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सत्यमेव जयते

राष्ट्रपति
भारत गणतंत्र
PRESIDENT
REPUBLIC OF INDIA

MESSAGE

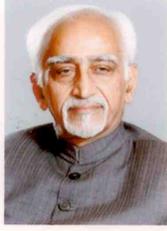
I am pleased to know that the Central Vigilance Commission is observing Vigilance Awareness Week on the theme of “Transparency in Public Procurement” from 29th October to 3rd November, 2012.

It is the duty of every person to strive to make society free from corruption. Transparency, fairness, accountability and probity are essential for functioning of public organisations. Officials should act with integrity and adopt ethical values in their day-to-day functioning.

I extend my greetings to everyone and wish a very successful Vigilance Awareness Week, 2012. Let us all join hands together and take a pledge for creating a corruption free India.

(Pranab Mukherjee)

New Delhi
October 16, 2012



VPS/M-1/2012

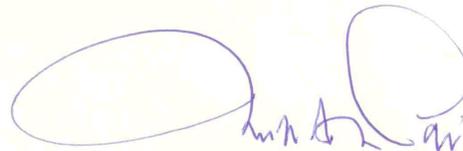
उप-राष्ट्रपति, भारत
VICE-PRESIDENT OF INDIA

MESSAGE

I am happy to know that the Vigilance Awareness Week is being observed from October 29 – November 3, 2012 on the theme 'Transparency in Public Procurement'.

Eradication of Corruption from our society, especially in public life, remains a primary objective for the nation. By raising awareness amongst all stakeholders on the adverse affects of corruption, we will be better prepared to build a national consensus on combating and eliminating this scourge. Let us take a pledge on this occasion to work towards making India a country free of corruption.

I wish the event all success.



(M. HAMID ANSARI)

New Delhi
September 27, 2012

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सत्यमेव जयते

केन्द्रीय सतर्कता आयोग
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,
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सं./No. 012/VGL/063 (pt. 3)

दिनांक / Dated..... 08.10.2012

MESSAGE

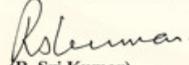
Vigilance Awareness Week 29th October to 3rd November, 2012

Central Vigilance Commission has been striving to promote transparency and integrity in various Central government offices and public sector organizations. Observance of Vigilance Awareness Week every year is an effective outreach measure for inclusive participation of citizen and stakeholders. The Commission expects all public officials to work with utmost sincerity and integrity. This demands consistency between core values of integrity and public actions. It also requires moral courage to act on these values even if doing so requires sacrifice. Public officials need to act without fear or favour.

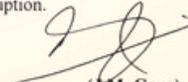
The theme for this year's Vigilance Awareness Week is "Transparency in Public Procurement". Public procurement encompasses procurement of goods, works and services by all public organizations. Public Procurement is an activity vulnerable to corruption. While lack of transparency and violation of laid down procedures needs to be curbed, steps are also required to ensure fair competition and objectivity in selection assuring value for money. Therefore, the Commission's effort is to emphasize transparency, accountability and probity in public procurement .

The Commission expects that the public authorities will undertake a review of their public procurement policies/ methods and introduce systemic changes. The Commission emphasizes these authorities to act as enabler for leveraging of technology and make substantial measurable progress in this regard in the coming days.

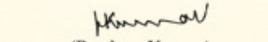
Let us all take a pledge to unite in the fight against corruption.


(R. Sri Kumar)

Vigilance Commissioner


(J.M. Garg)

Vigilance Commissioner


(Pradeep Kumar)
Central Vigilance Commissioner



Date: 17.10.2012

MESSAGE

As you are aware that like previous years, this year the Vigilance Awareness Week would be observed from 29th October to 3rd November, 2012 throughout the Country falling within the advisory jurisdiction of the Commission, with an innovative theme of "Transparency in Public Procurement".

Our aim on the occasion of the Vigilance Awareness Week is to sensitize each and every employee on transparent mode of working so that their thoughts and actions are in total consonance with our Company's vision.

Vigilance has been an integral part of our Management and I am happy to note that it has been a constant endeavour of our vigilance set up to promote improvement in systems, processes and practices.

I am pleased to note that on this occasion, Vigilance Department is bringing out the 8th edition of the Vigilance Bulletin to sensitize the officials and public at large on various issues to stem the evils of corruption by creating awareness on the rules & regulations to be observed in official matters.

I am hopeful that adequate control mechanism and systemic improvement taken by us will improve the quality of corporate Governance

(A.N. Sahay)

Chairman-cum-Managing Director



Date: 18.10.2012

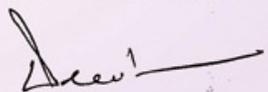
MESSAGE

In pursuance of the directives issued by the Central Vigilance Commission, New Delhi this year's Vigilance Awareness Week is being observed from 29th October, 2012 to 3rd November, 2012. The theme for this year has been decided by the Central Vigilance Commission, New Delhi as "Transparency in Public Procurement".

I am delighted to share that Mahanadi Coalfields Limited has been the pioneer in promoting transparency in the public procurement by introducing e-procurement module from the year 2009. Besides, the main emphasis of the Vigilance Department has been on the various systemic improvements in the core area of field operations and business transactions like coal weighment, quality, HSD issue/receipt, procurement process etc.

Like previous years the Vigilance Department is bringing a bulletin comprising of articles on anti-corruption issues, case studies on systemic pitfalls noticed during the year 2011-12 and various CVC circular instructions relating to public procurement for the benefit of our esteemed readers.

I hope that the Vigilance Awareness Week-2012 will prove to be a value-oriented week and serve its purpose for sensitization of the consumers and general public on the need for zero tolerance towards corruption in the society.


(Deepak Srivastava, IFS)
Chief Vigilance Officer

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Good practices in Procurement

Deepak Srivastava, I.F.S.
Chief Vigilance Officer
Mahanadi Coalfields Limited

In any Public Sector Undertaking or Government departments, the public procurement system has always been a key area for improving upon the productivity and growth rate. Recognising the fact that in our Country public procurement constitutes about 28% of the GDP, it was strongly felt by the MCL that IT intervention in the procurement of goods and services will go a long way in promoting fairness and transparency in this vital area. However, as usual the conventional system (manual system) of public procurement in MCL too suffered from many problems like longer cycle time of procurement, subjective and inconsistent decisions in tender evaluation, non-uniform and non-standard procedures.

The several impediments that were experienced in the manual tendering process in vogue from past several years it was decided to procure goods and services via e-mode. Accordingly, after approval from MCL Board, the e-procurement system was put in place during August'2009. With the active vibrant support of National Informatics Centre (NIC), MCL implemented a software platform for e-procurement of works, services and goods wherein the technical part of the tenders are being evaluated by the portal software based on the information submitted by the bidders on-line in a structured and objective format. The e-procurement software has an important provision that once the L-1 is established, it alone has to submit the confirmatory documents off-line in support of earlier uploaded information w.r.t. his eligibility before the award of work. Thus a paradigm shift from paper based manual evaluation to an system based automatic evaluation has been adopted which has been performing exceedingly well this date.

Further, the system provides many innovative features like on-line validation of live bid opening, management of clarifications public viewing facility of tender status etc. which has brought a greater degree of transparency in the entire procurement process above `2.00 lakh. Till now in almost three years, more than 2400 contracts have since been awarded with reduced cycle time of procurement promoting competitiveness amongst the bidders which is the sole objective of any public procurement. As a result complaints and litigations by the various stakeholders relating to the tendering process have significantly reduced.

Salient features of the e-procurement system:-

- Software based bid evaluation and verification
- Widespread dissemination of information of all e-procurements through print media.
- Uploading of tenders on Central Public Procurement Portal. (<http://eprocure.gov.in>).
- Role based access to the portal controlled jointly by NIC and MCL.
- Mandatory Digital Signature Certificate (DSC) for all users.
- Multi disciplinary approach with following key players:
 - Procurement Officer
 - Bid Publisher
 - Bid Opener
 - Bid Evaluator
 - Auditor
- Quick and convenient uploading of bids
- Drastic reduction in cost of bidding
- Feedback system regarding compliance of Bids against tender requirements

- Suitable Alert messages in case of mistakes and invalid data input
- Step by step availability of status to all bidders .
- Online payment of EMD & Tender Fee
- Nil transaction fee / Registration Fee
- Online resubmission and withdrawal of bids

Security Auditing of portal

- QAudit Systems & Solutions Pvt Ltd (For IT Security)
- NICCA (For Portal Infrastructure).
- STQC (For portal software)

The major advantages of the e-procurement have been;

- a. On-line availability of the details of the NITs, submitted bids and evaluation process upto award of work.
- b. The fair chance to participate in the bidding process without any element of biasness.
- c. Evaluation of bids eliminating the human interface to a large extent without any subjective interpretations.
- d. On-line viewing of opening of tenders, on-line receipts of bidder documents like EMD and other fees.
- e. The reduced cycle time of procurement increasing the efficiency of the procurement process (Time cycle reduced from 180 days to 75 days).
- f. Reduction in the cost of bidding for the bidders resulting into increased participation and competitiveness (Cost of bidding per bidder reduced from `1100/- to `35/-).
- g. Scope of forward integration of the present system with the post award contract management for timely and successful completion of contracts.
- h. Configuration of the portal software with business logic to eliminate mistakes and invalid data inputs by the users.
- i. Feedback to the bidders regarding the compliance of their bid information w.r.t. the eligibility conditions of NIT at every stage.

However, there were following hitches faced by MCL during the transition phase i.e. from a paradigm shift from manual to e-procurement tendering system.

- Resentment from small vendors / local contractors
- Suspicion over the security of online procurement amongst prospective bidders
- Reluctance amongst employees/vendors due to lack of technical know-how.

In order to address the aforementioned problems, series of re-orientation program for effective change management was conducted to overcome the bottlenecks as a result of which the current system has been running almost flawless. The key concerns in the present e-procurement has been;

- Difficulty in framing the Technical Specifications for sophisticated equipments to eliminate the equipments which are qualitatively not so good products (e.g- Medical Equipments)
- Difficulty in verification of the claims of the Bidders regarding the Technical aspects of their product in case of higher specifications .
- Reckless uploading of data by the bidders leading to delay / re-tender .
- Lack of monitoring of the time cycle taken in refund of EMDs.

- Lack of monitoring of awarded work to L-1 till its successful completion of the contract.

Future Road Map for strengthening e-Procurement process

A. Automation of refund of EMD.

B. Post Award Contract Management.

A. Automation of refund of EMD: The following circumstances urged the MCL to think for automation of refund of EMD:

- Total EMD received during 2010-2011 is `3.52 Cr and 2011-2012 is `3.82 Cr
- Total EMD released during 2010-2011 is `3.12 Cr. and 2011-2012 is `3.42 Cr
- Average time of return of EMD 4 Months (approx) and Maximum time noticed is 6 months.
- Unrest amongst vendors / Contractors.
- Human interface leading to corruption

For implementation of auto refund of EMD, a committee was formed under the chairmanship of Director (Finance) with a vigilance representative on 24-05-2012 and a module was prepared and discussed with the Vigilance Department on 05-06-2012. Auto refund modules in collaboration with AXIS bank have now been prepared and sent to NIC Chennai for modification and development during June'2012. The matter is being followed up with the NIC, Chennai on regular basis. It is expected that by November'2012 the auto e-refund of EMDs will be in place of giving a fillip to the entire procurement process.

B. Post Award Contract Management(PACM): This was felt necessary to put in place of a system for effective monitoring Post Award of Contract on e-Mode due to the following:

- Delay in commencement of the awarded work.
- Maintaining transparency in execution of the work in a phased manner.
- Monitoring of work execution, completion of contract and final settlement of the contractual bills.

The matter is also being followed up with the NIC, Chennai for early development of PACM module for its implementation atleast by next financial year.

Awards & Recognitions received by MCL for implementation of e-Procurement.

- Best project under Government to Business (G2B) Category in e-India 2010.
- Best Project by Confederation of Indian Industry (CII) in 2011
- Best project under Government to Business Category in e-World 2011 forum.

Statistics of e-Procurement Portal of MCL till 30.09.2012

Starting of e-Procurement in MCL	15.08.2009
Total No. of Tenders Published	6347
Total Value of Tenders Published	6248.92 Cr.
Total No. of Tenders Opened	5235
Total Value of Tenders Opened	4887.72 Cr.
Total No. of Tenders Awarded	3289
Total Value of Tenders Awarded	3042.75 Cr.
Average Cycle Time (Publish of NIT till decision of L-1)	32 days
Average Cycle Time (Publish of NIT till Award of Work)	71 days
LOWEST Cycle Time (Publish of NIT till decision of L-1)	15 days
LOWEST Cycle Time (Publish of NIT till Award of Work)	21 days
Maximum Bidders participation in a tender	17

Before concluding, the writer would like to request all the esteemed readers that in case any shortcomings or areas of improvement in the present system of e-procurement of MCL comes to their mind, it may kindly be communicated alongwith the solutions, if any, since no system is ever fool-proof and there is always a scope for improvement.

Information Technology (IT) – a tool for Vigilance Administration

B. Kumar, Dy. GM (Systems), MCL

As a matter of fact during the entire life period one has to be vigilant for leading a trouble free life. Not only the human being but animals also have this quality by virtue of which they are able to survive. Nature has provided us the tools like eyes, ears, nose and other sense organs along with the powerful mind for being vigilant. Other than these natural tools science has provided many other tools for this purpose and Information Technology is the most effective one amongst them. Information Technology has established its recognition as one of the best tool for adding features like speed, transparency, accuracy in processing of information and more over minimizing the human intervention at various stages of the process which is a major cause of error/corruption.

Since end of the last century the world has witnessed the influence of Information Technology in almost all spheres of life. Over the coming years more and more activities both private and public have been enriched by the use of this new technology. The increase in Industrial output all over the globe is largely attributed to Information Technology (IT) by bringing automation and minimizing human intervention as far as possible.

It is a true that MCL has gone a long way on the path of Information Technology. In order to increase transparency and accountability throughout the organization, Mahanadi Coalfields has made all out effort for the effective use Information Technology in a big way and the feel of computerization and its benefits are apparent. Many of our activities have been successfully computerized and we are still in the process of covering more and more areas as well as shaping up the existing one as and when required.

The Website of any organization has become the most effective tool for communicating globally with the world. Website of MCL has been restructured to give it a new look and feel. Both static and dynamic pages have been included in the existing website. At present our website has the following facilities:-

- (i) Online recruitment through website has been successfully introduced with the present facilities of hosting of appointment related notices, online capture of applications, online checking of application, sending emails regarding written test, interview results. MCL is in process of introducing OMR answer sheets for automated evaluation of the written exam with a view to speed up the entire recruitment process along with transparency. The applicants who are presently communicated through their registered e-mails will also be communicated through SMS in future.
- (ii) Recently facility has been provided for the Coal Consumers to register their complaints online through the website. To avoid fictitious complaint lodging the consumer will have to register first by providing the necessary data like his Name, email-ID, PAN no. and consumer code etc. The password will be communicated by the system through their e-mail. Using the login ID and password a consumer can register his complain and see its status online. Sales department can go through the pending complaints and take necessary steps for their redressal.
- (iii) The existing Online Bill Status gives a window to our existing vendors/contractors for knowing the status of their bills through the website. In the present system the information related to bills of the suppliers/contractors are entered and updated in Coalnet Server at various locations and the same is regularly uploaded in the Website of MCL. Effort is on for automatic updation of the status of bills which are being paid through the existing Coalnet system at HQ.

- (iv) Online Vigilance complaint lodging system is there with auto-acknowledgment of receipt of the complaints. Vigilance department can log into the system from time to time, and update the status of the complaint, which the complainant can see thru their login-id and password.
- (v) Hosting of various information on the website like rules, procedures, circulars, manuals, etc related to the organization increases awareness among its various stakeholders. If the public is aware of rules and procedures they are better able to resist arbitrary treatment.

Enrichment of the website is continuous process and new features are being added to it in a systematic and friendly manner to use its potential as a tool for achieving transparency, awareness raising, and thus for fighting corruption.

Other IT Initiatives being taken by MCL are:-

- (i) Centralized Road Sale billing through the existing Coalnet package is already in use . It has resulted in quick billing and timely refund to the coal consumers. The centralized Rail sale billing through Coalnet has already started in all the Area of MCL. MCL Kolkata and Bhubneswar office has started using the Coalnet application. Equipment Monitoring Module of Coalnet package has been modified as per the need of the user department and they have already started backlog data entry. The Land & Rehabilitation part of Project Monitoring module is operational since long and the rest of the items have tested and modified. Further customization and modification will be done while its implementation.
- (ii) In all the mines of MCL GPS-GPRS based vehicle tracking system is going to be introduced for all the tippers engaged in coal production to stop pilferage. All the mine will be equipped with RF-ID based access control system to stop unauthorized vehicles from entering mines premises. CCTV cameras will be installed at all the weighbridges for capturing pictures of the trucks coming for weighment. Sidings will also have PTZ cameras for surveillance purpose.
- (iii) MCL has taken all necessary steps to implement the Integrated Minerals and Mines Management System (i3MS) software at road weighbridges introduced by Ministry of Steel & Mines, Odisha Government. The existing system has the facility for capturing the weighment data along with other details and storing the same in the local computer as well as in the central i3MS server. Permit can be generated and printed online at the weighbridges . While capturing relevant data at the weighbridges the same will be verified online with the existing master data available in the i3MS server and thus will bring in greater transparency. With the introduction of this new system, both MCL and the State Government will have full information of the vehicles carrying coal like vehicle registration number, destination, quantity of coal etc to check illegal movement of coal consignments. MCL will have the facility to download the dispatch data from the i3MS server for its internal use.
- (iv) Capturing of weighment data for internal transportation from the static road weighbridges into the central CoalNet server has already been tested.
- (v) A window has been provided in existing CoalNet system through which one can see the position of Area-wise inventory from any location which may help in the reduction of the inventory.
- (vi) e-Payment & e-Receipts: All payments are done thru e-payment mode. Thus suppliers / contractors / customers are not required to come to office for receiving their cheques. Thus, it also helps reduce transaction costs involved in making payments by way of cheques and sending them through couriers, and also helps in curbing corruption. The Coal consumers who were supposed to come over here to physically deposit the draft for lifting coal, are now depositing money through e-mode.

Future IT plan of MCL:-

- We are in the process of acquiring high end servers for HQ and the three nodal Areas viz Jagannath, IB Valley and Basundhara . It will help in extending the existing Coalnet application upto area and unit level resulting in a centralized database and better MIS.
- MCL is having a gigantic network connecting Weighbridges, Project Offices, Area Offices with HQ. Order has been placed on M/s ITI for extending connectivity to the then remaining weighbridges and Anand Vihar office. For rest of the incoming in-motion road weighbridges connectivity will be provided by M/s ITI for which necessary steps have been taken. With view to strengthen the existing network for uninterrupted flow of data MCL is in the process of setting up MPLS and VSAT based redundant network from BSNL. The same is in final stage.
- Web service & Mail Service – To host its website on its own web server and provide e-mail accounts through own mail server.
- Extension of Coalnet modules like Financial Information System, OMMS, Payroll etc up to the Area and Unit level.
- Hospital Management System at Central Hospitals and Dispensaries of MCL for patient registration, Bed management, medicine inventory, maintaining patient history, PME details etc.
- Document Management System for digitizing all circulars, policies, official documents for easy retrieval at any point of time.
- Shift wise daily attendance capturing at Unit level to ensure timely payroll processing along with generation of MIS reports.

Conclusion

Thus Information Technology can be effectively amalgamated with the business processes of an organization with a view to put more stress on preventive vigilance and reduce punitive vigilance resulting in elimination of corruption to a great extent.

Transparency in Public Procurement : A case study of MCL

S.K. Bhanja, Project Manager, e-Procurement Cell, MCL
O.P. Mishra, Sr.Manager (Civil), e-Procurement Cell, MCL
S.K. Shrivastava, Sr.Manager (Civil), e-Procurement Cell, MCL
B. Pattnaik, Sr.Manager (MM), e-Procurement Cell, MCL
Pradeep Kumar N, MT(MM), e-Procurement Cell, MCL

1.0 PUBLIC PROCUREMENT

As per the Public Procurement Bill, 2012, as introduced in Lok Sabha vide Bill No. 58 of 2012, "Procurement" or "Public Procurement" means acquisition by purchase, lease, license or otherwise of goods, works or services or any combination thereof, including award of Public Private Partnership projects, by a procuring entity, whether directly or through an agency with which a contract for procurement services is entered into, but does not include any acquisition of goods, works or services without consideration. It starts from the first step of assessing the need and ends with closure of procurement contract after acquisition of the intended goods, service, works or any combination of them. Thus it has got three distinct part viz. a).Pre Tendering stage, b).Tendering stage and c).Post Tendering stage.

Public procurement has been a matter of concern as it has wide spread impact on the citizens and the governance of the country. It calls for a strict compliance towards accountability for the judicious expenditure of public money honoring the constitutional obligations of the procuring entity. While quick finalization of the Tenders are of paramount importance, it has also to be ensured that the quality of decision making does not suffer.

2.0 PRINCIPLES OF PUBLIC PROCUREMENT

The principles of public procurement in Indian context has been better explained in a historical judgment given by Hon'ble Supreme Court of India. In Nagar Nigam, Meerut vrs. Al Faheem Meat Exports (P) Ltd.¹ the Supreme Court observed as follows ¹:

"16. The law is well settled that contracts by the State, its corporations, instrumentalities and agencies must be normally granted through public auction/public tender by inviting tenders from eligible persons and the notification of the public auction or inviting tenders should be advertised in well-known dailies having wide circulation in the locality with all relevant details such as date, time and place of auction, subject-matter of auction, technical specifications, estimated cost, earnest money deposit, etc.

The award of Government contracts through public auction/public tender is to ensure transparency in the public procurement, to maximize economy and efficiency in Government procurement, to promote healthy competition among the tenderers, to provide for fair and equitable treatment of all tenderers, and to eliminate irregularities, interference and corrupt practices by the authorities concerned. This is required by Article 14 of the Constitution.

However, in rare and exceptional cases, for instance, during natural calamities and emergencies declared by the Government; where the procurement is possible from a single source only; where the supplier or contractor has exclusive rights in respect of the goods or services and no reasonable alternative or substitute exists; where the auction was held on several dates but there were no bidders or the bids offered were too low, etc., this normal rule may be departed from and such contracts may be awarded through "private negotiations"

General Financial Rules (GFRs)

(A compendium of general provisions to be followed by all offices of the Government of India while dealing with matters of a financial nature. GFRs were first issued in 1947. The latest one is of 2005.)

Rule 137 of the GFRs states the following:

"Fundamental principles of public buying : Every authority delegated with the financial powers of procuring goods in public interest shall have the responsibility and accountability to bring efficiency, economy, transparency in matters relating to public procurement and for fair and equitable treatment of suppliers and promotion of competition in public procurement"

(¹Pradhan,N.K. (2011) *Intersection of Law, economics and Technology: A case for e-Procurement, The Practical Lawyer* , (2011) PL February S-19)

3.0 TRANSPARENCY IN PUBLIC PROCUREMENT

Transparency is a technical word having a dictionary meaning as the property of being able to be seen through or clarity/clearness etc. However as a core principle of good governance, transparency connotes the conduct of public business in a manner that allows the stakeholders wide accessibility to the decision-making process and the ability to effectively influence it. When we are talking about public procurement it becomes more relevant in current scenario of growing mass awareness, extensive use of RTI Act, issuance of a large number of guidelines by CVC and moreover the growing and alarming level of corruption in government procurement processes.

The corruption is the single important and dictating issue due to which a greater level of transparency is needed in the procurement process. As per a survey conducted by Transparency International India (a non government organization) in 2002, ten departments extorts about `26,728 Crores in bribes from public every year. This is an alarming figure. The second important factor is the enactment and use of RTI Act which has revealed many cases where the public procurement process has failed to comply with the principles of public procurement and in some case it has been found that the transparency and equal opportunity to all bidders has not been ensured in the procurement process. The preamble of RTI Act says that :

"Democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to held Government and their instrumentalities accountable to the governed."

It has been proved by the enactment of RTI Act that the well informed citizen can make the Government and all other related stakeholders accountable and

this is a vital requirement for a sustained democracy. This principle is applicable to public procurement also.

Apart from that the obligations under international agreements like GATT, transparency becomes one of the coordinial principle of governance and hence for procurement too.

There are a number of issues related to public procurement which needs to be addressed with diligence and care. Some of the important issues affecting the transparency of the process are as follows:

- a. Incorrect estimates for Tender
- b. Lack of clarity in the Bid documents
- c. Lack of transparency and consistency in bid evaluation process
- d. Lack of clarity in eligibility criteria
- e. Subjective parameters in eligibility criteria
- f. Non-standard, ambiguous technical specifications at times heavily skewed in favour of some particular party/bidder.
- g. Deviations from NIT terms/ agreement
- h. Subjective decisions in Bid evaluation process
- i. Unnecessary delay in decision making
- j. Lack of understanding of rules, regulations, policies and procedures.
- k. Inherent complication in the system of procurement
- l. Unethical business practices

The above issues are common in the public procurement process of almost all the government departments, Public Sector Undertakings etc. These elements affect the transparency of the process at different stages of procurement.

4.0 GUIDELINES ON TRANSPARENCY ISSUED BY CVC AND OTHER GOVERNMENT BODIES

CVC has observed in 1998 that Government Tenders are a major source of corruption. The statement was discussed and disputed in different public forum by the different stakeholders but the statistics confirms the statement of CVC. One of the Ex Central Vigilance Commissioner (CVC), Sri P Shanker, has stated in a seminar :

“Strict adherence to procurement procedures and transparency in tendering process were key to prevent corruption in the government and PSU departments. By diligently following the systems and strengthening procedures in procurement, India can improve its standing in the corruption perception index. We should strike a balance between achieving targets and taking care of public money by having sufficient checks and balances”

CVC not only expressed its concern on the growing level of corruption but also issued a number of circulars which are aimed on the transparency of procurement process only. The list of circulars issued by CVC for ensuring transparency is available at http://cvc.nic.in/proc_works.htm. More than thirty guidelines have been issued only for ensuring transparency in the procurement process. This shows the concern of CVC on this issue.

Apart from CVC, Department of Expenditure, Ministry of Finance GOI has also issued many circulars for implementing a transparent system of procurement :

1. Office Memorandum of Ministry of Finance, Department of Expenditure vide F.No. 8(5)/E.II (A)/2006 dated July 05, 2006 conveying the directions on the subject "Introduction of Mandatory e-Procurement" of the Apex Committee chaired by the Cabinet Secretary on various Missions Mode projects(MMPs) of e-Governance.
2. Another letter of the same department dated January 10th, 2007 with reference to OM No. 8(5)/E.II (A)/2006 dated July 05, 2006
3. Letter of Ministry of Coal vide No 38011/13/2006-IFD dated 05.02.2007 on "National e-Governance plan(NeGP) - Implementation of e-Procurement in Ministries/Departments" with a copy of OM of Department of Expenditure vide U.O.No. 8(5)/E.II(A)/2006 dated 28/11/2006 directing implementation of mandatory e-Procurement w.e.f. 01.01.2007
4. OM of Ministry of Commerce & Industry Govt. of India vide No. 13(a)/2008-P Dated 16.05.2011 on National E-Governance Plan(NeGP) -Implementation of e-procurement in Ministries/Departments- regarding
5. After launching a Public Procurement Portal at <http://eprocure.gov.in> Department of Expenditure, Ministry of Finance has issued the following circulars:
 - A. Office Memorandum Dated 30th November, 2011 on Mandatory Publishing on CPP Portal
 - B. Letter dated 12th December 2011 from Secretary(Expenditure) addressed to all the Secretaries of Govt. of India.
 - C. Office Memorandum Dated 30th March, 2012 on e-Procurement
 - D. Letter dated 14th March 2012 from JS(Expenditure)
 - E. Office Memorandum Dated 5th March, 2012 on Central Public Procurement Portal
 - F. Guidelines on e-Procurement
 - G. Office Memorandum Dated 21st May, 2012 on Central Public Procurement Portal
 - H. Mandatory publication of all tender enquiries on CPP Portal using XML upload
 - I. OM-Compliance of e-Procurement Systems with Deptt. of IT guidelines on Quality requirements

(These documents are available at <http://eprocure.gov.in/cppp/cppinstructions>)

The issuance of these circulars from CVC and Ministries signifies the importance of transparency in procurement as felt by Govt. of India.

5.0 TOOLS FOR IMPARTING TRANSPARENCY IN PUBLIC PROCUREMENT

The problem of public procurement is multi dimensional and hence it has to be analysed and addressed from different angles. The suggested methodology may include more than one approach including change of behavioral aspects of the stakeholders of the system. Sincere effort has to be put on the following fronts for the successful implementation of an highly transparent and effective e-Procurement system :

- A. Process re-engineering of the procurement process:** The process re-engineering is needed before any system improvement or implementation of any online e-Procurement system otherwise the negative aspects of the previous system is also carried to the new system. The unproductive efforts, complications, inefficiencies and deficiencies from the system is to be removed keeping in view the end objective of the process. The review and analysis of the system should be done periodically to ensure that the system is properly synchronized with the contemporary technology, organizational requirements, Govt. policies, procedure, guidelines and legal framework. The public procurement processes in most of the Govt. departments carries lot of processes which are superfluous and unproductive. Many unnecessary information is obtained from the Bidder which are not required at all for the end objective of the process but it is carried on due to inertia, fear and lack of regular introspection and review.
- B. Standardization and documentation of the Notice Inviting Tenders and Contract documents:** Once the process is optimized and modified in compliance with the guidelines, manuals and legal framework with an eye on the accomplishment of end objectives, then the concept and the process is to be put in black in white and should be circulated to all concerned. The language should be simple, explicit, unambiguous, clear and explanatory. It should not contain unnecessarily complicated jargons which may be misinterpreted in different ways. The Bid documents should be drafted in line with the process document and should be standardized for the convenience of not only the Tender Inviting Authorities but also the Bidders.
- C. The use of web based technology:** CVC and Department of Expenditure, Ministry of Finance, GOI have issued a number of guidelines, circulars for using web based technology for the procurement processes. E-Procurement has also been made mandatory above a threshold value by GOI. E-Publishing has been made mandatory for all tenders irrespective of value excluding few exceptions. Use of ICT can safely and conveniently eliminate almost all the issues of public procurement. For the sake of transparency, it is absolutely essential that every Organization should adopt e-Procurement including e-Publication of Tender, e-Submission of bids, automated evaluation of bids by portal software etc. Further to augment the transparency and convenience to bidders, all payments including receipt of tender fee & EMD and payment of Bills should be made in electronic format and payment status of Bills should be available on the designated portal of the Organization.

6.0 A CASE STUDY OF MCL

In order to bring utmost transparency in the procurement process, Mahanadi Coalfields Limited has taken many innovative measures, the most important being "Implementation of e-Procurement with auto technical evaluation". The steps taken so far are as follows :

A. PROCESS RE-ENGINEERING :

Before implementation of e-Procurement system, a very systematic process study of procurement process was made with the help of an international consultancy firm "Ernest & Young". The inefficiencies of the system and unproductive, superfluous efforts and the unnecessary information load in the bidding process were identified and eliminated. The data capture strategy for obtaining data in a structured objective format to facilitate automation of the bid evaluation process was planned. The Bid evaluation system was conceived and designed in compliance with the Manuals of the Company, guidelines of CVC and other references. A process document was drafted and was vetted by all concerned departments and finally approved by the Board of Directors, the apex decision making body of the Company. The process was reviewed periodically and improvements, refinements and modifications based on the experience gathered in due course of time were made with the approval of Board of Directors. The process documents were circulated and also put up in downloadable form on the official website of the Company viz. <http://www.mcl.gov.in/> .

While drafting the process document the following points were ensured :

- a. The e-Procurement sub-process like tender creation, bid submission, tender opening, bid evaluation etc. were lucidly explained.
- b. The redundant, superfluous and unproductive activities were eliminated.
- c. The roles and responsibilities of the officials involved in the Tendering process were well defined.
- d. Tender process was so redesigned that the tender could be finalized conveniently within a short time without compromising with the transparency and quality of the decision making process.
- e. The data capture strategy was clearly explained.
- f. Compliance of IT Act and other rules, regulations, policies and procedures was ensured.
- g. Eligibility Criteria and bid evaluation process were clearly spelt out.

B. RE-DRAFTING OF TENDER DOCUMENTS

Clauses of NIT were redrafted to suit the e-Procurement process after removing the confusions and contradictions. The eligibility requirement, bid evaluation process, other terms and conditions etc. were lucidly explained in the bid document. This standardized bid documents were circulated to all

concerned and made available on the website so that it can be conveniently accessed by all tender inviting authorities.

C. IMPLEMENTATION OF INTEGRITY PACT

Integrity Pact (IP) is a tool devised by Transparency International (TI) which ensures that all activities and transactions between a Company or Govt. Deptt. and their Suppliers are handled in a fair, transparent and corruption free manner. It contributes to improve the credibility of public procedures and administration. This Pact is a contractual agreement between the vendors/purchasers and the PSU, committing both sides to strictly abide by the rules and regulations of the tender and ensure integrity. The Integrity Pact begins when a bidder submits an EOI or purchases the bid documents and would end after the execution of the contract when all payments are made to the satisfaction of both the contracting parties. Both the parties agree for appointment of a third party who acts as "Independent External Monitor(IEM)" to monitor the deal. This contract also has provisions for payment of damages and other retributive action in case any of the prescribed norms are proven to be violated. If any bidder does not sign the Integrity Pact while submitting the bid, his bid would not be considered.

MCL signed the MoU with Transparency International India on 7th April 2008. After that the Integrity Pact was made mandatory for the tenders above a threshold value. The threshold value has been revised time to time based on the review and recommendations of the appropriate authorities, IEMs and others. At present the threshold value is `80 lakhs. Thus all the tenders valuing Rs.80 lakhs and more will have the provision of Integrity Pact in the tender document.

Implementation of Integrity Pact has enabled MCL to resolve the disputes related to integrity of any of the stakeholders within a short period with less expenditure. At the same time the transparency of the system is being watched by IEMs and their periodic suggestions help MCL to bring more refinement in the system.

D. IMPLEMENTATION OF e-PAYMENT.

e-Payment is another tool which can impart immense transparency and convenience in the bill payment system. In this system the payment to the vendors is made through electronic modes by transferring fund to their account directly. CVC has also issued circulars for ensuring e-Payment for transparency.

MCL has adopted mandatory e-Payment since April 2009. The benefit of the technology for quick transfer of funds is now being passed on to the suppliers and contractors. The time and effort spent in receiving the payment by the vendors has been reduced significantly. More than 98% of the total payments in MCL is made through e-Payment.

E. IMPLEMENTATION OF e-PROCUREMENT :

Use of ICT for imparting transparency in the public procurement system is one of the prime concern of CVC and Govt. of India. Mahanadi Coalfields

Limited have designed an e-Procurement system with the following unique innovative features:

- The Bids are evaluated automatically by the Portal software.
- In order to facilitate automatic evaluation, the information are obtained in a structured objective format from bidder against eligibility criteria of tender. Thus there is a migration from paper based manual evaluation to information based intelligent evaluation system.
- Only L1 Bidder has to provide documentary evidence in support of the information furnished by them online against eligibility criteria. Other Bidders are not required to upload any document against eligibility criteria.

Other features of the e-Procurement System are as follows :

- Creation of Tender:** The Tenders are created on-line by the concerned Officials as per the prescribed guidelines, on the e-Procurement portal. The Tender documents such as NIT, Terms and conditions, Drawings, Route Map, Technical Parameter Sheet, Bill of Quantity etc. are uploaded by the Tender creators with their Digital Signature.
- Publication of Tender:** The tender created online is verified by the Tender Publisher (Head of the Department) and then tender is published online by the Publisher with his Digital Signature certificate(DSC).
- Enrollment of the Bidder:** The Bidders have to get themselves enrolled on the e-Procurement portal of MCL. This enrollment can be done online 24 X 7, free of cost without any intervention of MCL. The process is very simple and Bidder has to create his/her profile by furnishing the profile details. After this stage the Bidder has to register the Digital Signature Certificate of its authorised representative, to complete the enrollment process.
- Information updation by Bidders in their respective Bidder space:** The Bidder has to fill up some data which are required repeatedly in multiple tenders . Hence a provision of Bidder space has been kept in the system. Such information/documents are kept by the bidder in appropriate Bidder space and retrieved by the system automatically as per requirement of the tender. Sometimes the Bidder is required to select information/document which will be submitted against a particular tender..
- On-line Clarification for Bidders:** The e-Procurement portal of MCL has a unique feature of "Seeking Clarification" by bidders on-line. Bidders may seek tender specific clarification on-line and the relevant query of bidder is responded on-line by the Tender publishing authority. The response from MCL is visible to all the bidders intended to participate in that tender. The identity of the bidder seeking clarification is not disclosed by the system, neither to the MCL officials nor to the other bidders.

- f. **Submission of Bid on-line:** The Bidding process is fairly simple and it takes 10-15 minutes for a bidder to complete the bidding process. The bidder is guided by a sequence of steps starting from payment of Application Fee and EMD to uploading of the Technical Details/Technical Parameter Sheet and other documents as specified in the NIT as per requirement of specific tender. Finally the bidder has to upload the Price-bid with encryption by the system. The number of documents to be uploaded by the bidders is few.
- g. **Payment of EMD and Tender Fee on-line:** There is a provision for the Bidders to pay the EMD and Application Fee online. The Bidders having account in Axis Bank can pay through Direct Debit (Netbanking) mode and those having account in other Banks can pay through NEFT/RTGS modes.
- h. **Validation of Bid and on-line feedback to Bidders:** Whenever the Bidder submits the Bid, the submission process is validated by the system at each stage and Bidder gets a feedback message as to whether he/she complies the required eligibility criteria or not. Lastly the bidder gets an acknowledgement of the Bid submission and the acknowledgement sheet also indicates the compliance status of the Bidder.
- i. **Opening of Technical-bid:** The received Bids are decrypted by the Bid openers with their DSC and bids are opened on-line on the pre-scheduled date and time.
- j. **Live viewing of opening of Bids:** The status of opening of Bids and details of documents/information submitted by bidders can be viewed live on-line by the participating Bidders.
- k. **Automatic Technical Evaluation of Bids:** The special feature of this e-Procurement portal software is that the Technical Bid is evaluated on-line as per the eligibility criteria of the NIT with least human intervention.
- l. **On-line Tender Status:** The bidder gets online status of tender at each nodal point in a well structured format. The five nodal points in respect of Tender Status are a).Technical bid opening, b).Technical evaluation, c).Financial bid opening, d).Financial evaluation and e).Award of contract (AOC). The bidders also get online information through system generated emails and SMS at different stages of tendering which includes events like successful submission of bids, Technical evaluation results, the date of opening of Price bid and Award of Contract etc. The Tender Status is in public domain and can be viewed on the MCL's e-Procurement portal by any person without any DSC.
- m. **Opening of Price Bids:** The Price Bid of eligible bidders are decrypted by the Bid openers with their DSC and Price Bids are opened on-line on the pre-scheduled date and time. The status of

opening of Price Bids as well as the details of the Bids submitted by different Bidders can be viewed Live by the participating Bidders.

- n. **On-line Financial evaluation:** The comparative statements of the Price Bids are generated by the system and validated by the Tender Committee.
- o. **Online submission of Confirmatory documents :** After opening of Price-bid the L-1 bidder has to submit all the supporting documents online, as specified in the NIT in support of information/data furnished by him on-line within a specified period.
- p. **Award of Contract:** The Award of Contract is uploaded by the Tender Inviting Authority on the e-Procurement portal, which is accessible to public.

I. The Mile Stones:

Date	Milestones
20/10/2006	MCL Board in its 84 th meeting took a decision to start e-Procurement within one year.
28/09/2007	MCL Board in its 91 st meeting deputed two of its members to hold meeting with MCL officials and to recommend a system of e-Procurement to be adopted in MCL.
05/11/2007	Two members of MCL Board viz. Shri Abdul Kalam, Independent Director and Shri K. Rangnath, Director (Marketing), CIL conducted meeting with MCL officials at Kolkata wherein it was conceived to adopt a system of e-Procurement having no human intervention after floating of NIT till decision of L-1 bidder.
22/12/2007	MCL Board in its 92 nd meeting approved for implementation of e-Procurement in MCL with feature of auto-technical evaluation of bid without human intervention.
13/09/2008	A committee consisting of 3 executives from System, TC & Vigilance department was constituted to workout the modalities for implementation of e-Procurement in MCL as approved in 92 nd meeting of MCL Board held on 22 nd December 2007.
23/01/2009	CMD, MCL and CVO, MCL had a meeting with DG, NIC at New Delhi and requested for rendering e-Procurement services by NIC to MCL on a long term basis.
13/06/2009	MCL Board in its 108 th meeting approved for Implementation of e-Procurement for Works and Services through MCL's own e-Procurement portal to be developed and maintained by NIC.
04/07/2009	In order to facilitate the implementation of e-Procurement in MCL, an e-Procurement Cell was constituted to function at MCL-HQ. under the administrative control of Director(T/P&P).
15/08/2009	The e-Procurement for Works and Services started in MCL with inauguration by CMD, MCL by floating three pilot tenders on MCL's own e-Procurement

	portal (https://mcltenders.gov.in) developed and maintained by National Informatics Centre (NIC), Govt. of India.
15/09/2009	The e-Procurement for Works & Services above threshold value of `10 lakh was made mandatory for all Areas of MCL.
01/10/2009	MCL started e-Procurement of Materials above threshold value of `10 lakh on the portal of ITI as per the contract finalized by CIL. In this portal transaction fee @0.09% of tendered value + S.T.@10.3% was to be paid by MCL for each tender and also the Tender evaluation process was not on-line.
05/11/2009	A presentation on e-Procurement of Works & Services in MCL was made in 36th CMDs Meet held on 5 th November'2009 at Kolkata. CMD suggested for incorporation of Reverse Auction, online payment of EMD & online refund of EMD. It was decided by CMDs that the representative of each subsidiary company would be sent to MCL for acquiring knowledge and training on the e-Procurement for implementation in their respective subsidiary.
15/12/2009	The threshold limit for e-Procurement of Works, Services & Materials was reduced from `10 Lakhs to `2 Lakhs.
22/12/2009	MCL signs MOU with NIC and NICS I for rendering services for e-Procurement for an initial period of 5 years with provision for further extension.
15/01/2010	A committee consisting of 4 executives from e-Procurement Cell, MM and Vigilance department was constituted to study the feasibility of reducing the cycle time of procurement of Materials and minimizing the human intervention in tender evaluation in line with the directives of 92 nd MCL Board.
11/02/2010	In the 39th CMDs Meet held on 11.02.2010 at New Delhi, it was decided that in consideration of the financial advantage and timely procurement of materials, MCL may be allowed to adopt the package of NIC for procurement of Equipments, Spares and Consumables subject to approval by MCL Board.
04/03/2010	MCL Board in its 117 th Meeting approved for implementation of e-Procurement of Materials through MCL's own e-Procurement portal (https://mcltenders.gov.in) developed and maintained by NIC.
24/03/2010	The e-Procurement for Materials on MCL's own e-Procurement portal (https://mcltenders.gov.in) started with inauguration by CMD, MCL by floating two pilot tenders.
31/08/2010	MCL signs MOU with AXIS Bank for online receipt of EMD and Application Fee.
12/01/2011	Online receipt of EMD and Tender fee at MCL HQ. started through direct fund transfer (Net Banking)
10/03/2011	SMS facility to bidders and departmental users started at different stages like enrollment, Bid submission and bid evaluation.
08/07/2011	Online receipt of documents from L1 bidder started for MM department.
05/09/2011	Online receipt of EMD and Tender fee by all Areas of MCL started through NEFT/RTGS mode.

09/12/2011	Online receipt of documents from L1 Bidders for all types of Tenders was implemented .
01/10/2012	e-Procurement facility was extended to CMPDIL, which is a sister concern of MCL

II. STATISTICS :

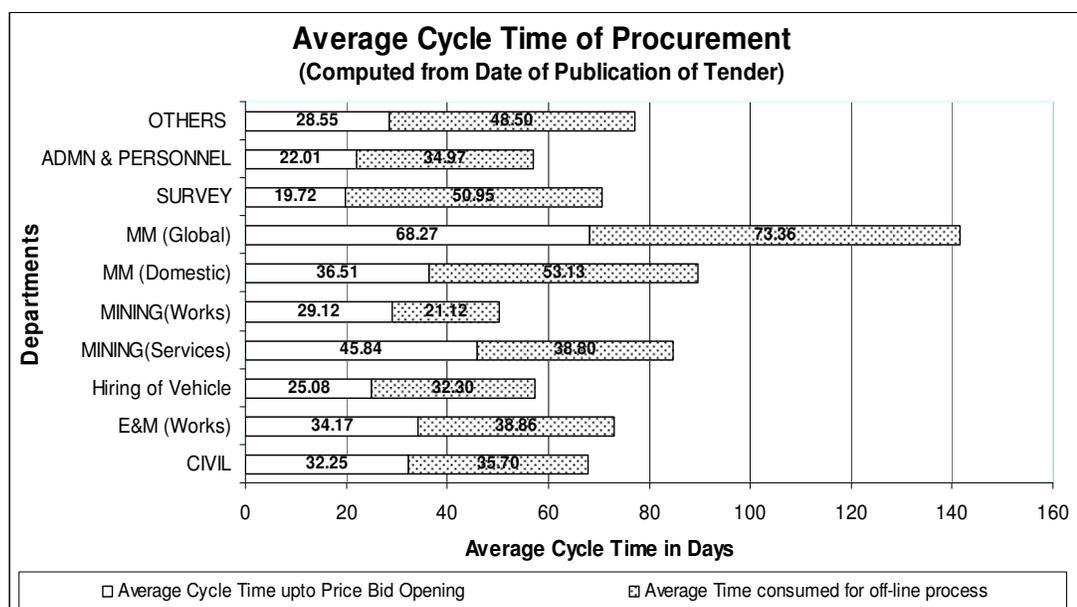
A. Statistics for Tenders Published

Since Inception of e-procurement in MCL till date(15/08/2009 to 17/10/2012)

Department Name	Published Tenders		Opened Tenders		Awarded Tenders	
	No. of Tenders	Value (Rs.in Lakh)	No. of Tenders	Value (Rs.in Lakh)	No. of Tenders	Value (Rs.in Lakh)
MCL						
Administration/ Personnel/Welfare/PRO	36	1014.20	29	658.76	15	435.86
CIVIL	2478	69481.81	2165	65789.49	1566	55463.38
E&M	1463	10324.96	1249	8603.01	810	5234.06
E&T	8	149.09	7	144.55	4	33.31
EXCAVATION	28	254.86	24	234.12	13	69.57
MINING	354	7772.06	287	5769.73	165	2703.45
MM	1742	118898.16	1299	67296.23	662	28025.51
SURVEY	71	272.62	58	217.12	38	129.27
TC & CMC	155	421813.65	136	347297.90	67	217569.13
SAFETY	19	717.1	16	532.41	8	61.22
SYSTEM	6	325.05	4	231.93	3	219.93
TOTAL	6360	631023.56	5274	496775.25	3351	309944.69
MNH SHAKTI	7	121.98	5	61.98	0	0
MJSJ	6	24.5	5	21.83	3	12.45
CMPDIL	12	7017.90	0	0.00	0	0.00
TOTAL	6385	638187.94	5284	496859.06	3354	309957.14

B. Statistics for Tenders published during last one year (01/10/2011 to 30/09/2012)
Cycle Time with respect to Tender Publication Date

Sl. No	Tender Type	Price-Bid Opened		AOC Issued		Average Time consumed for off-line processing for Award of Contract
		Numbers	Average Cycle Time from date of e-Publication to Price Bid opening (Decision of L1)	Numbers	Average Cycle Time from date of e-Publication to Award of Contract	
1	CIVIL	670	32.25	563	67.95	35.70
2	E&M (Works)	161	34.17	111	73.03	38.86
3	E&M (Hiring of Vehicle)	237	25.08	181	57.38	32.30
4	MINING(Services)	42	45.84	38	84.64	38.80
5	MINING(Works)	50	29.12	43	50.24	21.12
6	MM (Domestic)	415	36.51	284	89.64	53.13
7	MM (Global)	7	68.27	5	141.63	73.36
8	SURVEY	24	19.72	14	70.67	50.95
9	ADMN & PERSONNEL	7	22.01	5	56.98	34.97
10	OTHERS (Systems, Safety, E&T, Excavation)	11	28.55	9	77.05	48.50
	Total	1624	32.64	1253	72.03	39.40

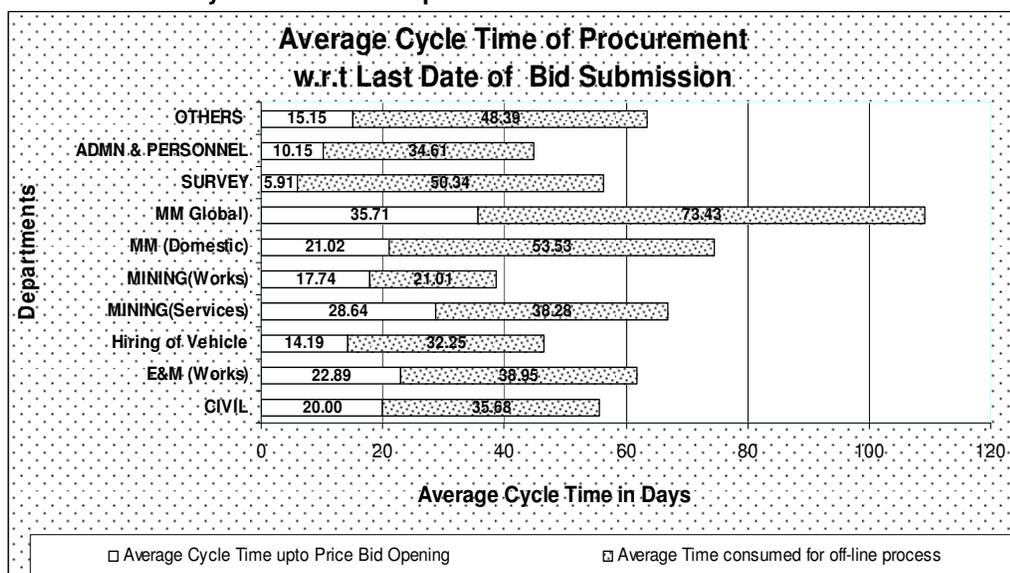


C. Statistics for Tenders published during last one year (01/10/2011 to 30/09/2012)

Sl. No	Tender Type	Price-Bid Opened		AOC Issued		Average Time consumed for off-line processing for Award of Contract
		Numbers	Average Cycle Time from end date of Bid Submission to Price Bid opening (decision of L1)	Numbers	Average Cycle Time from end date of Bid submission to Award of Contract	
1	CIVIL	670	20.00	563	55.68	35.68
2	E&M (Works)	161	22.89	111	61.84	38.95
3	E&M (Hiring of Vehicle)	237	14.19	181	46.44	32.25
4	MINING(Services)	42	28.64	38	66.92	38.28
5	MINING(Works)	50	17.74	43	38.75	21.01
6	MM (Domestic)	415	21.02	284	74.55	53.53
7	MM Global)	7	35.71	5	109.14	73.43
8	SURVEY	24	5.91	14	56.25	50.34
9	ADMN & PERSONNEL	7	10.15	5	44.76	34.61
10	OTHERS (Systems, Safety, E&T, Excavation)	11	15.15	9	63.54	48.39
	Total	1624	19.64	1253	59.16	39.52

Note: The Bid Validity Period is 90 days for MM(Global Tenders) and 75 days for all other Tenders, from the End Date of Bid Submission

Cycle Time with respect to End Date of Bid Submission



D. Major derived Benefits of e-Procurement

- a. Significant reduction in Cycle Time
- b. Reduction in Cost of Bidding on the part of Bidder
- c. Faster communication to Bidders through System generated e-mail and SMS
- d. Better competition leading to better price and quality
- e. Convenience to Bidders in submission of Bid
- f. Excellent transparency in Tender process
- g. Tender Data available for further business analysis and review
- h. Reduction in Bid Validity period leading to quick finalization of tenders
- i. Control on unethical business practice by Bidders
- j. Elimination of subjective judgments by Tender Committee in evaluation of bid
- k. Feedback and alert message to bidders during bid submission
- l. Seeking clarification by Bidders in a transparent manner
- m. Significant reduction in Publication Cost of Tender Notices

E. Reduction in Procurement Cost

There is a general trend in reduction in quoted price. An analysis of the Tenders awarded by TC Deptt. of MCL HQ. which constitutes about 70% of the total Tenders in value, is furnished below :

Year	No of Contracts Awarded	Awarded Value (Rs. in Lakh)	Percentage above /below the updated estimate cost
2009-2010 (Till 15.09.2009 through Manual Tender process)	20	26620.57	(+) 13.71 %
2009-2010 (After 15.09.2009 through e-Procurement process)	11	13118.27	(+) 17.62 %
2010-2011	21	73833.30	(+) 2.54 %
2011-2012	21	103476.00	(+) 4.17 %
2012-2013 (till 15/10/2012)	17	41969.38	(-) 8.43 %

12 Future Initiatives:

MCL is always in quest of the areas of improvement and enhancement of the functionalities of its e-Procurement system. The following important initiatives have been planned for future

- a. Automatic refund of EMD to unsuccessful bidders through electronic mode.
- b. Receipt of tender fee & EMD through Internet Payment Gateway (Debit Card & Credit Card)
- c. Post award contract Management
- d. Reverse Auctions

13 Awards:

- **Best project under Citizen's Choice in Government to Business Category in eIndia 2010.**
- **Best Project award by Confederation of Indian Industry in 2011**
- **Best project under Citizen's Choice in Government to Business Category in eWorld 2011.**
- **Best innovative project awarded by Coal India Limited in 2011**

14 Conclusion:

Transparency in the public procurement is one of the core issues of governance in almost all the countries of world. Particularly in developing countries like India it is more relevant because it ultimately affects even the last citizen of the country. Lot of steps have been taken in recent past by the government and its different bodies and CVC. The results of the efforts are being felt. MCL is striving for imparting the best possible level of transparency in its procurement process . The results are very encouraging so far and it has to be periodically reviewed for exploring the improvement areas and the process of refinement must be continued for a sustained efficacy of the system.

System Improvement – 1 *

No. D(T/Op)/Samb/Secy/209 dated 02.12.2011

Sub.: System Improvement for Tendering Process related to Procurement of Spares, Repairs and Contact Services of Excavation & E&M Department.

Following points are being brought for system improvement in tendering process:-

1. Estimate should be prepared on the basis of updated cost only. Whenever it is not possible (for which reasons to be given) or when there is considerable change in price index during tendering procedure which necessitates updates of cost, it should be done before opening of price bid.
2. Though it is highlighted time and again before, it is again emphasized that regular/routine jobs should not be split up to keep them within a particular delegation of power. Instead, it is advised that this type of job should be done on annual contract basis.
3. In case of overhead electrical line, it is advised that the extent of work should be shown on the reduced version of updated mine plan in which the present overhead line and proposed work are shown in different colour codes. At the same time, the colliery should maintain an up to date overhead line network with pole no. (existing and ongoing at different colour codes) in a properly sized mine plan updated not before three months.
4. A regular compliance report shall also be submitted by the CGM/GMs of Area to concerned Director.
5. Company Secretary, MCL will put up compliance report quarterly in FDs for information.

This is issued for strict compliance. All the CGMs/GMs of HQ/Areas will ensure the above compliance.

Sd/-
Director (Tech./Op), MCL

* The system improvement in this section has been done in the Company as a result of reference from Vigilance Department, MCL.

System Improvement – 2 ***No.D(T/Op)/Samb/Secy/203 dated 13.08.2012****Sub.: System Improvement for quality of coal for dispatch.**

The following system is proposed to be followed for improving quality of coal at all Areas of MCL.

1. Picking of shale/extraneous material from coal – Arrangement shall be made for picking up shale/extraneous material at ROM stock coal in the mine from which coal is transported to CHP/Feeder Breaker/Mobile Crusher for crushing and from where coal is being transported to siding.
2. Monthly sampling of coal shall be done randomly at the following points in addition to FSA provisions.
 - a) At crusher/CHP where ROM coal is crushed for transportation to siding.
 - b) Surface miner coal being transported to siding in tippers.
 - c) Coal stock offered for e-auction.
 - d) At Siding(s).

3. A bound paged sampling register shall be maintained at the colliery end in the following manner.

Date sampling	of	Stock/Truck No.	Approximate quantity	Sample No.	Signature of Sampling I/C	Signature of Desp. I/C

4. A bound paged analysis Register shall be maintained showing details of stage wise analysis done indicating both UHV/GCV & Grade with signature of the chemist & Lab In-charge.
5. A master register to be maintained showing details of month/date wise analysis of each sample with signature of chemist & Lab-in-Charge.
6. The above exercise will be monitored by the Project Officers of the concerned project.
7. Report of the above analysis to be sent to GM(QC) on monthly basis through general Manager of the Area for record and perusal of Competent Authority under confidential cover.
8. For coal supply made to customers under FSA, the guidelines given in the respective Fuel Supply Agreement may be followed.
9. Area is advised to strengthen internal sampling procedure for transparency & internal assessment of the quality of coal being supplied to the e-auction customers and other consumers. In addition to the above, Area is also permitted to take up the matter from their end to any Govt. institutions as well as Govt. outside agencies like NIT, Rourkela/VSSUT, Burla/CFRI, Dhanbad/Bilaspur etc. having requisite expertise in sampling to draw sample once in a quarter from the stock for their internal assessment. A copy of above report may be sent to GM(QC) & GM(S&M), MCL Burla for their information under confidential cover.

* The system improvement in this section has been done in the Company as a result of reference from Vigilance Department, MCL.

10. Area should hold a meeting once in a quarter with consumers' representative regarding their grievances related to quality and size of coal. The minutes of the meeting shall be sent to the concerned Director with a copy to GM(QC) and TS to CVO.
11. The result of each routine testing as per FSA showing the date of sampling, place of sampling and the corresponding G.C.V. shall be posted on the Notice Board at the office of the mine.
12. The monitoring of above guidelines will be the responsibilities of Area CGM/GMs and GM (QC).

Kindly ensure implementation of the suggested points.

Sd/-
Director (Tech./Op), MCL

Case Study – 1 *

Irregularities in the matter of providing illegal power connection to some private parties

An investigation was taken-up by Vigilance Department in respect of collecting illegal money by providing illegal power connection from MCL feeder line to some private parties. The synopsis of the fact is that Shri "A", the then Sr. Manager(E&M) of "X" OCP, who was the in-charge of the sub-station had facilitated in providing 3-phase, 4-wire power connection through cables to some outside parties who had established workshops and running machines like Grinding Machines, Welding Machines etc. with an intention to gain pecuniary benefits, which clearly envisages that theft, fraud or dishonesty in connection with the business or property of the Company or of property of another person within the premises of the Company is treated as an act of misconduct on the part of "A".

The discrete inquiry conducted by Vigilance Department revealed that there were three feeders running from the Sub-Station. Feeder-1 feeds power to one nearby Village alongwith others and this practice is being carried out since 1997 on the basis of verbal understanding between the villagers and the Project Authorities as the village was considered as resettlement site. Three phase electric connection was provided to the village from which outsiders were drawing illegally power for their industrial use. It was also revealed during the investigation that as Shri "A" was in-charge of the sub-station, the sole responsibility lied on him to impede this illegal connection and he failed to do so. He did not initiate any preventive measures to curb this type of illegal tapping connections and hence a proposal was initiated for taking disciplinary action against the accused. Shri "A" in his version has told that the connection was made by miscreants and in the past this was also pointed out by him to the management and management did not take any action.

After intervention of the Vigilance Department, the illegal power connection to the private industries was disconnected and three phase connection extended to the village was made two phase by the MCL Management and thus there was a saving in the cost of power. Thereafter, Shri 'A', was imposed with a minor penalty of "Censure".

* The case study in this section arises out of the work done by Vigilance Department, MCL.

Case Study – 2 ***Delay in release of payment against the materials supplied by Ancillary Units
of MCL**

Apropos above, Supply Orders had been placed for supplying of DGMS approved complete roof bolt to three Ancillary Units of MCL after finalization of tenders at MCL Hqrs level. While floating the tender, the technical specification stipulated in the NIT was that the roof bolts should confirm to the DGMS Circular No. 3/703 dated 14.8.2008. Accordingly, all the three Ancillary Units had quoted their rates and tender was finalized and supply orders placed after completion of all formalities total amounting `3.47 crores. Out of these three Ancillary Units, two units supplied the materials and got their payment in time. One Ancillary Units "X" had supplied the materials in phases to the Regional Store and received the part payment. In the last phase, "X" had supplied 12,900 of roof bolts to "Y" Depot. The materials were received by Shri "A", the Depot Officer and also inspected by Shri "B", Area Safety Officer. The technical specifications of materials supplied were duly inspected by the officials from CMPDIL and was found as per the specifications stipulated in the supply order. But the party had supplied the materials to the Depot after expiry of the stipulated delivery period for which Shri "A", the Depot Officer and Shri "B", Area Safety Officer had asked for amendment order for extension of delivery period from MCL Hqrs. The proposal for extension of delivery period was routed through various departments of MCL Hqrs and finally it was not approved on the ground that the DGMS circular has been changed and the materials would not be utilized as it was not confirming to new DGMS circular. For this reason, the extension of delivery period was not approved by the Competent Authority. Thus the materials were not accepted and payment was not made to the Ancillary Unit.

In view of above, a discrete inquiry for the purpose of knowing the truth was conducted by Vigilance Department and during the said inquiry, it was revealed that the materials were required during the delivery period and the party had been asked to supply the roof bolt. As the Ancillary Unit "X" had manufactured the roof bolt as per technical specification stipulated in the supply order and got it tested by experts from CMPDIL to confirm the technical specifications. The party had supplied the materials after expiry of delivery period and out of 12,900 Nos. of roof bolt, department had already consumed 2000 Nos. in the mine. The balance roof bolts were found dumped in the Regional Store and the party had been asked to lift the material as it was not as per the new DGMS circular.

Furthermore, the matter was investigated and it was revealed that "extension of delivery period" and "acceptance of materials" are two different components of the supply order. In this case, extension of delivery period was regretted on the basis of materials were not accepted as it was not in accordance with new DGMS circular. But the fact is that the materials were as per the DGMS circular mentioned in the supply order. So the ground on which the extension of delivery period was regretted was not justified.

The fact and investigation report was put up to Disciplinary Authority as the materials supplied by the Ancillary Unit were more than one year and the party had been denied for the payment.

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Thereafter, Disciplinary Authority advised for constitution of a committee at Area level to explore the possibility of further use or otherwise the balance 10900 of roof bolts lying at Regional Store. Consequent upon the order of Disciplinary Authority, the materials were used and payment was made to the party and the case was closed.

Case Study – 3 ***Irregularities in debarring the bidders from participating in future tenders
extending undue favour to the contractor**

A surprise inspection was conducted by Vigilance Department relating to the matter as mentioned above in the year 2011. During the investigation, it was revealed that in the case of e-tender for 04 Nos. of civil works in "X" Area, Shri "A", the then Chief Manager(Civil) had floated the tender on e-portal of MCL. It was observed that in all these four works, as mentioned above, the tender committee recommended other penalty measures as per NIT along with Banning of L-1 bidder for one year from participating in future tenders of "X" Area, as per the provisions of Clause No. 15 of NIT. But the relevant clause No. 15 of NIT says regarding debarring of L-1 bidder for one year from participating in future tenders and nowhere in the NIT, it was mentioned regarding debarring the contractors for participation in tenders of "X" Area. So a favour had been extended to the bidders by allowing him to participate in tenders of other Areas of MCL.

A letter had been circulated by Shri "B", Project Manager, e-procurement Cell which clearly speaks about the procedure of Banning/Debarring of Bidders. In the instant case, the banning status of the bidders to Project Manager(e-procurement) had not been intimated so that account of the Bidder could have been locked on e-procurement portal. Thus a favour had been extended to the bidders in each case which hamper the sanctity of the e-procurement process.

In this case, the officers involved were Shri "A", the then Chief Manager(Civil), who was Staff Officer(Civil) of "X" Area and all the tender committee members alongwith Area Finance Managers and General Manager of the Area.

As the General Manager in E-8 grade was involved in this case, it was sent to CVC for its 1st stage advice. In turn, CVC in its 1st stage advice had recommended for issuance of warning to all the officers involved in this case and also advised for initiation of minor penalty proceedings against Shri "A" as he had recommended the proposal not as per the provisions NIT and not intimated the fact to e-procurement cell. Accordingly, minor penalty of "Censure" was imposed on Shri "A".

* *The case study in this section arises out of the work done by Vigilance Department, MCL.*

Case Study – 4 *

Irregularities in the matter of Supply and Commissioning of ACs on different HEMMs in different Projects of MCL

A CTE type inspection was conducted by Vigilance Department in the matter of irregularities in Supply and Commissioning of ACs on different HEMMs in different Projects of MCL. The crux matrix of the fact is that an order was placed to M/s. GMG Techno Traders(P) Ltd, Nagpur, for supply and commissioning of ACs on different HEMMs for a value of ₹248.72 lakhs. The party M/s. GMG Techno Traders had supplied all the Air Conditioners in the year 2007 to the concerned depot as per order.

It was mentioned on Supply Order in Clause No.C.7(b) & C.7(c) to ensure the fitting of LCD temperature indicator in Operator's Cabin and Hour Meter to register number of hours worked by Air Conditioner.

Consequent upon the inspections made by the Vigilance Department, it was observed that the four officers involved in this case at four Units had overlooked the Clause No. C7(b) & C7(c) and they did not ensure whether LCD temperature meter and Hour Meter was fitted in the Dumper or not. On their inspection and certification of materials supplied payment to the party was released. However, an intervention by Vigilance Department afterwards LCD temperature meter and Hour Meter had been fitted.

As the General Manager in rank of E-8 was involved in this case, it was sent to CVC for its 1st stage advice. In turn, CVC in its 1st stage advice had recommended for issuance of warning to all the officers involved in this case.

* The case study in this section arises out of the work done by Vigilance Department, MCL.

CVC Circulars on Procurement of Works, Goods & Services

Sl.	Circular No.	Date	Subject
1	03/01/12	13.01.2012	Consideration of Indian Agents
2	01/01/2012	12.01.2012	Guidelines on e-Procurement Linked Document
3	12/10/11	28.10.2011	Applicability of CVC's guidelines on post tender negotiations
4	11/09/11	12.09.2011	Recoveries arising out of Intensive Examination Conducted by CTEO
5	08/06/11	24.06.2011	Selection and Employment of Consultants
6	02/02/11	17.02.2011	Mobilization Advance
7	01/02/11	11.02.2011	Transparency in Tendering System
8	34/10/10	07.10.2010	Design Mix Concrete
9	31/8/10	13.08.2010	Adoption of Integrity Pact-Standard Operating Procedure (SOP) – reg.
10	23/6/010	23.06.2010	Leveraging of Technology for improving vigilance administration in the National E-Governance Plan
11	21/5/10	02.06.2010	Delay in initiating Disciplinary Proceedings.
12	19/5/10	19.05.2010	Transparency in Works/Purchase/Consultancy contracts awarded on Nomination basis.
13	18/04/10	26/04/2010	Implementation of e-tendering solutions – check list.
14	17/04/10	19.04.2010	Integrity Pact – Selection and Recommendation of Independent External Monitors (IEMs).
15	01/01/10	20.01.2010	Tendering Process – Negotiations with L-1
16	31/10/09	09.11.2009	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
17	29/9/09	17.09.2009	Implementation of e-tendering solutions.
18	13/6/09	11.08.2009	Intensive Examination of CTE- Steps for early finalization
19	22/08/09	11.08.2009	Adoption of Integrity Pact – Periodicals regarding
20	17/7/09	14.07.2009	Posting of details on award of tenders/contracts on websites.
21	10/5/09	18.05.2009	Adoption of Integrity Pact-Standard Operating Procedure – Reg.
22	1/1/09	13.01.2009	Implementation of e-Tendering solutions
23	31/11/08	06.11.2008	Time bound processing of procurement
24	24/8/08	05.08.2008	Adoption of Integrity Pact in major Government Procurement
25	22/07/08	24.07.2008	Referring cases of Procurement to the Commission.
26	18/5/08	19.05.2008	Adoption of Integrity Pact in major Government Procurement
27	9/2/08	18.02.2008	Two day Work shop/Seminar regarding IT Procurement...
28	07/02/08	15.02.2008	Measures to curb the menace of counterfeit and refurbished IT products – regarding.
29	05/02/08	05.02.2008	Mobilization Advance
30	1/1/08	31.12.2007	Acceptance of Bank Guarantees.
31	43/12/07	28.12.2007	Adoption of Integrity Pact in major Government Procurement Activities
32	41/12/07	04.12.2007	Adoption of Integrity Pact in major Government Procurement Activities

			Modified Integrity Pact
Sl.	Circular No.	Date	Subject
33	23/7/07	05.07.2007	Transparency in Works/Purchase/Consultancy contracts awarded on nomination basis.
34	14/4/07	26.04.2007	Use of Products with standard specification.
35	13/4/07	18.04.2007	Improving Vigilance administration by leveraging technology: Increasing transparency through effective use of website.
36	10/4/07	10.04.2007	Mobilization Advance.
37	4/3/07	03.03.2007	Tendering process-negotiation with L-1.
38	3/2/07	23.02.2007	Investigation of complaints by the CVOs – seizure of records reg.
39	40/11/06	22.11.2006	Improving vigilance administration by leveraging technology : Increasing transparency through effective use of websites in discharge of regulatory, enforcement and other functions of Govt. organizations.
40	37/10/06	03.10.2006	Tendering process – Negotiation with L1
41	31/09/06	01.09.2006	Posting of details of award of tenders/contracts on websites/bulletins.
42	15/05/06	09.05.2006	Transparency in Workshops/Purchase/Consultancy contracts awarded on nomination basis.
43	21/05/06	01.05.2006	Examination of Public Procurement (Works/Purchases/ Services) Contracts by CVOs
44	74/12/05	21.12.2005	Vigilance angle – definition of (partial modification regarding)
45	71/12/05	09.12.2005	Undertaking by the Members of the Tender Committee/ Agency.
46	98/VGL/25	10.11.2005	Intensive Examination of works by CTE's Organisation – Submission of quarterly progress report.
47	68/10/05	25.10.2005	Tendering process negotiation with L-1
48	57/09/05	20.09.2005	Details of award of tenders/contracts publishing on Websites/ Bulletins – Reminder regarding.
49	46/07/05	28.07.2005	Details of award of tenders/contracts Publishing on Websites/ Bulletins – Reminder regarding.
50	98/VGL/25	16.05.2005	Intensive Examination of Works by CTE's Organization – Submission of Quarterly Progress Report.
51	2EE-1-CTE-3	12.04.2005	Issues pertaining to negotiation with L-1
52	18/3/05	24.03.2005	Banning of business dealing with firms/contractors – clarification regarding.
53	15/3/05	24.03.2005	Notice inviting tenders – regarding.
54	13/3/05	16.03.2005	Details on award of tenders/contracts publishing on websites / Bulletins.
55	11/3/05	10.03.2005	Delay in payments to Contractors & Suppliers.
56	75/12/04	24.12.2004	Participation of consultants in tender - guidelines reg.
57	72/12/04	10.12.2004	Transparency in tendering system - Guidelines regarding.
58	69/11/04	03.11.2004	Turnkey contracts for net-working of Computer Systems.
59	68/10/04	20.10.2004	Leveraging Technology – e-payment and e-receipt.
60	43/7/04	02.07.2004	Improving Vigilance Administration: Increasing Transparency in procurement/sale etc. - Use of website regarding.
61	4CC-1-CTE-2	08.06.2004	Mobilization Advance.
62	05-04-1-CTE-8	08.06.2004	Receipt and Opening of Tenders.
63	No.12-02-1-CTE-6	07.05.2004	Pre-qualification criteria (PQ)

Sl.	Circular No.	Date	Subject
64	25/4/04	21.04.2004	Consideration of Indian Agents.
65	23/04/04	13.04.2004	Vigilance angle – definition of.
66	20/4/04	06.04.2004	Improving Vigilance Administration - Increasing Transparency and cutting delays by e-payments and e-receipt by Govt. Organizations etc.
67	10/2/04	11.02.2004	Improving Vigilance Administration – increasing Transparency in procurement/tender process – use of website – regarding.
68	9/2/04	09.02.2004	Improving Vigilance Administration – Increasing Transparency in procurement/sale – use of website regarding.
69	8/2/04	05.02.2004	Common irregularities in the award of contracts.
70	98/ORD/1	18.12.2003	Improving Vigilance Administration - Increasing Transparency in Procurement/Sale etc.
71	06-03-02- CTE-34	20.10.2003	Back to back tie up by PSUs - instructions regarding.
72	2EE-1-CTE-3	15.10.2003	Tender Sample Clause
73	46/9/03	11.09.2003	E-procurement/Reverse Auction.
74	44/9/03	04.09.2003	Irregularities in award of contracts
75	33/7/03	09.07.2003	Short-comings in bid documents.
76	98/ORD/1	05.05.2003	Purchase of computers by Govt. departments/ organization
77	98/ORD/1(Pt.IV)	12.03.2003	Use of web-site in Govt. procurement or tender process.
78	12-02-6-CTE-SPI(1)2	07.01.2003	Consideration of Indian Agents.
79	No.12-02-1-CTE-6	17.12.2002	Pre-qualification criteria (PQ)
80	No.OFF1 CTE1	25.11.2002	Appointment of Consultants.
81	98/ORD/1	03.08.2001	Improving Vigilance Administration- Tenders (H1)
82	98/ORD/1	24.08.2000	Improving Vigilance Administration - Tenders.
83	3(v)/99/9	01.10.1999	Applicability of CVC's instruction No.8(1)9h/98(1) dated 18/11/98 on post-tender negotiations to Projects of the World Bank & other international funding agencies.
84	No.98/ORD/1	15.03.1999	Improving vigilance administration – Tenders.
85	8(4)-E.II(A)/98	17.12.1998	Purchase of Computer Systems by Govt. Departments.
86	8(1)(h)/98(1)	18.11.1998	Improving vigilance administration (L1) (L1)
87	No.UU/POL/19	08.10.1997	Grant of interest free mobilization advance.
88	No.3L-IRC 1	10.01.1983	Appointment of Consultants.
89	No.3L PRC 1	12.11.1982	Irregularities/lapses observed in the construction works undertaken by Public sector undertakings/ banks.

CVC- Circular No. 03/01/12 dated 13/01/2012
Consideration of Indian Agents

Ref: Commission's Circular Nos. 12-02-6-CTE/SPI(I)-2 dated 7.01.2003 and 21.04.2004

The Commission has been stressing on the need for observing transparency and determination of prices in a fair market competition while dealing with the tenders relating to procurement. The above OMs were issued to reduce the possibility of collusion and cartelization among the bidders so that competitive fair market price of the items of procurement can be determined.

Kill the social pest- Corruption with the pesticide of Self-introspection

– Ayush Satapathy, Class-XII(B), DAV Public School, Anand Vihar, Burla

2. A number of references have been received in the Commission citing certain specific situations and difficulties being faced in dealing with tenders. Therefore, the matter has been again examined by the Commission.
3. In supersession to the earlier OMs dated 7.01.2003 and 21.04.2004, Commission has decided that in all cases of procurement, the following guidelines may be followed:
 - a) In a tender, either the Indian agent on behalf of the Principal/OEM itself can bid but both cannot bid simultaneously for the same item/product in the same tender.
 - b) If an agent submits bid on behalf of the Principal/OEM, the same agent shall not submit a bid on behalf of another Principal/OEM in the same tender for the same item/product.
4. The tender conditions may be carefully prepared keeping in view the above guidelines.
5. The receipt of these guidelines may please be acknowledged and circulated amongst the concerned officials for their information and guidance.

Sd/-
(J.Vinod Kumar)
Officer on Special Duty

CVC- Circular No.01/01/2012 dated 12/01/2012

Guidelines for compliance to Quality Requirements of e-Procurement Systems

Ref.: Commission's Circular No. 23/06/010 dated 23/06/2010

Commission has been advocating leveraging of technology for activities prone to corruption since 2006 and one of the prominent initiatives was adoption of e-procurement for goods, works and services by all Ministries/Departments/ Organizations. Commission advised all Organizations to ensure security of the e-procurement systems and to get their system certified by Department of Information Technology (DIT).

2. DIT in turn requested its attached office STQC (Standardisation, Testing and Quality Certificate) Directorate to establish necessary processes and systems to enable certification of e-Procurement systems. Accordingly, the guidelines prepared by STQC in this regard approved and notified by the DIT is available on egovstandards website [www.egovstandards.gov.in]. The guidelines are also available on Commission's website www.cvc.nic.in (link-circular/instructions). All the Ministries/Departments/Organisations are advised to use these guidelines for compliance to Quality Requirements for certifying the e-Procurement systems.

Sd/-
(J.Vinod Kumar)

CVC- Circular No.12/10/11 dated 28/10/2011

Applicability of CVC's guidelines on post tender negotiations with regard to projects funded by World Bank and other international funding agencies like IMF, ADB etc.

Reference have been received seeking clarification whether the Commission's guidelines contained in Circular No. 3(V)/99/9 dated 1st October 1999 are binding even for the projects which are funded by international funding agencies like World Bank, ADB etc.

2. Para 2 of the Commission's Circular dated 1st October 1999 is reproduced as under:-

"It has been decided after due consideration, that in so far as the World Bank Projects and other international funding agencies such as IMF, ADB etc. are concerned, the department/organizations have no other alternative but to go by the criteria prescribed by the World Bank/concerned agencies and the Commission's instructions would not be applicable specifically to those projects. However, the instructions of the CVC will be binding on purchase/sales made by the departments within the country. The CVC's instructions of 18/11/98 will apply even if they are made with source outside the country and if they are within the budget provisions and normal operations of the Department/Organization".

3. It is clarified that the Commission's guidelines would not be applicable in projects funded by the World Bank, ADB etc., if found to be in conflict with the applicable procurement rules of the funding agencies.

4. This may be brought to the notice of all concerned.

Sd/-
(J.Vinod Kumar)
Officer on Special Duty

CVC- Circular No.11/09/11 dated 12/09/2011

Recoveries arising out of intensive examination conducted by Chief Technical Examiner Organisation (CTEO) of the commission

Instances have come to notice that some organizations while notifying/effecting recoveries from the contractors bills indicate that the recoveries are consequent to the observations made by the CTEO.

In this connection, it may be noted that the contracts are primarily between the executing agency and the contractor. Any endorsements that the recoveries are being made at the instance of a third party could weaken the department's case during arbitration or court proceedings. Further, the observations/advice of the Commission are required to be considered by the executing agencies in terms of the contract and recoveries are to be enforced as admissible as per the conditions of the contract. The organizations are advised that justification / reasons for recoveries in line with contract clauses should be recorded while notifying / effecting recoveries from the contractors.

It is requested that these instructions may be notified to all concerned.

Sd/-
(Anil Singhal)
Chief Technical Examiner

CVC- Circular No. 08/06/11 dated 24/06/2011

Selection and employment of Consultants

The issue of role and professional liability of consultants in government contracts has been under consideration in the Commission for quite some time. The Commission has decided that following guidelines, be kept in view while finalising the contracts for engaging consultants.

1. **Conflict of Interest.** The consultant shall not receive any remuneration in connection with the assignment except as provided in the contract. The consultant and its affiliates shall not engage in consulting or other activities that conflict with the interest of the employer under the contract.

The contract shall include provisions limiting future engagement of the consultant for other services resulting from or directly related to the firm's consulting services in accordance with following requirements:-

(a) The consultants shall provide professional, objective, and impartial advice and at all times hold the employer's interests paramount, without any consideration for future work, and that in providing advice they avoid conflicts with other assignments and their own interest. Consultants shall not be hired for any assignment that would be in conflict with their prior or current obligations to other employers, or that may place them in a position of being unable to carry out the assignment in the best interest of the employer. Without limitation on the generality of the foregoing, consultants shall not be hired under the circumstances set forth below:

(i) Conflict between consulting activities and procurement of goods, works or non-consulting services (i.e. services other than consulting services covered by these Guidelines) - A firm that has been engaged by the employer to provide goods, works, or non-consulting services for a project, or any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm, shall be disqualified from providing consulting services resulting from or directly related to those goods, works, or non-consulting services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, or any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm, shall be disqualified from subsequently providing goods, works, or services (other than consulting services covered by these Guidelines) resulting from or directly related to the consulting services for such preparation or implementation. This provision does not apply to the various firms (consultants, contractors, or suppliers) which together are performing the Contractor's obligations under a turnkey or design and build contract.

(ii) Conflict among consulting assignments - Neither consultants (including their personnel and sub-consultants), nor any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm, shall be hired for any assignment that, by its nature, may be in conflict with another assignment of the consultants. As an example, consultants assisting a employer in the privatization of public assets shall neither purchase, nor advise purchasers of, such assets. Similarly, consultants hired to prepare Terms of Reference (TOR) for an assignment shall not be hired for the assignment in question.

(iii) Relationship with Employer's staff – Consultants (including their experts and other personnel, and sub-consultants) that have a close business or family relationship with a professional staff of the Employer (or of the project implementing agency) who are directly or indirectly involved in any part of: (i) the preparation of the TOR for the assignment, (ii) the selection process for the contract, or (iii) the supervision of such contract may not be awarded a contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the Employer throughout the selection process and the execution of the contract.

(iv) A consultant shall submit only one proposal, either individually or as a joint venture partner in another proposal. If a consultant, including a joint venture partner, submits or participates in more than one proposal, all such proposals shall be disqualified. This does not, however, preclude a consulting firm to participate as a sub-consultant, or an individual to participate as a team member, in more than one proposal when circumstances justify and if permitted by the RFP.

(b) **Unfair Competitive Advantage** - Fairness and transparency in the selection process require that consultants or their affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to the assignment in question. To that end, the Employer shall make available to all the short listed consultants, together with the request for proposals, all information that would in that respect give a consultant a competitive advantage.

2. **Professional Liability** – The consultant is expected to carry out its assignment with due diligence and in accordance with prevailing standards of the profession. As the consultant's liability to the Employer will be governed by the applicable law, the contract need not deal with this matter. The client (purchaser) may, however, prescribe other liabilities depending on the requirement in each case without any restriction on the Consultant's liability as per the applicable law.

The Commission desires that the above guidelines be brought into the notice of all concerned.

Sd/-
(J. Vinod Kumar)
Officer on Special Duty

CVC – Circular No. 02/02/11 dated 17.02.2011

Mobilization Advance

Commission had earlier issued guidelines on granting of 'Mobilization Advance' vide OM No.UU/POL/18 dated 08.12.1997, OM No.4CC-1-CTE-2 dated 08.06.2004 and OM No.4CC-1-CTE-2 dated 10.04.2007.

2. The matter has been further reviewed and it has decided by the Commission that following additional guidelines may be followed in case of grant of Mobilization Advance.

- (i) The Bank Guarantee etc. taken towards security of 'Mobilization Advance' should be at least 110% of the advance so as to enable recovery of not only principal amount but also the interest portion, if so required.
- (ii) The mobilization advance should not be paid in less than two installments except in special circumstances for the reasons to be recorded. This will keep check on contractor misutilizing the full utilization advance when the work is delayed considerably.
- (iii) A clause in the tender enquiry and the contract of cases providing for interest free mobilization advances may be stipulated that if the contract is terminated due to default of the contractor, the 'Mobilization Advance' would be deemed as interest bearing advance at an interest rate of _____%, (to be stipulated depending on the prevailing rate at the time of issue of NIT) to be compounded quarterly.

Sd/-
(Anil Singhal)
Chief Technical Examiner

CVC – Circular No. 01/02/11 dated 11.02.2011

Transparency in Tendering System

There have been instances where the equipment/plant to be procured is of complex nature and the procuring organization may not possess the full knowledge of the various technical solutions available in the market to meet the desired objectives of a transparent procurement that ensures value for money spent simultaneously ensuring upgradation of technology & capacity building.

2. The Commission advises that in such procurement cases where technical specifications need to be iterated more than once, it would be prudent to invite expression of interest and proceed to finalise specifications based on technical discussions/presentations with the experienced manufacturers/suppliers in a transparent manner. In such cases, two stage tendering process may be useful and be preferred. During the first stage of tendering, acceptable technical solutions can be evaluated after calling for the Expression of Interest (EOI) from the leading experienced and knowledgeable manufacturers/suppliers in the field of the proposed procurement. The broad objectives, constraints etc. could be published while calling for EOI, On receipt of the Expressions of Interest, technical discussions/presentations may be held with the short-listed manufacturers/suppliers, who are prima facie considered technically and financially capable of supplying the material or executing the proposed work. During these technical discussions stage the procurement agency may also add those other stake holders in the discussions who could add value to the decision making on discussions/presentations so held, one or more acceptable technical solutions could be decided upon laying down detailed technical specifications for each acceptable technical solution, quality bench marks, warranty requirements, delivery milestones etc. in a manner that is consistent with the objectives of the transparent procurement. At the same time care should be taken to make the specifications generic in nature so as to provide equitable opportunities to the prospective bidders. Proper record of discussions/presentations and the process of decision making should be kept.

3. Once the technical specifications and evaluation criteria are finalized, the second stage of tendering could consist of calling for techno commercial bids as per the usual tendering system under single bid or two bid system, as per the requirement of each case. Final selection at this stage would depend upon the quoted financial bids and the evaluation matrix decided upon.

4. Commission desires that organizations formulate specific guidelines and circulate the same to all concerned before going ahead with such procurements.

Sd/-
(Anil Singhal)
Chief Technical Examiner

Fear not, bribe not, proclaim your right be vigilant & join the anti-corruption fight - Swagat Krishna Rath, Class-VIII©, DAV Public School, MCL, Jagannath Area.

CVC- Circular No.34/10/10 dated 07/10/2010

Design Mix Concrete

During inspection of works of many organizations, it has been observed that provisions of IS 456:2000 are neither being followed for designing the concrete mix nor for acceptance criteria. Instances of acceptance of concrete on basis of false certification and without actually testing the cubes for 28 days strength have also been observed. The following deficiencies are brought to the notice of all organizations for immediate corrective action:

1. Minimum cement content, maximum water cement ratio and minimum grade of concrete for different exposures are not adopted as per the details given in Table 5 of above code.
2. Value of standard deviation is not being established on the basis of results of 30 samples as provided in Table 11 of the above code even for works where more than 30 samples have been tested.
3. For acceptance criteria mean of a group of 4 non overlapping consecutive test results is not being calculated.
4. The samples where individual variations are more than $\pm 15\%$ of average of three specimens are not declared invalid as per the provisions of clause 15.4 of the Code.
5. The concrete is being declared meeting the acceptance criteria which is not in conformity of codal provisions.

Most of the organizations are not even aware about the amendment No. 3 of 2007 modifying clause 15.1.1 of IS 4656:2000. All organizations are directed to ensure that provisions of IS 456:2000 read with amendment No. 3 should be followed scrupulously for cement concrete and reinforced cement concrete. Non compliance of the provisions shall be viewed seriously.

Sd/-
(V.K. Gupta)
Chief Technical Examiner

CVC – Circular No. 31/08/10 dated 13.08.2010

Adoption of Integrity Pact – Standard Operating Procedure (SOP) – reg.

The Commission vide its circular No.10/5/09 dated 18.5.09 issued guidelines on “Standard Operating Procedure (SOP) for implementation of Integrity Pact in Ministries/ Departments/Organisations. Section 6.02 of the SOP provides financial impact review through independent agency and physical review through an NGO.

2. The Commission has since reviewed the provisions contained in para 6.02 of the SOP and is of the view that it would be difficult to undertake a separate assessment on the impact of implementation of Integrity Pact in an organisation and has therefore decided to delete Section 6.02(i) & 6.02(ii) of the said circular. All organizations implementing IP would however, undertake a general review and assessment of implementation of IP and submit progress through CVO's monthly report to the Commission.

Sd/-
(Vineet Mathur)
Director.

CVC – Circular No. 23/06/010 dated 23.06.2010

**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.

Sd/-
(Shalini Darbari)
Director.

CVC – Circular No. 21/05/10 dated 02.06.2010

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 actions 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 the 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 mala-fide 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.

Sd/-
(V.K. Gupta)
Chief Technical Examiner

CVC – Office Order No. 19/05/10 dated 19.05.2010

**Transparency in Works/Purchase/Consultancy contracts awarded on
Nomination basis.**

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”.

Sd/-
(Vineet Mathur)
Director

Corruption is a Cancer, Cure it. The Sooner the Better

- Aman Goel, Class-X(B), DAV Public School, SOCP,MCL, Brajrajnagar.

CVC – Circular No. 18/04/2010 dated 26.04.2010

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 organizations 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 organizations 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.

2. It is clarified that while ensuring fair play, transparency and open tendering procedure for e-tendering solutions, the organizations must take due care to see that effective security provisions are made in the system to prevent any misuse. In this regard, the guidelines on security related issues in e-tendering systems are enclosed for information. Organizations concerned may follow these guidelines while implementing e-tendering solutions to contain the security related loop holes.

Sd/-
(V. Ramachandran)
Chief Technical Examiner

**CHECK POINTS TO ACHIEVE SECURITY CONSIDERATIONS
IN E-PROCUREMENT SOLUTIONS**

S.N.	SECURITY CONSIDERATIONS	Please Tick	
		Yes	No
1.	Whether the application is secure from making any temporary distortion in the electronic posting of tender notice, just to mislead certain vendors?	Yes	No
2.	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?	Yes	No
3.	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?	Yes	No
4.	Is there any check available in the application to detect & alert about the missing pages to the tenderer, if any?	Yes	No
5.	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 purchases / downloaded the bid documents well ahead of the due date & before uploading the corrigendum?	Yes	No

S.N.	SECURITY CONSIDERATIONS	Please Tick √	
6.	Whether system is safe from sending discriminatory communication to different bidders about the same e-tendering process?	Yes	No
7.	Whether e-procurement solution has also been customized to process all type of tenders viz Limited / Open / Global Tenders?	Yes	No
8.	Whether online Public Tender opening events feature are available in the application?	Yes	No
9.	Whether facilities for evaluation / loading of bids, strictly in terms of criteria laid down in bid documents are available in the application?	Yes	No
10.	Whether sufficient safeguards have been provided in the application to deal with failed attempt blocking?	Yes	No
11.	Whether application is safe from submission of fake bids?	Yes	No
12.	Whether encryptions of bids are done at clients end?	Yes	No
13.	Whether safety against tampering and stealing information of submitted bid, during storage before its opening, is ensured?	Yes	No
14.	Whether application is safe from siphoning off and decrypting the clandestine copy of a bid encrypted with Public key of tender opening officer?	Yes	No
15.	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?	Yes	No
16.	Whether introduction of special characters / executable files etc by users are restricted in the application?	Yes	No
17.	Whether validity check of DSC is being done at server end?	Yes	No
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?	Yes	No
19.	Whether sufficient security features are provided in the application for authentication procedure of the system administrator like ID, password, digital signature, biometric etc?	Yes	No
20.	Whether audit trails are being captured in the application on media not prone to tampering, such as optical write once?	Yes	No
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?	Yes	No
22.	Whether integrity and non-tampering is ensured in maintaining the server clock synchronization & time stamping?	Yes	No
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?	Yes	No
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?	Yes	No

S.N.	SECURITY CONSIDERATIONS	Please Tick √	
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.	Yes	No
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?	Yes	No
27.	Whether application complies with the Commission's Guidelines dated 17.09.2009 on Security considerations for e-procurement Systems.	Yes	No

CVC – Circular No. 17/04/2010 dated 19.04.2010**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.

Sd/-
(Vineet Mathur)
Director

CVC – Circular No. 01/01/10 dated 20.01.2010

Tendering Process – Negotiations with L1

Attention is invited to the Commission's Circular No.4/3/07 dated 3.3.07 on the issued 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 the post tender negotiations with L-1 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.

Sd/-
(V. Ramachandran)
Chief Technical Examiner

CVC – Circular No. 31/10/09 dated 09.11.2009

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. 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.

Sd/-
(Shalini Darbari)
Director

**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 Ltd. 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 the substitution of the word 'may' by 'will' there is essentially a reversal of the policy. While giving this 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 rotational 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 interalia 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)

CVC – Circular No. 29/9/09 dated 17.09.2009

Implementation of e-tendering solutions

Guidelines were prescribed in this office OM of even number, dated 13/01/2009, on the above-cited subject, advising organizations to follow a fair, transparent and open tendering procedure, to select the application service provider for implementing their e-tendering solutions.

2. It is clarified that while ensuring fair play, transparency and open tendering procedure for e-tendering solutions, the organizations must take due care to see that effective security provisions are made in the system to prevent any misuse. In this regard, the guidelines on security related issues in e-tendering systems are enclosed for information. Organizations concerned may follow these guidelines while implementing e-tendering solutions to contain the security related loop holes.

Sd/-
(V. Ramachandran)
Chief Technical Examiner

CVC- Circular No. 13/6/09 dated 11/08/2009

Intensive examination of CTE – Steps for early finalization of pending vigilance references with CVOs- req.

The Chief Technical Examiner's Organisation of the Commission conducts independent technical examination of various types of works/contracts/procurements awarded by the organizations, falling within the jurisdiction of the Commission. After intensive examination of the work is carried out by the CTE's organization, an inspection

report is sent to the CVO. The CVO is required to obtain comments of various officers of the organization at appropriate levels and furnish the same to the CTE alongwith CVOs comments thereon. In cases, wherein, the CTE recommends investigation of the matter from a vigilance angle, the CVO of the organization is required to investigate and submit a report/reference to the Commission.

2. On a review of the pending CTE paras referred for vigilance investigation to the various CVOs, the Commission observes that a large number of references are pending for submission of reports with the CVOs inordinately. Another factor which contributes to the delay is absence of clarity and also incomplete/inconclusive reports/references made by CVOs. In order to sort out the long pending paras referred for vigilance investigation with the organizations and to appreciate the perceived vigilance angle in such references of CTE, the CVOs of the organizations may consider arranging interactive discussions with the CTE either at Delhi or during the visit of CTE at various stations for guidance in the matter of preparing vigilance investigation reports.

3. The organization-wise list of pending vigilance references of CTE is enclosed as **Annexure'A'**. The CVO's concerned may take further necessary action as suggested in para 2 above expeditiously.

Sd/-
(V.K. Gupta)
Chief Technical Examiner

Guidelines on Security considerations for e-procurement System

1.0 E-Procurement System

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. Agencies World over face threats to their online e-procurement platforms and the same are addressed by employing a combination of security features and security best practices which result in reduced threat of data loss, leakage or manipulation.

2. Security of e-Procurement system.

2.1 Security of e-procurement system is essentially an amalgamated output of Security of Infrastructure, Application and Management. Assuming the management issues are taken care of the following aspects of Infrastructure and Application are essential to have a fairly secure e-Procurement.

सच्चाई से नाता जोड़ो, भ्रष्टाचार से नाता तोड़ो -

निकिता पाण्डेय, कक्षा- 9विं, डि.ए.वि. पब्लिक स्कूल, एम.सि.एल., ईब वैली क्षेत्र ।

2.2 Security Infrastructure level:

Issues	Best Practices to achieve security considerations
Perimeter Defence	Deployment of routers, Firewalls, IPS/IDS, Remote Access and network segmentation.
Authentication	Network authentication through deployment of password policy for accessing the network resources. To minimize unauthorized access to the e-procurement system at system level.
Monitoring	Deployment of logging at OS/ network level and monitoring the same.
Secure configuration of the network host	The security of individual servers & workstations is a critical factor in the defence of any environment, especially when remote access is allowed. Workstations should have safeguards in place to resist common attacks.
System patching	As the vulnerability of the system are discovered almost regularly and the system vendors are also releasing the patches. It is expected the host are patched with latest security updates released by the vendors.
Control of malware	Suitable control like anti-virus, anti spyware ext. should be deployed on the host associated with e-procurement system. However, option for running the services at non-privileged user profile may be looked for. Otherwise, suitable operating system which is immune to virus, Trojan and malware may be deployed.

2.3 Security at Application level:

2.3.1 Security during design.

Issues	Best Practices to achieve security considerations
Authentication	The authentication mechanism of the e-procurement application should ensure that the credentials are submitted on the pages that are server under SSL.
Access Control	The application shall enforce proper access control model to ensure that the parameter available to the user cannot be used for launching any attack.
Session management	The design should ensure that the session tokens are adequately protected from guessing during an authenticated session.
Error handling	The design should ensure that the application does not present user error messages to the outside world which can be used for attacking the application.
Input validation	The application may accept input at multiple points from external sources, such as users, client applications, and data feeds. It should perform validation checks of the syntactic and semantic validity of the input. It should also check that input data does not violate limitations of underlying or dependent components, particularly string length and character set. All user-supplied fields should be validated at the server side.

Issues	Best Practices to achieve security considerations
Application logging and monitoring.	<p>Logging should be enabled across all applications in the environment. Log file data is important for incident and trend analysis as well as for auditing purposes.</p> <p>The application should log failed and successful authentication attempts, changes to application data including user accounts, serve application errors, and failed and successful access to resources.</p> <p>When writing log data, the application should avoid writing sensitive data to log files.</p>

2.3.2 Security during application deployment and use.

Issues	Best Practices to achieve security considerations
Availability Clustering. Load balancing.	Depending on the number of expected hits and access the options for clustering of servers and load balancing of the web application shall be implemented.
Application and data recovery.	Suitable management procedure shall be deployed for regular back-up of application and data. The regularity of data backup shall be in commensurate with the nature of transaction / business translated into the e-procurement system.
Integrity of the Application control of source code. Configuration management	Suitable management control shall be implemented on availability of updated source code and its deployment. Strict configuration control is recommended to ensure that the latest software in the production system.

2.3.3 Security in Data storage and communication.

Issues	Best practices to achieve security considerations
Encryption for data storage.	<p>Sensitive data should be encrypted or hashed in the database and file system. The application should differentiate between data that is sensitive to disclosure and must be encrypted, data that is sensitive only to tampering and for which a keyed hash value (HMAC) must be generated, and data that can be irreversibly transformed (hashed) without loss of functionality (such as passwords). The application should store keys used for decryption separately from the encrypted data.</p> <p>Examples of widely accepted strong ciphers are 3DES, AES, RSA, RC4 and Blowfish. Use 128-bit Keys (1024 bits for RSA) at a minimum.</p>
Data transfer security	<p>Sensitive data should be encrypted prior to transmission to other components. Verify that intermediate components that handle the data in clear-text form, prior to transmission or subsequent to receipt, do not present an undue threat to the data. The application should take advantage of authentication features available within the transport security mechanism.</p> <p>Specially, encryption methodology like SSL must be deployed while communicating with the payment gateway over public network.</p>

Issues	Best practices to achieve security considerations
Access control.	<p>Applications should enforce an authorization mechanism that provides access to sensitive data and functionality only to suitably permitted users or clients.</p> <p>Role-based access controls should be enforced at the database level as well as at the application interface. This will protect the database in the event that the client application is exploited.</p> <p>Authorization checks should require prior successful authentication to have occurred.</p> <p>All attempts to obtain access, without proper authorization should be logged.</p> <p>Conduct regular testing of key applications that process sensitive data and of the interfaces available to users from the Internet Include both "black box" informed" testing against the application. Determine if users can gain aces to data from other accounts.</p>

3.0 Some of the other good practices for implementers of e-procurement to achieve security considerations are as follows:

3.1 Common unified platform for all department.

A single platform to be used by all departments across a State / Department / Organisations reduces the threat to security of data. With a centralized implementation, where in the procurement data is preferably hosted and maintained by the State / Department / Organisations itself, concerns of security and ownership of data are well addressed. A common platform further facilitates demand aggregation of common items across State / Department / Organisations, and result in economies of scale.

3.2 Public key Infrastructure (PKI) Implementation

This is one of the most critical security features that are required to be implemented in order to establish non-repudiation and to ensure the security of the online system. Under the system, participating contractors and suppliers, as well as the departmental users, are issued a Digital Signature Certificate (DSC) by a licensed Certification Authority.

3.3 Third Party Audit

It is recommended that the implemented solution be audited by a competent third party at-least once a year.

Through the above-mentioned steps, the complete security of the system and the transacted data can be ensured and may be communicated to all concerned agencies.

Corruption has a great character----- The poor becomes poorer, the rich becomes richer - Sourabh Kumar Gupta, Class-VIII(B), Madnawati Public School, Sambalpur.

CVC – Circular No. 22/08/09 dated 11.08.2009

Adoption of Integrity Pact – Periodical regarding

The Commission in its various circular 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 Organization.

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 Organization which has adopted Integrity Pact may report compliance of review through monthly report.

3. This may be noted for future compliance.

Sd/-
(Shalini Darbari)
Director

CVC – Circular No. 17/7/09 dated 14.07.2009

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

CVC – Circular No.10/5/09 dated 18.05.2009

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

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.

CVC- Circular No. 01/01/09 dated 13/01/09

Implementation of e-tendering solutions

References are being received by the Commission regarding the methodology for selection of sole application service provider for the implementation of e-tendering solutions in

various organizations. The Commission has examined the matter and is of the view that all organizations should invariably follow a fair, transparent and open tendering procedure to select the application service provider for implementing their e-tendering solutions. The standard guidelines on tendering procedure should hold good the procurement of these services as well.

Sd/-
(Shalini Darbari)
Director

CVC – Circular No. 31/11/08 dated 06.11.2008

Time bound processing of procurement

The Commission has observed that at times the processing of tenders is inordinately delayed which may result in time and cost overruns and also invite criticism from the Trade Sector. It is, therefore, essential that tenders are finalized and contracts are awarded in a time bound manner within original validity of the tender, without seeking further extension of validity. While a short validity period calls for prompt finalization by observing specific time-line for processing, a longer validity period has the disadvantage of vendors loading their offers in anticipation of likely increase in costs during the period. Hence, it is important to fix the period of validity with utmost care.

2. The Commission would, therefore, advise the organizations concerned to fix a reasonable time for the bids to remain valid while issuing tender enquiries, keeping in view the complexity of the tender, time required for processing the tender and seeking the approval of the Competent Authority, etc., and to ensure the finalization of tender within the stipulated original validity. Any delay, which is not due to unforeseen circumstances, should be viewed seriously and prompt action should be initiated against those found responsible for non-performance.

3. Cases requiring extension of validity should be rare. And in the exceptional situations where the validity period is sought to be extended, it should be imperative to bring on record in real time, **valid and logical grounds**, justifying extension of the said validity.

4. These instructions may please be noted for immediate compliance.

Sd/-
(Shalini Darbari)
Director

CVC – Circular No. 24/08/08 dated 05.08.2008

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 Organization.

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 upto 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 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

CVC – Circular No. 22/07/08 dated 24.07.2008

Referring cases of Procurement to the Commission.

The Commission has noted a significant rise in the number of references made to it involving procurement at different stages. These relate to specific cases and are not generic in nature. Essentially they belong to the domain of managerial decision making and the matter needs to be decided at that level.

The Central Vigilance Commission and its Chief Vigilance Officers, as a matter of policy do not interfere in the process of decision making, which is a management function of the respective organization.

The Commission has issued various circulars/guidelines /instructions in order to promote transparency, improve competition and ensure equity among participants. However, if any organization faces difficulty in the application of any of the circulars/guidelines/instructions issued by the Commission, then it may approach the Commission bringing out the difficulties along with a proposed generic solution listing out the ingredients of the special circumstances for examination and review by the Commission. References of a general nature having elements of managerial decision making and concerning a particular procurement should be avoided.

Sd/-
(V. Ramachandran)
Chief Technical Examiner
Central Vigilance Commission

CVC – Circular No. 18/05/08 dated 19.05.2008

**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 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

Be vigil round the clock because corruption is a blot

- Sushree Yasashwi Hota, Class-X, Sri Sathya Sai Kiddies' Abode, Burla.

CVC- Circular No. No. 9/2/08 dated 18/02/2008

Two day Work shop/ Seminar regarding IT Procurement held in June 2007 at Bank of India, Mumbai.

Minutes of the above seminar were circulated vide letter no 3/CTE (2)- VR/2007 dated 3.10.2007. It has come to the notice of the Commission that despite specific instructions / guidelines and booklets issued by the Commission from time to time, and the holding of an exclusive seminar referred to above for the benefit of the Bank's executives dealing with IT procurements along with respective CVO's, Bank officials do not appear to adhere to these instructions / guidelines as expected of them, which leaves room for various irregularities. As such Commission desires that you organize seminars/workshops and lecture classes at frequent intervals to keep the officials of the bank, particularly those dealing with procurement activities educated and updated regarding procurement procedures, CVC guidelines.

Instances have also come to the notice of the Commission indicating that a number of bank officials lack basic skills in computer operations and knowledge of the banking software. There is also a tendency on the part of senior officers to disclose their password to junior officials / staff for operating the system on their behalf, citing reasons, including work pressure and ignorance which you would appreciate is not acceptable. Therefore, there is an urgent need to impart proper training to such officers and staff at various levels particularly those working in the branches so that they have up-to-date knowledge of the computer system for day to day operations and are not dependent on their colleagues. You are, accordingly, advised to arrange such programmes for training on an on going basis for the benefit of bank officials. Please note to keep the Commission apprised of the steps taken in this regard and the progress so achieved.

Receipt of this communication may please be acknowledged.

Sd/-
(V. Ramachandran)
Chief Technical Examiner

CVC – Office Order No. 07/02/08 dated 15.02.2008

Measures to curb the menace of counterfeit and refurbished IT products - regarding.

With the increasing use of IT to leverage technology, a large number of Government organizations are either upgrading or in the process of procurement of new computer hardware and software. It is often difficult to know the difference between PC made of "Genuine Parts" and that made of "Counterfeit Parts". It may also be the case often that while various organisations order and pay for brand new equipment, they end up getting an inferior PC with counterfeit and second hand/refurbished parts disguised as new in new/original cabinets to various customers designated as consignees by the ordering agencies at

the headquarters of these organizations who are ignorant or have little or no technical knowledge in the matter.

In effect, this amounts to the organisation not getting what they actually ordered and paid for. The supplies of such PC in the long run would defeat the very purpose of going for a new system. COUNTERFEITING is designed to cheat naive consumers/organizations.

This current circular is intended to help/ inform and enable due diligence as well as curbing the menace of counterfeit and refurbished IT products disguised as new.

As a first step, there is a need for all buyers in the Government Departments/ PSU to insist on a signed undertaking (sample format enclosed) from some authority not lower than the Company Secretary of the system OEM that would certify that all the components/parts/ assembly/software used in the Desktops and Servers like Hard disk, Monitors, Memory etc were original/new components/parts/assembly/software, and that no refurbished/duplicate/ second hand components /parts / assembly / software were being used or would be used, so that the buying organizations were not cheated and get the original equipments as ordered by them. Also one could ask for 'Factory Sealed Boxes' with System OEM seal to ensure that the contents have not been changed en route.

Following advisory checkpoints it is hoped shall help identify the fraudulent practices that have come to notice and help guard against spurious and refurbished/duplicate/ second hand components/parts/ assembly / software being received by purchasers and consignees who receive such goods and may not have much technical knowledge.

1. **CPU.** Buyers are cautioned against buying IT Hardware with remarked CPUs that are freely / readily available in the market today. Entry Level processors get **Remarkd / Over clocked** and sold as high end processors. These CPUs, come disguised as higher clock speed processors (e.g. a Celeron CPU can be remarked as a P4 CPU) while their real clock speed may be lower. Since Operating System is loaded from CD bundled with Motherboard, the CD contains image of configured OS. Hence information as seen in '**My Computer**' – '**System Properties**' shall give deceptive information. In other words, a Celeron CPU remarked as a P4 CPU, shall be seen as a P4 CPU only. Buyers should therefore, use various tool / utilities like the '**CPU-Z**' Utility or the '**sSpecNo.**' for ascertaining the real parameters of the CPU. Utility like CPU-Z (approx. 1.3 MB size) are available free on the web.

2. **Hard Disk** IT Hardware with refurbished Hard Disks that are actually 2nd hand / repaired hard disks are readily available at low cost. In hard disk drives, the factory repaired hard disk drives, which are mainly used in the warranty replacements are substituted in the new machines. Same is the case observed with floppy drive and Optical disk drives many times. Most of the competent hard disk makers use a sticker on such hard disks sold by them that clearly distinguishes such hard disks from the fresh ones. For example, manufacturer '**Seagate**' marks **Green Border** and label of "**Certified Repaired HDD**" to distinguish such disk drives from **New Genuine HDD**. There is **No border** or **Refurbished** label on genuine new HDD.

Corruption spreads in hierarchy, honesty grows into legacy

- A. Abhisek, Class-X(A), DAV Public School, MCL, Bandhabahal.

In addition to this, buyers may also use **HDTUNE_210** Utility. This utility shall return Hard Disk Manufacturers' Serial no. and Date of manufacturing of the Hard Disk. These parameters can be used to cross-verify with the hard disk vendor. Various Hard Disk vendors also put a date code on the hard disk. A mismatch between this date and the one returned by HDTUNE_210 Utility can also be viewed as tampering with the actual information of the hard disk.

3. Monitors. IT Hardware with refurbished Monitors that are actually 2nd hand / repaired monitors are given a "new look" by changing the body, with internal components remaining "old / repaired". These CRT monitors are usually discarded from developed countries like US and Europe. There are also B Grade (New but Low Quality) CRT Monitors used in place of new monitors. Many times these can be distinguished by opening the cabinet body and noticing that the label on the tube does not carry various certifications and there are scratch marks on the tube. While 'Genuine' Picture Tubes have all mandatory Certifications, 'Counterfeit' Picture Tubes would not have these certifications. Certification gives an assurance of Reliability.

Further many such cathode ray tubes (Picture Tubes) are found to need extra magnets to achieve focusing and earthing also is missing. Genuine Monitors rely on 'Yoke Coil' alone to focus electronic beam. Counterfeit Monitors typically require Numerous Magnetic Strips in addition to Yoke Coil to focus electronic beam. Further, '**Earthing**' and '**Shielding**' provide **ESD** (Electro Static Discharge) protection. **Genuine Picture Tubes** have **proper "Earthing and Shielding"**. Earthing and Shielding is compromised in counterfeit Picture Tubes to reduce cost.

In 'B' Grade LCD Monitors, panels used are B grade in which the number of spots may be higher, response time & brightness of lower specs than what is stated.

Above monitors are all available at low cost.

The "**Signed Undertaking**" as suggested shall serve as a deterrent and as a safeguard to ensure that bidders are not fleecing them by supplying such monitors.

4. Operating System. Purchasers should check the IT Hardware supplied (randomly selected IT Hardware) for Certificate of Authenticity (COA) pasted on the PC for product serial number and OEM's / Supplier's name to be printed on it. In Operating systems, pirated OS software with fake Certificates of Authenticity are used by some suppliers to cut costs. They look as good as the real ones. In PCs, counterfeiters buy legitimate software and copy the box design and packaging. Using sophisticated and expensive copiers, many copies of illegal CDs are created in a day. Purchasers should guard against buying IT Hardware with pirated copies of Operating Systems. Such Operating Systems, though, available at low prices, do not have the updated patches and security features that help safeguarding the PC and also improve its lifespan. Purchasers, therefore, may use the standard testing procedures (randomly on randomly selected IT Hardware) available on the following URL for ascertaining the in authenticity of the operating system installed on their PC:
<http://www.microsoft.com/resources/howtotell/ww/windows/default.mspx> .

Microsoft provides an inbuilt tool to diagnose the "Genuineness of its Operating System". One could go to 'My Documents', and 'Help', from where one shall get step by step instructions to find out whether the windows installed is genuine.

<http://www.microsoft.com/resources/howtotell/ww/windows/default.mspx>

5. Mechanical Keyboards: Fake mechanical keyboards that are partially mechanical, with only the key plunger being that of a real mechanical keyboard and rest of the keyboard features remaining the same as those of membrane keyboard are being passed on as true mechanical keyboards. While these keyboards are available at low prices, they do not offer the robustness and long key-stroke life expected of a real mechanical keyboard. Real Mechanical Keyboards are expected to have Keystroke life of 50 Million as against 10 million for Membrane and Semi-Mechanical Keyboards. In case of bulk orders, it is recommended to physically examine a few keyboards for their construct to ascertain the genuineness of their being real mechanical keyboards.

6. Low Quality Memory Module – Memory chips are remarked or downgraded wafers are plastic packed under unknown brands or remarked with names of well known brands. Such memory modules have lower performance levels. It is better to go in for proven reputed brands such as Kingston, Transcend, Corsair, Samsung and Hynix to name a few available in the market.

7. Fraudulently Marked SMPS – In power supplies, wrong marking of the wattage is done. The power supplies do not carry all required certifications. While 'Genuine' Power supplies carry all mandatory certifications, in counterfeit Power supplies these certifications shall be found missing. Further Short circuit & over voltage protection circuitry could be missing in counterfeit Power Supply to reduce cost.

8. Counterfeited Consumables – Counterfeited consumables such as printer cartridges etc are used which are refilled with ink of poor quality leading to poor performance and clogging, smudging in printers etc. It is advisable to buy such consumables from OEM authorized suppliers or distributors to ensure quality and longevity of the printer equipment.

Sd/-
(V. Ramachandran)
Chief Technical Examiner
Central Vigilance Commission

Annexure: Model Undertaking of Authenticity form

Sub: Undertaking of Authenticity for Desktops and Server Supplies

Sub: Supply of IT Hardware/Software -- Desktops and Servers

Ref: 1. Your Purchase Order No. -----dated-----.
2. Our invoice no/Quotation no. -----dated-----.

With reference to the Desktops and Servers being supplied /quoted to you vide our invoice no/quotation no/order no. Cited above, ----

We hereby undertake that all the components/parts/assembly/software used in the Desktops and Servers under the above like Hard disk, Monitors, Memory etc shall be original new components/parts/ assembly /software only, from respective OEMs of the products and that no refurbished/duplicate/ second hand components/parts/ assembly / software are being used or shall be used.

We also undertake that in respect of licensed operating system if asked for by you in the purchase order, the same shall be supplied along with the authorised license certificate (eg

Product Keys on Certification of Authenticity in case of Microsoft Windows Operating System) and also that it shall be sourced from the authorised source (eg Authorised Microsoft Channel in case of Microsoft Operating System).

Should you require, we hereby undertake to produce the certificate from our OEM supplier in support of above undertaking at the time of delivery/installation. It will be our responsibility to produce such letters from our OEM supplier's at the time of delivery or within a reasonable time.

In case of default and we are unable to comply with above at the time of delivery or during installation, for the IT Hardware/Software already billed, we agree to take back the Desktops and Servers without demur, if already supplied and return the money if any paid to us by you in this regard. We (*system OEM name*) also take full responsibility of both Parts & Service SLA as per the content even if there is any defect by our authorized Service Centre/ Reseller/SI etc.

Authorised Signatory

Name:
Designation
Place
Date

CVC- Circular No. 5/2/08 dated 05/02/2008

Corrigendum

Mobilisation Advance

The Commission has reviewed the existing guidelines on 'Mobilisation Advance' circular No. 10/4/07 (issued vide OM No. 4CC-1-CTE-2 dated 10.4.2007). Para 1 of the above circular may be read as under –

"Decision to stipulate interest free mobilization advance in the tender document should rest at the level of Board (with concurrence of finance) in the organizations. However, in case of interest bearing mobilization advance, organizations may delegate powers at appropriate levels such as the CMD or Functional Directors".

Sd/-
(Vineet Mathur)
Deputy Secretary

CVC – Office Order No. 01/01/08 dated 31.12.2007

Acceptance of Bank Guarantees.

A number of instances have come to the notice of the Commission where forged / fake bank guarantees have been submitted by the contractors/suppliers. Organizations concerned have also not made any effective attempt to verify the genuineness / authenticity of these bank guarantees at the time of submission.

2. In this background, all organizations are advised to streamline the system of acceptance of bank guarantees from contractors/suppliers to eliminate the possibility of acceptance of any forged/fake bank guarantees.

3. The guidelines on this subject issued by Canara Bank provides for an elaborate procedure, which may be found helpful for the organizations in eliminating the possibility of acceptance of forged/fake bank guarantees. The guidelines issued by Canara Bank provides that -

“The original guarantee should be sent to the beneficiary directly under Registered Post (A.D.). However, in exceptional cases, where that guarantee is handed over to the customer for any genuine reasons, the branch should immediately send by Registered Post (A.D.) an unstamped duplicate copy of the guarantee directly to the beneficiary with a covering letter requesting them to compare with the original received from their customer and confirm that it is in order. The A.D. card should be kept with the loan papers of the relevant guarantee.

At times, branches may receive letters from beneficiaries, viz., Central/State Governments, public sector undertakings, requiring bank's confirmation for having issued the guarantee. Branches must send the confirmation letter to the concerned authorities promptly without fail.”

4. Therefore, all organizations are advised to evolve the procedure for acceptance of BG, which is compatible with the guidelines of Banks/Reserve Bank of India. The steps to be ensured should include -

- i) Copy of proper prescribed format on which BGs are accepted from the contractors should be enclosed with the tender document and it should be verified verbatim on receipt with original document.
- ii) It should be insisted upon the contractors, suppliers etc. that BGs to be submitted by them should be sent to the organization directly by the issuing bank under Registered Post (A.D.).
- iii) In exceptional cases, where the BGs are received through the contractors, suppliers etc., the issuing branch should be requested to immediately send by Registered Post (A.D.) an unstamped duplicate copy of the guarantee directly to the organization with a covering letter to compare with the original BGs and confirm that it is in order.
- iv) As an additional measure of abundant precaution, all BGs should be independently verified by the organizations.
- v) In the organization/unit, one officer should be specifically designated with responsibility for verification, timely renewal and timely encashment of BGs.

5. Keeping above in view, the organizations may frame their own detailed guidelines to ensure that BGs are genuine and encashable.
6. Receipt of the above guidelines should be acknowledged.

Sd/-
Smt. Padmaja Verma
Chief Technical Examiner

CVC – Office Order No. 43/12/07 dated 28.12.2007

**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

CVC – Office Order No. 41/12/07 dated 04.12.2007

**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 to 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 in 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.nin.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

CVC – Office Order No. 23/7/07 dated 05.07.2007

**Transparency in Works/Purchase/Consultancy contracts
awarded on nomination basis.**

Reference is invited to the Commission's circular No.15/5/06 (issued vide letter No.005/CRD/19 dated 9.5.2006), wherein the need for award of contracts in a transparent and open manner has been emphasized.

2. A perusal of the queries and references pertaining to this circular, received from various organizations, indicates that several of them believe that mere post-facto approval of the Board is sufficient to award a contracts on nomination basis rather than the inevitability of the situation, as emphasized in the circular.

3. It is needless to state that **tendering process or public auction** is a basic requirements for the award of contract by any Government agency as any other method, especially award of contract on nomination basis, would amount to a breach of Article 14 of the Constitution guaranteeing right to equality, which implies right to equality to all interested parties.

4. A relevant extract from the recent Supreme Court of India judgement in the case of Nagar Nigam, Meerut Vs A1 Faheem Meat Export Pvt. Ltd. [arising out of SLP(civil) No.10174 of 2006] is reproduced below to reinforce this point.

“The law is well-settled that contracts by the State, its corporations, instrumentalities and agencies must be normally granted through public auction/public tender by inviting tenders from eligible persons and the notifications of the public-auction or inviting tenders should be advertised in well known dailies having wide circulation in the locality with all relevant details such as date, time and place of auction, subject matter of auction, technical specifications, estimated cost, earnest money deposit, etc. The award of Government contracts through public-auction/public tender is to ensure transparency in the public procurement, to maximize economy and efficiency in Government procurement, to promote healthy competition among the tenderers, to provide for fair and equitable treatment of all tenderers, and to eliminate irregularities, interference and corrupt practices by the authorities concerned. This is required by Article 14 of the Constitution. However, in rare and exceptional cases, for instance, during natural calamities and emergencies declared by the Government; where the procurement is possible from a single source only; where the supplier or contractor has exclusive rights in respect of the goods or services and no reasonable alternative or substitute exists; where the auction was held on several dates but there were no bidders or the bids offered were too low, etc., this normal rule may be departed from and such contracts may be awarded through ‘private negotiations’.”

(Copy of the full judgement is available on the web-site of the Hon'ble Supreme Court of India, i.e., www.supremecourtindia.nic.in)

5. The Commission advises all CVOs to formally apprise their respective Boards/managements of the above observations as well as the full judgement of the Hon'ble Supreme Court for necessary observance. A confirmation of the action taken in this regard may be reflected in the CVO's monthly report.

6. Further, all nomination/single tender contracts be posted on the website

Sd/-
(Rajiv Verma)
Under Secretary

CVC – Circular No.14/4/07 dated 26.04.2007

Use of Products with standard specification.

A case has come to the notice of the Commission that the user department one organization requisitioned an item of non-standard size. Requisitioning of item with non-standard size resulted in issue of 'Non-availability certificate' by the stores keeper although the same item of standard size was already available in the stock. Citing urgency, the item was procured by the user department at 10 times the cost of the standard item by inviting limited quotations.

2. In order to avoid such occurrences, it is reiterated that the items with standard specifications only should be stipulated in the bid documents. In case, items with non-standard specifications are to be procured, reasoning for procuring such items may be recorded and reasonability of rates must be checked before placing order.

Sd/-
(Smt. Padmaja Varma
Chief Technical Examiner

CVC – Circular No.13/4/07 dated 18.04.2007

**Improving Vigilance administration by leveraging technology:
Increasing transparency through effective use of website.**

Please refer to Commission's Circular no. 40/11/06 dated 22/11/2006 on the aforementioned subject & also Circular No. 13/3/05 dated 16/03/2005 & Circular No. 46/7/05 dated 28/7/2005 regarding details of award of tenders/contracts publishing on Websites/ Bulletin.

2. The Commission vide circulars dated 16/3/05 & 28/7/05 had directed all organizations to post on their web-sites a summary, every month, of all the contracts/purchases made above the threshold value covering atleast 60% of the transactions every month. A compliance report in this regard was to be submitted to the Commission by the CVOs through their monthly report to the Commission. However, it is seen that some of the departments have neither intimated the Commission about the threshold value decided for posting the details of tenders awarded on the web-sites, nor a compliance report is being sent through the monthly reports.

3. Further, vide circular dated 22/11/06, the Commission while emphasizing the need to leverage technology, as an effective tool in vigilance administration, in discharge of regulatory, enforcement and other functions had directed the organizations to upload on their websites, information in respect of the rules and procedures governing the issue of licenses/permissions etc. and to make available all the application forms on the websites in a downloadable form besides, making available the status of individual application on the organization's website. The Commission had directed the organizations to implement its guidelines in two phases. The first phase relating to the posting of all application forms on the website was to be implemented by 1/1/2007 and the second phase, by 1/4/2007. Although,

the date for implementation of second phase has passed by, the departments are yet to intimate the Commission about the status of implementation of the two phases.

4. The Commission, therefore, while reiterating its aforementioned instructions directs the CVOs to convey to the Commission the following information latest by 30/4/07:-

- a) The threshold value decided by the organization for publishing on their web-site, details of award of tenders/contracts;
- b) The extent to which the details of awarded tenders are being posted on the web-site and whether the web-sites are being updated regularly or not;
- c) Whether first/second phase of the Commission's circular dated 22/11/06 has been implemented or not;
- d) If not, the reasons thereof: steps being taken by the organization to ensure implementation of the Commission's circular and the exact date by which both the phases as mentioned in the Commission's circular would be fully implemented;.

5. Any failure on the part of organization to implement the directions contained in the Commissions circulars as mentioned above would be viewed seriously by the Commission.

Sd/-
(Vineet Mathur)
Deputy Secretary

CVC – Circular No.10/4/07 dated 10.04.2007

Mobilisation Advance

Commission has reviewed the existing guidelines on 'Mobilisation Advance' issued vide OM No.UU/POL/18 dated: 08.12.97 and OM No.4CC-1-CTE-2, dated 08.06.2004.

The following guidelines are issued in supercession of earlier guidelines issued by the Commission on 'Mobilisation Advance'

1. Provision of mobilization advance should essentially be need-based. Decision to provide such advance should rest at the level of Board (with concurrence of Finance) in the organization.
2. Though the Commission does not encourage interest free mobilization advance, but, if the Management feels its necessity in specific cases, then it should be clearly stipulated in the tender document and its recovery should be time-based and not linked with progress of work. This would ensure that even if the contractor is not executing the work or executing it as a slow pace, the recovery of advance could commence and scope for misuse of such advance could be reduced.
3. Part 'Bank Guarantees' (BGs) against the mobilization advance should be taken in as many numbers as the proposed recovery instalments and should be equivalent to the amount of each instalment. This would ensure that at any point of time even if the contractor's money on account of work done is not available with the organization,

recovery of such advance could be ensured by encashing the BG for the work supposed to be completed within a particular period of time.

4. There should be a clear stipulation of interest to be charged on delayed recoveries either due to the late submission of bill by the contractor or any other reason besides the reason giving rise to the encashment of BG as stated above.
 5. The amount of mobilization advance; interest to be charges, if any; its recovery schedule and any other relevant details should be explicitly stipulated in the tendered document upfront.
 6. Relevant format for BG should be provided in the tender document, which should be enforced strictly and authenticity of such BGs should also be invariably verified from issuing bank, confidentially and independently by the organization.
 7. In case of 'Machinery and Equipment advance', insurance and hypothecation to the employer should be ensured.
 8. Utilization certificate from the contractor for the mobilization advance should be obtained. Preferably, mobilization advance should be given in instalments and subsequent instalments should be released after getting satisfactory utilization certificate from the contractor for the earlier instalment.
2. In order to avoid such occurrences, it is reiterated that the items with standard specifications only should be stipulated in the bid documents. In case, items with non-standard specifications are to be procured, reasoning for procuring such items may be recorded and reasonability of rates must be checked before placing order.

Sd/-
(P. VARMA)
Chief Technical Examiner

CVC - Circular No. 4/3/07 dated 03.03.2007

Tendering process – negotiations with L-1

Reference is invited to the Commission's circulars of even number, dated 25.10.2005 and 3.10.2006, on the above cited subject. In supersession of the instructions contained therein, the following consolidated instructions are issued with immediate effect:-

- (i) As post tender negotiations could often be a source of corruption, it is directed that there should be no post-tender negotiations with L-1, except in certain exceptional situations. Such exceptional situations would include, procurement of proprietary items, items with limited sources of supply and items where there is suspicion of a cartel formation. The justification and details of such negotiations should be duly recorded and documented without any loss of time.
- (ii) In cases where a decision is taken to go for re-tendering due to the unreasonableness of the quoted rates, but the requirements are urgent and a re-tender for the entire requirement would delay the availability of the item, thus jeopardizing the essential operations, maintenance and safety, negotiations would be permitted with L-1 bidder(s) for the supply of a bare

- minimum quantity. The balance quantity should, however, be procured expeditiously through a re-tender, following the normal tendering process.
- (iii) Negotiations should not be allowed to be misused as a tool for bargaining with L-1 with dubious intentions or lead to delays in decision-making. Convincing reasons must be recorded by the authority recommending negotiations. Competent authority should exercise due diligence while accepting a tender or ordering negotiations or calling for a re-tender and a definite timeframe should be indicated so that the time taken for according requisite approvals for the entire process of award of tenders does not exceed one month from the date of submission of recommendations. In cases where the proposal is to be approved at higher levels, a maximum of 15 days should be assigned for clearance at each level. In no case should the overall timeframe exceed the validity period of the tender and it should be ensured that tenders are invariably finalised within their validity period.
- (iv) As regards the splitting of quantities, some organisations have expressed apprehension that pre-disclosing the distribution of quantities in the bid document may not be feasible, as the capacity of the L-1 firm may not be known in advance. It may be stated that if, after due processing, it is discovered that the quantity to be ordered is far more than what L-1 alone is capable of supplying and there was no prior decision to split the quantities, then the quantity being finally ordered should be distributed among the other bidders in a manner that is fair, transparent and equitable. It is essentially in cases where the organisations decide in advance to have more than one source of supply (due to critical or vital nature of the item) that the Commission insists on pre-disclosing the ratio of splitting the supply in the tender itself. This must be followed scrupulously.
- (v) Counter-offers to L-1, in order to arrive at an acceptable price, shall amount to negotiations. However, any counter-offer thereafter to L-2, L-3, etc., (at the rates accepted by L-1) in case of splitting of quantities, as pre-disclosed in the tender, shall not be deemed to be a negotiation.
2. It is reiterated that in case L-1 backs-out, there should be a re-tender.
3. These instructions issue with the approval of the Commission and may please be noted for immediate compliance.

Sd/-
(Vineet Mathur)
Deputy Secretary

CVC - Circular No. 3/2/07 dated 23.02.2007

Investigation of complaints by the CVOs – seizure of records req.

It has come to the Commission's notice that when a complaint is received by the CVO either from the Commission or from other sources, the time taken by the department for investigating the complaint is unduly long and beyond the time-limit of three months stipulated by the Commission vide its circular No.000/VGL/18 dated 23.5.2000. The main reason cited by the CVOs for the delay is non-availability of records/documents pertaining to

that particular complaint/allegation. The Commission vide Para 4.4 (a) of Vigilance Manual, 6th Edition has already issued guidelines stating that "if the allegations contain information which can be verified from any document or file or any other departmental records, the investigating / vigilance officer should, without loss of time, secure such records, etc., for personal inspection. If any of the papers examined is found to contain evidence supporting the allegations, such papers should be taken over by him for retention in his personal custody to guard against the possibility of available evidence being tampered with".

2. The Commission observes that these guidelines are not being adhered to and would therefore reiterate its aforementioned guidelines and direct the CVOs to ensure that all relevant records/documents/files etc. are taken into personal custody by the investigating officer immediately on receipt of the reference/complaint for processing the allegations, and finalizing the investigation within the stipulated three months' time-limit prescribed by the Commission.

3. The Commission, exercising its authority as contained in para 8(1)(c&d) and para 11 of CVC Act, 2003, also conducts direct inquiry into complaints through Direct Inquiry Officers as nominated by the Commission. It is directed that as soon as a direct inquiry is ordered by the Commission, the CVOs should immediately seize the relevant records pertaining to the case and produce them before the Direct Inquiry Officers (DIOs) without any delay.

4. The above instructions may be noted for strict compliance.

Sd/-
(Vineet Mathur)
Deputy Secretary

CVC - Circular No. 40/11/06 dated 22.11.2006

**Improving vigilance administration by leveraging technology:
Increasing transparency through effective use of websites in discharge
of regulatory, enforcement and other functions of Govt. Organisations.**

The Commission has been receiving a large number of complaints about inordinate delays and arbitrariness in the processing and issue of licenses, permissions, recognitions, various types of clearances, no objection certificates, etc., by various Govt. organisations. Majority of these complaints pertain to delays and non-adherence to the 'first-come-first-served' principle. In a number of cases, there are complaints of ambiguities regarding the documents and information sought for the grant of such licenses, permissions, clearances, etc. There is also a tendency in some organisations to raise piece-meal/questionable queries on applications, often leading to the allegations of corruption. In order to reduce the scope for corruption, there is a need to bring about greater transparency and accountability in the discharge of regulatory, enforcement and other public dealings of the Govt. organisations.

2. Improvement in vigilance administration can be possible only when systems improvements are made to prevent the possibilities of corruption. In order to achieve the desired transparency and curb the malpractices mentioned above, the Central Vigilance Commission, in exercise of the powers conferred on it under Section 8(1)(h) of the CVC Act, 2003, issues the following instructions for compliance by all Govt. departments/ organisations/ agencies over which the Commission has jurisdiction:-

- i) All Govt. organisations discharging regulatory/enforcement functions or service delivery of any kind, which cause interface with the general public/private businesses, etc., shall provide complete information on their websites regarding the laws, rules and procedures governing the issue of licenses, permissions, clearances, etc. An illustrative list is given in the annexure. Each Ministry should prepare an exhaustive list of such applications/matters and submit a copy of same to the Commission for record and web-monitoring.
- ii) All application forms/proformas should be made available on the websites in adown loadable form. If the organisation concerned wishes to charge for the application form downloaded from the computer, the same may be done at the time of the submission of the application forms.
- iii) All documents to be enclosed or information to be provided by the applicant should be clearly explained on the websites and should also form part of the application forms.
- iv) As far as possible, arrangements should be put in place so that immediately after the receipt of the application, the applicant is informed about the deficiencies, if any, in the documents/information submitted.
- v) Repeated queries in a piece-meal manner should be viewed as a misconduct having vigilance angle.
- vi) All organisations concerned should give adequate publicity about these facilities in the newspapers and such advertisements must give the website addresses of the organisations concerned.

3. In the second stage, the status of individual applications/matters should be made available on the organisation's website and should be updated from time-to-time so that the applicants remain duly informed about the status of their applications.

4. In addition to the manual receipt of applications, all organizations should examine the feasibility of online receipt of applications and, wherever feasible, a timeframe for introducing the facility should be worked out. As a large number of Govt. organisations are opting for e-governance, they may consider integrating the above mentioned measures into their business processes so that duplication is avoided.

5. Instructions at para-2 above shall take effect from 1st January, 2007, and instructions at para-3 shall become effective from 1st April, 2007. All Heads of Organisations/Deptts. are advised to get personally involved in the implementation of these important preventive vigilance measures. They should arrange close monitoring of the progress in order to ensure that the required information is placed on the website in a user-friendly manner before the expiry of the abovementioned deadlines. They should later ensure that the information is updated regularly.

6. This issues with the approval of the Commission.

Sd/-
(Balwinder Singh)

Annexure

Illustrative list

1. Land & Building Related Issues
 - (i) Applications for mutation; conversion from leasehold to freehold of lands & buildings; approval of building plans by municipal authorities and landowning/ regulating agencies like MCD; DDA; NDMC; L&DO and similar agencies in other UTs.
 - (ii) Application for registration deeds by Sub-Registrars/Registrars and other applications connected with land record management.
 - (iii) Application for allotment of land/flats, etc., by urban development agencies like Delhi Development Authority.
2. Contracts & Procurement.
 - (i) Applications for registration of contractors/suppliers/ consultants/ vendors, etc.
 - (ii) Status of all bill payments to contractors/suppliers, etc.
3. Transport Sector

Issue of driving licenses, registration of vehicles, fitness certificates, release of impounded vehicles etc. by RTAs.
4. Environment & Pollution Related Matters

Issue of environment and pollution clearances for setting up industries and other projects by Min. of Environment & Forests; Pollution Control Organisations, etc.
5. Food & Hotel Industry

Applications connected with clearances, licenses for food industry/hotels/ restaurants, etc.
6. Ministry of Labour/Ministry of Overseas Indian Affairs.
 - (i) Applications by beneficiaries and employers in connection with EPFO; ESI etc.
 - (ii) Applications by recruiting/placement agencies and individuals submitted to Protectorate General of Emigrants and the concerned Ministry.
 - (iii) Other applications connected with regulatory/enforcement systems of Labour Ministry.
7. CBDT & Income Tax Deptt.
 - (i) Application for PAN.
 - (ii) Applications submitted by NGOs for exemption from Income Tax.
 - (iii) Applications submitted for issue of certificates/income tax clearance for immigration/ public contracts or any other purposes.
 - (iv) Application for appointment of legal counsels/any other professionals.

8. Customs & Central Excise & DGFT
Applications/cases of Duty Drawback & other export incentives.
9. Telecom (BSNL & MTNL)
Applications for establishing STD booths, etc.
10. Petroleum Sector
Applications for allotment of petrol pumps/gas stations.
11. Ministry of External Affairs
 - (i) Applications for issue of passports.
 - (ii) Applications for issue of visas by Indian Embassies abroad.
12. Ministry of Home Affairs
 - (i) Applications submitted to FRRO.
 - (ii) Applications connected with FCRA.
13. Ministry of Health
Applications for recognition by Medical Council of India and similar other regulatory bodies.
14. Education
 - (i) Applications for accreditation handled by bodies like AICTE & others.
 - (ii) Applications for recognition of schools by Director of Education etc.
 - (iii) Grant of E.C. by Director of Education.
15. Agriculture, Dairying & Fisheries
 - (i) Various clearances/licenses, eg. clearance for operating fishing vessels.
 - (ii) Quarantine related applications.
16. Ministry of Social Justice/Tribal Affairs.
Applications for sanction of funds to NGOs.

CVC- Circular No. 37/10/06 dated 03/10/2006

Tendering process – negotiation with L1

Reference is invited to Commission's instructions of even number dated 25.10.2005 on the above subject. A number of references have been received in the Commission, asking for clarification on issues pertaining to specific situations.

2. The Commission's guidelines were framed with a view to ensuring fair and transparent purchase procedure in the organizations. The guidelines are quite clear and it is for the organizations to take appropriate decision, keeping these guidelines in view. In case they want to take action in deviation or modification of the guidelines, to suit their requirements, it is for them to do so by recording the reasons and obtaining the approval of the competent authority for the same. However, in no case, should there be any compromise to transparency, equity or fair treatment to all the participants in a tender.
3. The above instructions may be noted for strict compliance.

Sd/-
(V. Kannan)
Director

CVC - Circular No. 31/09/06 dated 01.09.2006

Posting of details of award of tenders/contracts on websites/bulletins.

The Commission, vide its orders of even number dated 16.3.2005, 28.7.2005 and 20.9.2005, had directed all organisations to post every month a summary of all contracts/purchases made above a certain threshold value on the websites of the concerned organisations, and it was specified that the proposed threshold limits would be acceptable to the Commission as long as they covered more than 60% of the value of the transactions every month in the first instance, to be revised subsequently after the system stabilized. The threshold values as decided by the organisations, were also to be communicated to the Commission separately for its perusal and record. CVOs were required to monitor the progress in this regard and ensure that the requisite details were posted regularly on respective websites. They were also required to incorporate the compliance reports in this regard in their monthly reports.

2. The Commission has taken serious note that the aforementioned instructions are not being adhered to by the organisations. CVOs are, therefore, once again advised to ensure that details of the tenders awarded above the threshold value by the organizations are uploaded in time on the organisation's official website and are updated every month. The position in this regard should be compulsorily reflected in the CVOs monthly reports to the Commission. CVOs should also specifically bring to the notice of the Commission, any violation of this order.

3. Please acknowledge receipt and ensure due compliance.

Sd/-
(V.Kannan)
Director

CVC - Circular No. 15/5/06 dated 09.05.2006

Transparency in Works/Purchase/Consultancy contracts awarded on nomination basis.

The Commission had, in its OM No. 06-03-02-CTE-34 dated 20.10.2003 on back to back tie up by PSUs, desired that the practice of award of works to PSUs on nomination basis by Govt. of India/PSUs needed to be reviewed forthwith. It is observed that in a number of cases, Works/Purchase/Consultancy contracts are awarded on nomination basis. There is a need to bring greater transparency and accountability in award of such contracts. While open tendering is the most preferred mode of tendering, even in the case of limited tendering, the Commission has been insisting upon transparency in the preparation of panel.

2. In the circumstances, if sometimes award of contract on nomination basis by the PSUs become inevitable, the Commission strongly feels that the following points should be strictly observed.

- (i) 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.
- (ii) The reports relating to such awards will be submitted to the Board every quarter.
- (iii) The audit committee may be required to check at least 10% of such cases.

3. This may be noted for strict compliance.

Sd/-
(V. Kannan)
Director

CVC - Circular No.21/05/06 dated 01.05.2006

Examination of Public Procurement (Works/Purchases/Services) Contracts by CVOs.

The Commission has been emphasising the need for close scrutiny by the CVO, of the Public Procurement (Works/ Purchases/Services) Contracts of his department/organisation concerned, to ensure that the laid down systems and procedures are followed, there is total transparency in the award of contracts, and there is no misuse of power in decision making.

2. A number of booklets have been issued by the Chief Technical Examiner Organisation of the Commission, bringing out the common irregularities/ lapses noticed in different contracts. A Manual for Intensive Examination of Works/ Purchase Contracts and guidelines on tendering have also been issued. These are available in the Commission's website.

3. The need for CTE type examinations by the CVOs has been emphasised in the Zonal meetings. The CVOs are required to reflect their examinations in the monthly reports. The Commission reiterates the importance of such examinations by the CVOs, as an effective preventive vigilance measure.

4. For this purpose, the CVOs are required to be well conversant with their organisation's works/purchase manual. Wherever works/purchase manuals are non-existent,

they should be got prepared, particularly, in those organisations which have substantial procurement activities. CVOs should also ensure that the manuals are updated from time to time. They should check and ensure that the field staff is well conversant with the extant provisions of the manuals, and the guidelines issued by the Commission/CVOs from time to time. CVOs should have a full and active participation during the CTE inspections to know about the problem areas in the organisation's procurement process.

5. CVOs must also familiarise themselves with the earlier CTE examination reports and ensure that the lapses previously noticed are not repeated. If lessons are not learnt from the past, there would be need to take a serious view of the repetition of lapses and initiate disciplinary proceedings against the officials found responsible for repetition of the lapses committed previously.

6. On the basis of the lapses noticed by the Chief Technical Examiner's Organisation over the years, a checklist has been prepared which could be used by the CVO while examining procurements contracts. The checklist may be seen in Annexure -1. If certain procurement contracts require an intensive examination by the CTEO, a reference may be made to them with adequate justification.

7. This may please be noted for strict compliance.

Sd/-
(V.Kannan)
Director

Annexure-1

Check list for examination of Procurement (Works/ Purchases/ Services) Contracts by CVOs

I. Pre-Award Stage

1. Financial and Technical sanction of competent authority is available.
2. Adequate and wide publicity is given. Advertisement is posted on website and tender documents are available for downloading.
3. Convenient tender receiving/opening time and address of the tender receiving officials/tender box are properly notified.
4. In the case of limited tender, panel is prepared in a transparent manner clearly publishing the eligibility criteria. The panel is updated regularly.
5. Pre-qualification criteria are properly defined/ notified.
6. Short listed firms/consultants are fulfilling the eligibility criteria. There is no deviation from notified criteria during evaluation.
7. Experience certificates submitted have been duly verified.
8. Tenders/bids are opened in the presence of bidders.
9. Corrections/omissions/additions etc., in price bid are properly numbered and attested and accounted page -wise. Tender summary note/ Tender opening register is scrupulously maintained.
10. Conditions having financial implications are not altered after opening of the price bids.
11. In case of consultancy contracts (a) Upper ceiling limit is fixed for consultancy fee and (b) Separate rates for repetitive works are fixed.

- B. Post-award stage
- (a) General
1. Agreement is complete with all relevant papers such as pre-bid conference minutes, etc.
 2. Agreement is page-numbered, signed and sealed properly.
 3. Bank Guarantee is verified from issuing bank.
 4. Insurance policies, labour licence, performance guarantee are taken as per contract.
 5. Technical personnel are deployed as per contract.
 6. Plant and equipment are deployed as per contract.
 7. Action for levy of liquidated damages is taken in case of delay/default.
- (b) Payments to contractors
1. Price escalation is paid only as per contract.
 2. Retention Money/Security Deposit is deducted as per contract.
 3. Recovery of Mobilisation & Equipment advance is made as per the provisions in the contract.
 4. Recovery of I.Tax & Works Contract tax is made as per provisions in the contract.
 5. Glaring deviations are supported with adequate justification and are not advantageous to the contractor.
- (c) Site Records
1. Proper system of recording and compliance of the instructions issued to the contractors is maintained.
 2. Proper record of hindrances is maintained for the purpose of timely removal of the hindrance and action for levy of liquidated damages.
 3. Mandatory tests are carried out as per the frequency prescribed in the Agreement.

CVC - Office Order No.74/12/05 dated 21.12.2005

Vigilance angle – definition of (partial modification regarding)

In partial modification to Commission's Office Order No. 23/4/04 issued vide No. 004/VGL/18 dated 13.4.04 on definition of vigilance angle, the following is added at the end of para 2 for the purpose of determination of vigilance angle as para 2 (b)

"Any undue/unjustified delay in the disposal of a case, perceived after considering all relevant factors, would reinforce a conclusion as to the presence of vigilance angle in a case". The existing para 2 will be marked as para 2 (a).

2. CVO may bring this to the notice of all concerned.

Sd/-
(Anjana Dube)
Deputy Secretary

CVC - Office Order No.71/12/05 dated 09.12.2005

Undertaking by the Members of Tender Committee/Agency

In continuation of the Commission's directions vide Order 005/VGL/4 dated 16.03.2005 regarding transparency in the tender process, the Commission would advise that the members of the Tender Committee should give an undertaking at the appropriate time, that none of them has any personal interest in the Companies/Agencies participating in the tender process. Any Member having interest in any Company should refrain from participating in the Tender Committee.

2. CVOs should bring this to the notice of all concerned.

Sd/
(Anjana Dube)
Deputy Secretary

CVC - Office Order No. 98/VGL/25 dated 10/11/2005

Intensive Examination of works by CTE's Organization – submission of quarterly progress report

Please refer to Commission's OM No. 98-VGL-25 dated 16.5.2005 wherein it was clarified that the consultancy contracts, all service contracts equipment & supplies of medicines to hospitals etc. are to be included in the QPRs being furnished to the CTE's Organization.

2. It was also enjoined upon all the CVOs to certify on the QPRs that all the works/purchase/consultancy and other contracts in progress as per the prescribed monetary limit have been included in the QPR.

3. It has been observed that many of the QPRs do not contain the consultancy contracts, service contracts and equipment & medicine purchase contracts and also the requisite certificates from the CVOs.

4. It is once again enjoined upon all the CVOs that the QPRs should contain all the ongoing contracts above prescribed financial limit, separately, for the below mentioned categories:-

Civil -	`1.00 Cr. and above
Elect/Mech.Works	`30 Lacs & above
Store Purchase	`2 Cr. and above
Hort.	`2 lacs and above
Medical equipment	`1 Cr. & above
Consultancy	2 largest value contracts
Service contracts	2 largest value contracts.
Supplies of medicines	4 largest value contract.

Requisite certificate by CVO, should also be enclosed along with the QPR.

5. In case organization, which are undertaking such works in the areas mentioned above where the monetary value of all such works is less than the limits prescribed above, they may report 2 largest works in progress in each discipline. If the organization is not undertaking any work under any particular discipline, a 'NIL' report should be furnished.

6. The above instructions are for strict compliance with immediate effect.

Sd/-
P. Varma
Chief Technical Examiner

CVC- Circular No. 68/10/05 dated 25/10/2005

Tendering Process – Negotiation with L-1

A workshop was organised on 27th July 2005 at SCOPE New Delhi, by the Central Vigilance Commission, to discuss issues relating to tendering process including negotiation with L-1. Following the deliberations in the above mentioned Work Shop, the following issues are clarified with reference to para 2.4 of Circular No. 8(1) (h)/98(1) dated 18th November, 1998 on negotiation with L-1, which reflect the broad consensus arrived at in the workshop.

- (i) There should not be any negotiations. Negotiations if at all shall be an exception and only in the case of proprietary items or in the case of items with limited source of supply. Negotiations shall be held with L-1 only. **Counter offers tantamount to negotiations and should be treated at par with negotiation.**
- (ii) Negotiations can be recommended in exceptional circumstances only after due application of mind and recording valid, logical reasons justifying negotiations. In case of inability to obtain the desired results by way of reduction in rates and negotiations prove infructuous, satisfactory explanations are required to be recorded by the Committee who recommended the negotiations. The Committee shall be responsible for lack of application of mind in case its negotiations have only unnecessarily delayed the award of work/contract.

2. Further, it has been observed by the Commission that at times the Competent Authority takes unduly long time to exercise the power of accepting the tender or negotiate or re-tender. Accordingly, the model time frame for according such approval to completion of the entire process of Award of tenders should not exceed one month from the date of submission of recommendations. In case the file has to be approved at the next higher level a maximum of 15 days may be added for clearance at each level. The overall time frame should be within the validity period of the tender/contract.

3. In case of L-1 backing out there should be re-tendering as per extant instructions.

4. The above instructions may be circulated to all concerned for compliance.

Sd/-
(Anjana Dube)
Deputy Secretary

CVC - Office Order No. 57/9/05 dated 20/09/2005

Details on award of tenders / contracts publishing on websites / Bulletins – Reminder regarding.

It has been observed that despite Commission's directions vide its circulars dated 16/3/05 and 28/7/05, a number of organisations are yet to give details of the tenders finalized on the website of their organisations. Some of the Organisations have informed that this is due to the delay in receipt of information from their Regional/Subordinate Offices.

2. In this regard it is clarified that placing of such information on the website will be a continuous process. The CVOs should ensure publishing of the details of the tenders awarded immediately with available information and subsequently update it. The threshold limits as proposed by the CVOs in consultation with CEOs can be taken as the starting point which could be revised subsequently to cover 60% of the transactions in a year and further 100% on stabilization.

Sd/-
(Mitter Sain)
Deputy Secretary

CVC - Office Order No. 46/07/05 dated 28/07/2005

Details on award of tenders / contracts publishing on websites / Bulletins – Reminder regarding.

Reference is invited to Commission's **Office Order No.13/3/05 dated 16.3.2005** regarding above mentioned subject directing the organisations to publish every month the summary of contracts / purchases made above a threshold value on the website. **In this regard it is specified that the proposed threshold limit is acceptable to the Commission as long as it covers more than 60% of the value of the transactions every month.** This limit can be raised subsequently once the process stabilizes.

2. CVOs may, therefore, ensure that such details are posted on the website of the organisation immediately and compliance report in this regard should be sent by CVOs in their monthly report to the Commission.

Sd/-
(Anjana Dube)
Deputy secretary

CVC - OM No.98/VGL/25 dated 16.05.2005

Intensive Examination of works by CTE's Organization – Submission of Quarterly Progress Report.

Please refer to the Commission's OM No. 98/VGL/25 dated 20.10.98, 98/VGL/25 dated 20.07.01 and OFF-I-CTE-I(Pt) dated 23.12.03 regarding submission of quarterly progress reports(QPR's) to the CTE's Organization in the prescribed format in respect of Civil

Works costing more than `1.00 crores, Electrical/Mechanical and other Allied works costing more than `30.00 Lacs, Stores/Purchase contracts costing more than `2.00 crores and Horticulture works costing more than `2.00 Lacs .

2. It is clarified that the consultancy contracts, all service contracts such as hiring/leasing of cycle stands etc., transportation contracts, catering, equipment & supplies of medicines to hospitals etc are also to be reported in the respective QPR.

3. As per above-mentioned office memorandums, all the works above the prescribed limit have to be reflected in the quarterly progress reports. In case of organizations, which are undertaking such works in the areas mentioned above, where the monetary value of all such works is less than the limits prescribed above, they may report two largest works in progress in each discipline. Instances have come to the notice of the Commission, where all the works in progress, were not reflected in the quarterly progress report submitted by the organization. It is enjoined upon all the Chief Vigilance Officers to certify on the QPR that "All the works/purchases/Consultancy and other contracts in progress, as per the prescribed monetary limit, have been reported in this QPR."

4. The above instructions are for strict compliance.

Sd/-
(Smt. Padmaja Varma)
Chief Technical Examiner

CVC- Circular No.2EE-1-CTE-3 dated 12/04/2005

Issues pertaining to Negotiation with L1 (i.e. Lowest tenderer)

During the recent Zonal Conference, some of the organizations have expressed some difficulties in implementation of the subject order and requested the Commission for a review.

2. The Commission in its efforts to look at some of its own guidelines & instructions and fine tune them with the organization's requirement to make the system cost effective and more competitive proposes to hold a workshop in the 3rd week of May with select CVOs. The Commission would, therefore welcome the reasoned views of your organization for and against the banning of post- tender negotiations with other than L 1 (lowest tenderer). Your views on the subject matter of negotiations, circulated vide letter No. 8(l)(h)/98(l), dated 18.11.98 with justification of your stand and suggestion for modification, if any, may please be arranged to be sent to this organization addressed to the undersigned immediately, latest by 30.4.2005.

3. The date, time and venue of the workshop shall be intimated shortly.

Sd/-
(V. Ramachandran)
Chief Technical Examiner

Powered by black money, driven by in-humanitarian values - that's corruption. Evolved by a sense of responsibility, nurtured by honesty - that's fight against anti corruption - Tisha Ananya, Class-XII(C), DAV Public School, MCL, Kalinga.

CVC - Office Order No. 18/3/05 dated 24/03/2005

Banning of business dealings with firms/contractors – clarification regarding.

Para 31 of Chapter XIII, Vigilance Manual Part-I provides that business dealings with the firms/contractors may be banned wherever necessary. It was also suggested that for banning of the business with such firms/contractors or for withdrawal of banning orders, advice of the Central Vigilance Commission need not be sought.

2. It is however observed by the Commission that some of the departments/organizations cite the Commission as the authority behind the decision in their orders while banning of the firms/contractors. This is not appropriate. **The Commission once again reiterates its instructions that banning of business is an administrative matter to be decided by the management of the organization and the Central Vigilance Commission does not give its advice in such matters.** This may please be noted for strict compliance.

Sd/-
(Anjana Dube)
Deputy Secretary

CVC - Office Order No. 15/3/05 dated 24/03/2005

Notice inviting tenders - regarding

The Commission has observed that some of the Notice Inviting Tenders (NITs) have a clause that the tender applications could be rejected without assigning any reason. This clause is apparently incorporated in tender enquiries to safeguard the interest of the organisation in exceptional circumstance and to avoid any legal dispute, in such cases.

2. The Commission has discussed the issue and it is emphasized that the above clause in the bid document does not mean that the tender accepting authority is free to take decision in an arbitrary manner. He is bound to record clear, logical reasons for any such action of rejection/recall of tenders on the file.

3. This should be noted for compliance by all tender accepting authorities.

Sd/-
(Anjana Dube)
Deputy Secretary

CVC - Office Order No. 13/3/05 dated 16/03/2005

Details on award of tenders / contracts publishing on websites / Bulletins.

The Commission vide its Circular No.8(1)(h)/98(1) dated 18.11.1998 had directed that a practice must be adopted with immediate effect by all organisations within the purview of the CVC that they will publish on the notice board and in the organisation's regular publication(s), the details of all such cases regarding tenders or out of turn allotments or discretion exercised in favour of an employee/party. However, it has been observed by the Commission that some of the organisations are either not following the above mentioned practice or publishing the information with a lot of delay thereby defeating the purpose of this exercise, viz. increasing transparency in administration and check on corruption induced decisions in such matters.

2. The Commission has desired that as follow up of its directive on use of "website in public tenders", all organisations must post a summary every month of all the contracts/purchases made above a certain threshold value to be decided by the CVO in consultation with the head of organisation i.e. CEO/CMD etc. as per Annexure-I. The threshold value may be reported to the Commission for concurrence.

3. Subsequently, the website should give the details on the following:
- a) actual date of start of work
 - b) actual date of completion
 - c) reasons for delays if any

A compliance report in this regard should be sent by the CVOs alongwith their monthly report to CVC.

Sd/-
(Anjana Dube)
Deputy Secretary

Details of contractors concluded during the Month

1	2	3	4	5	6	7	8	9	10	11	12	13	14
Tender No.	Item/Nature of work	Mode of Tender Enquiry	Date of publication of NIT	Type of Bidding (Single/ Two Bid System)	Last date of receipt of tender	Nos. of tenders recd.	Nos. & names of parties qualified after technical evaluation	Nos. & names of parties not qualified after technical evaluation	Whether contract awarded to lowest tenderer / evaluated L1	Contract No. & Date	Name of Contractor	Value of Contract	Schedule date of completion of supplies

CVC -Office Order No. 11/3/05 dated 10/03/2005

Delays in Payments to Contractors & Suppliers etc. – Reducing opportunities for corruption req.

The Commission has observed that in a large number of Government organisations and PSUs, payments to contractors/suppliers are inordinately delayed. This makes the system vulnerable to corruption, in addition to increasing the cost of procurement by the Government agencies.

2. The Commission has therefore directed that all the CVOs should undertake a review of bills received during the last six months. The review is meant to primarily determine the time taken in clearing the bills. Necessary help from the concerned Finance/Administration departments may be taken wherever required. Wherever the systems have not yet been computerised there may be practical difficulties in conducting such a review for all the bills. The organisations may fix a cut off limit for review. It is suggested that the cut off limit for bills can be `1 lakh i.e. time taken for payment of all bills above this amount should be seen. In smaller organisations the cut off limit can be lower depending on feasibility and convenience.

3. The CVO should also review whether payments are being made on “first-come-first-serve” basis or not.

4. A compliance report in this regard may be sent to the Commission by 15.4.2005 as per the following details:

Statement on delays in Bill Payments

1. Name of Organisation :
2. Cut off limit : `1 lakh/others(in respect of small orgns.)
3. Bills received during Sept.,04-Feb,05 :
(from contractors/suppliers etc.)
- Total No. of Bills :
Total amount involved :
4. Out of these
- (a) Bills paid in 15 days
- No. of Bills :
Amount Involved :
- (b) Bills paid in 15-30 days
- No. of Bills :
Amount Involved :
- (c) Bills paid in 30-60 days
- No. of Bills :
Amount Involved :
- (d) Bills paid from 60 days to 120 days
- No. of Bills :
Amount Involved :
- (e) Bills paid over 120 days
- No. of Bills :
Amount Involved :

5. There are also complaints that most of the organizations take inordinately long time in releasing 5% bills amount, which is normally retained as performance guarantee after it becomes due. CVO may do a similar exercise with regard to release of this payment.

6. Has any ERP system or any other computerized system been installed for accounting purposes which can monitor bill payment?

6A. If not, is there any plan to do so in near future? If so, please indicate the time frame.

Sd/-
(Balwinder Singh)
Additional Secretary

CVC -Office Order No. 75/12/04 dated 24/12/2004

Participation of consultants in tender - guidelines regarding.

Consultants are appointed by the organisation for preparation of project report. These appointments are made for any new projects, expansions, modernization/modification of the existing projects etc. The selection is made with maximum attention to the suitability, competence and proven track record.

2. Further, during the CVO's Conference convened by the Commission in Sept.1997, the Central Vigilance Commissioner had constituted a Committee of CVOs to go into the system of contracts prevalent in PSUs and to suggest, wherever required, methods of streamlining the contracting provisions. The Committee after going through the contract system of various organisations had made recommendations on consultants as under:-

Consultants:-A firm which has been engaged by the PSU to provide goods or works for a project and any of its affiliates will be disqualified from providing consulting services for the same project. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, and any of its affiliates, will be disqualified from subsequently providing goods or works or services related to the initial assignment for the same project.

Consultants or any of their affiliates will not be hired for any assignment, which by its nature, may be in conflict with another assignment of the consultants.

3. It has come to the notice of the Commission that in a tendering process of a PSU, the consultant was also permitted to quote for work for which they had themselves estimated the rates and the consultant quoted 20% above their own estimated rates as against the awarded rates which were 20% below the estimated cost. Such over dependence on the consultant can lead to wasteful and infructuous expenditure which the organisation regrets in the long run. Meticulous and intelligent examination of the consultants proposal is therefore essential for successful and viable completion of the project.

4. The Commission reiterates the recommendations made by the Committee that the consultants/firm hired to provide consulting services for the preparation or implementation of a project, and any of its affiliates, will be disqualified from subsequently providing goods or works or services related to the initial assignment for the same project.

Sd/-
(Anjana Dube)
Deputy Secretary

CVC -Office Order No. 72/12/04 dated 10/12/2004

Transparency in tendering system - Guidelines regarding.

In order to maintain transparency and fairness, it would be appropriate that organisations should evolve a practice of finalizing the acceptability of the bidding firms in respect of the qualifying criteria before or during holding technical negotiations with him. Obtaining revised price bids from the firms, which do not meet the qualification criteria, would be incorrect. Therefore the exercise of short listing of the qualifying firms must be completed

prior to seeking the revised price bids. Moreover, the intimation of rejection to the firms whose bids have been evaluated but found not to meet the qualification criteria, along with the return of the un-opened price bid, will enhance transparency and plug the loop-holes in the tendering system. All organizations/departments are advised to frame a policy accordingly.

Sd/-
(Anjana Dube)
Deputy Secretary

CVC -Office Order No. 69/11/04 dated 03/11/2004

Turnkey contracts for net-working of computer systems.

The Commission has been receiving complaints that in turnkey contracts for net-working of computer systems a lot of unrelated products are being included in the contracts which are either not required or which are stand alone in nature and can be procured separately at much lower cost. Inclusion of these unrelated items creates opportunities for malpractices. The Commission is of the view that wherever possible it will be advisable to take an independent third party view about the scope of turnkey projects so that the tendency to include unrelated products as part of the turnkey project is avoided.

Sd/-
(Balwinder Singh)
Additional Secretary

CVC -Office Order No. 68/10/04 dated 20/10/2004

Leveraging Technology – e-payment & e-receipt.

Reference is invited to the Commission's Office Order No. 20/4/04 dated 6.4.2004 regarding the above mentioned subject.

2. The Commission had directed that by July 2004, 50% of the payment transactions both in value terms as well as in lieu of number of transactions shall be made through ECS/EFT mechanism instead of payments through Cheques; and urged all Banks, PSUs and Departments to provide an enabling environment and facilities so that such an initiative is successful. It has been informed that some of the organisations are yet to initiate the process in this regard. The organisations are, therefore, requested to forward the details regarding the implementation of e-payment mechanism, as per the enclosed format by November 15, 2004 positively.

Sd/-
(Anjana Dube)
Deputy Secretary

FORMAT

Leveraging Technology – e-payments & e-receipts

(A) Details regarding payments of salary etc. to employees.

(1) Total No. of employees -

- (2) No. of employees whose Bank A/c details including MICR have been received -
- (3) % in terms of numbers of employees to whom salary & other dues are being paid through e-payments -
- (B) Details regarding payments of dues to contractors/suppliers etc.**
- (1) Number of contractors/suppliers/agents/assesseees etc. dealt with regularly during the period July 2004 – September 2004.
- (2) Number of contractors/suppliers/agents/assesseees etc. whose Bank A/c details including MICR have been received.
- (3) Total payments made to all contractors/suppliers/assesseees/CHA's during the period July 2004 – September 2004 (Amount in Rupees in lakhs). [Payments should include refunds of earnest money/income tax etc.]
- (4) Total payments made through e-payments during the above period (Amount in Rupees in lakhs).
- (5) % of Bills (in terms of number of payments) in which e-payment is made.
- (6) % of value of payments made through e-payments.
- (7) List of nodal officers who have been entrusted with the responsibility of managing charge to e-payment system.
- (C) E-receipts**
- Separate details as per (1)-(7) above may also be provided in respect of ereceipts by organisations getting regular payments in terms of license fee/income tax receipts/custom duty/sales tax/property tax/freight charges/consultancy fees etc. (The organisations can give the type of payments received).

CVC -Office Order No. 43/7/04 dated 02/07/2004

Improving Vigilance Administration: Increasing Transparency in procurement/sale etc. - Use of website regarding.

The Central Vigilance Commission has issued a directive on the above subject vide its Order No.98/ORD/1 dated 18th Dec. 2003 making it mandatory to use web-site in all cases where open tender system is resorted to. These instructions have been further extended vide Office Order No.10/2/04 dated 11.2.2004 to tenders of short-term nature (by whatever name it is called in different organizations). Various organizations have been corresponding with the Commission seeking certain clarifications with regard to the above directives. The main issues pointed out by organizations are as follows:

Issue 1 Size of Tender Documents

In cases of works/procurement of highly technical nature, tender documents run into several volumes with large number of drawings and specifications sheets, etc. It may not be possible to place these documents on website.

Clarification: These issues have been discussed with the technical experts and in their opinion, there is no technical and even practical difficulty in doing the same. These days almost all the organizations do their typing work on computers and not on manual typewriters.

There is no significant additional effort involved in uploading the material typed on MS Word or any other word processing softwares on the website irrespective of the number of pages. The scanning of drawings is also a routine activity. Moreover if the volume and size of tender document is so large as to make it inconvenient for an intending tendering party to download it, they always have the option of obtaining the tender documents from the organization through traditional channels. The Commission has asked for putting tender documents on web-site in addition to whatever methods are being presently used.

Issue 2 Issues Connected with Data Security, Legality and Authenticity of Bid Documents.

Certain organizations have expressed apprehensions regarding security of data, hacking of websites etc. They have also pointed out that certain bidding parties may alter the downloaded documents and submit their bids in such altered tender documents which may lead to legal complications.

Clarification: This issue has been examined both from technical and legal angles. Technically a high level of data security can be provided in the websites. The provisions of digital signatures through Certifying Authority can be used to ensure that in case of any forgery or alteration in downloaded documents it is technically feasible to prove what the original document was. There are sufficient legal provisions under IT Act to ensure that e-business can be conducted using the website.

A copy of the remarks given by NIC on this issue are enclosed herewith.

Issue 3 Some organizations have sought clarification whether web site is also to be used for proprietary items or items which are sourced from OEMs (Original Equipment Manufacturers) and OESs (Original Equipment Suppliers).

Clarification: It is clarified that Commission's instructions are with regard to goods, services and works procured through open tender system, so these instruction do not apply to proprietary items and items which necessarily need to be procured through OEMs and OESs.

Issue 4 Do the instructions regarding 'short term tenders' given in the CVC Order No.98/ORD/1 dated 11th Feb., 2004 apply to limited tenders also?

Clarification: In many organizations goods, services and works which as per laid down norms are to be procured/executed through open tender system many times due to urgency are done through short term tenders without resorting to wide publicity in newspapers because of time constraint. In all such cases short term tenders (by whatever name it is called) etc. should also be put on the website of the dept. as it does not involve any additional time or cost.

Regarding applicability of these instructions to limited tenders where the number of suppliers/contractors is known to be small and as per the laid down norms limited tender system is to be resorted to through a system of approved/registered vendors/contractors, the clarification is given below.

Issue 5 Some organizations have pointed out that they make their procurement or execute their work through a system of approved/registered vendors and contractors and have sought clarification about the implications of CVC's instructions in such procurements/contracts.

Clarification: The Commission desires that in all such cases there should be wide publicity through the web site as well as through the other traditional channels at regular intervals for registration of contractors/suppliers. All the required proforma for registration, the pre-qualification criteria etc. should be always available on the web-site of the organization and it should be possible to download the same and apply to the organization. There should not be any entry barriers or long gaps in the registration of suppliers/contractors. The intervals on which publicity is to be given through website and traditional means can be decided by each organization based on their own requirements and developments in the market conditions. It is expected that it should be done atleast once in a year for upgrading the list of registered vendors/contractors.

The concerned organisation should give web based publicity for limited tenders also except for items of minor value. If the organization desires to limit the access of the limited tender documents to only registered contractors/suppliers they can limit the access by issuing passwords to all registered contractors/suppliers. But it should be ensured that password access is given to all the registered contractors/suppliers and not denied to any of the registered suppliers. Any denial of password to a registered supplier/contractor will lead to presumption of malafide intention on the part of the tendering authority.

Sd/-
(Balwinder Singh)
Addl. Secretary

CVC -Office Memorandum No. 4CC-1-CTE-2 dated 08/06/2004

Mobilization Advance

In order to address the problem of misuse of mobilization advance provision in the civil and other works, the Commission had issued an O.M. dt. 8.12.1997 for grant of interest bearing 'Mobilization Advance' in selected works. In view of references from certain organizations on this issue, the Commission has reviewed the issue and it has been decided to modify and add the following provisions in the existing O.M. This may be read as addendum to the Commission's O.M. dt. 8.12.1997.

- (i) If the advance is to be given, it should be expressly stated in the NIT/Bid Documents, indicating the amount, rate of interest and submission of BG of equivalent amount.
- (ii) The advance payment may be released in stages depending upon the progress of the work and mobilization of required equipments etc.
- (iii) There should be a provision in the contract for adjustment of advance progressively even as the bills are cleared for payment.

Sd/-
(Gyaneshwar Tyagi)
Technical Examiner

CVC -Office Memorandum No. 05-04-1-CTE-8 dated 08/06/2004

Receipt and Opening of Tenders

In the various booklets issued by the CTE Organisation of the Commission, the need to maintain transparency in receipt and opening of the tenders has been emphasized and it has been suggested therein that suitable arrangements for receipt of sealed tenders at the scheduled date and time through conspicuously located tender boxes need to be ensured.

A case has come to the notice of the Commission, where due to the bulky size of tender documents the bid conditions envisaged submission of tenders by hand to a designated officer. However, it seems that one of the bidders while trying to locate the exact place of submission of tenders, got delayed by few minutes and the tender was not accepted leading to a complaint.

In general, the receipt of tenders should be through tender boxes as suggested in our booklets. However, in cases where the tenders are required to be submitted by hand, it may be ensured that the names and designation of atleast two officers are mentioned in the bid documents. The information about these officers should also be displayed at the entrance/reception of the premises where tenders are to be deposited so as to ensure convenient approach for the bidders. The tenders after receipt should be opened on the stipulated date and time in presence of the intending bidders.

Sd/-
(Gyaneshwar Tyagi)
Technical Examiner

CVC - OM No.12-02-1-CTE-6 dated 07.05.2004

Prequalification criteria (PQ)

Guidelines were prescribed in this office OM of even number dated 17/12/2002, on the above-cited subject to ensure that the pre-qualification criteria specified in the tender document should neither be made very stringent nor very lax to restrict/facilitate the entry of bidders. It is clarified that the guidelines issued are illustrative and the organizations may suitably modify these guidelines for specialized jobs/works, if considered necessary. However, it should be ensured that the PQ criteria are exhaustive, yet specific and there is fair competition. It should also be ensured that the PQ criteria is clearly stipulated in unambiguous terms in the bid documents.

(M.P. Juneja)
Chief Technical Examiner

CVC -Office Order No. 25/4/04 dated 21/04/2004

Consideration of Indian Agents

The Commission has received a complaint alleging that in Government tenders an agent participates by representing a company officially and another bid is submitted as a 'direct offer' from the manufacturer. At times, the agent represents a foreign company in one particular tender and in another tender the said foreign company participates directly and the agent represents another foreign company. There is a possibility of cartelization in such cases and thus award of contract at higher prices.

2. The issue has been deliberated in the Commission. In order to maintain the sanctity of tendering system, it is advised that the purchases should preferably be made directly from the manufacturers. Either the Indian Agent on behalf of the foreign principal or the foreign principal directly could bid in a tender but not both. Further, in cases where an agent participates in a tender on behalf of one manufacturer, he should not be allowed to quote on behalf of another manufacturer along with the first manufacturer in a subsequent / parallel tender for the same item.

3. It is suggested that these guidelines may be circulated amongst the concerned officials of your organization for guidance.

Sd/-
A.K. Jain
Technical Examiner
For Chief Technical EXaminer

CVC -Office Order No. 23/4/04 dated 13/04/2004

Vigilance angle – definition of

[Read with modification vide office Order No.74/12/05]

As you are aware, the Commission tenders advice in the cases, which involve a vigilance angle. The term "vigilance angle" has been defined in the Special Chapters for Vigilance Management in the public sector enterprises, public sector banks and public sector insurance companies. The matter with regard to bringing out greater quality and precision to the definition has been under reconsideration of the Commission. The Commission, now accordingly, has formulated a revised definition of vigilance angle as under:

"Vigilance angle is obvious in the following acts: -

- (i) Demanding and/or accepting gratification other than legal remuneration in respect of an official act or for using his influence with any other official.
- (ii) Obtaining valuable thing, without consideration or with inadequate consideration from a person with whom he has or likely to have official dealings or his subordinates have official dealings or where he can exert influence.
- (iii) Obtaining for himself or for any other person any valuable thing or pecuniary advantage by corrupt or illegal means or by abusing his position as a public servant.

- (iv) Possession of assets disproportionate to his known sources of income.
- (v) Cases of misappropriation, forgery or cheating or other similar criminal offences.

2. There are, however, other irregularities where circumstances will have to be weighed carefully to take a view whether the officer's integrity is in doubt. Gross or willful negligence; recklessness in decision making; blatant violations of systems and procedures; exercise of discretion in excess, where no ostensible/public interest is evident; failure to keep the controlling authority/superiors informed in time – **these are some of the irregularities where the disciplinary authority with the help of the CVO should carefully study the case and weigh the circumstances to come to a conclusion whether there is reasonable ground to doubt the integrity of the officer concerned.**

3. The raison d'être of vigilance activity is not to reduce but to enhance the level of managerial efficiency and effectiveness in the organisation. Commercial risk taking forms part of business. Therefore, every loss caused to the organisation, either in pecuniary or non-pecuniary terms, need not necessarily become the subject matter of a vigilance inquiry. Thus, whether a person of common prudence, working within the ambit of the prescribed rules, regulations and instructions, would have taken the decision in the prevailing circumstances in the commercial/operational interests of the organisation is one possible criterion for determining the bona fides of the case. A positive response to this question may indicate the existence of bona-fides. A negative reply, on the other hand, might indicate their absence.

4. Absence of vigilance angle in various acts of omission and commission does not mean that the concerned official is not liable to face the consequences of his actions. **All such lapses not attracting vigilance angle would, indeed, have to be dealt with appropriately as per the disciplinary procedure under the service rules."**

5. The above definition becomes a part of the Vigilance Manual and existing Special Chapter on Public Sector Banks and Public Sector Enterprises brought out by the Commission, in supersession of the existing definition.

CVOs may bring this to the notice of all concerned.

Sd/-
(Anjana Dube)
Deputy Secretary

CVC -Office Order No. 20/4/04 dated 06/04/2004

Improving Vigilance Administration: Increasing Transparency and cutting delays by e-payments and e-receipt by Govt. Organisations etc.

The Commission has been receiving complaints about inordinate delays in making payments to the vendors and other suppliers to the Govt. organisations, Public Sector Undertakings etc. Similarly complaints are received about delays in getting refunds from taxation dept. and other departments. Apart from increasing the cost of procurement, the delays lead to opportunities for corruption. A number of measures are required to cut down on delays in making payments. One such step is resorting to mechanism of e-payments and e-receipts wherever such banking facilities exist.

In the last few years tremendous progress has been made by the banking sector in computerization including net-working of branches, making it possible to do e-banking by making use of facilities like electronic clearing system (ECS) and electronic fund transfer (EFT) etc. These facilities are available in most of the banks including the State Bank of India as well as in private banks. A large number of corporates including public sector undertakings are already making e-payments to vendors and employees instead of making payments by issue of cheques.

The Commission has been receiving complaints that delay is intentionally caused with ulterior motives in the issue and dispatch of cheques in the accounts and finance wings of a large number of Govt. Organisations. As the e-payment facility is already available in the metros as well as practically in all the main urban centres of the country, in order to curb the above mentioned malpractices, the CVC in the exercise of powers conferred on it under Section 8(1) (h) issues following instructions for compliance by all govt. departments, PSUs, banks and other agencies over which the Commission has jurisdiction.

1. The payment to all suppliers/vendors, refunds of various nature, and other payments which the organisations routinely make shall be made through electronic payment mechanism at all centres where such facilities are available in the banks.

2. Salary and other payments to the employees of the concerned organisations at such centres shall also be made through electronic clearing system (ECS) wherever such facilities exist.

As the organisations will have to collect bank account numbers from the vendor, suppliers, employees and others who have interface of this nature with the Govt. organisations, the concerned organisations may plan to switch over to e-payment system in a phased manner starting with transactions with the major suppliers in the beginning or in whatever manner is found more convenient.

It is expected that in three months i.e. by 1st July, 2004, 50% of the payment transactions both in value terms as well as in terms of number of transactions shall be made through ECS/EFT mechanism instead of payment through cheques. The remaining 50% payment transactions at all centres where such facilities exist shall be made by 31st Dec., 2004.

These instructions are applicable to all the metro cities and other urban centres where the banks provide ECS/EFT and similar other facilities.

The departments, PSUs, Banks etc. should also provide an enabling environment and facilities so that businessmen and other citizens can make payment of Govt. dues and payments to PSUs etc. electronically.

In addition to significantly reducing processing costs in preparation and dispatch of cheques, the above measures also reduce the risk of frauds by providing speed, efficiency and easier reconciliation of accounts.

Sd/-
(Anjana Dube)
Deputy Secretary

CVC -Office Order No. 10/2/04 dated 11/02/2004

Improving Vigilance Administration - Increasing transparency in procurement/tender process - use of website - regarding.

In CPWD, MCD, Civil Construction Division of Post & Telecom departments and in many other departments/organizations, there is system of short term tenders (by whatever name it is called in different organizations), wherein works below a particular value are undertaken without resorting to publicity as is required in the open tenders. This practice is understandable because of cost and time involved in organizing publicity through newspapers. In all such cases, notice can be put on the web-site of the department as it does not take any time compared to giving advertisements in the newspapers and it practically does not cost anything. This will benefit the department by bringing in transparency and reducing opportunities for abuse of power. This will also help the organizations by bringing in more competition.

2. In view of the reasons given above, the Commission has decided that instructions given in the Commission's circular (No. 98/ORD/1 dated 18.12.2003) for the use of web-site will also apply to all such works awarded by the department/PSEs/other organizations over which the Commission has jurisdiction.

Sd/-
(Balwinder Singh)
Additional Secretary

CVC -Office Order No. 9/2/04 dated 09/02/2004

Improving Vigilance Administration - Increasing transparency in procurement/sale - use of web-site regarding.

The Commission has issued a directive vide No. 98/ORD/1 dated 18th December 2003 wherein detailed instructions are issued regarding the use of website for tendering process. The objective is to improve vigilance administration by increasing transparency. The instructions were to take effect from 1st January 2004. It is noticed that many organisations whose web-sites are functional are still not putting their tenders on the web-site. The Commission has desired that CVOs should ensure compliance of the above directive. They should regularly pursue the Newspaper advertisements, the web-site of their organisation and in general keep track to ensure that the directives of the Commission on this subject are complied with. Further, the Commission has desired that the CVOs should indicate in their monthly report in the column pertaining to tender notices whether all the tenders have been put on the web-site, and if not, the reasons for non-compliance. The explanation of the concerned officers who are not complying with these directions should be called and further necessary action taken.

Sd/-
(Balwinder Singh)
Additional Secretary

CVC - OM No. 8/2/04 (File No. OFF-1-CTE-1) dated 05.02.2004**Common Irregularities in the award of contracts.**

The CTE Organisation of the Central Vigilance Commission conducts independent intensive examinations of various types of works and contracts executed by the organisations under its purview. The lapses and deficiencies observed during the course of such examinations are brought to the notice of the CVOs, for suitable corrective action. With a view to prevent recurrence of such lapses and irregularities and for improving the systems and procedures in the organisations, a few booklets have also been issued by the CTEO. However, it is observed that certain common deficiencies and irregularities continue to plague the systems in a large number of organisations. Some of these noticed during recent inspections are enumerated as under:

- Appointment of consultants continue to be done in an arbitrary manner. At times two or even three consultants are appointed for a work with no clear cut and some times over lapping responsibilities. A PSU, in a recent case, in addition to the engineering and project management consultants appointed an inspection and expediting consultant with no well defined role for them.
- The tendency of over dependence on the consultants continues. All activities are left completely to the consultants. In a recent inspection of an Oil PSU, the tenders for a big work of about Rs.20 crores were issued on the basis of a single page estimate submitted by the consultants and the same was revised by the latter upwards by 20% after opening of price bids, in order justifying the quoted rates. A detailed and realistic estimate must be prepared before issue of tender.
- Some organizations prefer limited tendering system, restricting competition to their approved contractors. The selection of these contractors at times is arbitrary and due of lack of competition or cartel formation amongst such group of contractors, the contractors are awarded at high rates. This needs to be discouraged and the organisations must ensure that contracts are awarded on the basis of competitive bidding at reasonable rates.
- The works are awarded without preparing any market rate justification. The comparison at times is made with works which were awarded few years back. This procedure cannot be considered objective and appropriate for justifying the awarded rates. The justification should be based on realistic prevailing rates.
- In a recent inspection of an oil PSU, it was noticed that revised price bids were asked from all the bidders, as rates were high vis-a-vis the estimate. This tantamounts to negotiations with firms other than L-1 and is a clear violation of CVC instructions in this regard. The negotiations should be an exception rather than a rule and should be conducted if required, only with the L-1 bidder.
- The organizations generally make provisions for a very small amount of say Rs.50000/- or Rs.1 lac as earnest money. This amount is grossly insufficient to safeguard the organisation's interest in high rate tenders running into several crores of rupees. This needs to be revised to a sufficient amount.
- The post award amendments issued by the organizations, at times recommended by consultants, without into account the financial implications favour the contractors. Such post award deviations without financial adjustments are unwarranted and against the principles of competitive tendering.

- The tender documents, and the agreement are maintained in loose condition, are not page numbered and not signed by both the parties. This is highly objectionable. In order to ensure that the agreements are enforceable in court of law, it is imperative that the agreements are well bound, page numbered, signed by both the parties and well secured. This shall also prevent any possibility of interpolation and tampering of documents.
- Loose & incomplete implementation of contract clauses pertaining to insurance, Workmen's Compensation Act, ESIC, Labour Licenses etc., has been noticed, which give undue financial benefit to the contractors.
- Time is the essence of any contract. It has been observed that at times the work is extended and even payments released without a valid extension to the agreement. This has legal implications and in case of disputes, may jeopardize the interests of the organization. Timely extensions of the contracts and BGs if any must be ensured.

In order to make contract management more transparent and professional, CVO's are requested to circulate this memorandum to the concerned officials in their organizations. This OM is also available in the Commission's website www.cvc.nic.in.

Sd/-
(M.P. Juneja)
Chief Technical Examiner

CVC -Office Order No. 98/ORD/1 dated 18/12/2003

Improving Vigilance Administration: Increasing Transparency in Procurement / Sale etc.

The Commission is of the opinion that in order to bring about greater transparency in the procurement and tendering processes there is need for widest possible publicity. There are many instances in which allegations have been made regarding inadequate or no publicity and procurement officials not making available bid documents, application forms etc. in order to restrict competition.

2. Improving vigilance administration is possible only when system improvements are made to prevent the possibilities of corruption. In order to bring about greater transparency and curb the mal-practices mentioned above the Central Vigilance Commission in the exercise of the powers conferred on it under Section 8(1)(h) issues following instructions for compliance by all govt. departments, PSUs, Banks and other agencies over which the Commission has jurisdiction. These instructions are with regard to all cases where open tender system is resorted to for procurement of goods and services or for auction/sale etc. of goods and services.

- (i) In addition to the existing rules and practices regarding giving publicity of tenders through newspapers, trade journals and providing tender documents manually and through post etc. the complete bid documents alongwith application form shall be published on the web site of the organization. It shall be ensured by the concerned organization that the parties making use of this facility of web site are not asked to again obtain some other related documents from the department manually for purpose of participating in the tender process i.e. all documents upto date should remain available and shall

be equally legally valid for participation in the tender process as manual documents obtained from the department through manual process.

- (ii) The complete application form should be available on the web site for purposes of downloading and application made on such a form shall be considered valid for participating in the tender process.
- (iii) The concerned organization must give its web site address in the advertisement/NIT published in the newspapers.
- (iv) If the concerned organization wishes to charge for the application form downloaded from the computer then they may ask the bidding party to pay the amount by draft/cheques etc. at the time of submission of the application form and bid documents.

3. While the above directions must be fully complied with, efforts should be made by organizations to eventually switch over to the process of eprocurement/e-sale wherever it is found to be feasible and practical.

4. The above directions are issued in supersession of all previous instructions issued by the CVC on the subject of use of web-site for tendering purposes. These instructions shall take effect from 1st January, 2004 for all such organizations whose web-sites are already functional. All other organizations must ensure that this facility is provided before 1st April, 2004.

Sd/-
(P. Shankar)
Central Vigilance Commissioner

CVC -Office Memorandum No. 06-03-02-CTE-34 dated 20/10/2003

Back to back tie up by PSUs - instructions regarding

It has been observed during intensive examination of various works/contracts awarded by construction PSUs on back to back basis that the works are being awarded in an ad-hoc and arbitrary manner without inviting tenders and ascertaining the performance, capability and experience of the tenderers. In some cases, the works were awarded on single tender basis/limited tender basis though sufficient time was available with the Organisation to invite open tenders.

2. Some of the common irregularities/lapses observed during the examination of works were as under:

- a) No transparency in selection of contractor for the back to back tie up which is the main source of corruption.
- b) Collusion among the contractors was observed where more than one contractors were involved at various stages.
- c) Ineligible contractor obtains the contract through the PSUs.
- d) Purchase preference misused by the PSUs.
- e) PSUs sublet the complete work to a private contractor without obtaining permission from the client which invariably put a condition insisting such

- permission since the client is generally not interested in such back to back sublet of the work.
- f) Infructuous work (to the exchequer) due to the involvement of intermediary PSUs and cost of project goes up ultimately.
 - g) No supervision by the PSU as they put the staff mainly for coordination work.
 - h) Quality ultimately suffers due to lack of supervision by the PSUs.
3. Commission is of the view that the practice of award of works to PSUs on nomination basis by Govt. of India/PSUs needs to be reviewed forthwith.
4. The irregularities observed during intensive examination of work and difficulties being faced by the PSUs in inviting tenders were considered and it has been decided that the procedure to be followed for award of work by Construction PSUs shall be finalised taking into account the following points:
- a) PSUs (when bag the contract from the client Department) as a contractor, has to execute the work by functioning like a contractor instead of sub-letting the 100% work on back to back basis.
 - b) Open tenders to be invited for selection of sub-contractors as far as possible
 - c) In case, it is not possible to invite open tenders, selection should be carried out by inviting limited tenders from the panel approved in the following manner. Panel of contractors are to be prepared for different categories. monetary limits, regions, in a transparent manner clearly publishing the eligibility criteria etc. The above panel is to be updated every year.
 - d) Tenders to be opened confidentially by a high level committee to maintain the secrecy of rates, if required. Tender opening register should be maintained in this regard duly signed by the officers opening the tender and kept confidentially. This should be available for perusal when required by audit/vigilance.
 - e) The terms and conditions of the contract of the client especially those pertaining to subletting of works should be strictly adhered to by the PSUs.
 - f) Adequate staff to be deployed by the PSUs to ensure quality in construction etc.
 - g) The record of enlistment/updation of contractor and tender opening register shall be produced to the CTEO as well as audit officials when demanded for scrutiny.
5. It is, therefore, suggested that the procedure for award of work on back to back basis be finalised keeping in view the above points and circulated amongst the concerned officials of your organisation for strict compliance in future works.

Sd/-
(R.A. Arumugam)
Chief Technical Examiner

CVC -Office Memorandum No. 2EE-1-CTE-3 dated 15/10/2003

Tender Sample Clause

The Commission has received complaints that some organizations, while procuring clothing and other textile items insist on submission of a tender sample by the bidders though detailed specifications for such items exist. The offers are rejected on the basis of tender samples not conforming to the requirements of feel, finish and workmanship as per the 'master sample' though the bidders confirm in their bids that supply shall be made as per the tender specifications, stipulated in the bid documents.

2. While it is recognized that samples may be required to be approved to provide a basis in respect of indeterminable parameters such as shade, feel, finish & workmanship for supplies of such items but system of approving/rejecting tender samples at the time of decision making is too subjective and is not considered suitable, especially for items which have detailed specifications. The lack of competition in such cases is also likely to result in award of contracts at high rates.

3. It is thus advised that Government Departments/Organizations should consider procurement of such items on the basis of detailed specifications. If required, provision for submission of an advance sample by successful bidder(s) may be stipulated for indeterminable parameters such as, shade/tone, size, make-up, feel, finish and workmanship, before giving clearance for bulk production of the supply. Such a system would not only avoid subjectivity at the tender decision stage but would also ensure healthy competition among bidders and thus take care of quality aspect as well as reasonableness of prices.

4. It is requested that these guidelines may be circulated amongst the concerned officials of your organization for guidance. These are also available on the CVC's website, <http://cvc.nic.in>.

Sd/-
(A.K. Jain)
Technical Examiner
for Chief Technical Examiner

CVC -Office Order No. 46/9/03 dated 11/09/2003

E-procurement/Reverse Auction

The Commission has been receiving a number of references from different departments / organisations asking for a uniform policy in this matter. The departments / organisations may themselves decide on e-procurement/reverse auction for purchases or sales and work out the detailed procedure in this regard. It has, however, to be ensured that the entire process is conducted in a transparent and fair manner.

Sd/-
(Mange Lal)
Deputy Secretary

CVC -Office Order No. 44/9/03 dated 04/09/2003

Irregularities in award of contracts

While dealing with the case of a PSU, the Commission has observed that the qualification criteria incorporated in the bid documents was vague and no evaluation criterion was incorporated therein. It is also seen that the category-wise anticipated TEUs were not specified in the bid documents and the same was left for assumptions by Tender Evaluation Committee for comparative evaluation of financial bids, which led to comparative evaluation of bids on surmises and conjectures. Further, it was also provided as a condition in the tender bid that the tenderer should have previous experience in undertaking handling of similar work and/or transportation works preferably of ISO containers, however, no definition of 'similar works' was, indicated in the bid documents.

2. It should be ensured that **pre-qualification criteria, performance criteria and evaluation criteria are incorporated in the bid documents in clear and unambiguous terms as these criterion very important to evaluate bids in a transparent manner. Whenever required the departments/organisations should have follow two-bid system, i.e. technical bid and price bid. The price bids should be opened only of those vendors who were technically qualified by the Deptt./ Organisation.** The Commission would therefore advise that the Deptt./ Organisation may issue necessary guidelines in this regard for future tenders.

3. It has also observed that the orders were allegedly split in order to bring it within the powers of junior officers and that the proper records of machine breakdown were not being kept. It is therefore, decided that in the matters of petty purchase in emergency items all departments/organisations must keep proper records of all machine breakdown etc.

4. All CVOs may bring this to the notice of all concerned.

Sd/-
(Anjana Dube)
Deputy Secretary

CVC -Office Order No. 33/7/03 dated 09/07/2003

Short-comings in bid documents.

The Commission has observed that in the award of contracts for goods and services, the detailed evaluation/exclusion criteria are not being stipulated in the bid document and at times is decided after the tender opening. This system is prone to criticism and complaints as it not only leads to a non-transparent and subjective system of evaluation of tenders but also vitiates the sanctity of the tender system.

2. The Commission would reiterate that whatever pre-qualification, evaluation/exclusion criteria, etc. which the organization wants to adopt should be made explicit at the time of inviting tenders so that basic concept of transparency and interests of equity and fairness are satisfied. The acceptance/rejection of any bid should not be arbitrary but on justified grounds as per the laid down specifications, evaluation/exclusion criteria leaving no room for complaints as after all, the bidders spend a lot of time and energy besides financial cost initially in preparing the bids and, thereafter, in following up with the organizations for submitting various clarifications and presentations.

3. This is issued for strict compliance by all concerned.

Sd/-
(Mange Lal)
Deputy Secretary
Telefax No.24651010

CVC - Letter No.98/ORD/1 dated 05.05.2003

Purchase of computer systems by Govt. departments/organisation

It has come to the notice of the Commission that some departments/ organisations are issuing tenders for purchase of computers where they mention and insist on the international brands. This not only encourages the monopolistic practices but also vitiates the guidelines issued by the Ministry of Finance, D/o Expenditure vide its OM No. 8(4)-E.II(A) 98 dated 17.12.1998 (copy enclosed).

2. It is, therefore, advised that departments/organisations may follow the instructions issued by the Department of Expenditure.

Sd/-
(Anjana Dube)
Deputy Secretary

CVC - Letter No.98/ORD/1 (Pt.IV) dated 12.03.2003

Use of web-site in Government procurement or tender process.

Attention is invited to the instructions issued by the Commission vide communication No. 98/ORD/1 dated 28.03.2002 regarding publishing of tender documents on the web-site.

2. The Commission has received a number of references from various departments / organisations expressing reservations in implementation the said instructions in toto The matter has been reviewed in the Commission and it is observed that it is a fact that use of web-site for accessing the information has so far not picked up in the country and it would not be possible for the vendors to access the web-site of every organisation to know the tender details. There is also no centralised web-site for the tenders

3. Therefore, it has been decided by the Commission that till such time the penetration of Information Technology is adequate and a dedicated web-site for Government tenderers is available, Departments/Organisations may continue with publishing of NIT in newspapers in concise format and put the detailed information in their respective web-sites.

Sd/-
(Mange Lal)
Deputy Secretary

CVC - OM No.12-02-6-CTE/SPI(I)-2 dated 07.01.2003

Consideration of Indian Agents

The Commission has received a complaint alleging that in Government tenders at times an Indian Agent participates on behalf of two different foreign suppliers and in the event of only offers of these two suppliers getting short-listed, then the Indian representative knowing the prices of the two foreign suppliers/manufacturers may take an undue advantage.

2. The issue has been deliberated in the Commission. In order to maintain sanctity of the tender system, it is advised that one Agent cannot represent two suppliers or quote on their behalf in a particular tender.

3. It is suggested that these instructions may be circulated amongst the concerned officials of your organisation for guidance.

Sd/-
Niranjan Singh
Under Secretary

CVC - OM No.12-02-1-CTE-6 dated 17.12.2002

Prequalification criteria (PQ)

The Commission has received complaints regarding discriminatory prequalification criteria incorporated in the tender documents by various Deptts./Organisations. It has also been observed during intensive examination of various works/contracts by CTEO that the prequalification criteria is either not clearly specified or made very stringent/very lax to restrict/facilitate the entry of bidders.

2. The prequalification criteria is a yardstick to allow or disallow the firms to participate in the bids. A vaguely defined PQ criteria results in stalling the process of finalizing the contract or award of the contract in a non-transparent manner. It has been noticed that organizations, at times pick up the PQ criteria from some similar work executed in the past, without appropriately amending the different parameters according to the requirements of the present work. Very often it is seen that only contractors known to the officials of the organization and to the Architects are placed on the select list. This system gives considerable scope for malpractices, favouritism and corruption. It is, therefore, necessary to fix in advance the minimum qualification, experience and number of similar works of a minimum magnitude satisfactorily executed in terms of quality and period of execution.

3. Some of the common irregularities/lapses observed in this regard are highlighted as under: -

- (i) For a work with an estimated cost of Rs.15 crores to be completed in two years, the criteria for average turnover in the last 5 years was kept as Rs.15 crores although the amount of work to be executed in one year was only Rs.7.5 crores. The above resulted in prequalification of a single firm.
- (ii) One organization for purchase of Computer hardware kept the criteria for financial annual turnover of Rs.100 crores although the value of purchase was less than Rs.10 crores, resulting in disqualification of reputed computer firms.

- (iii) In one case of purchase of Computer hardware, the prequalification criteria stipulated was that the firms should have made profit in the last two years and should possess ISO Certification. It resulted in disqualification of reputed vendors including a PSU.
- (iv) In a work for supply and installation of A.C. Plant, retendering was resorted to with diluted prequalification criteria without adequate justification, to favour selection of a particular firm.
- (v) An organization invited tenders for hiring of D.G. Sets with eligibility of having 3 years experience in supplying D.G. Sets. The cut off dates regarding work experience were not clearly indicated. The above resulted in qualification of firms which had conducted such business for 3 years, some 20 years back. On account of this vague condition, some firms that were currently not even in the business were also qualified.
- (vi) In many cases, "Similar works" is not clearly defined in the tender documents. In one such case, the supply and installation of A.C. ducting and the work of installation of false ceiling were combined together. Such works are normally not executed together as A.C. ducting work is normally executed as a part of A.C. work while false ceiling work is a part of civil construction or interior design works. Therefore, no firm can possibly qualify for such work with experience of similar work. The above resulted in qualification of A.C. Contractors without having any experience of false ceiling work although the major portion of the work constituted false ceiling work.

4. The above list is illustrative and not exhaustive. While framing the prequalification criteria, the end purpose of doing so should be kept in view. The purpose of any selection procedure is to attract the participation of reputed and capable firms with proper track records. The PQ conditions should be exhaustive, yet specific. The factors that may be kept in view while framing the PQ Criteria includes the scope and nature of work, experience of firms in the same field and financial soundness of firms.

5. The following points must be kept in view while fixing the eligibility criteria:-

A) For Civil/Electrical Works

- (i) Average Annual financial turnover during the last 3 years, ending 31st March of the previous financial year, should be at least 30% of the estimated cost.
- (ii) Experience of having successfully completed similar works during last 7 years ending last day of month previous to the one in which applications are invited should be either of the following: -
 - a. Three similar completed works costing not less than the amount equal to 40% of the estimated cost.
 - or**
 - b. Two similar completed works costing not less than the amount equal to 50% of the estimated cost.
 - or**
 - c. One similar completed work costing not less than the amount equal to 80% of the estimated cost.

- (iii) Definition of "similar work" should be clearly defined. In addition to above, the criteria regarding satisfactory performance of works, personnel, establishment, plant, equipment etc. may be incorporated according to the requirement of the Project.

B) For Store/Purchase Contracts

Prequalification/Post Qualification shall be based entirely upon the capability and resources of prospective bidders to perform the particular contract satisfactorily, taking into account their (i) experience and past performance on similar contracts for last 2 years (ii) capabilities with respect to personnel, equipment and manufacturing facilities (iii) financial standing through latest I.T.C.C., Annual report (balance sheet and Profit & Loss Account) of last 3 years. The quantity, delivery and value requirement shall be kept in view, while fixing the PQ criteria. No bidder should be denied prequalification/post qualification for reasons unrelated to its capability and resources to successfully perform the contract.

6. It is suggested that these instructions may be circulated amongst the concerned officials of your organization for guidance in fixing prequalification criteria. These instructions are also available on CVC's website, <http://cvc.nic.in>.

Sd/-
(M.P. Juneja)
Chief Technical Examiner

CVC - OM No.OFF 1 CTE 1 dated 25.11.2002

Appointment of Consultants

While highlighting the common lapses/ irregularities observed in the Construction works undertaken by the PSUs/Banks, under the guidance of Consultants, the Commission had issued certain guidelines vide letter No. 3L PRC 1 dated 12.11.1982 [copy enclosed-Annexure-1] so as to avoid recurrence of such lapses. These were further emphasized vide letter No. 3L-IRC-1 dated 10.1.1983 [copy enclosed-Annexure-II], inter-alia, bringing out the guidelines circulated by the Bureau of Public Enterprises in their letter no. DPE/GL-025/78/Prodn./PCR/ 2/77/BPE/Prodn. dated 15.07.1978 and it was reiterated that the appointment of Consultants should be made in a transparent manner.

2. However, it has been observed during intensive examination of various works/contracts by the CTEO that these instructions are not being followed by a large number of organizations. The consultants are still appointed in an ad-hoc and arbitrary manner without inviting tenders and without collecting adequate data about their performance, capability and experience. In some cases, the consultants were appointed after holding direct discussions with only one firm without clearly indicating the job-content and consultation fee payable to them. Often the scope of work entrusted to the consultants is either not defined properly or the consultants are given a free hand to handle the case due to which they experiment with impractical, fanciful and exotic ideas resulting in unwarranted costs. The organizations display an over-dependence on consultants and invariably abdicate their responsibility completely to the latter. The officials do not over see the working of the consultants resulting in the latter exploiting the circumstances and at times, in collusion with the contractors, give biased recommendations in favour of a particular firm. It has also been noticed that the consultants recommend acceptance of inferior items/equipments / payment for inadmissible items and also give undue benefit to the contractors like non-recovery of penalties for the delayed completion. The position in respect of projects with multiple

consultants is still worse as the self-interest of so many outside agencies takes precedence over the loyalty towards the organization. These agencies tend to collude or collide with each other, and both the situations are detrimental to the smooth implementation of the project.

3. Some of the common irregularities/lapses observed during the last four years or so in this regard are highlighted as under:-

- i) One organization engaged architect from a very old panel, prepared about 15 years back.
- ii) An organization invited and short-listed 5 consultants but awarded the contract to the highest bidder on the plea that the bidder had done a very good job in some other project with the organization. Extra amount of account of travel expenses, boarding and lodging was also sanctioned beyond contractual terms.
- iii) A bank for construction of its Head Office in Mumbai, shortlisted three firms after a thorough scrutiny of offers submitted by a large number of bidders. The price bids of these firms were opened, but in a surprising manner, the work of consultancy was awarded to an L-2 firm thus compromising all ethics of tendering.
- iv) The payment terms to the contractors are often allowed quite liberally. In one case, the consultant's fee was paid on quarterly basis without linking the same with the progress of the project. Full payments had been authorized even before the completion of the project. In another work, the consultants were paid substantial amount at an early stage of the project though they had submitted only preliminary drawings. Subsequently, the consultants failed to complete the job and the department took no action against them. In yet another case, the consultant was allowed extra payment for additional documents that he had to generate due to re-tendering of the case. However, the reasons for re-tendering were found attributable to the consultants and instead of penalizing, they were rewarded with extra payment.
- v) The consultants tend to increase the cost of the work for more fees as generally the fee of the consultants is fixed at a certain percentage of the final cost of project. In an office building work, tender was accepted for Rs.10.00 crores but during execution, specifications were changed and actual cost on completion was twice the tendered cost. Thus, the consultant was unduly benefited as there was no maximum limit fixed for the consultant's fee.
- vi) In the consultancy agreement generally the nature of repetitive type of work is not defined. In one work, 4 similar blocks comprising of 100 hostel rooms each were constructed. The consultants were paid same standard fees for each block. Due to this, the organization suffered loss at the cost of the consultant.
- vii) There is no check on consultant's planning, design and execution. In one work, pile foundation for a workshop building was designed with the capacity of the piles, capable of carrying twice the required load. In the same project, high capacity piles (450 mm dia, 20 m deep) were provided for a single-storeyed ordinary office building, which did not require pile foundation at all.

- viii) In another case, the project was for a design and construction of a training institute on a big plot of land in a very posh and expensive area. The whole construction was two storied with no scope for future expansion Ironically all other buildings in the vicinity are multi-storeyed highlighting the fact that space utilization here was very poor. Further, the walls in the reception area and on the outside of the auditorium were provided with acoustic insulation with no rationale. For air-conditioning of the library instead of providing a single AHU of suitable capacity with ducting, etc. 20 plus AHUs had been provided in the room. Such fanciful ideas along with poor planning and supervision resulted in the project suffering heavy cost and time overruns.
- ix) In one of the works for a bank in Mumbai, the substation equipment has been installed in the basement area, jeopardizing the safety aspect, as Mumbai gets its fair share of heavy rains and the area is also in close proximity to the sea.
- x) In many cases, the consultants charge exorbitant traveling expenses. For a work in Punjab, Mumbai based Architects were appointed. The fee payable to them was `6.00 lakhs, but the actual traveling expenses ultimately paid to them were to the tune of `7.5 lakhs.
- xi) Sometimes the consultants pass on their responsibility to the contractor. In one work, the consultant was supposed to give design and drawing as per the consultancy agreement. While preparing the tender document for construction work, the responsibility for the preparation of drawings and structural design was entrusted with the construction contractor by adding a condition to that effect. The contractors loaded the quoted rates for the above work and the consultant was benefited at the cost of the organization.
- xii) In case of road projects, it was observed that consultants under different categories like general consultants, planning & design consultants and construction management consultants were appointed for almost all the activities of the projects without competitive bidding. The work done by the consultants is not checked by the departmental engineers who feel their job is mainly to issue cheques to the consultants/contractors.

4. The above list is only illustrative and not exhaustive. The Commission would like to reiterate the instructions regarding appointment of consultants. The appointment of consultants should be absolutely need based and for specialized jobs only. The selection of consultants should be made in a transparent manner through competitive bidding. The scope of work and role of consultants should be clearly defined and the contract should incorporate clauses having adequate provisions for penalizing the consultants in case of defaults by them at any stage of the project including delays attributable to the consultants. As far as possible a Project Implementation Schedule indicating maximum permissible time for each activity should be prepared with a view to arrest time overruns of the projects. There should be no major deviation in the scope of work after the contract is awarded and the consultant should be penalized for poor planning and supervision if the deviations result in excessive cost overruns. Further, the consultant's fee should be pegged based on the original contract value. The role of the consultants should be advisory and recommendatory and final authority and responsibility should be with the departmental officers only.

Vigilance Bulletin

It is suggested that these instructions may be circulated amongst the concerned officials of your organization for guidance in appointment/working of consultants in the engineering works/contracts. These instructions are also available on CVC's web site, <http://cvc.nic.in>

Sd/-
(M.P.Juneja)
Chief Technical Examiner

CVC- Circular No. 98/ORD/1 dated 03/08/2001

Improving Vigilance Administration – Tenders

Please refer to the instructions issued by the Commission vide its communication No. 8(1)(h)/98(1) dated 18.11.1998, banning post-tender negotiations except with L-1.

2. It is clarified that the CVC's instructions dated 18.11.1998, banning post-tender negotiations except with L-1 (i.e. the lowest tenderer), pertain to the award of work/supply orders etc., where the Government or the Government company has to make payment. If the tender is for sale of material by the Government or the Government company, the post-tender negotiations are not to be held except with H-1 (i.e. the highest tenderer), if required.

Sd/-
(K.L. Ahuja)
Officer on Special Duty

CVC - Letter No. 98/ORD/1 dated 24/08/2000

Improving Vigilance Administration - Tenders.

Please refer to the instructions issued by Commission vide its communication No. 8 (1) (h)/98(1) dated 18.11.98, banning post tender negotiations except with L-1.

2. The Commission has been getting a number of queries on how to handle the matter if the quantity to be ordered is more than L-1 can supply or about placement of orders on Public Sector Undertakings. It is requested that such matters may be dealt with in accordance with the clarifications issued by the Commission vide its letter of even number dated 15.3.99 (copy enclosed).

3. Some of the organisations have sought clarification as to whether they can consider the L-2 offer or negotiate with that firm if L-1 withdraws his offer before the work order is placed, or before the supply or execution of work order takes place. In this regard, it is clarified that such a situation may be avoided if a two-bid system is followed (technocommercial) so that proper assessment of the offers is made before the award of work order., Therefore, if L-1 party backs out, there should be retendering in a transparent

and fair manner. The authority may in such a situation call for limited or short notice tender if so justified in the interest of work and take a decision on the basis of lowest tender.

4. The Commission has also been getting references for its advice on the procedures being followed in individual cases of tenders. The Commission would not involve itself in the decision making process of individual organisations. It, however, would expect the organisations to implement its instructions dated 18.11.98, in its spirit and to ensure that the decisions of administrative authorities are transparent.

Sd/-
(K.L.Ahuja)
Officer on Special Duty

CVC - Circular No.3(V)/99/9 dated 01/10/1999

Applicability of CVC's instruction No.8(1)(h)/98(1) dated 18/11/98 on post-tender negotiations to Projects of the World Bank & other international funding agencies.

The Commission has banned post-tender negotiations except with L-1 vide its instruction No.8(1)(h)/98(1) dated 18/11/98. Subsequently, the Commission had also issued a clarification vide No.98/ORD/1 dated 15/3/99. Notwithstanding the clarifications issued by the Commission, many Departments/Organisations have been approaching the Commission on specific issues which were clarified to the individual departments/organisations.

2. A clarification sought by many Departments/Organisation, which is vital and has relevance to many of the organisations relates to the applicability of the above said instruction of CVC to World Bank Projects. It has been decided after due consideration, that in so far as the World Bank Projects and other international funding agencies such as IMF, ADB etc. are concerned, the department/organisations have no other alternative but to go by the criteria prescribed by the World Bank/concerned agencies and the Commission's instruction would not be applicable specifically to those projects. However, the instructions of the CVC will be binding on purchases/sales made by the departments within the Country. The CVC's instruction of 18/11/98 will apply even if they are made with sources outside the Country and if they are within the budget provisions and normal operations of the Department/Organisation.

3. All CVOs may ensure strict compliance of this instruction.

4. This instruction is also available on CVC's Website at <http://cvc.nic.in>

Sd/-
N. Vittal
Central Vigilance Commissioner

CVC – Letter No.98/ORD/1 dated 15/03/1999

Improving vigilance administration - Tenders

Please refer to CVC's instructions issued under letter No.8(1)(h)/98(l) dt. 18.11.98 banning post tender negotiations except with L-1 i.e., the lowest tenderer. Some of the

organizations have sought clarifications from the Commission as they are facing problems in implementing these instructions. The following clarifications are, therefore, issued with the approval of Central Vigilance Commissioner

- (i) The Government of India has a purchase preference policy so far as the public sector enterprises are concerned. It is clarified that the ban on the post tender negotiations does not mean that the policy of the Government of India for purchase preference for public sector should not be implemented.
- (ii) Incidentally, some organisations have been using the public sector as a shield or a conduit for getting costly inputs or for improper purchases. This also should be avoided.
- (iii) Another issue that has been raised is that many a time the quantity to be ordered is much more than L1 alone can supply. In such cases the quantity order may be distributed in such a manner that the purchase is done in a fair transparent and equitable manner.

Sd/-
(P.S.Fatehullah)
Director

Ministry of Finance (Deptt. of Expenditure) - Office Memorandum No.

8(4)-E.II(A)/98 dated 17/12/1998

Purchase of Computer Systems by Government Departments.

The undersigned is directed to invite attention to the provisions of GFR 102(1) and the Annexure to the same according to which "Open Tender" system (that is, invitation to tender by public advertisement) should be used as a general rule in all cases in which the estimated value of demand is `50,000/- and above.

2. It has been brought to the notice of this Ministry by Deptt. of Electronics that certain Ministries/Deptts etc. issue tenders for purchase of personal computers where they specify the international brands like IBM, Compaq, HP, Digital, DELL or Gateway Micron. This vitiates the guidelines for open tender system laid down in GFRs and deprives other brands including domestic manufacturers of an opportunity to participate in the tender. Further Deptt. of Electronics have pointed out that brand names do not have any great advantage since at the broad level there is hardly any difference between the competing products because they predominantly use Intel microprocessors.

3. Separately, DGS&D have informed that generalised specifications for personal computers have been finalised and the process of concluding rate contract is being initiated.

4. It is, therefore advised that Ministries/Departments should follow the open tender system without vitiating it by specifying brand names in accordance with the provisions in GFRs for purchase of personal computers till a rate contract for computers is concluded by DGS&D. Thereafter, computers could be purchased on rate contract basis.

Sd/-
(Narain Das)
Under Secretary to the Govt. of India

CVC- Circular No. 8(1)(h)/98(1) dated 18/11/1998

Improving vigilance administration

The Central Vigilance Commission Ordinance 1998 under Section 8(1)(h) directs that the power and function of the CVC will be the following:

“exercise superintendence over the vigilance administration of the various Ministries of the Central Government or corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government”.

2. Improving vigilance administration is possible only if system improvements are made to prevent the possibilities of corruption and also encourage a culture of honesty. In exercise of the powers conferred on the CVC by Section 8(1)(h), the following instructions are issued for compliance:

2.1 Creating a culture of honesty

Many organisations have a reputation for corruption. The junior employees and officers who join the organisations hopefully may not be so corruption minded as those who have already been part of the corrupt system. In order to ensure that a culture of honesty is encouraged and the junior officers do not have the excuse that because their seniors are corrupt, that they have to also adopt the corrupt practices, it is decided with immediate effect that junior employees who initiate any proposal relating to vigilance matters which is likely to result in a reference to the CVC can send a copy directly to the CVC by name. This copy will be kept in the office of the CVC and data fed into the computer. If within a reasonable time of say three to six months, the reference does not come to the CVC, the CVC then can verify with the concerned authorities in the department as to what happened to the vigilance case initiated by the junior employee. If there is an attempt to protect the corrupt or dilute the charges, this will also become visible. Above all the junior officers will not have the excuse that they have to fall in line with the corrupt seniors. Incidentally, the seniors also cannot treat the references made directly to the CVC as an act of indiscipline because the junior officers will be complying with the instructions issued under Section 8(1)(h) of the CVC Ordinance 1998. However, if a junior officer makes a false or frivolous complaint it will be viewed adversely.

2.2 Greater transparency in administration

2.2.1 One major source of corruption arises because of lack of transparency. There is a scope for patronage and corruption especially in matters relating to tenders, cases where exercise of discretion relating to out of turn conferment of facilities/ privileges and so on. Each Organisation may identify such items which provide scope for corruption and where greater transparency would be useful. There is a necessity to maintain secrecy even in matters where discretion has to be exercised. But once the discretion has been exercised or as in matters of tenders, once the tender has been finalised, there is no need for the secrecy. A practice, therefore, must be adopted with immediate effect by all organisations within the purview of the CVC that they will publish on the notice board and in the organisation's regular publication the details of all such cases regarding tenders or out of turn allotments or

discretion exercised in favour of an employee/party. The very process of publication of this information will provide an automatic check for corruption induced decisions or undue favours which go against the principles of healthy vigilance administration.

2.2.2 The CVC will in course of time take up each organisation and review to see whether any additions and alterations have to be made to the list of items which the organisation identified in the first instance for the monthly communications for publicity in the interests of greater transparency. This may be implemented with immediate effect.

2.3 Speedy departmental inquiries

2.3.1 One major source of corruption is that the guilty are not punished adequately and more important they are not punished promptly. This is because of the prolonged delays in the departmental inquiry procedures. One of the reasons for the departmental inquiry being delayed is that the inquiry officers have already got their regular burden of work and this inquiry is to be done in addition to their normal work. The same is true for the Presenting Officers also.

2.3.2 Each organisation, therefore, may immediately review all the pending cases and the Disciplinary Authority may appoint Inquiry Officers from among retired honest employees for conducting the inquiries. The names of these officers may be got cleared by the CVC.

The CVC will also separately issue an advertisement and start building a panel of names all over India who can supplement the inquiry officers work in the department. In fact, it will be a healthy practice to have all the inquiries to be done only through such retired employees because it can then be ensured that the departmental inquiries can be completed in time. If any service/departmental rules are in conflict with the above instructions they must be modified with immediate effect.

2.3.3 In order to ensure that the departmental inquiries are completed in time, the following time limits are prescribed:

- (i) In all cases which are presently pending for appointment of Inquiry Officer and Presenting Officer, such appointment should be made within one month. In all other cases, the Inquiry Officer and the Presenting Officer should be appointed, wherever necessary, immediately after the receipt of the public servant's written statement of defence denying the charges.
- (ii) The Oral inquiry, including the submission of the Inquiry Officer's report, should be completed within a period of 6 months from the date of appointment of the Inquiry Officer. In the preliminary inquiry in the beginning requiring the first appearance of the charged officers and the Presenting Officer, the Inquiry Officer should lay down a definite time-bound programme for inspection of the listed documents, submission of the lists of defence documents and defence witnesses and inspection of defence documents before the regular hearing is taken up. The regular hearing, once started, should be conducted on day-to-day basis until completed and adjournment should not be granted on frivolous grounds.

2.3.4 One of the causes for delay is repeated adjournments. Not more than two adjournments should be given in any case so that the time limit of six months for departmental inquiry can be observed.

2.3.5 The IO/PO, DA and the CVO will be accountable for the strict compliance of the above instructions in every case.

2.4 Tenders

Tenders are generally a major source of corruption. In order to avoid corruption, a more transparent and effective system must be introduced. As post tender negotiations are the main source of corruption, post tender negotiations are banned with immediate effect except in the case of negotiations with L1 (i.e. Lowest tenderer).

3. Hindi version will follow.

Sd/-
(N.VITTAL)
CENTRAL VIGILANCE COMMISSIONER

CVC – OM No.UU/POL/19 dated 08/10/1997

Grant of interest free mobilization advance

It has come to the notice of this Commission that PSUs are stipulating payment of interest free mobilization advance in their tenders. Many times mobilization advance is allowed after acceptance of tender also. The amount of mobilization advance thus paid to the contractor is prone to be used by him for building his own capital or for the purpose other than the one for which it is disbursed. For big projects mobilization advance of 5 to 10% stipulated in the contract works out to a huge amount and the contractor is likely to be benefited with interest free amount to a very big extent. Normally while preparing justification, elements of gain in terms of interest on capital investment by way of mobilization advance is also not considered and thus the contractor gets higher rates than that may be justified. In case there is a delay in commencement of work the contractor is likely to get undue benefit by way of retention of huge money.

2. It is, therefore, desired that adequate steps may be taken to ensure stipulation of mobilization advance only for selected works and advance should be interest bearing so that contractor does not draw undue benefit. Timely execution/completion of all projects is an essential requirement and the contractor would like to draw interest bearing mobilization advance only when he needs to maintain his cash flow.

Sd/-
(P.K.Gopinath)
Director

CVC – Circular No.3L-IRC 1 dated 10/01/1983

Appointment of Consultant.

Guidelines in connection with the selection of consultants by Public Sector Enterprises for preparation of project reports have been laid down by Bureau of Public Enterprises vide letter No. BPE/GL-025/78/Prodn./PCR/2/77/BPE/Prodn. dt. 15th July, 1978.

In brief the guidelines laid down are: -

- A. For any new projects, expansions, modernization/modification of the existing projects involving an expenditure of Rs.5 crores and above these guidelines are applicable.
- B. The pre-qualifications public notice should be issued to enlist names of suitable consultants.
- C. The pre-qualification bid should be screened by a scrutinising committee.
- D. The final selection and commissioning of the consultant should be done with the approval of the board of public sector enterprises.
- E. Based on the above guidelines each enterprise should prepare their own instructions and procedure duly approved by the board for the appointment of consultants to ensure that the selection is made with maximum attention to the suitability, competence and proven track record.

The Chief Technical Engineer Organisation under the control of the Commission has had occasion to examine and comment upon works undertaken by public sector undertakings. Common irregularities/lapses noticed in the construction works undertaken by the public sector undertakings/banks have already been brought to your notice vide engineering works, it was observed that consultants were appointed on ad-hoc basis without going through proper formalities as suggested by B.P.E. and/or the consultant was chosen from an old panel thereby restricting competition. In most of the cases public sector enterprises have not framed their own instructions and procedures duly approved by the Board.

Even though individually such works are less than `5 crores, it is necessary that the appointment of consultant should not be made arbitrary or ad-hoc.

It is, therefore, necessary that urgent action is taken to formulate a rational policy for employment of consultants based on the broad outlines given by B.P.E.

This may be given priority and progress made in formulation of rules and procedure may be reported by 31-3-1983.

Sd/-
(D.C. Gupta)
Director

CVC – Circular No.3L-PRC 1 dated 12/11/1982

**Irregularities/lapses observed in the construction works undertaken by
Public sector undertakings/banks**

The Chief Technical Examiner's Organization under the Commission has had occasion to examine and comment upon the works undertaken by Public Sector Undertakings, Banks etc. under the guidance of consultants. Common lapses noticed as a result of these inspections are enumerated below:-

- i) Employment of consultant without verifying his credentials and capacity or capability to do the work assigned to him.
- ii) Inadequate planning of work and incorrect preparation or non-preparation of detailed estimates by consultants.
- iii) Non-preparation of justification statement for the rates quoted in tender, resulting in contract being awarded at very high rates.
- iv) Rejection of the lowest tender without adequate justification, on the ground that the contractor is not reliable or lacks capacity to execute the work, even though he was included in the original pre-qualification list.
- v) Improper evaluation of tenders, leading to allotment of works wrongly with ultimate loss to the public undertaking.
- vi) Allowing upward revision of rates in some cases by contractors on very flimsy grounds during the process of negotiations, so that the lowest tenderer manages to make up the difference of cost between his quotation and the second lowest quotation.
- vii) Payment of money to contractors outside the terms of contract. For example, in a large number of cases contract is for fixed price, but substantial payment is made on the ground of escalation of prices.
- viii) Use of inferior material in the construction, while payment is made at full rates on the approval of the consultant without making any financial adjustment.
- ix) Substitution of low-rated items by higher-rated items beneficial to contractor.
- x) Lack of proper supervisory arrangement by the undertakings placing total reliance on the consultant for even preparation of the bill which leads to incorrect measurement of works and payment for the items of work not done.

In view of these factors, it is recommended that while consultants may be engaged for the purposes of original planning and designing, scrutiny of tenders and execution of work should, as far as possible, be done by technical officers directly and fully answerable to the public undertaking/banks etc. concerned. For this purpose, engineers may be taken on deputation from Government departments, such as the CPWD. To the extent a consultant is engaged, it is also necessary to ensure that the relationship between the undertaking and the consultant is correctly defined so that the consultant can be held legally and financially responsible for the work entrusted to him.

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It is requested that suitable arrangements may be made for properly awarding works and exercising effective supervision and control in their execution with a view to ensure timely and systematic completion. Care may also be taken to guard against the types of irregularities indicated above.

Sd/-
(D.C. Gupta)
Director

CHIEF TECHNICAL EXAMINERS' ORGANISATION

The Chief Technical Examiner's Organization (CTEO) was created in 1957, in the Ministry of Works, Housing & Supply for the purpose of conducting a concurrent technical audit of works of the Central Public Works Department (CPWD) with a view to secure economy in expenditure and for having better technical and financial control in award and execution of works.

Santhanam Committee on prevention of corruption set up in 1963, observed that the CTEO had been doing extremely good work and recommended that this organization not only need to be continued, but also be strengthened to enable it to function more effectively. The Committee further recommended that the jurisdiction of the CTE Organization should be extended to cover construction works undertaken by other Ministries/Departments and to place it under the administrative control of the Central Vigilance Commission. The recommendations were accepted by the Government and the CTE Organization functions under the Central Vigilance Commission since the formation of CVC.

Initially, the CTEO was conducting intensive examination of construction of works of civil and electrical only, but with the growing expenditure on stores/IT related purchases and outsourcing of services. CTEO started examining these contracts also. All outsourcing activities of the government i.e. execution of works, purchases and hiring of various services etc., financed through public funds, are defined as public procurement.

The CTEO selects works or contracts for intensive examination either on its own or on the basis of inputs made available to it or from CVOs or elsewhere. The CVOs are required to furnish details regarding ongoing Civil works with contract value of `1.0 crore and above, Electrical/Mechanical works of `30 lakhs and above, Horticulture works `2.0 lakhs and above, Stores/Purchase contracts of `2.0 crore and above, Medical Equipment of `1.0 crore and above, etc. The CVOs, while forwarding the details of works sometimes recommend cases of lower value also for examination by CTEO, if they feel the need for such inspection by the CTEO.

The contracts for intensive examination by CTEO are generally selected from Quarterly Progress Report (QPR) received from various organizations. Sometimes the intensive examination is undertaken following receipt of specific complaints of irregularities or corruption.

In the intensive examination reports, observations involving over-payments, quality deficiencies, time & cost overrun, lack of transparency and fairness, non adherence to public procurement procedures etc. are brought out. The action taken on these observation has resulted in a large number of systemic improvements, besides punitive action against erring officials. A substantive amount of recoveries were also realized by the various departments from the contractors, after deficiencies were pointed out in the inspections.

CTEO, in addition to the intensive examinations, renders advice on technical issues and also conducts training sessions on preventive vigilance for the benefit of CVOs and executives of various government entities and organizations;

Important prima facie irregularities observed during Intensive Examination of works of various organizations

Appointment of Consultants:

1. In a construction project of a PSU inspected in June 2012, costing more than `1600 crores, following deficiencies were observed:
 - Initially as per the Boards' approval, Architect Fee was fixed at 5% of the estimated cost or the awarded cost, whichever is lower. However, at the time of framing the agreement the fee was charged to 5% of the actual cost of the work or the awarded cost, which is lower. This revision caused increase in consultancy fee by approximately `24 crores giving undue benefit to the architectural consultant.
 - As per the eligibility criteria for empanelment of Architectural Consultants, the firm should have possessed experience of designing Passenger Terminal with area greater than 40,000 Sqm. The bidder, who was finally awarded the work, did not meet the criteria of having experience of designing Passenger Terminal of more than 40,000 Sqm. area but was qualified on the basis of experience of some other entity, who never participated at the execution stage.

Invitation and award of work

- Limited tenders for a work examined in September, 2010, costing more than `1.0 crore were floated by a construction PSU and with last day of submission of bids as 29.07.2008. In works manual of the organization, it was clearly mentioned that, 'Generally tenders shall be called through press advertisement where value of the tender is more than `1.0 crore. Also, there was ample time to invite tenders through press advertisement and as such there was no urgency to restrict the competition by way of going in for the limited tender.
- In case of award of a tender for a work which was examined in July, 2010, relating to water treatment plant and pumping station on Design, Build and Operate basis, ten bidders were shortlisted for call of limited tender. Out of seven bidders who purchased the tender documents, only one bidder participated. The bid was not opened on the plea of inadequate response. This was not in order as there were no departmental instructions to this effect. If, the tender would have been opened it could have still be rejected if the rates were higher but at least the benefit of the information of prices from this bidder could have been availed. The tender was called again. During the second call of tender, two bidders participated and as per the original design submitted with the bid, the lowest bidder was the same i.e. who was the sole bidder during the first call. Certain design changes were incorporated by the department in the designs submitted by both the bidders on the plea of bringing the bidders at par and the financial implications for these changes were called from both the bidder. The lowest bidder quoted abnormally high rates for these changes in design and became L2 bidder from his original L1 position. The original L2 bidder who now became L1 bidder was awarded the work even though he had not followed the tender conditions in quoting item wise rates. The tender process adopted by the department was not fair and transparent.

- In a construction project of building inspected in June, 2010, the tenders were not competitive. Competition was compromised by not obtaining financial and technical bids simultaneously. The lowest bid amount was ₹2103 crores which was more than 37% above the initial estimate cost of ₹1373 crores. By eliminating certain items, even though these were required, justified cost was worked out to ₹1388 crores for the reduced scope of the work. The tender was awarded at the corresponding bid amount for the reduced scope of the work which worked out to ₹1603 crores. Thus, even for the reduced scope of the work, the tender was awarded at more than 15% above the justification. The scope of work deleted from this tender was also required and was not awarded till the time of inspection. The organization followed the two stage tendering instead of calling technical and financial bid simultaneously which could have also facilitated cartel formation and higher rate.
- In a work of hydel project being carried out by a central PSU inspected in May 2010, tenders were called in 3 separate packages simultaneously. The contractor "A" qualified for two packages and was ineligible for the third package as per the prequalification criteria. Contractor "A" made a joint venture with "B" with participation of 75% and 25% respectively and got qualified for 3rd package also as Joint Venture (JV). The bidder "A" became eligible L1 in the first two packages individually and L1 with his Joint Venture (JV) partner "B" in third package. At site, it was seen that even in the third package which was awarded to the Joint Venture, work was being executed by "A" alone. Labour license, materials etc. were in the name of "A" only. The payment was also to "A". This arrangement was accepted by the department on the request of contractor accepting modification in the JV agreement for making payment in name of "A" after award of the tender. Thus, ineligible contractor got the award of the work in a non-transparent manner. The progress of works in all three packages was found to be behind the schedule, causing significant loss to the department.
- In the above work, two interest free advances i.e. 10% mobilization advance and 5% plant & equipment advance, were paid to the contractor and the total advance was about ₹21 crores. The recovery of advances was not time bound as stipulated in CVC guidelines but was linked to the progress of work which was purely in the hand of the contractor. The contractor could complete only 30% work in the stipulated completion time. Proper utilization of mobilization advance was also not ensured. Thus, money remained at the heads of the contractor free of interest, without being put to the purpose for which it was intended, thereby giving undue benefit to the contractor.
- In a work inspected in August and September, 2010, awarded by a coal PSU for extraction and transportation of coal & Over Burden (OB), the estimated cost of was initially assessed as ₹280.17 crores. The estimate was twice revised in a period of 7 months first to ₹304.99 crores and then to ₹359.07. The estimated cost was revised upward to bring it closer to the tendered cost. Further, cost estimate was made assuming working by 10 tonnes tippers for coal and 6 cum. tippers for OB, whereas as per contract, tippers upto 25 tonnes for coal and 16 cum. for OB were allowed to be deployed. Finally, during the execution, contractor deployed tippers of 25 tonnes capacity for coal and 18 cum. capacity for OB. Thus, the contractor was allowed the cost benefit of using higher capacity equipment without the benefit being passed on to the organization.

Non-compliance of contract condition resulting in undue benefit to the contractor

- In a work of award of work of a power plant inspected in July,2010, the Special conditions of the Contract stipulated that the rates quoted by the contractor were inclusive of 'Work Contract Tax', but the tax liability on this account was being reimbursed to the contractor in contravention to the terms of the contract. Thus, undue financial benefit was being extended to the contractor. It was also observed that extra payment towards miscellaneous activities for transportation and placing of caissons, removal of structural steel gates installed in the caissons, fabrication and installation of structural steel gates etc. was being made though they were included in the scope of work. Also, payment on account of de-watering of rainwater from the area was being made, even though as per the contract, all water which may accumulate on the site during progress of the work was to be removed from the site at the contractor's expense.
- In a construction project for an airport terminal building inspected in June,2010 a large are of land was allotted at a nominal cost to the contractor for establishing stockyard/structural steel fabrication yard/material storage yard etc. in the airport premises, which was in violation of the clarification furnished to the bidders at pre-tender award stage. Undue benefit accrued to contractor on this account was of the order of ` 10 crore.
- In award of work of a hydro project of Power PSU, the contractor quoted `2.0 crore for diversion plan as provided in original contract. The original diversion plan envisaged construction activity to be carried out only during the non-rainy season and therefore rates were apparently quoted by the contractor, keeping in view the idling of resources during rainy season. To expedite the progress of work, the department modified diversion plan by awarding new diversion work to another contractor with provision of diversion tunnel, at an extra cost of `40 crore. This diversion plan provided extended construction time to the contractor i.e. contractor could work even during the rainy season and hence reduced idling of his resources, which otherwise would have idled during rainy season. The financial benefit accrued to the contractor was not extended to the department, despite extra cost incurred by the department.
- In award of a work inspected in June, 2010, related to hydel project by a central PSU, two different contract of boring of a continuous tunnel was given to two different contractors say 'A' & 'B' with the condition that either of the contractors could be asked to execute the work of other contractor in case of delay by the defaulting contractor. The rate to be paid for extra work will be prevailing market rate with deduction of extra cost recoverable from defaulting contractor who was originally supposed to do the work. However, it was seen that work, originally awarded to contractor 'B' was being executed by 'A' with extra financial implication to the to the organization to the tune of `1.25 crore, but no action for recovery was taken from the contractor 'B'. This resulted into loss to the organization and undue favour to contractor 'B' in contravention to the terms of the contract.

Cases undertaken for detailed vigilance investigation during 2010 arising out of Intensive Examination by CTEO

- In case of award of work of construction of silos, the tender documents were submitted by L-1 bidder in four volumes i.e. General Condition(GC), Special Condition of Contract (SCC), technical specification and the price bid. However, these documents were not part of the agreement. The agreement was prepared by copying / typing conditions submitted by the contractor. During copying / typing some of the clauses were excluded and some got changed. One important clause pertaining to use of Ordinary Portland Cement (OPC) cement in work was changed to 'use of slag cement". Some other important clauses were found missing. Further, as per the agreement minimum cement content was specified for M20 grade concrete as 360 Kg/m³ and for M25 as 420 Kg/m³. However, as per the design mix of concrete, cement content came out on lower side i.e. for M20 as 345 Kg/m³ and for 360 Kg/m³. The department adopted the cement content as per design mix of concrete which was with lower cement content than that prescribed in the contract without cost adjustment from the contractor.
- In a work awarded by an Oil PSU, estimate prepared by the consultant for an item was for loading and transportation and accordingly the cost was worked out for both loading and transportation. However, during the pre-bid meeting it was decided that transportation would be carried by the organization itself but the cost of transportation was not deleted from the cost of the estimate. The quoted price was compared with original estimate instead of comparing the price with revised cost excluding transportation cost. This resulted in increased estimated cost and subsequently in award of work at higher rates.
- The tenders were invited by an Oil PSU for a work costing `330 crores. During technical evaluation of tenders, it was found that only two bidders out of five were meeting the pre-qualification criteria. Out of the three rejected bidders, two represented to the organization for consideration of their offer but their plea was not accepted. The price bids of two eligible bidders were opened and the lowest firm was recommended for approval to the higher accepting authorities. Later on, the price bids of two earlier rejected bidders were also opened. The two bidders who were originally found to be eligible represented against the decision of opening of price bid of the earlier two rejected bidders. However, this request was not accepted. With the opening of two new bids, the position of originally lowest qualified bidder got changed and one of the bidders who were earlier rejected became L1 and the work awarded to him. This firm ultimately delayed the work badly and organization had to incur avoidable expenditure on his account. The tender award process was faulty and not transparent.
- In a work of a hydro project, tenders were opened in the presence of the representatives of the bidders (12 nos.) by the tender opening committee. The quoted price of an agency 'A' was entered in tender opening register. However the letter of rebate of 11.5% (which was submitted in a separate letter stated to be enclosed with the price bid) was not entered in the tender opening register. However, the rebate letter offered by another bidder 'B' was entered in the tender opening register. Due to rebate of 11.5% stated to have been offered by Agency 'A' which was not entered in the tender opening register, agency 'A' became L1. The manipulation in submission of the bid price could not be ruled out.

- In a contract of horticulture work being done by a corporation, as per General Condition of contract compensation for delay @ 1.5% per month was to be levied. A delay of 160 days was attributed on the part of the contractor, by the department and a penalty of 7.87% of tendered cost at about `3.1 lakhs was to be levied as per the contract. However, a token lumpsum penalty of only `5000/- was levied. Thus, undue favour was given to the contractor.
- In a work being done by a central corporation extra payment of `14.91 lakhs was made as non-scheduled item for providing and installing 5mm thick permanent mild steel liner in pile foundation of a pier. This payment was not admissible as providing temporary or permanent steel liner to the piles was included in the rates of the piles as per structural specifications of the contract agreement. Thus, in-admissible payment of `14.91 lakhs was made.
- In a contract awarded for a work by a Central Corporation, the contract provided that the tenderer should quote his rates inclusive of all taxes, duties, royalties, etc. except Delhi VAT which shall be reimbursed by the organization on actual payment basis, against documentary proof. Total VAT @ 12.5% of material cost was being paid to the contractor without verification with invoice. Actual VAT deposited by the contractor was much lesser than what was being paid to the contractor. Thus, inadmissible payment was being made to the contractor.
- In a work awarded by a local body, in a lump-sum item rate tender, during negotiations, it was agreed that if there is any deviation on minus side, the rate recovered shall be 90% of the scheduled contracted rates. It was however observed that the recoveries on account of non execution were done at a rate lesser than what it should have been as per the contract rate. The financial implication of `25 lakhs was observed on this account, resulting in undue benefit to the contractor.

System Improvements initiated by various Organizations during 2010 arising of CTEO inspection.

- In one of the defence organizations, limited tenders were being invited from already prequalified firms. These firms were empanelled in the year 2004. No fresh empanelment was done, thereafter. After observations of CTEO, the organization started the process of updating the empanelment of the agencies. It was also observed that the organization, while inviting limited tenders, was displaying the NIT only at their respective Zonal Offices. After inspection and observations of CTEO, the organization started sending NITs to all empanelled agencies and also displayed on the website and notice board.
- In one of the work of Civil Aviation Ministry, the field staffs was not maintaining the required site records such as instructions register etc. Now, the CVO has issued instructions to maintain proper site records after the observation made by CTEO.
- In a work awarded by a corporation, professional liability insurance was not being taken by the contractor and only general insurance was obtaining by his design consultant. After CTEO's observation, the department agreed for getting professional liability insurance for full value of the contract from the main contractor.

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- In a work of Central PSU design mix of M-20 was being used in RCC works, in violation of provision of relevant IS code. On pointing out this discrepancy, the organization reviewed the drawings and stipulated M-25 as minimum grade for all RCC works.
- One of the PSU was preparing the cost estimates in an adhoc manner based on last accepted rates etc. On CTEO's observation the organization has now prepared standard schedule of rates for future estimates.

[From Annual Report 2010 of Central Vigilance Commission, New Delhi]

Corruption – a hindrance to the development of a Country

Roshni, Bhubaneswar

We exist in the society to encounter the various problems and area of conflicts which deflects us from the path of development. This needs social security services; social education so that every citizen of the country can avail its basic fundamental rights and can fight against the hindrances which comes in the way of their success.

Nowadays, we are all being a witness of widespread phenomenon called corruption. In broader sense, corruption has become an epidemic with prevalent concept corrupt practices right from bureaucracy legislatures as also the private sectors and a common citizen whoever looks for some personal gains.

A country with high corruption will hinder the entry of investors. However, the country will be categorized as a region with high economic costs. A country with high economic costs will certainly not good for the establishment of a profit business. Now, we have known the huge devastation caused by a culture of corruption. We need real measures to eliminate them. Eradicating corruption through the awareness route is one way that deserves to be supported in a big way.

The talk on corruption has usually been made in a secret manner and has never been a matter of open discussions in our country. With the radical shift in the perception of corruption in the Indian Society, the common citizen has started recognizing the adverse effects of corruption in the society.

In order to combat the growing menace of corruption, time has come to develop a code of ethics for the bureaucracy, legislatures and also for the common citizenry. The moral uprightness, honesty in public and private life, transparency in working, appropriate standard of living, misuse of official resources and such other matters related to pure and honest culture needs to be promoted by way of enforcing code of ethics on our countrymen. The fight against corruption can not be effective and result oriented until and unless each individual in the society adopts a principle of zero tolerance towards corruption. Bribe givers as well as a bribe takers both are required to be shunted from the societal mainstream. If we are able to weed out corruption this way, we can definitely usher into an era of social, economical, political resurgence in the Country.

The erosion in the moral value of the country is the outcome of corruption in all walks of life. If we have to nip in bud the corrupt practices prevalent in all the sectors, we needs some innovative ideas and valuable intervention in our society. Though we have made some beginning by developing it enabled services with least human intervention whether it is Consumer related services or public procurement etc. but it needs to be strengthened in the future by expanding the IT interventions in every sector of public interest free from red tapism.

Education is undoubtedly a very important tool in the fight against corruption and its role in awareness generation in the society cannot be undermined. We need to spread mass awareness on the growing menace of corruption and various anti-corruption strategy. For this to happen, no better platform than our Schools/Colleges/Universities can be there to kick start such widespread campaign on anti-corruption. Besides media advertisements depicting the undesirable effects of corruption on the society as a whole and on the individual in particular need to be promoted on a larger scale.

Once we sensitize our common citizenry on an urgent need to develop zero tolerance towards corruption in the society we should take adequate steps to strengthen our judiciary and investigating agencies by making them independent constitutionally, structurally, functionally and financially. Reporting from the public also is required to be given its due importance. It should not be like the present Right to Information Act 2005, where there has been a tendency on the part of the officials to furnish details as per their whims and fancies. The writer strongly feels that there should be some independent report centers to receive the complaints including anonymous one which should also be given its due importance. Last but not the least the “whistle blowers” needs to be protected by means of legislation by giving them safe houses, body guards etc for serious cases.

Defeating Corruption through Education

*Bibhu Prasad Rath,
Dy.General Manager, NPG-ES*

What is Corruption?

As per Oxford English Dictionary corruption is defined as “dishonest or illegal behavior, especially of people in authority,” the act or effect of making somebody change from moral to immoral standards of behavior”, “the form of word or phrase that has become changed from its original form in some way”. For our purpose the deviation from the intended purpose may be deemed as corruption. The public servant is a fit example of many misnomers we live with, the so called public servant in his attitude, behavior and conduct behaves not as a servant of the public but as a feudatory happily exercising discretionary authority arbitrarily bestowing favors and disfavours with impunity. We thought that the British treated Indians shabbily but it is no match for the arrogance of public servants today in collusion with the politicians and powers that be. In Hindi it is often said that “Haati ke Dikhane wale daant alag aur chaubane wale alag” meaning the ivory is different from the teeth with which the elephant bites.. The stated purposes and intended purposes are often at wide variance and are a major source of corruption.

What is Education? Why is education necessary?

As per Oxford English Dictionary education is the process of teaching, training & learning. Education equips us to come to terms with ourselves and the surrounding. Often there is an over emphasis on the skills and earning opportunity that education opens up. But what happens when the environment is totally out of focus. If we pollute the environment beyond limits the very earning opportunities we put premium on would be meaningless. Education should equip us to come to terms with ourselves and the environment. If the environment is corrupt we are not safe.

Why corruption is dangerous?

Corruption also means misdirection are we all complaining against corruption because the money is not directed at our pocket? We cannot perhaps complain against corruption selectively. Corrupt or misdirected public policies and misdirected public servants lead to adulteration in food, less cement and iron in civil structures, etc. We all have managed with it perhaps because the human body and the Civil Engg design practices with high factors of safety bail us out. But what about the disparity corruption brings with it? Desired welfare measures are not visible, very poor standards of hygiene, education, no access to safe drinking water for a large majority.

Planning commission has recognized that throughout the planned period inter-state and intra-state disparity has increased. Disparity is rooted in corruption the public money is invested not for the larger public good but in urban areas and metropolis which can satisfy the aggressive designs of powers that be. Poverty and disparity lead to illiteracy and terrorism. We should be deeply troubled about corruption and disparity because in such a neighborhood even with huge amount of wealth we are not safe.

Where wealth accumulates man decay. Ancient India accumulated wealth and for about a thousand years remained the target from a host of alien attacks that ultimately resulted in the British rule. All these rulers ensured that India was sapped out of all its wealth, the Kohinoor is just symbolic of the fortune India lost within no time. Somanath temple was not attacked because it was a Hindu temple, it was attacked because huge quantity of wealth

was amassed in it. The parents who amass wealth for their children amass trouble for them. Everybody knows what is done to a bee hive. Burnt mutilated and kicked out are the bees for accumulating honey. The idea is use it or lose it. Money has to be invested as a trustee. You are safe, educated and healthy, only if your neighbors are safe, educated and healthy.

The idea of education as mere skills with earning potential cannot help to correct the scenario it cannot for example ensure that you are not kidnapped for a ransom An all out war is necessary to root out corruption. All great wars are fought within and the war against corruption is no exception. What kind of education will equip us better to deal with the environment? Already Emotional Quotient as against Intelligence Quotient has been given primacy in many establishments. The 360 Degree appraisal systems in place in many MNCs ensure a person is responsive to all his customers internal as well as external. People today are looking for the right attitude rather than the right skills or aptitude. The oft repeated saying is skills can be acquired at the work place so attitude is more important.

Education means evoking knowledge from inside, an educated person is supposed to be hopeful about the future rather than apprehensive. The urge to accumulate is rooted in apprehension for the future, in contrast our ancient civilization taught us (aparigraha) or non-possession the attitude of birds where they find their daily food was considered natural for human beings too while we cannot think of non possession we can certainly think of avoiding the baggage of corruption. It may be mentioned here that the Indian attitude of holding on to whatever we have tenaciously apart from making us corrupt also makes us averse to innovation and risk taking and contributes to poverty and lower rates of growth.

Education focused on skills alone cannot provide the values that are required for a hopeful attitude to the future .what is required is a positive attitude for which a person has to be self reliant .A conscience that is free of prejudice and apprehension is the best bet to fight corruption.

How to educate people to develop the right attitude?

Charity begins at home. Everyone of us genuinely bothered about corruption must in his hearts seek a future a neighborhood Like Gurudev, Rabindranath Tagore said "Where the mind is without fear and the head is held high to that heaven of freedom let my country awake". We have to rise above our limitations. While external skills are relatively easier to acquire the internal attitudes of hopefulness, steadfast honesty under all circumstances require courage of conviction. How can conviction be developed without faith?

Faithfulness is often ignored in an education system putting an extraordinary emphasis on cramming of facts and figures. How to develop a helpful belief system? Are we creating self belief or a burden of doubts by putting a plethora of facts before the children. We all know the plethora of facts have to be analyzed by a steady mind to draw a meaningful pattern. Yet, how little emphasis is put to cultivate regulation of mind.

A steady unwavering mind is our best bet to fight corruption. Such persons can create examples which others will be happy to emulate. Gandhi was a living example of such a life and inspired many others. The Bhudaan movement of Vinobha Bhave ensured many large land owners donating their land to the landless. Gandhiji's idea of trusteeship is rooted in his idea of "Vasudaiva Kutumbakam". We have to genuinely feel that every Indian is our family member without this idea patriotism is only a futile corrupted emotion.

A Positive, sanguine attitude to life is the best bet against corruption, such attitude require quiet contemplation .Meditation rooted in the heart under capable guidance can instill the required rigor to the mind and souls. Only a person with regulated mind can develop the conviction to rise above temptations of corruption and sing to himself “

DEER SKIN

**Shri Sashikanta Mishra,
DISTRICT & SESSIONS JUDGE,
ANGUL, ODISHA.**

Biraj Patnaik, the Forester, was a worried man! The information about his new boss gave him as much comfort as the tiny summer boil on his back – imperceptible but throbbing with pain! Nicknamed 'Tiger' by the rank and file of the State's Forest Department, the new Divisional Forest Officer, Satyabrat Das was both dreaded and revered for his absolute honesty and hard discipline. They said he did not tolerate even minor misdemeanours of errant subordinates. He was the tiger who relished raw flesh of the corrupt and the dishonest and the inefficient!

For Biraj, to whom, corruption, dishonesty, inefficiency and an insatiable greed to make a fast buck were as natural as the act of breathing, the Tiger's impending arrival was wrought with ominous forebodings. Aranyak forest, with its multifarious minor and major forest produce, provided ample scope for the flowering of Biraj Patnaik's uncanny abilities. The upshot was creation of extensive properties not only in Aranyak but across the state. And the previous DFOs, so long as they were themselves cared for, simply hadn't bothered – falling in line like obedient children with lollies in hand.

The sound of screeching tyres brought everyone to the portico and they lined up according to their respective ranks to welcome the boss. Biraj was in the lead. He held a bouquet and sported a smile as phoney as a barber-shop poster of Amitabh Bachhan smoking a local made beedi.

Satyabrat Das alias Tiger, alighted from the jeep, dressed in all-whites. Early fiftyish, Biraj guessed at the sight of the neat crop of back-brushed hair Brylcreemed to a gloss that added considerable sheen to the handsome face. The shoes shone with a vengeance, completing the image.

The bouquet was accepted and acknowledged with a small 'thank you', revealing a baritone voice. But the pleasantries had to be abandoned midway for the boss wanted to be at work immediately. 'Please bring the pending files.' The statement was curt. The head clerk, Suresh Murmu ran to get them.

The files, that had been gathering dust on Suresh Babu's desk, were disposed of in less than an hour. But the Tiger was not done. He called for each and every file of the division and by the end of the day, as per Biraj's crude estimate, the Tiger had surveyed the entire forest through the hundred-odd files and had even managed to call for explanations from at least five of his subordinates for what, according to him, was dereliction in their duties.

At the end of six months, the office wore an entirely new look in style as well as substance. The staff made sure to reach office well ahead of the boss. And Biraj, long committed to the tradition of coming late to office, now puffed and panted to reach at least within quarter past ten. There was no other option, for the attendance register was kept on the Tiger's desk.

If sticking to the rules was a burden, the abrupt stopping of the illicit felling of trees and poaching of ivory was something that hurt Biraj like a malignant tumour. The traders and the poachers, long time cronies of Biraj, now stayed at least a mile away from the forest, where the ferocious Tiger stalked alone, gun in hand, ready to shoot first and question later.

'Sir! What has befallen us?' Suresh Babu lamented in a whisper. With the Tiger in his chambers, the staff could talk only in whispers. Biraj gazed at the ceiling vacantly, searching for the elusive answer. The call bell buzzed breaking his reverie. The orderly conveyed that he was required by the Tiger. The Tiger was lost in a file and Biraj coughed mildly to announce his arrival. A motion of the index finger told him to sit down.

'Biraj Babu,' the Tiger looked at him, 'I was going through the past records and what I find is, it is a complete mess.'

Biraj could manage a mild shrug.

'It appears some of our staff have been hand in glove with the illegal traders. Otherwise, how could pilferage of such magnitude have occurred?'

Biraj smiled weakly. 'Sir, actually, it is because of inadequate security that some thefts had occurred in the past but ever since your good self has joined, not a single case of theft has been reported.'

If the Tiger saw the concealed attempt at praise, he ignored it. 'I am thinking of ordering an inquiry to trace the culprits. It's time the perpetrators are brought to book.'

Biraj's heart sank.

'I want you to submit within two months a note on all cases of theft detected in the past five years and the loss in monetary terms sustained by the entire division on such count. And don't forget to mention what action was taken in each of the cases. Right?'

The tiny rest shed, deep in the forest, was a two-roomed affair meant to provide shelter to the forest officials while on field visit. That Sunday afternoon several motorbikes were parked in its portico. The Tiger was out of headquarters to visit his family in the capital city.

The motley group in the shed was comprised of those persons who had thrived on the illicit timber and ivory trade in the Aranyak Reserve Forest, but who, since the advent of the Tiger, had gone underground. Their grievance was simple – the new DFO's honesty and efficiency had ruined lucrative trade. To top it, his insistence on raking up past cases was sure to expose them and lead them behind bars. If something drastic was not done soon, they were doomed!

Biraj stroked his chin thoughtfully and waited for the buzz to die down.

'Friends! I am not in the least unaware of your problems. In fact, I am myself an aggrieved party. But the question is, how does one deal with a person who apparently has no known weaknesses? No snares to trap him in. I tipped his orderly generously to learn precisely that. Satyabrat Das's life-style is absolutely spartan and most of his time in the bungalow is spent in reading the scriptures or in meditation.'

The crowd found it hard to believe that a man could live thus, bereft of wine or women! They broke up just as it was getting dark, cursing the Tiger and wishing him ill.

A month and half had raced by since the Tiger had asked Biraj to prepare a note on the theft cases. But the file had barely been opened. Instead, a copy of the Bhagwad Gita now adorned his desk and seemed to take up most of his duty time. Suresh Murmu, the head clerk, warned Biraj of the rapidly approaching deadline. It was as if Biraj Patnaik didn't care anymore. The head clerk couldn't comprehend the sudden conversion to faith! He shuddered as he envisioned the punitive measures likely to be unleashed by the Tiger on the errant employee!

Biraj and the Tiger bumped into each other that evening in the Bhagwad Gita discourse organised by the local Marwari Yuva Manch of Aranyak. A venerable saint from Rishikesh was the speaker.

'Arrey, Biraj Babu! How come you are here? Never knew you were spiritually minded,' the Tiger was smiling for a change. Biraj offered a blush for reply. 'It's good that you care for such things, or else, who does, nowadays?' the Tiger remarked approvingly.

Both sat on the carpet side by side on the front row. When the final words had been spoken, Biraj, tears streaming down his face, kissed the ground. When he eventually rose, wiping his eyes with a handkerchief, the Tiger patted his back.

The next day was a Sunday and the Tiger, as was his wont, sat on an armchair with the Bhagwad Gita. Biraj appeared at the gate. 'Sir! May I have the liberty of soliciting a few moments of your precious time?'

'Sure, what is it? Have a seat,' the Tiger pointed at the vacant chair in front. Biraj hesitated for a moment before speaking as if choosing his words with care. 'Sir, if I may ask, did you agree with the interpretation of certain verses by the saint yesterday?'

'Why do you say so, I mean, which particular verse are you referring to?'

'Sir, as you must have heard, according to the saint, the word 'Nashikagra' as used in the thirteenth verse of the sixth chapter, means tip of the nose. But applying plain common sense, it cannot be so, for, a person who meditates with his gaze fixed on the tip of his nose, is sure to end up being cross-eyed.'

The remark caused Tiger to laugh heartily. And Biraj was emboldened. 'Sir, what I mean is, the word 'Nashikagra' as used in the verse can only refer to the point between the two eyebrows, the 'agra' or origin of the nose and not its tip. Even otherwise, it is said to be the seat of the soul on which one's consciousness must be fixed during meditation. All traditional yogic disciplines say so.'

The Tiger called for tea. 'Go on, I find your analysis quite rational.'

When the orderly came to inform them that lunch was ready, Biraj rose with a start, a three-inch tongue protruding out.

'Please forgive me Sir! It is actually one of my faults, a discussion on the scriptures makes me entirely lost to the mundane world.'

'Don't be sorry,' smiled the Tiger as he too rose, 'The discussion was meaningful.'

Biraj appeared to be a changed man and his appearance exuded the feeling of someone who was inwardly attuned to divine bliss. He became more punctual and disposed off files at an enviable speed. No command by the boss remained unaccomplished for long. Regular meditation was the key to the newfound efficiency, Biraj explained to the staff.

It was a Sunday again and the Tiger, morning meditation over, was on his armchair, flipping through the pages of the *Prasna Upanishad*. The sound of the gate opening caused him to look up. It was Biraj, holding something in his hand.

'Do sit down Biraj Babu, and what is it that you are holding?'

The Tiger had never seen a fully grown man overcome with coyness. He looked at Biraj, somewhat puzzled.

'Sir,' Biraj uttered, 'I have a gift for you.'

'Gift?' The word was anathema!

'Only if your good self would condone this humble being's impudence for a moment.' Biraj opened the packet. From underneath the multiple paper wrappers, he removed a neatly folded deerskin. 'Sir, it belonged to my great-great-grandfather, who had renounced family life at the age of sixty and died a realised being, in a holy shrine in the Himalayas.'

'Sir! Don't you remember the eleventh verse of the sixth chapter in the Gita. 'Having firmly fixed in a clean place, his seat, neither too high nor too low, and having spread over it the kusa-grass, a deer skin and a cloth, one over the other....!'

The Tiger protested, and after much discussion, Biraj said, 'Alright, sir! Please use this for your daily meditation for a month and if you do not find it any different from your ordinary mat, I shall be glad to take it away.'

By the end of a fortnight, Biraj said, 'Sir! If you do not care for my words, please ask others if your face doesn't glow with a new radiance.'

The Tiger never asked anyone about it, but the words made him gaze at his own reflection in the mirror for that extra minute every day while shaving, as though to check on the luminosity of the irradiating spirituality.

He could also feel the peace of meditation lingering on long after he rose from his deerskin mat. He found himself divinely detached now. The rigours of duty no longer bothered him nor did the earlier zeal to don the role of defender of government's interest appeal any more. It was more alluring to surrender to the grand cosmic design where things

moved by themselves as per a hidden and mysterious plan! Let things go on – on their own! Why the false sense of authority?

Exactly, a month later, Biraj was at the Tiger's bungalow.

'Sir! May I have the deerskin back?'

'Biraj Babu! Er ... I mean ... can I keep it for some more time?' the voice was unusually pleading.

'Sir! It would be the greatest gift from this humble servant, if your good self, the most appropriate person, would agree to own it forever.'

'I am grateful beyond words, Biraj Babu, your gift is truly marvellous!'

The note regarding the past misdeeds was forgotten for good while Biraj Patnaik was personally entrusted by the Tiger with the job of minding the forest produce as also to prevent any pilferage, so that the spiritually hungry soul could march ahead in his eternal quest for the light!

When the traders and poachers again met at the rest shed in the forest sometime later, it was only to offer their deepest gratitude – over unlimited bottles of beer – to Biraj Patnaik, their guardian angel and saviour!
