

**NATIONAL INFORMATICS CENTRE SERVICES INC.
(NICSI)**

[Based on Para No. 6.1 of C&AG Report No. 03 of 2021 of C&AG related to 'procurement of hardware/software item to the tune of Rs.890.34 Crores through strategic alliance relating to National Informatics Centre Services Inc. (NICSI)']

NATIONAL INFORMATICS CENTRE SERVICES INC.

MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY

**COMMITTEE ON PUBLIC UNDERTAKINGS
(2024-25)**

FIRST REPORT

EIGHTEENTH LOK SABHA



LOK SABHA SECRETARIAT

NEW DELHI

FIRST REPORT
COMMITTEE ON PUBLIC UNDERTAKINGS
(2024-25)

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NATIONAL INFORMATICS CENTRE SERVICES INC. (NICS)
[Based on Para No. 6.1 of C&AG Report No. 03 of 2021]

NATIONAL INFORMATICS CENTRE SERVICES INC.
MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY



Presented to Lok Sabha on 18 December, 2024

Laid in Rajya Sabha on 18 December, 2024

LOK SABHA SECRETARIAT
NEW DELHI

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Shri Santosh Kumar Gangwar - Chairperson

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21. Dr. Amar Patnaik
22. Shri M. Shanmugam

INTRODUCTION

I, the Chairperson, Committee on Public Undertakings (2024-25) having been authorized by the Committee to submit the Report on their behalf, present this First Report on “procurement of hardware/ software item to the tune of Rs. 890.34 Crores through strategic alliance relating to National Informatics Centre Services Inc. (NICSI) (Based on Audit Para No. 6.1 of Report No. 03 of 2021)”.

2. The Committee on Public Undertakings (2022-23) had selected the said subject for detailed examination. As the examination of the subject remained inconclusive during the previous Committee terms, the present Committee on Public Undertakings (2024-25) decided to carry forward the subject so as to complete the unfinished task.

3. The Committee on Public Undertakings (2022-23) was briefed about the subject by the representatives of the C&AG on 14th June, 2022. The Committee then took oral evidence of the representatives of National Informatics Centre Services Inc. (NICSI) and Ministry of Electronics & Information Technology (MIETY) on 11^h October, 2022.

4. The Committee (2024-25) considered and adopted the draft Report at their sitting held on 25th September, 2024.

5. The Committee wish to express their thanks to the representatives of National Informatics Centre Services Inc. (NICSI) and Ministry of Electronics & Information Technology (MIETY) for tendering evidence before the Committee and furnishing the requisite information to them in connection with examination of the subject.

6. The Committee would also like to place on record their appreciation for the assistance rendered to them in the matter by the Office of the Comptroller and Auditor General of India.

7. The Committee wish to express their sincere thanks to the predecessor Committee for their valuable contribution in examination of the subject.

8. For facility of reference and convenience, the Observations and Recommendations of the Committee have been printed in bold letters in Part-II of the Report.

New Delhi:
11 December, 2024
20 Agrahayana ,1946(S)

BAIJAYANT PANDA
Chairperson
Committee on Public Undertakings

REPORT

PART-I

A. BACKGROUND

1. National Informatics Centre (NIC) was set-up in the year 1975 under the then Department of Electronics (presently Ministry of Electronics & Information Technology-MeitY) for giving Computer & Data-Communication support to the Government sector. In 1988, NIC was transferred to the then Planning Commission (presently NITI Aayog) and in between, the nation-wide Satellite based Computer Communication Network (CCN) of NIC i.e. NICNET was set-up linking all Civil Departments of Central Government, all States/ UT Secretariats & District Hd. Qrs. apart from various other services/linkages. A need had then been felt to generate 'Revenue' from the services being provided by NIC to the Government Sector both in Centre / States and accordingly, NIC had made a proposal to Ministry of Finance (Department of Expenditure), which had advised NIC to set-up a Company under it to channelize the commercial services of NIC. Accordingly, the then Planning Commission had moved a Cabinet Note which the Union Cabinet approved in its meeting held on 07.08.1995. Thereafter, National Information Centre Services Inc. (NICSIS) was set-up as a Section 25 Company of the Government of India (presently Section 8 Company under the Companies Act 2013) w.e.f. 29.08.1995., with the following objectives: -

- To promote the economic, scientific, technological, social and cultural development of India by promoting the utilization of information Technology, Computer-Communication Networks, Informatics etc by a spinoff of the services, technologies, infrastructure and expertise developed by the National Informatics Centre of the Government of India including its computer communication network NICNET and associated infrastructure and services.
- To promote further development of services, technologies, infrastructure and expertise supplementing that developed by NIC, in directions which will increase the revenue earning capacity of NIC.
- To develop and promote value added computer and computer-communication services over the basic infrastructure and services developed by NIC including NICNET.
- To raise necessary financial resources for developmental needs of NICNET and computer-communication services in the areas managed by the company.

- as outlined above and also for the computing and computer-communication infrastructure, software, hardware, databases and services managed by NIC.
- To invest in India, for profit or otherwise, on the basis of just and equitable principles of trade and business in securities, stocks, shares, equity, convertible government equity in joint ventures with private sector, as approved by the Government of India from time to time and other honorable modalities of investments provided that these investments and the profit / dividend received from them are calculated to advance and further the above objects and purposes of the company and also provided that the company shall not pay, in turn, any dividend to its promoters.
- To set up and / or promote support subsidiaries, joint ventures, societies trusts and other legal entities, calculated to advance and further the objects and purposes of the company provided that the dividends / monies received, if any, from these legal entities will be utilized only for furthering the above objects and purposes of the Company subject to the undertaking that the company shall not pay any dividends to its promoters.

2. The functions of NICS I are as under: -

- Build capability to provide end-to-end ICT Solutions & Services to customers at competitive rates.
- Build and strengthen Organizational Capacity of the customers in the Government sector.
- Increase awareness of services and become preferred Technology Service Provider in the ICT field.
- Promote & facilitate use of ICT in Governance projects / activities.
- Assist the Government in bringing I.T. within easy reach of the common people.
- Procurement of ICT Products & Services for the Government Sector following the General Financial Rules (GFR) Provisions completely and also, the guidelines issued by Department of Expenditure / CVC towards the same from time to time.

3. **Notable Major Achievements:** NICS I has implemented around 40,000 projects in the ICT field both from Central / State Ministries, Departments & their Organizations since its inception and has thus gained expertise in providing,

Solutions & Services in almost all the spheres of life, be it in the field of Agriculture, Health, Education, Road & Transport, Defence, Aviation, Courts, Panchayats, Rural Development etc.

4. Important projects undertaken have been as under: National Knowledge Network (NKN) / Shala Darpan for Kendriya Vidhyalayas / e-Vidhan / e-Courts / PRAGATI for PMO VC / e-Mail Solution & Infrastructure & Services / e-Hospital /e-Taal /e-office / Local Area Network (LAN) for FCI / Core Banking Solutions for Cooperative Banks / IVFRT (Immigration Visa Foreigner Registration Tracking) for MHA / e-Gov-App Store /SWAN (State Wide Area Network) in various States / CICs (Community Information centers) & CSCs(Common Service Centers) in North East & difficult areas/ e-procurement/e-Panchayats / Aadhar based Biometric Attendance / PRAYAS as PM Dashboard/IRAD (Integrated Road Accident Database) for Ministry of Road Transport and Highways / Lok Samvaad, etc.

Apart from above, NICS I is also managing NIC's Data Centers at Shastri Park (Delhi) / Bhubaneswar & owned Center at Laxmi Nagar (Delhi) and is also setting-up a big Data Centre at Guwahati (Assam) with MeitY funds.

5. Future Vision of NICS I

- Continue its services to further augment providing ICT Solutions & Services in the entire Government Sector including States at most competitive rates following the Government Provisions / Guidelines towards the same.

Augment the Data Centers and Cloud facilities in the country using the latest updated technologies from time to time.

6. C&AG examined the procurement of hardware and software costing Rs.890.34 crores by NICS I in contravention of General Financial Rules (GFR),2005 and Departmental instructions. In their Report No. 03 of 2021, C&AG had pointed out several deficiencies on the part of NICS I in execution of GFR, 2005. The Committee on Public Undertakings during their term 2022-23 selected Audit Para no. 6.1 of Report No. 03 of 2021 of C&AG related to 'procurement of hardware/ software item to the tune of Rs.890.34 Crores through strategic alliance relating to National Informatics Center Services Inc. (NICS I)' for examination and report to Parliament. The Committee during examination of the subject heard the views of officers of the C&AG, the

representatives of NICSI and MeitY before finalizing their Report. The detailed observations/recommendations of the Committee on the Audit Para have been given in bold type in Part-II of this Report.

B. AUDIT PARAGRAPH

(I) Procurement of hardware and software costing Rs. 890.34 crore through the “Strategic Alliance” route by NICS I.

7. As per para 6.1 of the C&AG Report, NICS I procured hardware and software costing Rs. 890.34 crores through the ‘Strategic Alliance’ route in contravention of General Financial Rules, 2005 and departmental instructions and thus failed to ensure transparency and competitiveness in the procurement process.

8. Rule 160 of General Financial Rules 2005 (GFR 2005) stipulates that all government purchases should be made in transparent, competitive and fair manner so as to secure best value for money. Rule 141A was inserted in GFR with effect from 09 August 2016 to provide for procurement on “Government e-Marketplace” (GeM) which has been established as a portal for online procurement of common use Goods and Services required by various Government Departments/ Organizations/ Public Sector Undertakings. Rule 149 of GFR 2005 gives the three standard methods of obtaining bids for procurement including “Single tender enquiry”. Rule 154 *ibid*, gives the circumstances in which procurement from a single source can be resorted. These include cases where only a particular firm is the manufacturer of the required goods, and/ or for standardization of machinery or spare parts based on advice of a competent technical expert and approval of the competent authority. These purchases have to be supported by a “Proprietary Article Certificate” in prescribed format provided by the Ministry/Department. In 2005, NICS I felt the need for having “Strategic Alliances (SAs)” directly with Original Equipment Manufacturers (OEMs) for procurement of strategic items¹⁰² to reduce end cost of products. Subsequently, the Board of Directors of NICS I¹⁰³ approved both the process and mechanism for entering into agreements for SAs. Following these approvals, the NICS I has been entering into SAs agreements with OEMs/ authorized agents for procurement of ICT products based on laid down criteria. In December 2013, the NICS I board approved several measures to streamline the system of SAs such as introduction of technical and financial evaluation of proposals of OEMs, limiting the number of SAs and adopting more GFR compliant processes. In June 2014, MeitY issued instructions that SAs fully comply with GFR and other relevant rules.

(II) Audit Observations

9. As procurement through Strategic Alliances was not covered by any rule/ order issued by the Government, NICS I in its 88th Board of Director (BoD) meeting (September 2014) decided to send a proposal through MeitY, to the Department of Expenditure (DoE) for inclusion of Strategic Alliance(SA) as a process of procurement and providing ICT goods and services (including solutions) in GFR 2005. DoE while not specifically allowing incorporation of SAs in GFR, conveyed (August-2015) that they have no objection if NICS I enters into Strategic Alliance under Rule 154 of GFR 2005 subject to the condition that before placement of each order, Propriety Article Certificate (PAC) as per Rule 154 is provided by the Ministry/ Department. The Internal Finance Department (IFD) of MeitY was of the view that this implied that before issuing a PAC, the user Department would have to satisfy itself that the indented ICT goods and services does not have any other competing brand or supplier, which would make the concept of SAs unworkable. It, therefore, advised the Company to carefully examine the response of DoE before its formal adoption as a process of procurement. Nevertheless, NICS I construed the communication from DoE as approval for the system of SAs provided procurement was undertaken on the basis of PACs, and decided to continue with the system.

10. Audit noted that during the period from April 2014 to April 2017, NICS I procured hardware and software costing Rs. 890.34 crore for user Departments through the SA route. This included procurement of Back-Up Servers; Routers; Switches; Anti-Virus solutions; network security etc. Prior to September 2015, NICS I had been making procurements using SAs based on the approval of its Board but without obtaining any PACs. This was in contravention of Rule 154 of GFR, 2005 and MeitY's subsequent instructions of June 2014.

11. From September 2015 i.e. after receiving advice of the DoE, NICS I began obtaining PACs for purchases made from a single source. However, a test check revealed that these were being furnished and used without mentioning clear, specific and cogent reasons as per the format prescribed in GFR, for procurement through a single source. There was also no indication that the PAC had been issued based on advice of any technical expert. Further,

reports of the Consultant engaged for market survey indicated the existence of multiple vendors/ sources for each and every item. The main intent was thus, to only show perfunctory compliance with GFRs and DoE's instructions on obtaining PACs for procurements through SAs. Statement showing the details of irregular procurement of hardware/ software items by NICS I is as under:

Period		Value of Work Orders (Rs. in Crore)
1.	2014-15	299.48
2.	2015-16	146.27
3.	2016-17 (up to Nov. 2016)	289.89
4.	2016-17(Dec. 2016 to March 2017)	112.49
5.	April 2017	42.21
Total		890.34

12. Both NICS I and MeitY in its replies (March 2017, October 2018 and September 2019) furnished the details of the rationale and the chronology for adoption of the SA route. It highlighted that after receiving the advice of DoE, it has been making such procurements on the basis of PACs in terms of Rule 154 of GFRs. It intimated that procurement of goods and services through Strategic Alliance was only 25 *per cent* of the total procurement made by NICS I and that the total value of common items was not more than 15 *per cent* of the total value of the procurement made through SA. It further added that SAs have been discontinued from April 2017.

13. C&AG, however, found the reply of NICS I not tenable because of the facts as stated below:

- The reply of MeitY that it was making procurements on behalf of the user Departments does not hold good as it was required to observe all rules/ orders of GoI and be GFR compliant which was clearly stipulated by MeitY in its orders of June 2014.
- Further, prior to receipt of DoE's advice in August 2015, PACs were not being obtained for procurements under SA route which amounted to non-compliance with Rule 154 of

GFRs. Though NICSI has claimed that it was subsequently procuring goods and services from single source only after obtaining PAC, a test check of PACs showed that due diligence was still wanting both while furnishing and accepting PACs.

- MeitY has itself admitted (September 2019) that common items worth Rs. 133.55 crores were procured under Strategic Alliance though these could have been procured through rate contracts or open bids.

14. Thus, NICS I undertook single source procurement through SA route to the extent of 25 *per cent* of its total procurement between April 2014 and April 2017. Procurements prior to September 2015 using this route were not in accordance with Rule 154 of GFR and procurements, after 2015, based on PACs, too, were found lacking required due diligence in test checked cases. Following audit objections, the practice of SAs was stopped by the Company after April 2017 but it has not been furnished as to why it was being continued earlier in contravention of GFR.

C. ISSUES EMERGED IN AUDIT OBSERVATIONS

(I) Applicability of GFR to NICSI

15. General Financial Rules (GFR) were first issued in 1947 and subsequently modified in 1963, 2005 and 2017. These rules deal with transparency, competition, fairness, efficiency and economy in public procurement. They also deal with elimination of arbitrariness and maintaining accountability in procurement of Goods and Services besides budget formulation/implementation, inventory management, contract management, Government Guarantees, Grants-in-aid/Loan etc. These rules and orders issued thereunder are to be observed by all Departments and Organizations under the Government and specified Bodies while dealing with matters involving public finances except otherwise provided for in GFR.

16. As far as applicability of GFR to NICSI is concerned, it is stated that NICSI has furnished that procurement of ICT products and services for Government sector is done following GFR provisions completely and also, the Guidelines issued by Department of Expenditure/CVC. On the request of NICSI for inclusion of Strategic Alliance under GFR, the Department of Expenditure did not make a separate provision and directed NICSI to follow the procedure mentioned in GFR for single tendering obtaining Proprietary Article Certificate from indenting organization. In Feb 2023, Department of Expenditure has issued an order regarding restrictions under Rule 144(xi) of GFR, 2017 which is applicable to Central Public Sector Enterprises, Autonomous Bodies, Public Sector Banks and Public Sector Financial Institutions, procurements in Public Private Partnership projects receiving financial support from the Government or Public Sector Enterprises/Undertakings. CAG has also pointed out non-adherence to provision of GFR.

17. The Ministry of Electronics and Information Technology (MeitY) w.r.t. applicability of GFR on the NICSI, in a written reply, submitted to the Committee that:

“Regarding applicability of GFR,2017 under PREFACE of GFR,2017 it is stated that GFRs are compilation of rules and orders of Government of India to be followed by all while dealing with matters involving public finances.”

18. Further, during the course of oral evidence before the Committee, the representatives of MeitY deposed as under:

“सर, मैं इस वषय में एक-दो तथ्य और आपके संज्ञान में लाना चाहूंगा। जीएफआर वत मंत्रालय का वषय है, व्यय वभाग का वषय है, वे ही जारी करते हैं। मैंने इस स मति

में आने से पहले अध्ययन करके देखा तो वर्ष 2005 के जीएफआर में कोई स्पष्ट उल्लेख नहीं मला क यह जीएफआर सरकारी कंपनियों पर लागू होते हैं या नहीं होते हैं। यह हमारे वभाग का वषय नहीं है। मैं इसके बारे में स्पष्ट तौर से कुछ नहीं कह सकता क ये लागू होते हैं या लागू नहीं होते हैं। संभवतः कुछ अनुदेश भी हों। आपके साथ सीएजी कार्यलय के अ धकारी भी उपलब्ध हैं, उनकी जानकारी में हो। ये संगत प्रश्न हैं, हमें इसमें कोई स्पष्ट निष्कर्ष नहीं मला क जीएफआर में ऐसा उल्लेख है।”

19. During the course of deposition, representatives of MeitY regarding applicability of GFRs further added as under:

“सर, मैंने यह कतई नहीं कहा है क जीएफआर लागू नहीं होता है। मैं यह स्पष्ट करना चाहता हूँ क मुझे जीएफआर में स्पष्ट उल्लेख नहीं मला क सरकारी कंपनियों पर लागू होता है। यह वभागों पर अवश्य लागू होता है। जीएफआर 154 में भी वभाग शब्द स्पष्ट लखा हुआ है। शुरुआत में जो एग्जेक्युटिव समरी है, उसमें भी लखा हुआ है।.....
..... मैंने जिक्र कया था क मुझे स्पष्ट नहीं है, ले कन जब आपने मार्गदर्शन दिया है तो निश्चित तौर से...।”

20. Audit has observed that prior to September, 2015, NICS I has been making procurement in contravention of GFR. Thereafter too, the Company has not been complying GFR. In this connection when the Committee sought clarifications on, whether the Board of Directors of the Company was authorized to take decisions without taking into cognizance the relevant provisions of General Financial Rules (GFR), NICS I, in a written reply to the Committee, submitted as under:

“In general, the Board of Directors takes decisions considering the provisions of GFRs and other rules and regulations and guidelines issued by the government from time to time. The Board has also suggested for procurement under Strategic Alliance in compliance of GFRs. Similarly, the Department of Expenditure had also mentioned that NICS I may enters into Strategic Alliance under Rule 154 of GFR subject to the condition that before placement of each order Proprietary Article Certificate (PAC) as per Rule 154 is provided by the Ministry/ Department. It is a procedural requirement to take the PAC from the concerned ministry/ department, which was not followed by NICS I before September, 2015.”

21. On further being enquired of as to whether NICS I is following the relevant GFR provisions during the procurements, the company, in a written reply to the Committee, submitted as under:

“Procurement of ICT Products & Services for the Government Sector is made following the GFR Provisions completely and also, the guidelines issued by Department of Expenditure / CVC towards the same from time to time.”

22. When DOE was contacted as to whether the Board of Directors of NICS I or any other Company may undertake procurement without complying the provisions of GFR, they in a written reply to the Committee, submitted that as per Rule 1 of General Financial Rules (GFRs), 2017, these rules shall be applicable to all Central Government Ministries/Departments, attached and subordinate bodies. The provisions contained in GFRs are deemed to be applicable to Autonomous bodies except to the extent the bye-laws of an Autonomous Body provides for separate Financial Rules which have been approved by the Government. This implies that GFRs provisions are not applicable to NICS I. However, as per website of NICS I, their procurement processes are fully compliant with GFR rules of Government of India.

23. When the Committee asked about the directions issued by the Department of Expenditure (DoE) to ensure that General Financial Rules (GFRs) are followed by all the Government Companies/PSUs, DoE, further submitted that:

“ GFRs provisions are not applicable to Company/PSUs. This is a conscious policy as PSUs often operate in a competitive commercial environment. Therefore, no such action is required to be taken by this Department.”

24. The Department of Public Enterprises with regard to applicability of GFRs on CPSUs, in a written reply to the Committee, stated that GFRs are not applicable to central Public Sector Enterprises (CPSEs).

25. When asked by the Committee whether the Board of Directors of CPSUs are authorized to devise the process of procurement not in accordance with the provisions of General Financial Rules and if they can devise their own Financial Rules, both DoE and DPE submitted as under:

“Yes Sir. It is permitted as CPSUs often operate in a competitive commercial environment.”

(II) Procurement through Strategic Alliances

26. Rule 160 of GFR 2005 (Rule 173 of GFR 2017) states that “All government purchases should be made in a transparent, competitive and fair manner, to secure best value for money. When the Committee asked the Department of Expenditure (DoE) as to whether the setting up of NICS I was required when Directorate General of Supplies and Disposals (DGS&D) was already working as Central purchase & quality assurance Organisation and, the Ministries/Departments were also authorised to procure services and goods under GFR, the DoE, in a written reply to the Committee, submitted that:

“DGS&D was a Central Procurement Organisation of the Govt of India to purchase and inspect the stores for Central Government Ministries/ Departments, including their attached and subordinate offices, and Union Territories who desired to avail of its services and to utilize the expertise available in the fields of purchase and quality management.

NICS I has been set up mainly to provide technical support and consultancy and to undertake turn-key projects for timely implementation in the area of ICT for the Central and State Governments and other government bodies, coupled with utilization of NIC services, data bases software solutions, technologies, expertise and infrastructure as well as reliable co-location services and with a focus on security, network availability, capacity, processing power and operation management.

In view of the above, with the approval of the Cabinet, NICS I was set up in 1995 to provide effective and uninterrupted ICT services to the government, including apex institutions.”

27. On being asked the need for making Strategic Alliances (SAs), when procurement could have been done under GFRs and also through DGS&D, NICS I submitted the following:

“In view of the following circumstances, the need for Strategic Alliance arises:

1. Till 2014, the technology used in various government projects were supplied by a very few state-of-the-art OEMs especially in the following area:
 - ✓ Operating System
 - ✓ Data bases
 - ✓ VSAT terminals and Hubs
 - ✓ Networking requirements such as routers, switches
 - ✓ Security solutions including anti-virus solutions
2. These IT systems were tightly coupled with limited options available for hardware and software. These systems were designed using client- server mode

with standards and proprietary technologies available. These systems were based on fixed designs with cascading effects when changes were needed.

3. Since the state of the art products were hardly available from few OEMs it was decided to import the same from these OEMs directly to get the best rates.
4. The maintenance of the products could not have been done by any local vendors as these were very specialized and hence only the OEMs could supply the spare parts for keeping the systems in running mode.

There was hardly any System Integrator (SI) for these components. NIC/ NICS used to do the system integration and it was thought of having a strategic alliance with all the major OEMs to ensure quicker implementation of the projects and also to extend uninterrupted services to the government including apex institutions.”

28. Further, the representatives of NICS during the course of oral evidence deposed before the Committee, as under:

“जब हम लोग प्रोक्योरमेंट डीजीएस एंड डी के माध्यम से करते थे तो उसमें केवल कम्प्यूटर और प्रिंटर होते थे। उसमें कोई हार्ड आइटम नहीं होते थे। निक्सी ने वर्ष 2005 और वर्ष 2006 की बोर्ड मीटिंग में यह डसाइड किया क हम लोग ओईएम के साथ एक स्ट्रैटेजिक एलायंस करते हैं, जिनके इक्विमेंट हार्ड एंड होते हैं। जैसे राउटर, सर्विस और सॉफ्टवेयर्स हैं, इनके लए वर्ष 2005-2006 में पूरी रणनीति बनाई गई थी। उसके लए एक कमेटी बनी थी। कमेटी ने ड्राफ्ट गाइडलाइन किया। उसके बाद, उसमें एक प्रपोजल बनाया गया क हम लोग जिस वेंडर से गठबंधन करेंगे उसमें पूरा प्रोसेस फॉलो करेंगे। पहले हम देखते हैं क जो यूजर हमसे प्रोजेक्ट करवाते हैं, उनकी रिक्वायरमेंट क्या है? हमें कस तरह के आइटम प्रोक्योर करने चाहिए? हम पहले उसकी एसेसमेंट करेंगे। उसके बाद प्रपोजल में जो रिक्वायर्ड ओईएमस हैं, जिनसे सामान लेना है, उनसे बात करेंगे। उसके बाद प्रपोजल को इवैल्यूएट करेंगे। इवैल्यूएट करने के लए एक एपेक्स कमेटी बनाई गई। उस कमेटी ने भी काम किया। फाइनली बोर्ड को इंफॉर्मेशन दी गई। बोर्ड की अप्रूवल के बाद एफए एंड एमडी के बाद बोर्ड में प्रस्तुत किया गया। इस तरह से गठबंधन डायरेक्ट नहीं किया गया। पूरी बोर्ड की सहमति से किया गया। यह वर्ष 2005-2006 से शुरू किया गया। उसके बाद, प्रोक्योरमेंट उसके अनुसार ही करते रहे। उसमें एक बात यह भी है क जो रेट उनके मार्केट में होते थे, उसको गठबंधन के दौरान नेगो शिएट करके 30-40 परसेंट, जितना कम से कम कर सकते थे, करते थे।”

29. The representatives of NICS, with regard to genesis and performance of the procurements through Strategic Alliance, during the course of oral evidence further submitted to

the Committee as under:

“अगर स्ट्रैटेजिक अलाइंस का जेने सस देखें, तो हब और क्लाइंट बहुत टाइटली कपल्ड होते थे। जैसे वीसैट, राउटर्स या माइक्रोसॉफ्ट का उदाहरण है। उस समय इसकी जेने सस हुई थी क जिस टेक्नोलॉजी का हब खरीदा जाता था, उसी टेक्नोलॉजी के वीसैट खरीदे जाते थे, ता क आपस में दोनों चीजें चल सकें। यही चीज एंटी वायरस में थी, यही चीज डेटाबेस में थी, यही चीज ऑपरेटिंग सस्टम्स में थी और ऑलमोस्ट नेटवर्क में भी यही चीज थी। अगर हम उसमें चूक माने, तो डेलीजेंस में यह हो सकता है क हमें उसके साथ जो करना चाहिए था, उतना नहीं किया है। मैं आपको एश्योर करता हूँ क इसमें कोई फाइनें शयल लॉस नहीं है। एकचुअली हम जस्टिफाई कर सकते थे, क्यों क टेक्निकली वह उसी के साथ ही चलता है, इस लए लेना पड़ता है। जैसे माइक्रोसॉफ्ट ऑपरेटिंग सस्टम या आईफोन है, तो माइक्रोसॉफ्ट से डॉयरेक्ट खरीदने पर स्ट्रैटेजिक अलाइंस कहते हैं। बाकी इस्ट्रीब्यूटर्स वगैरह से खरीदने से वह मच चीपर पड़ता है। जेने सस तो वहां से शुरू हुई थी, जो ओईएम है, उससे डॉयरेक्ट खरीद लया जाए, instead of getting into the system integrator. हम 15-20 साल पहले की बात कर रहे हैं, तब इंडस्ट्री इतनी ग्यो नहीं हुई थी, तब ये सस्टम इंटीग्रेटर का काम करते थे।

महोदय, जैसा क आपने कहा है क आजकल हर चीज इतनी मांडुलर हो गई है, इतने ऑप्शंस आ गए हैं और जैम भी आ गया है। अगर हमें अभी भी पीएसी में कुछ खरीदना होता है, तो हम पीएसी सर्टि फकेट लगाकर जेम में खरीदते हैं। अभी एक प्रोसेस प्लेटफॉर्म बना है, तो हमने उस प्लेटफॉर्म पर शफ्ट कर दिया है। मैं बे सकली यही निवेदन करना चाहूंगा क पीएसी लेने में उतनी डेलीजेंस नहीं की गई है, ले कन स्ट्रैटेजिक अलाइंस में न ही कोई शकायत है और न ही कोई रेगुलेटरी का इश्यू है। यहां तक क सीएंडएजी ने भी यह वाक्य यूज नहीं किया है क इसमें कोई लॉस हुआ है। उन्होंने ये कहा है क आपने उसको ठीक से चेक नहीं किया है।”

30. MeitY, in their written replies to the Committee, repeatedly stated that NICS I took the decision to enter into the strategic Alliance with various technology partners independently despite the fact that a representative of the Ministry has been on the Board of the Company. In this regard they made their submission as under:

“NICS I took the decision to enter into the Strategic Alliance with various technology partners independently.

NICS I has informed that the Board of NICS I, in its meeting held on 20.3.2013, advised the management that for maintaining uniformity in the period of validity across agreements entered into by NICS I, with various Strategic Alliance partners, the periodicity of such agreements of all existing partners be kept up to 30.4.2014, and for the succeeding years as well, the period of validity of the agreements be kept from 1st of May of each year till the 30th of April of the

succeeding year.

NICSI has further informed that on 12.7.2013, considering the need to review various policies and procedures in NICSI, a working group was setup by NICSI to review its deputation policy, procurements for NIC's data centre maintained by NICSI and Strategic Alliance. The group's recommendations were considered by NICSI's Board in its meeting held on 11.12.2013 and, after reviewing Strategic Alliance, directed that NICSI should follow the tender process under the Government Financial Rules (GFR) 2005 for procurement of items. Pursuant to this direction, on 31.5.2014, NICSI issued a notice inviting tender for Strategic Alliance. However, on a writ petition challenging the notice inviting tender, the Hon'ble High Court of Delhi, *vide* its order dated 25.8.2014 in W.P.(C)4370/2014, directed that no further steps be taken pursuant to the said tender. Against the backdrop of this order, since requests were being received from various Departments and organisations for implementing proforma invoices already issued by NICSI under Strategic Alliance for various ongoing IT projects, the management approached the Board for approving implementation of such proforma invoices. Keeping in view the serious difficulty faced in procuring spare parts for maintenance of various existing IT installations at a reasonable cost, the Board, in its meeting held on 26.9.2014, while extending the validity of the existing Strategic Alliances expiring before 31.1.2015 till the said date, advised that NICSI to take up with the Government the recognition of the process of Strategic Alliances.

Pursuant to this, on 3.6.2015, NICSI proposed through MeitY to the Department of Expenditure, inclusion in GFR of Strategic Alliance with OEMs for specialised ICT goods and services as a process of procurement. The Department of Expenditure, *vide* its ID note no. F.21/12012-PPD, dated 28.8.2015, addressed to Joint Secretary and Financial Advisor (JS & FA), MeitY, communicated that 'This Department has no objection if NICSI enters into Strategic Alliance under Rule 154 of GFR subject to the condition that before placement of each order, "Proprietary Article Certificate (PAC)" as per Rule 154 is provided by the Ministry/ Department.', who transmitted the same to NICSI.

Subsequently, following the expiry of the period of validity of the existing Strategic Alliances on 31.1.2015, NICSI's Board, in its meeting held on 4.2.2015, approved extension of the Strategic Alliance agreements till 31.3.2016, only for the purpose of procurement relating to maintenance aspects for running projects and, further, directed that the aforesaid tender be withdrawn and the Hon'ble Court be informed accordingly. The Board, in its meeting held on 18.3.2016, approved extension of the existing Strategic Alliance agreements till 30.4.2017.

No further extensions were granted beyond 30.4.2017 and, as a result, Strategic Alliances got discontinued. The management of NICSI apprised its Board in its meeting held on 22.6.2017: "In the light of GeM [Government eMarketplace], NICSI has discontinued and stopped issuing purchase orders as per the Strategic Alliances after 30.4.2017."

31. The representatives of NICSI during the oral evidence stated the reasons for changing the process, as mentioned below:

“वर्ष 2017 से जब से जेम आया है, तब से यह डस्कंटिन्यू हो गया है। उसके बाद से स्ट्रैटेजिक एलायंस नहीं हुआ है।.....

.... यह ठीक है क प्रोसेस जीएफआर के अनुसार नहीं था। उसको एड मट करके क्लोज कर दिया था। जैसे ही इंसपेक्शन रिपोर्ट आया, हम लोगों ने क्लोज करके पूरा का पूरा जेम पर शफ्ट कर दिया था।

....उसकी दो कंडशन्स और भी थीं। एक तो हम लोग जो स्ट्रैटेजिक एलायंस देख रहे हैं, उसमें उन्होंने हमें 60 से 65 परसेंट का डस्काउंट दिया था। दूसरा, उन्होंने लखा था क हम लोग इससे कम कहीं नहीं दे रहे हैं। यह एक कंडशन एसएलए के साथ साइन हुआ था।

हम लोग केवल यही कह रहे हैं क जब तक वह चलता रहा तब तक हम लोगों के जहन में कोई चीज नहीं आई। बाद में, जैसे ही आया हम लोगों ने तुरंत क्लोज कर दिया।.....

.....जैसा आप बोल रहे हैं क पीएसी पहले जेम को लीड करता था। वह टेक्निकल हेड था। हम लोगों ने जेम में भी पीएसी का प्रो वजन बनाया था। इसमें भी प्रो वजन है। पेपर पर थोड़ी-बहुत चूक हो सकती है, परन्तु हमने प्रोसेस पूरी तरह से फॉलो किया है।”

32. When asked by the Committee whether DoE had suggested any model agreement to be undertaken with Department/Suppliers etc. while undertaking Strategic Alliance by NICSI, the DoE replied as under:

“No Sir. While conveying its no objection to NICSI’s proposal regarding Strategic Alliance, the Department of Expenditure vide its ID note No. F.21/12012-PPD, dated 28.08.2015, advised that before placement of each order Proprietary Article Certificate (PAC) as per Rule 154 has to be taken.”

(III) Propriety Article Certificate (PAC) as per Rule 154 (GFR-2005)

33. Rule 154 of GFR, 2005 (Rule 166 of GFR, 2017) provides provisions for Single Tender Enquiry. The same is produced as under:

Procurement from a single source may be resorted to in the following circumstances:

- (i) It is in the knowledge of the user department that only a particular firm is the manufacturer of the required goods
- (ii) In a case of emergency, the required goods are necessarily to be purchased from a particular source and the reason for such decision is to be recorded and approval of competent authority obtained.
- (iii) For standardisation of machinery or spare parts to be compatible to the existing sets of equipment (on the advice of a competent technical expert and approved by the competent authority), the required item is to be purchased only from a selected firm.

Further, Proprietary Article Certificate in the following form is to be provided by the Ministry/Department before procuring the goods from a single source under the provision of sub-Rule 166 (i) and 166 (iii) of GFR, 2017 as applicable:

“(i) The indented goods are manufactured by M/s.....

(ii) No other make or model is acceptable for the following reasons.....

(iii) Concurrence of finance wing to the proposal vide:

(iv) Approval of the competent authority vide:

(Signature with date and designation of the indenting officer)”

34. When the Committee sought information regarding the number of procurements made through Strategic Alliances (SAs) without obtaining Proprietary Article Certificate, MeitY furnished the following information to the Committee:

“There were 97 cases of procurement done through Strategic Alliance during the period from September 2015 to April 2017, and in all of these procurement was made after obtaining PACs.

Procurement orders were placed directly by the procuring Ministries/Departments with NICS I, and not through MeitY. Response regarding procurement by NICS I and the bases thereof is based on NICS I’s submissions, which are reproduced in the succeeding paragraphs.

One of the circumstances under which procurement was envisaged under rule 154 of GFR 2005 was “standardisation of machinery or spare parts to be compatible to the existing sets of equipment (on the advice of a competent technical expert and approved by the competent authority)”. Of the various circumstances, only the said circumstance included mention of advice of a technical expert. Further, the PAC form prescribed under rule 154 did not provide for specific mention of either the particular applicable circumstance from among various circumstances envisaged under the rule, or the advice of technical expert. Moreover, under rule 154, PACs were issued by the procuring Ministry/Department, with the approval of their competent authority. It may be seen from the above that the facts regarding the particular circumstance resorting to procurement under rule 154 applicable in a particular case and the facts regarding technical advice where the same was required, cannot be fully ascertained from the contents of the PACs made available to NICS I. However, it is seen from the PACs available with NICS I that some of them, while describing the reasons for their issuance, include mention of the recommendation/decision of a technical committee or consultant....

.... NICS I has apprised that in 92 cases pertaining to the period from September 2015 to April 2017, the PACs provided to NICS I stated the reason for not accepting other make or models.”

35. The NICS I on above issue of PAC, submitted to the Committee during, the course of oral evidence, as under:

“वर्ष 2015 में निर्णय हुआ क इसको एक बार डपार्टमेंट ऑफ एक्सपें डचर को भेजते हैं, ता क हमें पता चल सके क हमारा प्रोसेस ठीक है या इसको सही करने की अभी भी कोई गुंजाइश है? डपार्टमेंट ऑफ एक्सपें डचर ने कहा क आप अपना प्रोसेस फॉलो कीजिए। चूं क ये ओईएम्स हैं, इस लए अच्छा होगा क जिनसे आप प्रोक्योरमेंट करते हैं, उनसे प्रोप्राइटरी आर्टिकल सर्टि फकेट ले लया कीजिए। यह वर्ष 2015 के बाद की बात है। पहले हम लोग नहीं लेते थे। अगर रूल-154 को देखें तो जो डपार्टमेंट प्रोक्योर करता है, उसकी रेस्पांसबिलिटी होती है क वह अपने डपार्टमेंट में प्रोप्राइटरी आर्टिकल सर्टि फकेट ले और उसको अपने हेड ऑफ डपार्टमेंट से अप्रूव कराए। हम सर्टि फकेट नहीं लेते थे। ऐसे सारे आइटम्स का जो प्रोप्राइटरी आर्टिकल्स होते थे, उनका हमने वर्ष 2015 से सर्टि फकेट लेना शुरू कर दिया। हमारा सी एंड एजी का ऑ डट वर्ष 1995 से जब से

बनी है, तब से हर साल होता रहा है। कोई ऐसा ऑब्जेक्शन नहीं आया है। वर्ष 2015-16 की इन्स्पेक्शन रिपोर्ट में सी एंड एजी ने पहली बार यह कहा क आपका जो प्रोसेस है, वह जीएफआर के अनुसार ठीक नहीं है। आप आगे से एक चीज जरूर फॉलो कीजिए क पीएसी फॉर्म जरूर लया कीजिए। वह हम लोग करते हैं।” (verbatim pg 4)
... सर, जब वर्ष 2015 में डपार्टमेंट ऑफ एक्सपेंडचर ने हमसे कहा क आप पीएसी सर्टिफिकेट उनसे मंगाया कीजिए, तब से हम लोग लगातार पीएसी सर्टिफिकेट ले रहे हैं।

36. When the Committee asked the reasons for not obtaining proper 'Proprietary Article Certificate' for procurements done between April 2014 and September 2015, NICS I in a written reply submitted to the Committee as below:

“A proposal was submitted by NICS I to MeitY through NIC on 20.10.2014 to include Strategic Alliance process in GFRs, 2005 by Department of Expenditure. Subsequently, on receipt of approval of NIC/ MeitY, the same was forwarded by MeitY to Department of Expenditure on 05/06/2015 for their consideration and approval.

Department of Expenditure vide ID No.F.21/12012-PPD dated 28.08.2015 gave No Objection if NICS I enters into Strategic Alliance under Rule 154 of GFR subject to the condition that before placement of each order Proprietary Article Certificate (PAC) as per Rule 154 is provide by the Ministry/ Department.”

(IV) Internal Audit of NICS I and Role of Controlling Ministry

37. The Committee, during the meeting, raised several concerns relating to the working of Internal audit of NICS I, role of controlling Ministry, role of Board of Directors and other mechanisms, if any, to keep an oversight over the functioning of Company. MeitY categorically submitted to the Committee that no internal audit of NICS I was done prior to 2015-16. In this connection, in a written reply to the Committee, regarding the vigilance/control mechanism employed by the Ministry to keep an oversight over NICS I, MeitY submitted as under:

“NICS I is covered by audit by the office of the Comptroller and Auditor General of India (C&AG), statutory audit by C&AG-nominated chartered accountancy (CA) firm and, under the provisions of section 138 of the Companies Act, 2013, internal audit by a CA firm. The vigilance set-up of NICS I functions under the supervision and oversight of the Central Vigilance Commission (CVC). It is headed by the CVC-appointed Chief Vigilance Officer (CVO) of MeitY, who is assisted by a CVO-appointed Vigilance Officer, on part-time basis. Preventive vigilance is an important part of the functions of the vigilance set-up and for

performance of the same, it undertakes a number of measures aimed at systemic improvements to ensure that prescribed procedures are followed and lapses observed avoided in future. The CVO / Vigilance Officer / Vigilance Unit in MeitY also issue advisories from time to time on general practices, training on various administrative matters, etc. MeitY has recently engaged a leading global consulting firm to study the present organisation structure of NICS I, the roles and responsibilities assigned to it, suggest capacity-building programmes for its workforce and identify gaps and suggest revamping of its current human resource, with a view to make it future-ready. The overall objective of this organization restructuring exercise is to evaluate the effectiveness of NICS I's organisational structure and management systems in the light of its present responsibilities as well as emerging opportunities.”

38. When asked about the role of the Ministry of Electronics and Information Technology and Internal Audit Department of the Company during 2005-2014, the period when the GFR, 2005 were flouted, the Ministry submitted as under:

“As regards arrangements to detect and take action relating to compliance with GFR and other financial norms etc., it is submitted that apart from audit by the Office of C&AG, statutory audit by a C&AG nominated CA firm, internal audit by a CA-firm under the provisions of section 138 of the Companies Act, 2013, NICS I is also covered by internal audit of a CA firm under rule 211(1) of GFR 2005 / rule 236 of GFR 2017, based on an Annual Internal Audit Plan approved by Secretary, MeitY. However, there was shortfall between planned and actual audits due to the absence of a dedicated Internal Audit Wing in MeitY (unlike in other Civil Ministries). Given this constraint, priority was given to grantee organizations of MeitY. NICS I was a not-for-profit company which did not receive any grants in-aid from the Government, and which operated as a self-sustaining company that met its administrative expenses from service charges on projects implemented by it. As a result, MeitY could not undertake the Internal Audit for NICS I during the relevant period. The issue also did not get flagged in NICS I's Statutory Audit conducted prior to the Audit for the period 2014 to 2017, it only came to MeitY's notice upon reference being made to it by NICS I, whereupon MeitY immediately advised NICS I to adhere to GFR and other relevant rules. With regard to corrective action, it is submitted that apart from discontinuation of Strategic Alliance, NICS I has now adopted a Standard Operating Procedure (SOP) to be followed before placing of a work order to vendors. Further, after taking the matter of providing staff/establishment for Internal Audit Wing with MeitY with the Office of Chief Controller of Accounts and continuous follow-up, agreement of the Office of the Controller General of Accounts has been obtained to provide the same. Moreover, post receipt of the C&AG audit observations, special audit of NICS I was ordered and no extension was granted in the tenure of the statutory auditors.”

39. During the course of evidence, when the Committee asked to furnish the objections

raised by the internal audit department of NICS I on the procurement procedure, the representatives of the Company submitted as follows:

“.....सर, सी एंड एजी की वर्ष 2015-16 की इंसपेक्शन रिपोर्ट में ऑब्जेक्शन आई थी।.....
.....सर, इंटर्नल ऑडिट ने कभी ऑब्जेक्शन नहीं किया।”

40. When asked by the Committee whether concurrence of internal Finance Wing of NIC/ Ministry was obtained on proposals under Strategic Alliance, NICS I, in a written reply to the Committee, submitted as under:

“In NICS I, financial proposals are processed by the concerned officer/ division and submitted to Financial Adviser & Controller of Accounts of NICS I for concurrence. The Assistant/ Additional Financial Adviser of NIC were also assigned the functions of Financial Adviser & Controller of Accounts, NICS I till May 2017.

Subsequently, with the approval of NIC, the responsibility of Financial Adviser & Controller of Accounts, NICS I was assigned to an officer of NIC on deputation in NICS I.”

PART- II

OBSERVATIONS / RECOMMENDATIONS OF THE COMMITTEE

A. OVERVIEW

National Informatics Centre Service Inc. (NICS) was established in 1995 as a Section-8 Company under Ministry of Electronics and Information Technology (MeitY) for providing and procuring Information and Technology (IT) solutions for e-governance projects undertaken by National Informatics Centre (NIC), MeitY and other Government Departments and organizations (viz. Public Sector Undertakings, Autonomous Bodies etc.). Rule 160 of General Financial Rules 2005 (GFR 2005) stipulates that all government purchases should be made in transparent, competitive and fair manner so as to secure best value for money. Rule 141A was inserted in GFR with effect from 09 August 2016 to provide for procurement on “Government e-Marketplace” (GeM) which has been established as a portal for online procurement of common use Goods and Services required by various Government Departments/ Organizations/ Public Sector Undertakings. Rule 149 of GFR 2005 provides three standard methods of obtaining bids for procurement including “Single Tender Enquiry”. Rule 154 *ibid*, mentions the circumstances under which procurement from a single source can be resorted such as where only a particular firm is the manufacturer of required goods, and/or for standardization of machinery or spare parts based on advice of a competent technical expert and approval of the competent authority, procurement from a particular form may be resorted. These purchases have to be supported by a “Proprietary Article Certificate” (PAC) provided by the Ministry/Department in prescribed format as mentioned in GFR.

2. The present Audit Para no. 6.1 of C&AG Report No. 03 of 2021, examined by the Committee, relates to procurement of hardware/ software item to the tune of Rs. 890.34 crore procured by National Informatics Center Services Inc. (NICS) through strategic alliance (SA). In the case, NICS undertook single source procurement through SA route between April 2014 and April 2017 with PACs as perfunctory compliance. Procurements prior to September 2015 using this route were not in accordance with Rule 154 of GFR and procurements, thereafter, undertaken based on PACs were also found lacking required details in test checked cases by the C&AG. Following audit objections and setting up GeM, the practice of SAs was discontinued by the Company after April 2017. The Committee, before finalizing their observations in their report heard the views of the officers from C&AG who conducted the Audit and also the views of the representatives of NICS and Ministry of Electronics and Information Technology. The Committee, for further clarifications took the written replies from the Department of Expenditure (DoE) and Department of Public Enterprises (DPE) of Ministry of Finance. The evidences of the stakeholders, the information and clarifications submitted by them and internal deliberations made by the members enabled the Committee to arrive at the conclusions and make suggestions as mentioned in the succeeding paragraphs.

B. GFR –APPLICABILITY

3. The General Financial Rules (GFRs) are a compilation of rules and orders of Government of India to be followed by all while dealing with matters involving public

finances. The Committee are of the opinion that GFRs as issued from time to time aim to provide a framework within which a Government Organization manages its business in a financially prudent manner without compromising its flexibility required in varied situations. The Ministry of Electronics and Information Technology during the meeting submitted to the Committee that they were not clear about the applicability of GFRs on the Company. Both DoE and DPE, the Departments under the Ministry of Finance have submitted to the Committee that GFRs are not applicable to the CPSUs as they operate in a competitive environment, implying that GFRs are not applicable to NICS. The Committee, find that NICS in its objectives/functions have mentioned that procurement of ICT product and services for the Government sector is made following provisions of GFR completely and also guidelines issued by Department of Expenditure and CVC from time to time. Department of Expenditure (DOE) also advised NICS to enter in Strategic Alliance under Rule 154 of GFR, 2005 subject to the condition that before placement of each order, PAC, as per rule may be provided by the Ministry/Department. Further, DoE has issued an order Rule 144(xi) of GFR, 2017 wherein certain restrictions have been imposed on Central Public Sector Enterprises. The Committee from the replies received, from NICS, MeitY, DPE and DoE and from the observations of C&AG on this specific issue of applicability of GFR on NICS, note that there is not much clarity amongst the various stakeholders regarding applicability of GFR on CPSEs. At one hand Ministry of Finance is stating that GFRs are not applicable to CPSEs, at another they are imposing restrictions on CPSEs by issuing order under GFR. The Committee, therefore, recommend that a Committee may be formed with representatives from Ministry of Corporate Affairs, DPE, MeitY, DoE and all other stakeholders so as to decide the applicability or extent of applicability of GFR on CPSEs. For this, MeitY should take up the matter with Ministry of Finance (Department of Expenditure).

C. CLARITY ON STRATEGIC ALLIANCE

4. Audit had observed that NICS procured hardware and software items costing Rs. 890.34 crore through "Strategic Alliance (SA)" route in contravention of GFRs 2005 and thus failed to ensure transparency and competitiveness in the procurement process. As procurement through Strategic Alliances was not covered under any rule/ order issued by Ministry of Finance(DOE), NICS in its 88th Board of Directors meeting (September 2014) decided to send a proposal through MeitY, to the Department of Expenditure (DoE) for inclusion of Strategic Alliance as a process of procurement in GFR 2005 for providing ICT goods and services (including solutions). MeitY further informed the Committee that, on a writ petition challenging the Notice inviting Tender (NIT), the Hon'ble High Court of Delhi, vide its order dated 25.8.2014 in W.P.(C)4370/2014, directed that no further steps be taken pursuant to the tender in question. Against the backdrop of this order, since requests were being received from various Departments and organisations for implementing Proforma Invoices already issued by NICS under Strategic Alliance for various ongoing IT projects, the management approached the Board for approving implementation of such proforma invoices. Keeping in view the serious difficulty faced in procuring spare parts for maintenance of various existing IT installations at a reasonable cost, the Board, in its meeting held on 26.9.2014, while extending the validity of the existing Strategic Alliances expiring before 31.1.2015 till the said date, advised that NICS may take up the matter with the Government for recognition of the process of Strategic Alliances. Accordingly,

proposal for inclusion of SA in GFR was sent to Ministry of Finance by NICS. Ministry of Finance (DoE) while not specifically allowing incorporation of SAs in GFR, conveyed in August-2015 that, *they have no objection if NICS enters into Strategic Alliance under Rule 154 of GFR 2005 subject to the condition that before placement of each order, Propriety Article Certificate (PAC) as per Rule 154 is provided by the Ministry/ Department*. The Ministry of Electronics and Information Technology (Meity) advised NICS to carefully examine the response of MoF (DoE), before its formal adoption as a process of procurement. NICS construed the communication from DoE as approval for the system of SAs provided procurement was undertaken on the basis of PACs and decided to continue with the system. The Committee feel that, to avoid complications, NICS should have carefully examined the advice of DOE as directed by Meity before further undertaking procurement through SA. Meity, too, should have ensured that their direction are complied with and therefore, the Committee desire that Meity should ensure that due importance is given to the advice rendered by them and DOE in future.

5. The Committee was informed that 25% of total procurement by NICS was done through SA. However, the Committee note that this is not supported by figure furnished by NICS. Total procurement by NICS during the period 01.04.2005 till 31.03.2014 amounts to Rs.1906.61 crore and out of this Rs.1016.33 crore of procurement equivalent to 51.64 percent was done through SA. Similarly, during the period 01.04.2014 to 30.09.2017, out of total procurement of Rs.2052.19 crore, 43.38 percent i.e. Rs.890.34 crore of the total procurement was done through SA route these procurements were more than 25% of total procurement against the claimed of 25% by NICS through SA. The Committee would like to know the reasons for this mismatch and therefore, advise NICS to be careful in furnishing fact and figures to the Committee in future.

6. The Committee further note that NICS had resorted to the method of SA more than it was needed, indicating that NICS employed SA method not just as an exigency requirement but as a routine-ones. A stay was imposed by Delhi High Court (DHC), on a Notice Inviting Tender (NIT) in 2014, and for finding a way therefor, BOD asked NICS to take recognition of the process from Ministry of Finance (DoE) by incorporating the provision of SA in GFR. Neither MeitY nor NICS took any interest in the matter before this stay by DHC and rules were allowed to be flouted for more than a decade till the practice was discontinued in 2017 after the introduction of GeM. The Committee therefore, feel that NICS should have taken the advice of DOE before initiating process of SA in 2005-06 itself, and would have devised their own set of financial rules. The Committee would like to know the reasons behind such omissions by NICS and desire that financial rules and procedures for procurement may be framed by BOD of NICS for transparent procurement.

D. VIOLATION OF RULE 154 OF GFR-2005 - FAILURE IN OBTAINING OF PROPRIETY ARTICLE CERTIFICATES(PAC)

7. The Audit had observed that NICS didn't obtain the Propriety Article Certificates (PAC) as per the Rule 154 of GFR between the period April 2014 and September 2015 for its procurements from single sources as advised by DOE. From September 2015, NICS began obtaining PACs for purchases made from a single source as advised by DOE.

However, a test check revealed that these were being furnished and used without mentioning clear, specific and cogent reasons as per the format prescribed in GFR, for procurement through a single source. The Audit had further stated that the main intent was thus, to only show perfunctory compliance with GFRs. The officials of NICS I did not examine whether the same was in order and in case of lacuna, did not find it fit to intimate concerned Ministry/Department to fulfill the requirement(s). The Committee, therefore, desire that such officials may be identified and responsibility be fixed. Further, the Company should remain more careful in future.

E. INTERNAL CONTROL MECHANISM AND THE ROLE OF MEITY

8. The Committee, during the meeting with the representatives of NICS I and Meity, came across the role of Internal Audit Department of the Company and oversight mechanism of the controlling Ministry i.e. Meity. The Committee, note that the representatives of NICS I, during the meeting categorically stated that Internal Audit Department of the Company had never raised any objections regarding the procurement procedure followed by the Company. Further, MeitY, in a written response to the Committee, submitted that no internal audit of NICS I was done due to shortage of staff prior to 2015-16 and there was absence of dedicated Internal Audit Wing in Ministry. Now Controller General of Accounts (CGA) has agreed to provide staff for the purpose. The Committee are strongly critical of above facts and urge both NICS I and MeitY to be more vigilant towards their duties. The Committee, therefore, recommend that internal audit system may be strengthened with suitable effective mechanism so that benefit of Audit may be harnessed and deficiencies may be rectified in time.

9. Meity has informed the Committee that they have recently engaged a leading global consulting firm with a view to make NICS I future-ready. The Ministry further informed the Committee that the overall objective of this organization restructuring exercise is to evaluate the effectiveness of NICS I's organizational structure and management systems in the light of its present responsibilities as well as emerging opportunities. The Committee, while appreciating the step taken by MeitY, would like to be informed about the salient findings and outcome of the said Study.

New Delhi:
11 December, 2024
20 Agrahayana, 1946(S)

BAIJAYANT PANDA
Chairperson
Committee on Public Undertakings

APPENDIX I
COMMITTEE ON PUBLIC UNDERTAKINGS
(2022-2023)

MINUTES OF THE FOURTH SITTING OF THE COMMITTEE

The Committee sat on Tuesday, the 14th June, 2022 from 1100 hrs. to 1140 Hrs. in Committee Room 'D', Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

Shri Santosh Kumar Gangwar - Chairperson

MEMBERS

Lok Sabha

2. Shri Lavu Sri Krishna Devarayalu
3. Shri Ravneet Singh Bittu
4. Shri Ramdas Chandrabhanji Tadas

Rajya Sabha

5. Ms. Indu Bala Goswami
6. Shri Syed Nasir Hussain
7. Dr. Anil Jain
8. Shri Prakash Javadekar
9. Dr. Amar Patnaik
10. Shri M. Shanmugam

SECRETARIAT

1. Shri Vinod Kumar Tripathi - Joint Secretary
2. Shri Srinivasulu Gunda - Director
3. Shri G.C.Prasad - Additional Director

REPRESENTATIVES OF THE OFFICE OF COMPTROLLER & AUDITOR GENERAL OF INDIA

- | | |
|---------------------------------|--|
| 1. Ms. Aditi Roy Choudhury | - Dy. C&AG (Finance & Communication) |
| 2. Shri Manish Kumar | - Director General |
| 3. Shri Manish Kumar | - Director General of Audit |
| 4. Shri Shailendra Vikram Singh | - Director General (Parliamentary Committee) |

2. At the outset, the Chairperson welcomed the Members & representatives of the O/o C&AG and drew their attention to Direction 55(1) of the 'Directions by the Speaker' regarding confidentiality of briefing before the Parliamentary Committees. Thereafter, Representatives of O/o C&AG made a Power Point presentation and briefed the Committee on 'Audit Para No. 6.1 of Report No. 3 of 2021 relating to procurement of hardware/ software item to the tune of Rs. 890.34 crores through strategic alliance relating to National Informatics Center Services Inc.' in detail. The issues touched upon, *inter-alia*, included procurement of hardware and software costing Rs. 890.34 crore by National Informatics Centre Service Inc. (NICSI) through the "Strategic Alliance" route in contravention of General Financial Rules, 2005 and departmental instructions leading to failure in ensuring transparency and competitiveness in the procurement process.

3. Thereafter, Chairperson and Members sought clarifications from the representatives of the O/o C&AG on various aspects of NICSI seeking reasons behind such glaring lapses, corruption motives and emphasized on need to fixing responsibility and accountability.

4. The representatives of the C&AG clarified on issues on which information was readily available with them. The Committee decided to hear the views of NICSI and Ministry of Electronics and Information Technology (MeitY) on the Audit Para No. 6.1 of Report No. 3 of 2021 for further examination of the subject in future sittings of the Committee.

The Committee then adjourned.

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APPENDIX II
COMMITTEE ON PUBLIC UNDERTAKINGS
(2022-23)

MINUTES OF THE FIFTEENTH SITTING OF THE COMMITTEE

The Committee sat on Tuesday, the 11 October, 2022 from 1100 hrs. to 1205 hrs. in Committee Room No. '1', Ground Floor, Block A, Extension to Parliament House Annexe (EPHA), New Delhi.

PRESENT

Shri Santosh Kumar Gangwar - Chairperson

MEMBERS

Lok Sabha

2. Shri Sudip Bandyopadhyay
3. Shri Lavu Sri Krishna Devarayalu
4. Shri Arjunal Meena
5. Shri Janardan Mishra
6. Shri Ravneet Singh Bittu
7. Shri Sushil Kumar Singh
8. Shri Uday Pratap Singh
9. Shri Ramdas Chandrabhanji Tadas

Rajya Sabha

10. Shri Anil Desai
11. Dr. Anil Jain
12. Dr. Amar Patnaik
13. Shri M. Shanmugam

Secretariat

- | | | | |
|----|---------------------|---|---------------------|
| 1. | Shri V.K. Tripathi | - | Joint Secretary |
| 2. | Shri Santosh Kumar | - | Director |
| 3. | Shri G.C. Dobhal | - | Additional Director |
| 4. | Smt. Mriganka Achal | - | Deputy Secretary |

REPRESENTATIVES OF OFFICE OF COMPTROLLER AND AUDITOR GENERAL

- | | | | |
|----|-------------------------|---|--|
| 1. | Ms. Aditi Roy Choudhury | - | Dy. Comptroller & Auditor General
(Finance & Communication) |
| 2. | Sh. Manish Kumar | - | Director General (Finance &
Communication) |
| 3. | Ms. Aman Deep Chatha | - | Director General of Audit (Finance &
Communication) |
| 4. | Ms. R. Uma | - | Director |

REPRESENTATIVES OF NATIONAL INFORMATICS SERVICES INC. (NICS)

- | | | | |
|----|-------------------------|---|---------------------------------|
| 1. | Shri Rajesh Gera | - | Director General |
| 2. | Dr. Vinay Thakur | - | Managing Director |
| 3. | Shri Rajesh Bahadur | - | Deputy Director General, Ex- MD |
| 4. | Shri Manoj Kumar Mishra | - | Deputy Director General, Ex- MD |

2. The Chairperson welcomed the Members and the Officers of C&AG at the sitting convened to take evidence of the representatives of National Informatics Center Services Inc (NICS) in connection with the examination of Audit Para No. 6.1 of Report No. 03 of 2021 of C&AG related to 'procurement of hardware/ software items to the tune of ₹890.34 crores through Strategic Alliance relating to National Informatics Center Services Inc. (NICS)'. The representatives of O/o C&AG then further highlighted the issues pertaining to procurement of hardware and software costing ₹ 890.34 crore from April 2014 to April 2017 by NICS through Strategic Alliance (SA) route violating the Rule 154 of the General Financial Rules (GFR), 2005.

(The representatives of NICS were, then, called in)

3. The Chairperson welcomed the representatives of NICS and drew their attention to Direction 55(1) of the 'Directions by the Speaker' regarding confidentiality of evidence before the Parliamentary Committee. The Chairperson emphasized on important issues of the Audit Para and sought the reasons behind not complying with the GFR, 2005. The Chairperson also sought clarifications as to why the procurements between the period in question were undertaken without obtaining Propriety Article Certificates.

4. Thereafter, the representatives of NICS made a presentation to the Committee on the subject highlighting therein the Company's genesis and business profile; Company's impact and major achievements, etc. NICS made submissions on the observations of the Audit and explained the circumstances under which the provision of GFR, 2005 were not followed and the alternative mechanisms adopted by them in the procurements done during the period to meet the specific demands of the clients.

5. The Members, then, raised various issues pertaining to Audit findings in the functioning of

NICSI *vis-à-vis* details of the procurements under the Strategic Alliance route, number of Strategic Alliances made by the Company; role of the Internal Audit Division of the Company during the period when GFR, 2005 were not followed by the Company; major articles bought under the Strategic Alliances; fixing of responsibility, for not following the provisions of GFR, 2005 in procurement; items purchased/being purchased by the Company through the sources other than the Government Marketing (GeM) Portal; rate(s) at which articles were purchased, role of the Ministry of Finance (Department of Expenditure), etc.

6. The representatives of the NICSI clarified issues on which information was readily available with them. In respect of some points for which information was not readily available, the Chairperson desired that written replies may be furnished to the Committee Secretariat within 10 days.

(The Committee, then, adjourned)

A copy of the verbatim proceedings has been kept.

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APPENDIX III
COMMITTEE ON PUBLIC UNDERTAKINGS
(2022-23)

MINUTES OF THE SIXTEENTH SITTING OF THE COMMITTEE

The Committee sat on Tuesday, the 11 October, 2022 from 1205 hrs. to 1230 hrs. in Committee Room No. '1', Ground Floor, Block A, Extension to Parliament House Annexe (EPHA), New Delhi.

PRESENT

Shri Santosh Kumar Gangwar - Chairperson

MEMBERS

Lok Sabha

2. Shri Sudip Bandyopadhyay
3. Shri Lavu Sri Krishna Devarayalu
4. Shri Arjunlal Meena
5. Shri Janardan Mishra
6. Shri Ravneet Singh Bittu
7. Shri Sushil Kumar Singh
8. Shri Uday Pratap Singh
9. Shri Ramdas Chandrabhanji Tadas

Rajya Sabha

10. Shri Anil Desai
11. Dr. Anil Jain
12. Dr. Amar Patnaik
13. Shri M. Shanmugam

SECRETARIAT

- | | | | |
|----|---------------------|---|---------------------|
| 1. | Shri V.K. Tripathi | - | Joint Secretary |
| 2. | Shri Santosh Kumar | - | Director |
| 3. | Shri G.C. Dobhal | - | Additional Director |
| 4. | Smt. Mriganka Achal | - | Deputy Secretary |

REPRESENTATIVES OF OFFICE OF COMPTROLLER AND AUDITOR GENERAL

- | | | | |
|----|-------------------------|---|--|
| 1. | Ms. Aditi Roy Choudhury | - | Dy. Comptroller & Auditor General
(Finance & Communication) |
| 2. | Sh. Manish Kumar | - | Director General (Finance &
Communication) |
| 3. | Ms. Aman Deep Chatha | - | Director General of Audit (Finance &
Communication) |
| 4. | Ms. R. Uma | - | Director |

REPRESENTATIVES OF MINISTRY OF ELECTRONICS & INFORMATION TECHNOLOGY (MeitY)

- | | | | |
|----|-------------------|---|----------------------|
| 1. | Shri Amit Agrawal | - | Additional Secretary |
| 2. | Sh. Rajesh Singh | - | Joint Secretary |

(The representatives of MeitY were called in)

2. The Chairperson welcomed the representatives of the Ministry of Electronics and Information Technology (MeitY) and drew their attention to Direction 55(1) of the 'Directions by the Speaker' regarding confidentiality of evidence before the Parliamentary Committee. The Chairperson emphasized on important aspects of NICS I and sought the action taken by the Meity on the violation of General Financial Rules (GFR), 2005 by National Informatics Centre Services Inc. (NICS I). The Chairperson also sought clarifications on the aspect as to whether the Board of Directors (BoD) of the NICS I has allowed to make procurement in conflict with GFR and whether BoD is competent to allow such modifications in the provisions of GFR, 2005.

3. Thereafter, the representatives of Meity gave clarifications on various aspects such as the applicability of GFR, 2005 on various companies; the action taken by the Ministry on non-compliance of relevant provisions of GFR, 2005 by NICS I; the views of the Meity on the Strategic Alliances followed by NICS I, etc.

4. The Members, then, raised various issues such as genesis and need of compliance with GFR Rules; the role of Internal Audit Wing of the Ministry; the cognizance of internal audit of NICS I, and Department of Expenditure about non-compliance of GFR; the audit objections raised by C&AG and the action taken thereon; the lackadaisical attitude of the representatives of the Ministry on this issues.

5. The representatives of MeitY clarified issues on which information was readily available with them. In respect of some points for which information was not readily available, the Chairperson desired that written replies may be furnished to the Committee Secretariat within 10 days.

(The Committee, then, adjourned)

A copy of the verbatim proceedings has been kept.

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APPENDIX IV
COMMITTEE ON PUBLIC UNDERTAKINGS
(2024-25)

MINUTES OF THE FOURTH SITTING OF THE COMMITTEE

The Committee sat on Wednesday, the 25th September, 2024 from 1350 hrs. to 1415 hrs. in Committee Room No. '1', Ground Floor, Extension to Parliament House Annexe, New Delhi.

PRESENT

Shri Baijayant Panda - **Chairperson**

MEMBERS

Lok Sabha

2. Shri Tariq Anwar
3. Shri R.K. Chaudhary
4. Shri Chandra Prakash Joshi
5. Smt. Kanimozhi Karunanidhi
6. Shri Kaushalendra Kumar
7. Shri Shankar Lalwani
8. Shri Mukesh Rajput
9. Shri Sukhjinder Singh Randhawa
10. Shri Kodikunnil Suresh

Rajya Sabha

11. Shri Narain Dass Gupta
12. Shri Debashish Samantaray
13. Shri Arun Singh

SECRETARIAT

1. Shri Neeraj Semwal - Joint Secretary
2. Smt. Jyochnamayi Sinha - Director
3. Smt. Mriganka Achal - Deputy Secretary

2. After the Committee reassembled for the afternoon session, Hon'ble Chairperson chaired the third agenda item of the day. Chairperson briefly apprised the Members on the two draft Reports that were approved during the previous term of the Committee by erstwhile Chairperson and considered as part of unfinished work of the Committee. The Committee then considered and adopted the following two draft reports, without any changes/modifications, On the following two selected subjects: -

- i. 'Para No. 6.1 of Report No.3 of 2021 related to "Procurement of hardware/software item to the tune of Rs. 890.34 crores through strategic alliance relating to National Informatics Centre Services Inc" (Based on Audit Examination); and
- ii. Bharat Heavy Electricals Limited (BHEL) (Comprehensive Examination)

3. The Committee authorized the Chairperson to finalized the draft Reports on the basis of factual verification as suggested by C&AG and concerned Ministry/Department for presenting the Reports during the next session of Parliament.

The Committee, then, adjourned to take-up next agenda item of the afternoon sittings.

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