Bill Summary

The Public Procurement Bill, 2012

- The Public Procurement Bill, 2012 was introduced by the Ministry of Finance in the Lok Sabha on May 14, 2012. This Bill seeks to regulate and ensure transparency in the procurement process.
- A procuring entity could be a Ministry or Department of the central government, any Central Public Sector Undertaking, any company in which the government has a stake of more than 50%.
- This Bill shall not apply to procurements which are less than Rs 50 lakh, emergency procurements made for disaster management, and procurement for the purpose of national security.
- The basic norms that the procuring entity shall adhere to include: (a) ensuring efficiency, economy and transparency; (b) provide fair and equitable treatment to bidders; (c) promote competitiveness; (d) ensure the quality is consistent with the price of the bid; and (e) prevent corruption.
- The Bill also defines a Code of Integrity for the procuring entity or Central Purchase Organization (CPO) as well as the bidders. It prohibits acceptance of bribe, collusion, misrepresentation, coercion or threat, and obstruction in the auditing process of the procurement made.
- The procuring entity shall first determine the need for the procurement and estimate the cost of the procurement based on certain specified matters. It may publish information regarding planned procurements.
- The CPO shall not limit participation of bidders or discriminate against or amongst bidders except for the protection of public order and morality, animal or plant life, intellectual, national security. The central government may make procurement mandatory from certain bidders only on the grounds of promotion of domestic industry, socio economic policy, or other considerations in public interest.
- The procuring entity may specify certain requirements for the qualification of bidders. It may also engage in a pre-qualification process prior to inviting bids. The pre-qualification shall ordinarily be for a single procurement.
- The CPO may maintain a panel of registered bidders to help identify reliable bidders for certain class of procurements.
- The procuring entity may make modifications to the bidding document or issue clarifications before the last date of submission of bids. It may allot extension of time for submitting the bids if the clarifications need to be taken into account while submitting the bids.
- The evaluation criteria of the procurement bids shall include among other factors the price; cost of operating, maintaining, and repairing the goods; time for delivery and completion; terms of payment and guarantee; and qualities such as reliability, and functional competence.
- The Bill provides for exclusion of a bid if the procuring entity determines that the bidder is not qualified; bid contains false information; conflict of interest involved; a bribe or gratification given by a bidder; etc.
- The six methods of procurement listed in the Bill are (a) open competitive bidding, (b) limited competitive bidding, (c) single source procurement, (d) two-stage bidding, (e) electronic reverse auction, and (f) request for quotation and stock purchase.
- The Bill provides for a Central Public Procurement Portal to ensure transparency in the procurement process. Information such as pre-qualification document and details of bidders shall be displayed on the Portal.
- The central government shall constitute one or more independent procurement redressal committees. Any prospective bidder aggrieved by the decision of the CPO may file an application with such a committee.
- The Bill states different degree of penalties for offences such as taking gratification in respect of procurement, interference with the process, making vexation, frivolous or malicious complaints, and abetment of offences.
- The central government shall debar a bidder if he has been convicted of an offence under Prevention of Corruption Act, 1998 and the IPC. A bidder shall be debarred from the procurement process if he breaches the code of integrity for a period not exceeding two years.

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May 16, 2012