

Competition Requirements under Indian Procurement Laws

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Promoting Competition in Government Contracts

- Competition Act, 2002
 - Agreements/ Actions in Concert
 - Abuse of Dominance
 - <http://www.cci.gov.in/menu2/cci%20seminar%202009%20-%20sv%20-%20competitive%20public%20procurement%20in%20the%20states.pdf>
- Public Procurement Guidelines
 - Fair, transparent and reasonable/ non-arbitrary procedures
 - <http://www.buylawsindia.com/General%20L&R%20Frameworks.htm>

Promoting Competition in Government Contracts–II

- Integrity Pacts
 - Equitable Treatment of Bidders
 - Providing Equal Information to Bidders
 - Prohibition on Undisclosed Agreements amongst Bidders
 - Oversight through IEMs
 - <http://www.buylawsindia.com/Integrity%20and%20Anti-Corruption.htm>
- CVC Guidelines
 - <http://cvc.nic.in/vscvc/purguide.pdf>
 - http://cvc.nic.in/proc_works.htm

Anti-Competitive Provisions in Government Contracts

The Non-Compete Clause

- Where
 - Infrastructure Concessions
 - Other PPP Contracts
- How
 - Winner has a right of first refusal or price advantage to subsequent contracted decisions
- Implications on Competition and Best Value
- More
 - <http://www.financialexpress.com/printer/news/620519/>
 - http://www.cci.gov.in/images/media/completed/ConAgreInfraSect_20100401141506.pdf

Swiss Challenge Procurement

- Where
 - Infrastructure
 - Other Sectors
- How
 - Originator of unsolicited proposal has right of first refusal/ price advantage in instant procurement
- Implications on Competition and Best Value
- More
 - http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1671081
 - http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1464685

First-Come, First-Serve

- Where
 - Natural and Public Resources
- How
 - First Past The Post Wins
- Implications on Competition and Best Value
- More
 - <http://issuu.com/world.bank.publications/docs/9780821381670?mode=embed&layout=http://skin.issuu.com/v/light/layout.xml&showFlipBtn=true>
 - http://tistats.transparency.org/index.php/content/download/56815/907896/WP_Timber_Licensing_3_November_2010.pdf

Contract Bundling

- Where
 - Infrastructure
 - Capital Equipment and after-sales MRO services
- How
 - Small and Big
 - Core and Non-Core
 - Overt and Covert
- Implications on Competition and Best Value
- More
 - <http://www.financialexpress.com/printer/news/571813/>
 - http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1464694

Mandatory e-Procurement

- Where
 - Rate Contracts
 - MSMEs
 - CPSE Procurements
- How
- Implications on Competition and Best Value
- More
 - <http://www.financialexpress.com/printer/news/587166/>
 - http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1464697

- Thank You

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