

**FIFTEENTH REPORT**  
**PUBLIC ACCOUNTS COMMITTEE**  
**(2000-2001)**

**THIRTEENTH LOK SABHA**

**PROCUREMENT OF SOLAR PHOTO  
VOLTAIC PANELS**

*mittee*

**CORRIGENDA FOR THE 15<sup>TH</sup> REPORT OF  
PUBLIC ACCOUNTS COMMITTEE (13<sup>TH</sup> LOK SABHA)**

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*Presented to Lok Sabha on 19.12.2000  
Laid in Rajya Sabha on 19.12.2000*

**LOK SABHA SECRETARIAT  
NEW DELHI**

*November, 2000/Agrahayana 1922 (Saka)*

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COMPOSITION OF PUBLIC ACCOUNTS COMMITTEE  
(2000-2001)

Shri Narayan Datt Tiwari — *Chairman*

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1. Dr. A.K. Pandey — *Additional Secretary*
2. Shri P.D.T. Achary — *Joint Secretary*
3. Shri Devender Singh — *Deputy Secretary*

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\*Elected w.e.f. 2 August, 2000 *vice* Shri Rajesh Pilot expired.

\*\*Elected w.e.f. 25 August, 2000 *vice* Shri Vayalar Ravi ceased to be a Member of Committee consequent upon his retirement from Rajya Sabha on 1 July, 2000.

## INTRODUCTION

I, the Chairman, Public Accounts Committee having been authorised by the Committee, do present on their behalf this Fifteenth Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their Ninth Report (12th Lok Sabha) on "Procurement of solar photo voltaic panels".

2. The Report was considered and adopted by the Public Accounts Committee at their sitting held on 23rd November, 2000. Minutes of the sitting form Part-II of the Report.

3. For facility of reference and convenience, the recommendations of the Committee have been printed in thick type in the body of the report and have also been reproduced in a consolidated form in the Appendix to the Report.

4. The Committee place on record their appreciation of the assistance rendered to them in the matter by the Office of the Comptroller and Auditor General of India.

NEW DELHI;  
27 November, 2000  

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6 Agrahayana 1922 (*Saka*)

NARAYAN DATT TIWARI,  
*Chairman,*  
*Public Accounts Committee.*

## **CHAPTER I REPORT**

This Report of the Committee deals with the action taken by the Government on the recommendations contained in their 9th Report (12th Lok Sabha) on Procurement of Solar Photo Voltaic Panels on paragraph 9.1 of the Report of C&AG No. 6 of 1997, Union Government (Post & Telecommunications)

1.2 The Ninth Report which was presented to Lok Sabha on 21 April 1999 contained 15 recommendation. Action Taken Notes in respect of all these recommendations have been received and these have been broadly categorised as follows:

- (i) Recommendations and observations which have been accepted by Government;  
Paragraph Nos. 55, 56, 57, 58, 59, 60 and 69
- (ii) Recommendations and observations which the Committee do not desire to pursue in the light of the replies received from Government;  
Paragraph Nos. 63 and 64
- (iii) Recommendations and observations replies to which have not been accepted by the Committee and which require reiteration;  
Paragraph Nos. 61, 62, 65, 66 and 68
- (iv) Recommendations and observations in respect of which Government have furnished interim replies.  
Paragraph No. 67

1.3 The Committee hope that the final action taken reply to the recommendation contained in paragraph No. 67, to which only interim reply has been furnished, will be submitted to them expeditiously.

### **Procurement of Solar Photo Voltaic Panels**

1.4 The ninth Report (12th Lok Sabha), reveals various acts of omission and commission of DoT in procurement of Solar Photo Voltaic panels for rural telephone exchanges which cost the Government an extra amount of Rs. 24.03 crore to the benefit of supplier firms. It was felt that DoT favoured private firms by placing educational order for large number of SPV panels constituting 30 percent of the total orders. It inflated the unit rate by reckoning incorrect rate of customs duty for commercial and educational orders in November 1991, resulting in loss of Rs 2.66 crore. DoT did not reduce the price of SPV panels consequent upon reduction of customs duty for supplies made after 1 March, 1992 and also did not effect the reduction in customs duty in respect of supplies made after the scheduled date of delivery resulting in excess payment of Rs. 2.96 crore. Besides, incorrect computation of rates of PSV panels which fell in

international market during 1993-94 led to excess expenditure of Rs. 3.05 crore. Commercial orders were placed on ARM though not a type approved firm at the time of bidding. ARM was also given undue benefit of Rs. 4.38 crore on supplies made after the scheduled date of delivery. Besides, non-inclusion of the standard terms applicable to repeat orders led to excess expenditure of Rs. 10.98 crore on supply orders on six firms including ARM. In nutshell, the acts of omissions/commissions resulted in undue benefit of Rs. 24.03 crore to the firms and loss of an equivalent amount to DoT. Thus, the entire procurement of SPV panels highlights lack of transparency in the purchase procedure in DoT.

1.5 The specific recommendations incorporated in the report of the Committee were:

- (i) Evolve suitable parameters in keeping with sound business principles and prudent commercial practices so that the TEC takes into accounts all relevant factors and circumstances in the best interest of DoT.
- (ii) Individual responsibility must be fixed which led to a loss of Rs. 2.96 crore to the Government on account of failure to deduct the equivalent amount to the reduction in the customs duty on the supplies made after the due date.
- (iii) A high level enquiry must be conducted expeditiously to pinpoint the responsibility for such a costly procedural and administrative irregularity.
- (iv) Department must exercise due care while making assessment of its requirements.
- (v) Officers of proven integrity and capable of protecting government interest should be posted to such sensitive posts at decision making levels.
- (vi) The matter of grant of type approval be inquired into and the Committee be apprised of the outcome.
- (vii) PSUs must be preferred to private suppliers so that their often idle capacities are utilized to the optimum.
- (viii) The matter should be investigated expeditiously and strongest punitive action taken against those who took the decision to charge liquidated damage for delay in supply rather than foreclosing the supply order particularly when DOT themselves had placed order on ITI in October, 1994 at drastically reduced prices.
- (ix) Responsibility should be fixed against persons who showed undue favour to private firms and brought avoidable pecuniary loss to the Government.
- (x) A suitable mechanism should be evolved to ascertain whether supplier firms were producers/manufacturers.

1.6 The Committee will now examine the action taken by Government on some of their recommendations and make suggestions thereupon.

**Unusually high number of Educational Order  
(Paragraph No. 56)**

1.7 Highlighting the exceptionally large number of educational order, the Committee in Paragraph 56 of their 9th Report had made the following recommendation:

“The educational orders are generally placed for small quantities for testing the quality of the product and the capability and credibility of the manufacturer. However, the Committee observes that in flagrant violation of this practice, DoT placed educational orders for a large number of panels constituting 30 percent of the total orders for 30,000 units on four firms during January-March, 1992 which did not possess type approval. Explaining the reasons in this regard the Chairman, Telecom Commission admitted during evidence that in the anxiety to expand the vendor base then educational orders exceeded the limit and further, in the first tender, at that time, there was also no conscious policy. However, the Committee feel strongly that the purpose of widening the base would have been served equally well by placing educational orders for nominal quantity i.e. 200 Nos. a practice followed by DoT in the subsequent tender”.

1.8 In their action taken note furnished to the committee the Department of Telecom Services have stated as under:

“Against tender No. 26-22690-MMC opened on 22.03.1991 commercial orders for 21000/-units were placed on two vendors and educational orders were placed for 9000/- units on four vendors. Educational Orders are normally placed for small quantities. However, a firm policy for Educational Orders was not available at that time. Policy guidelines *vide* letter issued by DoT on 19.12.1994 (Annexure-I) and the same is being followed now.” Annexure I issued by the Department of Telecom Services *Inter-alia* stated that “the educational order for an item in favour of any vendor will be restricted in a year to a maximum of one percent of the total requirement for the year or an amount of Rs. 25 lakhs. In case the requirement for the current year is not available, it will be restricted to one percent of actual purchases made in the previous years.”

1.9 The Committee are unable to accept the version of the Department that ‘no firm policy’ was available at the time of placement of educational orders having regard to the fact that the nomenclature ‘educational order’ denotes, in the approved parlance of the Telecom Commission, a trial order or experimental order. However, the Committee take some satisfaction that, at least subsequently, the Department issued a policy order stipulating that

the educational order for an item in favour of any vendor will be restricted in a year to a maximum of one percent of the total requirement for the year or an amount of Rs. 25 lakhs or where the requirement for the current year is not available, it will be restricted to one percent of actual purchases made in the previous year. They hope the Department would adhere to the guidelines scrupulously to avoid such incidents in future.

**Adoption of rate of non-type approved firm and  
Incorrect computation of acceptable rates**

**(Paragraph No. 61)**

1.10 Commenting on the adoption of rate of non-type approved firm and incorrect computation of acceptable rates the Committee in their 9th Report observed that:

“The Audit has also revealed that the international prices of the solar cells used on the SPV panels had come down since finalisation of rates for the previous purchase in November, 1991. However, the Committee are shocked to note that instead of conducting a proper rate analysis to arrive at the reasonable price for counter offer/ negotiation with the firms, DoT approved the rate of Rs. 22,489.80 quoted by M/s Advance Radio Masts (ARM), assuming the unit price of SPV modules fixed in 1991 as the reference point for working out the rate reasonableness for procurement during 1993-94. Although the DoT took note of the fall in the international price of the solar cells while working out the reasonable price yet they altogether omitted the customs duty element on account of reduction in the international price of the solar cells. The Committee find that this significant omission inflated the unit price determined in October 1993 by Rs. 977 and the impact on exchequer was an excess payment of Rs. 3.05 crore on purchase of 31,200 SPV panels during 1993-94. According to a calculation made by Audit, if they pay in the rate of 1991, which was taken as reference point for fixing the rate of 1993-94 is also taken into account, the excess payment to the suppliers would work out to Rs. 5.87 crore. The Committee, therefore, recommend that the Department investigate whether such a significant omission amounted to mere grave dereliction of duty or breach of trust on the part of concerned official(s). The Committee also recommends that only the officers of proven integrity and capable of protecting Government interest should be posted to such sensitive posts at decision making levels.”

1.11 In their Action Taken Note the Department of Telecommunications have stated as under:

“The tender Evaluation Committee (TEC) had fixed price of Rs. 22,489.80 per unit of SPV systems. The prices recommended by the TEC was lowest technically acceptable offer of M/s ARM. The lowest price (L-1) has been emerged out of open competitive bidding



where 23 bidders had participated. The eligible bidders ranged from 22,489.90 to Rs. 35,640. It had earlier stated that the reduction of custom duty had not been taken into account while finalising the prices. The price finalised was all inclusive i.e. of all duties and taxes. The matter was referred to high level Committee to investigate the matter constituted by DoT who has stated that there is no dereliction of duty of the part of any concerned official.”

1.12 Far from satisfied with the reply of the Department which is merely an attempt to protect the officials responsible for the pecuniary loss to the Government, the Committee are of the view that this is a fit case for examination and action by their Vigilance Cell. The Committee would like to be apprised of the outcome in due course.

**Undue benefit to some Private Firms  
(Paragraph No. 62)**

1.13 The Committee had recommended:

“Another disquieting feature which has been causing concern to the Committee is that the DoT adopted the rate quoted by ARM, not being a type-approved firm on the date of tendering, as the lowest and also favoured the latter with substantial portion of supply order. The Committee is perturbed to note that it was not clear whether any system and control existed in the Department to ensure transparency in grant of type approval so crucial for placing supply orders. While ARM was given type approval within record 52 days and favoured with huge supply order, other firms like Keltron, BEL, Siemens, Pentafour Products and ITI Allahabad were granted type approval between March 1994 and October 1994. Further, the Committee are surprised to find that in their reply to a question on the dates of receipt of applications for type approval from different firms. DoT has indicated “date of application for type approval not readily available in respect of M/s Keltron and M/s Telematics, New Delhi.” The Committee feel that it was an attempt to foreclose further scrutiny into the favourable treatment meted out to ARM in relation to grant of type approval. The Committee, therefore, desire that the matter of grant of type approval be enquired into and the Committee be apprised of the outcome.”

1.14 In their Action Taken Note furnished to the Committee, the Department of Telecommunications have stated:

“Tender No. 80-315/93-MMC opened on 28.05.1993 for the procurement of 60,000 — SPV systems, 23 bidders had participated. Six(6) of the bidders having type approval whereas the remaining bidders were new entrants. M/s RES among the type approved vendors had quoted the lowest price of Rs. 24,800/- and out of remaining technically qualified new entrant, the lowest price was quoted by M/s ARM. It was also noted that TEC had recommended the lowest price of Rs. 22,489.90 and the same was offered both for Educational Order and Commercial Order. Regarding

the issue of type approval as desired by PAC, the matter was referred to High Level Committee. It was reported that in case of Telematics type approval was granted within 57 days and in case of M/s Keltron, it was granted in 43 days. More time was taken for issue of type approval of certain vendors as their products were rejected due to non-compliance with GRs and in environmental test not completed successfully. As per the observations of High Level Committee, no favourable treatment to any company in issue of type approval have been shown."

1.15 The Committee reiterate their earlier finding that the plea of the Department that the date of application for type approval was not readily available in respect of certain firms was an attempt to foreclose further scrutiny into the favourable treatment meted out to ARM in the matter of grant of type approval. Since the Chairman, Telecom Commission had conceded during evidence that the treatment accorded to M/s ARM was against the principle of tender management, the Committee deprecate the conclusions of the high level Committee appointed by the Department. The Committee feel that it would only help remove misgivings, if the matter is referred to the Vigilance Cell. The Committee would like to be informed of the outcome in due course.

**Undue favour in placing repeat purchase orders  
on ARM and RES  
(Paragraph No. 65)**

1.16 Further commenting on undue favour shown to ARM and RES in placing of repeat purchase orders for SPV units, the Committee recommended in their report that:

"Another gray area, where the Committee feel undue favour was given to these two firms was in the placing of repeat purchase orders for SPV units on them. The Committee find, that DoT favoured ARM with the orders of MOS(C) dated 21 April 1994 (Annexure-II) by placing commercial orders for 9000 units in May 1994, notwithstanding the standard clause in the original supply order on this firm in November 1993 that repeat order not exceeding 100 per cent shall be placed on the firm. However, the Committee are surprised to find that DoT placed repeat supply orders of a quantity 18 times the original supply order on this firm. DoT have stated that as ARM quoted the lowest price in the tender, which became the basis of procurement of entire quantity of 60,000 SPV panels, it was decided to place orders for 9000 units on ARM only after it has executed the educational order and had become established supplier. Further, the Committee note that the DoT placed repeat supply order on M/s RES for 5000 units in May 1994 despite the fact that the firm had failed to complete the supply as per delivery schedule against an earlier supply order of October 1993 for 7500 units. The Committee were also informed during evidence that originally an

order of 6000 units was proposed for ARM under the repeat order. But they find to their consternation that the MOS(C) had directed that supply order to M/s ARM should be increased from 6000 to 9000. The Committee were also informed by the Chairman, Telecom Commission, during evidence that there were other examples also where the MOS(C) had advised for fixing particular quantum of SPV panels while placing orders on various firms, and one of these cases was the subject matter of CBI inquiry."

1.17 In their Action Taken Note furnished in respect of the recommendation made in paragraph 65, the Department have stated as follows:

"It was decided to procure the balance quantity of 30000 SPV system during the year 1994-95 against the tender opened on 28.05.1993 instead of floating of new tender. M/s ARM had completed the educational order. It was decided to place order for 9000 units as it had quoted lowest price in the tender. Similarly, the orders for 9000 units were placed on M/s RES as their quoted price was lowest among the established vendor."

1.18 The Committee note that the oral deposition of the Chairman, Telecom Commission that one of these cases was the subject matter of CBI inquiry and the Action Taken Reply of the Department are completely at variance. The Committee, therefore, desire that this aspect may also be gone into by the Vigilance Cell of the Department in case the CBI has not examined this case already.

**RES and ARM are allowed more time for supply  
(Paragraph No. 66)**

1.19 The Committee recommended in their 9th Report that:

"Another related aspect which engaged the attention of the Committee was that while other firms on whom the supply orders were placed in May, 1994 were given only two months' time for supply, M/s RES and M/s ARM were given delivery schedule of six months from the date of supply orders. However, the Committee find that ARM failed to supply 7200 units even within the elongated delivery period. According to the DoT, the delivery period was fixed keeping in view the quantum of orders on the firms and since ARM and RES were given orders for larger quantities, these firms were given more time for supply. The Committee note that the reply of the Department is far from acceptable as a delivery period of four months was given for supply of 7500 units by RES in October, 1993, while a delivery period of six months was granted to this firm in respect of the repeat order of 5000 units placed in May, 1994.

willingness on the part of the Department to pinpoint individual responsibility, the Committee desire that this aspect may also be referred to the Vigilance Wing.

**Undue favour to M/s ARM on supplies made after the delivery schedule  
(Paragraph No. 67)**

1.22 The Committee further observed in their Report that:

“Undue favour was shown to M/s ARM on supplies made after the delivery schedule. The Committee also note that the ARM quoted the lowest rate of Rs. 16,885 per system in response to a Notice Inviting Tender (NIT) issued by DoT in September, 1994. They find that despite the failure of ARM to effect supplies within delivery schedule, and the option available with the DoT to foreclose the supply order as per the terms of the contract the latter chose to procure the remaining units against the earlier supply order of May, 1994 from the firm at the earlier higher price of Rs. 22489.80 rather than foreclosing the supply order on the ground of non-adherence to delivery schedule. This resulted in an undue favour of Rs. 4.38 crore to ARM on supply of 7200 units supplied after the schedule date of delivery. The Committee strongly deplore the action of DoT to charge liquidated damages of Rs. 0.34 crore for delay in supply rather than foreclosing the supply order which could have saved Rs. 4.04 crore to the Department. According to DoT the purchase order on ARM was issued on 23.05.1994 with delivery upto 22.11.1994. The extension in delivery period was granted upto 31.12.1994 with levy of liquidated damaged charges on 14.11.1994 for 40 days prior to opening of the new tender on 20.12.1994. The Committee find that the extension was granted to the firm at the rates prevailing at that time. Against this background, the Committee observe that DoT themselves had in October, 1994 placed order for 19630 units of ITI at a provisional rate of Rs. 17991.84 which was subsequently reduced to Rs. 16885 on the basis of the rate fixed for 1994-95. In this context, the Committee are deeply concerned to note that ARM was allowed to continue the supply at the old higher rate even when they had themselves quoted much lower rate and DoT had placed order on a lower rate. The Committee are further shocked to find that ARM was allowed to continue supply at the higher rate even after the date of expiry of the extended period and much beyond the date of the tender for 1994-95. The Committee, therefore, strongly recommend that the matter should be investigated expeditiously and strongest punitive action taken against those who took the decision to charge liquidated damage for delay in supply rather than foreclosing the supply order particularly when DoT themselves had placed order on ITI in October, 1994 at drastically reduced prices.”

1.23 In their action taken note the Department have stated that:

“The Purchase Order for 9000 units on M/s ARM was placed on 23.05.1994. The delivery period was up to 22.11.94. The extension delivery period was granted up to 31.12.1994 with levy of liquidated damage charges on 14.12.1994 for a period of 40 days only. The extension was granted before opening of new tender on 20.12.94. The extension was granted to the firm that the rates prevailing at that time. While giving extension order on 14.12.94, the new rate in the forth coming tender to be opened on 20.12.94 was not taken into consideration due to lack of well-defined policy at that time. Short closing of the order would have deprived the department of supplies during the year and as such no favour was granted to the firm. However, on the recommendations of PAC, the matter was referred to the High Level Committee constituted by DoT. The Committee had examined in details and has come to the conclusion that irregularities in this case have occurred and this needs to be examined by Vigilance Cell. The matter is being referred to vigilance cell for further investigations.”

1.24 In their earlier report the Committee had recommended that the matter should be investigated expeditiously and strongest punitive action taken against those who took the decision to charge liquidated damages for delay in supply rather than foreclosing the supply order on ITI in October, 1994 at drastically reduced prices. Since the High Level Committee appointed by the DoT has, in agreement with the Committee, concluded that irregularities have occurred and this needed to be examined by the Vigilance Cell, the Committee would like the matter to be referred to the Vigilance Cell. The Committee should be apprised of the outcome at the earliest.

**Excess expenditure on Repeat Orders  
(Paragraph No. 68)**

1.25 The Committee in their earlier Report No. 9 have recommended that:

“The Committee find that DoT did not invoke the standard term of repeat supply orders in vogue in the department that any reduction in the rate received in response to the tender for that year would be applicable to the repeat supply orders also. The failure of DoT to invoke the standard clause of the contract resulted in an excess expenditure of Rs. 10.98 crore on the repeat orders for 19,600 SPV panels on six firms ARM and RES were the major beneficiaries among others. According to the Department, the policy of giving new tender rate in the event of its being lower was invoked only in those cases where the delivery schedules of the earlier purchase orders were

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extended. However, the contention of DoT stands completely demolished in view of the fact that the Department included this condition in supply orders for SPV panels placed on ITI Bangalore, *in October 1994*, in which subsequent reduced rates fixed by them were made applicable with a financial gain of Rs. 2.17 crore. Thus, the Committee notes that it was a common practice in DoT that in cases where the finalisation of the rate for the next year's purchase was delayed, the supply orders were placed at provisional prices which were subject to revision in accordance with the price fixed in the tender for the current year's purchases. While deprecating such an unconscionable lapse which resulted in a loss of Rs. 10.98 crore to the exchequer, the Committee desires that responsibility should be fixed for such a grave lapse and stringent action taken against persons who showed undue favour to private firms and brought avoidable pecuniary loss to the Government."

1.26 The Department in their Action Taken Note to the recommendation contained in Paragraph No. 68 is as follows:

"During the year 1994-95 it was decided to procure the balance quantity of 30000 SPV system against the last tender opened on 28.05.1993. The orders were placed on the firms much before the opening of the new tender on 20.12.1994. The orders were placed on the rate approved for the last tender and all terms and conditions were made applicable stipulated in the tender. The repeat orders were placed on the approval of the Competent Authority of the Department and in accordance with the prevalent DoT policy. As per the recommendations of the PAC, the matter was referred to High Level Committee constituted by DoT, the matter was examined by the High Level Committee and concluded that there is no irregularities of placement of the repeat orders."

1.27 The reply furnished by the Department defending the pecuniary loss of Rs. 10.98 crore to the Government does not stand up to scrutiny. In view of the significant omission to include suitable protective clause in the repeat order of a private firm leading to financial loss to the Government, the Committee reiterates that responsibility must be pinpointed and stringent punitive action taken against the officers who caused avoidable loss to the Government.

## CHAPTER II

### RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY GOVERNMENT

#### Recommendation

The Committee note with profound concern that the Department of Telecommunications (DoT) extended undue benefit of Rs. 24.03 crore to the suppliers in purchase of 88,000 Solar Photo Voltaic (SPV) panels at a cost of Rs. 210.41 crore, which were used in rural telecom. Network during 1991—95. It placed commercial orders on ineligible firms after entertaining post bid interventions from them. DoT did not enforce the provision of the purchase order to safeguard the interest of the Government which led to extending favours to the firms. It did not short close the tender after expiry of the delivery schedule, even when it was aware of steep reduction in prices of SPV panels. Besides, DoT adopted discriminatory treatment towards some firms, both in placement of supply orders as well as in prescribing the delivery period and favoured the private firms at the cost of proven Public Sector Undertakings (PSUs). Repeat orders were placed at a time when prices were falling and that too without protecting the Government interest.

[Sl. No. 1 (Para No. 55) of Appendix II to 9th Report of PAC  
(12th Lok Sabha)]

#### Action Taken

Department of Telecommunications had purchased Solar Photo Voltaic (SPV) panels for providing Village Panchayat Telephone by inviting tenders. The Tender Evaluation Committee (TEC) recommended for placement of bulk order and Educational Order at a unit rate of Rs. 20,000/- & Rs. 18,000/- respectively. Letter of intents were issued in August, 1991. Because of devaluation of Indian Rupee, financial restriction on import and announcement of budget for 1991-92 resulting in escalation in raw-material cost, M/s CEL and M/s BHEL did not accept the letters of intent and asked for increase in the prices. The case for increase in the prices was taken up by the suppliers with the Price Negotiation Committee (PNC). M/s CEL and M/s BHEL demanded higher prices of Rs. 26,120/- and Rs. 25,200/- respectively. Both the suppliers were offered a price of Rs. 24,200/- during negotiation but the offer was not accepted by either of the firms. Since Solar Panels Systems were required to meet the target of



Gram Panchayat Telephone Programme, the case was again discussed with the PSUs and after a great deal of persuasion they agreed at a price of Rs. 24,400/- per system on the condition that they would be given an advance of 35% on the order value. Similarly, prices of Educational Orders had also been increased from 18,800/- to Rs. 22,936/-.

The increase in the prices was made considering various factors such as devaluation, import restriction and impact of budget and the same was lower than demanded by the established firms.

In 1990-91, M/s Central Electronics Ltd. had obtained type approval and supplied some large number of modules and M/s BHEL had supplied some modules against the experimental order of TEC. It was, therefore, decided to place commercial orders only on these two firms. Educational Orders were placed on the other eligible firms considering that the requirement of SPV modules was regular and excess quantity would be adjusted against the future requirement.

Regarding prescribing the delivery period, it is stated that delivery period was granted to the firms depending upon the volume of the orders. However, at present uniform delivery period for all the vendors is being followed conforming with the delivery schedule given in the bid documents.

Repeat orders were placed as per the requirement at that time.

This has the approval of Advisor (P).

Sd/-  
(ANIL KAUSHAL)  
DDG (MM-I)

[Ministry of Communications O.M. No. 40-9/96—MMC/926,  
dated 9.8.2000]

#### **Recommendation**

The educational orders are generally placed for small quantities for testing the quality of the product and the capability and credibility of the manufacturer. However, the committee observes that, in flagrant violation of this practice, DoT placed educational orders for a large number of panels constituting 30 per cent of the total orders for 30,000 units on four firms during January-March, 1992 which did not possess type approval. Explaining the reasons in this regard the Chairman, Telecom. Commission admitted during evidence that in the anxiety to expand the vendor base the educational orders exceeded the limit and further, in the first tender, at

that time, there was also no conscious policy. However, the Committee feel strongly that the purpose of widening the base would have been served equally well by placing educational orders for nominal quantity *i.e.* 200 Nos. a practice followed by DoT in the subsequent tender.

[Sl. No. 2 (Para No. 56) of Appendix II to 9th Report of PAC  
(12th Lok Sabha)]

#### Action Taken

Against Tender No. 26-226/90-MMC opened on 22.03.91 commercial orders for 21000/- units were placed on two vendors and Educational Orders were placed for 9000/- units on four Vendors. Educational Orders are normally placed for small quantities. However, a firm policy for Educational Orders was not available at that time. Policy guidelines *vide* letter issued by DoT on 19.12.94 (Annexure-I) and the same is being followed now.

This has the approval of Member (P).

Sd/-

(ANIL KAUSHAL)

DDG (MM-I)

[Ministry of Communications O.M. No. 40-9/96—MMC/926,  
dated 9.8.2000]

#### Recommendation

The Committee's examination has further revealed that the DoT didn't take the correct value of customs duty into account while fixing the price of the SPV panels. While working out the reasonableness of the rates demanded by the firms in September 1991, DoT reckoned the rate of customs duty at 45 per cent *ad-valorem*, instead of 30 per cent on Silicon Wafers. This contributed to fixation of higher rate for each pannel in commercial as well as educational orders. The impact of this error aggregated to an excess payment of Rs. 2.66 crore. The Committee found that there was no acceptable explanation forthcoming from the DoT regarding the method adopted for price fixation of SPV panels. DoT has stated that they procure equipment and material by open tendering without necessarily going into price structure of each and every component. DoT presumed that in a system of competitive bidding prices were fixed on the basis of lowest quote of eligible bidder and that in which every bidder would take into account the import content, customs duty implications and relevant factors. The Committee note that the way the price fixation mechanism was left entirely by DoT at the whims and fancies of the bidders, speaks volumes for the casual and irresponsible role of the Tender Evaluation Committee (TEC) of the Department which led to pecuniary loss of Rs. 2.66 crore to the DoT. The Committee would like the DoT to

evolve suitable parameters in keeping with sound business principles and prudent commercial practices so that the TEC takes into account all relevant factors and circumstances in the best interest of the DoT before making such crucial recommendations.

[Sl No. 3 (Para No. 57) of Appendix II to 9th Report of PAC  
(12th Lok Sabha)]

#### **Action Taken**

The prices for SPV system were finalized based on the offer of M/s CEL who were the lowest qualified and established bidder. The price finalised was Rs. 20,000/- which was not accepted either by M/s CEL or by M/s BHEL due to devaluation of rupee, restriction of import, by RBI in terms of margin money for imported raw-material, escalation in material cost etc. The Price Negotiation Committee was set up to carry out negotiation with these PSUs. The price of Rs. 24,400/- recommended by PNC was approved and offer which was less than M/s CEL price of Rs. 26,120/- and of M/s BHEL price of Rs. 25,200/-

The aspects of Custom duty reduction for Silicon Wafers has not been indicated by the PNC. The price fixation was done based on the inputs given by PSUs without going into costing details of each and every item.

The price for Educational Orders were also revised since prices of earlier tenders were not accepted by the vendors.

However, it was indicated in the PO that any increase in taxes and other statutory duties/levies after the expiry of the delivery date shall be to the contractors account, benefit of any decrease in taxes and duties shall be passed on to the purchaser by the contractors.

The price fixation was done by the Committee as per the prevailing system at that time. However, it is stated that from 1995-96 onwards reduction in taxes and duties are taken care of while granting extension in delivery period and placement of repeat orders.

This has the approval of Advisor (P).

Sd/-  
(ANIL KAUSHAL)  
DDG (MM-I)

**Para 57****Observations made by Audit:**

1. Pointed out some corrections in line 2 & line 10.
2. The ATN is not to the point. Department may clearly explain what suitable parameters have been prescribed for fixation of price by TEC/PNC as recommended by PAC.

**Comments of DoT:**

1. Corrections were incorporated and corrected copy is enclosed.
2. It was already intimated that the price fixation was done based on the inputs given by PSU without going into the costing details of each and every item. The increase in the prices was made considering various factors such as devaluation, import restriction and same was lower than demanded by the established firms. The firms agreed to the revised price only after great deal of persuasion and on the condition that they would be given advance of 35% of the value of the order. It is reiterated that the price fixation was done by the Committee as per the prevailing system at that time. However, it is stated that from 1995-96 onwards the element of reduction in duties is being considered after each budget.

This has the approval of Advisor (P).

Sd/-  
(ANIL KAUSHAL)  
Dy. Director General (MM-I)  
[Ministry of Communications O.M. No. 40-9/96—MMC/926,  
dated 9.8.2000]

**Recommendation**

The Committee are amazed that DoT was not even aware that the rates of central excise and customs duty had undergone changes in the annual budget. There was reduction in customs duty on import of both SPV modules and Wafers by 15 per cent *ad-valorem* from March 1992. However, DoT placed educational supply orders for 7000 systems on three firms in March 1992 and commercial orders for 5000 units in January 1993 on CEL at the same rates fixed in November 1991 *i.e.*, prior to reduction in customs duty resulting in undue benefit of Rs. 1.39 crores to the firms and loss of equivalent amount to the Government. Further, the Committee find that the Department also failed to deduct the amount of Rs. 1.57 crore as reduction in customs duty on supply made against the supply order for 18000 SPV panels on three PSUs placed before March, 1992 in terms of Purchase Order which clearly provided that benefit of any reduction in statutory duty would accrue to the Department. The

Committee are shocked to find that the DoT, expected to run on sound business principles being a commercial organisation, not only placed supply orders at the earlier rate after reduction of the customs duty but also failed to deduct the amount equivalent to the reduction in the customs duty on the supplies made after the scheduled delivery period. The Committee are of the considered view that this is a fit case where the DoT must fix individual responsibility whose negligence or complicity contributed to a loss of Rs. 2.96 crore to the Government. The Committee desire that fully satisfactory action taken report in this regard be submitted to them at an early date.

[Sl. No. 4 (Para No. 58) of Appendix II to 9th Report of PAC  
(12th Lok Sabha)]

#### **Action Taken**

It was stated that there was no well defined policy during 1991-92 to consider reduction in taxes duties/levies while finalizing the prices. Strictly speaking, the procedural system available was not evolved to take care of such eventualities. SPV systems are not fully imported and as per the practice being followed at that time, import content was not asked from the vendors in the tenders. Department did not go into the details of the customs duty and confined itself to the duties over and above ex-works.

These prices were finalized in November 1991 after protracted negotiation and some orders were placed in November 1991 and January 1992. The cognizance of reduction in custom duty was not taken while placing orders for 7000/- units in March 1992 and 5000 units in January 1993, and in respect of supplies made after schedule date of delivery.

The matter was referred to the High Level Committee appointed by the DoT to investigate the facts pointed out by the PAC. The Committee report is enclosed.

This has the approval of Advisor (P).

Sd/-  
(ANIL KAUSHAL)  
DDG (MM-I)

## ATN ON PAC RECOMMENDATIONS

### Recommendation Sl. No. 58

#### Audit Observation

1. The High Level Committee constituted to examine the irregularities recommended by PAC was not acceptable to Audit since the members of the Committee are of the same wing of TEC. This should be conducted through outside agencies like CVC/CBI.

#### Comments of DoT

It is stated that on the recommendation of PAC a High Level Committee was constituted. Before nomination of members to the Committee the matter was discussed at the level of Members of the Telecom Commission and it was decided to constitute the Committee with following members:—

- |    |                                |   |                     |
|----|--------------------------------|---|---------------------|
| 1. | Dr. Vijay Kumar Adv. (P)       | — | Chairman            |
| 2. | Sh. B.B. Singh DDG (PF)        | - | Member              |
| 3. | Sh. N.K. Srivastava DDG (MM-I) | - | Member              |
| 4. | Sh. R.K. Mittal Dir. (MMD)     | - | Member/<br>Convenor |
| 5. | Sh. Rajiv Gupta Dir. (GP)      | — | Member              |

The constitution of the Committee was approved by Chairman (TC)/ Hon'ble Minister of State for Communications.

It is submitted that there was no well defined policy during 1991-92 to consider the reduction in taxes, duties/levies while finalising the ordering prices. The procurement prices for these orders were fixed based on the competitive bids which were negotiated upwards due to non-acceptance by the vendors and these prices were Ex-works which included Customs Duty. At that time, vendors were not asked to provide import content at the time of submission of tender.

Hence, department did not go into the details of the Customs Duty and confined to the duties over and above Ex-works.

However, it is intimated that the element of reduction in duties is taken into consideration now and this practice is being followed at present.

This has the approval of Advisor (P).

Sd/-

(ANIL KAUSHAL)

Dy. Director General (MM-I)

[Ministry of Communications O.M. No. 40-9/96-MMC/926 dated  
9.8.2000]

### Recommendation

The Committee further note with grave concern that the DoT did not invoke the standard terms and conditions of the contract by not taking into account the reduction in customs duty while placing orders for SPV units. The Committee feels that after the customs duty had been slashed, the DoT should have brought the matter to the notice of the concerned firms while negotiating price fixation of the SPV units. DoT admitted in a note that the cognizance of reduction in customs duty was not taken while placing order for SPV units in March 1992 and January 1993 respectively and in respect of supplies made after scheduled date of delivery. When asked during evidence whether the whole deal smacked of malafide, the Chairman, Telecom. Commission, admitted that "it was an irregularity and an irregularity could be procedural as well as administrative". He further agreed that "the question of reduction in customs duty was not attended to". The Committee, therefore, conclude that the failure to take into account the element of reduction in customs duty while processing the price of SPV units resulted in huge avoidable excess payment to the firms to the tune of Rs. 5.62 crore. The Committee therefore suggest that a high level inquiry must be conducted expeditiously to pinpoint the responsibility for such a costly procedural and administrative irregularity.

[Sl. No. 5 (Para No. 59) of Appendix-II to 9th Report of PAC  
(12th Lok Sabha)]

### Action Taken

It is already intimated that reduction in customs duty had not been taken into account while placing Purchase Orders, the delivery period extension and placement of repeat orders during the years 1991-95 as there was no well defined policy to consider the reduction in taxes, duties/levies while finalizing the prices. However, the reduction in duties had been strictly followed from the year 1995-96 onwards.

The matter was referred to High Level Enquiry Committee to find out the irregularities. The Committee is of the opinion that it has been done as per the prevailing procedure at that time. The report is enclosed.

The procedure has since been modified and the suppliers are now required to specify import content at the time of tendering itself (Annexure-2) and while granting delivery extensions the decrease in taxes/duties in finalizing the prices is being considered (Annexures-3&4).

This has the approval of Advisor (P).

Sd/-  
(ANIL KAUSHAL)  
DDG (MM-I)

#### **Para 59**

##### **Observation made by audit**

The department failed to reduce Customs Duty in respect of supplies made after scheduled date of delivery in violation of standard terms and conditions of the contract. Department may fix responsibility against the officials at fault for non-observance of rules.

##### **Comments of DoT**

It is reiterated that the reduction in CD had not been taken into account at the time of placing Purchase Orders and while extending delivery period and placement of repeat orders during the years 1991-95 as there was no well defined policy to consider the reduction in tax/duties. However, the reduction in duties had been strictly followed from the year 1995-96 onwards.

The matter was referred to High Level Committee to find out the irregularities. The same was examined by the Committee and the Committee is of the opinion that "placement of educational orders in March 1992 and placement of orders on M/s CEL in Jan. 1993 has been done as per the system prevailing at that point of time. There does not appear to be any malafide intention on the part of any individual(s)." In view of this fixing of responsibility cannot be considered.



This has the approval of Advisor (P).

Sd/-

(ANIL KAUSHAL)

Dy. Director General (MM-I)

**Recommendation**

**Sl. No. 59**

**Audit Observation**

Non-consideration of reduction in customs duty while placing orders is acceptable but it is not acceptable while extending the delivery period as it violates the terms and conditions of agreement/Purchase Order.

**Comments of DoT**

It is already intimated that there was no well defined policy to consider the impact of budget. Moreover, it is intimated that at that time the vendors were not asked to provide import content in the price schedule of tender document. In absence of percentage of import contents it was not possible to work out the impact on price due to increase/decrease of customs duty in the budget. However, now a days, this aspect is taken care of in each extension in delivery period as the percentage of import contents are being furnished by bidders in the tender.

This has the approval of Advisor (P).

Sd/-

(ANIL KAUSHAL)

Dy. Director General (MM-I)

**REPORT OF HIGH LEVEL COMMITTEE TO INVESTIGATE THE  
IRREGULARITIES POINTED OUT BY PUBLIC ACCOUNTS  
COMMITTEE ON PARA 9.1 OF C&AG**

A high level Committee consisting of the following members was constituted to investigate the irregularities pointed out by Public Accounts Committee (12th Lok Sabha) on Paragraph 9.1 of the C&AG Report:

- |    |                                |          |
|----|--------------------------------|----------|
| 1. | Dr. Vijay Kumar, Advisor (P)   | Chairman |
| 2. | Shri B.B. Singh, DDG (PF)      | Member   |
| 3. | Shri N.K. Srivastava DDG(MM-I) | Member   |

4. Shri R.K. Mittal, Dir (MMD) Convenor
5. Shri Rajiv Gupta, Dir (GP) Member

The Committee held its meetings on 16.7.99, 24.8.99, 25.8.99, 27.8.99, 29.9.99, 4.9.99, 6.9.99 & 8.9.99. The task before the Committee was voluminous as the procurement files with respect to the three tenders alongwith the individual vendor files had to be studied in a span of two months in addition to other normal works. The list of files which have been gone through by the Committee members is enclosed as per Annex-I.

It was noticed that the para 62 of the PAC recommendations pertains to Telecom Engineering Centre, and accordingly, Shri S.K. Malhotra, DDG (TEC) was nominated as a member to assist this Committee vide letter No. 13-06/99-MMD dated 24th Aug. '99.

The Committee has studied in depth for all those paras where it has been indicated by the PAC that investigation is to be carried out. The Paras pertaining to this aspect are Para 58, 59, 61, 62, 66, 67 & 68.

**ANNEXURE I**

**LIST OF FILES REFERRED BY THE COMMITTEE**

1. 80-77/91-MMC/BHEL
2. 80-361/93-MMD/Repeat Order for 30,000 Nos.
3. 80-85/91-MMC/RES
4. 80-80/91-MMC/US
5. 80-79/91-MMC/TBS
6. 80-278/92-MMC/CEL
7. Brochures for Oral Evidence Before PAC/Vol. I&II
8. 80-361/93-MMC/CEL
9. 80-361/93-/MMC/RES
10. 80-361/93-/MMC/ARM
11. 80-361/93-/MMC/KELTRON
12. 80-315/93-/MMC/Vol. I&II
13. 80-315/93-/MMC/ARM
14. 80-315/93-/MMC/RES
15. 80-315/93-/MMC/RIL

8096LS F-2-B

**Type Approval of SPV Power Generating Systems w.e.f. 01.01.93—01.09.99 (Region-wise)**

S. No.	Name of Manufacturer	RTEC	As Per GR No.	Model No.	Date of Offer	Date of Approval	No. of days	Remarks
Central Region Hyderabad								
2.		CR	G/SPV-01/01 OCT 90	BESP 9301	04.04.94	06.06.94	64	
3.		CR	G/SPV-01/01 OCT 90	ARM 7335	01.05.94	15.06.94	46	
		CR	G/SPV-01/02 SEP 93		12.09.94	31.10.94	50	
5.		CR	G/SPV-01/02 SEP 93	SPV-RPS94	12.09.94	31.10.94	50	
6.		CR	G/SPV-01/02 SEP 93	UV 7335	22.09.94	01.11.94	41	
		CR	G/SPV-01/02 SEP 93	SPPS 215	13.10.94	09.11.94	27	
8.		CR	G/SPV-01/02 SEP 93	PETCO 12B70	23.09.94	10.11.94	49	

12.	CR	G/SPV-01/02 SEP 93	12.11.94	13.12.94	32
13.	CR	G/SPV-01/02 SEP 93	28.11.94	14.12.94	17
14.	CR	G/SPV-01/02 SEP 93 XL/SPV/1270	28.11.94	14.12.94	17
15.	CR	G/SPV-01/02 SEP 93 BESP-9403	02.12.94	19.12.94	18
16.	CR	G/SPV-01/03 DEC 94 ARM 7335A	29.03.95	17.05.95	50
18.	CR	G/SPV-01/03 DEC 94 XL/SPV/1270A	27.06.96	30.08.96	65
20.	CR	UV Solar, Hyderabad	01.10.97	07.10.97	7
21.	CR	RES, Hyderabad	16.09.97	03.11.97	49
22.	CR	RES, Hyderabad	19.09.97	03.11.97	46
23.	CR	-do-	15.09.97	03.11.97	49
24.	CR	-do-	19.09.97	03.11.97	46
25.	CR	UV Solar Power Systems, Hyderabad	02.12.97	23.12.97	22
26.	CR	XL Telecom, Hyderabad	24.12.97	12.02.98	51

Renewal case

Renewal case

2	3	4	5	6	7	8	9
27.	M/s Siemens Ltd., Aurangabad	West. Region Mumbai	G/SPV-01/02 SEP 93	02.05.94	28.07.94	88	Unit was rejected twice for no compliance of GR. & Environmental Tests
28.	M/s Rishabh Comm., Calcutta	East. Region Calcutta	G/SPV-01/02 SEP 93	29.06.94	28.09.94	92	Delay on the part of manufacturers in Submitting the galvanisation Test report
29.	Webel SL. Energy System Ltd., Calcutta	ER	G/SPV-01/02 SEP 93	WS 17	27.10.94	02.12.94	37
30.	-00-	ER	G/SPV-01/01 SEP 93	WS 35	27.10.94	05.12.94	40
Southern Region, Bangalore							
32.	M/s Penta Four	SR	G/SPV-01/01 OCT 90	05.04.94	06.06.94	60	
34.	M/s Vikas Hybrids	SR	G/SPV-01/02 SEP 93	05.08.94	01.09.94	25	
36.		SR	G/SPV-01/02 SEP 93	05.08.94	25.11.94	112	

37.	M/s Tata BP Solar	SR	G/SPV-01/02 SEP 93	1235IBP	24.08.94	01.11.94	66
40.	M/s Anco Communication Ltd.	SR	G/SPV-01/02 SEP 93	ANSPV/1094	15.11.94	19.12.94	34
43.		SK	G/SPV-01/03 DEC 94	1235IBP	25.08.97	19.10.97	54
44.							Renewal case
45.	M/s BHEL	SR	G/SPV-01/03 DEC 94	11235	23.01.98	04.02.98	11
				Northern Region, New Delhi			to
47.	M/s Telemates India, ND	NR	G/SPV-01/02 SEP 93	HPL002 Series PN64	19.10.94	14.12.94	57
48.	M/s CEL, Sahibabad	NR	G/SPV-01/02 SEP 93	SPV-PS/001	29.09.94	16.12.94	78
49.	M/s Telemates India Pvt. Ltd., ND	NR	G/SPV-01/02 SEP 93	TIFL-SPV003	02.12.94	06.01.95	35
50.	M/s Noval Electronics, ND	NR	G/SPV-01/02 SEP 93	—	19.12.94	07.02.95	50

1	2	3	4	5	6	7	8	9
51.	M/s Seemax Industries	NR	G/SPV-01/02 SEP 93	—	16.02.95	01.03.95	13	
52.		NR	G/SPV-01/02 SEP 93	REIL	28.12.94	28.03.95	90	
54.		NR	G/SPV-01/03 DEC 94		01.03.95	28.07.95	149	Environmental chamber could not be arranged by manufacturer
55.	M/s CEL., Sahibabad	NR	G/SPV-01/02 DEC 94	SPV-PS002	23.10.96	10.12.96	48	
56.	M/s IIT, Naini	NR	G/SPV-01/03 DEC 94	NSS3501	22.10.97	27.10.97	6	Renewal Manufacturer could not Environmental chamber

Above has been compiled on the basis of information received from respective RTECs.

[Ministry of Communication O.M. No. 40-9/96-MMC/926 dated 9.8.2000]



## COMMITTEE'S OBSERVATIONS

Paras 58&59 The Prices of SPV Systems were based on the offer of M/s CEL who were the lowest qualified established bidder. The price finalized was Rs. 20,000/- which was not accepted either by M/s CEL or by BHEL due to devaluation of rupee, severe restrictions imposed by RBI in terms of margin money for imported raw material, escalation in raw material cost etc. Negotiations were carried out with these PSUs by a Committee and after negotiations, the price of Rs. 24,400/- was approved and offered. The price asked by M/s CEL was Rs. 26,120 with 35% advance and by M/s BHEL Rs. 25,200 with 50% advance. It is noted that price offered to these vendors was much less than what were asked by them.

The aspect of Customs Duty reduction for Silicon Wafers has not been indicated by the Negotiation Committee in the report. However, after going through the various annexures available in the file, this Committee was not in a position to determine the basis on which the final price was arrived at. It can only be inferred at this stage that price fixation was done based on the inputs given by the PSUs without going into the costing details of each & every item.

Prices for educational orders were also revised since prices offered earlier were not accepted by the vendors.

As per the terms and conditions of the POs, there was no specific mention for taking the advantage of reduction in taxes/duties during the original delivery schedule. However, following was the Clause for Delivery Schedule Extension:

“Any increase in taxes and other statutory duties levies after the expiry of the delivery date shall be to the contractor's account. However, benefit of any decrease in these taxes/duties shall be passed on to the Purchaser by the contractor.”

The prices in these Purchase orders were based on the competitive bids which were negotiated upwards due to non-acceptance by the vendors and these prices were Ex-works which included the element of custom duty. SPV Systems are not fully imported and as per the practice being followed at that time, Import content was not asked from the vendors in the tenders. Department did not go

into the details of the Custom Duty and confined itself to the duties over and above Ex-works. This is corroborated by the fact that the aspect of custom duty has not been mentioned anywhere in the file either by MM Cell or by Finance Cell. Orders were placed after due approval of the competent authority. Similarly, for delivery schedule extensions, the aspect of Custom Duty reductions was not considered. Strictly speaking, even though provision of benefit to Department on account of reduction in taxes/duties after schedule delivery period was specified in Purchase Order, the procedural system had not evolved to take care of such eventualities.

The Committee is of opinion that placement of educational orders in March '92 and placement of orders on M/s CEL in Jan. 1993 has been done as per the system prevailing at that point of time. There does not appear to be any malafide intention on the part of any individual(s).

#### **Recommendation**

The Committee further observe that the Department invited tenders for procurement of 60,000 SPV systems in April, 1993. However, it placed commercial and educational orders for 30,000 and 1200 systems respectively reducing the total SPV units to be procured from 60,000 to 31,200 during October-November, 1993 at Rs. 22,489.80 per system. The Witness maintained during evidence that "the VPT was a high priority item and so targets were fixed at a high level initially. But later on they were reduced because it was realized that the target of this magnitude was not capable of being realized. I would therefore, agree with you that the target that was originally estimated was not a realistic one". Far from pleased with the argument of the Ministry, the Committee note that the Department failed to finalise and place orders for about six months after receipt of tenders in April, 1993. The Committee find that extremely unrealistic target was fixed by DoT for procurement of SPV units which only raises questions on the ability of the Department to make a realistic assessment of its own requirements. The Committee expresses its unhappiness over this and hopes the Department will hereafter exercise due care while making assessment of its requirements.

[Sl. No. 6 (Para No. 60) of Appendix II to 9th Report of the PAC  
(12th Lok Sabha)]

### Action Taken

The tender was floated procurement of 60,000/- SPV system it was opened on 28.05.93 orders for 31,200 SPV system were placed during October—December 1993 and orders for rest 30,000 units were placed in May, 1994.

Tenders are being floated by DoT on the basis of field Units requirement/assessment which are projected to planning cell of DoT. However, the actual requirement on realistic basis based on sanctioned estimates limited to the fund availability are being followed by DoT before finalization of any tender and during placement of purchase orders. Delay in finalization of the tender and placement of order as indicated in the PAC report is noted for future guidelines.

This has the approval of Member (P).

Sd/-  
(ANIL KAUSHAL)  
DDG(MM-I)

[Ministry of Communications O.M. No. 40-996-MMC926 dated 9.8.2000]

### Recommendation

Another aspect which engaged the attention of the Committee is related to the manufacture or supply of SPV panels by different firms. The Committee notes that CEL and BHEL have a very large capacity for manufacture of SPV panels. However, they feel that in the absence of any monitoring/inspecting mechanism, it was not clear whether other firms had established the facility or were supplying them after procuring the same or importing the panels. The Committee recommends that a suitable mechanism should be evolved by the Department so as to ascertain whether the supplier firms were purchasers/manufacturers. They would also like to be informed as to which firms were actual producers/manufacturers and which not in the matter under examination.

[Sl. No. 15 (Para No. 69) of Appendix II of 9th Report of the PAC  
(12th Lok Sabha)]

### Action Taken

It was stipulated in the tender that the suppliers registered to manufacture the items & equipments and having capacity are eligible to participate in the tender and accordingly the tenders are evaluated. While issuing Type of approval for a product, the various parameters including

the infrastructure facilities of different manufacturers are tested by TEC/ QA of DoT.

This has the approved of Member (P).

Sd-  
(ANIL KAUSHAL)  
DDG(MM-I)  
ANNEXURE V

No. 8—1994-MMS  
DEPARTMENT OF TELECOMMUNICATIONS  
TELECOM COMMISSION

Sanchar Bhawan, 20 Ashoka Road  
New Delhi-110001

Dated 19th December, 1994

To,

Chief General Managers, Telecom Circles.  
CGM Telecom Districts, Calcutta/Madras.  
CGM Projects, New Delhi/Bombay/Calcutta/Madras.  
CGM Telecom Maintenance, New Delhi/Bombay/Calcutta/  
Madras.  
CGM Task Force, Guwahati/Shimla.  
CGM Telecom Stores, Calcutta.  
CGM Quality Assurance, Bangalore.  
Sr. DDG, Telecom Engineering Centre, New Delhi.

SUB. *Issue of Guidelines for policy about Commercial & Educational Orders for the procurement of telecom equipment and stores.*

Telecom Commission has reviewed the policy about placement of Commercial and Educational Orders for the procurement of telecom equipment and stores and the final guidelines in this regard are enclosed at Annexure to this letter. These guidelines have been drawn in reference to the following context:

(1) We should encourage the development of more vendors even when there are established vendors available in sufficient number, so that a supplier always have the feeling that other vendors can come in if they can supply better equipment or cheaper equipment, everything else remaining the same.

(2) Ordinarily the bids should be invited only from the established suppliers and therefore the need for promoting the new vendors through the system of type approvals and educational orders on a continuing basis.

(3) There is no need for a vendor seeking educational orders to participate in tenders. He should, in fact, adopt the route of educational order now because it will be available on a continuing basis. Once the educational order has been executed successfully, the vendor becomes

eligible for bidding in response to a tender and qualifies as an established vendor.

(4) For the success of the new guidelines, it is necessary that the TEC and the QA deal with all applications for type approval as expeditiously as possible. They should entertain requestes from any new vendors for Considering an item of manufacture for type approval. There will be no need for such applicants to have any order in hand before their item can be considered for type approval. A vendor who have executed an educational order successfully will become eligible for participating in a tender alongwith other established suppliers.

Action as per the guidelines be taken by the concerned competent authorities.

Sd/  
(ARUN KUMAR)  
D.D.G. (MM-II)

Encls. As above.

Copy for information to:

1. PS to MOS (C).
2. Chairman, Telecom Commission.
3. Member (S)Member(P)/Member(T).
4. Advisor (P)Advisor(T)Advisor(Q)Advisor(HRD).
5. All DDsG in Telecom Commission.
6. Dir. (MMC)Director (MMD)Dir.(MMS)Director (MMT).

## **ANNEXURE I**

*Annexure to letter No. 8-19/94-MMS dated 19-12-94*

**SUBJECT** *Educational orders for the procurement of telecom equipment and stores—guidelines for.*

### **Nomenclature**

(1) The nomenclature of “educational order” will include what is currently known by the name of trial order or experimental order.

### **Type Approval**

(2) An educational order would be given only to a vendor who has obtained type approval of the equipment or item of store concerned from the TEC or the QA as the case may be.

### **Quantity of Order**

(3) The educational order for an item in favour of any vendor will be restricted in a year to a maximum of one per cent of the total requirement for the year or an amount of Rs. 25 lakhs. In case the requirement for the current year is not available, it will be restricted to one per cent of actual purchases made in the previous year.

### **Price**

(4) A vendor seeking to obtain an educational order will not be expected to participate in a bid for a tender. The order can be placed upon him subject to various restrictions given above or below at a price which is at least 10% less than the latest tender price for the concerned item. In case, the tender price for the current year is not yet available, the price would be fixed provisionally at 75% of the last year’s price which will be suitably adjusted to 90% of the current price when it becomes available.

### **Applicability**

(5) The Above guidelines will apply to the orders in respect of such items of telecom egu stores as are the subject of central purchase headquarters of the DoT or, the CGM, Stores at.

### **Exceptions**

(6) Any exception to the above guidelines made only in very-exceptional cases under the Telecom Commission.

DEPARTMENT OF TELECOMMUNICATIONS  
TELECOMMISSION  
(MM-II CELL)

**SUBJECT : *Regarding policy about Commercial and Educational Orders for procurement of Telecom equipments and stores.***

In continuation of this office letter of even number dated 19.12.1994 addressed to all the Heads of Circles with copy to others, certain points for rational operation of the above order are clarified as below:

(i) Since the Telecom Commission has already taken a decision setting a limit to the prices payable and the quantity for these educational orders, financial concurrence in individual cases will not be necessary.

(ii) To safeguard the interest of the Department, payment against educational orders for A&P items will be released only after successful A/T and induction of the equipment in the network. This, however, will not apply in respect of such items as Push Button Telephones, Solar Photovoltaic Power Sources, Masts, Towers etc.

(iii) Educational Orders against the above policy will be placed by the same authority as is entitled to procure commercial supplies.

Sd/-  
(ARUN KUMAR)  
D.D.G. (MMP-II)

To All Sr. DDsG/DDsG in Telecom Commission  
Sr. DDG(TEC), CGM,(QA), B'lore CGM TS Calcutta  
C.O. NO. 8—19, 94 MMS dated 24.01.1993

Copy to:

1. PS to MOS(C)
2. Chairman(TC)
3. Member(S)(P)(T)(F)
4. Advisor (P)(O)(HRD)(T)
5. Director—MMCMMDMMSMMT

**SECTION II**

**INSTRUCTIONS TO BIDDERS**

**A. INTRODUCTION**

**1. DEFINITIONS:**

- (a) "The Purchaser" means the Department of Telecommunications acting on behalf of the President of India.
- (b) "The Bidder" means the individual or firm who participates in this tender or its bid.
- (c) "The Supplier" means the individual or firm supplying the goods under the contract.
- (d) "The Goods" means all the equipments, machinery, and/or other materials which Supplier is required to supply to the Purchaser under the contract.
- (e) "The Advance Purchaser Order" means the intention of Purchaser to purchase the Purchase Order on the bidder.
- (f) "The Purchase Order" means the order placed by the Purchaser on the signed by the Purchaser including all attachments and appendices thereto documents incorporated by reference therein. The purchase order shall be deemed to be "Contract" appearing in the document.
- (g) "The Contract Price" means the price payable to the Supplier under the purchase order for the full and proper performance of its contractual obligations.
- (h) "Validation" is a process through which the equipment/system is tested to ascertain performance against set standards as per Tender specifications in Indian Tele Network.

**2. ELIGIBLE BIDDERS:**

The invitation for bids is open to all Indian companies registered to manufacture/supply tele-equipment/material and having obtained clearance from Reserve Bank of India when applicable. The proof of such registration in India shall form the part of the bid.

**3. COST OF BIDDING:**

The bidder shall bear all costs associated with the preparation and submission of the bid Purchaser, will in no case, be responsible or liable for these costs, regardless of the concluding outcome of the bidding process.



**B. THE BID DOCUMENTS:****4. BID DOCUMENTS:**

4.1 The goods required, bidding procedures and contract terms are prescribed in the Bid Documents. The Bid Documents include:

- (a) Tender Notice
- (b) Instruction to Bidders
- (c) General Conditions (Commercial) of the Contract
- (d) Special Conditions of Contract, if any
- (e) Schedule of Requirements
- (f) Technical Specifications
- (g) Bid Form and Price Schedule
- (h) Bid Security Form
- (i) Performance Security Bond Form

4.2 The Bidder is expected to examine all instructions, forms, terms and specifications in the Bid Documents, Failure to furnish all information required as per the Bid Documents or submission of bids not substantially responsive to the Bid Documents in every respect will be at the bidder's risk and shall result in rejection of the bid.

**5. CLARIFICATION OF BID DOCUMENTS:**

A prospective bidder, requiring any clarification of the Bid Documents shall notify the Purchaser, in writing or by telex or cable at the Purchaser's mailing address indicated in the Invitation for Bids. The Purchaser shall respond in writing to any request for clarification of the Bid Documents, which it receives not later than 20 days prior to the date for the submission of bids. Copies of the query (without identifying the source) and clarifications by the Purchaser shall be sent to all the prospective bidders who have received the bid documents.

**6. AMENDMENT OF BID DOCUMENTS:**

6.1 At any time, prior to the date for submission of bids, the Purchaser may, for any reasons, whether at its own initiative or in response to a clarification requested by a prospective bidder, modify the bid documents by amendments.

6.2 The amendments shall be notified in writing or by telex or FAX to all prospective bidders on the address intimated at the time of purchase of bid document from the purchaser and these amendments will be binding on them.

6.3 In order to afford prospective bidders reasonable time to take the amendments into account in preparing their bids, the Purchaser

may, at its discretion, extend the deadline for the submission of bids suitably.

### **C. PREPARATION OF BIDS**

#### **7. DOCUMENTS COMPRISING THE BID:**

The bid prepared by the bidder shall comprise the following components:

- (a) Documentary evidence established in accordance with Clause 2 and 10 that the bidder is eligible to bid and is qualified to perform the contract if his bid is accepted.
- (b) Bid Security furnished in accordance with clause 12.
- (c) A Clause by Clause compliance as per clause 11.2.
- (d) A Bid form and price schedule completed in accordance with clause 8.9 & 10.

#### **8. BID FORM:**

The bidder shall complete the Bid Form and the appropriate Price Schedule furnished in the Bid Documents, indicating the goods to be supplied, a brief description of the goods, quantity and prices as per section VII.

#### **9. BID PRICES:**

- 9.1 The bidder shall give the total composite price inclusive of all levies & taxes, packing, forwarding freight and insurance. The basic unit price and other component price need to be individually indicated to the goods it proposes to supply under the contract as per price schedule given in Section VII. Prices of incidental services should be quoted. The offer shall be firm in Indian Rupees. No Foreign exchange will be made available by the purchaser.
- 9.2 Prices indicated on the Price Schedule shall be entered in the following manner:
  - (i) The price of the goods shall be quoted inclusive of all taxes and suitable required packing for easy transportation. Excise duty, Sales Tax, Insurance, Freight and other taxes already paid or payable shall also be quoted separately item-wise.
  - (ii) The Supplier shall quote as per price schedule given in Section VII for all the items given in schedule of requirement.
- 9.3 The prices quoted by the bidder shall remain fixed during the entire period of contract and shall not be subject to variation on any account. A bid submitted with an adjustable price quotation will be treated as non-responsive and rejected.

- 9.4 The unit prices quoted by the bidder shall be in sufficient detail to enable the purchaser to arrive at prices of equipment/system offered.
- 9.5 "DISCOUNT, if any, offered by the bidders shall not be considered unless they are specifically indicated in the price schedule. Bidders desiring to offer discount shall therefore modify their offers suitably while quoting and shall quote clearly not price taking all such factors like Discount, free supply, etc. into account."
- 9.6 The price approved by the department for procurement will be inclusive of levies & taxes, packing, forwarding freight and insurance as mentioned in Para 9.1 above. Break-up in various heads like Excise duty, Sales Tax, Insurance, Freight and other taxes paid/payable required under clause 9.2(i) is for information of the purchaser and any change in these shall have no effect on price during the schedule period of delivery. However, if the purchaser order is for or placed by Mahanagar Telephone Nigam Limited, and they are not in a position to issue requisite certificate for claiming concessional rates of sales tax, (Form C), the supplier will be reimbursed the difference between the actual sale tax paid by him and that due under concessional rates, (at present 4%), had certificate to that effect been given. Similarly if octroi exemption certificate is not issued by Mahanagar Telephone Nigam Limited, the actual octroi paid by the supplier will be reimbursed. Such reimbursement of sales tax and octroi will be considered only if documents establishing actual payments are produced alongwith the claim.

**DOCUMENTS ESTABLISHING BIDDER'S ELIGIBILITY AND QUALIFICATIONS:**

- 10.1 The bidder shall furnish as part of his bid documents establishing the bidder's eligibility, the following documents:
- (i) Certificate of incorporation.
  - (ii) Articles of Memorandum of Association.
  - (iii) Registration Certificate from State Director of Industries or from Secretariat for Industrial Approval (SIA) Ministry of Industries, Government of India.
  - (iv) Approval from Reserve Bank of India/SIA in case of foreign collaboration.
- 10.2 The bidder shall furnish documentary evidence that he has the financial, technical and production capability necessary to perform the contract.
- 10.3 In order to enable the Purchaser to assess the provenness of the system offered the bidder shall provide documentary evidence regarding the system being offered by him.

10.4 In case the goods offered have been Type Approved/Validated by the Purchaser, documentary evidence to this effect shall be submitted by the bidder.

10.5 The offered product has to be type Approved by the purchaser. For this purpose, the supplier shall submit a sample type for evaluation by purchaser. The sample would be evaluated for its ability to meet the technical specification manufacturability, reliability, testability, ease of installation, maintainability etc. Necessary documents to substantiate these attributes will have to be submitted at the time of application of approval the supplier for obtaining Type Approval.

**DOCUMENTS ESTABLISHING GOODS CONFORMITY TO BID DOCUMENTS:**

Pursuant to Clause 7, the bidder shall furnish, as part of his bid, documents establishing the conformity of his bid to the Bid Documents of all goods and services which he proposes to supply under the contract.

A. The documentary evidence of the goods and services conformity to the Bid Documents may be in the form of literature, drawings, data etc. and he shall furnish:

A detailed description of the goods, with essential technical and performance characteristics;

B. A list giving full particulars including available sources and current prices, of all spare parts, special tools, etc., necessary for the proper and continuing

**SECTION VII  
PART-II  
PRICE SCHEDULE**

Sl. No.	Item Description	Quantity	Basic Unit Price exclusive of all levies & charges	%	Amt.	%	Amt.	%	Amt.	Any other levy/charges	Unit Price inclusive of all levies & Charges (4x6x8x10x11)	Total Price inclusive of all levies & Charges (3x12)	Discount offered if any	Total Discounted Price (13-14)	Import Counter as a % of basic and price (Ex. Factory price indicated in Col. 4)	17
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17

- |    |   |          |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|----|---|----------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| 1  | Waveguides  | 1,00,000 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 2  | Terminations (inclusive of sealing compound and tapes & glues, if any)      | 2,500    |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 3  | Pressure Windows  | 1,250    |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 4  | Flanging Tool Kit   | 50       |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 5  | Clamp   | 96,000   |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 6  | Grounding Kit (inclusive of 1 PVC Tape, 2" wide 25 meter long per two kits) | 2,500    |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 7  | Wall gland  | 1,250    |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 8  | Hoesing Stockings   | 100      |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 9  | E-Bend  | 2,500    |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 10 | H-Bend  | 2,500    |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 11 | Straight Waveguide piece 5 cm with PDR-70 flanges at both bends             | 2,500    |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 12 | Total Tracking Price :-   |          |  |  |  |  |  |  |  |  |  |  |  |  |  |  |

GOVERNMENT OF INDIA  
MINISTRY OF COMMUNICATIONS  
TELECOM. COMMISSION  
DEPARTMENT OF TELECOMMUNICATIONS  
SANCHAR BHAVAN: NEW DELHI—110001

No. 3-6/93-MMT

Dated 09.05.94.

**REVISED GUIDELINES FOR TENDER EVALUATION COMMITTEE  
(TEC)**

The following guidelines are hereby issued for information and guidance to the Tender Evaluation Committee (TEC). The guidelines provide broad procedures to enable in evaluation process. Correct evaluation decision will continue to depend upon the experience and good judgement of those who are responsible for evaluation.

1. The following documents should be handed over to TEC members by MM cell:

- (a) All bids accepted at the time of bid opening.
- (b) Bid document along with technical specification(s).
- (c) Guidelines, for TEC.
- (d) Minutes of the bid opening, if any.

The above documents should be received by TEC members personally.

2. wherever there is any variation between the 'Technical Compliance Statement' and the Drawings/Literature attached in support of or merely with Technical Compliance Statement, the bidders should be asked to clarify/confirm specifically the technical compliance. In cases where offered product is under-provided, the TEC should load the quoted price appropriately so as to bring it to the desired level of technical compliance.

**OF THE TENDERS, SHOULD NOT BE CONSIDERED AND SHOULD BE IGNORED.**

5. Only responsive bids should be evaluated in detail. A responsive bid is a bid, which satisfies following conditions of the bid documents:

- (a) It meets all the major technical clauses.
- (b) It meets commercial clauses.
- (c) The offer is accompanied by a bid security deposit on the prescribed proforma as indicated in the bid document and valid for 30 days beyond the validity of the bid in case of bid security. The validity of the bid as per current tender documents is 210 days from the date of bid opening.

6.1 The TEC should hold a preliminary meeting within one week of handing over of the tender documents. The activity as per 6.2.1, 6.2.2 and 6.2.3 below should commence immediately. The convener of the TEC may coordinate to ensure that the statements relating to 6.2.1, 6.2.2 & 6.2.3 are handed over to the Finance representative so that finance vetting can start.

6.2 In order to help the Tender Evaluation Committee to formulate its recommendations within a reasonable time frame the following allocation of responsibilities for different actions are indicated herein.

6.2. The technical evaluation and preparation of comparative statement of value of bids:—

This work is to be carried out by the technical branch representative(s) on the TEC. The technical comparative assessment of the material list is required to be done alongwith the corresponding prices to be taken for evaluation. Vetting of such comparative list will be done by the Finance representative on TEC.

6.2.2 Commercial Evaluation:

The commercial evaluation is to be carried out by the MM Cell representative in TEC and vetted by the Finance representative.

6.2.3 Vetting of the comparative statement of bids and commercial evaluation statement:—

This is to be done by the Finance representative on the TEC.

7. Once finally vetted statements become available (within pre-determined time frame), TEC may finalise its recommendations within further 10 days.

8. In case the Committee has listed out major technical and commercial conditions as evaluation criteria, the same should be clearly indicated in the report.

**ANNEXURE III**

No. DDG(MM. I)/Misc./96

**DEPARTMENT OF TELECOMMUNICATIONS  
(MM. I CELL)**

**SUBJECT: *Extension of delivery period and issue of new purchase orders.***

The Union Budget for 1997-98 announced on 28th February, 1997 has outlined reduction in Custom and Excise Duties. The reduction in Custom Duty is to the extent of 10%. It is thus in the fitness of thing to extend the delivery periods wherever required with a provisional price of 90%. Similarly the new APOs and POs should also be placed at the provisional price of 90%. Action may also be initiated as early as possible to finalise the prices. These instructions take effect immediately.

(Sd/-)  
(N.K. MANGLA)  
DDG(MM. I)  
4.3.1997

Director (MMC)

Director (MMD)

Copy for Information to:

1. Sr. DDG. (F)
2. DDG. (PF)
3. DDG. (MM.II)



GOVERNMENT OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS  
TELECOM. COMMISSIONS, SANCHAR BHAVAN, NEW DELHI  
No. 51—12/98—MMC/999

Dated 10.12.98

SUBJECT: *Issue of Policy guidelines for delivery period extension.*

The following guidelines, are hereby issued for information and guidance from the MM Cell of TCHQ. The guidelines provide broad procedure to consider the DP extension whenever department receive such requests from the vendors.

1. The following considerations should be borne in mind while examining the DP extension requests:

- (a) The delivery period extension should be given as a matter of exception based on reasonable justifications and not as a routine.
- (b) The department's requirement, over all supply status, alternative sources of supply, development target should be kept in mind.
- (c) The future procurement action, time taken for future supply to flow in, time taken for suppliers from other sources flow in and time taken for alternative course of action, to materialise should also be kept in mind.
- (d) A suppliers' track record of supply and other eligible suppliers' track record should also be kept in mind.
- (e) Announcement of Budget and opening of new tender should be kept in mind.
- (f) As far as possible, a uniform policy should be adopted in giving extension for Purchase Orders issued under the same tender.
- (g) Delivery period extension if agreed, should be given for reasonable duration so that repeated requests are not entertained.

2.1 A notice can be issued to non performing vendors irrespective of waiting for their request of DP extension and even prior to the expiry of delivery period.

2.2. If no communication is received in response to this notice, performance bank vendor should.

2.3. If the requirement was for the product that should have been type approved and no plausible explanation is received as to why type approval could not be obtained, then the PO should be closed forthwith.

3. Any request for delivery period extension should preferably be received before the expiry of delivery period or at the most within 30 days of expiry of delivery period. If no request is received within this period, it is reasonable to presume that the supplier is not serious regarding deliveries and Purchase Order should be shortclosed as a matter of rule even if the request is received subsequently.

4. The delivery period extension should always be counted from the date of expiry of original delivery period.

5. In order to settle the matter of extension at the initial stage expeditiously the DP extension should be considered at different stages as given below:

5.1. DP extension requests up to 8 weeks from the date of expiry of DP should be dealt with at the level of Director concerned in the MM Cell.

5.2. Such cases where DP extension is required to be granted beyond 8 weeks of the expiry of DP, are to be decided by DDG (MM-I)/DPG (MM-II) based on the merit of the case and they may grant further extension up to 8 weeks.

5.3. Even after this, if the vendors fail to complete the supply and as exceptional case, DP extension is to be considered in the interest of department, it should be done only with the approval of Advisor (P). The case may be put up to Advisor (P) for consideration only if the vendor has supplied minimum 33% of the ordered quantity. This extension should also be limited to a maximum of further 8 weeks.

5.4. Thus no DP extension beyond 24 weeks will be granted under any circumstances.

5.5 No repeat request should be considered at the same level and under no circumstances the DP extension may be given more than 3 times.

5.6. Cases which go beyond 12 to 16 weeks of DP extension...

6. Extension, should be given for a sufficient period allowing for QA and delivery etc. within the limits as prescribed in paras above.

7. Under no circumstances, a case will be allowed where more than two tenders are concurrent, *i.e.* if a new tender is opened and the orders from the previous tenders are still in the pipeline for execution, then there is no consideration of DP extension for the orders issued under earlier tender. For example:

If a tender for 1998-99 has been opened and orders from the tender opened in 1997 are in the pipeline, then the extension for orders issued in 1996-97 tender or earlier should not be granted at all.

8. These guidelines will become applicable from the date of issue of this letter.

9. These guidelines will be applicable on ITI, HTL and TFs also for orders placed through open tenders.

Sd/-  
(N. Meikanta Manickam),  
Director (MMC),  
Phone: 3032217,  
3711660.

Copy to:  
Sr. DDG (TX)/(BW)

DDG (RN)/LTP/MM-I/MM-II/PF/LF/VAS  
Director (MMD)/(MMS)/(MMT)/(FA-III)/(FA-V)  
All ADGs in MMC/MMD/MMT

[Ministry of Communications O.M. No. 40-9/96-MMC/926 dated 9.8.2000]

## CHAPTER III

### RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN THE LIGHT OF THE REPLIES RECEIVED FROM GOVERNMENT

#### Recommendation

The Committee observes that two firms namely M/s RES, Secunderabad and M/s ARM, Hyderabad were favoured by the Department in many ways. Instead of a proper rate analysis with reference to the tender of April 1993, DoT chose to justify inclusion of M/s ARM among the firms for placing the supply orders for a very large quantity besides placing bulk of the supply order on M/s RES during 1993 and 1994. Not being a type approved firm on the date of tendering, ARM was not eligible to be considered at all for placing commercial supply orders. The committee find, however, that they brought in this firm through back door by stating that the rate offered by ARM was close to the reasonable rate worked out by them after reducing the amount of fall in the international price of solar panel from the previous purchase price. The Committee note that the lowest rate quoted by ARM, though not a type approved firm, was fixed for supply by all firms, whereas RES, whose rates were the lowest among the type approved firms, was given benefit of substantial order for 7500 units constituting 25 percent of the total orders, with the approval of the Minister of State for Communications MoS(C) on the specious argument that this firm deserved more orders since it has quoted the lowest rate among the type approved firms. In order to favour M/s ARM, orders for 31,200 units only were placed during October—December, 1993 against the tender of 60,000 units and in the intervening period ARM was given type approval in August 1993 against their application of July 1993 and later given order for supply of 9,000 units. The Committee draw the unmistakable inference that undue favour was shown to M/s ARM and M/s RES who, between them, bagged supply orders for 14,000 units out of the total of 26,800 units for which DoT placed supply orders in May-June 1994, while others like BHEL, CEL REIL etc. got orders for only 3200 units each.

[Sl. No. 9 (Para No. 63) of Appendix II to 9th Report of PAC  
(12th Lok Sabha)]

**Action Taken**

M/s RES was the lowest bidder among the type approved vendors and M/s ARM, the new entrant in the tender had quoted lowest price in the tender. As per the policy of the department orders for 25% of the tendered quantity i.e. 7,500/-were orders on M/s RES being the lowest among the established suppliers. Though M/s ARM had quoted the lowest price in the tender, the firm was given an Educational Order of 500 units as it was not an established supplier.

To meet the requirement of 1994-95 it was decided to procure the balance quantity of 30,000 SPV systems against the tender opened on 28.05.93 instead of floating a new tender. Some of the companies not having type approval at the time of opening of the tender had obtained the type approval during the intervening period. As such the department decided to place orders not only on M/s ARM but on all such firms who were earlier technically compliant and were in possession of type approval at the time of placement of orders. It was decided to place orders for 9,000 units on M/s ARM only after it had executed Educational Order and had become established supplier. Orders for 5000 units were placed on M/s RES as it had quoted lowest price among the established supplier at the time of tender.

This has the approval of Member (P).

Sd/-  
(ANIL KAUSHAL)  
DDG(MM-I)

**PARA 63 & 65****Observations made by Audit**

1. Contention of DoT that 25% of tendered quantity was placed on RES is not correct. A copy of the policy that was existing may be supplied.
2. M/s ARM should not have been considered for placement of orders against 93-94 and 94-95 because of no type approval.

**Comments of DoT**

Tender No. 80-315/93-MMC for procurement of 60,000 SPV system was invited from the suppliers registered to manufacture tendered items. A total No. of 23 bidders had participated in the tender out of which 6 of the bidders were having type approval whereas remaining bidders were new entrants. Lowest prices among the type approved vendors was quoted by M/s RES as Rs. 24,800/-and out of the remaining technically qualified new entrants M/s ARM had quoted low cost rate as Rs. 22489.90. The price quoted by M/s ARM was approved for commercial orders.

Since M/s ARM was not having Type Approval on the day of opening of tender, an Educational Order of 500 units was placed on it against the tender. At the time of repeat orders during 1994-95 M/s ARM had obtained the type approval and it was decided at the level of the then MoS (C) to place commercial orders on M/s ARM as they had quoted the lowest rate.

It is submitted that M/s RES was the lowest bidder among the type approved vendors. Hence, it was considered for placement of orders to the extent of 25% of the ordered quantity. There was no laid policy guidelines for distribution of tendered quantity at that time.

This has the approval of Advisor (P).

Sd/-

(ANIL KAUSHAL)

Dy. Director General (MM-I)

**Recommendation 63****Audit Observation**

1. The policy guidelines about quantity distribution that was existing at that time is not provided to Audit. The quantity 25% order on RES is not correct.

**Comments of DoT**

The tender was invited from all the suppliers registered to manufacture tendered equipments/items in India and as many as 23 bidders had participated in the tender. Out of which 6 bidders were having type approval where as the remaining bidders were new entrants. M/s ARM had quoted the lowest rates among the new entrants. The price of Rs.22,489.90 quoted by M/s ARM was accepted and approved for the tender and the price was counter offered to all bidders.

Since M/s ARM was not having type approval on the day of opening of tender, but their price was lowest and accepted, it was decided to place educational order on ARM.

M/s RES had quoted the lowest rates of Rs.24,800/-per unit among the type approved vendors. It was, therefore, decided to order 25% of the tendered quantity *i.e.* 7500 units at the rate of Rs.22,489.90. At that time, there was no defined policy for distribution of tendered quantities. The higher quantities were however ordered on M/s RES being L-1 bidder amongst type approval vendors. From 1995 onwards, the details regarding the quantity distribution is framed and being followed (a copy enclosed).

This has the approval of Advisor (P).

Sd/-

(ANIL KAUSHAL)

Dy. Director General (MM-I).

**PROPOSED DISTRIBUTION OF QUANTITIES FOR ORDERING TO  
THE SELECTED**

**BIDDERS OF A TENDER**

Number of Bidders on whom the Order is proposed to be placed	Proposed quantity of distribution
2	L—1 should be given 70% L—2 should be given 30%
3	L—1 should be given 50%. Remaining quantities to other selected Bidders in INVERSE RATIO of their Evaluated price.
4	L—1 should be given 40%. Remaining quantities to other selected Bidders in INVERSE RATIO of their Evaluated price.
5 to 9	L—1 should be given 30%. Remaining quantities to other selected Bidders in INVERSE RATIO of their Evaluated price.
10 and Above	L—1 should be given 20%. Remaining quantities to other selected Bidders in INVERSE RATIO of their Evaluated price.

[Ministry of Communications O.M. No. 40-9/96-MMC/926 dated 9.8.2000]

**Recommendation**

The Committee further note that it was the policy of the DoT to give purchase preference to Public Sector Undertakings (PSUs) when their rates were comparable with the rates of private companies. On this, DoT maintained in a note that the purchases by them were of large quantities and no single firm could have perhaps met entire requirement. The Committee is unable to share the perception of the Department and feel



that the combined capacities of M/s BHEL and M/s CEL were good enough for the entire supply of SPV units after 1991-92 as per the information furnished to the Committee by the Department. The Committee desires that, other thing being equal, preference must be given to PSUs so that their often idle capacities are utilized to the optimum.

[Sl. No. 10 (Para No. 64) of Appendix II to 9th Report of PAC  
(12th Lok Sabha)]

#### **Action Taken**

Purchases by DoT are of huge quantities and no single firm can meet entire requirement. It is in the interest of the DoT to have multiple vendor base and to distribute the orders to the numbers of them to get timely supplies. Moreover since liberalization in 1991, the DoT has been purchasing equipment and materials against open competitive tenders instead of M/s ITI, HTL and other PSUs alone. There is no purchase preference to the other PSUs except that there is reservation of tender quantities to DoT PSUs namely M/s ITI and M/s HTL. Orders against these reserved quantities are placed as per tender conditions.

This has the approval of Member (P).

Sd/-  
(ANIL KAUSHAL)  
DDG(MM-I)

[Ministry of Communications O.M. No. 40-9/96-MMC/926 dated 9.8.2000]

## CHAPTER IV

### RECOMMENDATIONS/OBSERVATIONS REPLIES TO WHICH HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION

#### Recommendation

The Audit has also revealed that the international prices of the solar cells used on the SPV panels had come down since finalisation of rates for the previous purchase in November, 1991. However, the Committee are shocked to note that instead of conducting a proper rate analysis to arrive at the reasonable price for counter offer/negotiation with the firms, DoT approved the rate of Rs. 22,489.90 quoted by M/s Advance Radio Masts (ARM), assuming the unit price of SPV modules fixed in 1991 as the reference point for working out the rate reasonableness for procurement during 1993-94. Although the DoT took note of the fall in the international price of the solar cells while working out the reasonable price yet they altogether omitted the customs duty element on account of reduction in the international price of the solar cells. The Committee find that this significant omission inflated the unit price determined in October 1993 by Rs. 977 and the impact on exchequer was an excess payment of Rs. 3.05 crore on purchase of 31,200 SPV panels during 1993-94. According to a calculation made by Audit, if the price in the rate of 1991, which was taken as reference point for fixing the rate of 1993-94 is also taken into account, the excess payment to the suppliers would work out to Rs. 5.87 crore. The Committee, therefore, recommend that the Department investigate whether such a significant omission amounted to mere grave dereliction of duty or breach of trust on the part of concerned official(s). The Committee also recommends that only the officers of proven integrity and capable of protecting Government interest should be posted to such sensitive posts at decision making levels.

[Sl. No. 7 (Para No. 61) of Appendix II to 9th Report of PAC (12th  
Lok Sabha)]

#### Action Taken

The Tender Evaluation Committee (TEC) had fixed price of Rs. 22,489.90 per unit of SPV systems. The prices recommended by the TEC was lowest technically acceptable offer of M/s ARM. The lowest price (CL-1) has been emerged out of open competitive bidding where

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23 bidders had participated. The eligible bidders ranged from 22,489.90 to Rs. 35,640. It had earlier stated that the reduction of custom duty had not been taken into account while finalizing the prices. The price finalized was all inclusive *i.e.* of all duties and taxes.

The matter was referred to High Level Committee to investigate the matter constituted by DoT. The Committee report is enclosed.

This has the approval of Member (P).

Sd/-  
(ANIL KAUSHAL)  
DDG(MM-I)

#### COMMITTEE'S OBSERVATIONS

Para 61

It is seen from Tender Evaluation Committee (TEC) Report that unit price of Rs. 22,489.90 for SPV system recommended by TEC was based on the lowest technically acceptable offer of M/s ARM. This L-1 price emerged out of open competitive bidding, where 23 bidders had participated. The prices among the eligible bidders ranged from Rs. 22489.90 to Rs. 35640.00.

While recommending this price, the earlier tender price of Rs. 24,400/- and fall in international prices of SPV Cells is stated to have been taken into account by TEC. Price of Rs. 22,489.90 was considered reasonable by TEC assuming fall of 1 US \$ mentioned by Finance Member in TEC report. However, this Committee could not find any proof in support of that.

As prices recommended were inclusive of all duties except freight and insurance to be charged on actual basis, customs duty aspect was not considered anywhere in the file either by MM Cell or by Finance.

This Committee feels that the unit prices were obtained after fierce competition by 23 bidders. The objective of TEC was to determine the reasonableness of price rather than fixing it on the basis of past tenders. It cannot be inferred that unit price thus obtained was inflated due to non-consideration of reduction in Custom Duty on account of fall in international prices. Many factors influence the

price and there is no mechanism to take into account every possible reduction or increase in the input cost, thereby determining the final price.

Therefore, the Committee is of the opinion that there is no dereliction of duty on the part of any concerned official.

#### **Observation of Audit**

Reduction in CD was not considered while finalising the prices. Department may fix responsibility against concerned officials/officers.

#### **Comments of DoT**

The prices of SPV systems were fixed on the basis of lowest technically acceptable offer recommended by TEC in the said tender. There were as many as 23 bidders who participated in the tender. Out of 23 bidders 6 of them were having type approval whereas the remaining bidders were new entrants. The TEC consisting of officers from Planning, Finance and Commercial wings of DoT was set up to evaluate the tender. The TEC observed that the lowest quoted price among the type approved vendors was of M/s RES Systems at Rs. 24,800 and out of remaining technically qualified new entrants, the lowest price quoted was of M/s ARM at Rs 22489.90. While recommending the prices by TEC, it was noted that the prices of 1 W cells used for Solar Panel which were imported had come down by one dollar or more as gathered from the market resources. Many factors influence the price and there is no mechanism to take into account every possible reduction or increase in the import cost, thereby determining the final price. Accordingly, the TEC had recommended the prices of Rs. 22489.90. Moreover, it is submitted that TEC while evaluating the tender was not having any data with regard to custom duty. Hence, the element of custom duty was not taken into account while recommending the prices.

The matter was referred to High Level Committee of DoT. The Committee is of the opinion that "there is no dereliction of duty on the part of any concerned official."

In view of above, fixing of responsibility at this stage can not be considered.

This has the approval of Advisor (P).

Sd/-  
(ANIL KAUSHAL)  
Dy. Director General (MM-I)

**Recommendation****Audit Observation**

The element of custom duty is not taken into account while evaluating the tender by TEC in absence of data with regard to custom duty is not acceptable to Audit as any import content attracts custom duty. This fact ought to have been taken into consideration while fixing the rates.

**Comments of DoT**

It is stated that the percentage of import content was not called for in the Bid Document and not indicated by the bidders. In the absence of import contents, it was not possible for TEC to take duty into consideration. However, subsequently, these elements have been introduced in the tender and reduction in custom duty is taken into consideration while fixing the prices.

This has the approval of Advisor (P).

Sd/-  
(ANIL KAUSHAL)

Dy. Director General  
(MM-I)

[Ministry of Communications O.M. No. 40-9/96-MMC dated 9.8.2000]

**Recommendation**

Another disquieting feature which has been causing concern to the Committee is that the DoT adopted the rate quoted by ARM, not being a type-approved firm on the date of tendering, as the lowest and also favoured the latter with substantial portion of supply order. The Committee is perturbed to note that it was not clear whether any systems and control existed in the Department to ensure transparency in grant of type approval so crucial for placing supply orders. While ARM was given type approval within record 52 days and favoured with huge supply order, other firms like Keltron, BEL, Siemens, Pentafour Products and ITI Allahabad were granted type approval between March 1994 and October 1994. Further, the Committee are surprised to find that in their reply to a question on the dates of receipt of applications for type approval from different firms, DoT has indicated "date of application for type approval not readily available in respect of M/s Keltron and M/s Telematics, New Delhi." The Committee feel that it was an attempt to foreclose further scrutiny into the favourable treatment meted out to ARM in relation to grant of type approval. The Committee, therefore, desire

that the matter of grant of type approval be enquired into and the Committee be apprised of the outcome.

[Sl. No. 8 (Para No. 62) of Appendix II of 9th Report of PAC  
(12th Lok Sabha)]

#### **Action Taken**

Tender No. 80-315/93-MMC opened on 28.05.93 for the procurement of 60,000 SPV systems. 23 bidders had participated. Six (6) of the bidders having type approval whereas the remaining bidders were new entrants. M/s RES among the type approved vendors had quoted the lowest price of Rs. 24,800/- and out of remaining technically qualified new entrants, the lowest price was quoted by M/s ARM. It was also noted that TEC had recommended the lowest price of Rs. 22,489.90 and the same was offered both for Educational Order and Commercial Order.

Regarding the issue of type approval as desired by PAC, the matter was referred to High Level Committee. It was reported that in case of Telematics type approval was granted within 57 days and in case of M/s Keltron, it was granted in 43 days. More time was taken for issue of type approval to certain vendors as their products were rejected due to non-compliance with GRs and in environmental test not completed successfully.

As per the observations of High Level Committee, no favourable treatment to any company in issue of type approval have been shown (Copy annexed).

This has the approval of Member (P).

Sd/-  
(ANIL KAUSHAL)  
DDG(MM-I)

#### **COMMITTEE'S OBSERVATIONS**

Para 62 Time taken for Type Approval by different vendors for SPV Systems, as obtained from the Telecom Engineering Centre, is placed at Annexure-II. It may be seen that time taken for Type Approval by some companies was less than that of M/s ARM. In case of M/s Telematics, Type Approval was accorded within 57 days and in case of M/s Keltron, it was accorded in 43 days. More time was taken for issue of the Type Approval to certain companies as their products were rejected due to non-compliance with GRs and environmental test not completed successfully.

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Based on above, the Committee is of the opinion that no favourable treatment to any company on this accord appears to have been shown.

**Approval of SPV Power Generating Systems w.e.f. 01.01.93—01.09.99 (Region-wise)**

S. No.	Name of manufacturer	RTEC	As Per GR No.	Model No.	Date of offer	Date of Approval	No. of days	Remarks
1.	Innovation Comm. Ltd., Hyderabad	Central, Region Hyderabad	G/SPV-01/01 OCT 90	—	04.02.94	17.03.94	42	
2.	M/s Bharat Electronics, Machhapatnam	CR	G/SPV-01/01 OCT 90	BESP 9301	04.04.94	06.06.94	64	
3.	M/s ARM, Hyderabad	CR	G/SPV-01/01 OCT 90	ARM 7335	01.05.94	15.06.94	46	
4.	Kwick Sales, Hyderabad	CR	G/SPV-01/02 SEP 93	—	12.09.94	31.10.94	50	
5.	Reliable Power Systems, Hyderabad	CR	G/SPV-01/02 SEP 93	SPV-RPS94	12.09.94	31.10.94	50	
6.	U/v Solar Power Systems, Hyderabad	CR	G/SPV-01/02 SEP 93	UV 7335	22.09.94	01.11.94	41	
7.	Phoenix Tech. Corpn., Hyderabad	CR	G/SPV-01/02 SEP 93	SPPS 215	13.10.94	09.11.94	27	
9.	Sinclair Electronics, Hyderabad	CR	G/SPV-01/02 SEP 93	PEITCO 12870	23.04.94	10.11.94	49	
10.	RES, Hyderabad	CR	G/SPV-01/02 SEP 93	RESVR219-94	17.10.94	10.11.94	25	
					05.10.94	11.11.94	38	

HSE 01

13.	CR	G/SPV-01/02 SEP 93	28.11.94	14.12.94	17
14.	CR	G/SPV-01/02 SEP 93 XL/SPV/1270	28.11.94	14.12.94	17
15.	CR	G/SPV-01/02 SEP 93 BESP 9403	02.12.94	19.12.94	18
16.	CR	G/SPV-01/03 DEC 94 ARM 7335A	29.03.95	17.05.95	50
		G/SPV-01/03 DEC 94 HSE1-1			
18.	CR	G/SPV-01/03 DEC 94 XL/SPV/1270A	27.06.96	30.08.96	65
19.	CR	G/SPV-01/03 DEC 94 RESP-3R2199	10.09.97	19.09.97	10
		G/SPV-01/03 DEC 94 UV 7335			
		G/SPV-01/03 DEC 94 FP 250051			
		G/SPV-01/03 DEC 94 FP 250052			
		G/SPV-01/03 DEC 94 FP 250053			
		G/SPV-01/03 DEC 94 FP 250054			
		G/SPV-01/03 DEC 94 UV7335A			
26.	CR	G/SPV-01/03 DEC 94 XL/SPV 1270I	24.12.97	12.02.98	51



	2	3	4	5	6	7	8	9
27.	M/s Siemens Ltd. Aurangabad	West. Region Mumbai	G/SPV-01/02 SEP 93					Unit was rejected twice compliance of GR. & Environmental Tests
28.	M/s Rishabh Comm., Calcutta	East. Region Calcutta	G/SPV-01/02 SEP 93	—	29.06.94	28.09.94	92	Delay on the part of manufacturers in submitting galvanisation Test report
29.	We'bel SL. Energy System Ltd., Calcutta	CR	G/SPV-01/02 SEP 93	WS 17	27.10.94	02.12.94	37	
30.	-do-	ER	G/SPV-01/02 SEP 93	WS 35	27.10.94	05.12.94	40	
		Southern Region Bangalore						
32.	M/s Penta Four	SR	G/SPV-01/01 OCT 90	—	05.04.94	06.06.94	60	
34.	M/s Vinay ryotius	SR	G/SPV-01/02 SEP 93	—	05.08.94	01.09.94	25	
36.		SR	G/SPV-01/02 SEP 93		05.08.94	25.11.94	112	

37.	M/s Tata BP Solar	SR	G/SPV-01/02 SEP 93	1235TBP	24.08.94	01.11.94	66
			-do-	1270TBP			
			G/SPV-01/02 SEP 93	SPV Power Source			
				12V/70W			
40.	M/s Anco Communication Ltd.	SR	G/SPV-01/02 SEP 93	ANS/SPV/094	15.11.94	19.12.94	34
41.	M/s Keltron	SR	G/SPV-01/02 SEP 93	SPV95	02.03.95	09.03.95	7
			G/SPV-01/03 DEC 94	1270TBP			
43.	-do-	SR	G/SPV-01/09 DEC 94	1235TBP	25.08.97	19.10.97	54
			G/SPV-01/03 DEC 94	ANS/SPV-094			
							Renewal case
45.	M/s BHLL	SR	G/SPV-01/03 DEC 94	L1235	23.01.98	04.02.98	11
			G/SPV-01/02 SEP 93	NSS-3501			
							Renewal case
		Northern Region New Delhi					
47.	M/s Telemates India, NL	NR	G/SPV-01/02 SEP 93	11PL082 Series FN64	19.10.94	14.12.94	57
48.	M/s CEL. Sahibabad	NR	G/SPV-01/02 SEP 93	SPV-PS001	29.09.94	16.12.94	78
49.	M/s Telemates India Pvt. Ltd., ND	NR	G/SPV-01/02 SEP 93	TIPL-SPV003	02.12.94	06.01.95	35
50.	M/s Noval Electronics, ND	NR	G/SPV-01/02 SEP 93	-	19.12.94	07.02.95	50

	3	4	5	6	7	8	9
51.							
52.	NR	G/SPV-01/02 SEP 93	REIL	28.12.94	28.03.95	90	
54.	NR	G/SPV-01/03 DEC 94		01.03.95	28.07.95	149	Environmental change could not be arranged by manufacturer
55.	M/s CEL., Sahibabad	NR	G/SPV-01/03 DEC 94	SPV-PS002	23.10.96	10.12.96	48
56.	NR	G/SPV-01/03 DEC 94	NSS3301	22.10.97	27.10.97	6	Renewal Manufacturer could not arrange Environmental Change

Above has been compiled on the basis of information received from respective RTECs.

[Ministry of Communications O.M. NO. 40-996-MMC926 dated 9.8.2000]

### Recommendation

Another Grey area, where the Committee feel undue favour was given to these two firms was in the placing of repeat purchase order for SPV units on them. The Committee find that DoT favoured ARM with the orders of the MOS (C) dated 21 April, 1994 (Annexure-II) by placing commercial order for 9000 units in May, 1994, notwithstanding the standard clause in the original supply order on this firm in November, 1993 that repeat order not exceeding 100 percent shall be placed on the firm. However, the Committee are surprised to find that DoT placed repeat supply orders of a quantity 18 times the original supply order on this firm. DoT have stated that as ARM quoted the lowest price in the tender, which became the basis of procurement of entire quantity of 60,000 SPV panels, it was decided to place orders for 9000 units on ARM only after it has executed the educational order and had become established supplier. Further, the Committee note that the DoT placed repeat supply order on M/s RES for 5000 units in May, 1994 despite the fact that the firm had failed to complete the supply as per delivery schedule against an earlier supply order of October 1993 for 7500 units. The Committee were also informed during evidence that originally an order of 6000 units was proposed for ARM under the repeat order. But they find to their consternation that the MOS(C) had directed that supply order to M/s ARM should be increased from 6000 to 9000. The Committee were also informed by the Chairman, Telecom Commission, during evidence that there were other examples also where the MOS(C) had advised for fixing particular quantum of SPV panels while placing orders on various firms, and one of the these cases was the subject matter of CBI inquiry.

[Sl. No.11 (Para No. 65) of Appendix II to 9th Report of PAC  
(12th Lok Sabha)]

### Action Taken

It was decided to procure the balance quantity of 30000 SPV system during the year 1994-95 against the tender opened on 28.05.93 instead of floating of new tender. M/s ARM had completed the Educational order. It was decided to place order for 9000 units as it had quoted lowest price in the tender. Similarly, the orders for 5000 units was placed on M/s RES as their quoted price was lowest among the established vendor.

This has the approval of Member (P).

(ANIL KAUSHAL)  
DDG(MM-I)

**Para 63 & 65****Observations made by Audit**

1. Contention of DoT that 25% of tendered quantity was placed on RES is not correct. A copy of the policy that was existing may be supplied.
2. M/s ARM should not have been considered for placement of orders against 1993-94 and 1994-95 because of no type approval.

**Comments of DoT**

Tender No. 80—315/93-MMC for procurement of 60000 SPV system was invited from the suppliers registered to manufacture tendered items. A total No. of 23 bidders had participated in the tender out of which 6 of the bidders were having type approval whereas remaining bidders were new entrants. Lowest prices among the type approved vendors was quoted by M/s RES as Rs. 24,800/- and out of the remaining technically qualified new entrants M/s ARM had quoted low cost rate as Rs. 22489.90. The price quoted by M/s ARM was approved for commercial orders.

Since M/s ARM was not having Type Approval on the day of opening of tender, an Educational Order of 500 units was placed on it against the tender. At the time of repeat orders during 1994-95 M/s ARM had obtained the type approval and it was decided at the level of the then MOS (C) to place commercial orders on M/s ARM as they, had quoted the lowest rate.

It is submitted that M/s RES was the lowest bidder among the type approved vendors. Hence, it was considered for placement of orders to the extent of 25% of the ordered quantity. There was no laid policy guidelines for distribution of tendered quantity at that time.

This has the approval of Advisor (P).

(ANIL KAUSHAL)  
Dy. Director General (MM-I)

[Ministry of Communications O.M. NO. 40-9/96-MMC/926  
dated 9.8.2000]

### Recommendation

Another related aspect which engaged the attention of the Committee was that while other firms on whom the supply orders were placed in May, 1994 were given only two months' time for supply M/s RES and M/s ARM were given delivery schedule of six months from the date of supply orders. However, the Committee find that ARM failed to supply 7200 units even within the elongated delivery period. According to the DoT, the delivery period was fixed keeping in view the quantum of orders on the firms and since ARM and RES were given orders for larger quantities, these firms were given more time for supply. The Committee note that the reply of the Department is far from acceptable as a delivery period of four months was given for supply of 7500 units by RES in October 1993, while a delivery period of six months was granted to this firm in respect of the repeat order of 5000 units placed in May 1994. Similarly, in the case of ARM six months were given to RES and CEL for supply of 7500 and 7000 units respectively. From a close and critical scrutiny of written replies furnished by DoT to the Committee in response to their queries and the examination of the witnesses, the Committee observe that the two firms ARM & RES—were shown undue favours apparently for extraneous considerations, without any resistance or even whimper of protest from DoT. The Committee are appalled to note this attitude of complete surrender/complicity/connivance on the part of some higher officials of DoT which helped foist such a blatant irregularity. The Committee cannot but deplore that those who had a duty to point out the implications of the order of the Minister became mute bystanders rather instruments in the execution of irregular orders. Taking note of the arbitrary and adhoc manner in which the delivery schedule was fixed for supply of SPV panels by different firms without giving due regard to the quantity to be supplied, the Committee consider that it would be proper and essential to include this aspect as well within the ambit of independent ongoing investigation.

[Sl. No. 12 (Para No. 66) of Appendix II to 9th Report of PAC (12th Lok Sabha)]

### Action Taken

The delivery period was fixed on the basis of quantum of order and the time of the requirement. The order for 7500 units was placed on M/s RES in October 1993 was given for 4 months to meet the requirement by March' 94 whereas the DP was given 6 months for 5000 units which was ordered in May 1994 as these were required up to March, 1995. Similarly, delivery period of 6 months was given to M/s ARM for the supply of 9000 units ordered in May 1994 for the requirement of 1994-95.

The matter was referred to High Level Committee as desired by PAC. It was reported by the High Level Committee fixation of delivery period at different times and for different orders was made on the basis of requirement of SPV system and quantity ordered even in the bid document 6 month schedule was prescribed. Therefore, ulterior motive of any official can not be inferred (Copy enclosed).

This has the approval of Member (P).

(ANIL KAUSHAL)  
DDG(MM-I)

#### COMMITTEE'S OBSERVATIONS

Para 66 This Committee has gone through the files and noticed that for all commercial orders placed in Oct./Nov'93, uniform delivery schedule of about 4 months was given to all the vendors irrespective of quantity ordered. M/s CEL, REIL, TATA BP & ARM supplied SPVs within the given delivery period *i.e.*, upto 28.2.94 while M/s BHEL, RES and US could deliver SPVs upto 9.3.94, 19.3.94 & 22.3.94 respectively.

In case of repeat order during May/June'94, different yardstick was adopted for the purpose of determination of delivery period (DP). Two months were given to five companies *viz.*, REIL, KELTRON, BHEL, CEL and TATA BP for supply of 3200 SPVs each, while 6 months' DP was given to M/s ARM & M/s RES for supplying 9000 and 5000 SPVs respectively.

After going through the file of ARM, it was noticed that initially 11 months' DP was proposed by the concerned AD which was reduced to 8 months in APO. It could not be ascertained from the files on whose orders APO with 8 months delivery period was issued by ADG(CT). Subsequently, the aspect of DP was again considered at the time of issue of detailed Purchase Order. It was decided to get the comments from RN Planning Cell regarding Delivery Period. RN Planning Cell recommended 6 months as delivery schedule. Therefore, Purchase Order was placed with six months' delivery schedule which was in conformity with delivery schedule given in Bid Document.

In case of M/s RES, six months delivery schedule was mentioned in PO while supply rate was mentioned as 1000 for the 1st month and 2,000 each for subsequent months. Thus the entire supply for 5,000 would have been completed within 3 months' time.

The company *vide* their letter dated 9.6.94 requested to waive the condition for supplying 1000 Nos. in the first month. On the basis of that letter, a note was put up by Sr. AD(MT-II) to amend delivery schedule as 4 months at the following rate:

1st & 2nd Months	2000 Nos.
3rd Month	2000 Nos.
4th Month	1000 Nos.

However, Dir. (MMC) noted in the file to retain six months as D/S with the revised monthly schedule mentioned above. The necessary amendment to PO was issued by ADG(MT).

While giving the revised delivery schedule to M/s RES, a delivery period of 4 months would have been appropriate. On further investigation, it has been noted by this Committee that the supplier completed its supplies within 4 months, thereby, ruling out any connivance of any official with the firm.

It is observed by the Committee that MOS© had not given any specific order regarding delivery schedule to any of the companies. *Vide* his note dated 21.4.94, he had only desired to procure the equipment within the shortest possible time to fulfil rural telecom targets.

It is inferred that two months' delivery time in case of repeat order to other companies was given considering the noting of MOS© dt. 21.4.94 regarding early procurement.

It is concluded by this Committee that fixation of delivery schedule at different times and for different vendors was made on the basis of requirement of SPVs and quantity ordered. Even in the bid document, six months' delivery schedule was prescribed. Therefore, ulterior motive of any official cannot be inferred.

[Ministry of Communications O.M. No. 40-9/96-MMC/926  
dated 9.8.2000.]

#### **Recommendation**

The Committee find that DoT did not invoke the standard term of repeat supply orders in vogue in the department that any reduction in the rate received in response to the tender for that year would be applicable to the repeat supply orders also. The failure of DoT to invoke the standard clause of the contract resulted in an excess expenditure of Rs. 10.98 crore on the repeat orders for 19,600 SPV panels on six firms and ARM and RES were the major beneficiaries among others. According to the Department, the policy of giving new tender rate in the event of its being lower was invoked only in those cases where the delivery schedules of the earlier purchase orders were extended. However, the contention of DoT stands completely demolished in view of the fact that the Department included this condition in supply orders for SSPV panels placed on ITI



Bangalore, in October 1994, in which subsequent reduced rates fixed by them were made applicable with a financial gain of Rs. 2.17 crore. Thus, the Committee notes that it was a common practice in DoT that in cases where the finalisation of the rate for the next year's purchase was delayed, the supply orders were placed at provisional price, which were subject to revision in accordance with the price fixed in the tender for the current year's purchases. While deprecating such an unconscionable lapse which resulted in a loss of Rs. 10.98 crore to the exchequer, the Committee desires that responsibility should be fixed for such a grave lapse and stringent action taken against persons who showed undue favour to private firms and brought avoidable pecuniary loss to the Government.

[Sl. No. 14 (Para No. 68) of Appendix II to 9th Report of PAC (12 Lok Sabha)]

#### Action Taken

During the year 1994-95 it was decided to procure the balance quantity of 30000 SPV system against the last tender opened on 28.05.93. The orders were placed on the firms much before the opening of the new tender on 20.12.94. The orders were placed on the rate approved for the last tender and all terms and conditions were made applicable stipulated in the tender. The repeat orders were placed on the approval of the Competent Authority of the Department and in accordance with the prevalent DoT Policy.

As per the recommendations of the PAC, the matter was referred to High Level Committee constituted by DoT, the matter was examined by the High Level Committee and concluded that there is no irregularities of placement of the repeat orders.

This has the approval of Member (P).

Sd/-  
(ANIL KAUSHAL)  
DDG(MM-I)

#### COMMITTEE'S OBSERVATIONS

Para 68 Orders against the reservation Quota to DoT PSUs are placed much in advance before the opening of the tender whose prices and terms & conditions are finalised subsequently based on the new tender.

Against a repeat order of 30000 SPVs POs were placed much in advance (*i.e.*, in May & June, 1994) of opening of the new tender, *i.e.*, 20.12.94. This repeat order was considered on the firm prices of the last tender only.

Repeat orders were placed after due approval of the competent authority and this decision was taken collectively by MM & Finance Wing in accordance with procedures prevailing at that time.

The committee is of the opinion that no irregularity was done.

#### Recommendation 68

##### Audit Observation

When Deptt. issued add on order in May/June, 1994, a suitable clause as done in the order issued on ITI in Oct. 1994 had not been included. Audit desires to revise the entire reply and indicate action taken against concerned officials for the lapse.

##### Comments of DoT

It is stated that the add on orders were placed in May/June 1994, with a schedule delivery of 6 months. The repeat orders were considered as per the requirement in consultation with Planning Branch at the firm prices of last tender as there was considerable delay for opening of the tender. The NIT for the proposed tender was issued in September 1994 and the tender was opened on 20.12.94. From this, it can be seen that repeat orders were issued well in advance prior to the issue of NIT for opening a new tender. Hence, a suitable clause linking the prices of new tender could not be made in the repeated orders.

Whereas in case of ITI, Purchase orders were issued in October 1994 for the reserved quantity against tenders, *i.e.* orders were issued after the issue of NIT, the applicability of new tender prices were made applicable.

The PAC recommendation was referred to High Power Committee which observed that no irregularity was done.

This has the approval of Advisor (P).

Sd/-  
(ANIL KAUSHAL)  
Dy. Director General (MM-I)

[Ministry of Communications O.M.No. 40-9/96-MMC/926 dated 9.8.2000]

## CHAPTER V

### RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH GOVERNMENT HAVE FURNISHED INTERIM REPLIES

#### Recommendation

Yet, another matter which has caused considerable concern to the Committee is undue favour shown to M/s ARM on supplies made after the delivery schedule. The Committee note that ARM quoted the lowest rate of Rs.16,885 per system in response to a Notice Inviting Tender (NIT) issued by DoT in September 1994. They find that despite the failure of ARM to effect supplies within delivery schedule, and the option available with the DoT to foreclose the supply order as per the terms of the contract, the latter chose to procure the remaining units against the earlier supply order of May 1994 from the firm at the earlier higher price of Rs.22489.80 rather than foreclosing the supply order on the ground of non-adherence to delivery schedule. This resulted in an undue favour of Rs.4.38 crore to ARM on supply of 7200 units supplied after the schedule date of delivery. The Committee strongly deplore the action of DoT to charge liquidated damages of Rs. 0.34 crore for delay in supply rather than foreclosing the supply order which could have saved Rs. 4.04 crore to the Department. According to DoT the purchase order on ARM was issued on 23.5.1994 with delivery upto 22.11.1994. The extension in delivery period was granted upto 31.12.1994 with levy of liquidated damage charges on 14.11.1994 for 40 days prior to opening of the new tender on 20.12.1994. The Committee find that the extension was granted to the firm at the rates prevailing at that time. Against this background, the Committee observe that DoT themselves had in October 1994 placed order for 19630 units on ITI at a provisional rate of Rs. 17991.84 which was subsequently reduced to Rs.16885 on the basis of the rate fixed for 1994-95. In this context, the Committee are deeply concerned to note that ARM was allowed to continue the supply at the old higher rate even when they had themselves quoted much lower rate and DoT had placed order on a lower rate. The Committee are further shocked to find that ARM was allowed to continue supply at the higher rate even after the date of expiry of the extended period and much beyond the date of the tender for 1994-95. The Committee, therefore, strongly recommend that the matter should be investigated expeditiously and strongest punitive action taken against those who took the decision to charge liquidated damage for delay in

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supply rather than foreclosing the supply order particularly when DoT themselves had placed order on ITI in October 1994 at drastically reduced prices.

[Sl. No. 13 (Para No. 67) of Appendix II to 9th Report of PAC (12th Lok Sabha)]

#### **Action Taken**

The Purchase Order for 9000 units on M/s ARM was placed on 23.05.94. The delivery period was up to 22.11.94. The extension delivery period was granted up to 31.12.94 with levy of liquidated damage charges on 14.12.94 for a period of 40 days only. The extension was granted before opening of new tender on 20.12.94. The extension was granted to the firm that the rates prevailing at that time. While giving extension order on 14.12.94, the new rate in the forth coming tender to be opened on 20.12.94 was not taken into consideration due to lack of well-defined policy at that time.

Short closing of the order would have deprived the department of supplies during the year and as such no favour was granted to the firm. However, on the recommendations of P.A.C, the matter was referred to the High Level Committee constituted by DOT. The Committee had examined in details and has come to the conclusion that irregularities in this case have occurred and this needs to be examined by Vigilance Cell.

The matter is being referred to Vigilance Cell for further investigations.

This has the approval of Member (P).

Sd/-  
(ANIL KAUSHAL)  
DDG(MM-I)

#### **COMMITTEE'S OBSERVATIONS**

Para 67 The delivery schedule for Purchase Order of 23 May, 1994 on M/s ARM Ltd. expired on 22 Nov'94. The Department's action to grant extension in D/S up to Dec'94 appears to be usual course of action, preferable to short-closure of orders obviously on account of the need to get the equipment as planned to the extent possible. However, while giving extn. order on 14.12.94, possibility of obtaining a lower rate in the

forthcoming tender to be opened on 20.12.94 was not taken into account possibly due to lack of well defined policy at that time in this regard.

M/s ARM Ltd. however, completed the actual supplies much after the expiry of extended delivery schedule. It is found that QA continued to issue inspection Certificates upto 14.2.95 without asking for the DOT's extension order beyond 31.12.94. The material was delivered as late as 10.6.95 and paid for at P.O. rates without insisting for the DOT's extension order.

This Committee after deliberations has come to the conclusion that irregularities in this case have occurred and this needs to be examined by Vigilance Cell.

[Ministry of Communications O.M. No. 40-9/96-MMC/926 dated  
9.8.2000]

NEW DELHI;  
27 November, 2000

6 Agrahayana, 1922 (Saka)

NARAYAN DATT TIWARI,  
*Chairman,*  
Public Accounts Committee.