IMPORTANT CIRCULARS / GUIDELINES / SYSTEM IMPROVEMENT PERTAINING TO VIGILANCE ADMINISTRATION & TENDERING ISSUED IN 2009 & JUNE 2010
GENERAL MATTERS RELATED WITH VIGILANCE ADMINISTRATION
Circular No. 22/06/10

Sub: Guidelines for checking delay in grant of sanction for prosecution on
CBI Reports -reg.

In terms of the Hon’ble Supreme Court’s judgment in Vineet Narain’s case, the
competent authorities are required to take a decision on CBI applications for the grant of
sanction for prosecution within a period of three months. Further, additional time of one
month is allowed in respect of cases warranting prior consultation with the
Attorney General or any other law officer in the AG’s Office. The Hon’ble Supreme Court
had also directed that the Commission shall review the progress of cases moved by CBI
for sanction of prosecution, especially those in which sanctions have been delayed.
Even CVC Act, 2003, under Section 8(1) (f) relating to functions and powers of the
Commission, stipulates review of the progress of the applications pending for sanction
for prosecution under the PC Act, 1988. The Commission while discharging its functions
has observed that the competent administrative authorities concerned are taking too
long time in conveying their views on the cases recommended for sanction of
prosecution.

2. As prescribed in DOPT’s OM dated 6th November 2006, the
Ministries/Departments are required to formulate their tentative views within three weeks
of receipt of CBI’s request seeking sanction for prosecution and seek the advice of the
Central Vigilance Commission. The aforesaid time limit is not being adhered to by the
Ministries/Departments. The responsibility for processing cases for sanction for
prosecution within the time-limit vests with the Administrative
Ministries/Departments/Organization.

3. It has been brought to the notice of the Commission by the CBI that in some
cases, the administrative authorities concerned seek clarification on the CBI reports.
This also is a contributory factor for delays. It is, therefore, reiterated that, including the
seeking and obtaining of such clarification and time taken for the same, time limit
prescribed by the Apex Court should be strictly maintained.

(Shalini Darbari)
Director

To
All Secretaries of all Ministries/Departments
All CMDs/CEOs of all PSEs/PSBs/Financial Institutions/Autonomous Orgs.
All CVOs
CBI
No. 010/VGL/030
Central Vigilance Commission
Satarkta Bhawan, Block-A,
2nd Floor, GPO Complex,
INA, New Delhi-110023
Dated: 2nd June, 2010

Circular No. 21/06/10

Subject: Delay in initiating Disciplinary Proceedings.

During Intensive Examination of contracts/complaints by CTEO/CVC or CVOs of various organizations excess payments to the contractors have been observed which may be either due to ambiguity in the contract or misinterpretation of various clauses of the contract. In some of the cases variations in the contract clauses or specifications are allowed without financial adjustments, thus, giving undue benefit to the contractors.

2. In such cases, two-fold action is normally recommended by CVC-
   (i) for identifying the officials responsible for making excess payments involving vigilance angle.
   (ii) to recover such excess payments from the contractors.

   In number of cases contractors invoke arbitration to avoid such recoveries and in addition submit huge claims to deter the authorities from making recoveries. CVOs in such cases delay the process of identifying the officials citing reference to arbitration as an excuse and the organization also fails to affect the recoveries citing reference to arbitration by the contractor.

3. In view of above, following directions are hereby issued:

   (a) Whenever, any excess payment is detected, it should be recovered from the contractor from the available amount at the first opportunity following due procedure prescribed in the contract, unless any stay has been granted by any Court.

   (b) Reference to arbitration should not be linked with investigation and for identifying the officials responsible for lapses/excess payment involving malafide intentions/vigilance angle. CVOs should immediately investigate the case to identify the officials for lapses attributable to them and should approach the Commission for first stage advice without any delay.

(V.K. Gupta)
Chief Technical Examiner
No. 002/VGL/61
Central Vigilance Commission

Satarkta Bhawan, Block ‘A’
GPO Complex, I.N.A.,
New Delhi- 110023
Dated the 19.05.2010

Office Order No. 29/05/10

Subject: Adherence to time limits for investigation of complaints - reg.

Reference: (i) Commission’s office order No. 16/03/04 dated 01.04.2004
(ii) Commission’s office order No. 4/2/09 dated 27.02.2009
(iii) Commission’s circular No. 9/5/09 dated 12.05.2009

As per provisions contained in Para 4.13.1 of Chapter IV of the Vigilance Manual Volume –I (Sixth Edition – 2004), the Chief Vigilance Officers of Organisations/Departments are required to furnish investigation reports on complaints referred by the Commission for investigation and report within three months of the date of receipt of such references. In so far as PIDPI complaints, the Commission has prescribed a period of one month for submission of investigation reports.

2. The Commission observes that Organisations/Departments do not adhere to the time limits prescribed and there is undue delay in submission of investigation reports. While emphasising the need for strict adherence to the prescribed time limits for furnishing reports, in case, if it is not possible for completing investigations within the specified periods, the Chief Vigilance Officer of the Organisations/Departments concerned should personally look into the matter and send an interim reply/report to the Commission seeking extension of time limit, indicating the progress of investigation and reasons for delay without fail in each complaint case.

3. All CVOs should ensure strict compliance to the above guidelines.

19/5/2010 (Vineet Mathur)
Director

To
All Chief Vigilance Officers.
Office Order No. 13/03/10

Sub: Timely completion of Departmental Inquiries - Improving Vigilance Administration.

Ref: (i) Commission's Instruction No. 8(1)(g)/99(2) dated 19/02/1999
(ii) Commission's Instruction No. 8(1)(g)/99(3) dated 03/03/1999
(iii) Commission's Circular No. 3(v)/9917 dated 06/09/1999
(iv) Commission's Circular No. NZIPRC/1 dated 26/02/2004
(vi) Commission's Circular No. 3/1/06 dated 18/01/2006

Natural justice demands that disciplinary proceedings are finalised in an expeditious manner. The delay in completion of proceedings works against the institutional incentive built to fight corruption. It may either cause undue harassment and demoralization of innocent employees, who at the end of the proceedings are exonerated of the charges framed against them; or it enables the guilty officers to evade punitive action for longer periods of time. In the former, it is not fair to the official concerned. In the latter, it provides perverse incentive for the corrupt. The delay in handling disciplinary cases has, on several occasions, been viewed adversely by the courts also. There have in fact been instances where the proceedings initiated against the delinquent employees were quashed solely on the ground that there were inordinate delays in handling the disciplinary cases. It is important that the formal proceedings, once instituted, are completed within the time frame laid down by the Government so that timely action can be taken against the delinquent employees.
2. An Inquiry Officer (10) appointed by the Disciplinary Authority to conduct departmental inquiry in a particular case cannot start the inquiry unless related documents, viz., a copy of the charge sheet, reply of the Charged Officer, order of appointment of the Presenting Officer (PO) and the listed documents/witnesses, are furnished to the Inquiry Officer.

3. The Commission observes that non-availability of documents relevant to the departmental inquiry proceedings and undue delays in providing such documents is a major factor contributing to delay in timely finalization of the inquiry. Another factor is delay in issue of appointment orders of 10 by the disciplinary authorities. The Commission in the past vide its various circulars referred above, prescribed certain specific steps to be adopted for eliminating such avoidable delays like appointment of 10/PO immediately on denial of charges by CO, making legible certified photocopies of documents in cases where the originals are seized by CBI/filed in Courts, providing custody of all listed documents along with appointment orders to Presenting Officers etc. The Commission while reiterating its earlier instructions would emphasise that all pending cases of departmental inquiries need to be reviewed at regular intervals by the CVO and the Disciplinary Authority concerned in each Ministry/Department/Organisation to ensure that the proceedings are completed/finalised expeditiously.

Sd/-
(Vineet Mathur)
Director

To

(i) All Ministries/Departments of Govt
(ii) All Chief Executives of CPSUs/Public Sector Banks/Insurance Companies/Autonomous Bodies.
(iii) All Chief Vigilance Officers
Office Order No. 12/03/10

Subject: Monthly/Quarterly structured meetings for review of vigilance work - reg.

The Vigilance Manual Volume-I (6th edition) vide Para 2.16.2 provides for review of vigilance work in an organisation to be taken by the Secretary of the Ministry/Department or the Chief Executive of the Organisation. The Commission has been emphasising on the need for a structured regular and continuous review of the vigilance work in every Organisation/Department. During the Annual Zonal Review Meetings held with the CVOs, it has been observed that even though some organisations have been undertaking such reviews, the same is not institutionalised and carried out on uniform pattern.

2. Commission would, therefore, advise that all Organisations/Departments need to hold regular meetings for review of vigilance work/activities either on a monthly or quarterly basis in a structured manner between the CVO and the Chief Executive in the organisations and between the CVO and Secretary of the Ministries/Departments. Minutes of such review meetings held are to be drawn up with actionable points. CVOs of all organisations would report the status of such monthly/quarterly review held in their monthly reports to the Commission.

Sd/-
(Vineet Mathur)
Director

To

(i) All Secretaries of Ministries/Departments
(ii) All CMDs of CPSUs/Public Sector Banks/Insurance Companies
(iii) All CVOs of Ministries/Departments
(iv) All CVOs of CPSUs/Public Sector Banks/Insurance Companies
Of late there have been some disturbing incidents which call for serious introspection by civil servants. It is important that we ponder over the manner in which we discharge our duties and fulfil our responsibilities and what we need to do to refurbish our image.

2. Civil servants are appointed on the basis of a fair and open competition. We must respond in full measure to the faith that citizens have reposed in us and meet their hopes and aspirations of good governance. Integrity, honesty, objectivity, impartiality, transparency, accountability and devotion to duty are the core values which civil servants should cherish and which should form an integral part of our decisions and actions.

3. The issue of corruption needs to be addressed fairly and squarely. The Government's policy of zero tolerance for corruption must be implemented fully and effectively. Preventive vigilance should be strengthened. Transparency must be introduced in decision making and in all our systems. Stringent action must be taken against officers found guilty. Disciplinary proceedings must be expedited.

4. We need to stand by and uphold our core values. Senior officers must set an example and mentor their colleagues. The Civil Services must work wholeheartedly to provide good governance.

5. Please share these sentiments with all officers. Let us resolve to serve the nation and the citizens in a committed manner.

With regards,

Yours sincerely,

Sd/-

( K.M. Chandrasekhar)

To

Secretaries of all Ministries/Departments of the Government of India
Office Order No. II/03/10

Subject: Definition of term stiff/severe penalty- reg.

Reference: (i) Commission's circular No. 99/DSP/1 dated 05.02.1999
(ii) Commission's circular No. 99/DSP/1 dated 20.06.2003

The Commission has reviewed its earlier instructions referred above on the term stiff/severe minor/major penalty and has decided to withdraw the same. Accordingly, circulars dated 05.02.1999 and 20.06.2003 are hereby withdrawn/cancelled with immediate effect.

Sd/-
(Vineet Mathur)
Director

To

All Chief Vigilance Officers.
Office Order No.03/01/10

Sub: Clarification regarding making reference to the Commission for advice on complaints and second stage advice cases.


1. Complaints:

In case of a complaint referred by the Commission to the CVO for investigation and report, if after investigation it is found that the officials involved in the case do not fall under the jurisdiction of the CVC, the case need not be referred to the Commission and may be dealt with by the CVO. However, the action taken by the CVO on the CVC referred complaint may be intimated to the Commission in order to monitor compliance.

The above dispensation does not apply to complaints received by the Commission under PIDPI Resolution and which are referred to the CVO for investigation and report. In other words all complaints falling under PIDPI referred to the CVO by the Commission for investigation and report should necessarily be referred to the Commission for its advice.

2. Vigilance Cases:

In respect of composite cases wherein the Commission had tendered its first stage advice for all categories of officers involved, second stage advice of the Commission should be sought only in case of officers falling within the jurisdiction of the Commission. With respect to officers not falling under the jurisdiction of the Commission, the case should be dealt at the level of the CVO, and referred to the Commission for second stage advice only if the DA’s opinion is at variance with the Commission’s advice. This procedure would also apply to CBI investigated cases involving officials not falling under the jurisdiction of the CVC wherein the Commission had tendered its advice (cases where there were differences between the CBI and the DA and which were referred to the CVC for advice).

( Virendra Mathur )
Director

To
(1) The Secretaries of all Ministries/Departments of Government of India.
(2) The Chief Secretaries of all Union Territories.
(3) The CMDs of all CPSUs/Public Sector Banks/Insurance Companies/Autonomous Bodies/Societies.
(4) Chief Vigilance Officers of Ministries/Departments/Organisations/CPSUs/Public Sector Banks/Insurance Companies/Autonomous Bodies/Societies.
Sub: Appointment of CVOs/VOs in Organizations other than Ministries/Deptts, PSUs, PSBs & Insurances Companies.

As per the CVC Act, 2003, the Commission has been mandated to inquire or cause inquiries to be conducted into offences alleged to have been committed under the Prevention of Corruption Act, 1988 by certain categories of public servants of inter-alia, Corporations established by or under any Central Act, Government companies, Societies and Local authorities owned or controlled by the Central Government and for matters connected therewith or incidental thereto. This follows that all ‘Corporations’, Govt. Companies, Societies and Local Authorities (apart from Govt. of India Deptts/Ministries, PSUs, Banks & Insurance Companies) owned or controlled by the Central Govt. should have an in-house vigilance set-up in place, headed by a Chief Vigilance Officer or a Vigilance Officer. In fact, the commission has been emphasizing the need for this during its inter-action with the CVOs of the Ministries/Deptts. However, it seems that there are, even now, a few Organizations falling within the above categories which do not have in-house vigilance set-ups and/or duly appointed CVOs or VO's.

2 Chief Vigilance Officers of all Ministries are Deptts. are accordingly requested to ensure that a proper/structured vigilance set-up is put in place, if it does not exist already, in every organization of the type mentioned above, under the administrative control of their Ministry/Dept. A compliance report in this regard may please be furnished to the Commission in the format enclosed within two months.

-S/d-
(P M PILLAI)
Officer on Special Duty.
ORGANISATIONAL PROFILE

(i) Name of the Organisation : 

(ii) Status of the Organisation :  
(i.e. whether Govt. Co./Corporation,  
Autonomous Body, Statutory Authority,  
Society, Attached Office, Local Authority.

(iii) Administrative or nodal Ministry / :  
Department concerned

(iv) Core activities of the Organisation : 

(v) Organizational set up,  
No. of Executives & Employees etc.  
(group-wise)

(vi) Details of Vig. set-up : 

(vii) Name of CVO/VO : 

(viii) Service particulars of CVO/VO in brief : 

(ix) Date of appointment of CVO/VO : 

(x) Date of expiry of tenure of CVO/VO : 

(Signature of CVO of the Ministry/Deptt.)
Circular No.21/8/09

Subject: References to the Commission for first stage advice – procedure regarding.

Reference: (i) Commission’s circular No.NZ/PRC/1 dated 26.2.2004;
(iii) Commission’s circular No. 006/PRC/1 dated 13.3.2008; and
(iv) Commission’s circular No.006/PRC/1 dated 1.12.2008

The Commission receives preliminary inquiry reports from the Chief Vigilance Officers (CVOs) of Departments/Organisations, seeking the first stage advice. Reports for similar action also emanate from the CVOs in response to the Commission’s directions for investigation issued u/s 8(1)(d) of the CVC Act, 2003. However, these reports are often found lacking in cogent analysis of misconduct or allegations, evidence on record and the recommendation of line of action. The supporting documents catered are also very often disjointed, casually arranged or unduly bulky, making the examination cumbersome and leading to protracted correspondence and delays.

2. With a view to improving the quality and focus of these investigation reports, the Commission has devised a new reporting format. Accordingly, it is directed that henceforth, a vigilance report should broadly conform to the parameters specified in Annexure A. Further, as the Commission lays utmost emphasis on facts, evidence and recommendations made by the CVOs, an investigation report should invariably be accompanied by an Assurance Memorandum (Annexure B) signed by the CVO, taking due responsibility and giving assurance of a comprehensive application of mind while submitting the report.

3. In supercession, therefore, of earlier instructions of the Commission on submission of investigation reports, the following instructions should be followed scrupulously while seeking the first stage advice:

(i) All vigilance reports of the CVOs should conform to the parameters prescribed in Annexure-A.
(ii) They would be accompanied by an Assurance Memo, in the form of Annexure-B.

Contd…2/-
(iii) Bio-data of suspect officials, figuring in the investigation reports, should be enclosed as per the format provided at Annexure-C.
(iv) Tabular statements, as prescribed vide the Commission's circular dated 1.12.2008, shall continue and be kept objective and precise.
(v) Draft charge-sheets and imputation of charge in respect of suspect officials where disciplinary action, such as major penalty or minor penalty proceedings, is proposed, would accompany the investigation reports.

4. The CVOs would ensure that all documents/exhibits, constituting the basic evidence for the charge, are systematically identified and arranged. Superfluous and voluminous documents, with little or no relevance to the misconduct under examination, should be retained at the CVOs' end. In case any additional material or evidence is required, it can always be recalled by the Commission before an advice is tendered.

5. The aforesaid reporting procedure would become operative with immediate effect.

(Shalini Darbari)
Director

All Chief Vigilance Officers

Encl: As proposed.
Vigilance Report

Title of the report

1. Source
   - Background of the report – whether based on source information, complaint referred to by the CVC, CTE/CTE type inspection or direct enquiry.

2. Gist of allegations

3. Facts
   - The relevant facts relating to the issue under examination should be presented in chronological or activity-wise sequence.
   - Each fact should be supported by documentary evidence (other forms of evidence may also be presented) denoted as E1, E2, and E3 etc. Since the facts occur in chronological order, the evidence E1, E2, E3, etc., should necessarily be arranged under the report in the same order, thus making it easier for reference.
   - While annexing the evidence, the relevant portion of the document should be highlighted and annexed. For example, the evidence for educational qualifications for promotion should consist of the Xerox copy of only the clause prescribing the qualifications and not the whole 20 pages of the promotion policy.
   - There may be several issues in a report which may be conveniently arranged as different paras viz. 2.1, 2.2 etc.
   - All relevant facts needed to support the observations/conclusion should be gathered and presented. Irrelevant facts, bearing no consequence on the issues under inquiry should be avoided.
   - Evidence presented should be credible and adequate.

4. Observations
   - Ordinarily, observations are logical deductions arrived at through a set of facts. They are in the nature of objections or anomalies observed with reference to the gathered facts. There may be several observations arising out of the analysis of facts.
• Observations are also arrived at by evaluating the facts against certain criteria viz. rules, regulations, policies, procedures, norms, good practices or normative principles. Evidence of these criteria (extracts of rules, procedures, etc.) should also be presented as E1, E2, etc.

5. **Response of the officials concerned**

• It is necessary to elicit the reasons and clarifications of the management or the officers concerned for the anomalies pointed out in the observations. Every deviation from rules or procedure cannot be attributed to a malafide/corrupt intent. There may be situations where it may be difficult to achieve the objectives of a task by strictly abiding by the rules. Rules may be circumvented, while expediting the work or in the larger interest of the work, with good intentions. It is, therefore, essential for Vigilance to distinguish between acts of omission and acts of commission. Therefore, obtaining the response of the officers concerned is essential in order to arrive at an objective conclusion.

• Response of the management is also necessary in order to clarify differences in interpretation or an understanding of the issues between vigilance and the management.

6. **Counter to the response**

• In order to sustain the observations made by Vigilance, it is necessary to counter the defence given by the management/officials concerned with facts and supporting evidence. It should be clearly and convincingly brought out why the explanation given by the management is not tenable.

7. **Conclusion**

• Conclusion is the logical summation of the observations. The observations denoting various counts of irregularity, lapses or impropriety should finally lead to: a logical conclusion on whether the case involves commission of irregularity/impropriety with the intention of corruption.

• Undue favour given to a party or obtained for self and its adverse impact on the government or the citizens in terms of
additional cost, poor quality or delayed service should be clearly highlighted.

8. Responsibility of officials

- Having determined the vigilance angle in the case, the next step is to fix the accountability of the individuals involved in the misconduct. Name of officers should be clearly stated in this para.
- The role of each officer should be judged with reference to his prescribed charter of duties. In case the tender committee is responsible for the misconduct then, as far as possible, all members should be equally and collectively held responsible.
- Comments of Disciplinary Authority should invariably be included.

9. Recommendation for action

- Recommendation for closure of the case in case there is no discernable vigilance angle or criminal misconduct, should be clearly spelt out.
- Bio-data of the officials reported against in the investigation report should be included in the given format.

10. Recommendation for systemic improvement

- Punitive action on detection of corruption does not by itself lead to a logical conclusion unless it is able to prevent recurrence of the lapse. Any fraud, corruption, irregularity or impropriety indicates a failure of control mechanism or gaps in systems and procedures. Therefore, each case throws up an opportunity to identify these control failures and suggest ways of plugging them to prevent recurrence of the lapse. Therefore, at the end of the report the CVO should also try to recommend systemic improvements in order to prevent the risk of a recurrence of the lapse/misconduct.
ASSURANCE MEMO

This is to provide reasonable assurance to the Commission:

(a) That all necessary facts and relevant evidence have been gathered.

(b) That all facts and supporting evidence have been duly verified.

(c) That contested evidence, if any, have been conclusively handled with reference to the facts at the disposal of Vigilance.

Chief Vigilance Officer
Format of Bio-Data of officer(s) against whom Commission's advice is sought

(To be incorporated in the Vigilance Report of the CVO)

1. Name of the officer : 

2. Designation
   (a) At present : 
   (b) At the time of alleged misconduct : 

3. Service to which belongs :
   (Cadre and year of allotment in case of officers of the organized/All India Services)

4. Date of birth : 

5. Date of superannuation : 

6. Level/group of the present post and pay scale : 

7. Date of suspension [if under suspension] : 

8. Disciplinary Rules applicable to the officer : 

**********
Circular No. 15/07/09

Sub: Access of complaints to the CVOs – Instructions regarding.

Complaints containing information about corruption, malpractice or misconduct by public servants are received in receive complaints, also from many a decentralized location. prevailing practice what is sent to the CVO from different decentralized locations entirely depends on the appreciation of 'vigilance angle' or otherwise by the officers controlling these decentralized locations. In such a system there is every chance that a complaint with a vigilance overtone may not be forwarded to the CVO, due to a lack of appreciation or for other bonafide reasons. This has also been revealed through the vigilance audit by the Commission in some organizations.

2. In order to have uniform practices and procedures in the handling and processing of complaints in an organisation/department, it is imperative that a ‘Complaint Handling Policy’ is laid down in all organisations/departments for receipt, handling and processing of all types of complaints/grievances from the public, contractors, vendors, suppliers etc. The policy should make it clear that any complaint/grievance received in the organisation/department by any functionary containing any element of alleged corruption, malpractices or misconduct etc., should necessarily be sent to the CVO of the organisation for scrutiny and action. All Departments/Organisations are, therefore, directed to put in place necessary policy and systems in this regard.

3. Para 3.2.2 of Chapter III of Vigilance Manual Volume-I (6th edition) prescribes that the CVO concerned may also devise and adopt such methods, as considered appropriate and fruitful in the context of nature of work handled in the organisation, for collecting intelligence about any malpractice and misconduct among the employees.

4. The Commission is of the view that all CVOs should, on a continuous basis, scrutinize the complaints, grievances etc., received by other divisions/units of the department/organisation concerned and ensure that issues/allegations involving vigilance angle if any, in such complaints are duly forwarded to them to be duly attended to by the Vigilance Department.

Sd/-
(Shalini Darbari)
Director

To
All Chief Vigilance Officers
Circular No. 9/5/09

Subject: Govt. of India Resolution of Public Interest Disclosure and Protection of informer (PIDPI) – Delay in submission of investigation report on PIDPI complaints – reg.

Please refer to the Commission's Office Order No. 33/5/04 dated 17.05.2004 prescribing the procedure to be followed by CVOs on complaints forwarded by the Commission under PIDPI Resolution, wherein, the Government of India authorized the Central Vigilance Commission (CVC) as the 'Designated Agency to receive written complaints for disclosure on any allegation of corruption or misuse of office and recommend appropriate action. Commission vide Office Order No. 4/2/09 dated 27.02.2009 had recently advised the Ministry/Departments/Organisation under PIDPI Resolution within a period of one month from the receipt of reference of the Commission.

2. Of late, the Commission has observed inordinate delays beyond the prescribed time limit in submission of investigation reports by the CVOs of same organizations which is against the spirit of the PIDPI Resolution.

3. The Commission has, therefore now decided that henceforth in all cases of delays beyond the prescribed one month time limit the exact reasons for delay in investigation/submission of reports should be stated/explained specifically by the CVOs while reporting to the Commission on PIDPI references.

4. All CVOs may note the Commission's above directions for strict compliance.

Sd/-
(Shalini Darbari)
Director

To
All Chief Vigilance Officers
Office Order No. 4/2/09

Subject: Govt. of India Resolution of Public Interest Disclosure and Protection of informer.

Please refer to the Commission's Office Order No. 33/5/04 dated 17.05.2004 wherein, the Government of India authorized the Central Vigilance Commission (CVC) as the 'Designated Agency to receive written complaints for disclosure on any allegation of corruption or misuse of office and recommend appropriate action. CVOs of the Ministries/Deptts./Orgns. were required to submit their investigation report on complaints forwarded by the Commission under the PIDPI Resolution within a period of two weeks.

5. The issue regarding submission of investigation reports on PIDPI complaints has been reconsidered in the Commission and taking in view the difficulties being faced by the CVOs in submission of reports, it has now been decided by the Commission to extend the time limit for submission of reports. Henceforth, the CVOs would submit the reports within a period of one month from the receipt of reference of the Commission.

6. All CVOs should adhere to the Commission's above time limit for strict compliance.

Sd/-
(Shalini Darbari)
Director

To

All Chief Vigilance Officers
No. RITES/VCS/Staff-Matters/63
Dt. 10/06/2010

Sub: Monitoring/tracking of employees Complaints/Representations/Grievances.

Ref: Meeting between MD and CVO on 2/6/2010.

......

It has been decided to establish a Centralized Complaint Cell (CCC) in ROC/Gurgaon for all SBU’s. All the complaints/grievances/representations received in RITES shall be registered centrally in the Complaints Cell and subsequently sent to the respective Desk Officers/SBU’s for follow up action/resolution.

All Regional Project Offices/Inspection Offices shall also maintain a complaint register for their SBU separately and take timely action for resolution of complaints. They will advise monthly progress to Central Complaint Cell by 10th of every month.

Mrs. S. K. Sharma, AGM(Admn) will be the In-charge of the Centralized Complaint Cell with immediate effect. Copies of the complaints/representations grievances received on or after 1/4/2010 and action taken/status may be sent to her.

SBUs may give the complaint no. in their register e.g.

Project Office Lucknow: PO/LKO/COMP/2010/1 ....

Sd/-
(A. K. M. Sharma)
Group General Manager (MCS/Admn.)

Encl: 1) Proforma for Complaint Register
2) Proforma for Monthly Progress Report
   on complaints status.

Note: Present system of complaint handling by QA Division will continue as it is, however they will be required to advise monthly summary to CCC.

Circulation: All Divn. & SBU Heads
CIRCULARS / GUIDELINES ON TENDERING / PROJECT MANAGEMENT
No.010/VGL/035
Central Vigilance Commission
****
Satarkta Bhawan, GPO Complex
INA, New Delhi

Circular No. 23/06/010

Sub: Leveraging of Technology for improving vigilance administration in the National E-Governance Plan.

The Commission observes that e-procurement software, security and implementation is a new area and needs improvement. E-procurement provides a platform for the collaborative procurement of goods, works and services using electronic methods at every stage of the procurement process. The e-procurement platform transacts confidential procurement data and is exposed to several security threats. Department of Information Technology could be best placed to address issues relating to e-procurement. In order to ensure proper security of the e-procurement system all Departments/Organizations are advised to get their system certified by Department of Information Technology.

(Shalini Darbri)
Director

To,

All Secretaries of Depts / Ministries.
All CMDs / Chief Executives of CPSUs / Banks / Insurance Companies etc.
All Chief Vigilance Officers
Commission vide Circular No.15/5/06 dated 09/05/2006 had prescribed certain measures to be followed on works/purchase/consultancy contracts awarded on nomination basis by PSUs. These instructions have since been reviewed in the Commission and the Commission is of the view that the Board of the PSU is not required to scrutinize or post facto vet the actions of the operational managers and their decisions to award work on nomination basis.

2. Therefore, the following amendment is being made in sub-para (i) of Para 2 of Commission’s above circular:

“All works awarded on nomination basis should be brought to the notice of the Board of the respective PSUs for scrutiny and vetting post facto”

Read as

“All works awarded on nomination basis should be brought to the notice of the Board of the respective PSUs for information”.

All Chief Vigilance Officers of CPSUs.

Copy to:

(i) All Secretaries of Govt. of India
(ii) All CEOs/Heads of Organizations
Circular No 18/04/2010

Subject: - Implementation of e-tendering solutions – check list.

Guidelines were prescribed in this office OM of even number, dated 17.09.2009, on the above-cited subject, advising organisations to take due care to see that effective security provisions are made in the system to prevent any misuse. It has been observed during security audit carried by CTEO that e-procurement solutions being used by some of the organisations lack security considerations as envisaged in the Commission's guidelines dated 17.09.2009. Some of the shortcomings / deficiencies are of repetitive nature.

A check list to achieve security considerations in e-Procurement solutions is enclosed for information. Organisations concerned may follow the same while implementing e-tendering solutions to address the security related concerns.

(V. Ramachandran)
Chief Technical Examiner

To

All CVOs of Ministries/Departments/PSUs/Banks/Insurance Companies/ Autonomous Organisations/Societies/UTs.
# CHECK POINTS TO ACHIEVE SECURITY CONSIDERATIONS IN E-PROCUREMENT SOLUTIONS

<table>
<thead>
<tr>
<th>S.N.</th>
<th>SECURITY CONSIDERATIONS</th>
<th>Please Tick</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Whether the application is secure from making any temporary distortion in the electronic posting of tender notice, just to mislead certain vendors?</td>
<td>Yes (\checkmark) No</td>
</tr>
<tr>
<td>2.</td>
<td>If yes at 2 above, then whether any automatic systems alert is provided in the form of daily exception report in the application in this regard?</td>
<td>Yes (\checkmark) No</td>
</tr>
<tr>
<td>3.</td>
<td>Whether application ensures that the tender documents issued to / downloaded by bidders are complete in shape as per the approved tender documents including all its corrigendum?</td>
<td>Yes (\checkmark) No</td>
</tr>
<tr>
<td>4.</td>
<td>Is there any check available in the application to detect &amp; alert about the missing pages to the tenderer, if any?</td>
<td>Yes (\checkmark) No</td>
</tr>
<tr>
<td>5.</td>
<td>Whether application ensures that all the corrigendum issued by the Competent Authority are being fully communicated in proper fashion to all bidders including those who had already purchased / downloaded the bid documents well ahead of the due date &amp; before uploading the corrigendum?</td>
<td>Yes (\checkmark) No</td>
</tr>
<tr>
<td>6.</td>
<td>Whether system is safe from sending discriminatory communication to different bidders about the same e-tendering process?</td>
<td>Yes (\checkmark) No</td>
</tr>
<tr>
<td>7.</td>
<td>Whether e-procurement solution has also been customised to process all type of tenders viz Limited / Open / Global Tenders?</td>
<td>Yes (\checkmark) No</td>
</tr>
<tr>
<td>8.</td>
<td>Whether online Public Tender opening events feature are available in the application?</td>
<td>Yes (\checkmark) No</td>
</tr>
<tr>
<td>9.</td>
<td>Whether facilities for evaluation / loading of bids, strictly in terms of criteria laid down in bid documents are available in the application?</td>
<td>Yes (\checkmark) No</td>
</tr>
<tr>
<td>10.</td>
<td>Whether sufficient safeguards have been provided in the application to deal with failed attempt blocking?</td>
<td>Yes (\checkmark) No</td>
</tr>
<tr>
<td>11.</td>
<td>Whether application is safe from submission of fake bids?</td>
<td>Yes (\checkmark) No</td>
</tr>
<tr>
<td>12.</td>
<td>Whether encryptions of bids are done at clients end?</td>
<td>Yes (\checkmark) No</td>
</tr>
<tr>
<td>13.</td>
<td>Whether safety against tampering and stealing information of submitted bid, during storage before its opening, is ensured?</td>
<td>Yes (\checkmark) No</td>
</tr>
<tr>
<td>14.</td>
<td>Whether application is safe from siphoning off and decrypting the clandestine copy of a bid encrypted with Public key of tender opening officer?</td>
<td>Yes (\checkmark) No</td>
</tr>
<tr>
<td>15.</td>
<td>Whether application is safe from mutilation / sabotage or otherwise rendering the encrypted bid in the e-tender box during storage, to make it unreadable / invalid in any form, before opening of the bids?</td>
<td>Yes (\checkmark) No</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td></td>
</tr>
<tr>
<td>16. Whether introduction of special characters / executable files etc by users are restricted in the application?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>17. Whether validity check of DSC is being done at server end?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>18. Whether system supports the feature that even though if a published tender is being deleted from the application, system does not allow permanent deletion of the published tender from the Database?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>19. Whether sufficient security features are provided in the application for authentication procedure of the system administrator like ID, password, digital signature, biometric etc?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>20. Whether audit trails are being captured in the application on media not prone to tampering, such as optical write once?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>21. Whether log shipping feature is available, where a separate dedicated server receives the logs from the application over a web service in real time?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>22. Whether integrity and non-tampering is ensured in maintaining the server clock synchronisation &amp; time stamping?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>23. Whether application generates any exception report / system alerts etc to indicate the resetting of the clock, in case the application for time stamping is killed at the server level and time is manipulated?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>24. Whether application ensures that the quotes from various bidders with their name are not being displayed to any one including to the Organisation during carrying out of the e-reverse auctioning process?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>25. Whether application is fit for usage complying with the requirements of tender processing viz Authenticity of tenderer, non-repudiation and secrecy of information till the actual opening of tenders.</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>26. Whether any comprehensive third party audit [as per statutory requirement and also as per the requirements of e-tender processing (compliance to IT Act 2000)] was got conducted before first putting it to public use?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>27. Whether application complies with the Commission's Guidelines dated 17.09.2009 on Security considerations for e-procurement Systems.</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>
Circular number 17/04/10

Subject: Integrity Pact - Selection and Recommendation of Independent External Monitors (IEMs).

The Commission receives a number of requests for implementation of Integrity Pact in Government of India organizations and Public Sector Undertakings. Organizations desirous of implementing Integrity Pact are required to forward at most three names of Independent External Monitors along with the proposal to the Commission for its approval.

2. The Commission would consider names for appointment of Independent External Monitors of only those officers of Government of India departments or Public Sector Undertakings, who have retired from top management positions. The Commission would not consider the name of an officer / executive, who is either serving or who has retired from the same organization to be an IEM in that organization, although they may have served in the top management. Eminent persons, executives of private sector of considerable eminence could also be considered for functioning as Independent External Monitors and names recommended to the Commission for approval.

3. The appointment of Independent External Monitors would be for an initial period of three years and could be extended for another term of two years on a request received in the Commission from the organization appointing the Independent External Monitor. An Independent External Monitor can have a maximum tenure of 5 years in an organization with an initial term of three years and another term of two years.

4. Organizations recommending the names of Independent External Monitors are to select and forward the names to the Commission after due diligence and scrutiny.

(Vineet Mathur)
Director

All Chief Vigilance Officers
Circular No. 34/12/09

Subject: Forensic Sciences- Capabilities.

Forensic science helps in resolving complex criminal and civil disputes. Many professional organizations undertake forensic examinations that could be useful for resolving important criminal and civil disputes and cases.

2. The Commission has come across certain skills and tools that professional organizations, non-profit organizations possess in forensic sciences arena that could be important for investigations. Organizations could explore improving the quality of their investigations through use of forensic tools and expertise for ascertaining facts that could be crucial for arriving at definite conclusions in cases, where forensic examination is considered essential. Organization can take their own decision based on their assessment of the capabilities, quality and delivery in time of their service by such professional organization.

3. This advisory is being issued for information only.

Sd/-
(Vineet Mathur)
Director

All Chief Vigilance Officers PSUs/Banks/Organisations.
No. 009/VGL/055
Government of India
Central Vigilance Commission
****

Satarkta Bhawan, Block-A
GPO Complex, INA,
New Delhi-110023
Dated, the 08th Nov., 2009

Circular No.- 31/10/09

Sub:- Review of Purchase Preference Policy for Products and Services of Central Public Sector Enterprises(CPSEs) in view of the judgement of the Supreme Court of India in the matter of M/s Caterpillar India Pvt. Ltd. v/s Western Coalfields Ltd. and Ors dated 18.5.2007.

****

The Department of Public Enterprises has issued guidelines vide O.M. No. DPE/13(15)/2007-Fin. Dated 21.11.2007 on the subject cited above which reiterates DPE’s earlier guidelines dated 18.07.2005 to the affect that the Purchase Preference Policy would stand terminated w.e.f. 31.03.2008. Further, it also provides that Preferential Policy framed for the specific sectors by the concerned Ministry/Department within relevant Act of Parliament or otherwise don’t come within the purview of these guidelines. However, the DPE OM. Dated 21/11/2007, lays down that the concerned Ministry/Department may independently evolve/review preferential policies for the sectors of their concern as per their requirement. A copy of DPE’s O.M dated 21/11/2007 is enclosed for reference.

2. The Commission has desired that if any Ministry/Department has evolved a Purchase Preference Policy pursuant to the DPE Guidelines, the same may be brought to the notice of the Commission.

( Shalini Darbari )
Director

Encl: As above.

All CVO’s of Ministries/Departments
CHAPTER VI

PRICE/PURCHASE PREFERENCE

12. DPE/Guidelines/VI/12

Review of Purchase Preference Policy for Products and Services of Central Public Sector Enterprises (CPSEs) in view of the judgement of the Supreme Court of India in the matter of M/s Caterpillar India Pvt. Ltd. v/s Western Coalfields Limited and Ors dated 18.5.2007.

The undersigned is directed to refer to this Department’s O.M. no. DPE.13(12)/2003-Fin. Vol. II dated 18.7.2005 regarding extension of Purchase Preference Policy for Products and Services of CPSEs for a further period of three years beyond 31.3.2005 with certain modifications.

2. The Supreme Court of India in its judgement in the transferred Civil Petitions of 2004 from the different High Courts in the matter of M/s Caterpillar India Pvt. Limited v/s Western Coalfields Limited and Ors. Observed that imposing a condition like purchase preference no option is left and a monopoly is being created. Any increase in the effectiveness of PSEs cannot be done on a uniform basis without examination as to whether such protection is necessary for a particular PSE. Further, it has to be examined on a case to case basis as to whether any differential treatment is called for. There may not be any competition left if 10% margin is allowed. It was also contended that the preference should be given PSE specific and the margin to be allowed should be examined rationally. Because of the substitution of the word ‘may’ by ‘will’ there is essentially a reversal of the policy. While giving its judgement, the Supreme Court also expressed its views which inter-alia includes the following:

(a) Industry-wise assessment to be done by the concerned Ministries and in case of cost effectiveness is achieved by any PSEs there may not be any need for extending preference to such PSEs. Such examination should be done on the line as to whether any preference is at all called for and the extent of margin of preference to be allowed, which would also ensure level playing field for others. Further, while splitting the tenders, the minimum quantity/amount should be so fixed as to ensure that it is rational and there is no element of uncertainty. In other words, there should not be any rigid/inflexible purchase preference policy without examination as to whether such protection is necessary for a particular PSE;

(b) Present practice of allowing uniform margin of 10% over the L-1 bidder, as purchase preference to CPSEs, has to be reviewed and margin should be fixed PSE specific by the concerned Ministry on a rational basis;

(c) The overall impact of such preference to be allowed on foreign direct investment has also to be assessed/considered.

The Supreme Court through its judgement dated 18.5.2007 inter alia directed that the exercise, as noted above shall be undertaken by the concerned Ministry of the Central Government within a period of 4 months from the date of the judgement.

3. In view of the above mentioned judgement of the Supreme Court of India, the Government again reviewed the Purchase Preference Policy for Products and Services of Central Public sector Enterprises on 25.10.2007 and decided to reiterate its decision dated 30.6.2005 that the purchase preference policy will be terminated with effect from 31.3.2008. The Government also decided that the preferential purchase policies framed for the specific sectors by the concerned Ministries/ Departments within relevant Act of Parliament or otherwise do not come within the purview of this decision. The concerned Ministry/Department may independently evolve/review preferential policies for the sectors of their
concern, as per their requirement.

4. All the administrative Ministries/Departments are requested to take note of the above mentioned decision of the Government and also bring it to the notice of the CPSEs under their administrative control for information and necessary compliance.

(DPE OM No. DPE/13(15)/2007-Fin dated 21st November 2007)

***
Attention is invited to the Commission’s circular No. 4/3/07 dated 3.3.07 on the issue of “Tendering Process – Negotiations with L1”.

In the said circular it has, among other things, been stated “As post tender negotiations could often be a source of corruption, it is directed that there should be no post tender negotiations with L1, except in certain exceptional situations”. It has come to Commission’s notice that this has been interpreted to mean that there is a ban on post tender negotiations with L1 only and there could be post tender negotiations with other than L1 i.e. L2, L3 etc. This is not correct.

It is clarified to all concerned that - there should normally be no post tender negotiations. If at all negotiations are warranted under exceptional circumstances, then it can be with L1 (Lowest tenderer) only if the tender pertains to the award of work/supply orders etc. where the Government or the Government company has to make payment. However, if the tender is for sale of material by the Government or the Govt. company, the post tender negotiations are not to be held except with H1 (i.e. Highest tenderer) if required.

2. All other instructions as contained in the circular of 3.3.2007 remain unchanged.

3. These instructions issue with the approval of the Commission and may please be noted for immediate compliance.

(V. Ramachandran)
Chief Technical Examiner
Circular No. 22/08/09

Subject: Adoption of Integrity Pact-Periodical regarding

The Commission in its various circular has emphasized the necessity to adopt Integrity Pact (IP) in Government organisations in their major procurement activities. The Commission had also directed that in order to oversee the compliance of obligations under the Pact, by the parties concerned, Independent External Monitors (IEMs) should be nominated with the approval of the Commission, out of a panel of names proposed by an Organisation.

2. Further, the Commission vide its circular No. 10/5/09 dated 18.5.09 provided a review system for the CVOs wherein and internal assessment of the impact of Integrity Pact are to be carried out periodically and reported to the Commission. In this regard, it is clarified that such review should be on annual basis. The Organisation which has adopted Integrity Pact may report compliance of review system through monthly report.

3. This may be noted for future compliance.

Sd/-
(Shalini Darbari)
Director

All Chief Vigilance Officers
CIRCULAR No. 17/7/09

Subject: Posting of details on award of tenders/contracts on websites.

The Commission vide circulars dated 16.03.2005, 28.07.2005 and 18.04.2007 had directed all organisations to post on their web-sites a summary, every month, containing details of all the contracts/purchases made above a threshold value (to be fixed by the organisations) covering atleast 60% of the value of the transactions every month to start with on a continuous basis. CVOs were required to monitor the progress and ensure that the requisite details were posted regularly on respective websites, and also to incorporate compliance status in their monthly report to the Commission.

2. On a review of the status of implementation by the organisations, it is observed that some organisations have not adhered to the instructions and implemented the same. Further, such information being posted on the websites are not being regularly updated on a continuous basis by certain organizations and, in some cases, the information published is disjointed and not as per the prescribed format laid down by the Commission. It is also seen that a few organisations have placed such information on restricted access through passwords to registered vendors/suppliers etc. which defeats the basic purpose of increasing transparency in administration.

3. The Commission, therefore, while reiterating its aforementioned instructions would direct all organisations/departments to strictly adhere and post summary of details of contracts/purchases awarded so as to cover 75% of the value of the transactions without any further delay. Any failure on the part of the organisations on this account would be viewed seriously by the Commission.

4. All Chief Vigilance Officers should reflect the compliance status in their monthly reports to the Commission after personally verifying the same.

Sd/-
(Shalini Darbari)
Director

To
All Secretaries of Ministries/Departments
All CEOs /Heads of Organisations
All Chief Vigilance Officers
Circular No. 10/5/09

Subject:- Adoption of Integrity Pact-Standard Operating Procedure-reg.

The Commission has formulated “Standard Operating Procedure” for adoption of Integrity Pact in major Govt. Department/organisations. A copy of the same is enclosed for information and necessary action.

Sd/-
(Shalini Darbari)
Director

All Chief Vigilance Officers
Subject: Adoption of Integrity Pact – Standard Operating Procedure-reg.

1.0 Background

1.01 The Central Vigilance Commission has been promoting Integrity, transparency, equity and competitiveness in Government/PSU transactions and as a part of vigilance administration and superintendence. Public procurement is a major area of concern for the Central Vigilance Commission and various steps have been taken to put proper systems in place. Leveraging technology, especially wider use of the web sites for disseminating information on tenders, clearly defining the pre qualification criteria and other terms and conditions of the tender are some of the steps recently taken at the instance of the Commission. In this context, Integrity Pact (IP), a vigilance tool conceptualized and promoted by the Transparency International, has been found to be useful. The Commission has, through its Office Orders No. 41/12/07 dated 04.12.07 and 43/12/07 dated 28.12.07 and Circulars No. 18/05/08 dated 19.05.08 and 24.08.08 dated 05.08.2008 (copies appended), recommended adoption of Integrity Pact and provided basic guidelines for its implementation in respect of major procurements in the Government Organizations.

2.0 Integrity Pact

2.01 The pact essentially envisages an agreement between the prospective Vendors/bidders and the buyer, committing the persons/officials of both sides, not to resort to any corrupt practices in any aspect/stage of the contract. Only those vendors/bidders, who commit themselves to such a Pact with the buyer, would be considered competent to participate in the bidding process. In other words, entering into this Pact would be a preliminary qualification. The essential ingredients of the Pact include:

- Promise on the part of the principal not to seek or accept any benefit, which is not legally available;
- Principal to treat all bidders with equity and reason;
- Promise on the part of bidders not to offer any benefit to the employees of the Principal not available legally;
- Bidders not to enter into any undisclosed agreement or understanding with other bidders with respect to prices, specifications, certifications, subsidiary contracts, etc.
- Bidders not to pass any information provided by Principal as part of business relationship to others and not to commit any offence under PC/IPC Act;
- Foreign bidders to disclose the name and address of agents and representatives in India and Indian Bidders to disclose their foreign principals or associates;
- Bidders to disclose the payments to be made by them to agents / brokers or any other intermediary.
- Bidders to disclose any transgressions with any other company that may impinge on the anti corruption principle.
2.02 Integrity Pact, in respect of a particular contract, would be operative from the stage of invitation of bids till the final completion of the contract. Any violation of the same would entail disqualification of the bidders and exclusion from future business dealings.

**3.0 Implementation procedure:**

3.01 Adoption of IP is voluntary for any organization, but once adopted, it should cover all tenders /procurements above a specified threshold value.

3.02 The threshold value for the contracts to be covered through IP should be decided after conducting proper ABC analysis and should be fixed so as to cover 90-95% of the total procurements of the organization in monetary terms.

3.03 Apart from all high value contracts, any contract involving complicated or serious issues could be brought within the ambit of IP, after a considered decision of the management.

3.04 The Purchase / procurement wing of the organization would be the focal point for the implementation of IP.

3.05 The Vigilance Department would be responsible for review, enforcement, and reporting on all related vigilance issues.

3.06 It has to be ensured, through an appropriate provision in the contract, that IP is deemed as part of the contract so that the parties concerned are bound by its provisions.

3.07 IP should cover all phases of the contract, i.e. from the stage of Notice Inviting Tender (NIT)/pre-bid stage till the conclusion of the contract, i.e. the final payment or the duration of warranty/guarantee.

3.08 IP would be implemented through a panel of Independent External Monitors (IEMs), appointed by the organization. The IEM would review independently and objectively, whether and to what extent parties have complied with their obligations under the Pact.

3.09 Periodical Vendors’ meets, as a familiarization and confidence building measure, would be desirable for a wider and realistic compliance of the principles of IP.

3.10 Information relating to tenders in progress and under finalization would need to be shared with the IEMs on monthly basis.

**4.0 Role /Functions of IEMs :**

4.01 IEM would have access to all Contract documents, whenever required. Ideally, all IEMs of an organization should meet in two months to take stock of the ongoing tendering processes.

4.02 It would be desirable to have structured meeting of the IEMs with the Chief Executive of the organization on a monthly basis to discuss/review the information on tenders awarded in the previous month.
4.03 The IEMs would examine all complaints received by them and give their recommendations/views to the Chief Executive of the organization, at the earliest. They may also send their report directly to the CVO and the Commission, in case of suspicion of serious irregularities requiring legal/administrative action.

4.04 At least one IEM should be invariably cited in the NIT. However, for ensuring the desired transparency and objectivity in dealing with the complaints arising out of any tendering process, the matter should be examined by the full panel of IEMs, who would look into the records, conduct an investigation, and submit their joint recommendations to the Management.

4.05 The recommendations of IEMs would be in the nature of advice and would not be legally binding. At the same time, it must be understood that IEMs are not consultants to the Management. Their role is independent in nature and the advice once tendered would not be subject to review at the request of the organization.

4.06 The role of the CVO of the organization shall remain unaffected by the presence of IEMs. A matter being examined by the IEMs can be separately investigated by the CVO in terms of the provisions of the CVC Act or Vigilance Manual, if a complaint is received by him or directed to him by the Commission.

5.0 Appointment of IEMs

5.01 The IEMs appointed should be eminent personalities of high integrity and reputation. The Commission would approve the names of IEMs out of the panel of names, initiated by the organization concerned, in association/consultation with the CVO.

5.02 While forwarding the panel, the organization would enclose detailed bio-data in respect of all names proposed. The details would include postings before superannuation, special achievements, experience, etc., in Government sector. It is desirable that the persons proposed possess domain experience of the PSU activities or the relevant field with which they may be required to deal.

5.03 A maximum of three IEMs would be appointed for Navratna PSUs and up to two IEMs for others.

5.04 Organizations could propose a panel of more than three names for the consideration of the Commission.

5.05 Persons appointed as IEMs in two organizations would not be considered for a third organization.

5.06 For PSUs having a large territorial spread or those having several subsidiaries, there could be more IEMs, but not more than two IEMs would be assigned to one subsidiary.

5.07 Remuneration payable to the IEMs would be equivalent to that admissible to an Independent Director in the organization. This remuneration would be paid by the organization concerned.
5.08 The terms and conditions of appointment, including the remuneration payable to the IEMs, should not be included in the Integrity Pact or the NIT. They could be communicated individually to the IEMs concerned.

5.09 The normal term of appointment for an IEM would be 3 years, and it would be subject to renewal by the Commission thereafter.

6.0 Review System:

6.01 An internal assessment of the impact of IP shall be carried out periodically by the CVOs of the organizations and reported to the Commission.

6.02 Two additional reviews are envisaged for each organization in due course.

   (i) Financial impact review, which could be conducted through an independent agency like auditors, and
   (ii) Physical review, which could be done through an NGO of tested credibility in the particular field.

6.03 It is proposed to include the progress in the implementation of IP in the Annual Report of the Commission. CVOs of all organizations would keep the Commission posted with the implementation status through their monthly reports or special reports, wherever necessary.

7.0 All organizations are called upon to make sincere and sustained efforts to imbibe the spirit and principles of the Integrity Pact and carry it to its effective implementation.

Enclosures: All earlier guidelines, issued by the Central Vigilance Commission, on the subject.

******
No.007/VGL/033
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block-A
GPO complex, INA,
New Delhi-110023
Dated the 4th December 2007

Office Order No.41/12/07

Subject: Adoption of Integrity Pact in major Government Procurement Activities- regarding.

Ensuring transparency, equity and competitiveness in public procurement has been a major concern of the Central Vigilance Commission and various steps have been taken by it to bring this about. Leveraging technology specially wider use of the web-sites for disseminating information on tenders, tightly defining the pre-qualification criteria and other terms and conditions of the tender are some of the steps recently taken at the instance of the Commission in order to bring about greater transparency and competition in the procurement/award of tender.

2. In this context, Integrity Pact, a vigilance tool first promoted by the Transparency International, has been found to be useful. The Pact essentially envisages an agreement between the prospective vendors/bidders and the buyer committing the persons/officials of both the parties, not to exercise any corrupt influence on any aspect of the contract. Only those vendors/bidders who have entered into such an Integrity Pact with the buyer would be competent to participate in the bidding. In other words, entering into this Pact would be a preliminary qualification. The Integrity Pact in respect of a particular contract would be effective from the stage of invitation of bids till the complete execution of the contract.

3. The Integrity Pact envisages a panel of Independent External Monitors (IEMs) approved for the organization. The IEM is to review independently and objectively, whether and to what extent parties have complied with their obligations under the Pact. He has right of access to all project documentation. The Monitor may examine any complaint received by him and submit a report to the Chief Executive of the organization, at the earliest. He may also submit a report directly to the CVO and the Commission, in case of suspicion of serious irregularities attracting the provisions of the PC Act. However, even though a contract may be covered by an Integrity Pact, the Central Vigilance Commission may, at its discretion, have any complaint received by it relating to such a contract, investigated.

4. The Commission would recommend the Integrity Pact concept and encourage its adoption and implementation in respect of all major procurements of the Govt. organizations. As it is necessary that the Monitors appointed should be of high integrity and reputation, it has been decided that the Commission would approve the names of the persons to be included in the panel. The Government Organizations are, therefore, required to submit a panel of names of eminent persons of high integrity and repute and experience
in the relevant field, through their administrative Ministry, for consideration and approval by the Commission as Independent External Monitors. The terms and conditions including the remuneration payable to the Monitors need not be a part of the Integrity Pact and the same could be separately communicated. It has also to be ensured by an appropriate provision in the contract, that the Integrity Pact is deemed as part of the contract in order to ensure that the parties are bound by the recommendation of the IEMs, in case any complaint relating to the contract, is found substantiated.

5. A copy of the Integrity Pact, which the SAIL got vetted by the Addl. Solicitor General is available on the Commission’s web-site i.e www.cvc.nic.in as an attachment to this Office Order in downloadable form, which may be used in original or may be suitably modified in order to meet the individual organization’s requirements.

Sd/-
(Vineet Mathur)
Deputy Secretary

All Secretaries to the Govt. of India
All CMDs of PSUs
All CMDs of PSBs
All CVOs
Steel Authority of India Limited (SAIL) hereinafter referred to as “The Principal”.
And
………………………………hereinafter referred to as “The Bidder/Contractor”

Preamble

The Principal intends to award, under laid down organizational procedures, contract/s for …………………………………………….The Principal values full compliance with all relevant laws of the land, rules, regulations, economic use of resources and of fairness/transparency in its relations with its Bidder(s) and /or Contractor(s).

In order to achieve these goals, the Principal will appoint an Independent External Monitor (IEM), who will monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

Section 1- Commitments of the Principal.

1. The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:-

   a. No employee of the Principal, personally or through family members, will in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.

   b. The Principal will during the tender process treat all Bidder(s) with equity and reason. The Principal will in particular, before and during the tender process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential/additional information through which the Bidder(s) could obtain an advantage in relation to the process or the contract execution.

   c. The Principal will exclude from the process all known prejudiced persons.

2. If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the IPC/PC Act, or it there be a substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer and in addition can initiate disciplinary actions.

Section2- Commitments of the Bidder(s)/ Contractor(s)

1. The Bidder(s)/Contractor(s) commit himself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.

   a. The Bidder(s) / contractor(s) will not, directly or through any other persons or firm, offer promise or give to any of the Principal’s employees involved in the tender process or the execution of the contract or to any third person any
material or other benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage or during the execution of the contract.

b. The Bidder(s)/Contractor(s) will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.

c. The Bidder(s)/Contractor(s) will not commit any offence under the relevant IPC/PC Act; further the Bidder(s) /Contractors will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.

d. The Bidder(s)/Contractor(s) of foreign origin shall disclose the name and address of the Agents/representatives in India, if any. Similarly, the bidder(s)/contractor(s) of Indian Nationality shall furnish the name and address of the foreign principals, if any. Further details as mentioned in the “Guidelines on Indian Agents of Foreign Suppliers” shall be disclosed by the Bidder(s)/Contractor(s). Further, as mentioned in the Guidelines all the payments made to the Indian agent/representative have to be in Indian Rupees only. Copy of the “Guidelines on Indian Agents of Foreign Suppliers’ as annexed and marked as Annexure.

e. The Bidder(s)/Contractor(s) will, when presenting his bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.

2. The Bidder(s)/Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

Section 3: Disqualification from tender process and exclusion from future contracts

If the Bidder(s)/Contractor(s), before award or during execution has committed a transgression through a violation of Section 2, above or in any other form such as to put his reliability or credibility in question, the Principal is entitled to disqualify the Bidder(s)/Contractor(s) from the tender process or take action as per the procedure mentioned in the “Guidelines on Banning of business dealings”. Copy of the “Guidelines on Banning of business dealings” is annexed and marked as Annexure.“B”.

Section 4 : Compensation for Damages

1. If the Principal has disqualified the Bidder(s) from the tender process prior to the award according to Section 3, the Principal is entitled to demand and recover the damages equivalent to Earnest Money Deposit/Bid Security.
2. If the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminated the contract according to Section 3, the Principal shall be entitled to demand and recover from the Contractor liquidated damages of the Contract value or the amount equivalent to Performance Bank Gurantee.

Section 5: Previous Transgression

1. The Bidder declares that no previous transgressions occurred in the last three years with any other company in any country conforming to the anti corruption approach or with any other public sector enterprise in India that could justify his exclusion from the tender process.

2. If the bidder makes incorrect statement on this subject, he can be disqualified from the tender process for action can be taken as per the procedure mentioned in “Guidelines on Banning of business dealings”.

Section 6: Equal treatment of all Bidders/Contractors/Subcontractors.

1. The Bidder(s)/Contractor(s) undertake(s) to demand from all subcontractors a commitment in conformity with this Integrity Pact, and to submit it to the Principal before contract signing.

2. The Principal will enter into agreements with identical conditions as this one with all bidders, contractors and subcontractors.

3. The Principal will disqualify from the tender process all bidders who do not sign this Pact or violate its provisions.

Section 7: Criminal charges against violation Bidder(s)/Contractor(s)/Subcontractor(s).

If the Principal obtains knowledge of conduct of a Bidder, Contractor or Subcontractor, or of an employee or a representative or an associate of a Bidder, Contractor or Subcontractor which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal will inform the same to the Chief Vigilance Officer.

Section 8: Independent External Monitor/Monitors

(1) The Principal appoints competent and credible Independent External Monitor for this Pact. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.

(2) The Monitor is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. He reports to the Chairman, SAIL.

(3) The Bidder(s)/Contractor(s) accepts that the Monitor has the right to access without restriction to all project documentation of the Principal including that provided by the
Contractor. The Contractor will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to Subcontractors. The Monitor is under contractual obligation to treat the information and documents of the Bidder(s)/Contractor(s)/Subcontractor(s) with confidentiality.

(4) The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the Principal and the Contractor. The parties offer to the Monitor the option to participate in such meetings.

(5) As soon as the Monitor notices, or believes to notice, a violation of this agreement, he will so inform the Management of the Principal and request the Management to discontinue or take corrective action, or to take other relevant action. The monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.

(6) The Monitor will submit a written report to the Chairman, SAIL within 8 to 10 weeks from the date of reference or intimation to him by the Principal and, should the occasion arise, submit proposals for correcting problematic situations.

(7) Monitor shall be entitled to compensation on the same terms as being extended to / provided to Independent Directors on the SAIL Board.

(8) If the Monitor has reported to the Chairman SAIL, a substantiated suspicion of an offence under relevant IPC/PC Act, and the Chairman SAIL has not, within the reasonable time taken visible action to proceed against such offence or reported it to the Chief Vigilance Officer, the Monitor may also transmit this information directly to the Central Vigilance Commissioner.

(9) The word ‘Monitor’ would include both singular and plural.

Section 9 – Pact Duration

This pact begins when both parties have legally signed it. It expires for the Contractor 10 months after the last payment under the contract, and for all other Bidders & months ---- the contract has been awarded.

If any claim is made / lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified above, unless it is discharged / determined by Chairman of SAIL.

Section 10 – Other provisions

• This agreement is subject to Indian Law, Place of performance and jurisdiction is the Registered Office of the Principal, i.e. New Delhi.
• Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.

• If the Contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.

• Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

(For & on behalf of the Principal)  (For & On behalf of Bidder/ Contractor)

(Office Seal)  (Office Seal)

Place ---------------
Date ---------------

Witness 1:
(Name & Address)  ______________________________
____________________________
____________________________
____________________________

Witness 2:
(Name & Address)  ______________________________
____________________________
____________________________
____________________________
Office Order No.43/12/07

Subject: Adoption of Integrity Pact in major Government Procurement Activities- regarding.

Reference is invited to Commission’s office order no. 41/12/2007 circulated vide letter of even no. dated 4/12/2007 on the aforementioned subject.

2. The Commission vide para 4 of the aforementioned office order had directed that the organizations were required to forward a panel of names of the eminent persons of high integrity through their administrative ministries for consideration and approval by the Commission as IEMs.

3. The matter has been reconsidered by the Commission and in order to simplify the procedure and avoid delay, it has been decided that the organizations may forward the panel of names of eminent persons for appointment and consideration as IEMs directly to the Commission for approval.

4. Para 4 of the Commission’s circular cited above stands amended to this extent.

Sd/-
(Vineet Mathur)
Deputy Secretary

All Chief Vigilance officers
Circular No.18/05/08

Sub:- Adoption of Integrity Pact in major Government Procurement Activities - regarding.

The Commission vide its office order no. 41/12/07 dated 4/12/07 had circulated a letter no. 007/Vgl/033 emphasizing the need to adopt Integrity Pact (IP) by government organizations in respect of their major procurement activities. The Commission had also directed that in order to ensure compliance with the obligations under the pact by the parties concerned, Independent External Monitors (IEMs) are to be appointed after obtaining approval of the Commission for the names to be included in the panel.

2. As the role of IEMs is very important in ensuring implementation of the IP, it is necessary that the persons recommended for appointment have adequate experience in the relevant fields and are of high integrity and reputation.

3. The Commission would, therefore, direct that the organizations, while forwarding the names of the persons for empanelment as IEMs should send a detailed bio-data in respect of the each of the persons proposed. The bio-data should, among other things, include the postings during the last ten years before the superannuation of the persons proposed as IEMs, in case the names relate to persons having worked in the government sector. The bio-data should also include details regarding experience older than ten years before superannuation of the persons proposed as IEMs, if they have relevant domain experience in the activities of PSUs where they are considered as IEMs.

This may be noted for future compliance.

Sd/-
(Rajiv Verma)
Under Secretary

All Chief Vigilance Officers
Circular No.24/8/08

Subject:— Adoption of Integrity Pact in major Government procurement activities.

The Commission, vide its Circulars No. 41/12/07, dated 4.12.07 and 18/5/08 dated 19.5.08, has emphasized the necessity to adopt Integrity Pact (IP) in Government organizations in their major procurement activities. The Commission had also directed that in order to oversee the compliance of obligations under the Pact, by the parties concerned, Independent External Monitors (IEMs) should be nominated with the approval of the Commission, out of a panel of names proposed by an Organisation.

2. As more and more organizations begin to adopt the Integrity Pact, several queries and operational issues have been raised. The Commission has examined these issues and suggested the following guidelines:

   i) Adoption of Integrity Pact in an organization is voluntary, but once adopted, it should cover all tenders/procurements above a specified threshold value, which should be set by the organization itself.

   ii) IP should cover all phases of the contract i.e., from the stage of Notice Inviting Tender (NIT)/pre-bid stage to the stage of last payment or a still later stage, covered through warranty, guarantee etc.

   iii) IEMs are vital to the implementation of IP and at least one IEM should be invariably cited in the NIT. However, for ensuring the desired transparency and objectivity in dealing with the complaints arising out of any tendering process, the matter should be referred to the full panel of IEMs, who would examine the records, conduct the investigation and submit a report to the management, giving joint findings.

   iv) A maximum of three IEMs would be appointed in Navratna PSUs and up to two IEMs in other Public Sector Undertakings. The organizations may, however, forward a panel of more than three names for the Commission’s approval. For the PSUs having a large territorial spread or those having several subsidiaries, the Commission may consider approving a large number of IEMs, but not more than two IEMs would be assigned to any one subsidiary.

   v) Remuneration payable to the IEMs may be similar to the Independent Directors in the organization.
vi) In view of limited procurement activities in the Public Sector Banks, Insurance Companies and Financial Institution, they are exempted from adopting IP.

3. It needs no reiteration that all organizations must make sustained efforts to realize the spirit and objective of the Integrity Pact. For further clarifications on its implementation or the role of IEMs, all concerned are advised to approach the Commission.

Sd/-
(Rajiv Verma)
Under Secretary

All CVOs