

REDACTIVE PRICING AUDIT AND THE CAG'S DUTIES

Relevant for: Indian Polity | Topic: Audit & CAG of India

The Supreme Court's observations in connection with the Rafale fighter aircraft deal by citing the Comptroller and Auditor General of India's (CAG's) report on redacted pricing, and subsequent media reports and the controversy over "stolen files" brought back into the spotlight the role of the supreme audit institution of India.

Many questions arise before the stakeholders: What is redactive pricing? Does the constitutional mandate provide redactive pricing to be included in the CAG's audit reports submitted to the President to be placed before Parliament? Do any supreme audit institutions (SAIs) such as the National Audit Office, the Government Accountability Office or Commonwealth countries follow redactive pricing in audit reports?

Redaction is the selection or adaption by 'obscuring or removing sensitive information' from a document prior to publication. The CAG is mandated to audit all receipts and expenditures of the three-tier governments in India and report to the legislature judiciously, independently, objectively in compliance with applicable laws, rules and regulations, without fear and favour. He conducts financial compliance and performance audits and submits his reports to the legislature to help people's representatives in enforcing legislative oversight and public accountability of the executive. Legislative committees such as the Public Accounts Committee and Committee on Public Undertakings examine the CAG's selected reports.

In the preface of the audit report, the CAG stated that redactive pricing was unprecedented but had to be accepted due to the Ministry's insistence citing security concerns. Consequently, the full commercial details were withheld and the figures on the procurement deal were blackened. It was unprecedented that an audit report submitted by the CAG to the President under Article 151 of the Constitution suppressed relevant information. Whether the Ministry's insistence citing security concerns could have been accepted by the CAG can be examined only by the Supreme Court in the light of the constitutional provisions on the CAG's duties and parliamentary privileges and prerogatives.

Rafale cost is 2.86% lower, but Dassault benefited without bank guarantee: CAG

Redactive pricing is nowhere used in SAI audit reports. It does not seem to have been used in a government audit by any SAI of any country. Redactive pricing in the 'Performance Audit Report of the Comptroller and Auditor General of India on Capital Acquisition in Indian Air Force (Union Government – Defence Services, Air Force, Report No. 3 of 2019)' suppresses more than it reveals. For example, in the Rafale deal, Parliament, its committees, the media and other stakeholders of the CAG's reports cannot obtain complete, accurate and reliable information due to redactive pricing. The reduction in the original requirement, to 36 aircraft, a waiver of the earlier decision to involve Hindustan Aeronautics Limited, observations of the Indian Negotiating Team, cost escalation due to inclusion of bank guarantee and performance guarantee were not compared properly to arrive at the audit conclusion.

Pricing is the quintessence of any procurement decision. Along with quality and quantitative specifications, comparative merits and demerits are ascertained, and the pricing of comparable products are compared in decision-making. Pricing is an integral part of the procurement decision-making process of any equipment, product, goods or service. A strategic competitive advantage of a product, how best it should be procured, how many at a time are to be purchased and at what price and under what conditions, terms, instalments, along with after-

service conditions, discounts, commissions and other conditions are evaluated to arrive at a purchase decision. Therefore, price integrity and comparative competitiveness are at the heart of any procurement decision.

Govt. denies perjury charge in Rafale case

The CAG is mandated to get into the nitty-gritty of procurement terms, procedures, comparative advantages and disadvantages without fear and favour to form an objective, independent and judicious audit opinion. An audit is expected to analyse the facts and comparative pricing charts to highlight the financial propriety and prudence of the procurement decision. The institution is constitutionally mandated and empowered to do its duties covering all essential factors about the procurement, customised end-to-end pricing assessments, legal requirements, escrow accounting, terms and conditions and arbitration clauses in compliance with legal and other regulations.

The executive procurement decision is expected to be completely analysed in the CAG's audit to pinpoint inaccuracies, non-compliance of essential procurement procedures, conditions and pricing errors which may have a negative financial impact and cause potential damage to the country's interests.

Given the dynamics of international competition in competitive products and pricing in today's modern market scenario, pricing, delivery and post-delivery service and other conditions are essentially covered in an SAI audit. It is a complex audit, demanding exceptional insight, expertise, knowledge and skills. In case the CAG's office lacks expertise to conduct a performance audit, expertise can be sought from the pool of resources or credible organisations to be coopted in the audit team.

Pricing decisions must be subjected to detailed analysis, without resorting to redactive pricing. Parliament is constitutionally privileged to know what the executive had done and how and under what conditions a procurement was decided. The CAG's audit is expected to highlight value for money in purchase decisions.

A performance audit is done to establish whether the procurement activity was executed keeping in mind economy, efficiency, effectiveness, ethics and equity. Only a thorough pricing audit can bring out the credibility and integrity of a purchase decision, thereby achieving an SAI's constitutionally mandated responsibilities.

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