

FIFTY-FOURTH REPORT

PUBLIC ACCOUNTS COMMITTEE  
(2003-2004)

(THIRTEENTH LOK SABHA)

REVIEW OF PROCUREMENT FOR  
OP VIJAY (ARMY)

MINISTRY OF DEFENCE

Presented to Lok Sabha on 06.08.2003

Laid in Rajya Sabha on 06.08.2003

*LOK SABHA SECRETARIAT*  
NEW DELHI

August, 2003/Sravana.1925 (Saka)

# CONTENTS

	PAGE
COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE (2003-2004)...	(iii)
INTRODUCTION .....	(v)
REPORT .....	1

## PART II \*

Minutes of the Sitzings of Public Accounts Committee held on 5.4.2002,  
4.2.2003, 23.4.2003, and 31.7.2003

**COMPOSITION OF PUBLIC ACCOUNTS COMMITTEE**  
**(2003 - 2004)**

- Chairman

LOK SABHA

2. \*Shri Haribhai Chaudhary
3. Shri Priya Ranjan Dasmunsi
4. Shri M.O.H. Farook
5. Dr. Madan Prasad Jaiswal
6. Shri Raghunath Jha
7. Dr. K. Malaisamy
8. Dr. M.V.V.S. Murthi
9. Shri Rupchand Pal
10. Shri Mohan Rawale
11. Dr. Nitish Sengupta
12. Shri Raghuraj Singh Shakya
13. Shri Brij Bhushan Sharan Singh
14. Shri Kirit Somaiya
15. \*\*Shri Bhartuhari Mahtab

RAJYA SABHA

16. Shri Santosh Bagrodia
17. Shri Prasanta Chatterjee
18. Shri K. Rahman Khan
19. Shri Bachani Lekhraj
20. Dr. Alladi P. Rajkumar
21. Shri C.P. Thirunavukkarasu
22. Prof. Ram Gopal Yadav

**LOK SABHA SECRETARIAT**

- |    |                         |   |                      |
|----|-------------------------|---|----------------------|
| 1. | Shri P.D.T. Achary      | - | Additional Secretary |
| 2. | Shri S.K. Sharma        | - | Joint Secretary      |
| 3. | Shri Raj Shekhar Sharma | - | Deputy Secretary     |
| 4. | Shri J.B. Baisakh       | - | Assistant Director   |

\*Shri Haribhai Chaudhary, MP resigned w.e.f. 9<sup>th</sup> May, 2003 and re-elected w.e.f. 30<sup>th</sup> July, 2003.

\*\*\* Shri Bhartruhari Mahtab, MP elected w.e.f. 30<sup>th</sup> July, 2003 vice Shri Chinmayanand Swami, MP ceased to be a Member on his appointment as Union Minister w.e.f. 24<sup>th</sup> May, 2003

## **INTRODUCTION**

I, the Chairman, Public Accounts Committee having been authorised by the Committee to present the Report on their behalf, do present this 54<sup>th</sup> Report on the Report of C&AG of India for the Year ended 31 March 2001, (No. 7A of 2001), Union Government (Defence Services) on 'Review of procurement for OP Vijay (Army)'.

2. The Report of the C&AG of India for the year ended 31 March, 2001 (No. 7A of 2001), Union Government (Defence Services) was laid on the Table of the House on 11 December, 2001.

3. The Committee took the evidence of the representatives of the Ministry of Defence on the subject at their sittings held on 5<sup>th</sup> April, 2002, 4<sup>th</sup> February, 2003 and 23 April, 2003. The Committee considered and finalised this Report at their sitting held on 31 July, 2003. Minutes of the sitting form Part II of the Report.

4. The Committee would like to express their thanks to the Public Accounts Committees (2001--2002) and (2002-2003) for taking evidence on the subject obtaining information thereon.

5. The Committee would like to express their thanks to the officers of the Ministry of Defence for the cooperation extended by them in furnishing information and tendering evidence before the Committee.

6. 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;  
August, 2003  
Sravana, 1925(Saka)*

**SARDAR BUTA SINGH,  
Chairman,  
Public Accounts Committee**

## REPORT

### Introduction

`Operation Vijay' was launched in May 1999 to flush out Kargil intruders. The emergent situation demanded innovative procedures to ensure that we rapidly boost the combat capability of our troops engaged in `OP Vijay'. The effective steps involved a graduated induction of 8 brigades and 1 Division headquarters. The Ministry of Defence considered the procurement procedure in the context of a `war like situation' and issued a `modified procedure for expeditious procurement during OP Vijay' on 21 June 1999. The Government order envisaged following modifications in the procurement procedure which were applicable for the duration of `OP Vijay' and for the items specifically required for `OP Vijay':-

#### I. "Simplification of terms of contract

(A) **Performance Bank Guarantee:** Since the delivery of the stores for `OP Vijay' are required urgently, submission of Performance Bank Guarantee by the vendor need not be insisted upon. The performance of the vendor, however must be suitably monitored and it should be impressed upon the vendor that he runs the risk of getting disqualified or even black-listed if he fails to perform according to conditions of contract.

(B) **Advance payment:** Since the time-frame for the delivery of the stores is required to be short, conditions of making advance payment against bank guarantee should be discouraged. Instead, the vendor should be impressed upon to accept payment through Letter of Credit, on dispatch of stores. However, certain percentage of payments, depending upon the nature of the stores involved, should be withheld to be released only on receipt and inspection of stores in India.

(C) **Warranty Bank Guarantee:** Warranty Bank Guarantee should be continued to be sought as per the conditions of the RFP as a security against the provisions of warranty services by the vendor."

#### II. Simplification of Procedure

With regard to simplification of procurement procedure, the Ministry in their order issued on 21 June 1999 further stated:

"In order to expedite processing and approval of cases by the Competent Finance Authority (CFA), the undermentioned procedure would be followed:

(A) **Price Negotiation Committee (PNC) Report:** PNC Reports should be prepared at the conclusion of the PNC, it should be comprehensive, precise and signed by all members. If there has been a

need to seek deviation from the conditions stated in the Request for Proposal (RFP), all such deviations should get listed along with reasons for seeking such deviations. At the stage of the approval of PNC Report itself, approval of Integrated Finance and the CFA for incurring expenditure and sanction for FE would be obtained.

(B) **Foreign Exchange Release:** Approval of the Competent Financial Authority for release of foreign exchange should be obtained while seeking approval for expenditure itself. However, the outgo of foreign exchange, specific to the stages prescribed in the contract should be noted down separately in the manner prescribed under Ministry of Defence ID No. 1590/Addl.FA(D)/99 dated 17.6.1999. The noting of foreign exchange will be certified by the DFA/Director and a copy of such notings shall be sent to the Budget Division on weekly basis. UO Note number will be provided by the respective finance wing while processing the case for expenditure clearance.

(C) **Monitoring of post contractual work:** Joint Secretary concerned will nominate a nodal officer for monitoring post contractual work as also following up of the cases with CDA(HQrs)/SBI/RBI as may be required. Similarly, Additional Financial Adviser will also nominate a nodal officer in the respective finance wing for this purpose.”

Hostilities ceased on 26<sup>th</sup> July, 1999 and the Kargil operation was over. But ‘OP Vijay’ was extended upto 31<sup>st</sup> January, 2000.”

### **Genesis of Review/Special audit of defence procurements**

2. There have been recurring allegations of grave irregularities in defence procurements. The matter was raised in Rajya Sabha on 23<sup>rd</sup> December, 1999. Responding to the concern of Members, the Defence Minister had assured the House that he would have the matter thoroughly investigated. The Ministry of Defence had on 10<sup>th</sup> February, 2000 (reproduced as Annexure I) written to the C&AG to take up a Review/Special Audit on:-

- (a) Allegations made by a Member of Parliament during the course of short duration discussion on Defence Procurement Procedure in the Rajya Sabha on 23<sup>rd</sup> December, 1999.
- (b) Allegations made regarding irregularities in the emergency procurement of items for Kargil related operations.
- (c) Cases where the transfer of technology was contracted and paid for, but technology did not actually get transferred and indigenous production did not start.
- (d) Based on this request, the audit decided to:

- (a) assess the efficiency, economy and effectiveness of the defence procurement system, and
- (b) identify the major cases of irregularities.

3. The Report of C&AG on Review of Procurement for OP Vijay (Army) was tabled in Parliament on 11<sup>th</sup> December, 2001.

4. According to Audit, the Ministry of Defence relaxed extant procedures to quickly secure supplies for Operation Vijay launched in May/June 1999. Of the purchases aggregating Rs.2175.40 crore, connected papers for 123 contracts worth Rs.2163.09 crore were reviewed in this report.

4.1 The Audit Report highlighted that nearly all the supplies were either received or contracted and received well after cessation of hostilities and therefore in no way supported the operations. Supplies valued at Rs.2150 crore were received after the cessation of hostilities in July 1999, of which supplies valued at Rs.1762.21 crore were received after January 2000, i.e 6 months after cessation of hostilities. Supplies valued at Rs.1606.26 crore (75 percent) were contracted after the cessation of hostilities in July 1999.

4.2 In 35 cases detailed in the report, relaxation of rules and procedures led to the Government knowingly paying Rs.44.21 crore more for certain items, ordering supplies worth Rs. 260.55 crore which did not meet qualitative requirements, being saddled with shelf life expired ammunition aggregating Rs.91.86 crore and purchases in excess of authorisation/requirement aggregating Rs.107.97 crore. Besides, ammunition worth Rs.342.37 crore was contracted for import on grounds of operational emergency even though it was being produced in ordnance factories/ PSUs. Further more, delays at various stages of processing the cases hindered timely deployment of stores aggregating Rs. 199.42 crore. Thus, while critical supplies of clothing, ammunition and arms could not reach the troops during the operation, an amount of Rs.1046 crore, almost half of the total, entirely in foreign exchange, was spent fruitlessly, breaching established principles of propriety.

## **5. Selection of subject and need for CVC Report**

5.1 The Committee at their sitting held on 19<sup>th</sup> December, 2001 selected the entire Report of C&AG regarding "Review of Procurement for OP Vijay (Army)" for detailed examination. The C&AG who attended the sitting suggested that the Committee may like to refer to the Report of Central Vigilance Commission (CVC) on 'Defence Deals' in the context of their decision to examine defence procurements for 'OP Vijay'. The Committee were informed that at the instance of Chairman, PAC the matter was taken up with CVC for furnishing a copy of the Report on the 'Defence Deals'

5.2 The CVC vide their letter dated 23<sup>rd</sup> August, 2001 (reproduced at Annexure II) inter-alia stated:

“The Interim Report on the subject was submitted to the Government on 7<sup>th</sup> August, 2000 and the final Report was submitted on 31<sup>st</sup> March, 2001. As the Reports were based on secret and top-secret documents of the Ministry of Defence, the Reports have also been classified as ‘Secret’. All the files concerned with the Reports are with the Ministry of Defence. We have brought the request of the Chairman, PAC to the notice of the Ministry of Defence. The PAC may like to take up the matter with the Ministry of Defence so far as submission of the CVC reports on the Defence Deals are concerned.”

5.3 The matter was accordingly taken up with Ministry of Defence, who vide their letter dated 17<sup>th</sup> January, 2002 inter-alia stated :

“The CVC Report on Defence Deals is based on ‘Secret’ and ‘Top Secret’ documents of the Ministry of Defence as well as on the reports of IB and CBI. Therefore, the Report has been classified as ‘Secret’. In the recent session of the Lok Sabha, a provisional starred Question Dy.NO.2166, for answer on 22.11.2001, pertaining to CVC Report on Defence Deals had come up. The Ministry sought disallowance of the Question under rule 41(2)(xxi) of the Rules of Procedure and Conduct of Business in Lok Sabha on the ground that the CVC Report is ‘Secret’ and it will not be in public interest to divulge the contents of the Report. The Ministry’s request was acceded to and the Question was disallowed.

In view of above, it is humbly submitted that, under proviso to Rule 270 of the Rules of Procedure and Conduct of Business in Lok Sabha, the Ministry is not in a position to supply a copy of the CVC Report on Defence Deals as it would be prejudicial to the interest of the State.

This issues with the approval of Raksha Mantri.”

5.4 On 28<sup>th</sup> January, 2002 the Committee discussed at length the issue of denial of CVC Report by the Ministry of Defence. Sharing his views on the stance taken by the Ministry regarding submission of CVC Report on ‘Defence Deals’, the C&AG opined that mere ‘secrecy’ ought not to be taken as a plea and the Ministry should attribute plausible reasons to that effect. He stated that while the Ministry entrusted both C&AG and CVC to inquire into the defence deals, an anomalous situation has arisen where findings of C&AG have been made public whereas ‘secrecy’ has been claimed in respect of findings of CVC (Minutes dated 28<sup>th</sup> January, 2002 reproduced at Annexure III).

5.5 In the meantime, Raksha Mantri had written a letter dated 15/23 January, 2002 (reproduced at Annexure IV) to the Members of Parliament. Alongwith this letter, he had circulated to the Members of Parliament a booklet namely **“The Whole Truth with all the Documents about the Aluminium Caskets bought**



**by the Defence Ministry in 1999-2000”** compiled by one Shri R.V. Pandit, a Journalist. The booklet of Shri R.V. Pandit calls C&AG “as culprit and Members of Parliament especially those in opposition having disgraced their tribes by raising the issue of Aluminium Caskets based on canards”. The RM describes the Report “comprehensive and fully documented”. At the instance of the Committee, the MOD had submitted a list of documents furnished to Shri R.V. Pandit by the MOD in connection with the publication of the booklet (list of documents placed at Annexure V). Asked about the nature of those documents and whether those documents were made available to other journalists as well, the Ministry in a note inter-alia stated:

“These unclassified documents were supplied to other Journalists also on their request. No formal request was received from Journalists. However, Journalists directly approached the RM and these documents were given to Journalists who sought them.”

5.6 Asked further as to the level at which the decision was taken to supply papers/documents regarding purchase of aluminium caskets to Shri R.V. Pandit, the Ministry stated:

“It was a decision of the Raksha Mantri to keep the media informed about important developments. The contents of the C&AG report were under intense media scrutiny and it was the right of any journalist who demands information or copies of any documents to receive them and to use them to keep the public informed. It was in this context that a background note and related documents were given to Shri R.V. Pandit.”

5.7 The Committee specifically desired to know as to whether it was proper on the part of the Ministry of Defence to divulge papers/documents on purchase of aluminium caskets to a private person intending to publish a booklet on the subject which was already under consideration of the Public Accounts Committee. The Ministry in a note stated as follows:

“C&AG Report was tabled in Parliament on 11.12.2001. A reply had already been sent to the C&AG relating to this paragraph. This was part of the normal dialogue between the C&AG and the Ministry of Defence related to the Draft Audit Para and then the Audit para.

A Questionnaire on the CAG Report, including the procurement of aluminium caskets was received from the PAC on 2<sup>nd</sup> January, 2002. This was the first intimation to the Ministry of Defence that the PAC was going to examine this transaction. The first set of replies to the PAC questionnaire was sent on 31<sup>st</sup> January, 2002

The Book of Shri R.V. Pandit was released on 7 January, 2002. Shri R.V. Pandit had collected the material from MOD during the month of December, 2001.

It would, thus, be seen that the reply sent to the PAC was after the book of Shri R.V. Pandit had been published and in no way has the confidentiality of the proceedings before the Public Accounts Committee been compromised.”

5.8 The matter regarding circulation of R.V. Pandit's pamphlet to Members of Parliament by the RM was discussed by the Committee at their sitting held on 20<sup>th</sup> February, 2002 (minutes reproduced at Annexure VI). It was decided that the collective views of the Committee arising out of Defence Ministry's refusal to supply the CVC Report on Defence Deals and Defence Minister forwarding the booklet of Shri R.V. Pandit on Aluminium caskets to Members of Parliament containing derogatory remarks may be brought to the notice of Hon'ble Speaker (HS).

5.9 The then Chairman met Hon'ble Speaker on 26<sup>th</sup> February 2002 when Hon'ble Speaker decided to have a meeting with RM and Chairman, PAC on 28<sup>th</sup> February, 2002. The meeting however, could not take place due to resignation of the then Chairman following his appointment as Chief Minister of Uttarakhand State. The new Chairman again took up the matter with Hon'ble Deputy Speaker, (there being vacancy in the Office of HS), however, for paucity of time Hon'ble Deputy Speaker, later decided that the matter may be settled by the new Speaker.

5.10 In the meantime, the Committee decided to proceed with examination of Audit Report on 'OP Vijay'. On 5<sup>th</sup> April, 2002 the Committee took oral evidence of representatives of Ministry of Defence on 6 paragraphs contained in the Audit Report on 'Review of Procurement for 'OP Vijay' .

5.11 The new Chairman met HS on 14<sup>th</sup> June, 2002 when HS decided to have a further meeting with the RM and Chairman, PAC. On 3<sup>rd</sup> July, 2002 HS convened a meeting of both Chairman, PAC and the RM. HS suggested that views of the Members of PAC be ascertained and he be apprised accordingly. As desired by Hon'ble Speaker, the Chairman, PAC convened a Special sitting of PAC on 10<sup>th</sup> July, 2002( Minutes reproduced at Annexure VII). The issues pertaining to denial by Ministry of Defence to supply CVC Report to the Committee and circulation of R.V. Pandit's booklet to Members of Parliament, were extensively deliberated and the Committee arrived at the following conclusions:

- (a) On the question of CVC report on 'Defence deals', the Committee resolved unanimously that the Report should be made available to them by the Ministry of Defence in the context of examination of C&AG's Report on "Review of procurement for 'OP Vijay' Army", which deals with defence procurements; and
- (b) As regards the letter written by the Defence Minister to all the Members of Parliament authenticating and circulating the booklet of Shri R.V. Pandit, containing derogatory remarks against the C&AG, a constitutional body and the Members, the Committee unanimously resolved that the matter regarding possible breach of privilege also amounting to interference in the functioning of the Committee by the Defence Minister be brought to the notice of HS for examination by the Privilege Committee.

5.12 On 17<sup>th</sup> July, 2002 the Chairman, PAC submitted a note to HS apprising him of the discussions of PAC on both the issues. Subsequently, at their sittings held on 4<sup>th</sup> February, 2003 and 23 April, 2003 the Committee took oral evidence of the representatives of the Ministry of Defence on five paragraphs contained in the Audit Report on 'OP Vijay'. In the sitting held on 23<sup>rd</sup> April, 2003 the Committee specifically desired to know from the Defence Secretary whether the Ministry still held the same view on disclosure of CVC Report, the Defence Secretary replied in the affirmative.

## **Observations**

6. Since the Public Accounts Committee are seized of the examination of the report of C&AG dealing with procurement transactions during 'OP Vijay', PAC desired the Ministry of Defence to make available CVC report on 'Defence Deals' for reference. The Ministry however, declined to submit the CVC report to the Committee on the plea that "it is based on Secret and Top Secret documents" and therefore, ..... "it would be prejudicial to the interest of the state". As a matter of fact, while the Ministry entrusted both C&AG and CVC with inquiring into the defence deals, an anomalous situation had arisen where findings of C&AG were made public whereas 'secrecy' has been claimed under Rule 270 of Rules of Procedure and Conduct of Business in Lok Sabha in respect of findings of the CVC. The Committee are surprised that such a vital document which was considered essential for scrutiny of these procurements has been withheld from them on the ground of secrecy.

7. In the face of refusal by MOD in supplying the CVC Report, the Committee regret their inability to give their findings on the defence procurement transactions reported in the C&AG's Report on "Review of Procurement for 'OP Vijay' (Army)".

*New Delhi,  
4 August, 2003  
13 Shrawana 1925 (Saka)*

*SARDAR BUTA SINGH  
Chairman,  
Public Accounts Committee*