. Gist of the above circulars is given below-

The consultant should be appointed in a transparent and competitive manner for need based and specialized jobs. The agreement should contain adequate provisions for penalizing the defaulting consultant keeping in view the fact that a consultant's role is only advisory and recommendatory. Consultant's fee should be based on some fixed value of the contract.

There is another circular No. 98/DSP/3 dt. 24.12.2004, wherein, it has been made clear that a consultant is disqualified for providing goods or works or services related to the initial assignment for the same project and vice-versa.

During examination of various power projects, some deficiencies in the appointment of consultants as well as in operating the consultancy contracts has come to notice such as-

- Arbitrary appointment without publicity & competition
- Restrictive criteria adopted in pre-qualification
- Pre-qualification carried out not as per notified criteria
- Credentials not verified

- Offer of L1 ignored on flimsy grounds
- Decision making left to the consultant

A few examples highlighting above deficiencies are discussed below-

Case-1 (04-NH-73)

One consultancy firm which was engaged for small value consultancy work in an organization was appointed as consultant for a housing work costing Rs.60 crores without inviting tenders.

The organization should have invited open tenders from capable consultants having experience of handling such large value housing projects.

Case-2 (06- ET-11)

Limited tenders were invited from known consultants for a Hydro Power Project costing Rs.130 crores. The organization should have gone in for open tendering.

Case – 3 (06-ET-11)

Initial payment of Rs.3 crores was paid to the consultant for mobilizing his resources for consultancy for a power project costing Rs.130 crores. The consultant neither deployed the required man-power as per agreement nor supplied the design and drawing in time defeating the very purpose of granting mobilization advance.

The department should have insisted on timely services from the consultant and deployment of sufficient staff.

Case – 3(05-SH-38)

In one of the projects, the estimate was prepared by an outside consultant, which was to be checked by the department. On scrutiny of estimate, it was noticed that even the basic rates of various items such as cement and steel had been taken on a higher side. Some other coefficients for labour and machinery were also taken on the higher side. Thus, effective control was not exercised on the consultant's job, which in this case resulted in preparation of inflated estimates.

Case (VR1)

A Power Sector PSU appointed 4 Consultants in a Project and that too on nomination basis. One Consultant was appointed initially for the preparation of the feasibility report for the different sites. Another Consultant was

appointed on nomination basis for verifying the estimated cost of the project. Thereafter, a Central PSU was appointed for the the consultancy services upto the the the commercial operation date with a provision to escalate rate on account of wage revision of the employees of the Consultant PSU. Besides, above Consultants, in the same project, the PSU further awarded another work of consultancy for the supply and installation of infrastructure project management software and hardware to another Central PSU. Surprisingly, the consultancy charges were 46% higher than the estimated cost of supply of hardware and software. Such high rates are not justified by any standard practice. Moreover, it is apprehended that the PSU might have off-loaded this consultancy job to another private party as the charges are on abnormally higher side.

- Instead of appointing different Consultants by splitting a job, at best two consultants for the complete job should have been appointed duly adopting a proper tender system as the total cost involved in this consultancy was substantially high.

Preparation of DPR/Estimate

Successful contract performance depends on the quality of detailed project report. If the detailed project report is prepared on ad-hoc basis based on some old project and not as per the present site requirements, then there shall be delays, deviations resulting in time and cost overrun. It has also been observed that the detailed project report is prepared in a hurried manner without checking the conformity/consistency among various schedule of items, drawings, specifications, and contract conditions etc.. This further adds to time and cost overrun of the project. The poor DPR leaves opportunity for the contractor to exploit and gain profits out of ambiguity in the contract.

While examining the contracts of power sector, it was observed that many estimates are prepared only on the basis of last accepted rates. While last accepted rates do help in preparation of the estimates, the estimates should not solely rely on last accepted rates only. The quoted rate needs to be reasonable and justified and compared with the estimated rates. If the last accepted rates are high for any reason, it results in award of the contract at higher rates since no analysis of circumstances under which the last contract was ordered is gone into. And also this new awarded rate becomes the basis for estimation of rates for the next tender. Thus this problem has a cascading

effect. This does not appear to be a proper system of preparation of estimates. In fact to avoid such problems, the organisations must preferably adopt a software based analytical method to prepare estimates based on various parameters that affect the rate including the prevailing market rates.

It was also observed that organisations do not prepare estimates based on actual site conditions. Rather the estimates are prepared based on the borrowed quantities from some previous similar project, without incorporating the modifications required in foundation etc. for the current project. This has resulted in large-scale deviation, especially in foundation items. In one case, the quantum of pile work was reduced from Rs. 6.0 crores to Rs. 2.0 crores only.

A few examples of deficiency in detailed estimates are as under-

Case-I (05-SH-54)

In case of an 'earth filling package' of one thermal power project, an estimate amounting to Rs. 73 crores was prepared taking into account the local site conditions such as lead involved in the transportation of earth, cost of the earth etc. Open tenders were invited and L1 bidder quoted Rs.129 crores. Since, the L1 bid was very much on the higher side in comparison to the estimated rates, the Tender Evaluation Committee decided to look into the reasonableness of the estimated cost and after adding up certain non standard stipulations such as certain local area taxes and particular circumstances prevailing at site, concluded that an amount of Rs. 100 crores could at best be justified. Since still the gap between the revised estimated cost and the lowest quoted bid was on higher side, the tenders were discharged.

Thereafter, the total revision of estimate was carried out and in place of initially proposed borrow area involving 4-5 kms. lead, a fresh borrow area involving 14 km lead was stipulated and an estimated cost of Rs.103 crores was worked out. This time in the open tender, lowest bid was for Rs.192 crores. Since again the lowest bid was much higher than the estimated cost, another option of assigning the work to some other PSUs engaged in construction work was explored. M/s Bridge and Roof Co. Ltd., NPCC, NBCC, HSCL and IRCON were considered, however, on one or the other flimsy grounds most of the PSUs were excluded and finally the work was assigned to NBCC at a cost of Rs. 118 crores. Since, the estimate of Rs.103 crores was worked out considering all the relevant factors and current rates,

assigning the work to M/s NBCC at a cost of Rs. 118 crores thereafter, does not appear to be justified.

Moreover, it was learnt that the work was being executed by way of borrowing earth from the area involving a lead of 4-5 kms only, whereas the estimate amounting to Rs.103 crores was prepared involving a lead of 14 kms. Thus, if the work was to be executed from a borrow area involving a lead of 4-5 kms only, then there appears to be no justification for preparing an estimate and justifying the cost of award of work considering a borrow area involving a lead of 14 kms.

Case-II (06-ET-05)

Detailed estimate for a power project 'X' was prepared based on the rates borrowed from another previously executed power project 'Y'. Project 'X' was an expansion project, where the electricity & water supply was supplied to the contractor free of cost. In project 'Y' contractors were to arrange electricity & water supply. Obviously, the estimated cost of project 'X' should have been less than for the project 'Y'.

In the same estimate, quantity of 'extraction of rock' in the coal handling area deviated from 5000 cum to 56000 cum, which indicates that estimate was not prepared on the basis of actual site conditions.

The organization should have prepared realistic estimates considering the local conditions.

Case(VR1)

In one PSU, the revised cost estimate for a work was prepared as Rs.5733 lakhs, which was based on the earlier awarded rates. The organization had arrived at the estimated rates simply by multiplying by a capacity factor, i.e. through extra-polation. However, on opening the price bids, it was seen that the L1 rates were Rs.3564 lakhs only, thus establishing the fact that the estimates that were prepared were not realistic.

CASE (VR2)

In another PSU, the estimate for a work was prepared for Rs.5570 lakhs and for the basis of estimation, it was mentioned that estimated cost of plants, equipments & auxiliaries have been derived from the L2 bid received for some similar ongoing work. The quoted rates of L1 bidder however were

found to be Rs.3630 lakhs, which were approximately 35% low, giving an impression that the estimates were deliberately kept on the higher side.

CASE(VR3)

In yet another case of thermal power package, the estimates were taken from the award value of an exactly similar package of another work which was awarded at Rs.1860.33 crore in April'04. The estimates for the new package prepared in Nov.'04 were however, taken as Rs.2250.38 crores, i.e. almost 21% higher than the last award rates within a time span of 5 months only without any justifiable reasons on record.

CASE (VR4)

In a Power Project, initially the estimated cost was indicated as Rs.11 crores only. However, after opening of the price bids, the estimates were revised to Rs.13.25 crores, ostensibly, to justify the quoted L-1 rates. This practice of revising the estimates after opening of the price bids to justify the received L-1 rates is extremely objectionable and is against the ethics of the tendering system.

CASE (VR5)

In one Power Project, the rates of last awarded works were simply escalated by 10% to arrive at the estimate for the new work. Escalating the last rates by a fixed percentage may not always be the correct way of working out the estimates. Needless to say the quoted rates were nowhere near the estimated rates.

CASE (VR6)

In one PSU, the work was awarded on nomination basis to another Central PSU without arriving at a realistic estimated cost. As the initial cost was not properly worked out before award, an amount of Rs.30.50 crores was allowed in addition to the initial cost without any justification and after issuing the LOA, an amendment letter to this effect was issued later on. Even the sanction of the cost estimate was issued after approximately 15 months of issue of LOA. It is relevant to mention here that many a times the work awarded on nomination basis to the PSUs are getting executed through private agencies by a back to back arrangement. Keeping the estimates loose in the beginning results in award of work at higher rates to private parties in a non-transparent manner.

- The estimated rate is a vital element in establishing the reasonableness of the prices being offered and, therefore, it is very important that the same is worked out in a realistic and objective manner on the basis of purchases made by other organizations, prevailing market rates, the market trend and assessment based on intrinsic value etc.

A few check points are suggested to prevent above deficiencies-

Appointment of consultants-

- Instructions of the commission issued vide circular No. OFF1-CTE-1 DT. 25.11 to be followed.
- Appoint consultant in a fair and transparent way.
- Decision-making should rest with the executives. The consultant's role should be only advisory.
- Fix upper ceiling for fees.
- Provide safeguards against consultant's failure such as performance guarantee, professional liability insurance etc.

Preparation of detailed project report-

- Prepare DPR as per actual site requirement in consultation with the field staff; otherwise it may lead to deviations & delays.
- Prepare Estimates on the basis of detailed analysis of rates considering rates prevailing at the project site to arrive at realistic cost.
- Ensure conformity among nomenclature of the item, drawings and specifications to avoid ambiguities at a later stage.
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