





### **MESSAGE**

I am happy to see that the Vigilance Department of Mishra Dhatu Nigam Limited (MIDHANI) has taken the initiative to bring a “Vigilance Compendium-2020” in electronic form covering the entire gamut of Vigilance, Discipline and latest CVC Circulars / Guidelines, on the occasion of ‘Vigilance Awareness Week- 2020’.

As our great Nation takes its steps forward to progress and development, the need for transparent and clean administration becomes more imperative than ever before. The Governance initiatives can be effective only if the service delivery mechanism is efficient and transparent.

I hope that this compendium will minimise the possibility of mistakes / irregularities due to ignorance of the guidelines / provisions issued by various authorities to a great extent. All the relevant circulars / guidelines made available by the concerned departments have been included in this compendium. This compendium is a part of Preventive Vigilance which will facilitate faster decision making and increase transparency in the system.

I congratulate Dr. Upender Vennam, IPoS, CVO and his entire team of Vigilance Officials for their meticulous efforts in bringing out this “Vigilance Compendium – 2020”.

Thank you.

Sd/-

Dr. Sanjay Kumar Jha  
Chairman and Managing Director



## INDEX

<b>S1 No</b>	<b>Subject</b>	<b>Page No</b>
1.	Mishra Dhatu Nigam Limited (MIDHANI)	1
2.	MIDHANI – Mission, Quality Policy	1
3.	Concept of Vigilance	1-2
4.	Genesis of Vigilance in India	2
5.	Central Vigilance Commission	3-6
6.	Objectives & Role of Vigilance in Organisation	6-9
7.	Vigilance Angle & Corruption	9-11
8.	Central Bureau of Investigation	11-13
9.	Liaison between CBI and Vigilance Deptt. Officials	13-14
10.	Objectives of MIDHANI Vigilance Department	14-15
11.	Disciplinary Proceedings	15-20
12.	Principle of Natural Justice	21-29
13.	Charge – Sheet	29-43
14.	Scope of Order of Punishment	44-47
15.	Whistle-blower Policy of MIDHANI	48-52
<b>CVC Circulars / Guidelines</b>		
16.	Guidelines on Tenders	53-235
17.	Departmental Inquiries	236-494
18.	Complaints	495-548
19.	PSU Guidelines	549-611
20.	Articles	612-690

Sl. No.	Office Order No.	File No.	Date of issue	Subject
<b>16. Guidelines on Tenders</b>				
1.	28 09 18	007 VGL 033	28/09/2018	Adoption of Integrity Pact (IP)
2.	010418	98ORD001	13/07/2018	Applicability of Commission s guidelines on post tender negotiations
3.	01/01/17	011/VGL/063-334701	23/01/2017	Systemic Improvement Guidelines - Engagement of Consultants
4.	02/01/2017	015/VGL/091	13/01/2017	Adoption of Integrity Pact - Revised SOP
5.	04/03/2016	02-07-1-CTE-30/309204	04/03/2016	Acceptance of Bank Guarantee (BG) Reg.
6.	27(4)-2014(ACC)	27(4)-2014(ACC)	22/10/2014	Systems improvement Guidelines reg. hiring of vehicles
7.	01/04/14	98/ORD/1(VIII)	29/04/2014	Short-comings in bid documents.
8.	15-07-12	98-VGL-25	30/07/2012	Revised threshold values for submission of the Quarterly Progressive Report-reg
9.	06/07/12	11/VGL/53	23/07/2012	Adoption of Integrity Pact - Standard Operating Procedure-reg.
10.	03/01/12	12-02-6-CTE-SPI(1)	13/01/2012	Consideration of Indian Agents
11.	01 01 12	010 VGL 035	12/01/2012	Guidelines on Procurement Linked Documents
12.	12 10 11	98 ORD 001	28/10/2011	Applicability of CVCs guidelines on post tender negotiations
13.	11/09/11	TE(NH)/2011/Recoveries	12/09/2011	Recoveries arising out of Intensive Examination Conducted by CTEO
14.	08/06/11	011/VGL/063	24/06/2011	Selection and Employment of Consultants
15.	02/02/11	01-11-CTE-SH-100	17/02/2011	Mobilization Advance
16.	01/02/11	011/VGL/014	01/02/2011	Transparency in Tendering System
17.	34/10/10	010/VGL/066	07/10/2010	Design Mix Concrete
18.	21/08/10	008/CRD/013	13/08/2010	Adoption of Integrity Pact (SOP)-Reg.
19.	23/06/010	010/VGL/035	23/06/2010	Leveraging of Technology for Improving Vigilance
20.	19 05 10	005 CRD 019	19/05/2010	Transparency in the works purchase consultancy
21.	18/04/2010	009/VGL/002	26/04/2010	Implementation of e-tendering
22.	17/04/10	009/VGL/016	19/04/2010	Integrity pact - Selection and Recommendation
23.	01/01/10	005/CRD/012	20/01/2010	Tendering Process Negotiations with L1
24.	31/10/09	009/VGL/055	09/11/2009	Review of purchase preference policy
25.	29/9/09	009/VGL/002	17/09/2009	Implementation of e-tendering solutions....
26.	13/6/09	009/VGL/030	11/08/2009	Intensive Examination of CTE - Steps for early finalisation
27.	22/08/09	008/CRD/013	11/08/2009	Adoption of Integrity Pact-Periodical regarding



Sl. No.	Office Order No.	File No.	Date of issue	Subject
28.	17/7/09	005/VGL/4	14/07/2009	Posting of details on award of tenders/contracts on websites
29.	10/5/09	008/CRD/013	18/05/2009	Adoption of Integrity Pact-Standard Operating Procedure-reg Integrity Pact (Revised)
30.	1/1/09	009/VGL/002	13/01/2009	Implementation of E-tendering solutions
31.	31/11/08	008/VGL/083	06/11/2008	Time bound processing of procurement
32.	24/8/08	007/VGL/033	05/08/2008	Adoption of Integrity Pact in major Government procurement
33.	22/7/08	008/CRD/008	24/07/2008	Referring cases of Procurement to the Commission
34.	18/5/08	008/VGL/001	09/05/2008	Adoption of Integrity Pact in major Government Procurement
35.	9/2/08	008/VGL/016	18/02/2008	Two day Work shop/ Seminar regarding IT Procurement...
36.	07/02/08	007/CRD/008	15/02/2008	Measures to curb the menace of counterfeit and refurbished IT products
37.	05/02/08	4CC-1-CTE-2	05/02/2008	Mobilisation advance
38.	1/1/08	02-07-01-CTE-30	31/12/2007	Acceptance of Bank guarantees...
39.	43/12/07	007/VGL/033	18/12/2007	Adoption of Integrity Pact in major Govt. Procurement Activities
40.	41/12/07	007/VGL/033	04/12/2007	Adoption of Integrity Pact in major Govt. Procurement Activities Modified Integrity Pact
41.	23/7/07	005/CRD/19	05/07/2007	Transparency in Works/Purchase/Consultancy contracts awarded on nomination basis (Office Order No 23-7-07)
42.	13/04/07	006/VGL/117	13/06/2007	Improving vigilance administration by leveraging technology
43.	14/4/07	98/VGL/25	14/04/2007	Use of products with standard specifications
44.	10/04/07	4CC-1-CTE-2	10/04/2007	Mobilization advance
45.	04/3/07	005/CRD/12	03/03/2007	Tendering process - negotiations with L-1
46.	37/10/06	005/crd/012	03/10/2006	Tendering process negotiation with L1.
47.	31/09/06	005/vgl/004	01/09/2006	Posting of details on award of tenders/contracts on websites/bulletins.
48.	15/05/06	005/CRD/19	09/05/2006	Transparency in Contracts awarded on Nomination Basis
49.	21/05/06	006/VGL/29	01/05/2006	Examination of Public Procurement Contracts by CVOs
50.	71/12/05	005/VGL/66	09/12/2005	Undertaking by Members of Tender Committee
51.	98 VGL 25	98 VGL 25	10/11/2005	Intensive Examination of works by CTEs Organisation

Sl. No.	Office Order No.	File No.	Date of issue	Subject
52.	68/10/05	005/CRD/12	25/10/2005	Tendering Process negotiation with L-1
53.	57/09/05	005/VGL/4	20/09/2005	Details on award of tender
54.	46/07/05	005/VGL/4	28/07/2005	Details on award of tenders/contracts Publishing
55.	98 VGL 25	98-VGL-25	16/05/2005	Intensive Examination of works by CTEs Organization Submission of Quarterly Progress Report
56.	15/3/05	OFF-1-CTE-1(Pt) V	24/03/2005	Notice inviting tenders
57.	18-3-05	000-VGL-161	24/03/2005	Banning of business dealing with firms
58.	13/3/05	005/VGL/4	16/03/2005	Details on award of tenders/contracts...
59.	11/03/05	005/ORD/1	10/03/2005	Delays in payments to contractors
60.	75-12-04	98-DSP-3	24/12/2004	Participation of consultants in tender
61.	72/12/04	004/ORD/9	10/12/2004	Transparency in tendering system-Guidelines regarding
62.	69/11/04	004/ORD/8	03/11/2004	Turnkey contracts for net-working of Computer Systems
63.	68/10/04	98/ORD/1	20/10/2004	Leveraging Technology - e-payment and e-receipt
64.	43/7/04	98/ord/1	02/07/2004	Improving Vigilance Administration
65.	4CC-1-CTE-2	4CC-1-CTE-2	08/06/2004	Mobilization Advance
66.	05-04-1-CTE-8	05-04-1-CTE-8	08/06/2004	Receipt and Opening of Tenders
67.	12-02-1-CTE-6	12-02-1-CTE-6	07/05/2004	Pre-qualification Criteria (PQ).
68.	25/4/04	12-02-6-CTE-SPI(1)2	21/04/2004	Consideration of Indian Agents
69.	20/4/04	98/ORD/1	06/04/2004	Cutting Delays by e-payments and e-receipt by Govt. Organisations
70.	10/2/04	98/ORD/1	11/02/2004	Increasing transparency(Tender process)
71.	9/2/04	98/ORD/1	09/02/2004	Increasing transparency(Sale)
72.	98-ORD-1	98-ORD-1	18/12/2003	Improving Vigilance Administration: Increasing Transparency in Procurement Sale etc.
73.	06-03-02-CTE-34	06-03-02-CTE-34	20/10/2003	Back to back tie up by PSUs
74.	2EE-1-CTE-3	2EE-1-CTE-3	15/10/2003	Tender sample Clause
75.	46/9/03	98/ORD/1	11/09/2003	E-procurement/Reverse Auction
76.	44/9/03	98/ORD/1	04/09/2003	Irregularities in the award of contracts
77.	33/7/03	98/ORD/1	09/07/2003	Short-comings in bid documents
78.		98/ORD/1	05/05/2003	Purchase of Computers by Govt. Departments/ Organisations
79.		98/ORD/1(Pt.IV)	12/03/2003	Use of web-site in Govt. procurement or tender process
80.		12-02-6-CTE-SPI(1)2	07/01/2003	Consideration of Indian Agents
81.		No 12-02-1-CTE-6	17/12/2002	Prequalification criteria (PQ).
82.		No.OFF1 CTE 1	25/11/2002	Appointment of Consultants
83.		98/ORD/1	03/08/2001	Improving Vigilance Administration-Tenders (H1)

Sl. No.	Office Order No.	File No.	Date of issue	Subject
84.		98/ORD/1	24/08/2000	Improving Vigilance Administration-Tenders
85.		3(v)/99/9	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
86.		No.98/ORD/1	15/03/1999	Improving vigilance administration-Tenders
87.		8(1)(h)/98(1)	18/11/1998	Improving Vigilance Administration (L1)
88.		No.UU/POL/19	08/10/1997	Grant of interest free mobilization advance.
89.		No 3L - IRC 1	10/01/1983	Appointment of consultants.
90.		No.3L PRC 1	12/11/1982	Irregularities/lapses observed in the construction works undertaken by Public sector undertakings/banks.

### **17. Inquiry / Disciplinary matters**

1.	13/10/20	019/VGL/026	01/10/2020	Expeditious disposal of cases involving public servants due to retire shortly
2.	12/09/20	98/DSP/09	24/09/2020	Action on anonymous / pseudonymous complaints
3.	11/09/20	000/VGL/018	10/09/2020	Expeditious disposal of vigilance cases - reg.
4.	10/09/20	008/VGL/027	09/09/2020	Reference to the Commission for reconsideration of its advice - dispensing with reconsideration of second stage advice - reg.
5.	020/VGL/032	020/VGL/032	24/08/2020	Completion of disciplinary proceedings through Video Conferencing in the wake of COVID-19 pandemic - reg.
6.	08/08/2020	000/VGL/018	14/08/2020	Adherence to time limits for investigation of complaints referred by the Commission to CVOs of Departments/Organisations - reg.
7.	008/VGL/027	06/08/2020	06/08/2020	Reference to the Commission for reconsideration of the advice - reg.
8.	000/DSP/001	05-07-2020	20/07/2020	Reporting cases of deviations by Appellate/Reviewing Authorities by CVOs
9.	04/05/20	019/VGL/026	12/05/2020	Expeditious disposal of cases involving public servants due to retire shortly
10.	04/7/19	019/VGL/026	23/07/2019	Expeditious disposal of cases involving public servants due to retire shortly



Sl. No.	Office Order No.	File No.	Date of issue	Subject
11.		03 05 2019	02/05/2019	Guidelines for dealing with disagreement between DA and CVC in cases of granting Sanction for Prosecution (DoP&T's O.M. dated 01.03.2019 and Corrigendum dated 18.07.2019)
12.	18 MISC 02	18 MISC 02	23/08/2018	Rotation of officers working in sensitive posts - regarding
13.	000-VGL-18	070718	26/07/2018	Adherence to time limits in processing of disciplinary cases - reg.
14.		017/MSC/002	23/05/2017	Pendency with Ministries/Departments/Organisations-reg
15.	017 MSC 002		10/01/2017	Expeditious finalisation of departmental proceedings with the Ministries Departments Organisations
16.	08/05/15	005/VGL/011	25/05/2015	Guidelines to be followed by the Administrative Authorities competent to accord sanction u/s 19 of PC Act-1988
17.	07/04/15	015/MSC/016	27/04/2015	Consultation with CVC for First Stage Advice - revised procedure
18.	05/03/15	003/DSP/9	16/04/2015	Difference of opinion pertaining to requests for sanction for prosecution
19.	04/04/15	011/VGL/094 (PT-1)	01/04/2015	Constitution of Committee of Experts for scrutiny of prosecution sanctions
20.	09/12/2014	006/PRC/1	11/12/2014	References to the Commission for advice -regarding
21.	08/12/14	014/VGL/061	03/12/2014	Second stage consultation with CVC-regarding
22.			22/10/2014	Policy Guidelines on Vigilance Clearance - DoPT instructions
23.	03/07/14	011/VGL/094	14/07/2014	Committee of Experts for scrutiny of prosecution sanctions - Regarding
24.	02/05/2014	003/DSP/3	19/05/2014	Constitution of Committee of Experts for scrutiny of prosecution sanctions
25.	02/05/2014	003/DSP/3	19/05/2014	Self-contained speaking and reasoned order
26.	03/09/13	004/VGL/090	11/09/2013	Rotation of officials working in sensitive posts
27.	01/02/13	005-CVO-35	08/02/2013	Conduct of CVOs functioning reg.
28.	17/12/12	010/VGL/095	07/12/2012	Second stage consultation with the CVC in disciplinary cases
29.	13/06/12	011/VGL/094	29/06/2012	Constitution of Committee of Experts for scrutiny of prosecution sanctions
30.	02/01/12	004/VGL/90	01/04/2012	Rotation of officials working in sensitive posts
31.	08/03/12	012/VGL/020	29/03/2012	Sanction of Prosecution AIS - reg

Sl. No.	Office Order No.	File No.	Date of issue	Subject
32.	07/03/12	005/VGL/011	28/03/2012	Guidelines for checking delay in prosecution
33.	03/03/11	007/VGL/052	11/03/2011	Expeditious disposal of cases involving public Servants due to retire shortly
34.	33/09/10	010/CRD/003	28/09/2010	Checking delay in grant of sanction for prosecution-Reference to Commission
35.	22/06/10	010/CRD/003	23/06/2010	Guidelines for checking delay in grant of sanction for prosecution in CBI Reports
36.	21/05/10	010/VGL/039	02/06/2010	Delay in initiating Disciplinary Proceedings
37.	13/03/10	009/VGL/067	09/03/2010	Timely completion of Departmental Inquiries - Improving Vigilance
38.	11/03/10	99/DSP/1	03/03/2010	Definition of term stiff/severe penalty-reg.
39.	06/02/10	007/VGL/010	12/02/2010	Constitution of Committee of Experts for scrutiny of prosecution sanctions
40.	03/01/10	009/VGL/056	28/01/2010	Clarification regarding making reference to the Complaints and Second Stage Advice
41.	30/10/09	007/VGL/010	29/10/2009	Re-Constitution of Committee of Experts for scrutiny of prosecution sanctions
42.	25/8/09	007/VGL/10	28/08/2009	Constitution of Committee of Experts for scrutiny of prosecution sanctions.
43.	24/8/09	007/VGL/10	20/08/2009	Constitution of Committee of Experts for scrutiny of prosecution sanctions - extension
44.	21/8/09	006/PRC/1	06/08/2009	Procedure for references to the Commission for first stage advice
45.	18/7/09	009/VGL/028	24/07/2009	Authorization of the Central Government to file an application U/S 3 of the Criminal Law (Amendment) Ordinance, 1944 for attachment of the money or property procured by means fo scheduled offences (DOPT circular)
46.	15/7/09	009/VGL/035	01/07/2009	Access of complaints to the CVOs- Instructions regarding.
47.	03/02/09	006/PRC/001	18/02/2009	Reference to the Commission for advice - information to be enclosed along with organisations' recommendations.
48.	01/15/2009	003/DSP/003	15/01/2009	Need for self contained speaking and reasoned order to be issued by the authorities exercising disciplinary powers
49.	32/12/08	006/PRC/001	01/12/2008	Procedure for sending reference to the Commission for advice
50.	17/04/08	004/VGL/90	01/05/2008	Rotation of officials working in sensitive posts

Sl. No.	Office Order No.	File No.	Date of issue	Subject
51.	15/04/08	008/VGL/027	24/04/2008	Reference to the Commission for reconsideration of its advice
52.	11/3/08	007/VGL/010	24/03/2008	Constitution of Committee of Experts for scrutiny of prosecution sanctions
53.	39/11/07	007/MISC/LEGAL/04(PT)	01/11/2007	Criteria to be followed while examining the lapses of authorities exercising quasi-judicial powers in accordance with the criteria laid down by Hon'ble. Supreme Court
54.	37/10/07	006/VGL/011	18/10/2007	Jurisdiction of CVC over employees of PSUs
55.	34/09/07	007/VGL/052	27/09/2007	Expeditious disposal of cases of retiring Public servant
56.	17/5/07	007/VGL/10	13/06/2007	Constitution of Committee of Experts for scrutiny of prosecution sanctions
57.	3/02/07	007/VGL/13	23/02/2007	Investigation of complaints by CVOs - Seizure of records reg.
58.	39/10/06	006/VGL/098	10/10/2006	Difference of opinion with CVCs advice regarding quantum of penalty etc
59.	34/09/06	006/PRC/1	21/09/2006	Delay in completion of departmental proceedings - reg.
60.	28/07/06	006/VGL/025	21/07/2006	Adherence to time limit in processing of disciplinary cases.
61.	25/07/06	006/VGL/065	06/07/2006	Vigilance administration- Role of CVO - Reg
62.	23/06/06	006/DSP/002	23/06/2006	Difference of opinion between Anti Corruption Bureaus and Central Government authorities regarding sanction of prosecution of Central Government officials
63.	16/03/06	006/VGL/022	28/03/2006	Protection against victimisation of officials
64.	14/03/06	006/PRC/001	13/03/2006	Reference to the Commission for 1st and 2nd stage advice
65.	3/1/06	006/VGL/005	18/01/2006	Reducing delay in departmental proceedings - ensuring availability of documents
66.	74/12/05	004/VGL/018	21/12/2005	Vigilance angle Definition Modification
67.	73/12/05	000/VGL/154	15/12/2005	Action against public servants (witnesses) turning hostile in trap and other cases in CBI
68.	72/12/05	003/VGL/028	28/11/2005	Vigilance Manual VI <sup>th</sup> edition - clarification regarding
69.	30/09/2005	99/VG/87	30/09/2005	Prosecution and Departmental Action
70.	60/9/2005	004/VGL/87	27/09/2005	Foreign visit by Govt. employees ATTACHED-FORMAT

Sl. No.	Office Order No.	File No.	Date of issue	Subject
71.	60/9/2005	004/VGL/87	27/09/2005	ATTACHED-FORMAT
72.	32/6/05	004/VGL/18	02/06/2005	Commission's advice in LTC TA etc. fraud cases reference to the Commission regarding
73.	31/5/05	005/VGL/11	12/05/2005	Guidelines to be followed by the authorities competent to accord sanction for prosecution u/s. 19 of the PC Act
74.	30/5/05	NZ/PRC/1	09/05/2005	Reference to the Commission for its 1st and 2nd stage advice
75.	12-03-05	002-VGL-61	16/03/2005	Action taken on advice tendered complaints referred by the Commission
76.	74/12/04	004/VGL/87	08/12/2004	Foreign visits by Government Employees
77.	70/11/04	004/VGL/63	18/11/2004	Appointment of Retired Officers as Inquiring Authority
78.	67/10/04	004/VGL/87	25/10/2004	Foreign visits by Government Employees
79.	62/9/04	004/VGL/79	04/10/2004	Reporting in ACRs by the officers under investigation of the officers conducting vigilance investigation
80.	51/8/04	000/VGL/18	10/08/2004	Adherence to time-limits in processing of disciplinary cases
81.	51/8/04	000/VGL/18	10/08/2004	Adherence to time-limits in processing of disciplinary cases
82.	30/4/04	99/VGL/3	26/04/2004	Reducing delays in Departmental Inquiries-appointment of IO/PO
83.	26/4/04	98/VGL/15	16/04/2004	Jurisdiction of Central Vigilance Commission in relation to the Group B (Gazetted) Officers
84.	23/4/04	004/VGL/18	13/04/2004	Vigilance Angle- definition of
85.	13/2/04	000/VGL/18	27/02/2004	Delay in finalising Vigilance Cases
86.	14/2/04	003/DSP/3	26/02/2004	Role of Disciplinary Authority in decision taken
87.	12/2/04	NZ/PRC/1	26/02/2004	Procedure for making reference to Commission's 1 <sup>st</sup> Stage Advice
88.	11/2/04	004/VGL/3	19/02/2004	Commission's advice in cases not having vigilance angle
89.	2/1/04	000/VGL/187	08/01/2004	Obtaining Commission's advice in Composite cases
90.	1/1/04	003/DSP/9	08/01/2004	Difference of opinion between CBI and Administrative authorities
91.	51/9/03	003/DSP/3	15/09/2003	Need for self-contained speaking and reasoned order to be issued by the authorities exercising disciplinary powers
92.	47/9/03	NZ/PRC/1	10/09/2003	Procedure for making reference to the Commission for its Second stage advice regarding

Sl. No.	Office Order No.	File No.	Date of issue	Subject
93.	36/7/03	98/DSP/9	13/08/2003	Clarification on Commission's directions on dealing anonymous / pseudonymous complaints, non-acceptance on Commission's advice in case of appeal, reference of cases to CBI and posting of officer in 'Agreed List'
94.	34/7/03	98/MSD/23	01/08/2003	Utilising the services of outsiders including retired officers for conducting departmental inquiries
95.		99/DSP/1	20/06/2003	Definition of term stiff/severe minor penalty
96.		NZ/PRC/1	12/05/2003	Procedure for making references to the Commission for seeking advice
97.		000/DSP/1	05/05/2003	Non-acceptance of the Commission's advice in the matter of appeals
98.		98/MSD/23	25/03/2003	Utilising services of outsiders including retired officers for conducting departmental inquiries
99.		000/VGL/18	03/03/2003	Delay in implementation of Commission's advice
100.		002/MSD/15	10/02/2003	Entitlement of TA/DA to the private witnesses and the retired employees appearing before Departmental Inquiry
101.		000/DSP/1	10/02/2003	Non-acceptance of the Commission's advice in the matter of appeals
102.		000/DSP/1	10/02/2003	Non-acceptance of the Commission's advice in the matter of appeals
103.		98/MSD/23	29/11/2002	Utilizing the services of retired officer as Inquiry Officer regarding
104.		002/VGL/49	18/09/2002	Delay in Implementation of CVC's Advice
105.		3S/DSP/1	14/06/2002	Promotion of Govt. Servants against whom preliminary inquiries are pending - clarification
106.		001/VGL/82	11/02/2002	Video Taping of evidence
107.		98/VGL/60	02/11/2001	Rotation of officials working in sensitive posts
108.		001/DSP/6	02/11/2001	Ensuring attendance by private witnesses in Departmental Inquiries
109.		98/MSD/23	10/09/2001	Utilising the services of Retired Government Officer as Inquiry Officer in the disciplinary proceedings against the employees of Banks/PSUs
110.		000/VGL/187	03/08/2001	References to the Commission seeking second stage advice

Sl. No.	Office Order No.	File No.	Date of issue	Subject
111.		3(v)/99/14	16/05/2001	System improvement to fight corruption through better synergy between CAG and CVC
112.		001/VGL/5	25/04/2001	glow.gif (1653 bytes)Tackling Corruption Through A Proper Follow Up of Audit Reports
113.		000/VGL/166	16/01/2001	Advance copy of CVO investigation report to CVC
114.		000/VGL/166	09/11/2000	Advance copy of CVO investigation reports to CVC
115.		99/VGL/66	28/09/2000	Consultation with CVC-Making available a copy of CVC's advice to the concerned employees
116.		000/VGL/70	25/09/2000	Suspension of public servants involved in criminal/ departmental proceedings
117.		3(v)/99/12	14/08/2000	Appointment of consultants in vigilance departments
118.		3M/VGL/3	04/07/2000	Powers and functions of the Central vigilance Commission in relation to autonomous bodies 'other than the public sector undertakings' under various Ministries/Departments
119.	000/VGL/18	000/VGL/18	23/05/2000	Schedule of time limits in conducting investigations and departmental inquiries
120.	000/DSP/1	000/DSP/1	06/03/2000	Reference to the Commission for reconsideration of its advice - Prescribing time limits.
121.		99/VGL/62	29/11/1999	Amendment of Para 11.4, Chapter X of Vigilance Manual Vol. I.
122.		98/MSD/23	16/09/1999	Utilising the services of retired officers for conducting Departmental Inquiries.
123.		98/MSD/23	16/09/1999	Terms and Conditions for Appointing retired Officers as Inquiry Officers.
124.		3(v)/99/7	06/09/1999	Improving Vigilance Administration -- Reducing Delays in Departmental Inquiries
125.		99/DSP/1	11/08/1999	Definition of the term Stiff & Severe minor penalty
126.		3(v)/99/8	10/05/1999	Drafting of Charge-sheet - regarding
127.		98/VGL/60	15/04/1999	Rotation of officials working in sensitive posts
128.		8(1)(g)/99(2)	19/02/1999	Reducing Delays in Departmental Inquiries
129.		8(1)(h)/98(3)	27/11/1998	Sanction of Prosecution - Time limit

Sl. No.	Office Order No.	File No.	Date of issue	Subject
130.		98/VGL/7	12/03/1998	Action on CBI report - Revised time limit for furnishing comments to the Commission
131.				Expeditious finalisation of departmental proceedings with the Ministries/Departments/Organisations
132.				Criteria to be followed while examining the lapses of authorities exercising judicial or quasi-judicial functions
133.				Inquiry Proceedings pending before the IOs Reg
134.				Timely completion of disciplinary proceedings/departmental inquiry
135.				Processing of priority cases on Fast Track Basis
136.				Delay in finalisation of vigilance cases arising out of Intensive examination

## 18. Complaints

1.	07/08/2020	004/VGL/20	13/08/2020	Action taken by Chief Vigilance Officers on complaints sent for necessary action (NA) and updation of status in Complaint Management System application by CVOs
2.	28-02-18 Admn	28-02-18 Admn	14/08/2018	Pension Adalat to be organised in the Central Vigilance Commission on 18.09.2018 at 03.00 PM to 05.00 PM regarding
3.			10/01/2017	Complaints pending for investigation and report with CVOs
4.	03/03/2016	98/DSP/09(Part-2)	07/03/2016	Action on Anonymous/Pseudonymous Complaints - reg.
5.	01/01/2015	98-DSP-09	23/01/2015	Procedure for dealing with complaints
6.	07/11/2014	98/DSP/9	25/11/2014	Action on anonymous/pseudonymous complaints
7.	09/03/12	012/VGL/022	29/03/2012	IT enabled application in CVC for the Core Processes
8.	06/03/11	010/VGL/008	14/03/2011	Complaints against Secretaries to the GOI and CEOs -Clarification
9.	29/07/10	010/VGL/008	27/07/2010	Setting up Committees to handle complaints-Commission's clarifications
10.	20/05/10	002/VGL/61	19/05/2010	Adherence to time limits for investigation of complaints

Sl. No.	Office Order No.	File No.	Date of issue	Subject
11.		010/VGL/008	05/05/2010	Recent GOI Circular - Committees to handle complaints against Secretaries CVCs Clarification
12.	9/5/09	004/VGL/26	12/05/2009	Delay in submission of investigation reports on complaints under PIDPI Resolution
13.	04/02/2009	004/VGL/026	27/02/2009	Submission of investigation reports on complaints under Public Interest Disclosures & Protection of Informers Resolution.
14.	40/11/07	005/VGL/31	23/11/2007	Reporting of cases of prosecution by the competent authority in the monthly report of the CVOs.
15.	25/04/05	004/VGL/20	29/04/2005	Action on complaints forwarded by the Administrative Ministry / Department
16.	57/8/04	004/VGL/62	31/08/2004	Time Limit for investigation of complaints on Board Level Appointments - Reg.
17.	33/5/04	004/VGL/26	17/05/2004	Commission's Office Order on handling of Complaints under PIDPI - 2004
18.	89 and 98	371/12/2002-AVD-III	21/04/2004	DoPT's Notification - Public Interest Disclosures & Protection of Informers' Resolution - 2004 (PIDPI) and Corrigendum
19.	16/3/04	002/VGL/61	01/04/2004	Disposal of complaints of non vigilance nature
20.	53/9/03	002/VGL/61	23/09/2003	Disposal of complaints sent for report regarding Substituted with Circular No.01/01/2015 dated 23/01/2015
21.		98/DSP/9	11/10/2002	Improving Vigilance Administration - Action on Anonymous / Pseudonymous complaints - prior permission from the Commission - regarding.
22.		98/DSP/9	31/01/2002	Improving Vigilance Administration- no action to be taken on anonymous/pseudonymous petitions/complaints
23.		3(v)/99/2	29/06/1999	Improving Vigilance Administration-No action to be taken on anonymous/pseudonymous petitions/complaints
24.		3(v)/99/1	21/06/1999	Improving Vigilance Administration-Bringing in accountability



Sl. No.	Office Order No.	File No.	Date of issue	Subject
<b>19. PSU Guidelines</b>				
1.	44/12/07	007/VGL/74	28/12/2007	Amendment of CDA Rules of PSUs
2.	59/12/03	98/VGL/51	09/12/2003	Special Chapter on Vigilance Management in Public Sector Enterprises and the Role and Functions of the CVC- Amendment to Para 32.3 thereof
3.	45/9/03	003/VGL/18	17/09/2003	Chief Vigilance Officers-status & perquisites in PSUs
4.	33/7/03	000/VGL/66	24/07/2003	Commission's jurisdiction over the employees of Organizations ( 50% or less Govt's equity)
5.		001/VGL/67	10/01/2002	Exchange of information between PSBs and PSUs
6.		001/DSP/4	10/09/2001	Voluntary Retirement Scheme/Voluntary Separation Scheme for the employees of Public Enterprises (2)
7.		001/DSP/4	10/09/2001	Voluntary Retirement Scheme/Voluntary Separation Scheme for the employees of Public Enterprises
8.		98/VGL/51	21/06/2001	Special Chapter on Vigilance Management in Public Sector Enterprises and the Role and Functions of the CVC - Clarification on para 32.3 of the Chapter
9.		98 VGL 51	11/08/1999	Clarification para 3.2 of Special Chapter for Public Sector Enterprises PSEs
10.		3(v)/99/5	29/07/1999	Uniformity in designation of Heads of Vigilance in Public Sector Enterprises (PSEs)
11.		3(v)/99/4	12/07/1999	Guidelines for obtaining vigilance clearance from the Commission in respect of candidate(s) recommended for Board Level appointment(s) in Public Sector Enterprises
12.		3(v)/99/3	07/07/1999	Special chapter on Vigilance Management in public sector Enterprises and the role and the Functions of the CVC(Circular)
13.		3(v)/99/3	07/07/1999	Special chapter on Vigilance Management in public sector Enterprises and the role and the Functions of the CVC (Booklet)
14.				Referring matters of alleged commission of criminal offences and frauds etc.





## 1. Mishra Dhatu Nigam Limited (MIDHANI)

### ALLOYING IDEAS FORGING STRATEGIES

MIDHANI was incorporated under the Companies Act on the 20th Day of November 1973 as a Public Sector Undertaking under the Administrative control of Dept. of Defence Production, Ministry of Defence, Government of India. The production unit of MIDHANI is located at Kanchanbagh, Hyderabad, was commissioned in the year 1982. MIDHANI primarily caters to the needs of critical materials and alloys required by strategic sectors of our country like Defence, Space, Atomic Energy, Aeronautics etc.

MIDHANI is one of the leading manufacturers of special steels, Superalloys and the only manufacturer of Titanium alloys in India. The products produced by MIDHANI are basically import substitutes which were denied to India by western world and their non-availability would have affected various prestigious national programs of the country. It was set up with a view to achieve self-reliance in production and supply of various super alloys, special steels, materials to Strategic Sectors of our country.

#### **Product profile:**

Products grades manufactured at MIDHANI are Special Alloys (Ferritic, Austenitic, Martensitic, Maraging, Armour Steel), Super Alloys (Iron/Cobalt/Nickel Based), Titanium Alloys in the form of melted, forged, rolled and drawn product. Special Steels and Titanium Alloy grades constitute a major portion of production tonnage.

## 2. MIDHANI – Mission, Quality Policy

**Mission:** To achieve self-reliance in the research, development, manufacture and supply of critical alloys and products of national security and strategic importance.

**Quality Policy:** MIDHANI shall provide Quality Metal and Alloy Product that consistently meet all applicable requirements. MIDHANI remains committed to enhancement of customer satisfaction by continually improving the effectiveness of Quality Management System to drive Organizational performance.

## 3. CONCEPT OF VIGILANCE

One of the main functions of the State is maintenance of law and order, right of equality before law and to prevent abuse of power given by law and ensuring correct application of law. This can be ensured by watchfulness, caution and vigilance.

In primitive and medieval society the scope of public authority was minimum. Many of the matters that were looked after by the community have now become a function of the State. During the pre-independence days maximizing assets to the Rulers being the aim of the top, Corruption was confined to lower ranks of the Official Mechanism.

After independence, the emerging Indian Society placed emphasis on rapid industrialization leading to urbanization. This resulted in materialism, growing impersonal, importance of status of possessing money; economic power etc. Added to this the decline of the real income or purchasing power especially that of the salaried classes encouraged those who had the opportunities to succumb to greed.

Due to the cumbersome and dilatory procedures and practices popularly License Raj, which was prevailing has encouraged the growth of dishonest practice of speed money and it has become fairly common type of corrupt practice, particularly in matters relating to grant of license, permits, processing tenders, accepting supplies etc. the scope for corruption is greater where substantive/discretionary decisions are taken in matters like approval of works, award of contracts etc.

There are two major contributory factors for the growth of corruption, i.e. unwillingness on the part of authorities to deal drastically with corrupt and inefficient public servants and systemic loopholes in delaying and escaping prosecution and punishment.

#### **4. GENESIS OF VIGILANCE IN INDIA**

Vigilance means 'watchfulness' or to bring awareness. It is an integral part of management of all Government Institutions. Mere development will not be enough; its fruit should be shared equitably. Public Servants with inadequate strength of character tend to succumb to temptations by beneficiary of the decision who are willing and capable to corrupt public servants.

Vigilance is the eyes and ears of the Management functions, to maintain a healthy organization of men and women of absolute integrity. The concept of integrity of public servants is that they should not use their official position to obtain any kind of financial or other advantage for themselves, their families or friends.

The clouds of corruption started gathering over India's socio-economic horizon as early as the 1950s and the Government took cognizance of its dangerous portents for future, when it set up an expert committee known as 'Committee on Prevention of Corruption', under the Chairmanship of Shri K. Santhanam, a well-known scholar politician of his time to suggest measures necessary to curb corruption in Central Government services as well as in Public Undertakings. The Committee suggested that a Central Vigilance Commission headed by a Central Vigilance Commissioner be set up.

The Committee's recommendations were accepted by the Government and the Central Vigilance Commission was established in February 1964. The Commission was given independent status and its functions inter alia are to advise Government in matter relating to corruption, misconduct, lack of integrity or other malpractice or misdemeanour on the part of public servants under the executive control of the Central Government.

## **5. CENTRAL VIGILANCE COMMISSION**

### **5.1 INTRODUCTION:**

The Central Vigilance Commission (CVC) was set up as an apex body in 1964 by Govt. of India Resolution in pursuance of the recommendations of Santhanam Committee for exercising general superintendence and control over vigilance matters in administration and probity in public life. The Committee reviewed the then existing arrangements for checking corruption in Central Services and suggested suitable measures for producing a social climate in which corruption would not flourish.

CVC is not a statutory body like UPSC, the Supreme Court etc. The then Home Minister Late Shri Lal Bahadur Shastri, while laying the scheme of Central Vigilance Commission on the table of Parliament, observed that the Commission was to be a fearless champion to the man of integrity and a source of terror to the corrupt officer. In order to achieve this target, punitive, detective as well as preventive measures have to be adopted. The sole purpose of setting of the CVC was to improve the health of the country.

There have been further changes in the constitution and functioning of the CVC complying with the recommendation of Independent Review Committee set up in Sept., 1997 and also in compliance with the judgement of the Hon'ble Supreme Court of India in CWP 340-343 of 1993-Vineet Narain and others Vs. Union of India, the Commission had been made a multiple member body and accorded statutory status with effect from 25.8.1998 through "The Central Vigilance Commission Ordinance - 1998 ". Now the Central Vigilance Commission Act 2002 has been passed. In addition to its normal functioning, CVC will be monitoring the anti-corruption work of Central Bureau of Investigation. Besides the CVC will be responsible for deciding the inquiry or fact finding on the contents of any complaint alleging corruption in any govt. office as described in the Resolution on Whistle Blower.

### **5.2 COMPOSITION OF CVC:**

In terms of the Central Vigilance Commission Act 2003, the Commission consists of one Central Vigilance Commissioner (CVC) as Chairperson and two Vigilance Commissioners (VCs) as Members.

The appointment of CVC as well as VCs is made by the Hon'ble President of India on the recommendations of the committee consisting of,

- (a) the Prime Minister;
- (b) Minister of Home Affairs; and
- (c) the Leader of Opposition in the Lok Sabha.

### **5.3 JURISDICTION OF CVC:**

The Commission's jurisdiction is co-terminus with the executive powers of the Union and therefore extends to all matters. It can undertake any inquiry into any transaction in which a public servant is suspected or alleged to have acted for an improper or corrupt purpose; or cause such an inquiry or investigation to be made into

any complaint of corruption, gross negligence, misconduct, recklessness, lack of integrity or other kinds of mal-practices or misdemeanors on the part of a public servant. The Commission tenders appropriate advice to the concerned disciplinary authorities in all such matters having a definite or potential vigilance angle and an element of corruption or criminal misconduct or malafide. It is mandatory to refer the cases involving vigilance angle in respect of all officials up to two levels below the Board level to the Commission. CVC exercises superintendence over CBI in the matters relating to the investigation of the offences alleged to have been committed under the Prevention of Corruption Act - 1988.

#### **5.4 CVC CONTACT:**

The Commissioner's Headquarters operates from New Delhi and the address is as under:

Central Vigilance Commission,  
Satarkata Bhavan, Block 'A',  
GPO Complex, I.N.A.  
New Delhi - 110 023.

Website of CVC: <https://cvc.gov.in/>

#### **5.5 CVC's ADVICE ON VIGILANCE MATTERS:**

CVC renders advice at two stages on vigilance matters viz:

A) FIRST STAGE - To consider investigation report and Advise about the type of proceedings (major/minor) to be initialled.

B) SECOND STAGE - To consider inquiry report and advise about the penalty to be imposed.

#### **5.6 CHIEF TECHNICAL EXAMINER'S ORGANISATION (CTEO):**

For looking into the technical matters, CTEO functions under CVC as a Technical Wing of the Commission. Its jurisdiction is co-extensive with that of Commission and extends to examination of major works pertaining to any Ministry/ Department of the Government of India including those relating to works executed by the Central Public Sector Undertakings, Corporate Bodies etc. Quarterly Progress Reports (QPR) of various contracts are submitted by PSUs /Govt. departments to CTE as per the prescribed financial limits given below. CTEO selects few contracts and conducts Intensive Examination of works.

#### **Works / Contracts**

#### **Revised Value**

#### **Category –I**

- |  |                          |
|--|--------------------------|
| (a) Civil Works  | } Rs. 5.0 Crores & above |
| (b) Turnkey works Contracts                                |                          |
| (c) Stores & Purchase                                      |                          |
| (d) PPP – Public Private Partnership (Cost/Revenue Values) |                          |
| (e) Sale of Goods / Scrap / Land                           |                          |

### Category –II

- |   |                      |
|---|----------------------|
| (f) Electrical / Mechanics Works / Maintenance / Service Contracts including Electronics / Telecommunication / Manpower Supply etc. | Rs. 1 Crore & above  |
| (g) Medical Equipment   | Rs. 50 Lakhs & above |
| (h) Consultancy Contracts   | Rs. 1 Crore & above  |

### Category –III

- |                                  |                      |
|----------------------------------|----------------------|
| (i) Horticulture Works           | Rs. 10 Lakhs & above |
| (j) Supply of Medicines Contract | 4 Largest Values     |

## 5.7 CHIEF VIGILANCE OFFICER (CVO):

Each department/organization covered under the normal advisory jurisdiction of the Central Vigilance Commission has a vigilance department headed by a senior level officer designated as the Chief Vigilance Officer (CVO). The Chief Vigilance Officer is appointed with the concurrence of the Central Vigilance Commission. The rationale behind posting of CVOs from outside the organization is to insulate both the organization and the CVO from internal pressures. The Vigilance Manual of the Central Vigilance Commission lays down the duties and functions of Chief Vigilance Officer (CVO) and the vigilance units in detail. The Chief Vigilance Officer acts as an extended arm of the commission and represents the commission in all vigilance matters. The CVOs are required to provide assistance to the Chief Executive of an organisation in all matters relating to vigilance administration and acts as link between the Organisation and CVC. Responsibilities of CVO are to maintain probity, integrity and efficiency in the organisation. CVO acts as watchful eye to curb corruption, misconduct, negligence, waste & wrongful loss to the organisation.

### 5.7.1 ROLE, DUTIES & RESPONSIBILITY OF THE CVO:

- A. Examine the existing organization procedures and eliminate or minimize factors that provide opportunities for corruption or malpractices.
- B. Plan regular inspections, surprise visits for detecting failure in quality or speed of work indicative of existence of corruption or malpractices;
- C. Maintain proper surveillance on officers of doubtful integrity and officers who are on the “Agreed List”.
- D. Ensure prompt observance of Conduct Rules relating to integrity; covering (i) statements of assets and acquisitions (ii) gifts (iii) relatives employed in private firms or doing private business (iv) benami transactions;
- E. Keep a close watch on officers who habitually accept lavish hospitality or pecuniary obligations in dealing with companies or businessmen.
- F. Give suitable advice to the Chief Executive about adoption of appropriate procedures and practices with an objective to ensure integrity in administration.

- G. Ensure speedy processing of vigilance cases and to see that rules are strictly complied with.
- H. Scrutinize final orders passed by the Disciplinary Authority with a view to see whether a case for review is made out or not and also ensure wide publicity to the punishment awarded to the guilty employees for deterrent effect.
- I. Ensure proper assistance to the CBI in the investigation of cases entrusted to them or started by them on their own source of information;
- J. Ensure consultation with Central Vigilance Commission at stages wherever required;
- K. Ensure prompt submission of returns to the Commission.
- L. Review the existing arrangements for vigilance work to ensure expeditious and effective disposal of works;
- M. Ensure that the competent disciplinary authorities do not delay processing of vigilance cases, particularly in cases of officers due to retire;
- N. Ensure that cases against the public servants on the verge of retirement do not lapse due to time-limit for reasons such as misplacement of files etc. and that the orders passed in the cases of retiring officers are implemented in time; and
- O. To maintain close liaison/interaction with CVC, CBI and Administrative Ministry on vigilance matters.
- P. It is the CVO's responsibility to see that the following types of cases are Generally entrusted to CBI for investigation after approval of the Chief Executive of the Organization:
  - i) Allegations involving offences which are criminal in nature (e.g. Bribery, corruption, forgery, cheating, criminal breach of trust, falsification of records).
  - ii) Possession of assets disproportionate to known sources of income
  - iii) Cases in which Inquiries have to be made from non-official persons and non-government records or books of accounts have to be examined and
  - iv) Cases of complicated nature requiring expert police investigation.
- Q. For smooth functioning of the vigilance department, CVO is authorized to select vigilance personnel from various disciplines who are qualified in their own field. These officers are selected based on proven integrity and performance.

## **6. OBJECTIVES & ROLE OF VIGILANCE IN ORGANISATION**

**6.1 Role of Vigilance:** Vigilance has to play a very important and effective role as Management function to remove the cancerous growth of corruption in the organization and make it healthy, prosperous, productive & sensitive to the needs and requirements of the public. Further, it should assist the Management in improving productivity by identifying areas vulnerable to wastage / pilferage / leakage of resources and suggest preventive measures to plug the loopholes in the system.



**6.2 Objective:** Objective of Vigilance is to “Protect the Honest and Punish the Corrupt”. Vigilance organizations have come into being primarily to combat corruption by bringing to book the unscrupulous public servants misappropriating public funds for personal gains as well as harassing the members of the public by demanding bribes for discharging certain public duties which is their normal duty. The primary aim of Vigilance in a govt. organization is preventive and also to introduce fool proof devices in the existing system, fine tune the existing system & build system in case no system is available.

### **6.3 RULES AND REGULATIONS, INSTRUCTIONS, MANUALS AND RECORDS HELD BY MIDHANI FOR DISCHARGING ITS FUNCTIONS :**

Following Manuals, various Rules, Regulations and instructions are available to employees for discharging functions:

- (i) Personnel / HR Manual
- (ii) CDA Rules
- (iii) Standing Orders
- (iv) Medical Rules
- (v) Delegation of Powers
- (vi) Purchase Policy & Procedures
- (vii) Works Manual
- (viii) Security Manual
- (ix) Risk Management Policy
- (x) Accounts / Audit / Costing Manuals
- (xi) Internal Whistle Blower policy
- (xii) Stores Manual
- (xiii) MOU entered with Administrative Ministry.

**6.4 Vigilance in Organization:** Vigilance in the context of any organization would mean keeping a watchful eye on the activities of the officers and officials of the organization to ensure integrity of personnel in their official transactions. Vigilance, in other words, is to ensure clean and prompt administrative action towards achieving efficiency and effectiveness of the employees in particular and the organization in general, as lack of Vigilance leads to wastage, losses and economic decline. Vigilance is thus, basically and admittedly a managerial function and, therefore, it is an integral part of duties of an executive.

There is a set-up of internal vigilance, in every department, and their primary responsibility is to ensure Purity, Integrity and Efficiency of the staff.

The vigilance function comprises of:

- a) Detective Vigilance
- b) Punitive Vigilance
- c) Corrective Vigilance

- d) Preventive Vigilance
- e) Predictive Vigilance

**a) DETECTIVE VIGILANCE:**

- Effective use and scan of Complaints, Inspection Reports, Audit Reports, Press Reports, CBI Reports, Judicial Remarks, Source Information
- Detection of Corruption practices, Malpractices, Negligence, Misconduct.
- Better surveillance of public contact points
- Close watch on officers at sensitive posts of doubtful integrity and detect fraud
- Scrutiny of decisions taken by officials having discretionary powers
- Organizing traps/raids with the help of Police/CBI.

**b) PUNITIVE VIGILANCE:** Punitive Vigilance flows out of Detective Vigilance.

- Investigation and collection of evidence and speedy departmental inquiry- Swift and deterrent action against the real culprits.
- Strong action against the corrupt official who brings political, communal and unethical influences.
- Appreciation of vigilance for taking action against corrupt officials.
- Wide publicity of punishment meted to the corrupt officials.

**c) CORRECTIVE VIGILANCE:**

- Analysis of results of detective vigilance.
- Exploration of the reasons and contributory factors.
- Finding solution to stop recurrence and activate alarm signals.
- Updating the practices to keep pace with times.
- Transparency in procedures & decision making.
- Plugging of the loopholes and updating and building in new whistle blowing arrangements.
- Prepare case study and educate employees.
- Attempt to bring in transparency in procedures and decision making. For Corrective Vigilance to be effective the organization has to have an effective Vigilance network and the Management has to have respect for the advice of the Vigilance Department.

**d) PREVENTIVE VIGILANCE:**

- Analysis of Rules and Regulations of the organization.
- Identifying complexities in the procedures.
- Identification of sensitive areas.
- Identification of corrupt officials/practices.
- Review of Annual Property Returns.
- To ensure rotation of officials in sensitive positions.
- Regular/Surprise Checks and Inspections.

- Arrange in house as well as external vigilance training programmes for employees and executives.

#### e) **PREDICTIVE VIGILANCE:**

- Foreseeing an activity prejudicial to the interests of the organization.
- Suggesting in advance corrective measures to be taken by the management against acts of misconduct, corruption, lapses which may occur in the wake of modification of rules, regulations, technology, circumstances etc.

#### 6.5 **Motto of Vigilance :**

- i. Professionalism
- ii. Transparency
- iii. Promptness and
- iv. Impartiality

### 7. **VIGILANCE ANGLE & CORRUPTION**

#### 7.1 **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.

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, 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.

The vigilance activity is not to reduce but to enhance the level of managerial efficiency and effectiveness in the organization. Commercial risk taking forms part of business.

Therefore, every loss caused to the organization, 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 organization 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.

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.

## 7.2 CORRUPTION:

Corruption is use of public office for private gain. For some, it has become a way of life. Corruption undermines the rule of law, strangles economic growth and hurts the poor most severely. It is a key element in economic underperformance. This is equally applicable to Government PSUs.

### IMPORTANT CAUSES FOR CORRUPTION:

- (i) Scarcity of goods and services.
- (ii) Red-tapism and complicated rules and procedure.
- (iii) Lack of transparency in public office.
- (iv) Legal cushions of safety for the 'Corrupt' i.e. our legal system which is based on the principle of "everyone is innocent till proved guilty".
- (v) Tribalism or biradari among the corrupt who protect each other and
- (vi) Family ties, - side effect of joint family system i.e. people earns not only for himself but for his future offspring.

This vice of corruption is playing havoc in all our system of livelihood and day today requirements, means of essential services, all the Govt. offices thereby affecting the society bringing about moral degradation. The Govt. has come up with very tough legislations, set up of Vigilance and Anti-corruption agencies to fight the menace of corruption. There are four categories of Govt. /Public Servants:

- (i) Honest & efficient.**
- (ii) Honest & inefficient**
- (iii) Dishonest & efficient**
- (iv) Dishonest & inefficient.**

The Govt. servant of the third category is very dangerous and a strict watch and close supervision & monitoring of their activities is required. It is very often this group of Govt. officials who indulge in corrupt practices. In pursuance of the recommendations of the Committee on Prevention of Corruption, popularly known as 'Santhanam

Committee', various steps were taken by the Government to prevent corruption and to punish the corrupt officials. Some of the outcome of the recommendations is setting up of Central Vigilance Commission, passing of Delhi Special Police Establishment Act, 1964 which is the legal birth of Central Bureau of Investigation. Every year, the first week of November is observed as Vigilance Awareness Week, coinciding with the birth of Sardar Vallabhbhai Patel, the Iron-man of India who brought the geographical integrity of India by bringing together more than 600 independent kingdoms and principalities which we inherited at the time of our independence. The fight against corruption is to be carried to its logical end for which the Vigilance set up of any organization plays a vital role.

Section 161 of IPC describes corruption as: 'Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept, or attempts to obtain gratification whatever, other than legal remuneration as a motive or a reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions favour or disfavour to any person with the Central or State Government or Parliament or Legislature of any State or with any public servant as such. Corruption is also described as the acquisition of forbidden benefits by officials or employees, so bringing into question their loyalty to their employers.

## **8. CENTRAL BUREAU OF INVESTIGATION (CBI)**

Central Bureau of Investigation (CBI), the prime investigation agency was constituted by the Central Government under DSPE Act 1946 for conducting investigation in special crimes and corruption cases. Its jurisdiction has been extended to conduct investigation of the offences alleged to have been committed under Prevention of Corruption Act - 1988 and for other offences entrusted by the Central Government.

**PUBLIC SERVANT:** A Public Servant is defined as a person who is doing a public duty in which the State or the Community at large has got an interest for which he is being paid monetary remuneration or fees from the Govt. As per the Prevention of Corruption Act, 1988, a public servant means any person:

- A) in service or pay of Government or remunerated by fees or commission for the performance of any public duty by the Government.
- B) in the service of pay of a local authority, a corporation established by or under a Central, Provincial or State Act, or a Government Company as defined in Section 617 of the Company's Act, 1956.

**FRAUD:** Fraud is not defined in Indian Penal Code but Section 17 of Indian Contract Act defines Fraud as means of the successful practice of deception with the intention of cheating. Deception is dishonest concealment of facts on the part of a person. The deceiver's objective is to acquire or retain wrongful possession of property to which the other person has a rightful claim and is entitled to recovery by law.

**BRIBE:** Bribe is an amount received by a public servant other than his legal remuneration for the performance of his official duties.



**MISCONDUCT:** Misconduct is an act of violation of conduct rules of an Organization. To be construed in the light of the Company CDA Rules (applicable to all executives) or Standing Orders (applicable to all employees) as “Improper behaviour”, “intentional wrong doing”, “deliberate violation of rules or neglect of duty”.

**MISAPPROPRIATION:** A public servant (an Employee/Executive) who has appropriated property which does not belong to him for his own benefit or for the benefit of someone else for which it was not intended commits misappropriation. Here, an Employee/Executive has got a direct control over the money / property which has been entrusted to him and which he is holding as a trustee.

**ILLEGAL:** The word “illegal” is applicable to everything which is an offence or which is prohibited by law, or which furnish a ground for a civil action.

**WRONGFUL GAIN:** “Wrongful Gain” is the gain by unlawful means of property to which the person or an agency gaining is not legally entitled.

**WRONGFUL LOSS:** “Wrongful Loss” is the loss by unlawful means of property to which the person /organization losing is entitled.

**DISPROPORTIONATE ASSETS:** The assets acquired by an Employee/Executive of the Company during a check period are said to be disproportionate to his known sources of income if, the total value of such assets is more than the difference between his income from all his known sources and the expenditure incurred during the same period.

**TRAPS:** Trap is a process of apprehending an Employee/Executive of the Company by a police officer, or a person authorized to do so, at the moment of demanding/receiving/accepting the bribe in the form of money or kind other than the legal remuneration as a consideration for showing favour to a person for which that person is not legally entitled to.

**PRINCIPLES OF NATURAL JUSTICE:** The term “Natural Justice” is not defined in any Code including the Constitution of India. Therefore, it may be equated with uncodified Rules of Justice. Principles of Natural Justice are analogous to the Principles of Inquiry as recognized in the Codes of Law. Therefore, Principles of Natural Justice vary from case to case. Though the Principles of Natural Justice has not been defined anywhere in the statute, however, Article 311(2) gives a broad idea about the meaning of the term, Principles of Natural Justice. The articles reads:

“No person who is member of a Civil Service or holds a Civil Post under the Union or State shall be dismissed or removed or reduced in rank except after an Inquiry in which he has been informed of the charges against him and given a reasonable opportunities of being heard in respect of those charges”.

Not defined in any Code or Law or Rules but the concept is fairly crystallized through judicial pronouncements and covers the three important principles.

- I) No one shall be a judge in his own cause
- II) No one shall be condemned unheard
- III) Justice should not only be done but it should appear that it is being manifestly done.

## **9. LIAISON BETWEEN CBI AND VIGILANCE DEPT OFFICIALS**

The need for close liaison and co-operation between the Vigilance Department and the CBI, during the course of an inquiry and investigation and the processing of individual cases, hardly needs to be emphasized. Both, the CBI and the Chief Vigilance Officer, receive information about the activities of the public servants from diverse sources. As far as possible, the information could be crosschecked at appropriate intervals to keep officers of both the wings fully appraised with the latest developments.

The Superintendent of Police of CBI Branch frequently calls on the Head of the Department/Office etc., and discusses personally matters of mutual interest, particularly those arising from Inquiries and investigations. Periodical meetings between the Chief Vigilance Officers and the Officers of the Central Bureau of Investigation helps to a great extent in avoiding unnecessary paper work and in eliminating unnecessary delay at various stages of processing cases. Such meetings are held once a quarter or more frequently. The Central Bureau of Investigation takes up the cases for investigation coming to their knowledge from many sources, such as information collected from their own sources; that received from members of public or individual public servants or public organizations; or cases referred to them by the administrative authorities or the Central Vigilance Commission. The administrative authorities and the individual public servants are expected to extend full cooperation to the CBI during the course of investigation.

The Inspector General, CBI and his staff are authorized to inspect all kinds of official records at all stages of investigation. The Heads of departments/ Offices etc. have to ensure that the Superintendent of Police of the CBI, or his authorized representatives, are given full cooperation and facilities to scrutinize all relevant records during investigation, whether preliminary or regular. If the C.B.I. wishes to check the veracity of information in their possession from the official records, even before registration of a P.E. or R.C., they may be allowed to see the records on receipt of a request from the S.P., CBI.

Investigations are often held up or delayed on account of reluctance or delay on the part of departmental authorities to make the records available for various reasons. Sometimes, departmental authorities express their inability to release the records without the prior permission of the superior authority or the Special Police Establishment is requested to take Photostat or attested copies of documents without realizing that the CBI necessarily require the original records for purpose of investigation, as the authenticity of attested or Photostat copies could be contested by the delinquent officials, thereby hampering the progress of investigation. In asking for original documents, particularly those forming part of current files, the CBI exercises due consideration so as to ensure that day to day work is not impeded. The Vigilance Dept. officials may thus ensure that the documents asked for by the CBI are made



available to them with the least possible delay. Where necessary, the departmental authorities may keep attested or Photostat copies of the records for meeting urgent departmental needs or for disposing of any action that may be pending on the part of the Department, without prejudice to the investigation being carried out by the CBI.

The records required by the CBI should be made available to them ordinarily within a fortnight, positively within a month from the date of receipt of the request. If, for any special reasons, it is not possible to hand over the records within a month, the matter should be brought to the notice of the Superintendent of Police of the Branch concerned, by the authority in possession of the records, pointing out the reasons for not making available the records within the specified period; and also to the notice of the Chief Vigilance Officer of the administrative Ministry concerned for such further direction as the Chief Vigilance Officer might give.

The request of the C.B.I. for information relating to pay and allowances drawn by the public servants over a certain period, in cases where such public servants are alleged to have possessed disproportionate assets, should be furnished to them within a month of receipt of requisition from the C.B.I. In cases, where it is not possible to supply this information to the Central Bureau of Investigation within the specified period, the position may be suitably indicated to the Central Bureau of Investigation and simultaneously necessary steps taken to obtain and furnish the particulars to them as expeditiously as possible. In the case of officers having served in more than one department/ organization during the period under review, the Central Bureau of Investigation may address all the administrative authorities concerned simultaneously for furnishing the required information for the relevant period(s). Copies of such communications is required to be endorsed to the Chief Vigilance Officer of the Ministry concerned for furnishing information about honoraria, etc., if any, received by the suspect/delinquent officer(s).

Thus, all Vigilance Officials will render full cooperation to CBI under the supervision of Chief Vigilance Officer.

## **10. OBJECTIVES OF MIDHANI - VIGILANCE DEPARTMENT**

- ❖ To eliminate or minimize factors which provide opportunity for corruption or malpractices through in depth examination of the systems / procedures of organization.
- ❖ Regular inspection, surprise visits, to check quality or speed of work, identification of sensitive posts and rotation of personnel in sensitive posts, surveillance on various activities.
- ❖ Ensuring prompt observance of proper conduct, ethics relating to integrity.
- ❖ Streamlining investigation in order to give deterrence to the corrupt elements and to encourage honesty as a culture among the employees at all levels.
- ❖ Implementation of CVC guidelines in the interest of the organization.



- ❖ Extend supportive role to the other departments to achieve their objectives without incurring wasteful and avoidable expenditure, to take the organization to the path of future growth.
- ❖ Encourage team spirit, innovative ideas and work with speed and quality towards transparent & accountable system

## 11. DISCIPLINARY PROCEEDINGS

Discipline is the foundation of any orderly state or society or undertaking. In public service discipline is defined as orderly behaviour and obedience to the prescribed code of conduct in order to ensure that the employees discharge their duties honestly, efficiently, and effectively. Violation of the conduct rules amounts to misconduct and results in disciplinary action or prosecution depending on the nature of gravity of the misconduct.

Departmental enquiry proceeding is a branch of quasi-judicial proceedings in which certain fundamental principles of judicial proceedings are applicable. However, strict principles of CPC, Cr. PC and Evidence Act are not applicable to departmental enquiries, yet the fundamental principles embodied in them are applicable to departmental enquiries as far as these are based on the principles of natural justice.

The guidelines on disciplinary proceedings, which officials dealing with the disciplinary matters, should know, to correctly and effectively deal with cases. Its objective is to supplement rather than substitute the provisions contained in the MIDHANI-Conduct, Discipline and Appeal Rules or in the Certified Standing Orders of various Divisions. If there is any variation between the guidelines in the Manual and the provisions of CDA Rules/Standing Orders, the provisions of the CDA Rules/Standing Orders shall have effect. In case of any clarifications regarding the contents of this Manual, the same may be referred to the CVO,

The term misconduct is not defined in any of the conduct rules regulations or enactments. The dictionary meaning of the word misconduct is given as bad management, malfeasance or culpable neglect of an official about office. It is a wrongful, improper, or unlawful conduct motivated by premeditated or intentional purpose or by obstinate indifference to the consequences of one's acts.

The good governance demands observance of the said rules by the employees not only in the discharge of their official duties but also on their conduct and character while dealing with the general public as also in their social and private life.

Though the term misconduct has not been defined in any of the Conduct Rule or the standing order or in any enactment, attempts have been made by courts to explain the term. In *Union of India v/s J Ahmad* the Supreme Court has observed that 'a conduct which is blameworthy for the Government Servant in the context of conduct rules, would be misconduct and if a Government Servant conducts himself in a way inconsistent with the due and faithful discharge of his duty, it is misconduct'. In

simple words, we can define the term misconduct as an act a man does what he is not expected to do or does not do what he is expected to do. It is a wrong act committed intentionally.

In State of Punjab V. Ramsingh 1992 4 SCC 54 the Supreme Court Observed that ‘the word misconduct though not capable of precise definition, on reflection receives its connotation from the context, the delinquency in its performance and its effect on the discipline and the nature of duty .It may not involve moral turpitude it must be improper or wrong behaviour, unlawful behaviour, wilful in character ,forbidden, a transgression of established and definite rule of action or code of conduct but not mere error of judgment ,carelessness or negligence in performance of the duty.’

### **11.1 Kinds of misconduct:**

Misconduct could be of three kinds:

- (1) Technical Misconduct which leaves no trail of indiscipline;
- (2) Misconduct resulting in damage or loss to the employer’s property and
- (3) Serious Misconduct such as acts of violence against the management or other employee or riotous or disorderly behaviour in or near the place of employment, which though not directly causing damage, is conducive to grave indiscipline.

Test to decide whether an act amounts to misconduct for institution of departmental proceeding:

- (a) Can mala fide be inferred or presumed from the actions of any of the concerned officials?
- (b) Could any of the officials be said to have engaged in a misconduct or misdemeanour?
- (c) Was the conduct of any of the officials reflective of lack of Integrity?
- (d) Did the official(s) act in excess of their delegated powers/ jurisdiction and failed to report the same to the competent authority?
- (e) Did they or any of them show any gross neglect of their official functions?
- (f) Is there any material to indicate that any of them acted recklessly?
- (g) Has the impugned decision caused any undue loss to the Organization?
- (h) Has any person/party or a set of persons/parties either within the Organization or outside it been caused any undue benefit?

- (i) Have the norms or systems and procedures of the Organization been flagrantly violated?

If the act or omission is such that it reflects on the reputation of the officers for his integrity or good faith or the devotion to duty, there is no reason why disciplinary proceedings should not be taken against him for activities. (AIR 1979 SC 1022 S. Govinda Menon Vs Union of India AIR 1967 SC 1274)

### **11.2 Disciplinary Proceedings:**

Misconduct, or non-conforming behaviour, as it is sometimes called can be tackled in many ways such as counselling, warning, etc. In extreme cases such as, criminal breach of trust, theft, fraud, etc the employer is also at liberty to proceed against the employee, if the misconduct of the latter falls within the purview of the penal provisions of the law of the land. However, such proceedings are generally conducted by the state agencies, are time consuming and call for a higher degree of proof. In addition to the above option, the employer also has an option to deal with the erring employee within the terms of employment. In such an eventuality, the employee may be awarded any penalty which may vary from the communication of the displeasure to the severance of the employer employee relationship i.e. dismissal from service. There was a time when the employer was virtually free to hire and fire his employees. Over a period, this common law notion has gone. Today an employer can inflict punishment on an employee only after following some statutory provisions depending upon the nature of the Organization.

Every Public servant is entitled to three kinds of protection-Constitutional, legal and principles of natural justice.

### **11.3 Constitutional protection:**

Constitutional protection is contained in Part XIV of the constitution of India under Articles 311, 14, 16 and 21 of the constitution.

Article 311 clause (i) lays down that no person who is a member of the civil service of the Union or a state or an all India service holds a civil post under the union or a state shall be dismissed or removed by an authority subordinate to that by which he was appointed.

Clause (ii) provides that no such person shall be dismissed or removed or reduced in rank except after an enquiry in which he has been informed of the charges against him and given reasonable opportunity of being heard in respect of those charges and stipulates that the evidence adduced during the enquiry alone should be the basis for imposing the penalty.

### **11.4 Government:**

Part XIV of the Constitution relates to the terms of employment in respect of persons appointed in connection with the affairs of the State. Any action against the employees

of the Union Government and state Governments should confirm to these Constitutional provisions, which confer certain protections on the Government servants. These provisions are applicable only to the employees of the various Ministries, Departments and Attached and Subordinate Offices. In addition to the constitutional provisions, there are certain rules, which are applicable to the conduct of the proceedings for taking action against the erring employees. Central Civil Services (Classification, Control, and Appeal) Rules 1965 covers a vast majority of the Central Government employees. Besides, there are also several other Rules which are applicable to various sections of the employees in a number of services.

### **11.5 Semi Government Organizations:**

By this, we mean the Public sector Undertakings and Autonomous Bodies and Societies controlled by the Government. Provisions of Part XIV of the Constitution do not apply to the employees of these Organizations. However, as these Organizations can be brought within the definition of the term 'State' as described in Article 12 of the Constitution, the employees of these Organizations are protected against the violation of their Fundamental Rights by the employees of these Organizations on the grounds of arbitrariness, etc. These Organizations also have their own sets of rules for processing the cases for conducting the disciplinary proceedings against their employees.

Executives in MIDHANI are governed by MIDHANI- CDA Rules 1977.

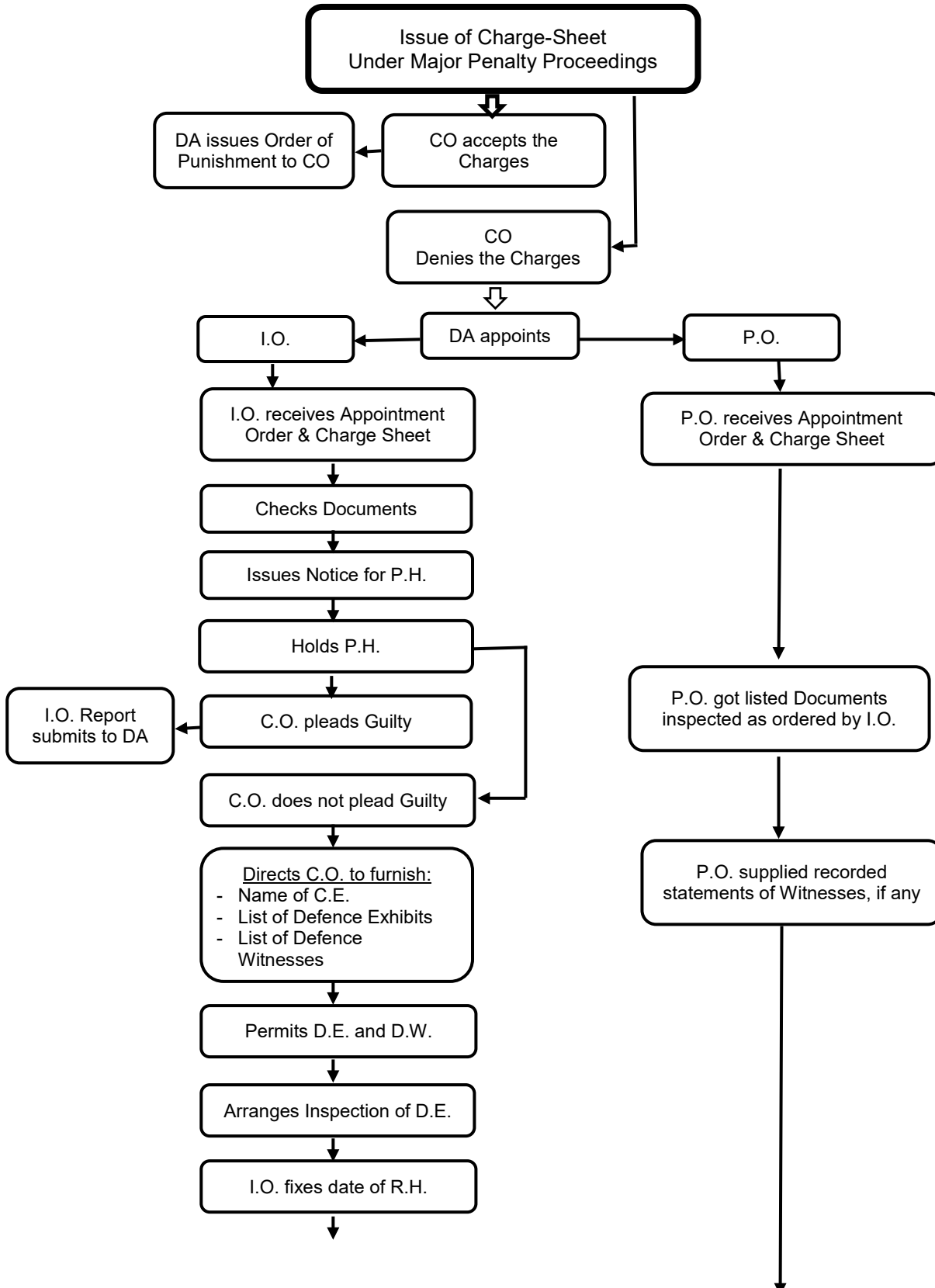
These Rules have been drafted on the Model Conduct, Discipline and Appeal Rules framed by the Central Vigilance Commission for adoption by PSUs.

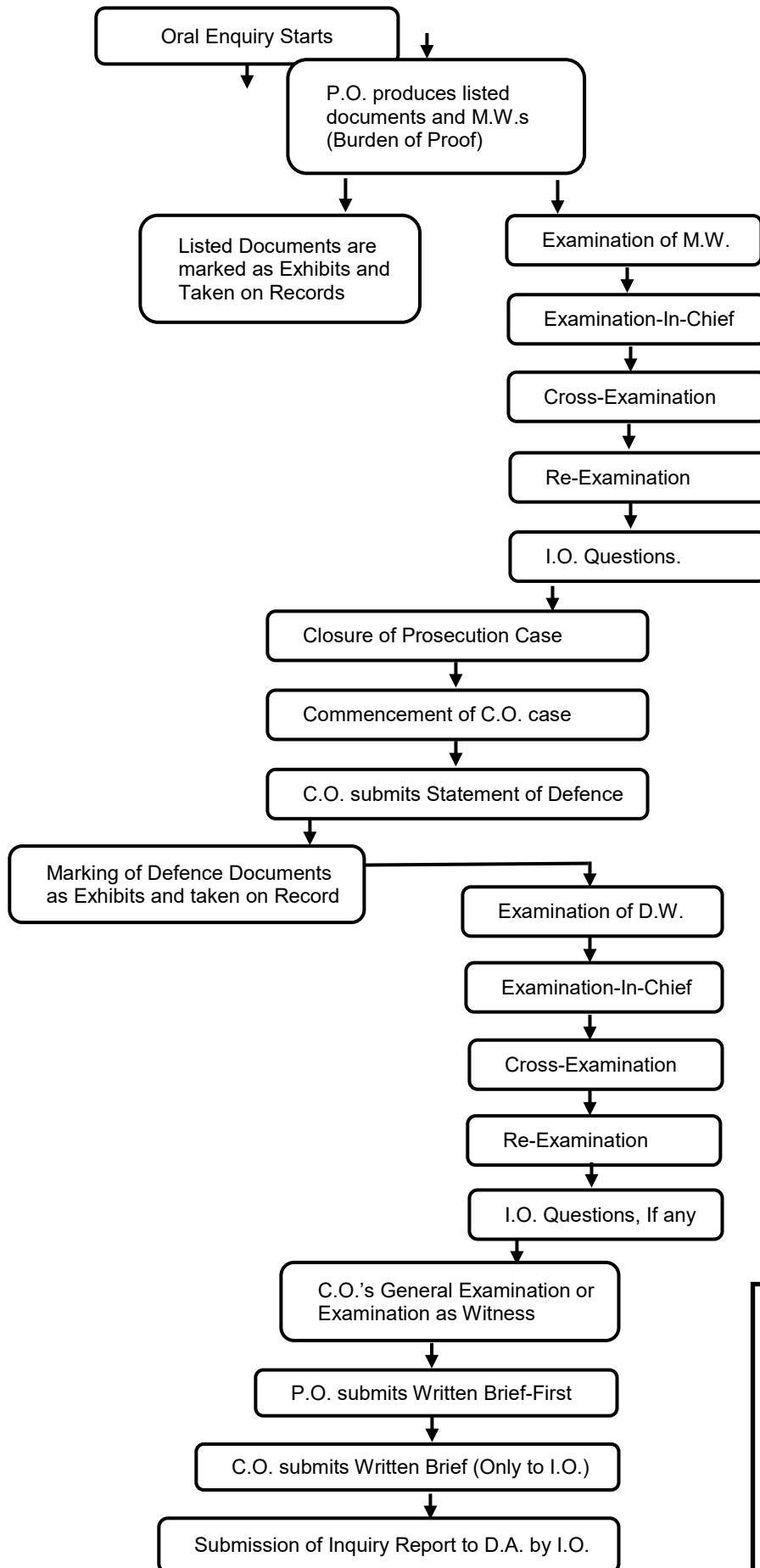
### **11.6 Purely private organizations:**

These are governed by the various industrial and labour laws of the country and the approved standing orders applicable for the establishment.

Although the CCS (CCA) Rules 1965 applies to limited number of employees in the Government, essentially these are the codification of the Principles of Natural Justice, which are required to be followed in any quasi-judicial proceedings. Even the Constitutional protections which are contained in Part XIV of the Constitutions are the codification of the above Principles. Hence, the procedures which are followed in most of the Government and semi-governmental Organizations are more or less similar.

Major Penalty Proceedings Procedure – Flow Chart – in Nutshell





**Legend:**

- D.A.: Disciplinary Authority
- I.O.: Inquiry Officer
- P.O.: Presenting Officer
- C.O.: Charged Officer
- P.H.: Preliminary Hearing
- R.H.: Regular Hearing
- D.E.: Defence Exhibits
- D.W.: Defence Witnesses
- C.E.: Co-Employee
- M.E.: Management Exhibits
- M.W.: Management Witnesses

## **12. PRINCIPLES OF NATURAL JUSTICE**

### **12.0 The concept and evolution of Principles of Natural Justice:**

The Principles of Natural Justice can be put as vocate (call), interrogate (question) and judicate (decide judiciously). The sum and substance of natural justice is notice, reasonable opportunity for defence, unbiased consideration of the submission and solemn judgment.

Though there is no statute laying down the minimum procedure, which administrative agencies must follow, while exercising decision-making power, sometimes, the statute under which the administrative agency exercise power lays down the procedure, which the administrative agency is left free to devise its own procedure.

However, the Courts have always insisted that the administrative agencies must follow minimum of fair procedure this minimum fair procedure refers to the principles of natural justice. Natural justice is justice based on human values and good conscience following a just and fair procedure. These are principles analogous to principle of justice equity and good conscience.

The test to decide whether Principles of natural justice have been violated or not is whether there is such a manifest failure of justice to shock the conscience of a reasonable person. These principles are vital to ensure justice and give due protection to all employee where conduct is under consideration as they are deemed to govern the procedure of departmental enquiries even though not provided for.

### **12.1 Constitution and Principles of Natural Justice:**

In the Constitution of India there are some rights which are recognized as fundamental rights and they are described in Part III of the Constitution. The fundamental rights are applicable against the State. Though the Principles of Natural Justice are not treated as Fundamental Rights yet it may be entirely out of context to stress here that Article 14 of the Constitution of India guarantees equality before law and protection against any discrimination by any law. Any act of arbitrariness is discursively a form of discrimination and as such this would tantamount to transgression of Article 14. Since the Principle of Natural Justice also forbid arbitrariness, in a way violation of principles of Natural Justice would also mean violation of Article 14 of the Constitution.

### **12.2 Principles of Natural Justice and Departmental Enquiries**

The proceedings before the Civil Court are governed by the Civil Procedure Code and the proceedings before the criminal courts are governed by the Criminal Procedure Code. Both the codes have detailed guidelines how a civil or criminal court should act in different contingencies. As far as the departmental enquiry is concerned, no such detailed guidelines are usually available.

The reason why the doctrines and procedure applicable to a Court of Law are not applicable to quasi-judicial proceedings is due to difference in the functions of the two bodies. The climate of the court, the pattern of judicial procedure, the judicial environment and the anatomy of judicial process are all basically different from those of the administrative court, the administrative agencies, the administrative process and the administrative technique. The quasi-judicial authorities are not bound to follow the procedure of courts or strict rules of evidence and therefore they can obtain information material for enquiry in any way provided they give a fair opportunity to the employee to explain the same.

The principles of natural justice are applicable to all quasi-judicial proceedings. The test to determine whether the act of a body may be said to be quasi-judicial or not is that the body must have legal authority to determine questions affecting the rights of the parties and it must have the duty to act judicially.

### 12.3 The principles

There are four basic well understood and established principles of natural justice that are meant to be minimum protection of the rights of individuals against arbitrary procedures, may it be judicial or quasi-judicial.

1. **Nemo Debet Esse Judex in Propria Causa:** No one should be judge of his own cause; Rule against Bias.
2. **Audi Alteram Partem:** No one should be condemned unheard. Right to be heard.
3. **Uberima Fide:** Speaking Order. Reasoned Decision
4. Decision in good faith.

### 12.4 Rule against Bias:

Bias means an operative prejudice whether conscious or unconscious in relation to a party or issue. Therefore, the rule against bias strikes against those factors, which may improperly influence a judge in arriving at a decision in any particular case. The requirement of this principle is that the judge must be impartial and must decide the case objectively on the basis of the evidence on record. A person cannot take an objective decision in a case in which he has an interest for, as human psychology tells us, very rarely can people take decisions against their own interests.

Central Vigilance Commission too has advised 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. (CVC Office Order No 71/12/05 dt 09/12/2005)



The Disciplinary Authority acts like a judge. He takes administrative action with a judicial approach, which requires administration of justice according to rules, following just and fair procedure. He shall be independent, impartial, fair and objective. A person with a foreclosed mind or a person who has prejudged the issue or predetermined to punish the delinquent should not act as inquiry officer. Similarly, a person who is a complainant, or witness or prosecutor cannot act as a judge.

AIR 1973SC 2701. The Honourable Court held, “The test of likelihood of bias which has been applied in a number of cases is based on the reasonable apprehension of a reasonable man fully cognizant of the facts.

The tests of “real likelihood” and “reasonable suspicion” are really inconsistent with each other. The reviewing authority must take a determination on the basis of the whole evidence before it whether a reasonable man would in the circumstances infer that there is real likelihood of bias. The Court must look at the impression, which other people have. This follows from the principles that justice must not only be done but also seem to be done. If right-minded persons would think that there is real likelihood of bias on the part of an enquiry officer, he must not conduct the enquiry; nevertheless, there must be a real likelihood of bias.

Surmise or conjecture would not be that the inquiring officer would be prejudiced against the delinquent. The court will not enquire whether he was prejudiced. If a reasonable man would think on the basis of the existing circumstances that he is likely to be prejudiced, that is sufficient to quash the decision.

There are different facets of Bias, which may affect the decision in variety ways.

#### **a. Personal bias**

It arises from a certain relationship equation between the deciding authority and the parties, which incline him unfavourable or otherwise on the side of one of the parties before him. In case of allegation of such bias, it should be examined whether there is reasonable likelihood of apprehension of not getting fair trial as was defined by Supreme Court in *S. Parthasarathy vs State of Andhra Pradesh* 29.

#### **b. Pecuniary bias**

It envisages that any financial interest, howsoever small it may be, would vitiate administrative action. While ownership or shareholding qualifies for pecuniary bias, mere trusteeship of society does not.

#### **c. Subject-matter bias**

Those cases fall within this category where the deciding officer is directly, or otherwise, involved in the subject matter of the case. Here again mere involvement would not vitiate the administrative action unless there is a real likelihood of bias. Someone who has examined himself as witness should not be the inquiry officer.

#### **d. Preconceived notion bias**

Bias arising out of preconceived notions is another disqualification. However unless the strength of the preconceived notions is such that it has the capacity of foreclosing the mind of the judge, administrative action would not be vitiated.

In case of bias, the cardinal principle is that the question/doubt of bias should be raised at the first instance. Objections raised later are likely to be overruled.

#### **12.5 Right to be heard:**

The expression *audi alteram partem* simply implies that a person must be given an opportunity to defend himself. This principle is sine qua non of every civilized society.

“The laws of God and man both give the party an opportunity to make his defence, if he has any”. 30 Byles, J. in Cooper vs Wands worth Board of works 1861 All ER Rep Ext 1554. The Bible recites the story of Adam, who ate the forbidden (knowledge) fruit apple, at the instigation of Eve. God had forbidden the first man and first woman to eat it.

However when He came to know of the event, He did not straightway punish *Adam and Eve*. Instead He called both of them and gave an opportunity to explain their stand. God asked them, "Adam, Where art thou; Hast thou eaten the fruit of the tree where I commanded thee that thou shall not eat?" And the same question was put to Eve also. Moral of the story is that God, the almighty, adhered to the Principles of Natural Justice and did not think it proper to condemn them without being heard.

Art.311 (2) of the Constitution of India embodies the principles of reasonable opportunity. It reads as follows:

**“No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges”.**

Thus, Article 311(2) makes it obligatory to hold an inquiry before the employee is dismissed or removed or reduced in rank. The procedure to be followed in awarding other punishments is laid down in the service rules governing the employee. Whenever, therefore, the service rules contemplate an inquiry before punishments is awarded, and when the Inquiry Officer is not the disciplinary authority the delinquent employee will have the right to receive the Inquiry Officer's report notwithstanding the nature of the punishment.<sup>31</sup> 31 MD, ECIL, Hyderabad vs B. Karunakar AIR 1994 SC 1074

#### **a. Right to Notice: The Charge sheet**

Notice is the starting point of any hearing.

The object of issuing a charge sheet is to give opportunity to the Employee who is charged with misconduct to offer his explanation to defend himself. The rules of Natural Justice require that person charged should know the nature of the misconduct with which he is charged and should be given an opportunity to defend himself and to give a proper explanation.

The concerned employee is not expected to furnish a detailed reply to the charge sheet. He is required only to admit or deny the charge(s). Therefore, the rules do not provide for making available the relevant documents to the concerned employee for submission of his defence statement. However, notwithstanding the legal position, copies of the documents and the statements of witnesses relied upon, as far as possible, may be supplied to him along with the charge sheet. If the documents are bulky and copies cannot be given, he may be given an opportunity to inspect those documents and submit his reply within 15 days' time. Para 20.1.5 Special chapter on Vigilance management in public Sector.

#### **b. Right to present case and evidence**

The adjudicatory authority should afford reasonable opportunity to the party to present his case. The requirements of natural justice are met only if opportunity to represent in view of the proposed action.

Hon'ble Supreme Court had dealt with the above matter in detail in the case of ChandramaTewari vs. Union of India wherein following guidelines were issued.

- a. Copy of the documents, if any, relied upon against the party charged, should be given to him and he should be afforded opportunity to cross-examine the witnesses and to produce his own witnesses in his defence. If findings are recorded placing reliance on a document which may not have been disclosed to him or the copy whereof may not have been supplied to him during the enquiry when demanded would contravene principles of Natural Justice rendering the enquiry and the consequential order of punishment illegal and void.
- b. It is not necessary that each and every document must be supplied to the delinquent Government Servant facing the charges. Instead, only material and relevant documents are necessary to be supplied to him. The obligation to supply copies of a document is confined only to material and relevant documents and the enquiry would be vitiated only if the non-supply of material and relevant documents when demanded may have caused prejudice to the delinquent official.
- c. A delinquent official is entitled to have copies of material and relevant documents only, which may include the copy of statement of witnesses recorded during the investigation or preliminary enquiry or the copy of any other documents, which may have been relied in support of the charges.

d. If a document has no bearing on the charges or if it is not relied upon by the inquiry officer to support the charges, or if such document or material was not necessary for cross-examination of witnesses during the inquiry, the officer cannot insist upon the supply of documents, as the absence of copy of such document will not prejudice the delinquent official. Preliminary inquiry which is conducted invariably on the back of the delinquent employee may, often, constitute the whole basis of the charge-sheet. Before a person is, therefore, called upon to submit his reply to the charge-sheet, he must, on a request made by him in that behalf, be supplied the copies of the statements of witnesses recorded during the preliminary enquiry particularly if those witnesses are proposed to be examined at the departmental trial. This lapse would vitiate the departmental proceedings unless it was shown and established as a fact that non-supply of copies of those documents had not caused any prejudice to the delinquent in his defence

## **12.6 The right to rebut adverse evidence**

The right to rebut adverse evidence presupposes that the person has been informed about evidence against him. It is sufficient if the summary of the contents of the adverse material is made available provided it is not misleading. The opportunity to rebut evidence necessarily involves the consideration of two factors: cross-examination and legal representation.

### **A. Cross-examination**

The right to cross-examination by the Charged Employee as an ingredient of fair hearing has been decreed by the Supreme Court.

### **B. Legal Representation**

Normally representation through a lawyer in any administrative proceeding is not considered an indispensable part of the rule of natural justice as oral hearing is not included in the minima of fair hearing. It is further justified on the ground that the representation through a lawyer of choice would give edge to the rich over the poor who cannot afford a good lawyer.

However, the courts have held that in situations where the person is illiterate , or the matter is complicated and technical , or expert evidence is on record, or a question of law is involved or the person is facing a trained prosecutor, some professional assistance must be given to the party to make his right to defend himself meaningful.

### **C. No evidence should be taken at the back of other party:**

The ex-parte statements taken in the absence of the other party, without affording an opportunity to rebut, is against the recognized principles of natural justice. Whatever information is obtained by the administrative authority must be disclosed to the other party and an opportunity to rebut it must be provided.

However, there is nothing to prevent an administrator from collecting information before the hearing and he is not compelled to disclose it. Equally, there is no compulsion to disclose information, which is obtained after the hearing.

#### **D. Report of the enquiry to be shown to the other party:**

The question came before SC in *Managing Director, ECIL, Hyderabad vs. B. Karunakar* and the Supreme Court issued the following guidelines:

- i. that when the Inquiry officer is not the disciplinary authority, the delinquent employee has a right to receive a copy of the Inquiry officer's report before the disciplinary authority arrives at its conclusions with regard to the guilt or innocence of the employee with regard to the charges levelled against him and a denial of the right amounts to a denial of reasonable opportunity to the employee to prove his innocence and is a breach of the principles of Natural Justice.
- ii. that the statutory rules, if any, which deny the report to the employee are against the principles of Natural Justice and therefore invalid. The delinquent employee will, therefore be entitled to a copy of the report even if the statutory rules do not permit the furnishing of the report or are silent on the subject.
- iii. that it will not be proper to construe the failure on the part of the delinquent employee to ask for the inquiry report as the waiver of his right and whether the employee asks for the report or not, the report has to be furnished to him.
- iv. that this rule is applicable to employees in all establishments whether Government or non-Government, public or private, whether there are rules governing the disciplinary proceedings or not and whether they expressly prohibit the furnishing of the copy of the report or are silent on the subject.
- v. that in all cases where the Inquiry Officer's report is not furnished to the delinquent employee in the disciplinary proceedings, the Courts and Tribunals should cause the copy of the report to be furnished to aggrieved employee if he has not already secured it before coming to the Court / Tribunal, and give the employee an opportunity to show how his or her case was prejudice because of the non-supply of the report. If, after hearing the parties, the Court / Tribunal comes to the conclusion that the non-supply of the report would have made no difference to the ultimate findings and the punishment given, the Court / Tribunal should not interfere with the order of punishment and should not mechanically set aside the order of punishment on the ground that the report was not furnished. It is only if the Court / Tribunal finds that the furnishing of the report would have made a difference to the result in the case that it should set aside the order of punishment. Whether the Court / Tribunal thus sets aside the order of punishment, the proper relief that should be granted is to direct reinstatement of the employee with liberty to the authority / management to proceed with the inquiry, by placing the employee under suspension and continuing the inquiry from the stage of furnishing him with the report.

### 12.7 Reasoned Decision:

The third principle of Natural Justice states that the final orders passed should be a speaking order. It is applicable both to the inquiry officer as well as the disciplinary authority – while giving the inquiry report for the former and for passing the penalty order or otherwise for the latter. A speaking order is one, which specifies the reasons for reaching the conclusions.

The condition to give reasons introduces clarity and excludes or at any rate minimizes arbitrariness. A reasoned order is a desirable condition of judicial disposal. The requirement that reasons be recorded governs the decisions of an administrative authority exercising quasi-judicial functions irrespective of the fact whether the decision is subject to appeal, revision or judicial review. It is however not required that the reasons should be as elaborate as in the decision of a Court of law. The extent and nature of the reasons would depend on particular facts and circumstances. What is necessary is that the reasons are clear and explicit so as to indicate that the authority has given due consideration to the points in controversy. The appellate or reviewing authority, if it affirms such an order, need not give separate reasons if the appellate or reviewing authority agrees with the reasons contained in the order under challenge.

### 12.8 Decision in good faith:

Judges like ‘Caesar’s wife’ should be above suspicion. It implies that the judge is impartial and without any interest. It further envisages that justice should not only be done but should manifestly appear to have been done. It implies that the judge has accorded due consideration to the evidence before him by not just counting the evidence but by weighing it and that he has arrived at decisions without indication of any favour to either of the parties during trial or inquiry.

In the case of *Ashok Kumar Yadav vs State of Haryana* was held as under; “It is one of the fundamental principles of our jurisprudence that no man can be a judge in his own cause and that if there is a reasonable likelihood of bias it is "in accordance with natural justice and common-sense that the justice likely to be so biased should be incapacitated from sitting". The question is not whether the judge is actually biased or in fact decides ex-parte, but whether there is a real likelihood of bias. What is objectionable in such a case is not that the decision is actually tainted with bias but that the circumstances are such as to create a reasonable apprehension in the mind of others that there is a likelihood of bias affecting the decision. It is also important to note that this rule is not confined to cases where judicial power *strict sensu* is exercised. It is appropriately extended to all cases where an independent mind has to be applied to arrive at a fair and just decision between the rival claims of parties. Justice is not the function of the courts alone; it is also the duty of all those who are expected to decide fairly between contenting parties.”

## **12.9 Need for self-contained speaking and reasoned order to be issued by the authorities exercising disciplinary powers.**

It is a well-settled law that the disciplinary/appellate authority is required to apply its own mind to the facts and circumstances of the case and to come to its own conclusions, though it may consult an outside agency like the CVC.

There have been some cases in which the orders passed by the competent authorities did not indicate application of mind, but a mere endorsement of the Commission's recommendations. In one case, the competent authority had merely endorsed the Commission's recommendations for dropping the proposal for criminal proceedings against the employee. In another case, the disciplinary authority had imposed the penalty of removal from service of an employee, on the recommendations of the Commission, but had not discussed, in the order passed by it, the reasons for not accepting the representation of the concerned employee on the findings of the inquiring authority. Courts have quashed both the orders on the ground of non-application of mind by the concerned authorities.

Thus the Disciplinary Authorities should issue a self-contained, speaking and reasoned orders conforming to the aforesaid legal requirements, which must indicate, inter-alia, the application of mind by the authority issuing the order (CVC circular 02/01/09 dated 15<sup>th</sup> January 2009 and 02/05/2014 dated 19<sup>th</sup> May 2014)

## **12.10 Exceptions to the Rule of Natural justice.**

Though the rules of natural justice have definite meaning and connotation in law and their content and implication are well understood and firmly established, they are nonetheless not statutory rules. Not only can the principle of natural justice be modified but in exceptional cases they can even be excluded. It is as much in public interest and for public good that employee who are inefficient, dishonest or corrupt or have become a security risk should not continue in service.

Furthermore, these rules can operate only in areas not covered by any law validity made. Where disciplinary rules contain clear provisions about the conduct of inquiries at various stages, the rules of natural justice should not be invoked for going beyond or round the scope of the rules at any stage.

## **13. CHARGE SHEET**

### **13.1 Object of Charge-sheet:**

If (during the preliminary enquiry or otherwise) a prima facie case is made out and the competent authority or disciplinary authority, as the case may be, satisfies himself and decides to take further proceedings, then, a regular enquiry is started as per the rules and procedure. The first step in this direction is the framing and the issuance of a Charge-sheet. Charge-sheet in departmental enquiries is a written and formal

intimation containing the alleged acts of misconduct which the delinquent has committed in the employment.

Absence of charge-sheet violates natural justice. The Principles of Natural Justice requires that the employee affected should have full and true disclosure of the facts sought to be used against him. He must also be given opportunity to defend himself and to give a proper explanation. The right of hearing is a right, no more and no less, to a hearing which is adequate to safeguard the right for which such protection is afforded. It must be hearing in substance and not form. If such hearing is denied the administrative action is void. It is therefore essential that the employee charged with misconduct must be told in the clearest terms and with full particulars what his alleged misconduct is. It should not be left to him to find out what are the specific allegations against him.

The object of issuing a Charge-sheet is to give opportunity to the employee who is charged with misconduct to offer his explanation to defend himself. The rules of natural justice require that person charged should know the nature of the misconduct with which he is charged and should be given an opportunity to defend himself and to give a proper explanation *Bhupindar Pal Singh v. D.G. Civil Aviation*; 2003 (98) FLR 1192.

### **13.2 Drafting of Charge-sheet:**

A charge may be described as the prima-facie proven essence of an allegation setting out the nature of the accusation in general terms, such as, negligence in the performance of official duties, inefficiency, acceptance of sub-standard work, false measurement of work executed, execution of work below specification, breach of a conduct rule, etc. a charge should briefly, clearly and precisely identify the misconduct/misbehaviour. Inadequate skill in drafting the charge-sheet is one of the reasons which help the charged officials to get away with lapses/misconduct committed by them. Many cases fail before the Courts of Law just because of the defective framing of charge-sheets. It has been observed by the Commission that the charge-sheets are sometimes framed in a very general way and the existing practice with regard to framing of charges only pointing out that the official concerned has acted in an unbecoming manner or has shown lack of devotion to duty or has acted without integrity. *Gupta Tobacco Co. vs Union of India* AIR 1968 Del 64.

The competent authority or disciplinary authority shall draw up or cause to be drawn up the substance of the imputation of misconduct or misbehaviour into definite and distinct articles of charge *State of U.P. v. Chandra Pal* 2003 (97) FLR 602

A Charge-sheet should be specific and must set out all the necessary particulars. A Charge-sheet contains

- i. the substance of the imputations of misconduct or misbehaviour into definite and distinct articles or charge;
- ii. a statement of the imputations of misconduct or misbehaviour in support of each article of charge which shall contain:



- iii. a statement of all relevant facts including any admission or confession made by the Government servant; and
- iv. a list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained.

The allegations which contain the details of misconduct are called Imputations whereas specific misconduct is a charge.

### **13.3 Statement of Imputations:**

The statement of imputation should give a full and precise recitation of the specific and relevant acts of commission or omission on the part of the Employee in support of each charge including any admission or confession made by the Government servant and any other circumstances which it is proposed to take into consideration. A statement that a Government servant allowed certain entries to be made with ulterior motive was held to be much too vague.

Rule 14(3) (i) of the CCS (CCA) Rules stipulates that "the substance of the imputations of misconduct or misbehaviour into distinct articles of charge" should be drawn up by the Disciplinary Authority whenever it is proposed to hold an enquiry against a Government servant. This would mean that no charge can be proper or complete without including therein elements of the main content of the allegations/imputations. Therefore, the spirit of all Conduct, Discipline & Appeal Rules imply that there should be a specific finding on each allegation made against the officer. At the end, the IO must then apply his mind to come to a conclusion as to whether the charge as a whole has been proved wholly, partially or not at all.

A vague accusation that the Government servant was in the habit of doing certain acts in the past is not sufficient. It should be precise and factual. In particular, in cases of any misconduct/misbehaviour, it should mention the conduct/behaviour expected or the rule violated. It would be improper to call an Investigating Officer's Report a statement of imputations. While drafting the statement of imputations, it would not be proper to mention the defence and enter into a discussion of the merits of the case. Wording of the imputations should be clear enough to justify the imputations in spite of the likely version of the Government servant concerned.

### **13.4 Articles of Charges:**

The framings of charges, the holding of an enquiry into them, the suspension of the employee during the enquiry, are all steps in the exercise of the disciplinary power.

All these steps are required to be taken by the disciplinary authority and not by a delegate of that authority. In the absence of a statutory provision permitting expressly or impliedly delegation of disciplinary power, an authority other than the disciplinary authority has clearly no power to frame on its own initiative charges against a civil servant and hold an enquiry into them.

- i) it should be so drafted that it is well understood by the employee. Hence, it should be written in simple, unambiguous and unequivocal terms. The Charge sheet should be in a language which is understood by the employee concerned. If the accused is given Charge-sheet of allegation in a language which he cannot understand and he asks for it in a language which he can understand his request should be complied with.
- ii) It should not be vague and suggestive. Here standard of vagueness in departmental enquiries is not the same as in criminal proceedings. It means facts narrated should be such that it discloses offence/acts of omissions or commissions. Vague can be considered to be the antonym of 'definite'. If the ground is incapable of being understood or defined with sufficient certainty it can be called vague. When the Charge-sheet gives the necessary particulars of the misconduct alleged, it cannot be characterized as vague. When the accused employee's explanation in reply to the Charge-sheet shows that he understood the charge, he cannot challenge the Charge-sheet as Vague. If at all the charge is vague, such vagueness should be complained of at the earliest.
- iii) Alleged offence/ acts of omissions or commissions should be such that are fitted in the enumerated list of misconduct in CDA Rules/standing order N.S Makwana vs Union Bank of India and other 1985 LIJ Vol.II p.296 .Misconduct or misconducts to be specified in clear and unambiguous terms. There should be reference to Para or Sub-Para of service rules with in which the particulars of misconduct falls. There are certain offences or misconducts which have got specific name such as theft, misappropriation, forgery, disobedience, strike, go-slow, negligence etc. It is desirable that in drafting a Charge-sheet, misconduct is called by the specific name which is given to it under the Service Rules though it is not necessary to mention section or rule constituting the misconduct. At the same time mentioning wrong Para of the service rules constituting misconduct is not a material defect and it does not vitiate the enquiry proceeding. Goweri Thimma Reddy vs State of P.P. AIR 1958 AP
- iv) There are certain misconducts such as defamation, threat, abuse, insult, giving false evidence or making false entries which have to be inferred from the words spoken or written, then actual words must be re-produced as they were rest.
- v) It should not be direct. It should not be such to indicate a conclusion. The charge or charges must not assume the guilt of the person concerned and no hint of punishment is to be given. Care should be taken to avoid repetition.
- vi) It should not be based on surmise or conjecture. Surmises means that although there is no evidence at certain points, but the point is deemed to exist on account of certain assumptions and thereby the mind is prone to fill a gap in the evidence for which there is no justification
- vii) It should be specific. It means the date, time and place of occurrence to be invariably mentioned and the names of the person if any, in whose presence the incident has occurred. Each incident should be treated as a separate charge.

Sometimes an employee is found to have committed a series of incidents. Each such act of defalcation is a separate charge.

- viii) It should also mention the name of all those who are involved. Say for example, if Mr X is involved along with Mr. Y, so it should tell that you along with Mr. Y and so on.
- ix) It should not be framed in closed mind A case in point for issuing charge sheet in closed mind is where it tends to show the conclusion already drawn by the Disciplinary Authority
- x) It should not leave any scope to consider it as step for victimization or an act of discrimination or unfair labour practice on the part of the employer.
- xi) Language should be carefully chosen and it should be very simple. Compound sentence should be avoided. If the charge sheet has been framed in a vague manner, it must be held that there has been no proper enquiry. If the charge sheet is framed on either/or basis, the employee may not be able to comprehend the exact nature of the alleged lapses and may claim that it is vague and thus giving rise to future complication.
- xii) Charge-sheet should mention the facts instead of mere inference of judgment from the facts. It however, need not mention evidence, nor should it contain the names of witnesses or the list of documents on which the Charges rest.
- xiii) Time within which the delinquent is required to reply to the Charge-sheet should be mentioned including the consequences if no reply is received within stipulated time.
- xiv) If previous record of the employee is relied upon to show his habit or is an aggravation factor, then sufficient particulars of the previous record and the word “habitual” must be mentioned in the charge-sheet.
- xv) The charge-sheet should not mention penalty.

### **13.5 List of Witnesses**

A number of witnesses are usually examined during the course of the preliminary inquiry and their statements are recorded. The list of such witnesses should be carefully checked and only those witnesses who will be able to give positive evidence to substantiate the allegations should be included in the statement for production during the oral inquiry. Formal witnesses to produce documents only need not be mentioned in the list of witnesses.

### **13.6 List of documents**

The documents containing evidence in support of the allegations which are proposed to be listed for production during the inquiry should be carefully scrutinized. All material particulars given in the allegations, such as dates, names, figures, totals of amount,

etc., should be carefully checked with reference to the original documents and records. Drafting a charge is an art. It is an art of framing traps and slots and to fit the delinquent into such traps, slots and categories. In other words, to avoid flexibility and to fix rigidly on slots so that no amount of lubricant make it flexible. The Charge sheet should be issued on bonafide ground and in good faith and it should not be issued out of victimization or unfair labour practice. What is unfair labour practice may also be victimization and vice versa.

### **13.7 General considerations regarding drafting of charge sheet**

#### **13.7.1 Constituents of Charge.**

- i) It is necessary that the charge should contain all the facts, which combined together make a particular misconduct.
- ii) Each incident is a separate charge.
- iii) It is desirable to mention the name of the offence.
- iv) The place, date and time of incident should be mentioned in the charge sheet.
- v) When misconduct depends upon offending language, then actual words used should be specified in the charge sheet.
- vi) When dishonesty or bad motive should be mentioned ingredient of the charge. Where dishonesty is the ingredient of any offence, it should be mentioned in the charge. The omission to mention dishonesty is not material where prejudice has been caused. When the charge was that he had altered the entries with ulterior motives, and then he must be told that precisely is the motive attributable to him, otherwise charge would be vague.
- vii) In case misconduct is habitual then the word 'habitual' must be mentioned in the charge sheet. In addition to mentioning the word 'habitual', the past record showing the habit should also be given. In a charge of habitual absence, record should be set out.
- viii) Language in which charge sheet should be given: In giving the charge sheet, care should be taken to see that the charge sheet is given in a language, which the concerned employee can easily understand.

#### **13.7.2 General considerations regarding drafting of charge sheet.**

- i) Care should be taken to see that there are no unnecessary words or unnecessary matters given in the charge sheet.
- ii) The use of abbreviations like 'etc' or "any other document" should be avoided. It should be specific.

- iii) Time of incident should always be preceded by the word “about”.
- iv) Improper description of the Charge: Sometimes the charges are mentioned so loosely that the statements are either inconsistent or they do not convey the correct sense. One of the reasons for mis-description in the charge arises from the fact that on occasions, the officer concerned is unable to distinguish between incriminating circumstances and the misconduct itself. Improper description of the charge is likely to prejudice the employee concerned.
- v) The charge should not refer to a large number of incidents without mentioning the specific instances. If otherwise, charges are said to be vague.
- vi) Language of the charge sheet should not show that the employee is guilty. Charge sheet is merely a description of allegations against an employee which are still unproved and care should be taken that the language of the charge sheet should not show that the Management has reached the conclusion that the workman is guilty; otherwise it amounts to prejudice and violation of principles of natural justice.

### **13.7.3 Guidelines on preparation of Charge Sheet.**

- (a) Charge should contain particulars of the misconduct and should give the date, time, place, persons, or things involved.
- (b) Language of the charge must be clear, precise, unambiguous, and free from vagueness.
- (c) Separate charge should be framed in respect of each separate misconduct. Multiplication or splitting up of charges in respect of the same allegation should be avoided. If in the course of same transaction more than one misconduct is committed, each misconduct with imputation should be separately mentioned.
- (d) Charge should not contain expression of opinion as to the guilt of the employees as it would mean that the disciplinary authority has prejudiced his mind, and prejudged the issue.
- (e) The word ‘that’ should be used at the commencement of the Article of charge to mean that they are not conclusions but only charges or allegations.
- (f) Charge should not relate to matter, which is already the subject matter of an enquiry.
- (g) Charge should mention the nature of misconduct / misbehaviour.
- (h) Charge should mention the conduct rule violated.
- (i) Charge should be accompanied by statement of imputations of misconduct or misbehaviour and lists of witnesses and documents.

- (j) Statement of imputations should contain all relevant facts, in the form of narration.
- (k) Statement of imputations should not refer to the preliminary enquiry report unless it is sought to be relied upon in support of the charge.
- (l) Statement of imputations should not refer to advice of Vigilance Commission, Vigilance Department or any such agency or functionary.
- (m) Statement of imputations should include admission or confession made by the employee.
- (n) Statement of imputation should not enter into discussion of the evidence or express a view on the merits of the case.
- (o) List of witnesses should be complete. Only such of them, who are proposed to be examined in support of the charge, should be mentioned.
- (p) List of documents should be complete. Specific documents should be mentioned and not mere files, unless the whole file is sought to be relied upon. Only such documents should be mentioned which are relied upon.
- (q) Charge sheet should not indicate the penalty proposed to be imposed.
- (r) Charge sheet may be withdrawn, if there are any flaws or for any other reason and a fresh charge may be framed.
- (s) Competent authority should issue charge sheet.
- (t) Charge Sheet should be served with a Memorandum, mentioning the Rule under which the employee is being proceeded against and requiring him to submit his explanation within a specified period considered reasonable or as provided in the Rules.
- (u) In exceptional circumstances, charge sheet may be amended during the course of the enquiry, in which case, sufficient opportunity should be given to the delinquent employee to answer the amended charge.
- (v) Charge should give details regarding name of the person or the object with which it is concerned. If this is not mentioned, then the charge is invalid as shown hereunder:

**Disobedience** -The word “disobeyed” must be mentioned. What was the direction and what was the conduct, which contravened it, should be specified in the charge.

**Theft** - Full particular of materials stolen must be mentioned. When the charge was that the worker sold the waste paper belonging to the company, then the party to whom it was sold must be mentioned.

**Threat, abuse, or incitement** - Sometimes, some words are addressed to a person and they may constitute either threat or abuse. If the person addressed is a superior person, it amounts to insolence.

**13.7.4** When such words are addressed to particular person, the name of such person to be mentioned. When such words are addressed to a large number of persons, then mentioning of names is not necessary. In the charge of inciting the workers to go on strike, it is necessary to give names of workers incited. Particulars of abusive language used must be given.

- i. **Misappropriation** - All particulars of amount misappropriated must be given.
- ii. **Falsification of records** - If details of particular items in respect of which the offence of falsification of records was committed are not mentioned, then the omission is fatal to the charge.
- iii. **Rioting** - In case of riotous incident involving several persons, it is sufficient to specify the particular incident, which amounts to misconduct.
- iv. **Negligence** - On charge of gross negligence involving the company into considerable financial loss it is not necessary that all the amount of financial loss should be mentioned because it is not relevant to charge. If it is not mentioned, the charge is not bad.
- v. **Bribery** - If the employee is charged of taking bribe with the object that he will use his influence with any other public servant, then the words “with any other public servant” must be mentioned in the charge.

**13.7.5** Charge sheet should contain facts instead of mere inference or judgment from facts. Some very important defects in the charge in this respect are mentioned herein below: -

- a) **Insolent** - When the charge is that the worker behaved in an insolent manner and persuaded others to stop the work, it is vague since it is devoid of essential particulars.
- b) **Instigation** - The word ‘Instigate’ means something more than merely asking a person to do a particular act. It should amount to urging further or to provoke or encourage doing an act. In view of this, the stimulating words must come from a person exercising some kind of influence. When particulars of incitement were not given, then the charge is vague.

- c) **Misbehaviour or Indiscipline** - Absence of specific particulars as to when, where, with whom and the exact misbehaviour/indiscipline, the charge is said to be vague.
- d) **Unsatisfactory work or Negligence** - When the charge is that the work was unsatisfactory, then it is too vague a charge.
- e) **Slow Down** - The charge that worker was slow and irresponsible in performing his work is vague. It is incumbent on the employer under the Standing Orders to give him sufficient particulars, which would enable him to give a proper explanation and to defend himself, properly. By this charge sheet, employee does not know on what days he slowed down, what is the norm that the employer expects, how he has fallen below that norm.

#### **13.7.6 CVC directive on Charge Sheet (No.3 (v)/99/8 Dated the 5th October, 1999)**

"Special care has to be taken while drafting a charge-sheet. A charge of lack of devotion to duty or integrity or unbecoming conduct should be clearly spelt out and summarized in the Articles of charge.

It should be remembered that ultimately the IO would be required to give his specific findings only on the Articles as they appear in the charge-sheet. The Courts have struck down charge-sheets on account of the charges framed being general or vague. *S.K. Raheman vs. State of Orissa 60 CLT 419*. If the charge is that the employee acted out of an ulterior motive that motive must be specified *Uttar Pradesh vs. Salig Ram AIR 1960 All 543*. Equally important, while drawing a charge-sheet, special care should be taken in the use of language to ensure that the guilt of the charged official is not pre-judged or pronounced upon in categorical terms in advance. *Meena Jahan vs. Deputy Director, Tourism 1974 2SLR 466 Cal*. However, the statement merely of a hypothetical or tentative conclusion of guilt in the charge will not vitiate the charge sheet *Dinabandhu Rath vs. State of Orissa AIR 1960 Orissa 26*.

#### **13.7.7 Preparation of charge-sheets for RDA in CBI cases:**

It is for the organizations/disciplinary authorities concerned to prepare the charge sheets/ imputations (as also the lists of exhibits and prosecution witnesses) in those cases where the CBI recommended departmental proceedings and where CBI's recommendation is accepted by the disciplinary authority. Since the SP's reports are, generally speaking, exhaustive and self-contained, preparation of the charge sheets/ imputations should not ordinarily be a problem, per se, for the internal Vigilance Departments/functionaries. In fact, all that is required here is a careful application of mind.

When charge-sheets are prepared by the vigilance functionaries themselves in departmentally-investigated cases, one finds no reason why this cannot be done in respect of the cases investigated by the CBI where, as mentioned above, the reports are well-structured and well made out.



Nonetheless, if the organization concerned faces a real/genuine problem or difficulty in preparing charge-sheets in a particular case, the same can be taken up with the CBI appropriately. Needless to say that such instances/exceptions should be a few and far between i.e. exceptions only. CVC letter No. 009/VGL/018 Dt. 1st April 2009

### **13.7.8 Issuance of Charge-sheet:**

The appointing authority or any other higher authority has power to issue the charge-sheet.

Charge-sheet can be issued by the disciplinary authority

Officers other than appointing or disciplinary authority competent to issue charge sheet if authorized by Rules. *Rajatkanti Godara vs State of W.B. (1962) 2 LLJ 553 (Cal HC)*

Charge-sheet can be given by competent authority through others.

*Laxmi Devi Sugar Mills Ltd. Vs Jadunandan Singh (1965) 2 LLJ 250 (LAT)*

Principle of bias is not applicable to the issue of charge-sheet:

If an authority is biased it cannot hold the enquiry. This however, does not affect his power to issue the charge-sheet.

It is not permissible to make any addition of charges in the original charge sheet during the course of the enquiry although some new facts and/ or allegation worth mentioning may crop up or found. The new allegations may have been the good ground for procuring dismissal even this new allegation have been mentioned and proved during the enquiry. In the said situation, the Enquiry Officer cannot give his findings on new facts and /or allegations which were beyond the purview of the charge sheet. Supreme Court has observed in the case of *Laxmi Devi Sugar Mills* that it is not open to the employer to add any further charges to the original charges during or after the enquiry and charges framed. However, it does not preclude the industrial employer to frame additional charge sheet even after framing the original charge sheet if there are sufficient allegations. The Industrial Employer may issue even supplementary charge sheet, if the enquiry in terms of original charge sheet had not commenced. "It is an elementary principle that a person who is required to answer a charge must know not only the accusation but also the testimony by which the accusation is supported" and a person who is competent to issue charge sheet sign the charge sheet.

### **13.7.9 Reference to report of Preliminary Enquiry:**

All documents, which find a mention in the charge sheet, are to be produced during the course of the enquiry and are subject to inspection by the delinquent employee. There should not be any reference to a confidential or secret document in the charge sheet. The police reports and the reports received as preliminary enquiry are normally confidential and are not to be mentioned in the charge sheet. CVC letter No. 009/VGL/018 Dt. 1st April 2009

Though an authority who is biased cannot hold the enquiry, it does not affect his power to issue charge sheet.

#### **13.7.10 Charge should be specific and contain the necessary particulars:**

It is an elementary principle that when misconduct is alleged, complete particulars must be given. The delinquent official can deny his guilt and establish his innocence only if he is told what the charges levelled against him are, and the allegations on which such charges are based.

A statement of imputation of misconduct on which the article of charge framed against the delinquent official is based shall accompany a charge. The object of furnishing the statement of imputation to the delinquent official is to give him all the necessary particulars and details relating to the charge so that he will have sufficient opportunity to put up his defence. Hence the statement of allegations should give all factual details. It is however, not necessary to discuss the oral and documentary evidence in the statement of allegations. It is sufficient if the facts, which have been revealed from the oral and documentary evidence, are narrated in the statement of imputation.

Failure to give the details of the misconduct in the charge with regard to the date, time and place of misconduct, with sufficient particularity results in prejudice to the charged government servant in the matter of his defence at the enquiry. Where the charge is vague and indefinite and statement of allegations containing necessary particulars is not furnished, the order imposing penalty is liable to be quashed.

#### **13.7.11 Charge should not express firm opinion:**

The Charge should not contain any expression of opinion as that would create an impression in the mind of the charged official that the disciplinary authority is prejudiced against him. M.A.Narayana

Setty Vs Divl. Manager, LIC of India, Cuddapah, 1991(8) SLR AP)

By Charge sheet Disciplinary Authority should neither purpose nor indicate what punishment would ultimately be awarded. There is absolutely no need to mention the proposed punishment in the charge sheet as the nature of the penalty to be imposed will have to be decided only at the end of the enquiry depending on the gravity of the misconduct that is ultimately established as a result of the enquiry. If any particular punishment is indicated in the charge sheet, it cannot be said that the proceeding was conducted in an unbiased manner. Kesharimal Vs State of Rajasthan 1979, SLR (3) P.

#### **13.7.12 More than one charge can be included:**

Where there are more transactions than one, it will be a mistake to frame only one charge. The reason is that such a charge shall be a heterogeneous one and it will not be easy for anybody, who reads the charge sheet, to understand it. The golden rule is

to frame one charge for one incident. In case an employee has committed misconduct, more than once, in a similar fashion, despite the similarity in modus operandi, there is bound to be variations in the time, place, other material detail, and circumstances leading to the misconduct. In such cases, proper course of action shall be to allot to each such incident a separate paragraph in the statement of imputations, which should be a self-contained and comprehensive one. In the Articles of charge, we can frame only one charge stating therein that he has committed misconduct by adopting such and such modus operandi, details of which are contained in such and such paragraph of the statement of imputations.

In *Kapur Singh v. Union of India*, it was held that the enquiry cannot be held bad merely on the ground that more than three charges were made the subject-matter of one enquiry.

The Supreme Court, in *Khem Chand v. Union of India*, held that there are two definite stages in the Enquiry viz., the service of the charge-sheet and the action proposed to be taken and that the second stage would arise only when the punishing authority has applied his mind to the entire evidence and arrived at a definite conclusion and that before that stage the charges are unproved and the suggested punishments are merely hypothetical.

#### **13.7.13 Charge may be dropped and fresh charge framed:**

It is open to the disciplinary authority to drop any charges framed in the first instance and to frame fresh charges which may be found necessary on further consideration. *In Binod Chandra Mazumdar v. Union of India, AIR 1960 Pun 147, after an Enquiry Officer was appointed, the Government stayed the proceedings, placed the delinquent Officer under suspension and after some time issued a fresh charge-sheet containing new charges. This was done when a writ petition was pending in the High Court challenging the earlier orders. The High Court upheld the action taken by the Government.*

#### **13.7.14 Charge may be amended:**

There is no objection to the Charge-sheet being amended by the Disciplinary Authority during the enquiry. In such a case the government servant should be given reasonable opportunity of meeting the amended charge by recalling the witnesses already examined or by producing new evidence. An alteration or addition or amendment of a charge is a matter of procedure and as long as sufficient notice of such alteration, addition or amendment is given and sufficient opportunity is given to the delinquent officer to meet the same, there will not be any violation of the principles of nature justice. It is in order to issue a supplementary charge-sheet or issuance of corrigendum. If a major amendment to the charge is required to be made then it is better to cancel the first charge and issue a fresh Charge-sheet.

However where charge is amended by the issue of a corrigendum during the course of the Enquiry, failure to permit the charged official to file a reply to the amended charge

and give him an opportunity to defend himself vitiates the Enquiry proceedings and an order of termination is liable to be quashed.

#### **13.7.15 Reference to Secret or Confidential Documents:**

A charge sheet is a public document and, therefore, must not contain any reference to a secret or confidential document, which shall not be in public interest to disclose.

**13.7.16** As soon as the charge sheet is issued, the delinquent official should be called upon to file a written statement of his defence within such time as may be prescribed under the rules. This is a mandatory provision and if the enquiry is proceeded without giving opportunity to the delinquent to file his written statement of defence, the enquiry will be vitiated.

A minimum of fifteen days' time will be given to the charge-sheeted employee to enable him to submit his written explanation. The charge sheet should be served in person and his signature obtained in the duplicate copy as acknowledged. In case of refusal to accept or acknowledge the receipt of charge sheet, the following actions are required to be taken:

- i. Endorsement of refusal to accept or acknowledge receipt of charge sheet by the serving officer in the presence of two witnesses.
- ii. Sending a copy of the charge sheet to last known residential address of the charge-sheeted employee by registered post acknowledgement due and also under Certificate of Posting.
- iii. Display of the copy of the charge sheet on the Departmental Notice Board and making an endorsement to that effect.
- iv. Publication of the charge sheet in the local newspapers is also considered as the charge sheet having been served.
- v. Where the charged officer was not supplied with copies of relevant documents or allowed to inspect them or not furnished copies of statements of witnesses examined at the inquiry, it was held that effective exercise of the right to cross-examine witnesses was denied to him

#### **13.7.17 At the time of vetting of charge sheets following aspects will be kept in mind:**

- (a) There is no ambiguity in framing of Charge sheet. If there is one, the same may be removed and clarity brought out.
- (b) All important aspects of irregularities/ deviations/ lapses are brought out in the misconduct of each individual in the "Imputation/ Articles of Misconduct".
- (c) The list of documents and witnesses on which case is to be relied upon are carefully scrutinized and annexed.

- (b) It will be ensured that a note at the end of list of witnesses /documents is added as under: “Management reserves the right to produce further documents and witnesses as and when required the case is in progress”.
- (c) Issuance of Charge-sheet on transfer – The transferor division will initiate the disciplinary action by issuance of charge-sheet.

#### **13.7.18 Response to the Charge Sheet:**

On receipt of the charge sheet, the charge-sheeted employee may respond in the following manner:

- i. Submit his explanation refuting the charge.
- ii. Submit his explanation admitting the charge and asking for mercy.
- iii. Fail to submit the explanation.
- iv. Submission of explanation with conditional admission of charges.
- v. Partial admission of charges.

In case the charge-sheeted employee requests for grant of time for submission of written explanation, the same could be allowed if considered necessary. In any case, the time allowed for submission of explanation shall not exceed 30 days from the date of issue of charge sheet. In case the charge-sheeted employee makes a request for copies of documents / inspection of documents, the same could be allowed. If an employee fails to reply to the charge-sheet it does not lead to any presumption that he is guilty of the alleged misconduct. The enquiry is still necessary because the purpose of enquiry is to satisfy the Disciplinary Authority that charge can be substantiated through evidence.

#### **13.7.19 Consideration of Explanation from Charge-sheeted**

**Employee:** On receipt of written explanation from the charge-sheeted employee, the Disciplinary Authority has to consider the same with reference to the allegations as mentioned in the charge sheet. The disciplinary authority will have to consider whether the explanation submitted by the employee is satisfactory. If he finds that the explanation given by the employee is satisfactory, he may drop the charge and may not proceed further with disciplinary action. In case the charge-sheeted employee admits the guilt, the Disciplinary Authority could proceed to impose punishment if it is minor in nature.

Where the charge-sheeted employee does not submit any written explanation, or admits the guilt with certain conditions, or admits partially the charges or denies the charges in Toto, or the explanation is not found to be satisfactory, the Disciplinary Authority may order a domestic enquiry to ascertain the truth of the alleged misconduct.

## 14. SCOPE OF ORDER OF PUNISHMENT

### 14.0 Scope of order of punishment

**14.1** When passing an order of punishment, the disciplinary authority should define the scope of the punishment in clear terms. It should be self-contained and in the nature of a reasoned speaking order.

#### (a) Censure

An order of censure is a formal act intended to convey that the person concerned has been held guilty of some blame-worthy act or omission for which it has been found necessary to award him a formal punishment. There may be occasions, however, when a superior officer may find it necessary to criticize adversely the work of an officer working under him (e.g. point out negligence, carelessness, lack of thoroughness, delay etc.) or he may call for an explanation for some act or omission and taking all factors into consideration, it may be felt that, while the matter is not serious enough to justify the imposition of the formal punishment of censure, it calls for some formal action, such as, the communication of a written or oral warning, admonition reprimand or caution. Administration of a warning in such circumstances does not amount to a formal punishment. It is an administrative device in the formal punishment. It is an administrative device in the hands of the superior authority for conveying its criticism and disapproval of the work or conduct of the person warned and for making it known to him that he has done something blame-worthy, with a view to enabling him to make an effort to remedy the defect and generally with a view to toning up efficiency and maintaining discipline.

The order of Censure is intended to convey that the official concerned has been guilty of misconduct for which it has been found necessary to award him of formal punishment. This is recorded in the history sheet of the officer and the fact that he has been censured will have its bearing on his merit of suitability for promotion to higher post.

#### (b) Withholding of increment

The penalty of withholding of increment takes effect from the date of increment accruing to an officer after issue of orders. It is obligatory on the part of the Disciplinary Authority to specify the period for which the penalty should remain current and also whether the increments would be withheld with or without cumulative effect. The order should specify as to the number of increments to be withheld for the specified period instead of ordering that the next increment be withheld for a specified period. In case no period is specified in the order of penalty, same would remain current till the next due date of increment.

(i). **Without cumulative effect:** The increment will be withheld for the specified period and the same would be released as well as further increments would also be released on due dates.

(ii). **With cumulative effect:** In such cases, the withheld increments would be released on expiry of the specified period in the penalty and subsequent increments would be postponed to future dates.

The cases where more than one penalty of withholding of increments are imposed by different orders, the effect of first punishment order of withholding of increment will continue for the period specified in the punishment order. Thereafter, the pay of the officer will be raised by giving him increments but for the imposition of the penalty would have been admissible to him and only then the second order of stoppage of increments will be made effective which will continue for the period specified in the second punishment order for withholding of increment and so on.

### **(c) Withholding of promotion**

(i) An order of punishment withholding a Government servant's promotion should clearly state the period for which the promotion is withheld. The order will debar him from being considered for promotion during that period, whatever be his seniority, merit or ability.

(ii) Promotion could be withheld permanently. The imposition of a punishment of a permanent nature should, however, be avoided as far as possible as it is destructive of incentive for good work and improvement.

### **(d) Recovery of pecuniary loss from pay of a Government servant**

The penalty of recovery of pecuniary loss caused to Government from the pay of a Government servant should be imposed only when it has been established that the Government servant was directly responsible for a particular act or acts of negligence or breach of orders or rules which caused the loss. When ordering such recovery the disciplinary authority should clearly state as to how exactly the negligence was responsible for the loss. The order should also specify the number and amount of instalments in which recovery to be made. The amount of the instalment should be commensurate with the capacity of the Government servant to pay.

### **(e) Reduction to a lower stage in the time scale of pay for a specified period.**

Reduction to a lower state in the time scale of pay can be ordered for a specified period only. In compliance with the requirements of Rule 11(v) of the CCA Rules and FR 29(i), when ordering a penalty of reduction to a lower stage in the time scale of pay, the disciplinary authority will indicate:-

- (i) the date from which the order will take effect;
- (ii) the stage in the time scale of pay in terms of rupees to which the pay of the Government servant is to be reduced;
- (iii) the period, in terms of year and months, for which the penalty will be operative;

- (iv) Whether the Government servant will earn increments of pay during the period of such reduction; and
- (v) Whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay.

**(f) Reduction to a lower time scale of pay, grade, post or service**

(a) The penalty of reduction to a lower time scale of pay, grade, post or service may be imposed by disciplinary authority for a specified period or for an unspecified period.

(b) The order will give:

- (i) the lower time scale of pay, grade, post or service and stage of pay in the said lower time scale to which the Government servant is reduced;
  - (ii) the date from which the order will take effect;
  - (iii) where the penalty is imposed for a specified period, the period, in terms of years and months, for which the penalty will be operative;
  - (iv) if the penalty is imposed for an unspecified period directions regarding conditions of restoration to the grade or posts or service from which the Government servant was reduced and his seniority and pay on such restoration to that grade, post or service.
- (c) If the order does not specify any period and simultaneously there is an order declaring the Government servant permanently unfit for promotion, the question of his promotion will not arise. In other cases where the order does not specify any period, the Government servant should be deemed to be reduced for an indefinite period, i.e. till such date as on the basis of his performance subsequent to the order of reduction, he may be considered fit for promotion.

**14.2 Promotion during the currency of punishment of withholding of increment or reduction to a lower stage in the time scale of pay.**

An officer whose increments have been withheld or who has been reduced to a lower stage in the time-scale cannot be considered, on that account, to be ineligible for promotion to a higher grade, as the specific penalty of withholding of promotion has not been imposed on him. The suitability of such an officer for promotion should therefore, be assessed by the competent authority as and when occasions arise for such assessment. In assessing his suitability the competent authority will take into account the circumstances leading to the imposition of the penalty and decide whether in the light of the general service record of the officer and the fact of imposition of the penalty, he should be considered as suitable for promotion. Even where, however, the competent authority may consider that, in spite of the penalty, the officer is suitable



for promotion, effect should not be given to such a finding and the officer should not be promoted during the currency of the penalty.

### **14.3. Imposition of two penalties**

While normally there will be no need to impose two statutory penalties at a time, the penalty of recovery from his pay of the whole or part of any pecuniary loss caused by him to the Government by negligence or by breach of order could be imposed along with any other penalty.

### **14.4 Reduction in rank to a post lower than that on which one was recruited**

The Supreme Court of India in the case of *Nayadar Singh Vs. Union of India* [1989(1) SLJ 1] has held that one cannot be reduced in rank to a post lower than one to which he was actually recruited.

### **14.5 Award of punishment:**

The act of awarding punishment must be based on justice, equity and fair play. The Disciplinary Authority will have to consider many aspects before deciding on the punishment. It is necessary to consider the nature of the delinquency magnitude of the charges established and its consequences, aggravating or extenuating circumstances, if any, the nature of punishment generally inflicted for such misconduct, past record of the delinquent etc.

The penalty inflicted by the Disciplinary Authority should be proportionate to the gravity of the misconduct proved. It should not be too lenient or too harsh. Courts will be inclined to set aside the punishment if the same is shockingly disproportionate to the misconduct committed. *UP Road Transport Corporation vs Mahesh Kumar* (2000) 3 SCC 450. It was held “ Not only the Supreme Court but also the High Court can interfere with the punishment inflicted upon the delinquent employee that penalty shocks the conscience of the Court.”

Further, the Disciplinary Authority should not discriminate between the employees in the matter of punishment unless there is justifiable reason for such different treatment.

However, an employee can be discriminated if any aggravating/extenuating circumstances exist.

Lastly, the order should disclose the process of reasoning by which the Disciplinary Authority arrived at the conclusion that the employee is guilty. The application of judicial mind has to be manifested in the order.

## 15. WHISTLE BLOWER POLICY

### 15.1. About the Policy

Based on *Department of Personnel and Training's Resolution No. 89 dated 21st April, 2004*, commonly known as **Public Interest Disclosure and Protection of Informers Resolution, 2004**, which envisages a mechanism by which a complainant can blow a whistle by lodging a complaint and also seek protection against his victimisation for doing so, this Whistle blower Policy ("Policy", hereafter), aims at providing the stakeholders of Mishra Dhatu Nigam Limited ("MIDHANI", hereafter) ways and means to report issues that might impact MIDHANI as an organization.

### 15.2. Objective

MIDHANI through this formal policy aims at providing an opportunity for:

- encouraging employees and other stakeholders to report issues like:
  - violations to
    - i. Code of Business Conduct and Ethics as per "Guidelines on Corporate Governance for Public Sector Enterprises" applicable for all Directors and Senior Management Executives
    - ii. Conduct, Discipline and Appeal (CDA) rules for officers for MIDHANI and
    - iii. Standing Orders for non-executives for MIDHANI ("Standing Orders", hereafter)
  - corrupt practices – accepting or offering bribe, espionage
  - theft, including Intellectual Property
  - frauds involving Financial Statements, IP, forgery
  - misappropriation of funds and assets, significant mismanagement or waste of funds or Resources
    - ✓ abuse of
    - ✓ any conduct or practices which are illegal or breach any law (Central Vigilance Commission Act, Prevention of Corruption Act, Foreign Contributions (Regulations) Act, etc.)
    - ✓ any other violations which might impact MIDHANI

### 15.3. Applicability

This Policy is applicable to **and** can be used by:

- all employees of MIDHANI at any level of seniority, wherever employed
- the vendors who shall contract with MIDHANI
- any other stakeholder of MIDHANI

### 15.4. Designated Authority

The Central Vigilance Commission ("Commission", hereafter), as well as The Chief Vigilance Officers of the Ministries or Departments of the Government of India are authorised as the Designated Authority to receive written complaints

or disclosure on any allegation of corruption or of misuse of office by any employee of the Central Government or of any corporation established by or under any Central Act, Government companies, societies or local authorities owned or controlled by the Central Government;

## 15.5. Policy

### 15.5.1 Main Content

- a. Any public servant or a person including an NGO can make written disclosure to the Designated Authority except those referred in clauses (a) to (d) of Article 33 of Constitution;
- b. The Designated Authority may call for further information or particulars from the persons making the disclosure;
- c. Anonymous complaints shall not be acted upon;
- d. The identity of the complainant will not be revealed unless the complainant himself has disclosed his identity;
- e. The Head of the Department / Organisation to keep the identity of informant secret if he comes to know about it;
- f. The Designated Authority may call the comments / explanation of the Head of Department / Organisation on the disclosure made;
- g. The Designated Authority may seek the assistance of CBI or the police authorities to complete the investigation pursuant to the complaint received;
- h. The Designated Authority on finding the allegation of misuse of office or corruption substantive, shall recommend appropriate action to the concerned Department or Organisation;
- i. If the informant feels he is being victimised, he may make an application before the Designated Authority seeking redress in the matter. The Designated Authority may give suitable directions to the concerned public servant or the public ;
- j. If on an application or on the basis of information gathered, the Designated Authority is of the opinion that the complainant or the witness need protection, it shall issue appropriate directions to the concerned Government authorities; and
- k. In the event of the identity of the informant being disclosed in spite of the Designated Authority's directions to the contrary, the Designated Authority is authorised to initiate appropriate action as per extant regulations against the person or Authority making such disclosure.

### 15.5.2 Handling of Complaints

- a. The Commission has the responsibility of keeping the identity of the complainant secret.
- b. The complaint should be in a closed / secured envelope.
- c. The envelope should be addressed to Secretary, Central Vigilance Commission and should be super-scribed "**Complaint under The Public Interest Disclosure**". If the envelope is not super-scribed and closed, it will not be possible for the Commission to protect the complainant under the above Resolution and the complaint will be dealt with as per the normal complaint handling policy of the Commission. The complainant should give his/her name and address in the beginning or end of complaint or in an attached letter.
- d. Commission will not entertain anonymous / pseudonymous complaints.
- e. The text of the complaint should be carefully drafted so as not to give any details or clue as to the complainant's identity. However, the details of the complaint should be specific and verifiable.
- f. In order to protect identity of the person, the Commission will not issue any acknowledgement and the whistle-blowers are advised not to enter into any further correspondence with the Commission in their own interest. The Commission assures that, subject to the facts of the case being verifiable it will take the necessary action, as provided under the Government of India Resolution mentioned above. If any further clarification is required, the Commission will get in touch with the complainant.
- g. The Commission can also take action against complainants making motivated/vexatious complaints under this Resolution.
- h. The complaints which have been addressed to other / several authorities will not be treated as complaint under PIDPI Resolution and the same will be forwarded by the Confidential Section to the section concerned of the Commission for taking necessary action. Anonymous and Pseudonymous complaints received under PIDPI Resolution will be sent directly to the section concerned of the Commission for taking necessary action under Complaint Handling Policy of the Commission.
- i. In respect of those complaints which are considered fit for processing under PIDPI Resolution, a letter is sent to the complainant to obtain (a) confirmation as to whether he / she has made the complaint or not and (b) a certificate that he / she has not made similar / identical allegation of corruption / misuse of office to any other authorities to qualify as a Whistle Blower complainant.
- j. Prescribed time limit for receiving the confirmation and the certificate from the Complainant is 30 days from the date of receipt of Commission's letter by the

complainant. In case of no response within the prescribed time limit, a reminder is issued, giving additional two weeks' time to the complainant for sending confirmation and the certificate to the Commission. If there is still no response from the complainant, the complaint is sent to the Branch concerned of the Commission for necessary action under Complaint Handling Policy of the Commission.

- k. In case the matters are personal in nature or it is very difficult to hide the name / identity of the complainant, a No Objection Certificate (NOC) is also obtained from the complainant. In case the complainant refuses to give NOC, the complaint is filed in the Confidential Section without any further action.
- l. After receiving necessary confirmation along with the certificate and NOC (if applicable) from the complainant, the complaint is placed before the Screening Committee for decision.
- m. The Screening Committee is headed by the Secretary and the Additional Secretaries of the Commission are members. The Screening Committee examines all complaints and recommends complaints for Investigation and Report (I & R) / Necessary Action (NA) / Filing.
- n. All CVOs are further required to take the following actions with respect to the complaints forwarded by the Commission under this Resolution:
  - (i) All the relevant papers/documents with respect to the matter raised in the complaint should be obtained by the CVO and investigation into the complaint should be commenced immediately. The investigation report should be submitted to the Commission within a period of One Month.
  - (ii) The CVO is to ensure that no punitive action is taken by any concerned Administrative against any person on perceived reasons/ suspicion of being "whistle blower."
  - (iii) Subsequent to the receipt of Commission's directions to undertake any disciplinary action based on such complaints, the CVO has to follow up and confirm compliance of further action by the DA and keep the Commission informed of delay, if any.

### **15.5.3 Protection to Whistle-blowers**

- a. If any person is aggrieved by any action on the ground that he is being victimized due to the fact that he had filed a complaint or disclosure, he may file an application before the Designated Authority (CVC) seeking redress in the matter, who shall take such action as deemed fit. The Designated Authority may give suitable directions to the concerned public servant or the public as the case may be.
- b. Either on the application of the complainant, or on the basis of the information gathered, if the Designated Authority is of the opinion that either the complainant or the witnesses need protection, the Designated Authority shall issue appropriate directions to the concerned Government authorities.

- c. In the event of the identity of the informant being disclosed in spite of the Designated Authority's directions to the contrary, the Designated Authority is authorised to initiate appropriate action as per extant regulations against the person or Authority making such disclosure.
- d. The Commission, after receipt of representation(s) from Whistle Blowers about threat to their life, takes up the matter with the Ministry of Home Affairs, the Nodal Authority, to undertake the responsibility of providing security cover to the genuine Whistle Blowers. On the advice of the Ministry of Home Affairs, State Governments / UTs have appointed Nodal Officers and details of such officers nominated by State Governments are furnished to the Commission from time to time by the Ministry of Home Affairs.
- e. As regards protection against victimisation or harassment within the Department, the Commission forwards such complaints of Whistle Blowers to the CVO of the concerned organisation for appropriate action.

#### **15.6. Supervision and monitoring of Designated Authority**

Commission shall supervise and monitor the complaints received by the Designated Authority. A report on PIDPI/Whistle-blower complaints including cases of alleged harassment / victimisation received by the Chief Vigilance Officers of the Ministries or Departments of the Government of India are required to be sent to the Commission by the CVOs of the Ministries/ Departments.

#### **15.7. Access to the Policy**

This Policy will be available for viewing by any employee on MIDHANI's intranet; the awareness campaign (posters and circulars) shall be displayed across the organization, corporate office and plant; and by any other person on MIDHANI's company website.

#### **15.8. Amendment to the Policy**

MIDHANI reserves its right to amend or modify this Policy in whole or in part, at any time without assigning any reason whatsoever and the same shall be updated on the intranet and company website. Such Amendments shall be approved by the Board of Directors.



Guidelines  
On  
Tenders



सत्यमेव जयते



केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi-110023

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स / Fax : 24651186

सं. / No. 007/VGL/033/396514  
दिनांक / Dated 28.09.2018

Sub: Adoption of Integrity Pact (IP) – regarding.

The Commission vide its Circular No. 02/01/2017 dated 13.01.2017 had circulated a revised Standard Operating Procedure (SOP) for adoption of Integrity Pact in Government Department/Organisations.

2. In terms of compliance to the revised SOP issued vide circular dated 13.01.2017, SAIL has incorporated certain changes in their existing Integrity Pact which was earlier circulated vide Commission's Office Order No. 41/12/07 dated 04.12.2007.
3. Accordingly, the copy of revised Integrity Pact of SAIL is enclosed herewith for guidance which may be used with suitable modifications to meet the individual organization's requirements for Integrity Pact.

  
(J. Vinod Kumar)  
Director  
Tel. No. 24651019

Encl: Revised IP of SAIL.

To

All Secretaries to the Govt. of India  
All CMDs of PSUs  
All CMDs of PSBs  
All CVOs





## INTEGRITY PACT

Between

**Steel Authority of India Limited (SAIL)** hereinafter referred to as "**The Principal**",  
and

..... hereinafter referred to as "**The Bidder/ Contractor**"

### Preamble

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

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

### **Section 1 - Commitments of the Principal**

- (1) The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:-
  - a. No employee of the Principal, personally or through family members, will in connection with the tender for , or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.
  - b. The Principal will, during the tender process treat all Bidder(s) with equity and reason. The Principal will in particular, before and during the tender process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential / additional information through which the Bidder(s) could obtain an advantage in relation to the tender process or the contract execution.
  - c. The Principal will exclude from the process all known prejudiced persons.
- (2) If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the IPC/PC Act, or if there be a substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer and in addition can initiate disciplinary actions.

### **Section 2 - Commitments of the Bidder(s)/ Contractor(s)**

- (1) The Bidder(s)/ Contractor(s) commit themselves to take all measures necessary to prevent corruption. The Bidder(s)/ Contractor(s) commit themselves to observe the following principles during participation in the tender process and during the contract execution.
  - a. The Bidder(s)/ Contractor(s) will not, directly or through any other person or firm, offer, promise or give to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person any material or other benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.

- b. The Bidder(s)/ Contractor(s) will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelisation in the bidding process.
  - c. The Bidder(s)/ Contractor(s) will not commit any offence under the relevant IPC/PC Act; further the Bidder(s)/ Contractor(s) will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
  - d. The Bidder(s)/Contractors(s) of foreign origin shall disclose the name and address of the Agents/representatives in India, if any. Similarly the Bidder(s)/Contractors(s) of Indian Nationality shall furnish the name and address of the foreign principals, if any. Further details as mentioned in the "Guidelines on Indian Agents of Foreign Suppliers" shall be disclosed by the Bidder(s)/Contractor(s). Further, as mentioned in the Guidelines all the payments made to the Indian agent/representative have to be in Indian Rupees only. Copy of the "Guidelines on Indian Agents of Foreign Suppliers" is placed at (page nos. 6-7)
  - e. The Bidder(s)/ Contractor(s) will, when presenting their bid, disclose any and all payments made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.
  - f. Bidder(s) /Contractor(s) who have signed the Integrity Pact shall not approach the Courts while representing the matter to IEMs and shall wait for their decision in the matter.
- (2) The Bidder(s)/ Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

### **Section 3 - Disqualification from tender process and exclusion from future contracts**

If the Bidder(s)/Contractor(s), before award or during execution has committed a transgression through a violation of Section 2, above or in any other form such as to put their reliability or credibility in question, the Principal is entitled to disqualify the Bidder(s)/Contractor(s) from the tender process or take action as per the procedure mentioned in the "Guidelines on Banning of business dealings". Copy of the "Guidelines on Banning of business dealings" is placed at (page nos. 8-17).

### **Section 4 - Compensation for Damages**

- (1) If the Principal has disqualified the Bidder(s) from the tender process prior to the award according to Section 3, the Principal is entitled to demand and recover the damages equivalent to Earnest Money Deposit/ Bid Security.



- (2) If the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contract according to Section 3, the Principal shall be entitled to demand and recover from the Contractor liquidated damages of the Contract value or the amount equivalent to Performance Bank Guarantee.

#### **Section 5 - Previous transgression**

- (1) The Bidder declares that no previous transgressions occurred in the last three years with any other Company in any country conforming to the anti-corruption approach or with any Public Sector Enterprise in India that could justify his exclusion from the tender process.
- (2) If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or action can be taken as per the procedure mentioned in "Guidelines on Banning of business dealings".

#### **Section 6 - Equal treatment of all Bidders / Contractors / Subcontractors**

- (1) In case of Sub-contracting, the Principal Contractor shall take the responsibility of the adoption of Integrity Pact by the Sub-contractor.
- (2) The Principal will enter into agreements with identical conditions as this one with all Bidders and Contractors.
- (3) The Principal will disqualify from the tender process all bidders who do not sign this Pact or violate its provisions.

#### **Section 7 - Criminal charges against violating Bidder(s) / Contractor(s) / Subcontractor(s)**

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

#### **Section 8 - Independent External Monitor**

- (1) The Principal appoints competent and credible Independent External Monitor for this Pact after approval by Central Vigilance Commission. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.
- (2) The Monitor is not subject to instructions by the representatives of the parties and performs his/her functions neutrally and independently. The Monitor would have access to all Contract documents, whenever required. It will be obligatory for him / her to treat the information and documents of the Bidders/Contractors as confidential. He/ she reports to the Chairman, SAIL.



- (3) The Bidder(s)/Contractor(s) accepts that the Monitor has the right to access without restriction to all Project documentation of the Principal including that provided by the Contractor. The Contractor will also grant the Monitor, upon his/her request and demonstration of a valid interest, unrestricted and unconditional access to their project documentation. The same is applicable to Sub-contractors.
- (4) The Monitor is under contractual obligation to treat the information and documents of the Bidder(s)/ Contractor(s)/ Sub-contractor(s) with confidentiality. The Monitor has also signed declarations on 'Non-Disclosure of Confidential Information' and of 'Absence of Conflict of Interest'. In case of any conflict of interest arising at a later date, the IEM shall inform Chairman, SAIL and recuse himself / herself from that case.
- (5) The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the Principal and the Contractor. The parties offer to the Monitor the option to participate in such meetings.
- (6) As soon as the Monitor notices, or believes to notice, a violation of this agreement, he/she will so inform the Management of the Principal and request the Management to discontinue or take corrective action, or to take other relevant action. The monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.
- (7) The Monitor will submit a written report to the Chairman, SAIL within 8 to 10 weeks from the date of reference or intimation to him by the Principal and, should the occasion arise, submit proposals for correcting problematic situations.
- (8) If the Monitor has reported to the Chairman SAIL, a substantiated suspicion of an offence under relevant IPC/ PC Act, and the Chairman SAIL has not, within the reasonable time taken visible action to proceed against such offence or reported it to the Chief Vigilance Officer, the Monitor may also transmit this information directly to the Central Vigilance Commissioner.
- (9) The word '**Monitor**' would include both singular and plural.

### **Section 9 – Pact Duration**

This Pact begins when both parties have legally signed it. It expires for the Contractor 12 months after the last payment under the contract, and for all other Bidders 6 months after the contract has been awarded. Any violation of the same would entail disqualification of the bidders and exclusion from future business dealings.

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



### Section 10 – Other provisions

- (1) This agreement is subject to Indian Law. Place of performance and jurisdiction is the Registered Office of the Principal, i.e. New Delhi.
- (2) Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.
- (3) If the Contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.
- (4) Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.
- (5) Issues like Warranty / Guarantee etc. shall be outside the purview of IEMs.
- (6) In the event of any contradiction between the Integrity Pact and its Annexure, the Clause in the Integrity Pact will prevail.

\_\_\_\_\_  
(For & On behalf of the Principal)

\_\_\_\_\_  
(For & On behalf of  
Bidder/ Contractor)

(Office Seal)

(Office Seal)

Place -----

Date -----

Witness 1:

(Name & Address)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Witness 2:

(Name & Address)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



सत्यमेव जयते



Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स / Fax : 24651186

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi-110023

सं./No..... 98/ORD/001

दिनांक / Dated...06.04.2018.....

Circular No.01/04/18

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

**Ref:** Commission's Circular No. 8(1)(h)/98(1) dated 18.11.1998, 3(V)/99/9 dated 01.10.1999 and 98/ORD/001 dated 28.10.2011

References have been received seeking clarifications on the applicability of Commission's guidelines to projects funded by the World Bank and other international funding agencies like IMF, ADB, etc.

2. The Commission vide its Circular No. 3(V)/99/9 dated 01.10.1999 has prescribed the following:

*The Commission's instruction dated 18.11.1998 (on post tender negotiations) would not be applicable to the World Bank Projects and other international funding agencies, such as IMF, ADB, etc. However, the instructions of Central Vigilance Commission would be binding on purchases / sales made by the department within the country. The Central Vigilance Commission's instructions dated 18.11.1998 would however, apply if purchase/sales are within the budget provisions and normal operations of the department/organisation even though the purchases / sales are made from sources outside the country.*

3. Subsequently, a clarification issued vide Circular No. 98/ORD/001 dated 28.10.2011 provided the following:

*"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. The matter has been examined in the light of Commission's circulars No. 8(1)(h)/98(1) dated 18.11.1998, 3(v)/99/9 dated 01.10.1999 and 98/ORD/001 dated 28.10.2011. Apparently, funds from International Agencies like World Bank, IMF, ADB or other multilateral agencies are available by way of grants-in-aids or as loans. In the former category of funding, there is no liability on the Govt of India to repay such funded amounts. In the latter category of funds received by way of loans, with or without interest, ultimately the Government of India as the receiving agency has to repay the loans so received. Thus, there is a need to distinguish between these two categories of funding options. If any of the International Agencies while granting aid prescribes certain terms and conditions which are contrary to the existing guidelines of the Government (GFR) or of the Commission relating to the process of procurement/tendering to be adopted, determination of the qualifications, negotiations, other terms and conditions, etc., where the funding is by way of grants-in-aid with no obligation to repay such amounts, the agency receiving the fund may accept such conditions as the International Agency may lay down. However, where such funding is by way of a loan with or without interest and there is a liability on the Government and/or the recipient agency to repay the money in due course, it is essential that prudent norms on making the procurements at best possible rates in a transparent, competitive environment providing opportunity to all eligible and willing bidders, the guidelines/instructions of the Central Vigilance Commission in regard to qualification, criteria, terms and conditions of procurement, negotiations, etc. will have to be followed keeping in view the best interest of transparency, accountability and efficiency.

5. It is clarified that any project funding originating from the Consolidated Fund of India, wholly or partially, must be subject to the Government of India's and Commission's guidelines for expenditure of public money and the same condition may be stipulated while negotiating terms with external funding agencies. Furthermore, any project funding involving future outflows of public money may also be subject to the same guidelines.



(J Vinod Kumar)  
Director

To

- (i) The Secretaries of all Ministries / Departments of Govt
- (ii) All Chief Executives of CPSUs / Public Sector Banks / Public Sector Insurance Companies / Autonomous Bodies, etc.
- (iii) All Chief Vigilance Officers

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.evc.nic.in

EPABX  
24600200

फैक्स / Fax : 24651186



केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi-110023

सं./No. 011/VGL/063-334701

दिनांक / Date 23<sup>rd</sup> January, 2017

Circular No. 01/01/17

**Subject :- Systemic Improvement Guidelines - Engagement of Consultants - regarding.**

Attention is invited to Commission's Circular No.08/06/11 dated 24<sup>th</sup> June, 2011 (**copy enclosed**) regarding selection and employment of consultants. The Commission, taking into account the practices and procedures, being followed by various organisations, would advise following measures while finalising the contracts for engaging consultants:

- (a) **Framework of Instructions of GOI / Guidelines of CVC / others** : Departments / Organisations (employer / client), engaging a consultant, should draw attention of the consultant to the relevant and extant instructions of Government of India, GFR issued by Ministry of Finance, guidelines of CVC and provisions of the Procurement Manual / relevant instructions of the respective organisation, as applicable to the subject matter of the advice / service to be rendered by the consultant and required to be complied with.
- (b) **Accountability of the employer / client and the consultant**: A consultant engaged by the employer has to have a certain degree of accountability, on its part, for any advice and / or for any service rendered to the employer, keeping in view norms of ethical business, professionalism and the fact that such advice / service is being rendered for a consideration, as per the terms of the contract. At the same time, the employer also has to have its share of accountability, for accepting the advice and services, provided by the consultant.

To ensure adequate accountability, suitable tender terms and conditions for apportioning accountability, between the employer and the consultant, need to be incorporated. Also, there should be suitable provisions to enforce such accountability, in case of improper discharge of contractual obligations / deviant conduct by / of any of the parties to the contract.



- (c) **Conflict of Interest:** The consultant shall avoid any conflict of interest while discharging contractual obligations and bring, before-hand, any possible instance of conflict of interest to the knowledge of the employer / client, while rendering any advice or service.

The consultant must act, at all times, in the interest of the employer / client and render any advice / service with professional integrity. A consultant is expected to undertake an assignment / project, only in areas of its expertise and where it has capability to deliver efficient and effective advice / services to the employer.

- (d) **Maximum Possible Use of In-house Expertise:** Before arriving at a decision to engage consultant and in matters of accepting advice / service rendered by the consultant, all organisations should, in the first instance, explore the possibility of using in-house expertise. Proof checking / peer review, in case of advice rendered by a consultant, especially in high value projects, may be advantageous.

2. Apart from above, following few measures may be considered for better and efficient execution of consultancy contracts:

- (a) Suitably incorporating Integrity Pact in the consultancy contracts.
- (b) An advisory to the consultant, in suitable format, to keep in view transparency, competitiveness, economy, efficiency and equal opportunity to all prospective tenderers / bidders, while rendering any advice / service to the employer / client, in regard with matters related to selection of technology and determination of design and specifications of the subject matter, bid eligibility criteria and bid evaluation criteria, mode of tendering, tender notification, etc.
- (c) Normally, pre-bid conference and timely addressing of objections / queries, in appropriate manner, from prospective tenderers / bidders should be in place.
- (d) Suitably incorporating a provision making the consultant to cooperate fully with any legitimately provided / constituted investigative body, conducting inquiry into processing or execution of the consultancy contract / any other matter related with discharge of contractual obligations by the consultant.

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

  
(J. Vinod Kumar)  
Director

To

- (i) The Secretaries of all Ministries / Departments of GOI
- (ii) All Chief Executives of CPSUs / Public Sector Banks / Public Sector Insurance Companies / Autonomous Bodies etc.
- (iii) All CVOs of Ministries / Departments of GOI / CPSUs / Public Sector Banks / Public Sector Insurance Companies / Autonomous Bodies etc.
- (iv) Website of CVC

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24651001 - 07

फैक्स/Fax : 24616286

सत्यमेव जयते

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

सं./No. 011/VGL/063 - 134657

दिनांक / Dated 24<sup>th</sup> June, 2011

Circular No. 08/06/11

**Subject: 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 interests. 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

8 (52)

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.

  
(J Vinod Kumar)  
Officer on Special Duty

To

1. All Chief Vigilance Officers of Ministries / Departments / PSUs / Banks / Insurance Companies / Autonomous Organizations / Societies / UTs.
2. All Secretaries to the Government of India.
3. All CEOs / Heads of Organizations of PSUs / Banks / Insurance Companies etc.



सत्यमेव जयते



केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi-110023

सं./No. 015/VGL/091

दिनांक / Dated 13.01.2017

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स/Fax : 24651186

Circular No. 02/01/2017

Subject:- Adoption of Integrity Pact – Revised Standard Operating Procedure - regarding.

The Commission has reviewed the Standard Operating Procedure for adoption of Integrity Pact issued vide Circular No. 10/5/09 dated 18.5.2009 and has formulated a revised Standard Operating Procedure (SOP) for adoption of Integrity Pact in Government Departments / Organisations. A copy of the same is enclosed for information and necessary action.

(J. Vinod Kumar)  
Director

1. All Secretaries of Ministries/Departments.
2. All CMDs/Heads of CPSUs/Public Sector Banks/Organisations.
3. All CVOs of Ministries/Departments/ CPSUs/Public Sector Banks/Organisations.

Subject:- Adoption of Integrity Pact – Standard Operating Procedure – regarding.

## **1.0 Background**

1.1 In order to ensure transparency, equity and competitiveness in public procurement, the Commission has been recommending the concept of Integrity Pact (IP) for adoption and implementation by Government organizations.

1.2 CVC through its office orders No. 41/12/07 dated 04.12.2007 and 43/12/07 dated 28.12.2007 as well as Circulars No. 18/05/08 dated 19.05.2008 and Circular No. 24/08/08 dated 05.08.2008 recommended adoption of Integrity Pact to all the organizations and provided basic guidelines for its implementation in respect of major procurements in Government Organisations. A Standard Operating Procedure (SOP) was issued by the Commission vide order No. 10/5/09 dated 18.05.2009. The Commission issued clarifications regarding the appointment, tenure and eligibility criteria of IEMs vide Circular dated 11.8.2009 and 19.4.2010. The review system for IEMs was modified vide circular dated 13.8.2010 and clarification regarding tenure of IEMs was issued by the Commission vide its circular dated 23.7.2012.

1.3 Deptt. of Expenditure vide OM dt. 19.7.2011, issued guidelines to all Ministries/ Departments/Organizations including their attached/subordinate offices and autonomous bodies for implementation of IP. Also, vide OM dated 20.7.2011 Deptt. of Expenditure requested Department of Public Enterprises for directions to Central Public Sector Enterprises for use of IP.

1.4 Further, in view of the increasing procurement activities of Public Sector Banks (PSBs), Insurance Companies (ICs) and Financial Institutions (FIs), the Commission vide Circular No. 02/02/2015 dated 25.02.2015 advised that all PSBs, PSICs and FIs shall also adopt and implement the Integrity Pact.

## **2.0 Integrity Pact**

2.1 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.

2.2 Integrity Pact, in respect of a particular contract, shall be operative from the date IP is signed by both the parties 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**

- 3.1 As stated in Department of Expenditure's O.M. dated 20.7.2011, Ministries/Departments may, in consultation with the respective Financial Adviser and with the approval of the Minister-in-charge, decide on and lay down the nature of procurements/contracts and the threshold value above which the Integrity Pact would be used in respect of procurement transactions/contracts concluded by them or their attached/sub-ordinate offices.
- 3.2 The above provision is also applied for procurements made by autonomous bodies for which also the concerned administrative ministry / department may lay down the nature of procurements/contracts and the threshold value above which the Integrity Pact would be used.
- 3.3 The provision for the Integrity Pact is to be included in all Requests for Proposal/Tender documents issued in future in respect of the procurements/contracts that meet the criteria decided in terms of para 3.1 and 3.2 above.
- 3.4 Tenders should specify that IEMs have been appointed by the Commission. In all tenders, particulars of all IEMs should be mentioned instead of nominating a single IEM in the tender as far as possible.
- 3.5 The Purchase / procurement wing of the organization would be the focal point for the implementation of IP.
- 3.6 The Vigilance Department would be responsible for review, enforcement, and reporting on all related vigilance issues.
- 3.7 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.

- 3.8 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.
- 3.9 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 A clause should be included in the IP that a person signing IP shall not approach the Courts while representing the matters to IEMs and he / she will await their decision in the matter.
- 3.11 In case of sub-contracting, the Principal contractor shall take the responsibility of the adoption of IP by the sub-contractor.
- 3.12 Information relating to procurements/contracts covered under IP and its progress/status would need to be shared with the IEMs on monthly basis.
- 3.13 The final responsibility for implementation of IP vests with the CMD/CEO of the organization.

#### **4.0 Role and Duties of IEMs**

- 4.1 The IEMs would have access to all contract documents, whenever required.
- 4.2 It would be desirable to have structured meetings of the IEMs with the Chief Executive of the Organisation on a quarterly basis including an annual meeting to discuss / review the information on tenders awarded during the previous quarter. Additional sittings, however, can be held as per requirement.
- 4.3 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. IEMs are expected to tender their advice on the complaints within 10 days as far as possible.
- 4.4 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 jointly as far as possible, who would look into the records, conduct an investigation, and submit their joint recommendations to the Management.
- 4.5 IEM should examine the process integrity, they are not expected to concern themselves with fixing of responsibility of officers. Complaints alleging malafide on the part of any officer of the organization should be looked into by the CVO of the concerned organisation.

- 4.6 The role of IEMs is advisory, would not be legally binding and it is restricted to resolving issues raised by an intending bidder regarding any aspect of the tender which allegedly restricts competition or bias towards some bidders. 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.
- 4.7 Issues like warranty / guarantee etc. should be outside the purview of IEMs.
- 4.8 All IEMs should sign non-disclosure agreements with the organization in which they are appointed. They would also be required to sign a declaration of absence of conflict of interest.
- 4.9 A person acting as an IEM shall not be debarred from taking up other assignments such as consultancy with other organizations or agencies subject to his declaring that his / here additional assignment does not involve any conflict of interest with existing assignment. In case of any conflict of interest arising at a later date from an entity wherein he is or has been a consultant, the IEM should inform the CEO and recuse himself/herself from that case.
- 4.10 All organizations may provide secretarial assistance to IEM for rendering his/her job as IEM.
- 4.11 In case of any misconduct by an IEM, the CMD/CEO should bring it to the notice of the Commission detailing the specific misconduct for appropriate action at the Commission's end.
- 4.12 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/her or directed to him/her by the Commission.

## 5.0 Appointment of IEMs

- 5.1 The IEMs appointed should be eminent personalities of high integrity and reputation. The Commission would invite applications from willing interested persons and maintain a panel of persons eligible to be appointed as IEM. The Commission may make independent and discreet background check before including a name in the panel.
- 5.2 The choice of IEM should be restricted to officials from the government and public sector undertakings who have retired from positions of the level of Additional Secretary to the Government of India and above or equivalent pay scale, and for Public Sector Undertakings, Board level officers in Schedule A Companies, Public Sector Banks, Insurance Companies and Financial Institutions. Officers of the Armed Forces who have retired from the rank equivalent of Lt. General and above may also be considered for appointment.



- 5.3 For appointment as IEM the Organisation has to forward a panel of suitable persons to the Commission. This panel may include those who are in the panel maintained by the Commission or they may propose names of other suitable persons for appointment as IEM. While forwarding the panel of suitable persons, the Organization would enclose detailed bio-data in respect of all names proposed. The details would include postings during the last ten years 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.
- 5.4 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.
- 5.5 A maximum of three IEMs may be appointed in Navratna PSUs and a maximum of two IEMs in other Public Sector Undertakings, Public Sector Banks, Insurance Companies and Financial Institutions.
- 5.6 A person may be appointed as an IEM in a maximum of three organizations at a time.
- 5.7 The appointment of IEM would be for an initial tenure of three years and could be extended for another term of two years on a request received by the Commission from the organization appointing the IEM. An IEM can have a maximum tenure of 5 years in an organization with an initial term of three years and another term of two years.
- 5.8 Age should not be more than 70 years at the time of appointment/extension of tenure.
- 5.9 Remuneration payable to the IEMs by the organization concerned would be equivalent to that admissible to an Independent Director in the organization and in any case should not exceed Rs. 20,000/- per sitting. Remuneration being paid to existing IEMs may not be changed to their detriment for the duration of their tenure.
- 5.10 The terms and conditions of appointment, including the remuneration payable to the IEMs, should not be included in the Integrity Pact or the NIT. This may be communicated individually to the IEMs concerned.

#### 6.0 Review System

All organizations implementing IP would undertake a periodical review and assessment of implementation of IP and submit progress reports to the Commission. CVOs of all organizations would keep the Commission posted with the implementation status through their annual reports and 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.

-----

No. 02-07-1-CTE-30/309204  
Central Vigilance Commission  
Chief Technical Examiner's Organization  
\*\*\*

Satarkta Bhavan, Block-A  
GPO Complex, INA, New Delhi  
Dated, the 04.03.2016

Circular No. 04/03/2016

OFFICE MEMORANDUM

Sub: Acceptance of Bank Guarantee (BG) – Reg.

\*\*\*\*\*

Reference is invited to the Commission's Circular No. 01/01/08 dated 31.12.2007 (issued vide OM No. 02-07-1-CTE-30 dated 09.05.2006), wherein necessity for ensuring verification of genuineness of Bank Guarantee prior to its acceptance was emphasized and steps were suggested.

2. It is, however, observed that the practice of paper based verification of BGs followed by the organizations is not only time consuming causing delay in acceptance/award of works or advance related payments but also its trustworthiness cannot always be ensured due to human intervention in it.

3. In this background, organizations are advised to follow IT enabled confirmation system which is swift and secured in addition to their existing paper based confirmation system. The following methods for verification may be considered by the organizations:-

- a) Getting confirmation through digitally signed secured e-mails from issuing Banks;
- b) Online verification of Company portal with user ID and password followed by 2<sup>nd</sup> stage authentication system generated One Time Password (OTP) on portal for reconfirmation;
- c) E-mail confirmation followed by 2<sup>nd</sup> stage authentication by system generated SMS through registered mobile and reconfirmation through SMS to the verifying officer.

4. Keeping above in view, organizations may evolve their own procedure adopting any one or more of the above methods for ensuring genuineness of BGs, which is compatible with the guidelines of Banks/Reserve Bank of India.

*R. Chandra*  
( Ramesh Chandra )  
Chief Technical Examiner  
4/3/2016

To

All Chief Vigilance Officers

सं. / No27(4)/2014(ACC)

भारत सरकार

Government of India

मंत्रिमंडलीय नियुक्ति समिति का सचिवालय

Secretariat of the Appointments Committee of the Cabinet

कार्मिक एवं प्रशिक्षण विभाग

Department of Personnel & Training

स्थापना अधिकारी का कार्यालय

Office of the Establishment Officer

\*\*\*\*\*

नॉर्थ ब्लॉक, नई दिल्ली

North, Block, New Delhi

दिनांकित / Dated : 22.10.2014

कार्यालय ज्ञापन

OFFICE MEMORANDUM

\*\*\*\*\*

**Subject:** Guidelines for processing proposals for appointment to Board level posts in Central Public Sector Enterprises(CPSEs).

Attention of all Ministries/Departments is invited to Secretary, PESB's D.O. letter No. 13/07/2010-PESB dated 13.05.2011 vide which detailed guidelines for appointment/extension/confirmation to the Board level posts were circulated. Consolidated guidelines to be followed in this regard are also available on this Department's website [www.persmin.nic.in](http://www.persmin.nic.in) (O.M. & Orders →Establishment Officer→ S.No.10 - Guidelines for processing cases of Board level appointments in Central Public Sector Enterprises).

2. It has been observed that the timelines prescribed for processing the proposals for appointments to Board level posts in CPSEs are not being adhered to. The resultant delay in filling up the Board level vacancies has been a matter of serious concern for the Government. In order to address this issue effectively, the following timelines are hereby issued for information and strict compliance:-

PESB will initiate the process for filling up of Board level vacancies at least one year prior to the date on which the vacancy arises. (The Ministry concerned shall be responsible to intimate all anticipated vacancies to the PESB well in time for this process to commence.)	<b>6 months prior to scheduled expiry of tenure</b>	<b>PESB</b> ↓	Initiate selection process 1 year prior to date of vacancy; send recommendations to Ministry 6 months before date of vacancy
PESB will complete the selection process and send its recommendations to the Ministry at least 6 months prior to the date of vacancy.			
Ministry concerned will forward the PESB recommendation with vigilance profile of the selected individual to CVC within 10 days from the receipt of PESB recommendation.	<b>10 days</b>	<b>MINISTRY</b> ↓	Forward vigilance profile to CVC

CVC will complete the Vigilance clearance process within two months from the date of receipt of the vigilance profile of the selected candidate from the Ministry and send it to the Ministry. This period of two months will include consultation with CBI/CBI clearance, reference to the CVO of the Ministry for any report, clarifications, etc.	<b>60 days</b>	<b>CVC</b> ↓	Vigilance clearance or denial including consultation with CBI
The Ministry concerned will, with the approval of the Minister, forward the proposal to ACC Secretariat (E.O.) within the next 10 days.	<b>10 days</b>	<b>MINISTRY</b> ↓	Will forward with Minister's approval
The ACC will thereafter take a decision on the proposal within six weeks of its receipt by the ACC Secretariat.	<b>6 Weeks</b>	<b>ACC</b>	Decision

3. The Establishment Officer will monitor compliance of the above time-line and bring any abnormal and unexpected delay to the notice of the Cabinet Secretariat. To facilitate monitoring of proposals at every stage, all Ministries/Departments shall upload and update the data filled in AVMS on real time basis so that effective monitoring can be done.

4. It is further noted that appointments are getting considerably delayed in cases where vigilance clearance is neither denied nor given but is awaited. In order to avoid delays on account of non-receipt of vigilance clearance, the following guidelines are hereby issued:-

(a) The instructions contained in DoPT's O.M. No. 104/76/2011-AVD.I dated 18.10.2013 regarding handling of pseudonymous/ anonymous complaints should be strictly adhered to at all levels. Further as per CVC's instructions issued vide Office Order No.57/8/04 dated 31.08.2004, no cognizance should be taken of any complaint received within six months prior to the initiation of the selection process. *For this purpose, the date of interview held by the PESB would be the crucial date, six months prior to which no cognizance would be taken of complaints received against the selected candidates.* Such complaints therefore should not have any bearing on the ACC process and would not prejudice the same. Such complaints should however be dealt separately and necessary action be taken in the event of any adverse conclusion even after the appointment is made.

(b) (i) In case vigilance clearance is not denied by CVC within the two months period stipulated above (which would include consultation with CBI/CBI clearance, reference to the CVO of the Ministry for any report, clarification etc), the Ministries shall proceed with the appointment process, without waiting any further.

- (ii) While submitting such proposals for the consideration of ACC, the Ministry shall provide the complete details of cases/complaints, if any, pending against the selected candidate and their specific views regarding the gravity of the allegations and the culpability of the concerned candidate. While the Ministry may not have much difficulty in processing the proposal when selected candidate is from an organisation under the control of the same Department, some advance action would be required when the candidate is coming from outside. For this purpose, the Ministry shall obtain the complete vigilance profile of the candidate from the concerned Ministry/Department to which the selected candidate belongs as soon as the PESB recommendation is received by them. The Ministry shall also obtain complete details of the cases/complaints, if any, which are pending for enquiry and the concerned Department's views thereon.

5. The timelines currently prescribed for processing ACC proposals and the existing instructions regarding vigilance clearance shall accordingly stand modified to the extent stipulated above.
6. This issues with the approval of the Competent Authority.

(B. P. Sharma)

Establishment Officer & Additional Secretary

■ : 23092370

To

All the Secretaries in Ministries/Departments of the Government of India

Copy to:-

1. The Prime Minister's Office(Shri V. Sheshadri, Director) New Delhi.
2. Cabinet Secretariat(Ms. Nivedita Shukla Verma), New Delhi.
3. The Secretary, Central Vigilance Commission, New Delhi.
4. The Secretary, PESB, New Delhi.
5. NIC (DoP&T)-with request to upload the O.M. on the website of DoPT.
6. EO(ACC)- (30) copies.

  
22.10.2014  
(Virender Singh)

Under Secretary to the Government of India

■ : 23093671

सं. / No.17(9)EO/2014-ACC

भारत सरकार

Government of India

मंत्रिमंडलीय नियुक्ति समिति का सचिवालय

Secretariat of the Appointments Committee of the Cabinet

कार्मिक एवं प्रशिक्षण विभाग

Department of Personnel & Training

स्थापना अधिकारी का कार्यालय

Office of the Establishment Officer

\*\*\*\*\*

नॉर्थ ब्लॉक, नई दिल्ली

North, Block, New Delhi

दिनांकित / Dated : 30.10.2014

कार्यालय ज्ञापन

OFFICE MEMORANDUM

**Subject:** Policy guidelines for Extension of tenure of Board level incumbents where vigilance clearance is not available.

As per extant policy, in case the initial term of 05 years of a Board-level appointee come to an end prior to his/her date of superannuation, extension of his/her tenure upto the date of superannuation is considered with the approval of the ACC subject to his/her being free from vigilance angle and meeting the prescribed performance parameters. In terms of existing instructions, services of any Board-level appointee cannot be terminated on completion of his initial term, if he/she is due for extension, without specific orders of the ACC. There are many cases, however, where vigilance clearance is not given in time by CVC/concerned administrative Ministry/Department due to complaints/inquiries pending against the concerned officer.

2. The issue of extension of tenure of Board level incumbents has been examined and with the approval of the ACC, it has been decided to henceforth follow the following procedure in this regard :-

- (I) As in the case of fresh appointments, in line with CVC's instructions dated 31.08.2004, no cognizance should be taken of any complaint which is received within 06 months prior to the terminal date of the approved tenure of Board-level appointees. This is imperative as it has been frequently observed that there is a spate of allegations and complaints against Board-level officials whose cases become due for extension of tenure.
- (II) The Department should take a conscious decision on whether to extend the term of a Board-level appointee at least one year in advance of the completion of his initial term so that adequate time is available for the Department to obtain CVC clearance.
- (III) Taking into account the vigilance status as on the date six months before the terminal date of initial appointment, the CVC may give its clearance within two months of receiving the reference in this

regard from the Administrative Ministry. This limit of two months will include time taken for back references, CBI references/inquiries, etc.

(IV) Even though complaints received after the cut-off date shall have no bearing upon the process of extension of tenure and would not prejudice the same, such complaints shall be dealt with as per the normal procedure. Disregarding such complaints received after the cut off date at the time of deciding upon extension of tenure may not be of any serious consequence as the appointment can always be terminated at a later date if the charges are substantiated on the basis of an inquiry.

(V) (a) In respect of the cases where CVC clearance has been delayed beyond the prescribed timelines, merely on account of procedural reasons, and where there is no denial of vigilance clearance, the case of extension could be processed without waiting any further.

(b) In respect of the cases where CVC clearance is awaited, and there are cases/complaints pending against the officer, the Ministry shall submit to ACC, a proposal for extension of tenure, at least two months prior to the officer's approved tenure with:

- (i) all available information in respect of the complaint;
- (ii) material received from/sent to CVC, including enquiry report, if any, of the CVO of the Ministry;
- (iii) the comments of the Ministry thereon.

3. All the Ministries/Departments are requested to strictly adhere to the time-line and procedural guidelines stipulated above for processing the proposals for extension of tenure of Board level appointees.

  
(Anand Madhukar)  
Director (ACC)  
☎: 23092272

To

All the Secretaries in Ministries/Departments of the Government of India

Copy to:-

1. The Prime Minister's Office (Shri V. Sheshadri, Director) New Delhi.
2. Cabinet Secretariat (Ms. Nivedita Shukla Verma), New Delhi.
3. The Secretary, Central Vigilance Commission, New Delhi.
4. The Secretary, PESB, New Delhi.
5. NIC (DoP&T)-with request to upload the O.M. on the website of DoPT.
6. EO(ACC)- (30) copies.

  
(Anand Madhukar)  
Director (ACC)  
☎: 23092272

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स / Fax : 24651186



सत्यमेव जयते

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लैक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

सं./No. 98/ORD/1(viii)

दिनांक / Dated 29<sup>th</sup> April, 2014

Circular No.01/04/14

**Sub: Short-comings in bid documents**

**Ref:** Commission's circular No.33/7/03 dated 9<sup>th</sup> July, 2003

The Commission has been impressing upon all Organisations to ensure transparency and fairplay in all procurements/contracts. One of the concern relates to the short-comings in framing of NITs and bid documents which results in ambiguity and scope for interpretation differently during processing and award of contracts by the organisations.

2. The Commission had vide its Office Order No.33/7/03 dated 9<sup>th</sup> July, 2003, advised 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. The above instructions are reiterated for compliance by all Ministries/Departments/ Organisations.

(J Vinod Kumar)  
Officer on Special Duty

To

All Chief Vigilance Officers.



No. 011/VGL/053 - 18.5.09  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block-A,  
GPO Complex, INA,  
New Delhi-110023.  
Dated: 23<sup>rd</sup> July, 2012

Circular No. 06/07/12

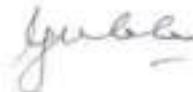
Subject:- Adoption of Integrity Pact-Standard Operating Procedure-reg.

In continuation of Commission's circular No. 10/5/09 dated 18.5.09 laying down "Standard Operating Procedure" for adoption of Integrity Pact in major Govt. Department/organisations, the Commission has decided to lay down age criteria for appointment of IEMs. Commission has therefore resolved that at the time of appointment as IEM, the person concerned should be less than 70 years of age. On completion of tenure of initial three years if age of 70 years has been crossed, further extension of two years will not be admissible.

2. Accordingly, a new sub-para i.e. 5.10 under Para 5 of the Commission's circular No. 10/5/09 dated 18.5.09 is added which may be read as under:

*5.10 At the time of appointment as IEM the person should be less than 70 years of age. On completion of tenure of initial three years if age of 70 years has been crossed, further extension of two years will not be admissible.*

Other provision contained in Commission's circular No. 10/5/09 dated 18.5.09 would remain unchanged.



(Madhu Sham)  
Deputy Secretary

All Chief Vigilance Officers

No. 011/VGL/053 - 18.5.09  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block-A,  
GPO Complex, INA,  
New Delhi-110023.  
Dated: 23<sup>rd</sup> July, 2012

Circular No. 06/07/12

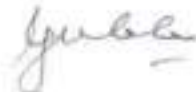
Subject:- Adoption of Integrity Pact-Standard Operating Procedure-reg.

In continuation of Commission's circular No. 10/5/09 dated 18.5.09 laying down "Standard Operating Procedure" for adoption of Integrity Pact in major Govt. Department/organisations, the Commission has decided to lay down age criteria for appointment of IEMs. Commission has therefore resolved that at the time of appointment as IEM, the person concerned should be less than 70 years of age. On completion of tenure of initial three years if age of 70 years has been crossed, further extension of two years will not be admissible.

2. Accordingly, a new sub-para i.e. 5.10 under Para 5 of the Commission's circular No. 10/5/09 dated 18.5.09 is added which may be read as under:

*5.10 At the time of appointment as IEM the person should be less than 70 years of age. On completion of tenure of initial three years if age of 70 years has been crossed, further extension of two years will not be admissible.*

Other provision contained in Commission's circular No. 10/5/09 dated 18.5.09 would remain unchanged.



(Madhu Sham)  
Deputy Secretary

All Chief Vigilance Officers

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24651001 - 07

फैक्स/Fax : 24616286



सत्यमेव जयते

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

सं./No.....12-02-6-CTE/SPI(I)-2/161730

दिनांक / Dated.....13.01.2012.....

Circular No. 03/01/12

**Sub: 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.

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 or 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.

(J. Vinod Kumar)

Officer on Special Duty

To: All CVOs of Ministries / Departments / PSUs / Banks / Insurance Companies / Autonomous Organizations / Societies / UTs.

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24651001 - 07

फैक्स/Fax : 24616286



सत्यमेव जयते

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

सं./No. 010/VGL/035/61731

दिनांक / Dated 12.01.2012

Circular No. 01/01/2012

**Sub: 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](http://www.egovstandards.gov.in)]. The guidelines are also available on Commission's website [[www.cvc.nic.in](http://www.cvc.nic.in)] (link-circular/instructions). All the Ministries/Departments/Organizations are advised to use these guidelines for compliance to Quality Requirements for certifying the e-Procurement systems.

(J Vinod Kumar)  
Officer on Special Duty

To

CVOs of all Ministries/Departments  
CVOs of all Public Sector Enterprises  
CVOs of all Public Sector Banks/Insurance Companies and Organizations

Telegraphic Address :  
"SATARKTA: New Delhi

सं./No. 98/ORD/001

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24651001 - 07

फैक्स/Fax : 24616286

भारत सरकार  
केन्द्रीय सतर्कता आयोग  
GOVERNMENT OF INDIA  
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023  
28<sup>th</sup> October, 2011

दिनांक / Dated.....

Circular No. 12/10/11

**Subject: 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.**

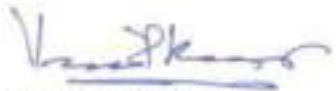
References have been received seeking clarification whether the Commission's guidelines contained in Circular No.3(V)/99/9 dated 1<sup>st</sup> October 1999 are binding even for the projects which are funded by international funding agencies like World Bank, ADB etc.

2. Para 2 of the Commission's Circular dated 1<sup>st</sup> 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 purchases/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.

  
(J. Vinod Kumar)  
Officer on Special Duty

All Chief Vigilance Officers

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24651001 - 07

फैक्स/Fax : 24616286



सत्यमेव जयते

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023  
011/VGL/063

सं./No.....

दिनांक / Dated..... 24<sup>th</sup> June, 2011

Circular No. 08/06/11

**Subject: 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 interests. 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.



(J Vinod Kumar)  
Officer on Special Duty

To

1. All Chief Vigilance Officers of Ministries / Departments / PSUs / Banks / Insurance Companies / Autonomous Organizations / Societies / UTs.
2. All Secretaries to the Government of India.
3. All CEOs / Heads of Organizations of PSUs / Banks / Insurance Companies etc.

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24651001 - 07

फैक्स/Fax : 24616286



सत्यमेव जयते

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023  
011/VGL/063

सं./No.....

दिनांक / Dated..... 24<sup>th</sup> June, 2011

Circular No. 08/06/11

**Subject: 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 interests. 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.



(J Vinod Kumar)  
Officer on Special Duty

To

1. All Chief Vigilance Officers of Ministries / Departments / PSUs / Banks / Insurance Companies / Autonomous Organizations / Societies / UTs.
2. All Secretaries to the Government of India.
3. All CEOs / Heads of Organizations of PSUs / Banks / Insurance Companies etc.

No. 01-11-CTE-SH-100  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A'  
GPO Complex, L.N.A.,  
New Delhi- 110023  
Dated the 17<sup>th</sup> Feb, 2011

Circular No. 02/02/11

**Sub: Mobilization Advance**

Commission had earlier issued guidelines on granting of 'Mobilisation 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 Mobilisation Advance.

- (i) The Bank Guarantee etc. taken towards security of 'Mobilisation 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 mobilisation advance should not be paid in less than two instalments except in special circumstances for the reasons to be recorded. This will keep check on contractor misutilizing the full utilisation advance when the work is delayed considerably.
- (iii) A clause in the tender enquiry and the contract of cases providing for interest free mobilisation advances may be stipulated that if the contract is terminated due to default of the contractor, the 'Mobilisation 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.

  
(Anil Singhal)  
Chief Technical Examiner

To

All Chief Vigilance Officers



सत्यमेव जयते



Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24651001 - 07

फैक्स/Fax : 24616286

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

सं./No..... No.011/VGL/014

दिनांक / Dated..... 11<sup>th</sup> February, 2011

Circular No.01/02/11

**Sub: 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 the various technical aspects and evaluation criteria. Based on the 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.

  
(Anil Singhal)  
Chief Technical Examiner

To

All Secretaries of Ministries/Departments  
All CEOs/Heads of Organisations  
All Chief Vigilance Officers

F.No. 010/VGL/066  
Central vigilance commission

Satarkata Bhawan,  
Block A, GPO Complex,  
INA, New Delhi – 110023  
Dated 07-10-2010


Circular No. 34/10/10

**Subject: Design Mix Concrete**

During inspection of works of many organisations, 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 organisations 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 organisations are not even aware about the amendment No. 3 of 2007 modifying clause 15.1.1 of IS 456:2000. All organisations 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.

  
(V.K. Gupta)  
7.10.10  
Chief Technical Examiner

All CVOs

No. 008/CRD/013  
Central Vigilance Commission

Satarkta Bhawan, Block-A,  
GPO Complex, INA,  
New Delhi-110023.  
Dated: 13/8/2010

**Circular No. 31/08/10**

Subject:- 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 organisations 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

All Chief Vigilance Officers

No.010/VGL/035  
Central Vigilance Commission  
\*\*\*\*

Satarkta Bhawan, GPO Complex  
INA, New Delhi  
Dated 23 June, 2010.

Circular No. 23/06/010

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

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

  
(Shalini Darbari)  
Director

To,

All Secretaries of Deptts / Ministries.  
All CMDs / Chief Executives of CPSUs / Banks / Insurance Companies etc.  
All Chief Vigilance Officers

No.005/CRD/19(part)  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkata Bhawan, GPO Complex,  
INA, New Delhi,  
Dated 19<sup>th</sup> May, 2010

OFFICE ORDER No.19/05/10

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

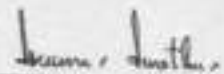
Commission vide Circular No.15/5/06 dated 09/05/2006 had prescribed certain measures to be followed on works/purchase/consultancy contracts awarded on nomination basis by PSUs. These instructions have since been reviewed in the Commission and the Commission is of the view that the Board of the PSU is 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".

  
\_\_\_\_\_  
(Vineet Mathur)  
Director

**All Chief Vigilance Officers of CPSUs.**

Copy to:

- (i) All Secretaries of Govt. of India
- (ii) All CEOs/Heads of Organizations



Telegraphic Address :  
SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24651001 - 07

फैक्स/Fax : 24616286

सं. / No. No. 009/VGL/002

भारत सरकार  
केन्द्रीय सतर्कता आयोग  
GOVERNMENT OF INDIA  
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

दिनांक / Date 26<sup>th</sup> April..2010.....

Circular No 18/04/2010

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

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

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

*Ramachandran*

(V. Ramachandran)  
Chief Technical Examiner

To

All CVOs of Ministries/Departments/PSUs/Banks/Insurance Companies/  
Autonomous Organisations/Societies/UTs

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

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 purchased / downloaded the bid documents well ahead of the due date & before uploading the corrigendum?	Yes	No
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 customised 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 synchronisation & 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
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

009/VGL/016  
Government of India  
Central Vigilance Commission

Satarkata Bhawan  
GPO Complex, Block-A,  
INA , New Delhi-110023  
Dated: 19<sup>th</sup> April, 2010

Circular number 17/04/10

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

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

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

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

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



---

(Vineet Mathur)  
Director

All Chief Vigilance Officers

Telegraphic Address :  
"SATARKTA: New Delhi

सं./No. 005/CRD/012

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24651001 - 07

फैक्स/Fax : 24616286

भारत सरकार  
केन्द्रीय सतर्कता आयोग  
GOVERNMENT OF INDIA  
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

दिनांक / Dated .....  
20<sup>th</sup> January, 2010

- (i) The Secretaries of all Ministries/Departments of Government of India
- (ii) The Chief Secretaries to All Union Territories
- (iii) The Comptroller & Auditor General of India
- (iv) The Chairman, Union Public Service Commission
- (v) The Chief Executives of all PSEs/Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies.
- (vi) The Chief Vigilance Officers in the Ministries/Departments/PSEs/Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies
- (vii) President's, Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO

CIRCULAR No.01/01/10

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

In the said circular it has, among other things, been stated "As post tender negotiations could often be a source of corruption, it is directed that there should be no post tender negotiations with L1, except in certain exceptional situations". It has come to Commission's notice that this has been interpreted to mean that there is a ban on post tender negotiations with 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.

  
(V. Ramachandran)  
Chief Technical Examiner

No. 009/VGL/055  
Government of India  
Central Vigilance Commission  
\*\*\*\*

Satarkta Bhawan, Block-A  
GPO Complex, INA,  
New Delhi-110023  
Dated, the 09<sup>th</sup> Nov., 2009

Circular No.- 31 /10/09

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

\*\*\*\*\*

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

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

  
( Shalini Darbari )  
Director

Encl: As above.

All CVO's of Ministries/Departments

## CHAPTER VI

### PRICE/PURCHASE PREFERENCE

#### 12. DPE/Guidelines/VI/12

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

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

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

- (a) Industry-wise assessment to be done by the concerned Ministries and in case of cost effectiveness is achieved by any PSEs there may not be any need for extending preference to such PSEs. Such examination should be done on the line as to whether any preference is at all called for and the extent of margin of preference to be allowed, which would also ensure level playing field for others. Further, while splitting the tenders, the minimum quantity/amount should be so fixed as to ensure that it is rational and there is no element of uncertainty. In other words, there should not be any rigid / inflexible purchase preference policy without examination as to whether such protection is necessary for a particular PSE;
- (b) Present practice of allowing uniform margin of 10% over the L-1 bidder, as purchase preference to CPSEs, has to be reviewed and margin should be fixed PSE specific by the concerned Ministry on a rational basis;
- (c) The overall impact of such preference to be allowed on foreign direct investment has also to be assessed/considered.

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

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

concern, as per their requirement.

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

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

\*\*\*



Telegraphic Address :  
"SATARKTA" New Delhi

E-Mail Address :  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24651001 - 07

फैक्स/Fax : 24616286

सं. / No. 009/VGL/002

भारत सरकार  
केन्द्रीय सतर्कता आयोग  
GOVERNMENT OF INDIA  
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

दिनांक / Dated.....  
17<sup>th</sup> September, 2009

Circular No 29/9/09

**Subject : - 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 organisations 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 organisations 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. Organisations concerned may follow these guidelines while implementing e-tendering solutions to contain the security related loop holes.

*Ramachandran*  
(V. Ramachandran)  
Chief Technical Examiner

To  
All CVOs of Ministries/Departments/PSUs/Banks/Insurance Companies/  
Autonomous Organisations/Societies/UTs.

## Guidelines on Security considerations for e-procurement System.

### 1.0 E-procurement Systems.

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.

#### 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 unauthorised access to the e-procurement system at system level.
Monitoring	Deployment of logging at OS/ network level and monitoring the same.
Secure configuration of 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.
Structured cabling.	The availability of the network services is critically dependent on the quality of interconnection between the hosts through structured including termination and marking. It is expected the e-procurement system has implemented structured cabling and other controls related with network and interconnection.

## 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.	<p>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.</p> <p>All user-supplied fields should be validated at the server side.</p>
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>

	When writing log data, the application should avoid writing sensitive data to log files.
--	--

### **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.	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

	<p>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>
Access control.	<p>Applications should enforce an authorisation 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>Authorisation checks should require prior successful authentication to have occurred.</p> <p>All attempts to obtain access, without proper authorisation 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 access 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 centralised 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.

No.009/VGL/030  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated: 11<sup>th</sup> August, 2009

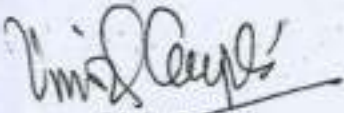
Circular No. 13/6/09

**Subject: Intensive examination of CTE – Steps for early finalisation of pending vigilance references with CVOs- reg.**

The Chief Technical Examiner's Organisation of the Commission conducts independent technical examination of various types of works/contracts/ procurements awarded by the organisations, falling within the jurisdiction of the Commission. After intensive examination of the work is carried out by the CTE's organisation, an inspection report is sent to the CVO. The CVO is required to obtain comments of various officers of the organisation 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 organisation 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 organisations and to appreciate the perceived vigilance angle in such references of CTE, the CVOs of the organisations 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 organisation-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.

  
(V.K. Gupta)  
Chief Technical Examiner

**All Chief Vigilance Officers**

**VIGILANCE -1**

S.NO.	NAME OF ORGNISATION	CIVIL	ELECT/STORE
1	<b>NORTHERL RAILWAYS</b>	8	1
2	<b>METRO RAILWAYS</b>	2	2
3	<b>IRCON</b>	2	-
4	<b>RVNL</b>	1	-
5	<b>CONCOR</b>	1	1
6	<b>RITES</b>	1	1
	<b>TOTAL</b>	15	5

**VIGILANCE -2**

S.NO.	NAME OF ORGNISATION	CIVIL	ELECT/STORE
1	<b>NHAI</b>	11	-
2	<b>STPI</b>	1	-
3	<b>AAI</b>	2	-
4	<b>BSNL</b>	2	3
5	<b>D/O SHIPPING</b>	-	1
6	<b>AIR INDIA LTD</b>	-	1
7	<b>KOLKATA PORT TRUST</b>	-	1
8	<b>ITDC</b>	2	-
9	<b>PPT</b>	-	1
10	<b>IWAI</b>	1	-
11	<b>KANDLA PORT TRUST</b>	1	-
12	<b>HOTEL CORPORATION OF INDIA</b>	1	-
13	<b>V.P.T.</b>	1	-
14	<b>C.P.T.</b>	2	-
15	<b>JNPT</b>	1	-
16	<b>PAWAN HANS</b>	1	-
	<b>TOTAL</b>	26	7

**VIGILANCE -3**

S.NO.	NAME OF ORGNISATION	CIVIL	ELECT/STORE
1	<b>L.I.C.</b>	1	-
2	<b>UNION BANK OF INDIA</b>	1	-
3	<b>S.B.I.</b>	3	2
4	<b>UCO BANK</b>	-	2
5	<b>C.B.I.</b>	1	-
6	<b>BANK OF INDIA</b>	1	-
7	<b>RBI</b>	-	1
8	<b>SBBJ</b>	1	-
9	<b>ALLAHABAD BANK</b>	-	1
10	<b>CORPORATION BANK</b>	-	1
11	<b>SYNDICATE BANK</b>	-	1
	<b>TOTAL</b>	8	8



VIGILANCE -6

S.NO.	NAME OF ORGNISATION	CIVIL	ELECT/STORE
1	NJPC ( NOW SJVNL)	2	-
2	ARAI	1	-
3	KRIBHCO	1	-
4	BHPVL	2	-
5	PGCIL	2	3
6	TRIVENI STRUCTURE LTD.	1	-
7	IFFCO	1	-
8	NTPC	5	2
9	MECON LTD	1	1
10	NEEPCO	2	-
11	ONGC	2	-
12	HOCL	1	-
13	IOCL	2	1
14	HIND. ANTIBIOTICS	1	-
15	NMDC	1	-
16	THDC	2	-
17	NHPC	9	1
18	BURN STANDARD CO.	-	1
19	HIND. PAPER CORPN.	-	1
20	NLC	-	3
21	BBMB	-	2
22	SAIL	-	2
23	MANGANISE ORE INDIA	-	1
24	CSIR	2	-
25	NARMADA HYDRO-ELECTRIC DEV.	1	-
26	GAIL	2	1
27	OIL	1	-
28	HPCL	1	1
29	D/O ATOMIC ENERGY	-	2
30	CEL	-	1
31	NALCO	-	1
32	EPIL	-	1
33	SIL	-	2
34	RINL	-	1
35	DVC	1	2
36	CCL	1	-
37	NPCIL	1	-
38	AEPC	1	-
39	BHEL	✓	2
	<b>TOTAL</b>	<b>47</b>	<b>32</b>

VIGILANCE -7

S.NO.	NAME OF ORGNISATION	CIVIL	ELECT/STORE
1	NPCC	2	--
2	IIT, BOMBAY	1	-
3	IIT, ND	1	-
4	M/O HFW	-	1
5	HSCCL	2	-
6	PGIMER	1	1
7	NCCF	-	1
8	BIS	-	1
9	IIT, GUWAHATI	1	-
10	IGNOU	-	1
11	IIT, KHARAGPUR	1	-
12	NIOS	1	-
13	IIT, MADRAS	1	-
14	IIT, KANPUR	-	1
	<b>TOTAL</b>	11	6

VIGILANCE -8

S.NO.	NAME OF ORGNISATION	CIVIL	ELECT/STORE
1	NBCC	2	-
2	DSIDC	1	1
3	NDMC	1	-
4	DJB	-	2
5	GNCTD	2	1
6	DDA	5	1
7	MCD	4	-
8	CPWD	4	-
9	DMRC	-	1
	<b>TOTAL</b>	19	6

VIGILANCE -9

S.NO.	NAME OF ORGNISATION	CIVIL	ELECT/STORE
1	MDL	1	-
2	PRASAR BHARTI	1	2
3	MHA	-	1
4	CHANDIGARH ADMN.	2	1
5	M/O DEFENCE	1	3
6	HAL	-	2
7	MES	1	-
8	GSL	1	-
	<b>TOTAL</b>	7	9

No. 008/CRD/013  
Government of India  
Central Vigilance Commission

Satarkta Bhawan, Block-A,  
GPO Complex, INA,  
New Delhi-110023.  
Dated: 11/8/09

**Circular No. 22/08/09**

Subject:- Adoption of Integrity Pact-Periodical regarding

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

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

3. This may be noted for future compliance.

Sd/-  
(Shalini Darbari)  
Director

All Chief Vigilance Officers

No.005/VGL/4  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 14<sup>th</sup> July, 2009

**CIRCULAR No. 17/7/09**

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

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

2. On a review of the status of implementation by the organisations, it is observed that some organisations have not adhered to the instructions and implemented the same. Further, such information being posted on the websites are not being regularly updated on a continuous basis by certain organisations 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.



**(Shalini Darbari)**  
**Director**

**To**

**All Secretaries of Ministries/Departments**  
**All CEOs /Heads of Organisations**  
**All Chief Vigilance Officers**

No. 008/CRD/013  
Government of India  
Central Vigilance Commission

Satarkta Bhawan, Block-A,  
GPO Complex, INA,  
New Delhi-110023.  
Dated: 18/5/09

Circular No. 10/5/09

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

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

Sd/-

(Shalini Darbari)  
Director

All Chief Vigilance Officers

**NOTE: SECTION 6.02 (i) & 6.02 (ii) OF THE SOP ON INTEGRITY PACT HAS  
BEEN DELETED WITH CIRCULAR No. 31/08/10 DATED 13.8.10.**

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

## **1.0 Background**

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

## **2.0 Integrity Pact**

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

- Promise on the part of the principal not to seek or accept any benefit, which is not legally available;
- Principal to treat all bidders with equity and reason;
- Promise on the part of bidders not to offer any benefit to the employees of the Principal not available legally;
- Bidders not to enter into any undisclosed agreement or understanding with other bidders with respect to prices, specifications, certifications, subsidiary contracts, etc.
- Bidders not to pass any information provided by Principal as part of business relationship to others and not to commit any offence under PC/IPC Act;
- Foreign bidders to disclose the name and address of agents and representatives in India and Indian Bidders to disclose their foreign principals or associates;

- Bidders to disclose the payments to be made by them to agents / brokers or any other intermediary.
- Bidders to disclose any transgressions with any other company that may impinge on the anti corruption principle.

2.02 Integrity Pact, in respect of a particular contract, would be operative from the stage of invitation of bids till the final completion of the contract. Any violation of the same would entail disqualification of the bidders and exclusion from future business dealings.

### **3.0 Implementation procedure:**

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

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

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

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

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

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

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

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

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

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

#### **4.0 Role /Functions of IEMs :**

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

4.02. It would be desirable to have structured meeting of the IEMs with the Chief Executive of the organization on a monthly basis to discuss/review the information on tenders awarded in the previous month.

4.03 The IEMs would examine all complaints received by them and give their recommendations/views to the Chief Executive of the organization, at the earliest. They may also send their report directly to the CVO and the Commission, in case of suspicion of serious irregularities requiring legal/administrative action.

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

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

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

#### **5.0 Appointment of IEMs**

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

5.02 While forwarding the panel, the organization would enclose detailed bio-data in respect of all names proposed. The details would include postings before superannuation, special achievements, experience, etc., in Government sector. It is desirable that the persons proposed possess domain experience



of the PSU activities or the relevant field with which they may be required to deal.

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

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

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

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

5.07 Remuneration payable to the IEMs would be equivalent to that admissible to an Independent Director in the organization. This remuneration would be paid by the organization concerned.

5.08 The terms and conditions of appointment, including the remuneration payable to the IEMs, should not be included in the Integrity Pact or the NIT. They could be communicated individually to the IEMs concerned.

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

## **6.0 Review System :**

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

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

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

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

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

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

\*\*\*\*\*

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

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

**Office Order No.41/12/07**

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

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

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

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

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

to be ensured by an appropriate provision in the contract, that the Integrity Pact is deemed as part of the contract in order to ensure that the parties are bound by the recommendation of the IEMs, in case any complaint relating to the contract, is found substantiated.

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

Sd/-

(Vineet Mathur)  
Deputy Secretary

All Secretaries to the Govt. of India  
All CMDs of PSUs All  
CMDs of PSBs  
All CVOs

Steel Authority of India Limited (SAIL) hereinafter referred to as "The Principal".

And

.....hereinafter referred to as "The Bidder/Contractor"

### **Preamble**

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

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

### **Section 1- Commitments of the Principal.**

1. The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:-
  - a. No employee of the Principal, personally or through family members, will in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.
  - b. The Principal will during the tender process treat all Bidder(s) with equity and reason. The Principal will in particular, before and during the tender process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential/additional information through which the Bidder(s) could obtain an advantage in relation to the process or the contract execution.
  - c. The Principal will exclude from the process all known prejudiced persons.
2. If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the IPC/PC Act, or it there

be a substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer and in addition can initiate disciplinary actions.

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

1. The Bidder(s)/Contractor(s) commit himself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.
  - a. The Bidder(s) / contractor(s) will not, directly or through any other persons or firm, offer promise or give to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person any material or other benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage or during the execution of the contract.
  - b. The Bidder(s)/Contractor(s) will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.
  - c. The Bidder(s)/Contractor(s) will not commit any offence under the relevant IPC/PC Act; further the Bidder(s) /Contractors will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
  - d. The Bidder(s)/Contractor(s) of foreign origin shall disclose the name and address of the Agents/representatives in India, if any. Similarly, the bidder(s)/contractor(s) of Indian Nationality shall furnish the name and address of the foreign principals, if any. Further details as mentioned in the "Guidelines on Indian Agents of Foreign Suppliers" shall be disclosed by the Bidder(s)/Contractor(s). Further, as mentioned in the Guidelines all the payments made to the Indian agent/representative have

to be in Indian Rupees only. Copy of the "Guidelines on Indian Agents of Foreign Suppliers" as annexed and marked as Annexure.

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

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

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

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

### **Section 4: Compensation for Damages**

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

### **Section 5: Previous Transgression**

1. The Bidder declares that no previous transgressions occurred in the last three years with any other company in any country conforming to the anti corruption approach or with any other public sector enterprise in India that could justify his exclusion from the tender process.
2. If the bidder makes incorrect statement on this subject, he can be disqualified from the tender process for action can be taken as per the procedure mentioned in "Guidelines on Banning of business dealings".

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

1. The Bidder(s)/Contractor(s) undertake(s) to demand from all subcontractors a commitment in conformity with this Integrity Pact, and to submit it to the Principal before contract signing.
2. The Principal will enter into agreements with identical conditions as this one with all bidders, contractors and subcontractors.
3. The Principal will disqualify from the tender process all bidders who do not sign this Pact or violate its provisions.

## **Section 7: Criminal charges against violation Bidder(s)/ Contractor(s)/Sub contractor(s).**

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

## **Section 8: Independent External Monitor/Monitors**

- (1) The Principal appoints competent and credible Independent External Monitor for this Pact. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.
- (2) The Monitor is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. He reports to the Chairman, SAIL.
- (3) The Bidder(s)/Contractor(s) accepts that the Monitor has the right to access without restriction to all project documentation of the Principal including that provided by the Contractor. The Contractor will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to Subcontractors. The Monitor is under contractual obligation to treat the information and documents of the Bidder(s)/Contractor(s)/Subcontractor(s) with confidentiality.
- (4) The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the Project



provided such meetings could have an impact on the contractual relations between the Principal and the Contractor. The parties offer to the Monitor the option to participate in such meetings.

- (5) As soon as the Monitor notices, or believes to notice, a violation of this agreement, he will so inform the Management of the Principal and request the Management to discontinue or take corrective action, or to take other relevant action. The monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.
- (6) The Monitor will submit a written report to the Chairman, SAIL within 8 to 10 weeks from the date of reference or intimation to him by the Principal and, should the occasion arise, submit proposals for correcting problematic situations.
- (7) Monitor shall be entitled to compensation on the same terms as being extended to / provided to Independent Directors on the SAIL Board.
- (8) If the Monitor has reported to the Chairman SAIL, a substantiated suspicion of an offence under relevant IPC/PC Act, and the Chairman SAIL has not, within the reasonable time taken visible action to proceed against such offence or reported it to the Chief Vigilance Officer, the Monitor may also transmit this information directly to the Central Vigilance Commissioner.
- (9) The word 'Monitor' would include both singular and plural.

### **Section 9 - Pact Duration**

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

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

### **Section 10 - Other provisions**

- This agreement is subject to Indian Law, Place of performance and jurisdiction is the Registered Office of the Principal, i.e. New Delhi.
- Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.
- If the Contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.
- Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

\_\_\_\_\_

(For & on behalf of the Principal)

(For & On behalf of Bidder/  
Contractor)

(Office Seal)

(Office Seal)

Place -----

Date -----

Witness 1 :  
(Name & Address)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Witness 2 :  
(Name & Address)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Satarkta Bhawan, Block-A  
GPO complex, INA,  
New Delhi-110023  
Dated the 28<sup>th</sup> December 2007

Office Order No.43/12/07

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

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

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

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

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

Sd/-

(Vineet Mathur)  
Deputy Secretary

All Chief Vigilance officers

No. 008VGL/001  
Government of India  
Central Vigilance Commission

\*\*\*

Satarkta Bhawan, Block-A  
GPO complex, INA,  
New Delhi-110023  
Dated, the 19<sup>th</sup> May, 2008

Circular No.18/05/08

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

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

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

3. The Commission would, therefore, direct that the organizations, while forwarding the names of the persons for empanelment as IEMs should send a detailed bio-data in respect of the each of the persons proposed. The bio-data should, among other things, include the postings during the last ten years before the superranuation 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 superranuation of the persons proposed as IEMs, if they have relevant domain experience in the activities of PSUs where they are considered as IEMs.

This may be noted for future compliance.

Sd/-

(Rajiv Verma)  
Under Secretary

All Chief Vigilance Officers

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

Satarkta Bhawan, Block-A  
GPO complex, INA,  
New Delhi-110023  
Dated the 5<sup>th</sup> August 2008

Circular No.24/8/08

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

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

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

- i. Adoption of Integrity Pact in an organization is voluntary, but once adopted, it should cover all tenders/procurements above a specified threshold value, which should be set by the organization itself.
- ii. IP should cover all phases of the contract i.e., from the stage of Notice Inviting Tender(NIT)/pre-bid stage to the stage of last payment or a still later stage, covered through warranty, guarantee etc.
- iii. IEMs are vital to the implementation of IP and atleast 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 may be similar to the Independent Directors in the organization.
  - vi. In view of limited procurement activities in the Public Sector Banks, Insurance Companies and Financial Institution, they are exempted from adopting IP.
3. It needs no reiteration that all organizations must make sustained efforts to realize the spirit and objective of the Integrity Pact. For further clarifications on its implementation or the role of IEMs, all concerned are advised to approach the Commission.

Sd/-

(Rajiv Verma)  
Under Secretary

All CVOs

No.009/VGL/002  
Government of India  
Central Vigilance Commission

Satarkta Bhawan, Block-A,  
GPO Complex, INA,  
New Delhi-110023,  
Dated: 13/01/09

CIRCULAR NO. 01 | 01/09

Subject:- 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 organisations 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 for the procurement of these services as well.

  
13/1/09  
(Shalini Darbari)  
Director

All Chief Vigilance Officers

No.008/VGL/083  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 6<sup>th</sup> November 2008

Circular No.31/11/08

**Subject: 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.

  
6/11/08  
(Shalini Darbari)  
Director



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

Satarkta Bhawan, Block-A,  
GPO Complex, INA,  
New Delhi-110023.  
Dated, the 05<sup>th</sup> August 2008

**Circular No.24/8/08**

Sub:- Adoption of Integrity Pact in major Government procurement activities.

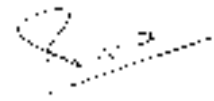
The Commission, vide its Circulars No. 41/12/07, dated 4.12.07 and 18/5/08 dated 19.5.08, has emphasized the necessity to adopt Integrity Pact (IP) in Government organizations in their major procurement activities. The Commission had also directed that in order to oversee the compliance of obligations 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 atleast 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 may be similar to the Independent Directors in the organization.
- vi) In view of limited procurement activities in the Public Sector Banks, Insurance Companies and Financial Institution, they are exempted from adopting IP.

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



(Rajiv Verma)  
Under Secretary

All CVOs

No.008 /CRD/008  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 24<sup>th</sup> July 2008

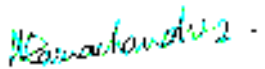
**Circular No. 22/07/08**

**Sub: – 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.

  
(V. Ramachandran)  
Chief Technical Examiner  
Central Vigilance Commission

All Chief Vigilance Officers in the Ministries/Departments/PSEs/ Public Sector Banks/Insurance Companies/ Autonomous Organisations/Societies

No. 008/VGL/001  
Government of India  
Central Vigilance Commission  
\*\*\*

Satarkta Bhawan, Block-A  
GPO Complex, INA,  
New Delhi-110023  
Dated, the 19<sup>th</sup> May, 2008

**Circular No.18/05/08**

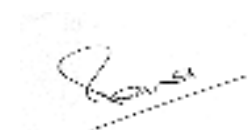
**Sub:- Adoption of Integrity Pact in major Government Procurement Activities-regarding.**

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

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

3. The Commission would, therefore, direct that the organizations, while forwarding the names of the persons for empanelment as IEMs should send a detailed bio-data in respect of 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.



(Rajiv Verma)  
Under Secretary

All Chief Vigilance Officers

**No.008/VGL/016**  
**Government of India**  
**Central Vigilance Commission**  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 18<sup>th</sup> February 2008

**Circular No.9/2/08**

**Subject :** 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.

  
**(V. Ramachandran)**  
**Chief Technical Examiner**

All Chief Vigilance Officers of Public Sector Banks

**No.007/CRD/008**  
**Government of India**  
**Central Vigilance Commission**  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 15<sup>th</sup> February 2008

**Circular No. 07/02/08**

**Subject: – 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 2<sup>nd</sup> 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.

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 2<sup>nd</sup> 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.aspx> .

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.aspx>

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.

*V. Ramachandran*

**(V. Ramachandran)  
Chief Technical Examiner  
Central Vigilance Commission**

All Chief Vigilance Officers in the Ministries/Departments/PSEs/ Public Sector Banks/Insurance Companies/ Autonomous Organisations/Societies

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

No.4CC-1-CTE-2  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 5<sup>th</sup> February 2008


Corrigendum

Circular No.5/2/08

**Subject: 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."

  
\_\_\_\_\_  
5/2/2008 (Vineet Mathur)  
Deputy Secretary

All Chief Vigilance Officers

No. 02-07-01-CTE-30  
Government of India  
Central Vigilance Commission

\*\*\*\*\*

Satarkata Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi-110023.

OFFICE MEMORANDUM  
Circular No. 01/01/08

31 DEC 2007

Sub. : 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 the 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 BGs, 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 organisation 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 organisation/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.



(Smt. Padamaja Varma)  
Chief Technical Examiner

To

All Chief Vigilance Officers

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

Satarkta Bhawan, Block-A  
GPO complex, INA,  
New Delhi-110023  
Dated the 28<sup>th</sup> December 2007

Office Order No.43/12/07


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

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

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

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

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

  
28/12/2007 (Vineet Mathur)  
Deputy Secretary

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

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

**Office Order No.41/12/07**

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

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


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

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

4. The Commission would recommend the Integrity Pact concept and encourage its adoption and implementation in respect of all major procurements of the Govt. organizations. As it is necessary that the Monitors appointed should be of high integrity and reputation, it has been decided that the Commission would approve the names of the persons to be included in the panel. The Government Organizations are, therefore, required to submit a panel of names of eminent

persons of high integrity and repute and experience in the relevant field, through their administrative Ministry, for consideration and approval by the Commission as Independent External Monitors. The terms and conditions including the remuneration payable to the Monitors need not be a part of the Integrity Pact and the same could be separately communicated. It has also to be ensured by an appropriate provision in the contract, that the Integrity Pact is deemed as part of the contract in order to ensure that the parties are bound by the recommendation of the IEMs, in case any complaint relating to the contract, is found substantiated.

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

  
4/12/2007 (Vineet Mathur)  
Deputy Secretary

All Secretaries to the Govt. of India  
All CMDs of PSUs  
All CMDs of PSBs  
All CVOs





SAIL



## **INTEGRITY PACT**

Between

**Steel Authority of India Limited (SAIL)** hereinafter referred to as "**The Principal**",

and

..... hereinafter referred to as "**The Bidder/ Contractor**"

### **Preamble**

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

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

### **Section 1 - Commitments of the Principal**

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

- a. No employee of the Principal, personally or through family members, will in connection with the tender for , or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.
- b. The Principal will, during the tender process treat all Bidder(s) with equity and reason. The Principal will in particular, before and during the tender process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential / additional information through which the Bidder(s) could obtain an advantage in relation to the tender process or the contract execution.
- c. The Principal will exclude from the process all known prejudiced persons.



SAIL

12

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

**Section 2 – Commitments of the Bidder(s)/ contractor(s)**

- (1) The Bidder(s)/ Contractor(s) commit himself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.
- a. The Bidder(s)/ Contractor(s) will not, directly or through any other person or firm, offer, promise or give to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person any material or other benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.
  - b. The Bidder(s)/ Contractor(s) will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelisation in the bidding process.
  - c. The Bidder(s)/ Contractor(s) will not commit any offence under the relevant IPC/PC Act; further the Bidder(s)/ Contractor(s) will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
  - d. The Bidder(s)/Contractors(s) of foreign origin shall disclose the name and address of the Agents/representatives in India, if any. Similarly the Bidder(s)/Contractors(s) of Indian Nationality shall furnish the name and address of the foreign principals, if any. Further details as mentioned in the "Guidelines on Indian Agents of Foreign Suppliers" shall be disclosed by the Bidder(s)/Contractor(s).Further, as mentioned in the Guidelines all the payments made to the Indian agent/representative have to be in Indian Rupees only. Copy of the "Guidelines on Indian Agents of Foreign Suppliers" is annexed and marked as Annex-

- e. The Bidder(s)/ Contractor(s) will, when presenting his bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.
- (2) The Bidder(s)/ Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

### **Section 3- Disqualification from tender process and exclusion from future contracts**

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

### **Section 4 - Compensation for Damages**

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

### **Section 5 - Previous transgression**

- (1) The Bidder declares that no previous transgressions occurred in the last 3 years with any other Company in any country conforming to the anti corruption approach or with any other Public Sector Enterprise in India that could justify his exclusion from the tender process.
- (2) If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or action can be taken as per the procedure mentioned in "Guidelines on Banning of business dealings".

**Section 6 - Equal treatment of all Bidders / Contractors / Subcontractors**

- (1) The Bidder(s)/ Contractor(s) undertake(s) to demand from all subcontractors a commitment in conformity with this Integrity Pact, and to submit it to the Principal before contract signing.
- (2) The Principal will enter into agreements with identical conditions as this one with all Bidders, Contractors and Subcontractors.
- (3) The Principal will disqualify from the tender process all bidders who do not sign this Pact or violate its provisions.

**Section 7 - Criminal charges against violating Bidder(s) / Contractor(s) / Subcontractor(s)**

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

**Section 8 - Independent External Monitor / Monitors**

- (1) The Principal appoints competent and credible Independent External Monitor for this Pact. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.
- (2) The Monitor is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. He reports to the Chairman, SAIL.
- (3) The Bidder(s)/Contractor(s) accepts that the Monitor has the right to access without restriction to all Project documentation of the Principal including that provided by the Contractor. The Contractor will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to Subcontractors. The Monitor is under contractual obligation to treat the information and documents of the Bidder(s)/ Contractor(s)/ Subcontractor(s) with confidentiality.

- (4) The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the Principal and the Contractor. The parties offer to the Monitor the option to participate in such meetings.
- (5) As soon as the Monitor notices, or believes to notice, a violation of this agreement, he will so inform the Management of the Principal and request the Management to discontinue or take corrective action, or to take other relevant action. The monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.
- (6) The Monitor will submit a written report to the Chairman, SAIL within 8 to 10 weeks from the date of reference or intimation to him by the *Principal* and, should the occasion arise, submit proposals for correcting problematic situations.
- (7) Monitor shall be entitled to compensation on the same terms as being extended to / provided to Independent Directors on the SAIL Board.
- (8) If the Monitor has reported to the Chairman SAIL, a substantiated suspicion of an offence under relevant IPC/ PC Act, and the Chairman SAIL has not, within the reasonable time taken visible action to proceed against such offence or reported it to the Chief Vigilance Officer, the Monitor may also transmit this information directly to the Central Vigilance Commissioner.
- (9) The word '**Monitor**' would include both singular and plural.

### **Section 9 – Pact Duration**

This Pact begins when both parties have legally signed it. It expires for the Contractor 12 months after the last payment under the contract, and for all other Bidders 6 months after the contract has been awarded.

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

### **Section 10 – Other provisions**

- (1) This agreement is subject to Indian Law. Place of performance and jurisdiction is the Registered Office of the Principal, i.e. New Delhi.
- (2) Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.
- (3) If the Contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.
- (4) Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

\_\_\_\_\_  
(For & On behalf of the Principal)

\_\_\_\_\_  
(For & On behalf of Bidder/ Contractor)

(Office Seal)

(Office Seal)

Place -----

Date -----

Witness 1 :

(Name & Address)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Witness 2 :

(Name & Address)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

No.005/CRD/19  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 5<sup>th</sup> July 2007

**Office Order No.23/7/07**

**Subject:- 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.

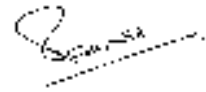
"The law is well-settled that contracts by the State, its corporations, instrumentalities and agencies must be normally granted through public auction/public tender by inviting tenders from eligible persons and the notifications of the public-auction or inviting tenders should be advertised in well known 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](http://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 web-site ex post-facto.



(Rajiv Verma)  
Under Secretary

To

All Chief Vigilance Officers



No. 006/VGL/117  
Government of India  
Central Vigilance Commission

Satarkta Bhawan, Block-'A'  
GPO Complex, INA,  
New Delhi-110023:  
Dated the, 18<sup>th</sup> April 2007

**CIRCULAR No. 13/4/07**

**Subject:- 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.

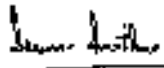
4. The Commission, therefore, while reiterating its aforementioned instructions directs the CVOs to convey to the Commission the following information latest by 30/4/07:-

- a) The threshold value decided by the organization for publishing on their web-site, details of award of tenders/contracts;

: -2- :

- 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.

  
\_\_\_\_\_  
(Vineet Mathur)  
Deputy Secretary

All Chief Vigilance Officers

No.98-VGL-25  
Government of India  
Central Vigilance Commission  
(CTEO)

Satarkta Bhawan, Block-A  
INA, GPO Complex,  
New Delhi:110023

OFFICE MEMORANDUM

Circular No. 14/4/07

Sub: 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.

*P. Vamshi*  
26/4/07  
(Smt. Padmaja Varma)  
Chief Technical Examiner

To

All CVOs of Ministries/Departments/PSUs/Banks/Insurance  
Companies/Autonomous Organizations/Societies/Hrs

No.4CC-1-CTE-2  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block -A,  
4<sup>th</sup> Floor, GPO Complex,  
INA, NEW DELHI-110 023.

10 APR 2007  
OFFICE MEMORANDUM / CIRCULAR No. 10/4/07


**Sub: 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 at 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 mobilisation advance; interest to be charged, if any; its recovery schedule and any other relevant detail 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 the 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 utilisation certificate from the contractor for the earlier instalment.

  
(P. VARMA)  
Chief Technical Examiner

Copy to :-

All CVOs : Ministries / Departments / PSUs / Banks / Uts.

No.005/CRD/012  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 3<sup>rd</sup> March, 2007

**Circular No. 4/3/07**

**Sub:- Tendering process - negotiations with L-1.**

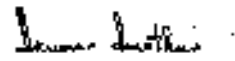
Reference is invited to the Commission's circulars of even number, dated [25.10.2005](#) and [3.10.2006](#), on the above cited subject. In supersession of the instructions contained therein, the following consolidated instructions are issued with immediate effect:-

- (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.



(Vineet Mathur)  
Deputy Secretary

**All Chief Vigilance Officers**

No.005/CRD/12  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 3<sup>rd</sup> October, 2006

**Circular No. 37/10/06**

**Subject: 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.



(V. Kannan)  
Director

All Chief Vigilance Officers



No.005/VGL/4  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 1<sup>st</sup> September 2006


**Circular No. 31/9/06**

Subject: Posting of details on 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.



(V.Kannan)  
Director

- (i) All Secretaries/CEOs/Head of Organisations.
- (ii) All Chief Vigilance Officers

No.005/CRD/19  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 9<sup>th</sup> May 2006

**CIRCULAR No.15/5/06**

**Subject:- 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.

(V. Kannan)  
Director

All Chief Vigilance Officers

Copy to:

- (i) All Secretaries of Govt. of India
- (ii) All CEOs/Head of the organisation

F.No.006/VGL/29  
Government of India  
Central Vigilance Commission

\*\*\*\*

Satarkata Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi-110 023  
Dated, the 1st May, 2006

**Circular No.21/05/06**

**Subject: 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.

  
(V.Kannan)  
Director

All Chief Vigilance Officers.

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.

005/VGL/66  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 9/12/2005

**Office Order No. 71/12/05**

**Subject: Undertaking by the Members of Tender Committee/Agency.**

In continuation of the Commission's directions vide Order 005/VGL/4 dated 16/3/2005 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

All Chief Vigilance Officers

No.98-VGL-25  
Government of India  
Central Vigilance Commission  
(CTE's Organisation)  
\*\*\*\*\*

Satarkta Bhavan, Block-A,  
GPO Complex, 4<sup>th</sup> Floor,  
INA, New Delhi: 110023  
Dated the 10<sup>th</sup> Nov., 2005

To

All Chief Vigilance Officers

**Sub: Intensive Examination of works by CTE's Organisation –  
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.

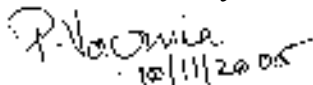
4. It is once again enjoined upon all the CVOs that the QPRs should contain all the ongoing contracts above prescribed financial limit, separately, for the below mentioned categories:-

Civil -	Rs. 1.00 Cr. and above
Elect/Mech.Works	Rs. 30 Lacs & above
Store Purchase	Rs. 2 Cr. and above
Hort.	Rs. 2 lacs and above
Medical equipment	Rs. 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.

Yours faithfully,

  
(P. Varma)  
Chief Technical Examiner



Satarkta Bhawan, Block-A,  
GPO Complex, I.N.A,  
New Delhi-110 023.  
Dated : 25/10/2005

**Office order No.68/10/05**

**Sub:- Tendering Process – Negotiation with L-1.**

A workshop was organised on 27<sup>th</sup> 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.

  
(Anjana Dube)  
Deputy Secretary

No.005/VGL/4  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 20<sup>th</sup> September 2005

**Office Order No.57/9/05**

**Subject: 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**

**All Chief Vigilance Officers**



No.005/VGL/4  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 28<sup>th</sup> July 2005

**Office Order No.46/07/05**

**Subject: 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.



(Anjana Dube)  
Deputy secretary

To

All Chief Vigilance Officers

No. 98/VGL/25  
Government of India  
Central Vigilance Commission  
(CTE's Organization)

Satarkta Bhawan, Block-A  
INA ,New Delhi-110023  
Dated: 16<sup>th</sup> May,2005

### OFFICE MEMORANDUM

#### **Sub: 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 Rs. 1.00 crores, Electrical/Mechanical and other Allied works costing more than Rs. 30.00 Lacs , Stores/Purchase contracts costing more than Rs 2.00 crores and Horticulture works costing more than Rs 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.

**(Smt. Padmaja Varma)**  
**Chief Technical Examiner**

To,  
**All CVOs of Ministries/Departments/PSUs/Banks/Insurance  
Companies / Autonomous Organizations / Societies/Uts**

No. OFF-1-CTE-1(Pt) V  
Government of India  
Central Vigilance Commission

\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 24<sup>th</sup> March 2005

**Office Order No. 15/3/05**

**Subject: 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

All Chief Vigilance Officers

F.No. 000/VGL/161  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, GPO Complex,  
Block-'A', I.N.A,  
New Delhi-110023.  
Dated, the 24<sup>th</sup> March, 2005

**Office Order No. 18/3/05**

**Sub:- 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

All Chief Vigilance Officers





No.005/VGL/4  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 16<sup>th</sup> March 2005

**Office Order No.13/3/05**

**Subject: 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

To

All Chief Vigilance Officers

**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. and names of parties qualified after technical evaluation	Nos. and 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	Scheduled date of completion of supplies

No. 005/ORD/1  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi-110023  
Dated 10<sup>th</sup> March, 2005

**OFFICE ORDER NO. 11/3/05**

To,

**All the Chief Vigilance Officers**

**Sub: 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 Rs. 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        | : | Rs.1 lakh/others(in respect of small orgns.) |

: 2 :

**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 organisations 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**

No.98/DSP/3  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi-110 023  
Dated the 24<sup>th</sup> December, 2004

**Office Order No.75/12/04**

**Sub: Participation of consultants in tender – guidelines regarding.**

Consultants are appointed by the organisation for preparation of project report. These appointment 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

To  
All Chief Vigilance Officers

No.004/ORD/9  
Government of India  
Central Vigilance Commission

\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 10<sup>th</sup> December, 2004

**Office Order No. 72/12/04**

**Subject:- 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 shortlisting 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 organisations/departments are advised to frame a policy accordingly.

Sd/-  
(Anjana Dube)  
Deputy Secretary

All Chief Vigilance Officers

004/ORD/8  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi-110023  
Dated, the 3<sup>rd</sup> Nov., 2004

**Office Order No. 69/11/04**

**Subject:- 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

To,

All CMDs & CVOs of All Public Sector Banks.

No.98/ORD/1  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 20<sup>th</sup> October 2004

**Office Order No. 68/10/04**

**Subject: 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

To

All Chief Vigilance Officers



**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/assessees etc. dealt with regularly during the period July 2004 – September 2004.
- (2) Number of contractors/suppliers/agents/assessees etc. whose Bank A/c details including MICR have been received.
- (3) Total payments made to all contractors/suppliers/assessees/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 e-receipts 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).

**No.98/ORD/1**  
**Central Vigilance Commission**

\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 2<sup>nd</sup> July 2004

Office Order No.43/7/04

**Subject: 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 18<sup>th</sup> 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 web-site. 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 11<sup>th</sup> 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.

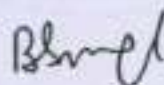
Regarding applicability of these instructions to limited tenders where the number of suppliers/contractors is known to be small and as per the laid down norms limited tender system is to be resorted to through a system of approved/ registered vendors/contractors, the clarification is given below.

**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.



**(Balwinder Singh)**  
**Addl. Secretary**

To

- (i) The Secretaries of All Ministries/Departments of Government of India
- (ii) The Chief Secretaries to all Union Territories
- (iii) The Comptroller & Auditor General of India
- (iv) The Chairman, Union Public Service Commission
- (v) The Director, Central Bureau of Investigation
- (vi) The Chief Executives of all PSEs/Public Sector Banks/Insurance Companies/  
Autonomous Organisations/Societies
- (vii) The Chief Vigilance Officers in the Ministries/Departments/PSEs/Public  
Sector Banks/Insurance Companies/Autonomous Organisations/Societies
- (viii) President's Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/  
Rajya Sabha Secretariat/PMO

**No. 4CC-1-CTE-2**  
Government of India  
Central Vigilance Commission  
(CTEs Organisation)

Satarkta Bhawan,  
INA Colony,  
New Delhi- 110023

Dated: 8.6.2004

**OFFICE MEMORANDUM**

**Sub: 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

**Copy to: -**

All CVOs: Ministries/Departments/PSUs/Banks/UTs

**No. 05-04-1-CTE-8**  
Government of India  
Central Vigilance Commission  
(CTEs Organisation)

Satarkta Bhawan,  
INA Colony,  
New Delhi- 110023  
Dated: 8.6.2004

**OFFICE MEMORANDUM**

**Sub: 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

**Copy to: -**

All CVOs: Ministries/Departments/PSUs/Banks/UTs

No. 12-02-1-CTE-6

Government of India  
Central Vigilance Commission  
(CTE's Organisation)

Satarkata Bhavan, Block A,  
4<sup>th</sup> Floor, GPO Complex,  
INA, New Delhi – 110 023.

Dated: 7<sup>th</sup> May, 2004

**OFFICE MEMORANDUM**

**Subject :- Pre-qualification 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

To

*All CVOs of Ministries/Departments/PSUs/Banks/Insurance Companies/  
Autonomous Organisations/Societies/UTs.*

No. 12-02-6-CTE-SPI(I)-2  
Government of India  
Central Vigilance Commission  
(CTE's Organisation)  
\*\*\*\*\*

Satarkata Bhavan,  
Block A, GPO Complex,  
INA, New Delhi - 110 023.  
Dated the 21<sup>st</sup> April 2004.

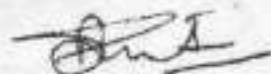
Office Order No. 25/04/04

Subject : - 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 cartelisation 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 alongwith 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.



(A.K. Jain)  
Technical Examiner  
For Chief Technical Examiner

To

All CVOs of Ministries/Departments/PSUs/Banks/Insurance  
Companies/Autonomous Organisations/ UTs.



**No.98/ORD/1**  
**Government of India**  
**CENTRAL VIGILANCE COMMISSION**

\*\*\*\*\*

**Satarkta Bhavan, Block 'A',**  
**G.P.O. Complex, I.N.A.,**  
**New Delhi – 110 023**  
**Dated the 6<sup>th</sup> April, 2004**

**Office Order No. 20/4/04**

**Sub: 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 1<sup>st</sup> 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 31<sup>st</sup> 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**

To

- i) The Secretaries of All Ministries/Departments of Government of India.
- ii) The Chief Secretaries to all Union Territories.
- iii) The Comptroller & Auditor General of India.
- iv) The Chairman, Union Public Service Commission.
- v) The Chief Executives of all PSEs / Public Sector Banks / Insurance Companies / Autonomous Organisations / Societies.
- vi) All Chief Vigilance Officers in the Ministries / Departments / PSEs Public Sector Banks / Insurance Companies / Autonomous Organisations / Societies.
- .vii) President's Secretariat / Vice-President's Secretariat / Lok Sabha Secretariat / Rajya Sabha Secretariat / PMO.

No.98/ORD/1  
Government of India  
Central Vigilance Commission

\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023

Dated the 11<sup>th</sup> February 2004

**Office Order No. 10/2/04**

To

All Chief Vigilance Officers

**Subject: 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**

No.98/ORD/1  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 9<sup>th</sup> February 2004

**Office Order No. 9/2/04**

To

All Chief Vigilance Officers

**Subject: 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 18<sup>th</sup> December 2003 wherein detailed instructions are issued regarding the use of web-site for tendering process. The objective is to improve vigilance administration by increasing transparency. The instructions were to take effect from 1<sup>st</sup> 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**

**No.98/ORD/1**  
**CENTRAL VIGILANCE COMMISSION**

\*\*\*\*\*

Satarkta Bhavan, Block 'A'  
G.P.O. Complex, I.N.A.,  
New Delhi- 110 023  
Dated the 18<sup>th</sup> December, 2003

**Subject:- 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.

Contd.....2/-

- (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 e-procurement/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 1<sup>st</sup> January, 2004 for all such organizations whose web-sites are already functional. All other organizations must ensure that this facility is provided before 1<sup>st</sup> April, 2004.

Sd/-

**(P. Shankar)**

**Central Vigilance Commissioner**

To

- (i) The Secretaries of All Ministries/Departments of Government of India
- (ii) The Chief Secretaries to all Union Territories
- (iii) The Comptroller & Auditor General of India
- (iv) The Chairman, Union Public Service Commission
- (v) The Chief Executives of all PSEs/ Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies.
- (vi) The Chief Vigilance Officers in the Ministries/Departments/PSEs/Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies
- (vii) President's Secretariat / Vice-President's Secretariat / Lok Sabha Secretariat / Rajya Sabha Secretariat / PMO

No. 06-03-02-CTE-34  
Government of India  
Central Vigilance Commission  
(CTE's Organisation)

Satarkta bhavan, Block-A,  
GPO Complex, INA,  
New Delhi-110023  
Dated: 20.10.2003

**OFFICE MEMORANDUM**

**Sub: 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

To  
All CVOs of Ministries/Departments/PSUs etc.



**No. 2EE-1-CTE-3  
Government of India  
Central Vigilance Commission  
(CTE's Organization)**

**Satarkta Bhavan, Block-A,  
GPO Complex, INA,  
New Delhi-110023  
Dated - 15.10.2003**

**OFFICE MEMORANDUM**

**Sub: 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

To

All CVOs of Ministries/Departments/PSUs/Banks/Insurance Companies/Autonomous Organizations/Societies/UTs.

No.98/ORD/1  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhavan, Block 'A',  
G.P.O. Complex, I.N.A.,  
New Delhi- 110 023  
Dated the 11<sup>th</sup> September 2003

**OFFICE ORDER NO. 46/9/03**

To

All Chief Vigilance Officers

**Subject: E-procurement/Reverse Auction.**

Sir/Madam,

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.

Yours faithfully,

Sd/-  
(Mange Lal)  
Deputy Secretary  
Telefax- 24651010

No. 98/ORD/1  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkata Bhavan, Block - 'A',  
GPO Complex, INA,  
New Delhi - 110 023  
Dated 04.09.2003

**Office Order No.44/9/03**

To

**All Chief Vigilance Officers**

**Sub: Irregularities in the award of contracts.**

Sir/Madam,

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.

Yours faithfully,

Sd/-  
(Anjana Dube)  
Deputy Secretary

No.98/ORD/1  
Government of India  
Central Vigilance Commission  
(CTE's Organization)

Satarkta Bhavan, Block 'A'  
G.P.O. Complex, I.N.A.,  
New Delhi- 110 023  
Dated the 9<sup>th</sup> July, 2003

**Office Order No. 33/7/03**

To

**All the Chief Vigilance Officers**

**Subject:- Short-comings in bid documents.**

Sir/Madam,

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.

Yours faithfully,

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

No.98/ORD/1  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 5<sup>th</sup> May, 2003

To

- (1) Chief Executives of all PSUs/PSBs/Insurance Sector/Organisations
- (2) All Chief Vigilance Officers

**Subject: Purchase of computer systems by Govt. departments/organisation.**

Sir/Madam,

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.

Yours faithfully,

Sd/-  
(Anjana Dube)  
Deputy Secretary

No.8(4)-E.II(A)/98  
Government of India  
Ministry of Finance  
(Department of Expenditure)

.....

New Delhi, the 17th December, 1998

OFFICE MEMORANDUM

**Subject: 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 Rs. 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

To

All Ministries/Departments of Govt. of India

No.98/ORD/1(Pt.IV)  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 12.03.2003.

To

**All Chief Vigilance Officers**

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

**Sir,**

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.

Yours faithfully,

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

NO. 12-02-6-CTE/SPI (D)-2  
GOVERNMENT OF INDIA  
CENTRAL VIGILANCE COMMISSION  
(CTE's ORGANISATION)  
\*\*\*\*\*

SATARKTA BHAVAN,  
BLOCK A, GPO COMPLEX,  
INA, NEW DELHI- 110023

Dated the 7<sup>th</sup> January 2003

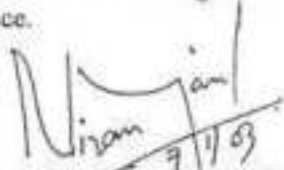
OFFICE MEMORANDUM

**Subject: 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/manufactures 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 organization for guidance.

  
(NIRANJAN SINGH)  
UNDER SECRETARY

To

All CVOs of Ministries/Departments/PSUs/Banks/Insurance  
Companies/Autonomous Organisations/Societies/UTs.





No. 12-02-1-CTE-6  
Government of India  
Central Vigilance Commission  
(CTE's Organisation)

Satarkata Bhavan,  
Block A, GPO Complex,  
INA, New Delhi – 110 023.  
Dated the 17<sup>th</sup> December 2002.

OFFICE MEMORANDUM

Subject : - Prequalification criteria (PQ).

The Commission has received complaints regarding discriminatory prequalification criteria incorporated in the tender documents by various Depts./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.

**Contd....**

- 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:-*

**Contd....**

-: 3 :-

A) For Civil/Electrical Works

- i) *Average Annual financial turnover during the last 3 years, ending 31<sup>st</sup> 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.*

**Contd....**

-: 4 :-

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>.*

*(M.P. Juneja)  
Chief Technical Examiner*

To

*All CVOs of Ministries/Departments/PSUs/Banks/Insurance Companies/  
Autonomous Organisations/Societies/UTs.*

No..OFF 1 CTE 1  
Government of India  
Central Vigilance Commission  
(CTE's Organization)

Satkarkta Bhawan, Block A,  
GPO Complex, INA  
New Delhi-110023  
Dt. the 25<sup>TH</sup> November 2002

**OFFICE MEMORANDUM**

**Subject: 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

Contd.....

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, short-listed 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.

Contd.....

- 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 storyed 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.

Contd....

- 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 Rs.6.00 lakhs, but the actual traveling expenses ultimately paid to them were to the tune of Rs.7.5 lakhs.
- xi) Sometimes the consultants pass on their responsibility to the contractor . In one work, the consultant was supposed to give design ad 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.

Contd.....



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

Encl: As above

To

All CVOs of Ministries/Departments/PSUs/Banks/Insurance  
Companies/Autonomous Organizations/Societies/UTs.

No.98/ORD/1  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 3<sup>rd</sup> August 2001

To

- (i) The Secretaries of all Ministries/Departments of Government of India
- (ii) The Chief Secretaries to All Union Territories
- (iii) The Comptroller & Auditor General of India
- (iv) The Chairman, Union Public Service Commission
- (v) The Chief Executives of All PSEs/Public Section Banks/Insurance Companies/Autonomous Organisations/Societies
- (vi) The Chief Vigilance Officers in the Ministries/Departments/PSEs/Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies
- (vii) President's Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO

**Subject: Improving Vigilance Administration - Tenders.**

Sir,

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.

Yours faithfully,

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

Immediate

No.98/ORD/1  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated 24<sup>th</sup> August, 2000

To

- (i) The Secretaries of All Ministries/Departments of Government of India
- (ii) The Chief Secretaries to All Union Territories
- (iii) The Comptroller & Auditor General of India
- (iv) The Chairman, Union Public Service Commission
- (v) The Chief Executives of All PSEs/Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies
- (vi) The Chief Vigilance Officers in the Ministries/Departments/PSEs/Public Sector Banks/Insurance Companies/ Autonomous Organisations/Societies
- (vii) President's Secretariat / Vice- President's Secretariat / Lok Sabha Secretariat/ Rajya Sabha Secretariat/ PMO

**Subject: Improving Vigilance Administration-Tenders.**

.....

Sir,

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 (techno-commercial) 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

expects the organisations to implement its instructions dated 18.11.98, in its spirit and to ensure that the decisions of administrative authorities are transparent.

Yours faithfully,

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

**IMMEDIATE**

**NO.3(V)/99/9  
CENTRAL VIGILANCE COMMISSION**

**\*\*\*\*\***

**Satarkta Bhavan, Block "A"  
GPO Complex, I.N.A.  
New Delhi-110023**

**Dated the 1<sup>st</sup> October, 1999**

**Subject:- 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.**

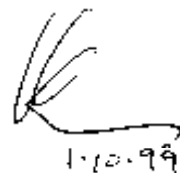
**\*\*\*\*\***

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,

**Page 1 of 2**

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>



1.12.99

**(N.VITTAL)**  
**CENTRAL VIGILANCE COMMISSIONER**

To

- (i) The Secretaries of All Ministries/Departments of Government of India.
- (ii) The Chief Secretaries to All Union Territories
- (iii) The Comptroller & Auditor General of India
- (iv) The Chairman, Union Public Service Commission.
- (v) The Chief Executives of All PSEs/Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies.
- (vi) The Chief Vigilance Officers in the Ministries/Departments/PSEs/Public Sector Banks/Insurance Companies/ Autonomous Organisations/Societies
- (vii) President's Secretariat / Vice- President's Secretariat / Lok Sabha Secretariat/ Rajya Sabha Secretariat/ PMO

No.98/ORD/1

Government of India  
Central Vigilance Commission

Satarkta Bhavan, Block A,  
GPO Complex, INA  
New Delhi-110023  
Dated the 15<sup>th</sup> March, 1999

To

- (i) The Secretaries of All Ministries/Departments of Govt. of India
- (ii) The Chief Secretaries to all Union Territories
- (iii) The Comptroller & Auditor General of India
- (iv) The Chairman, Union Public Service Commission
- (v) Chief Executives of All PSUs/Banks/Organisations
- (vi) All Chief Vigilance Officers in the Ministries/Departments/PSEs/Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies
- (vii) President's Secretariat/Vice-President's Secretariat/Lok Sabha Secretariate/Rajya Sabha Secretariat/PMO

**Subject: Improving vigilance administration-Tenders**

**Sir,**

Please refer to CVC's instructions issued under letter No.8(1)(h)/98(I) 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.

Yours faithfully,

Sd/-  
(P.S.Fatehullah)  
Director

**IMMEDIATE**

No. 8(1)(h)/98(1)  
**CENTRAL VIGILANCE COMMISSION**

.....

**Jaisalmer House, Man Singh Road,  
New Delhi – 110011  
Dated the 18<sup>th</sup> November, 1998**

**SUB: 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.

  
 (N. VITTAL) 15-11-18  
**CENTRAL VIGILANCE COMMISSIONER**

To

- (i) The Secretaries of All Ministries/Departments of Government of India
- (ii) The Chief Secretaries to All Union Territories
- (iii) The Comptroller & Auditor General of India
- (iv) The Chairman, Union Public Service Commission
- (v) All Chief Vigilance Officers in the Ministries/Departments/PSEs/Public Sector Banks/Insurance Companies/ Autonomous Organisations/Societies
- (vi) President's Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO

No.UU/POL/19  
Government of India  
Central Vigilance Commission

Bikaner House, 1st Floor,  
New Delhi, 8 Oct., 1997

**OFFICE MEMORANDUM**

To

All Chief Vigilance Officers/PSUs

Sub: Grant of interest free mobilization advance.

Sir,

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

**ANNEXURE-II**

**No. 3L – IRC 1  
Government of India  
Central Vigilance Commission**

-----

**No. 3, Dr. Rajendera Prasad Road,  
New Delhi, dt. 10-1-1983**

**To,**

**All Chief Vigilance Officers of all Public  
Enterprises/National Banks.**

**Sub: 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. 15<sup>th</sup> 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*

*- 2 -*

*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 Rs.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*

## ANNEXURE-I

No.3L PRC 1  
Government of India  
Central Vigilance Commission

No.3,Dr.Rajendera Prasad Road,  
New Delhi,dt.12.11.1982

To

All Chief Vigilance Officers of all Public  
Enterprises/Nationalised Banks.

Sub: 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.

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





# Departmental Inquiries

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स / Fax : 24651186



केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi-110023

सं./No..... 019/VGL/026-462213

दिनांक / Dated..... 01.10.2020

Office Order No.13/10/20

**Subject: Expeditious disposal of cases involving public servants due to retire shortly.**

- Reference: (i) Commission's Office Order No. 34/9/07 dated 27/09/2007  
(ii) Commission's Circular No. 03/03/11 dated 11/03/2011  
(iii) Commission's Office Order No. 04/7/19 dated 23/07/2019  
(iv) Commission's Office Order No. 04/05/20 dated 12/05/2020

The Commission vide its OMs referred above had directed CVOs of all Ministries/Departments/Organisations to ensure expeditious finalization of disciplinary proceedings/action, particularly in respect of officials likely to retire shortly. The Commission had specifically impressed upon the vigilance functionaries as well as administrative authorities concerned about the need to prioritize their activities of conducting investigations and completion of disciplinary action well in advance so as to avoid such late references to the Commission. Further, it was also conveyed vide office order dated 12/05/2020 that all such retirement cases should be received in the Commission by 10<sup>th</sup> of every month by 5 PM.

2. In continuation of Commission's Office Order dated 12/05/2020, Commission now prescribes that all such retirement cases for advice should be received in the Commission, 30 days before the date of the retirement of the officer. For example, if the officer/official is retiring on 30<sup>th</sup> November, 2020, **the case should be received for advice before 31<sup>st</sup> Oct, 2020 in the Commission.**

3. All CVOs/Administrative Authorities should ensure strict compliance to the above instructions.

(J. Vinod Kumar)  
Director

All Secretaries/Heads/CMDs of Ministries/Departments/CPSUs/PSBs/PSICs/FIs/  
Autonomous Organisations etc.

All Chief Vigilance Officers of Ministries/Departments/CPSUs/PSBs/PSICs/FIs/ Autonomous  
Organisations etc.



सत्यमेव जयते



केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi-110023

सं./No. 98/DSP/09/461535

दिनांक / Dated 24<sup>th</sup> Sept., 2020

Circular No. 12/09/20

**Sub: Action on anonymous/pseudonymous complaints.**

**Ref. (i) DoPT's OM No.104/76/2011-AVD.I dated 18/10/2013 & 18/06/2014.**

**(ii) Commission's Circular No.07/11/2014 dated 25/11/2014.**

Attention is invited to the DoPT's OM and the Commission's Circular mentioned above wherein it was prescribed that 'no action would be taken on anonymous/pseudonymous complaints' by Ministries/Departments/Organisations and such complaints should be filed.

2. The Commission has observed instances wherein some Departments/Organisations are taking cognizance of anonymous complaints, despite strict guidelines issued by DoPT and the CVC. Such non-compliance/violation of guidelines by the concerned authorities would be viewed seriously.

3. All CVOs/Administrative Authorities should ensure strict compliance to the above instructions.

(J. Vinod Kumar)  
Director

**To:**

All Secretaries of Ministries / Departments of GoI /CMDs/Chief Executives/Heads/CEOs of CPSEs / PSBs / PSICs / FIs / Autonomous Organisations, etc.

All Chief Vigilance Officers of Ministries/Departments/CPSEs/PSBs/PSICs/FIs/ Autonomous Organisations, etc.

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स / Fax : 24651186



केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi-110023

सं./No.000/VGL/018/459759

दिनांक / Dated 10<sup>th</sup> Sept., 2020

**Office Order No. 11/09/20**

**Sub: Expeditious disposal of Vigilance cases- regarding**

During the course of examination and disposal of cases in the Commission, it has been observed that several reminders are sent to CVOs of concerned Departments/Organisations seeking further information/clarifications on reports received in complaints referred by the Commission for investigation as well as in Vigilance cases referred for First / Second Stage advice of the Commission. Such further information are sought by the Commission, since the references made by CVOs are either incomplete or matters have not been considered/analysed in a proper perspective, due to which the Commission is unable to tender its advice on references received from the Departments/Organisations. The reply/further information from the CVOs are many a time, delayed and takes several months /years and leads to wastage of precious time and reduction in impact of punitive action on suspect / charged officers and to the public at large.

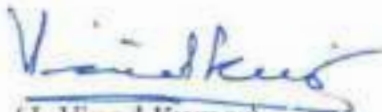
2. The Commission on consideration of the processing/examination of the cases, therefore, has observed that system of examination needs systemic change and has decided that in future, the following course of action would be adhered to finalize and tender advice in such long pending references:

- (i) All such cases/pending complaint cases or ones pending for long periods for further information/clarifications etc., would be reviewed internally in the Commission by 30<sup>th</sup> September, 2020 under the supervision of the concerned Additional Secretary.
- (ii) For any information/clarification, only one reminder would be sent by Branch Officer concerned to CVO of the Department/Organisation to reply/report back by a particular date (max. 15 days)
- (iii) If no reply is received, the concerned Additional Secretary, CVC would speak to the CVO of the Department/Organisation and ask to send the reply within seven days (indicating a particular date).

contd...

(iv) If no reply comes, a date would be fixed for video conference with CVO in a week's time, and the Secretary/Additional Secretary/Branch Officer would take the reply and if it is not received, the file would be submitted to the Commission for appropriate action.

3. All CVOs/Administrative Authorities should ensure strict compliance to the above instructions.

  
(J. Vinod Kumar)  
Director

**To:**

1. All Secretaries of Ministries / Departments of GoI /CMDs/Chief Executives/ Heads of CPSEs / PSBs / PSICs / FIs / Autonomous Organisations, etc.
2. All Chief Vigilance Officers of Ministries / Departments /CPSEs /PSBs /PSICs /FIs / Autonomous Organisations, etc.

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स / Fax : 24651186



सत्यमेव जयते

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi-110023  
008/VGL/027-459659

सं./No.....

09/09/2020

दिनांक / Dated.....

Office Order No.10/09/20

**Sub.:** Reference to the Commission for reconsideration of its advice- Dispensing with reconsideration of second stage advice - reg.

**Ref.:** (i) Commission's Letter No.000/DSP/1 dated 06/03/2000.  
(ii) Commission's Circular No.15/4/08 dated 24/04/2008.  
(iii) Commission's Circular No.06/08/2020 dated 06/08/2020.

Para 1.6.4 of Chapter I, Paras 7.19.3 and 7.28.5 of Chapter VII of Vigilance Manual, 2017 and aforesaid Circulars provide for consultation with the Commission, if the administrative authorities do not agree with Commission's advice and propose to take either a "lenient view" or a "stricter view" than recommended by it, for reconsideration of its 1<sup>st</sup> stage or 2<sup>nd</sup> stage advice.

2. The Commission has analysed the cases received for reconsideration of its second stage advice tendered, and observes that second stage advice is tendered based on inputs received from Departments / Organisations which includes all material / information pertaining to the individual disciplinary case. Further, in most of the cases, Commission had reiterated its earlier advice tendered at second stage and in almost all such proposals, no new material / additional facts were brought out by the Departments / Organisations to justify any change. Also, in such cases of second stage advice, there is little scope for reconsideration. Such proposals also result in avoidable delays in finalization / issue of final orders by the Disciplinary Authority concerned.

3. The Commission, therefore, taking into consideration the above and the time lines to be adhered for finalisation of disciplinary cases, in supersession of its existing instructions / provisions in the Vigilance Manual, 2017 has decided to **dispense with consultation for reconsideration of its second stage advice**. Accordingly, no proposal for reconsideration of the Commission's second stage advice would be entertained in future. The provisions of the Vigilance Manual would stand amended to that extent.

:2:

4. However, the Commission would entertain references for reconsideration of its first stage advice within one month of receipt of the Commission's first stage advice only in those exceptional individual cases having additional/new material facts, as prescribed in its Circular No.06/08/2020 dated 06/08/2020.

5. All CVOs/Administrative Authorities should ensure strict compliance to the above instructions.

  
**(J. Vinod Kumar)**  
**Director**

**To:**

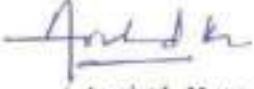
1. All Secretaries of Ministries / Departments of GoI /CMDs/Chief Executives/ Heads/CEOs of CPSEs / PSBs / PSICs / FIs / Autonomous Organisations, etc.
2. All Chief Vigilance Officers of Ministries / Departments /CPSEs /PSBs /PSICs /Fis / Autonomous Organisations, etc.

No. 020/VGL/032  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block – A,  
GPO Complex, INA,  
New Delhi-110023  
Dated: 24.08.2020

Sub: Completion of Disciplinary proceeding through Video Conferencing in the wake of COVID-19 pandemic – reg.

A copy of the DOPT's OM No. 11012/03/2020-Estt.A--III dated 05.08.2020 on the subject mentioned above is enclosed for information and necessary action.

  
( Arvind Kumar )  
Under Secretary (Coord)

All Chief Vigilance Officers

Encl: As above.



North Block, New Delhi  
Dated the August 5, 2020


**OFFICE MEMORANDUM**

**Subject: Completion of Disciplinary proceeding through Video Conferencing in the wake of COVID-19 pandemic – reg.**

The undersigned is directed to say that it has come to the notice of this Department that due to outbreak of Corona virus (COVID-19) pandemic, the Disciplinary Inquiry proceedings are being deferred/delayed. In this regard, attention is invited to the para-10 of DoPT's OM No. 142/40/2015-AVD.I dated 15.09.2017 vide which it was stated that –

*"The Inquiry Officer shall conduct the inquiry proceedings at a location taking into account the availability of records, station/place where the misconduct occurred as well as the convenience of the witnesses/ PO etc. Video Conferencing should be utilized to the maximum extent possible to minimize travel undertaken by the IO/PO/CO. The cadre controlling authorities will facilitate necessary arrangements for the Video Conferencing."*

2. It is hereby reiterated that the authorities concerned may conduct the disciplinary proceedings with the aid of Video Conferencing, subject to the condition that principles of natural justice are fully adhered to, while conducting the proceedings through such digital mode.

  
(Satish Kumar)

Under Secretary to the Government of India

To

1. All the Ministries/Departments, Government of India
2. PMO/Cabinet Secretariat
3. PS to Hon'ble MOS (PP)
4. PSO to Secretary (Personnel)
5. Sr. Technical Director, NIC, DoP&T



सत्यमेव जयते



Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स/Fax : 24651186

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

सं./No.....000/VGL/018....

दिनांक / Dated.....  
14<sup>th</sup> August, 2020

Office Order No.08/08/2020

**Sub.: Adherence to time limits for investigation of complaints referred by the Commission to CVOs of Departments / Organisations - reg.**

**Ref. Commission's Office Order No.20/05/10 dated 19.05.2010.**

In terms of the powers under Section 8(1) (d) of CVC Act, 2003, the Commission seeks reports from Chief Vigilance Officers (CVOs) of Departments/Organisations on complaints received by the Commission. The CVOs are required to furnish investigation reports on such complaints within three months from the date of receipt of references from the Commission. The Commission observes that the Departments/Organisations do not adhere to the laid down time limits, due to which such matters are inordinately delayed, whereby timely action on complaints is not possible. Many a time, no valid reasons or justification is provided by the CVOs for such avoidable delays in reporting to the Commission,

2. The Commission on review of the existing instructions would reiterate that the prescribed time lines of three months should be strictly followed by the CVOs of Departments/Organisations. The CVOs should personally review all such complaints pending for investigation in the Organisations in the first week of every month and take necessary steps towards expediting/finalisation of reports and its processing.

3. In case, if it is not possible to complete the investigations and refer the matter to the Commission within three months, the CVO should seek extension of time stating the specific reasons/constraints in each case, within 15 days of receipt of reference from the Commission. Such requests from the CVO should be with the approval of the Secretary/CMD/Chief Executive of the Department/Organisation concerned as the case may be.

4. All CVOs should strictly adhere to the above guidelines and any instance of violation would be viewed seriously by the Commission.

(J. Vinod Kumar)  
Director

To: All Chief Vigilance Officers of Ministries / Departments/ CPSEs / PSBs / PSICs/ FIs / Autonomous Organisations / Local Bodies, etc.

Contd...2/-

Copy for information to:

- (i) All Secretaries of Ministries / Departments of Govt / Chief Executives / CEOs of CPSEs / PSBs / PSICs / FIs / Autonomous Organisations / Local Bodies, etc.

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स / Fax : 24651186



केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए. आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi-110023

सं./No.008/VGL/027

दिनांक / Dated... 6<sup>th</sup> August, 2020

Circular No.06/08/2020

Sub.: **Reference to the Commission for reconsideration of the advice – reg.**

- Ref.: (i) Commission's Circular No.000/DSP/1 dated 06.03.2000 &  
(ii) Commission's Circular No.15/4/08 dated 24.04.2008

The Commission, vide its earlier Circulars referred above had prescribed that the Departments / Organisations are required to approach the Commission for advice wherein a lenient view or stricter view than that advised by the Commission is proposed to be taken by the Competent Administrative Authorities. Further, it was also prescribed that such reconsideration proposals should be sent within a period of two month from the date of receipt of the Commission's advice.

2. The Commission has observed that proposals for reconsideration of the Commission's first stage advice are not being received within the specified time line of two months and further, many a time, justification warranting reconsideration / new material facts are not presented meriting reconsideration in such proposals by the Departments / Organisations. Such references for reconsideration result in avoidable delay in processing vigilance cases and taking expeditious action on Commission's advice.

3. Considering the need for expeditious finalization of vigilance cases and to adhere to the time lines for its finalization, the Commission on review of the existing time lines, has decided that any proposal for reconsideration of its first stage advice should be made to the Commission with the approval of the concerned Disciplinary Authority / Head of the Department / Chief Executive of the Organisation concerned **within one month** of receipt of the Commission's first stage advice and that too only in those exceptional individual cases having additional/new material facts. The Commission would henceforth not entertain any reconsideration proposal / request of first stage advice received beyond the revised time line of one month.

4. The above instructions and time lines for sending reconsideration proposals of Commission's first stage advice may be strictly adhered to in future.

  
**(J. Vinod Kumar)**  
**Director**

To:

- (i) All Secretaries of Ministries / Departments of GoI / Chief Executives / CEOs of CPSEs / PSBs / PSICs/ FIs / Autonomous Organisations / Local Bodies, etc.
- (ii) All Chief Vigilance Officers of Ministries / Departments/ CPSEs / PSBs / PSICs/ FIs / Autonomous Organisations / Local Bodies, etc.

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स / Fax : 24651186



केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi-110023

सं./No..... 000/DSP/001

दिनांक / Dated..... 20.07.2020.....

Circular No.05/07/2020

**Sub. Reporting cases of deviations by Appellate / Reviewing Authorities by Chief Vigilance Officers.**

**Ref: Commission's Circular Nos.000/DSP/1 dated 10.02.2003 and 05.03.2003.**

In terms of the provisions laid down in para 7.38 of Chapter-VII of the Vigilance Manual, 2017 and above mentioned Circulars, in matters of appeal, the Appellate Authority is expected to keep in view the advice tendered by the Commission / penalty imposed by the Disciplinary Authority and decide the appeal. Further, in case the Appellate Authority / Reviewing Authority decides to deviate from the advice given by the Commission and final orders issued by the concerned Disciplinary Authority, the CVO is required to report such individual cases decided at appeal / review stage to the Commission which would thereafter take an appropriate view whether the deviation is serious enough to be included in its Annual Report.

2. Of late, it has been observed that such deviations at the stage of the Appellate Authorities are not being timely reported to the Commission by the Chief Vigilance Officers (CVOs) of the Organisations. In addition, such deviations are also to be reported in the Quarterly Performance Reports (QPRs) being submitted online by the CVOs every quarter under the head "Part 5.(D)- Appellate Authority (Deviation / Non-acceptance)".

3. The Commission while reiterating these instructions would advise all Chief Vigilance Officers to report to the Commission such individual case of deviation without any delay immediately after decision / orders issued at the Appellate / Review stage and also indicate in the relevant column in the QPRs filed by the Chief Vigilance Officers.

  
(J. Vinod Kumar)  
Director

To: All Chief Vigilance Officers.

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
011-24600200

फैक्स / Fax :  
011-24651186



केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi-110023

सं./No..... No.019/VGL/026

दिनांक / Dated.....12.May.2020..

**Office Order No. 04 /05/20**

**Sub: Expeditious disposal of cases involving public servants due to retire shortly.**

Reference: (i) Commission's Office Order No.34/9/07 dated 27/09/2007  
(ii) Commission's Circular No.03/03/11 dated 11/03/2011  
(iii) Commission's Office Order No. 04/7/19 dated 23/07/2019

The Commission vide its O.Ms referred above had directed CVOs of all Ministries/Departments/Organisations to ensure expeditious finalization of disciplinary proceedings/action, particularly in respect of officials likely to retire shortly. The Commission had specifically impressed upon the vigilance functionaries as well as administrative authorities concerned the need to prioritize their activities of conducting investigations and completion of disciplinary action well in advance so as to avoid such late references to the Commission. Further, it was also conveyed that all such retirement cases should be received by the first week of the month of superannuation of the officer(s) concerned. Cases/references received for advice after the first week of the month would be returned back to the Department/Organization without advice of the Commission and action recommended against the concerned authority (ies).

2. The Commission while reiterating its earlier instructions would emphasize that all such retirement cases for advice should be received in the Commission by 10<sup>th</sup> of every month by 5 PM. Further, if 10<sup>th</sup> is a holiday, by the next working day.

3. All CVOs/Administrative Authorities should ensure strict compliance to the above instructions.

  
(J. Vinod Kumar)  
Director

All Secretaries/Heads/CMDs of Ministries/Departments/PSU's/PSBs/PSICs/FIs/Autonomous organisations etc.

All Chief Vigilance Officers of Ministries/Departments/PSU's/PSBs/PSICs/FIs/Autonomous organisations etc.



सत्यमेव जयते



केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi-110023

सं./No. 019/VGL/026-426775

दिनांक / Dated 23<sup>rd</sup> July, 2019

Office Order No.04/7/19

**Sub.:** Expeditious disposal of cases involving public servants due to retire shortly.

**Ref.:** (i) Commission's Office Order No.34/9/07 dated 27/09/2007.  
(ii) Commission's Circular No.03/03/11 dated 11/03/2011.

The Commission vide its circulars referred to above had directed CVOs of all Ministries/Departments/Organisations to ensure expeditious finalization of disciplinary proceedings/action, particularly in respect of officials likely to retire shortly. The Commission had specifically impressed upon the vigilance functionaries as well as administrative authorities concerned the need to prioritize their activities of conducting investigations and completion of disciplinary action well in advance so as to avoid such late references to the Commission. Further, it was also conveyed that such instances of undue delays on part of administrative authorities, in dealing with vigilance matters/disciplinary cases, will be viewed very seriously by the Commission and it would be constrained to take an adverse view of CVOs/Administrative authorities for such avoidable delays.

2. Despite, these instructions, references are still being received in the Commission particularly from CPSUs and Public Sector Banks, after the middle of the month, the officer is due to retire which is not acceptable. The Commission has taken a serious note of such lax attitude on the part of CVOs/DAs and would again reiterate that all such retirement cases should be received by the first week of the month of superannuation of the officer(s) concerned. Cases/references received for advice after the first week of the month would be returned back to the Department/Organization without advice of the Commission and action recommended against the concerned authority (ies).

3. All CVOs/Administrative Authorities should ensure strict compliance to the above instructions.

(J. Vinod Kumar)  
Director

To

All Secretaries/CMDs of Ministries/Departments/CPSUs/PSBs/PSICs/FIs/ Autonomous organisations etc.  
All Chief Vigilance Officers of Ministries/Departments/CPSUs/PSBs/PSICs/FIs/Autonomous organisations etc.



Telegraphic Address :  
-SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स / Fax : 24651186



केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi-110023

सं./No. 016/VGL/011

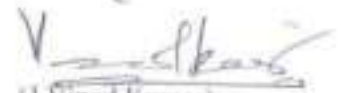
दिनांक / Dated: 02.05.2019

Circular No.03/05/2019

**Sub: Guidelines for dealing with disagreement between DA and CVC in cases of granting Sanction for Prosecution – regarding.**

DoP&T vide Office Memorandum No.372/6/2017-AVD-III, dated 01.03.2019 has issued revised guidelines in supersession of earlier guidelines issued vide DoP&T's OM No.134/2/85-AVD-I dated 15/17-10-1986 for dealing with/processing cases/requests of granting Sanction for Prosecution.

2. A copy of DoP&T's Office Memorandum No.372/6/2017-AVD-III, dated 01.03.2019 is enclosed herewith for strict compliance by all Administrative Authorities in the CPSUs/PSBs/PSICs/FIs and Autonomous Bodies etc. while dealing with cases of Sanction for Prosecution.

  
(J. Vinod Kumar)  
Director

Encl.: As above.

1. All Chief Executives of CPSUs/Public Sector Banks//PSICs/FIs and Autonomous Bodies etc.
2. All CVOs of CPSUs/Public Sector Banks//PSICs/FIs and Autonomous Bodies etc.
3. To be placed on website.

No. 372/6/2017-AVD-III  
Government of India  
Ministry of Personnel, Public Grievances and Pensions  
Department of Personnel and Training  
---

North Block, New Delhi  
Dated 1<sup>st</sup> March, 2019

**OFFICE MEMORANDUM**

**Subject** Guidelines for dealing with disagreement between DA and CVC in cases of granting Sanction for Prosecution - regarding

In supersession of this Department's OM No. 134/2/85-AVD-I dated 15/17-10-1986, the following guidelines are laid down for strict compliance while dealing with disagreement between the Disciplinary Authority (DA) and the Central Vigilance Commission (CVC) in cases of granting Sanction for Prosecution

2. The work relating to according of Central Government's sanction for the prosecution of any person in a case investigated by the Central Bureau of Investigation (CBI) which was centralised in the Department of Personnel and Training, has since been decentralised and vested in the Ministry/Department concerned vide Cabinet Secretariat's Notification No. CD-826/86, dated the 30<sup>th</sup> September, 1986.

2.1 The CBI recommends prosecution of persons only in those cases in which they find sufficient justification for the same as a result of the investigation conducted by them. There are adequate internal controls within CBI to ensure that a recommendation to prosecute is taken only after a very careful examination of all the facts and circumstances of the case. Hence, any decision not to accord sanction for prosecution in such cases should, therefore, be for very valid reasons.

2.2 The following guidelines may be kept in view while dealing with cases of sanction of prosecution:

- (i) in cases in which sanction for prosecution is required to be accorded in the name of the President, the CVC will advise the Ministry/Department concerned and it would be for that Ministry/Department to consider the advice of the CVC and to take a decision as to whether or not the prosecution should be sanctioned.
- (ii) In cases in which an authority other than the President is competent to sanction prosecution, and that authority does not propose to accord such sanction, it is required to report the case to the CVC and take further action after considering the CVC's advice, vide para 2(vi)(b) of the Government Resolution by which the CVC was set up and the CVC's letter No. 9/1/54-DP dated 13<sup>th</sup> April, 1954.

Contd. 2/-

(2)

- (iii) In a case falling under (i) above, if the CVC advises grant of sanction for prosecution but the Ministry/Department concerned proposes not to accept such advice, the case should be referred to this Department for final decision.
  - (iv) In a case falling under (i) above, if the CVC declines sanction for prosecution but the Ministry/Department concerned proposes not to accept such advice and proposes to grant sanction for prosecution, the case should be referred to this Department for a final decision.
  - (v) In a case falling under (ii) above, if the CBI has sought sanction for prosecution and the CVC has recommended grant of sanction, and yet the competent authority proposes not to grant sanction, the case should be referred to this Department for final decision.
  - (vi) Where two or more Government servants belonging to different Ministries/Departments, or under the control of different cadre controlling authorities are involved, the CBI will seek sanction from the respective Ministries/Departments or the respective competent authorities in accordance with the procedure laid down in the above paragraphs. Where sanction is granted in the case of one of the Govt. servants but sanction is refused in the case of the other or others, the CBI will refer the case to this Department for resolution of the conflict, if any, for final decision.
3. This issues with the approval of Competent Authority

  
(Manmeet Kaur)

Under Secretary to the Govt. of India  
Tel No. 2309 4541

To:

1. All Ministries/Departments of the Government of India as per standard list
2. Prime Minister's Office, South Block, New Delhi
3. NIC, DoPT for uploading on the website of this Department

Copy to:

1. Secretary, CVC, Satarkta Bhawan, New Delhi
2. Director, CBI, North Block, New Delhi
3. Other as per standard list.

No. 372/6/2017-AVD-III  
Government of India  
Ministry of Personnel, Public Grievances and Pensions  
Department of Personnel and Training



North Block, New Delhi  
Dated 18<sup>th</sup> July, 2019

**CORRIGENDUM**

**Subject:** Guidelines for dealing with disagreement between DA and CVC in cases of granting Sanction for Prosecution – regarding

\*\*\*

Reference is invited to this Department's OM of even number dated 01.03.2019 on the subject mentioned above.

2. In Para 2.2(ii) of the aforementioned OM, the **phrase**, "...after considering the CVC's advice, vide para 2(vi)(b) of the Government Resolution by which the CVC was set up and the CVC's letter No. 9/1/64-DP dated 13.4.1984" **may be read as** "...after considering the CVC's advice, in terms of the Section 8(1)(g) of CVC Act, 2003."

  
(Manmeet Kaur)

Under Secretary to the Govt. of India  
Tel No. 2309 4541

To:

1. All Ministries/Departments of the Government of India as per standard list
2. Prime Minister's Office, South Block, New Delhi
3. NIC, DoPT for uploading on the website of this Department

Copy to:

1. Secretary, CVC, Satarkta Bhawan, New Delhi
2. Director, CBI, North Block, New Delhi
3. Others as per standard list.

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स / Fax : 24651186



सत्यमेव जयते

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi-110023

सं./No. 18/misc/02-392171

दिनांक / Dated. 23-08-2018

**OFFICE MEMORANDUM**

**Sub: Rotation of officers working in sensitive posts - regarding.**

**Ref: CVC's circular No. 03/09/13 dated 11-9-2013 (copy enclosed).**

\*\*\*

In reiteration of the instructions issued vide circular referred above and other related circulars issued, the Commission vide letter No. 18/Misc/02/378043 dated 1-5-2018 had issued an OM advising all Public Sector Banks, and vide letter No. 18/Misc/02/378044 dated 1-5-2018 advising all Public Sector Insurance Companies to effect rotational transfers in respect of those officers in sensitive posts who are continuing beyond 3 years and also to report compliance within 3 months.

2. Analysis of frauds that have taken place in Public Sector Banks as well as other organizations show that one of the reasons for such frauds was non-implementation of the rotational policy.

3. It is once again reiterated that rotational transfers of officers continuing beyond 3 years may be strictly carried out from the sensitive seats/posts. It is clarified that the Commission's advice is for change from the sensitive seat/post, and not necessarily from the station, which is to be governed by the policy of the respective organizations.

4. Heads/CVOs of all departments/organizations are requested to strictly ensure that the rotational policy is implemented in their respective organizations. CVOs may report on the compliance in this regard in their quarterly reports.

Contd.2/-

5. This issues with the approval of the Commission.

  
(P. Daniel)  
Addl. Secretary

To,

1. All Secretaries of Ministries/Departments.
2. All CMDs/Heads of CPSUs/PSBs/Organizations.
3. All CVOs of Ministries/Departments/CPSUs/PSBs/Organizations.

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स / Fax : 24651186



सत्यमेव जयते

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

सं./No. 004/VGL/090

दिनांक / Dated 11.9.2013

Circular No. 03/09/13

Subject:- Rotation of officials working in sensitive posts-regarding.

Central Vigilance Commission and the Department of Personnel and Training have issued instructions for effecting rotational transfers of officials posted on sensitive posts. As per Commission's instructions issued vide letter Nos. 98/VGL/60 dated 15.4.1999, 02.11.2001 and 004/VGL/90 dated 01.5.2008 and 04.01.2012 (for public sector banks) on this issue, it was prescribed that Ministries/Departments/Organisations and CVOs are to identify the sensitive posts and staff working in these posts and also ensure that they are strictly rotated after every two/three years to avoid developing vested interests.

2. The Commission in the superintendence of vigilance administration over the years has observed that such rotational transfers are not effected in many organisations due to which officials continue to remain in the same posts for long periods. Such overstay and continuous postings afford scope for indulging in corrupt activities, developing vested interests etc. which may not be in the interest of the organisation. The Commission would, therefore, emphasise that periodical rotation of officials holding sensitive posts/jobs needs to be ensured. As such, officials should not be retained in the same place/position for long by the Ministries/Departments/PSUs/Banks/Organisations etc.

3. Heads/CVOs of all Departments/Organisations are advised to ensure strict compliance of the Commission's guidelines and implement the same in letter and spirit. Further, the CVOs should specifically report the action taken indicating the number of officials rotated/transferred in the respective organisations in the Monthly Report of CVOs submitted to the Commission.

(KD Tripathi)  
Secretary

1. All Secretaries of Ministries/Departments.
2. All CMDs/Heads of CPSUs/Public Sector Banks/Organisations
3. All CVOs of Ministries/Departments/ CPSUs/Public Sector Banks/Organisations.

Telegraphic Address :  
SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स / Fax : 24651186



केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi-110023

सं./No..... 000/VGL/18-389880

दिनांक / Dated. 26.07.2018.....

Circular No.07/07/18

**Subject: Adherence to time limits in processing of disciplinary cases – reg.**

**Reference:** (i) Commission's Letter No.000/VGL/18 dated 23.05.2000  
(ii) Commission's Office Order No.51/08/2004 dated 10.08.2004  
(iii) Commission's Circular No.02/01/2016 dated 18.01.2016

The Commission has been emphasizing from time to time on the need for expeditious completion of disciplinary proceedings. The model time limits for investigation of complaints and for different processes of disciplinary proceedings have been laid down in Commission's letter of even number dated 23<sup>rd</sup> May 2000.

2. The Commission would like to invite the attention of the Administrative Authorities /Disciplinary Authorities to the undue delays in finalizing vigilance cases especially the conduct of disciplinary proceedings despite having a built in time line for every activity. Further, such unexplained delays lead to Central Administrative Tribunals and the High Courts quashing the charge-sheet(s) on the sole ground that the concerned Disciplinary Authorities had issued charge-sheets to the delinquents after very long periods of commission of alleged misconduct etc. and also for unexplained delays in conducting disciplinary inquiries.

3. Timely completion and finalization of disciplinary proceedings is the prime responsibility of the Disciplinary Authority/Administrative Authorities concerned in all Departments/ Organizations. More so, such long delays in finalizing disciplinary matters are not only unjust to officials who may be finally exonerated, but helps the guilty to evade punitive action. The Commission had earlier vide its circular no.02/01/2016 dated 18/01/2016 emphasized on the various steps needed to be taken by all concerned obviating delays at different stages of the process right from investigation to finalization of disciplinary proceedings by way of regular monitoring of these cases/matters.



4. The Commission while reiterating the above said instructions would impress upon all concerned that the time limits prescribed by the Commission/DoPT for processing disciplinary cases at various stages may be strictly adhered to. All disciplinary authorities in each Ministry/Department/Organization need to regularly monitor the progress of individual disciplinary cases and take necessary steps as deemed appropriate to ensure that the disciplinary proceedings are completed within prescribed time-limits and are not unduly delayed.

5. All CVOs are also therefore advised to apprise the concerned officers regarding the above guidelines for compliance in monitoring progress/ handling disciplinary proceedings.



(M.A. Khan)

Officer on Special Duty

To

- (i) The Secretaries of all Ministries/Departments of Gol.
- (ii) All Chief Executives of CPSUs/PSBs/FIs/PSICs/Autonomous Bodies/etc.
- (iii) All CVOs of Ministries/Deptts/CPSUs/PSBs/FIs/PSICs/Autonomous Organizations.
- (iv) Website of CVC.



सत्यमेव जयते



Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.evc.nic.in

EPABX  
24600200

फैक्स/Fax : 24651186

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

सं./No. 017/MSC/002-

दिनांक / Dated. 07.03.2017

OFFICE MEMORANDUM

**Subject: Expeditious finalisation of departmental proceedings pending with the Ministries / Departments / Organisations – regarding.**

**Reference: Commission's O.M. of even no. dated 10.01.2017.**

The Commission had vide its O.M. referred to above directed CVOs of all Ministries/Departments/Organisations to furnish particulars of all departmental inquiries, as on 31.12.2016, pending with them after submission of IO's report in respect of officials under the CVC jurisdiction (Category 'A' cases) and other officials (Category 'B' cases) in a prescribed format by 31.01.2017.

2. The Commission has since received information from around 290 organisations till date. On perusal of the data furnished by the individual organisations, the Commission has noticed that significant number of IO's reports in disciplinary cases are pending for consideration / processing at various stages with 173 organisations. The Commission has been time and again emphasising the need for expeditious finalisation of disciplinary proceedings and adherence to the time lines prescribed by the DoPT/CVC by all Administrative Authorities. Despite such persuasion, it is observed that the required attention is not being accorded to this activity by the DA's concerned entailing inordinate delays in finalisation of cases.

3. All Disciplinary Authorities (DAs) may note that such inordinate delay in processing inquiry reports is neither in the interests of the organisation nor the officer concerned. The Commission has directed that all such departmental inquiries pending after receipt of IO's report are required to be brought to a logical conclusion within the prescribed timeline by issue of final orders by the competent authorities concerned in the Ministries/Departments/Organisations expeditiously without any further delay, following

laid down procedure. The DAs concerned in the individual organisations are, therefore, advised to expeditiously process all such pending reports. Further, the CVOs concerned are also directed to vigorously pursue all such pending matters with the DAs. Non-compliance to the above directions and timelines would be viewed adversely by the Commission.

4. This issues with the approval of the Central Vigilance Commissioner.



(J Vinod Kumar)  
Director  
Tel.No. 2465 1019

To:

The CEOs / CVOs as per enclosed list (173 nos.)

**Departmental Inquiries pending with Ministries/Departments/Organisations as on 31.12.2016**

**Information received upto 07.03.2017**

**UNDER THE CVC JURISDICTION (CATEGORY 'A' CASES)**

S. No.	Organisation name	1 No. of disciplinary cases pending with IO's	2 No. of reports received and pending finalisation with DA	3 Total (1+2)	Details and break up of IO's reports pending finalisation.						
					No. of reports received and pending consideration of DA		No. of cases wherein after consideration by DA, sent for representation of charged officer, which is awaited		No. of cases wherein charged Officer's representation received and is under consideration of DA		
					<2 months	Over months	<2 months	Over months	<2 months	Over 2 months	
1.	CPCL	0	0	0	0	0	0	0	0	0	0
2.	MSTC	0	0	0	0	0	0	0	0	0	0
3.	GIC	0	1	1	0	0	0	0	0	0	1
4.	KPT	2	0	2	0	0	0	0	0	0	0
5.	WCL	2	1	3	0	0	1	0	0	0	0
6.	Swami VNIRT&R	0	1	1	0	1	0	0	0	0	0
7.	SJVNL	0	0	0	0	0	0	0	0	0	0
8.	Andhra Bank	2	0	2	0	0	0	0	0	0	0
9.	CONCOR	0	0	0	0	0	0	0	0	0	0
10.	CPWD	29	18	47	3	1	0	0	1	13	0
11.	IOCL	1	17	18	15	2	0	0	0	0	0
12.	Engineers India Ltd.	1	2	3	0	0	0	0	0	0	2
13.	BIS	5	4	9	1	3	0	0	0	0	0
14.	Coal India Ltd.	2	0	2	0	0	0	0	0	0	0
15.	BCCL	2	2	4	0	0	2	0	0	0	0
16.	NHPC	0	0	0	0	0	0	0	0	0	0
17.	Pastour Institute of India	0	2	2	0	0	0	0	0	0	2

18.	Indian Institute of Entrepreneurship	0	1	0	1	0	0	0	0	0	0	0	0	0
19.	South Eastern Coalfields Ltd.	3	0	0	3	0	0	0	0	0	0	0	0	0
20.	M/o Civil Aviation	2	3	0	5	0	0	0	0	0	0	0	0	3
21.	SAH.	6	0	0	6	0	0	0	0	0	0	0	0	0
22.	STC	6	0	0	6	0	0	0	0	0	0	0	0	0
23.	PGCH.	2	1	1	3	1	0	0	0	0	0	0	0	0
24.	Bank of India	2	4	3	6	1	0	0	0	0	0	0	0	0
25.	IRCON International Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0
26.	Hindustan Insecticides Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0
27.	Oriental Bank of Commerce	4	0	0	4	0	0	0	0	0	0	0	0	0
28.	PFC Ltd.	1	0	0	1	0	0	0	0	0	0	0	0	0
29.	State Bank of Hyderabad	0	0	0	0	0	0	0	0	0	0	0	0	0
30.	Central Institute of Plastics Engineering & Technology	0	0	0	0	0	0	0	0	0	0	0	0	0
31.	M/o Food Processing Industries	0	0	0	0	0	0	0	0	0	0	0	0	0
32.	M/o R1&H	1	1	0	2	0	0	0	0	0	0	0	1	0
33.	State Bank of Travancore	0	0	0	0	0	0	0	0	0	0	0	0	0
34.	D/o Heavy Industry	3	1	0	4	0	0	0	0	0	0	0	1	0
35.	State Bank of India	41	11	0	52	0	0	0	0	0	0	0	8	3
36.	Indian Institute of Forest Management	0	0	0	0	0	0	0	0	0	0	0	0	0
37.	NMDC Ltd.	1	0	0	1	0	0	0	0	0	0	0	0	0
38.	Oriental Bank of Commerce	4	0	0	4	0	0	0	0	0	0	0	0	0
39.	Union Bank of India	9	2	0	11	0	0	0	0	0	0	0	1	0
40.	GAIL India Ltd.	4	0	0	4	0	0	0	0	0	0	0	0	0
41.	TCH.	0	0	0	0	0	0	0	0	0	0	0	0	0
42.	Central Warehousing Corp.	4	0	0	4	0	0	0	0	0	0	0	0	0
43.	Prime Minister's Office	0	0	0	0	0	0	0	0	0	0	0	0	0
44.	Bank of Baroda	2	1	0	3	0	0	1	0	0	0	0	0	0
45.	Mahanesi Coalfields Ltd.	1	0	0	1	0	0	0	0	0	0	0	0	0
46.	Bharat Dynamics Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0

47.	M/o Social Justice & Empowerment	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
48.	HUDCO	12	3	0	15	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
49.	Bank of Maharashtra	9	5	0	14	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
50.	M/o Steel	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
51.	Central Coalfields Ltd.	3	0	0	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
52.	NBCC (India) Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
53.	National Textile Corp. Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
54.	The New India Assurance Co. Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
55.	RINL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
56.	Cement Corp. of India Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
57.	Bird Group of Companies	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
58.	M/o Power	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
59.	MMTC Ltd.	1	1	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
60.	CRPF	9	7	3	16	2	2	0	0	0	0	0	0	0	0	0	0	0	0	0
61.	NITRO	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
62.	SCI	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
63.	Chennai Port Trust	1	2	0	3	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0
64.	National Institute for the Empowerment of Persons with Intellectual Disabilities	8	1	1	9	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
65.	Hindustan Shipyard Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
66.	NTPC	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
67.	The Rubber Board	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
68.	University of Delhi	1	2	0	3	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0
69.	Prasar Bharti	13	3	0	16	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3
70.	MTNL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
71.	Mumbai Port Trust	4	1	1	5	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
72.	M/o Ayush	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
73.	Vijaya Bank	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
74.	Scooters India Ltd.	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
75.	Kendriya Bhandar	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
76.	D/o Expenditure	4	0	0	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
77.	Punjab & Sind Bank	3	3	1	6	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
78.	State Bank of Mysore	2	7	0	9	0	4	0	0	0	0	0	0	0	0	0	0	0	0	0
79.	IDBI Bank Ltd.	3	1	1	4	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0

80.	MECON Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
81.	HPCL	1	3	4	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0
82.	Corporation Bank	6	8	14	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
83.	The National Small Industries Corp. Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
84.	ITI Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
85.	V.O. Chidambaram Port Trust	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
86.	United India Insurance Co. Ltd. (UIICL)	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
87.	Geological Survey of India	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
88.	National Institute of Health & Family Welfare	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
89.	D/o Scientific and Industrial Research	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
90.	Central Industrial Security Force	1	3	4	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0
91.	D/o Posts	13	11	24	2	2	0	0	0	0	0	0	0	0	0	0	0	0	0
92.	Syndicate Bank	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
93.	Hindustan Paper Corp. Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
94.	Konkan Railway Corp. Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
95.	Ch. Charan Singh National Institute of Agricultural Marketing	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
96.	Controller General of Defence Accounts	3	0	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
97.	Hindustan Copper Ltd. (HCL)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
98.	D/o Higher Education (M/o HRD)	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
99.	Canara Bank	4	1	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
100.	Delhi Transport Corp. (DTC)	2	6	8	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0
101.	Sasisthra Seema Bal, MHA	2	4	6	1	2	1	0	0	0	0	0	0	0	0	0	0	0	0
102.	Indian Bank	11	6	17	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

103.	State Bank of Bikaner & Jaipur (SBBJ)	0	0	0	0	0	0	0	0	0	0	0	0	0
104.	NLC India Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0
105.	M/o Human Resource Development (M/o HRD)	1	0	0	1	0	0	0	0	0	0	0	0	0
106.	North Eastern Regional Institute of Science and Technology	0	2	0	2	0	0	2	0	0	0	0	0	0
107.	Central Council for Research in Ayurvedic Sciences	1	1	0	2	0	0	0	0	0	0	1	0	0
108.	Central Cottage Industries Corp. of India Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0
109.	Nuclear Power Corp. of India Ltd. (NPCIL)	0	0	0	0	0	0	0	0	0	0	0	0	0
110.	Indian Institute of Tropical Meteorology	2	0	0	2	0	0	0	0	0	0	0	0	0
111.	Vissakhapatnam Port Trust	14	1	0	15	0	0	1	0	0	0	0	0	0
112.	Software Technology Parks of India	0	1	0	1	0	0	0	0	0	0	0	1	0
113.	National Aluminium Co. Ltd. (NALCO)	1	2	0	3	0	0	2	0	0	0	0	0	0
114.	REPCO Bank	0	0	0	0	0	0	0	0	0	0	0	0	0
115.	M/o Textile	1	0	0	1	0	0	0	0	0	0	0	0	0
116.	AAI	7	1	0	8	0	0	1	0	0	0	0	0	0
117.	DDA	5	17	0	22	11	0	0	1	0	2	3	0	0
118.	Directorate General, ITB Police	0	0	0	0	0	0	0	0	0	0	0	0	0
119.	D/o Economic Affairs	2	0	0	2	0	0	0	0	0	0	0	0	0
120.	M/o Shipping	7	3	0	10	0	0	2	0	0	1	0	0	0
121.	Rashtriya Chemicals and Fertilizers Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0
122.	Directorate General of Civil Aviation	1	1	0	2	0	0	0	0	0	0	0	0	0
123.	India Tourism Development Corp. Ltd.	5	11	0	16	0	0	7	0	3	0	1	0	0
124.	Hindustan Aeronautics Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0
125.	Life Insurance Corp. of India (LIC)	0	2	0	2	0	0	0	0	2	0	0	0	0



126.	Archaeological Survey of India	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
127.	Bharat Sanchar Nigam Ltd. (BSNL)	66	64	130	3	13	2	3	6	37	0	0	0	0	0	0	0	0	0
128.	Central Electricity Authority (M/o Power)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
129.	D/o Agriculture, Cooperation & Farmers Welfare	6	1	7	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
130.	M/o Mines	0	1	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
131.	Dena Bank	9	5	14	0	1	0	0	3	1	0	0	0	0	0	0	0	0	0
132.	Employees' Provident Fund Organisation (EPFO)	44	25	69	0	18	2	0	0	5	0	0	0	0	0	0	0	0	0
133.	Central Electronics Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
134.	Narcotics Control Bureau (NCB) MHA	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
135.	Dte. General Border Security Force, MHA	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
136.	Atomic Energy Education Society	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
137.	M/o Electronics & Information Technology	2	1	3	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
138.	Air India	0	6	6	0	2	0	0	0	4	0	0	0	0	0	0	0	0	0
139.	Controller General of Accounts	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
140.	M/o Corporate Affairs	3	5	8	0	1	0	0	0	4	0	0	0	0	0	0	0	0	0
141.	GNCTD	32	16	48	3	2	1	0	2	8	0	0	0	0	0	0	0	0	0
142.	National School of Drama (M/o Culture)	0	1	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0
143.	Nehru Memorial Museum & Library	0	3	3	1	0	0	0	0	2	0	0	0	0	0	0	0	0	0
144.	M/o Railways	165	185	350	21	58	8	3	10	85	0	0	0	0	0	0	0	0	0
145.	National Insurance Co. Ltd., Kolkata	0	1	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0
146.	Punjab National Bank (PNB)	6	1	7	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
147.	India Trade Promotion Organisation (ITPO)	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
148.	NCCF of India Ltd.	0	6	6	0	4	0	1	0	1	0	0	0	0	0	0	0	0	0



### NON – CVC INQUIRIES (CATEGORY 'B' CASES)

S. No.	Organisation name	1			2			3			Details and break up of IO's reports pending finalisation					
		No. of disciplinary cases pending with IO's			No. of IO's reports received and pending finalisation with DA			Total (1+2)			No. of reports received and pending consideration of DA		No. of cases wherein after consideration by DA, sent for representation of charged officer, which is awaited		No. of cases wherein charged Officer's representation and is under consideration of DA	
		<2 months	Over months	2	<2 months	Over months	2	<2 months	Over months	2	<2 months	Over months	<2 months	Over months	<2 months	Over months
1.	CPCL	1		1	1	2	0	0	0	0	0	0	0	1	0	
2.	MSTC	0		1	1	1	0	1	0	0	0	0	0	0	0	
3.	GIC	0		0	0	0	0	0	0	0	0	0	0	0	0	
4.	KPT	2		7	7	9	0	0	0	0	0	0	0	0	0	
5.	WCL	3		0	0	3	0	0	0	0	0	0	0	0	0	
6.	Swami VNIRI&R	0		0	0	0	0	0	0	0	0	0	0	0	0	
7.	SIVNL	0		1	1	1	1	0	0	0	0	0	0	0	0	
8.	Andhra Bank	12		11	11	23	5	0	0	2	1	2	1	1	1	
9.	CONCOR	1		1	1	2	0	0	0	0	0	0	0	0	0	
10.	CPWD	1		1	1	2	0	1	0	0	0	0	0	0	0	
11.	IOCL	8		4	4	12	2	0	0	1	0	0	0	0	0	
12.	Engineers India Ltd.	0		1	1	0	0	0	0	0	0	0	0	0	0	
13.	BIS	0		0	0	0	0	0	0	0	0	0	0	0	0	
14.	Coal India Ltd.	1		1	1	2	0	0	0	0	0	0	0	0	0	
15.	BCCL	7		3	3	10	0	0	0	0	0	0	1	0	2	
16.	NHPC	3		1	1	4	0	1	0	0	0	0	0	0	0	
17.	Pasteur Institute of India	6		2	2	8	2	0	0	0	0	0	0	0	0	
18.	Indian Institute of Entrepreneurship	0		0	0	0	0	0	0	0	0	0	0	0	0	
19.	South Eastern Coalfields Ltd.	1		0	0	1	0	0	0	0	0	0	0	0	0	



45.	Mahansidi Coalfields Ltd.	2		3		5		0		0		0		0		1		2
46.	Bharat Dynamics Ltd.	2		2		4		2		0		0		0		0		0
47.	M/o Social Justice & Empowerment	1		0		1		0		0		0		0		0		0
48.	HUDCO	4		0		4		0		0		0		0		0		0
49.	Bank of Maharashtra	47		21		68		0		0		1		0		8		12
50.	M/o Steel	0		0		0		0		0		0		0		0		0
51.	Central Coalfields Ltd.	7		2		9		0		0		1		0		1		0
52.	NBCC (India) Ltd.	1		1		2		0		1		0		0		0		0
53.	National Textile Corp. Ltd.	13		7		20		6		1		0		0		0		0
54.	The New India Assurance Co. Ltd.	15		15		30		0		1		0		2		2		10
55.	RINL	0		4		4		0		0		1		0		3		0
56.	Cement Corp. of India Ltd.	0		1		1		0		0		0		0		0		1
57.	Bird Group of Companies	1		0		1		0		0		0		0		0		0
58.	M/o Power	0		0		0		0		0		0		0		0		0
59.	MMTC Ltd.	2		1		3		0		0		0		0		0		1
60.	CRPF	10		21		31		13		2		5		0		1		0
61.	National Technical Research Orgn.	8		3		11		0		3		0		0		0		0
62.	SCI	5		7		12		0		7		0		0		0		0
63.	Chennai Port Trust	9		12		21		2		10		0		0		0		0
64.	National Institute for the Empowerment of Persons with Intellectual Disabilities	0		0		0		0		0		0		0		0		0
65.	Hindustan Shipyard Ltd.	7		1		8		1		0		0		0		0		0
66.	NTPC	1		16		17		15		0		0		0		1		0
67.	The Rubber Board	1		0		1		0		0		0		0		0		0
68.	University of Delhi	1		2		3		0		0		0		0		0		2
69.	Prasar Bharti	16		9		25		6		2		0		0		0		1
70.	MTNL	19		15		34		0		0		2		0		4		9
71.	Mumbai Port Trust	3		0		3		0		0		0		0		0		0

72.	M/o Ayush	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
73.	Vijaya Bank	14	1	15	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
74.	Scooters India Ltd.	4	0	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
75.	Kendriya Bhandar	1	2	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
76.	D/o Expenditure	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
77.	Punjab & Sind Bank	18	8	26	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
78.	State Bank of Mysore	8	5	13	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
79.	IDBI Bank Ltd.	47	8	55	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
80.	MECON Ltd.	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
81.	HPCL.	25	15	40	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	11
82.	Corporation Bank	18	4	22	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
83.	The National Small Industries Corp. Ltd.	0	3	3	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
84.	ITI Ltd.	0	1	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
85.	V.O. Chidambaranar Port Trust	0	2	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
86.	United India Insurance Co. Ltd. (UIICL)	46	27	73	6	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	7
87.	Geological Survey of India	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
88.	National Institute of Health & Family Welfare	0	2	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
89.	D/o Scientific and Industrial Research M/o Science and Technology	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
90.	Central Industrial Security Force	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
91.	D/o Posts	4	8	12	4	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	2
92.	Syndicate Bank	39	32	71	3	12	3	8	2	2	2	2	2	2	2	2	2	2	2	2	2	3
93.	Hindustan Paper Corp. Ltd.	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
94.	Konkan Railway Corp. Ltd.	1	1	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
95.	Ch. Charan Singh National Institute of Agricultural Marketing	1	1	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

96.	Controller General of Defence Accounts	31	12	43	3	1	0	0	1	3	4
97.	Hindustan Copper Ltd. (HCL)	1	2	3	1	1	0	0	0	0	0
98.	D/o Higher Education (M/o HRD)	0	0	0	0	0	0	0	0	0	0
99.	Canara Bank	27	2	29	1	0	0	0	0	1	0
100.	Delhi Transport Corp. (DTC)	3	0	3	0	0	0	0	0	0	0
101.	Sashastra Seema Bal. MHA	2	0	2	0	0	0	0	0	0	0
102.	Indian Bank	17	6	23	1	0	2	0	1	0	2
103.	State Bank of Bikaner & Jaipur (SBBJ)	8	12	20	0	0	8	0	0	3	1
104.	NLC India Ltd.	1	6	7	0	0	0	0	0	1	5
105.	M/o Human Resource Development (M/o HRD)	0	0	0	0	0	0	0	0	0	0
106.	North Eastern Regional Institute of Science and Technology	0	0	0	0	0	0	0	0	0	0
107.	Central Council for Research in Ayurvedic Sciences	0	0	0	0	0	0	0	0	0	0
108.	Central Cottage Industries Corp. of India Ltd.	1	0	1	0	0	0	0	0	0	0
109.	Nuclear Power Corp. of India Ltd. (NPCIL)	0	0	0	0	0	0	0	0	0	0
110.	Indian Institute of Tropical Meteorology	3	0	3	0	0	0	0	0	0	0
111.	Visakhapatnam Port Trust	4	0	4	0	0	0	0	0	0	0
112.	Software Technology Parks of India	0	0	0	0	0	0	0	0	0	0
113.	National Aluminium Co. Ltd. (NALCO)	10	1	11	0	0	1	0	0	0	0
114.	REPCO Bank	2	2	4	0	2	0	0	0	0	0
115.	M/o Textile	0	0	0	0	0	0	0	0	0	0
116.	AAI	7	2	9	0	1	0	0	0	1	0

117.	DDA	0	4	4	1	0	0	0	1	0	0	2
118.	Directorate General, ITB Police	3	4	7	1	3	0	0	0	0	0	0
119.	D/o Economic Affairs	0	0	0	0	0	0	0	0	0	0	0
120.	M/o Shipping	0	0	0	0	0	0	0	0	0	0	0
121.	Rashtriya Chemicals and Fertilizers Ltd.	1	4	5	4	0	0	0	0	0	0	0
122.	Directorate General of Civil Aviation	0	0	0	0	0	0	0	0	0	0	0
123.	India Tourism Development Corp. Ltd.	4	4	8	0	2	0	0	1	0	0	1
124.	Hindustan Aeronautics Ltd.	13	9	22	5	4	0	0	0	0	0	0
125.	Life Insurance Corp. of India (LIC)	31	44	75	1	14	0	0	27	0	0	2
126.	Archaeological Survey of India	4	2	6	2	0	0	0	0	0	0	0
127.	Bharat Sanchar Nigam Ltd. (BSNL)	140	256	396	11	96	7	15	3	0	124	0
128.	Central Electricity Authority (M/o Power)	1	0	1	0	0	0	0	0	0	0	0
129.	D/o Agriculture, Cooperation & Farmers Welfare	0	0	0	0	0	0	0	0	0	0	0
130.	M/o Mines	0	0	0	0	0	0	0	0	0	0	0
131.	Deasa Bank	20	14	44	2	0	1	4	1	0	6	0
132.	Employees' Provident Fund Organisation (EPFO)	38	35	73	2	23	0	1	8	0	1	0
133.	Central Electronics Ltd.	0	1	1	1	0	0	0	0	0	0	0
134.	Narcotics Control Bureau (NCB) MHA	8	2	10	2	0	0	0	0	0	0	0
135.	Dir. General Border Security Force, MHA	2	4	6	1	2	1	0	0	0	0	0
136.	Atomic Energy Education Society	4	1	5	0	0	0	0	0	1	0	0



137.	M/o Electronics & Information Technology	1	0	0	0	0	0	0	0	0	0	0	0	0
*138.	Air India	10	10	0	0	0	0	0	0	0	0	0	0	0
139.	Controllor General of Accounts	4	4	1	0	3	0	0	0	0	0	0	0	4
140.	M/o Corporate Affairs	0	1	0	0	0	0	0	0	0	0	0	0	1
141.	GNCTD	101	44	6	9	4	0	0	0	0	0	0	6	19
142.	National School of Drama (M/o Culture)	NOT PROVIDED												
143.	Neihu Memorial Museum & Library	NOT PROVIDED												
144.	M/o Railways	250	130	39	37	11	9	7	0	0	0	0	0	27
145.	National Insurance Co. Ltd., Kolkata	0	2	0	0	0	0	0	0	0	0	0	0	2
146.	Punjab National Bank (PNB)	75	18	1	0	7	0	0	0	0	0	0	0	1
147.	India Trade Promotion Organisation (ITPO)	0	0	0	0	0	0	0	0	0	0	0	0	0
148.	NCCF of India Ltd.	0	1	0	1	0	0	0	0	0	0	0	0	0
149.	National Seeds Corp. Ltd.	5	3	2	0	1	0	0	0	0	0	0	0	0
150.	Directorate of PPO&S	1	3	0	0	0	0	0	0	0	0	0	0	2
151.	Coconut Development Board	1	0	0	0	0	0	0	0	0	0	0	0	0
152.	Directorate of Marketing & Inspection	2	2	0	0	2	0	0	0	0	0	0	0	0
153.	Bharat Pumps & Compressors Ltd.	0	2	0	2	0	0	0	0	0	0	0	0	0
154.	H.L. Lifecare Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0
155.	Central Board of Secondary Education	1	0	0	0	0	0	0	0	0	0	0	0	0
156.	ONGC	10	11	4	0	1	0	0	0	0	0	0	0	6
157.	RITES	1	2	0	2	0	0	0	0	0	0	0	0	0
158.	Indian Council of Agricultural Research	1	2	0	1	0	0	0	0	0	0	0	0	1
159.	CAPART	0	0	0	0	0	0	0	0	0	0	0	0	0

160.	National Training Institute (NPTI)	Power Institute	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
161.	Dattopant National Board for Workers Education and Development	Thengadi	5	3	0	8	0	2	0	0	0	0	0	0	0	0	0	0	0
162.	Indian Institute of Mass Communication		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
163.	Indian Overseas Bank		122	60	3	182	0	0	10	06	27	14	0	0	0	0	0	0	0
164.	Indian Rare Earths Ltd.		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
165.	Central Council of Indian Medicine		1	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
166.	Madras Fertilizers Ltd.		2	0	0	2	0	2	0	0	0	0	0	0	0	0	0	0	0
167.	National Institute of Industrial Engineering		0	1	0	1	0	0	0	1	0	1	0	0	0	0	0	0	1
168.	State Bank of Patna		13	9	1	22	1	8	0	0	0	0	0	0	0	0	0	0	0
169.	Establishment Division of DAC&FW		7	2	1	9	1	0	1	0	1	0	0	0	0	0	0	0	0
170.	National Horticulture Board		1	0	0	1	0	0	1	0	0	0	0	0	0	0	0	0	0
171.	Mazagon Dock Ltd.		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
172.	Staff Selection Commission		1	6	1	7	1	5	0	0	1	0	0	0	0	0	0	0	0
173.	NABARD		5	2	2	7	2	0	1	1	0	0	0	0	0	0	0	0	0

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स / Fax : 24651186



सत्यमेव जयते



केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi-110023

सं./No.-017/MSC/002-333346.....

दिनांक / Dated.....10.01.2017.....

OFFICE MEMORANDUM

**Subject: Expeditions finalisation of departmental proceedings pending with the Ministries / Departments / Organisations – regarding.**

The Commission has observed that the conduct and finalisation of departmental inquiry proceedings are unduly delayed and even after receipt of Inquiry Officer's report, further processing for its consideration and final orders of the respective Disciplinary Authorities take long time. CVO's of all Ministries / Departments / Organisations are directed to furnish particulars of all departmental inquiries, as on 31.12.2016, pending with them after submission of IO's report in respect of officials under the CVC jurisdiction (Category 'A' cases) and other officials (Category 'B' cases) as per enclosed format at [coord@cvc@nic.in](mailto:coord@cvc@nic.in) positively by 31<sup>st</sup> January, 2017.

(J Vinod Kumar)

Director

Tel.No. 2465 1019

Encl: Format as stated above.

All Chief Vigilance Officers of Ministries / Departments / CPSUs / Public Sector Banks / Insurance Companies / Autonomous Organisations / Societies etc.

Name of Organisation

Departmental Inquiries pending with Ministries/Departments/Organisations as on 31.12.2016

**Under the CVC jurisdiction (Category 'A' cases)**

1 No. of disciplinary cases pending with IO's	2 No. of IO's reports received and pending finalisation with DA	3 Total (1+2)	Details and break up of IO's reports pending finalisation		
			No. of reports received and pending consideration of DA	No. of cases wherein after consideration by DA, sent for representation of charged officer, which is awaited	No. of cases wherein Charged Officer's representation received and is under consideration of DA
			< 2 months	Over 2 months	Over 2 months
				< 2 months	Over 2 months

**Non - CVC inquiries (Category 'B' cases)**

1 No. of disciplinary cases pending with IO's	2 No. of IO's reports received and pending finalisation with DA	3 Total (1+2)	Details and break up of IO's reports pending finalisation		
			No. of reports received and pending consideration of DA	No. of cases wherein after consideration by DA, sent for representation of charged officer, which is awaited	No. of cases wherein Charged Officer's representation received and is under consideration of DA
			< 2 months	Over 2 months	Over 2 months
				< 2 months	Over 2 months

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स/Fax : 24651186



सत्यमेव जयते

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

सं./No..... 005/VGL/011

दिनांक / Dated..... 25<sup>th</sup> May, 2015

**CIRCULAR No.08/05/15**

**Sub:** Guidelines to be followed by the administrative authorities competent to accord sanction for prosecution u/s.19 of the PC Act – 1988 - Hon'ble Supreme Court Judgment in Criminal Appeal No. 1838 of 2013 - reg.

**Ref:** CVC Office Order No.31/5/05 dated 12.05.2005  
CVC Circular No.07/03/12 dated 28.03.2012

\*\*\*

The Commission has been emphasising the need for quick and expeditious decisions on requests of sanction for prosecution received from CBI/other investigating agencies under the PC Act, 1988 and also to strictly adhere to the time limit of three months for grant or otherwise of sanction for prosecution laid down by the Hon'ble Supreme Court in Vineet Narain & Ors, Vs. Union of India (AIR 1998 SC 889). Despite these instructions and close monitoring of such pending matters; the Commission has been concerned with the serious delays persisting in processing requests for sanction for prosecution by the Competent Authorities.

2. The Commission had earlier vide its Office Order No. 31/5/05 dt. 12/05/2005 brought to the notice of all competent authorities guidelines to be followed by the sanctioning authorities. Subsequently, the Apex Court in the matter of Dr.Subramanian Swamy Vs. Dr.Manmohan Singh & another (Civil Appeal No. 1193 of 2012) referred to the above guidelines of CVC, and observed that, 'the aforementioned guidelines are in conformity with the law laid down by this Court that while considering the issue regarding grant or refusal of sanction, the only thing which the Competent Authority is required to see is whether the material placed by the complainant or the investigating agency prima facie discloses commission of an offence. The Competent Authority cannot undertake a detailed inquiry to decide whether or not the allegations made against the public servant are true'. Thereafter, the Commission vide circular No.07/03/12 dated 28/03/2012 reiterated its guidelines dated 12/05/2005 and advised all concerned Competent Authorities to adhere to the time limits for processing requests for prosecution sanction under Section 19 of PC Act as laid down by the Apex Court in letter and spirit.

3. The Hon'ble Supreme Court has recently in Criminal Appeal No. 1838 of 2013 in the matter of CBI Vs. Ashok Kumar Aggarwal, in para 7 of the judgment observed that 'there is an obligation on the sanctioning authority to discharge its duty to give or withhold sanction only after having full knowledge

of the material facts of the case. Grant of sanction is not a mere formality. Therefore, the provisions in regard to the sanction must be observed with complete strictness keeping in mind the public interest and the protection available to the accused against whom the sanction is sought. Sanction lifts the bar for prosecution. Therefore, it is not an acrimonious exercise but a solemn and sacrosanct act which affords protection to the Government servant against frivolous prosecution. Further, it is a weapon to discourage vexatious prosecution and is a safeguard for the innocent, though not a shield for the guilty\*.

4. In para 8 of the above judgment, the Court has issued guidelines to be followed with complete strictness by the Competent Authorities while considering grant of sanction as below:-

a). *The prosecution must send the entire relevant record to the sanctioning authority including the FIR, disclosure statements, statements of witnesses, recovery memos, draft charge-sheet and all other relevant material. The record so sent should also contain the material/document, if any, which may tilt the balance in favour of the accused and on the basis of which, the competent authority may refuse sanction.*

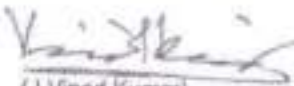
b). *The authority itself has to do complete and conscious scrutiny of the whole record so produced by the prosecution independently applying its mind and taking into consideration all the relevant facts before grant of sanction while discharging its duty to give or withhold the sanction.*

c). *The power to grant sanction is to be exercised strictly keeping in mind the public interest and the protection available to the accused against whom the sanction is sought.*

d). *The order of sanction should make it evident that the authority had been aware of all relevant facts/materials and had applied its mind to all the relevant material.*

e). *In every individual case, the prosecution has to establish and satisfy the court by leading evidence that the entire relevant facts had been placed before the sanctioning authority and the authority had applied its mind on the same and that the sanction had been granted in accordance with law.*

5. The Commission, would therefore, in terms of its powers and functions under Section 8(1) (f) of the CVC Act, 2003 direct all administrative authorities to scrupulously follow the guidelines contained in para 2 (i) to (vii) of Commission's circular No 31/5/05 dated 12/05/2005 and the recent explicit guidelines laid down for compliance by the Hon'ble Supreme Court at para 4 above, while considering and deciding requests for sanction for prosecution. Since non-compliance of the above guidelines vitiates the sanction for prosecution, therefore, competent sanctioning authorities should discharge their obligations with complete strictness and would be held responsible for any deviation / non-adherence and issues questioning the validity of sanction arising at a later stage in matters of sanction for prosecution.

  
(J Vinod Kumar)  
Officer on Special Duty

All Secretaries to the Ministries/Departments of Government of India  
All CVOs of Ministries/Departments, CPSEs/Public Sector Banks/ Insurance Companies /Organizations /  
Societies and Local Authorities etc.

Copy for information to :-

- i) The Secretary, Department of Personnel & Training, North Block, New Delhi.
- ii) The Director, Central Bureau of Investigation, Lodhi Road, New Delhi.

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स / Fax : 24651186



सत्यमेव जयते

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

सं./No. 015/MS/016

27<sup>th</sup> April, 2015  
दिनांक / Dated

CIRCULAR No.07/04 /15

**Subject: Consultation with CVC for first stage advice – revised procedure - reg.**

**Reference : (i) Commission's letter No. DO VGL 10 dated 3.9.1985**

**(ii) Commission's Office Order No. 24/4/04 dated 15.4.2004**

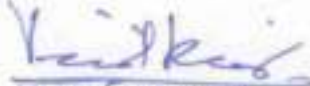
**(iii) Commission's Office Order No. 25/4/05 dated 29.4.2005**

As per the existing scheme for consultation with the Commission, the CVOs of the Ministries / Departments and all other organisations are required to seek the Commission's first stage advice after obtaining the tentative views of Disciplinary Authorities (DAs) on the reports of the preliminary inquiry / investigation of all complaints involving allegation(s) of corruption or improper motive; or if the alleged facts prima-facie indicate an element of vigilance angle which are registered in the Vigilance Complaint Register involving Category-A officers (i.e., All India Service Officers serving in connection with the affairs of the Union, Group-A officers of the Central Govt. and the levels and categories of officers of CPSUs, Public Sector Banks, Insurance companies, Financial Institutions, Societies and other local authorities as notified by the Government u/s 8(2) of CVC Act, 2003) before the competent authority takes a final decision in the matter. Such references also include cases wherein the allegations on inquiry do not prima facie indicate any vigilance overtone / angle / corruption.

2. On a review of the scheme of consultation with the Commission and to expedite the processes of vigilance administration in the Ministries/Departments/Organisations, it has been decided that, henceforth after inquiry / investigation by the CVO in complaints / matters relating to Category-A officers as well as composite cases wherein, Category-B officers are also involved, if the allegations, on inquiry do not indicate prima facie vigilance angle / corruption and relate to purely non-vigilance / administrative lapses, the case would be decided by the CVO and the DA concerned of the public servant at the level of Ministry / Department / Organisation concerned. The CVO's reports recommending administrative / disciplinary action in non-vigilance / administrative lapses would, therefore, be submitted to the DA and if the DA

agrees to the recommendations of the CVO, the case would be finalised at the level of the Ministry / Department / Organisation concerned. In all such matters, no reference would be required to be made to the Commission seeking its first stage advice. However, in case there is a difference of opinion between the CVO and the DA as to the presence of vigilance angle, the matter as also enquiry reports on complaints having vigilance angle though unsubstantiated would continue to be referred to the Commission for first stage advice. The provisions of the Vigilance Manual and the Special Chapter on Vigilance Management in Public Sector Enterprises, Public Sector Banks and Insurance Companies would stand amended to this extent.

3. The above revised consultation procedure / dispensation would not apply to the complaints received by the Commission and referred for investigation and report to the CVO of the Ministry / Department / Organisation and CVOs would continue to furnish their investigation reports in all matters involving Category-A officers for seeking first stage advice of the Commission irrespective of the outcome of inquiry / investigation. Similarly, all written complaints / disclosures (Whistle Blower complaints) received under the Public Interest Disclosure and Protection of Informers' Resolution (PIDPI), 2004 or the Whistle Blowers Protection Act, 2011 would also continue to be handled / processed by CVOs in terms of the existing prescribed procedures or as amended from time to time.

  
(J. Vinod Kumar)  
Officer on Special Duty

To

All Chief Vigilance Officers of Ministries / Departments / CPSEs / Public Sector Banks / Insurance Companies / Autonomous organisations / Societies, etc.

**Copy for information to:** - The Joint Secretary (S&V), Department of Personnel & Training, North Block, New Delhi - 110 001.





सत्यमेव जयते



Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स / Fax : 24651186

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

सं./No. 003/DSP/9

दिनांक / Dated 16/04/2015

Circular No.05/03/15

Subject- Difference of opinion pertaining to requests for sanction for prosecution sought by CBI/other investigating agencies. – regarding.

- Reference:-
- (i) DoPT O.M. No. 134/2/85-AVD-I dated 15/17.10.1986;
  - (ii) Commission's Office Order No. 1/1/04 dated 08.01.2004;
  - (iii) Commission's Office Order No. 23/6/06 dated 23.06.2006;
  - (iv) DoPT O.M. No. 399/33/2006-AVD-III dated 06.11.2006 & 20.12.2006;
  - (v) Commission's Office Order No.31/5/05 dated 12.05.2005 and
  - (vi) Commission's Circular No.07/03/12 dated 28.03.2012

The Central Vigilance Commission has been emphasising the need for quick and expeditious decisions on requests of sanction for prosecution received from CBI / other investigating agencies under the Prevention of Corruption Act, 1988 and also to strictly adhere to the time limit of three (3) months for grant or otherwise of sanction for prosecution in terms of the orders of the Supreme Court in Vineet Narain & Ors. Vs.Union of India. Despite these instructions and regular follow-up of such pending matters, the Commission observes that the Competent Authorities take unduly long time in deciding these matters.

2. In cases of difference of opinion between the Competent Authorities in the Ministries / Departments / Organisations and CBI/other investigating agencies, where the latter have after investigation sought sanction for prosecution of public servants, the Commission resolves such difference of opinion by holding a joint meeting with the representatives of CBI and concerned Department / Organisation. The Commission has, however, observed that generally no new facts are brought out during these meetings and there are considerable delays on the part of the Departments / Organisations concerned in adhering to the laid down time limits for various activities for examining / considering such requests for sanction for prosecution and in making a reference for consultation with the Commission for advice, etc.

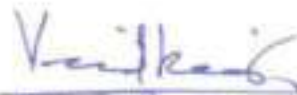
3. In view of above, the Commission, on a review of the existing mechanism has decided to dispense with the mechanism of holding joint meetings with the representatives of CBI and the concerned Department / Organisation and henceforth, all such matters of difference of opinion with CBI / Investigating Agencies would be dealt and resolved by the Commission on the basis of available documents / materials and tentative views of the Competent Authorities of the concerned Ministry / Department / Organisation. The Commission would also draw attention to

the guidelines issued by the Commission to be followed by the sanctioning authorities, vide its Office Order No.31/5/05 dated 12<sup>th</sup> May, 2005 and reiterated vide Circular No.07/03/12 dated 28<sup>th</sup> March, 2012 in processing requests for sanction for prosecution.

4. Accordingly, on receipt of investigation reports from CBI / other investigating agencies requesting sanction for prosecution of public servants who are non-Presidential appointees, the Competent Authority shall within three weeks formulate its tentative views regarding the action to be taken and in all matters involving difference of opinion with the recommendations of CBI / Investigating Agencies, seek the advice of the Commission for resolution of difference of opinion. The CVO of the Department / Organisation concerned would ensure that the time limits as above are complied with in taking decisions by the concerned Administrative Authorities either to grant sanction for prosecution and to convey the same to the agency concerned or to ensure a reference is made to the Commission for advice forwarding the tentative views of the Administrative Authorities for resolving the difference of opinion.

5. Further, in all cases, where Commission advises sanction for prosecution, in terms of DoPT instructions referred above, and provisions of the Vigilance Manual, the concerned Ministry / Department is required to refer the case to the Commission for reconsideration only in exceptional cases when new facts come to light. As per the existing mechanism in place, such reconsideration proposals are examined by the Committee of Experts and the Commission renders appropriate advice, thereafter to the Competent Authorities. The Commission has observed over the years that in practice, majority of the cases referred back for reconsideration are on the same facts/materials as was available to the Competent Authority and the Commission initially. In other words, such reconsideration proposals do not contain any new fact(s) warranting change in the views/advice of the Commission tendered earlier. Such routine references/proposals for reconsideration of the Commission's advice need to be strictly avoided. In order to ensure that cases for grant for sanction for prosecution are decided quickly, the Commission would, therefore, entertain only those cases for reconsideration wherein new facts and circumstances which warrant any change are brought out by the Competent Authorities / Administrative Authorities specifically while making such proposals to the Commission.

6. The Commission is of the considered view that compliance to the above said principles would facilitate in reducing delays in deciding matters/ requests of sanction for prosecution by the Administrative Ministries/Departments/Organisations.



[J. Vinod Kumar]

Officer on Special Duty

1. All Secretaries of Ministries/Departments of Government of India.
2. All CMDs/CEOs of CPSUs/Public Sector Banks/Insurance Companies/Organisations, etc
3. All CVOs of Ministries/Departments/ CPSUs/Public Sector Banks/Insurance Companies Organisations, etc.

Copy for information to:

1. The Joint Secretary (S&V), Department of Personnel & Training, North Block, New Delhi.
2. The Joint Director(Policy), Central Bureau of Investigation, North Block, New Delhi.



सत्यमेव जयते



Telegraphic Address :  
\*SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स/Fax : 24651186

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

सं./No. 011/VGL/094(Part-1)

दिनांक / Dated 1<sup>st</sup> April, 2015

OFFICE ORDER NO.04/04/15

**Sub: Constitution of Committee of Experts for scrutiny of prosecution sanctions.**

The Commission, in accordance with the guidelines issued by Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training) vide O.M No.399/33/2006-AVD-III dated 06.11.2006, had constituted a committee of experts (drawn from civil services, public sector undertakings/banks) to examine reconsideration proposals received in the Commission from various Ministries/Departments/Organisations in matters where Commission had earlier advised grant of sanction for prosecution.

2. The tenure of the panel of experts of the committee last constituted vide Office Order No 13/06/12 dated 29<sup>th</sup> June, 2012 and extended w.e.f 01.07.2014 vide Office Order No.03/07/14 dated 14.07.2014 expired on 31.12.2014. The Commission hereby, reconstitutes the panel of experts with effect from 1<sup>st</sup> April, 2015 with the following persons:-

1. Shri Sudhir Krishna, IAS(Retd.)
2. Shri C.B. Paliwal, IAS(Retd.)
3. Shri Sada Shiv Bajpai, IRS(Retd.)
4. Smt.Sushama V. Dabak, IA &AS(Retd.)
5. Shri P.K. Gupta, ex-Spl.DG,CPWD
6. Shri A.K.Shukla, ex-Chairman, LIC

3. Depending upon the nature of the case, a committee consisting of three members including the Chairperson (i.e. Vigilance Commissioner) shall examine the CBI recommendation and the tentative views of the Ministry/Department concerned in greater detail. Two members of the Committee would be drawn from the panel of experts and one of the Vigilance Commissioners in the Commission would chair the meeting. In the light of the expert committee's recommendation, the CVC would render appropriate advice to the competent authority within 15 days of the meeting of the committee.

4. The tenure of the panel of experts would be for a period of two years from 01.04.2015. The terms and conditions would be as indicated in the annex.

5. The meetings of the committee would be held in Delhi. Central Vigilance Commission would provide the required secretarial services alongwith the necessary funds to meet the expenditure to be incurred regarding the meetings of the committee.



(Salim Haque)  
Addl. Secretary

Encl: as above

To.

1. Members of the Committee of Experts
2. Shri Sanjay Kothari, Secretary, DoPT, North Block, New Delhi
3. Shri Anil Sinha, Director, CBI, North Block, New Delhi
4. All Chief Vigilance Officers of Ministries/Departments/Organisations.

## Terms of appointment of the Committee of Experts

### 1. Period

The term will be for a period of two years.

### 2. Honorarium

An honorarium of ₹3000/- (Three thousand only) per day would be paid to the members.

### 3. Secretarial Assistance

Secretarial assistance would be provided by the Commission as per requirements.

### 4. Fare, Transport & Accommodation

The fare, transport and accommodation would be provided by the Commission as per entitlement of the members.

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स / Fax : 24651186



सत्यमेव जयते

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लैक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

सं./No. 006/PRC/1

दिनांक / Dated 11.12.2014

Circular No. 09/12/2014

**Sub: - References to the Commission for advice – Procedure regarding.**

- Ref:- (i) Commission's Circular No.14/3/06 dated 13/03/2006  
(ii) Commission's Circular No.32/12/08 dated 01/12/2008  
(iii) Commission's Circular No.21/8/09 dated 06/08/2009

The Commission is being consulted at two stages in disciplinary proceedings, i.e. first stage advice is obtained on the investigation reports and second stage advice is obtained on receipt of inquiry reports before a final decision is taken on conclusion of the disciplinary proceedings. In order to ensure proper appreciation of facts and examination of references, made by the Ministries/Departments/Organisations for its advice, the Commission has been emphasizing on the need for sending complete details/records including providing a tabular statement of the case as prescribed in the above cited circulars. It has been observed that the tabular statements are not being sent or filled-up properly by the departments / organisations while referring cases for first stage / second stage advice of the Commission.

2. As per the role and functions of CVOs, prescribed in Chapter II of Vigilance Manual (sixth edition), the investigation reports together with the specific recommendations of CVO in respect of each suspect officer(s) involved in a case is required to be submitted for consideration of the Disciplinary Authority concerned. After obtaining tentative views/recommendations of the Disciplinary Authority (DA), the case is required to be referred to the Commission for its first stage advice, wherever necessary. Similarly, the CVO would examine the Inquiry officer's report and after obtaining the tentative views of the competent disciplinary authority about further course of action to be taken, seek the Commission's second stage advice, wherever required. To further streamline the consultation with the Commission, henceforth, the tabular statements as in formats prescribed below should invariably be furnished alongwith other records/documents while making references for first and second stage advice of the Commission:-


**First stage advice**

Sl.No.	Name and designation of the suspect officer	Allegations in brief	Version of the suspect officer	Findings of inquiry/ investigation on each allegation(s)	Comments/ recommendations of the CVO	Comments/ recommendation of the Disciplinary Authority

**Second stage advice**

Sl. No.	Name and designation of the charged officer	Allegations in brief on each article of charge(s)	Defence statement/ CO's brief	Finding of inquiry officer (IO) on each article of charge(s)	Comments of CVO on IO's findings	Comments/ recommendation of the Disciplinary Authority on IOs findings

3. CVOs of all Ministries/Departments/Organisations would ensure that complete information / records are sent alongwith references being made to the Commission for its advice.

  
(J Vinod Kumar)  
Officer on Special Duty

To

All Chief Vigilance Officers

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स / Fax : 24651186



सत्यमेव जयते

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

सं./No.....014-VGL-061.....

दिनांक / Dated 03<sup>rd</sup> December 2014

**Circular No. 08/12/14**

**Subject:** Second stage consultation with the CVC in disciplinary cases —  
Amendment to the Vigilance Manual – regarding.

**Reference:** (i) Commission's Office Order No. 03/01/10 issued vide No. 009/VGL/056  
dated 28.01.2010

(ii) Commission's Circular No 17/12/12 issued vide No. 010/VGL/095  
dated 07.12.2012

The Commission, at present, is being consulted at two stages in vigilance cases / disciplinary proceedings, i.e. first stage advice is obtained on the investigation reports, and second stage advice is obtained before a final decision is taken at the conclusion of the proceedings.

2. The Commission vide its Office Order No. 03/01/10 dated 28.01.2010 had earlier dispensed with the requirement of obtaining second stage advice in respect of officers not falling within the jurisdiction of the Commission in composite cases wherein, first stage advice had been tendered in respect of all categories of officers involved. Cases of such officers are presently required to be referred only if the disciplinary authority's (DA) opinion/views is at variance with the Commission's advice. Further, vide its Circular No. 17/12/12 dated 07.12.2012, the Commission had dispensed with consultation at second stage on conclusion of disciplinary proceedings in respect of Group 'A' officers of Central Government, members of All India Services and such categories of officers wherein the UPSC is required to be consulted as per extant rules.

3. The Commission on a further review of the consultation mechanism and to provide for speedy finalisation of disciplinary proceedings, has now decided to dispense with the consultation for second stage advice of the Commission in cases where the disciplinary authority (DA), on conclusion of disciplinary proceedings, proposes to impose a penalty which is in line with the Commission's first stage advice in respect of officers falling within the jurisdiction of the Commission also. Such cases would, henceforth be dealt at the level of the CVO and DA concerned in



the Organisation/Department. However, the CVO should forward an action taken report alongwith a copy of IO's findings and the final order issued by DA in all such cases of officers for Commission's record. It is further clarified that all such cases where the disciplinary authority proposes to take any action which is at variance with the Commission's first stage advice would continue to be referred to the Commission for obtaining second stage advice.

4. By dispensing with the requirement of seeking second stage advice in regard to the categories of officers as aforesaid, the Commission expects that (i) the CVO would be in a position to exercise proper check and supervision over such cases and would ensure that the cases are disposed off expeditiously within the time norms stipulated by the Commission; and (ii) the punishment awarded to the concerned officer is commensurate with the gravity of the misconduct established on his/her part. In order to ensure that the Commission's expectations are fully met, the Commission may depute its officers to conduct vigilance audit through onsite visits. If the Commission comes across any matter, which in its opinion, has not been handled properly, it may recommend its review by the appropriate authority or may give such directions as it considers appropriate.

5. Para 2.14.3 of Vigilance Manual, Vol.I (sixth edition) and relevant provisions of the Special Chapters on Vigilance Management in Public Sector Enterprises, Public Sector Banks and Public Sector Insurance Companies stand amended to the extent stated above.



(J. Vinod Kumar)  
Officer on Special Duty

To

- (i) The Secretaries of all Ministries/Departments of Government of India
- (ii) The Chief Secretaries to all Union Territories
- (iii) All Chief Vigilance Officers in the Ministries/Departments
- (iv) All CMDs/CEOs of CPSEs, Public Sector Banks/Insurance Companies/ Autonomous Bodies /Societies/Local Authorities
- (v) All Chief Vigilance Officers of Ministries/Departments/CPSEs/Public Sector Banks / Insurance Companies / Autonomous Bodies/ Societies / Local Authorities

सं. / No27(4)/2014(ACC)

भारत सरकार

Government of India

मंत्रिमंडलीय नियुक्ति समिति का सचिवालय

Secretariat of the Appointments Committee of the Cabinet

कार्मिक एवं प्रशिक्षण विभाग

Department of Personnel & Training

स्थापना अधिकारी का कार्यालय

Office of the Establishment Officer

\*\*\*\*\*

नॉर्थ ब्लॉक, नई दिल्ली

North, Block, New Delhi

दिनांकित / Dated : 22.10.2014

कार्यालय ज्ञापन

OFFICE MEMORANDUM

\*\*\*\*\*

**Subject:** Guidelines for processing proposals for appointment to Board level posts in Central Public Sector Enterprises(CPSEs).

Attention of all Ministries/Departments is invited to Secretary, PESB's D.O. letter No. 13/07/2010-PESB dated 13.05.2011 vide which detailed guidelines for appointment/extension/confirmation to the Board level posts were circulated. Consolidated guidelines to be followed in this regard are also available on this Department's website [www.persmin.nic.in](http://www.persmin.nic.in) (O.M. & Orders →Establishment Officer→ S.No.10 - Guidelines for processing cases of Board level appointments in Central Public Sector Enterprises).

2. It has been observed that the timelines prescribed for processing the proposals for appointments to Board level posts in CPSEs are not being adhered to. The resultant delay in filling up the Board level vacancies has been a matter of serious concern for the Government. In order to address this issue effectively, the following timelines are hereby issued for information and strict compliance:-

PESB will initiate the process for filling up of Board level vacancies at least one year prior to the date on which the vacancy arises. (The Ministry concerned shall be responsible to intimate all anticipated vacancies to the PESB well in time for this process to commence.)	<b>6 months prior to scheduled expiry of tenure</b>	<b>PESB</b> ↓	Initiate selection process 1 year prior to date of vacancy; send recommendations to Ministry 6 months before date of vacancy
PESB will complete the selection process and send its recommendations to the Ministry at least 6 months prior to the date of vacancy.			
Ministry concerned will forward the PESB recommendation with vigilance profile of the selected individual to CVC within 10 days from the receipt of PESB recommendation.	<b>10 days</b>	<b>MINISTRY</b> ↓	Forward vigilance profile to CVC

CVC will complete the Vigilance clearance process within two months from the date of receipt of the vigilance profile of the selected candidate from the Ministry and send it to the Ministry. This period of two months will include consultation with CBI/CBI clearance, reference to the CVO of the Ministry for any report, clarifications, etc.	<b>60 days</b>	<b>CVC</b> ↓	Vigilance clearance or denial including consultation with CBI
The Ministry concerned will, with the approval of the Minister, forward the proposal to ACC Secretariat (E.O.) within the next 10 days.	<b>10 days</b>	<b>MINISTRY</b> ↓	Will forward with Minister's approval
The ACC will thereafter take a decision on the proposal within six weeks of its receipt by the ACC Secretariat.	<b>6 Weeks</b>	<b>ACC</b>	Decision

3. The Establishment Officer will monitor compliance of the above time-line and bring any abnormal and unexpected delay to the notice of the Cabinet Secretariat. To facilitate monitoring of proposals at every stage, all Ministries/Departments shall upload and update the data filled in AVMS on real time basis so that effective monitoring can be done.

4. It is further noted that appointments are getting considerably delayed in cases where vigilance clearance is neither denied nor given but is awaited. In order to avoid delays on account of non-receipt of vigilance clearance, the following guidelines are hereby issued:-

(a) The instructions contained in DoPT's O.M. No. 104/76/2011-AVD.I dated 18.10.2013 regarding handling of pseudonymous/ anonymous complaints should be strictly adhered to at all levels. Further as per CVC's instructions issued vide Office Order No.57/8/04 dated 31.08.2004, no cognizance should be taken of any complaint received within six months prior to the initiation of the selection process. *For this purpose, the date of interview held by the PESB would be the crucial date, six months prior to which no cognizance would be taken of complaints received against the selected candidates.* Such complaints therefore should not have any bearing on the ACC process and would not prejudice the same. Such complaints should however be dealt separately and necessary action be taken in the event of any adverse conclusion even after the appointment is made.

(b) (i) In case vigilance clearance is not denied by CVC within the two months period stipulated above (which would include consultation with CBI/CBI clearance, reference to the CVO of the Ministry for any report, clarification etc), the Ministries shall proceed with the appointment process, without waiting any further.

- (ii) While submitting such proposals for the consideration of ACC, the Ministry shall provide the complete details of cases/complaints, if any, pending against the selected candidate and their specific views regarding the gravity of the allegations and the culpability of the concerned candidate. While the Ministry may not have much difficulty in processing the proposal when selected candidate is from an organisation under the control of the same Department, some advance action would be required when the candidate is coming from outside. For this purpose, the Ministry shall obtain the complete vigilance profile of the candidate from the concerned Ministry/Department to which the selected candidate belongs as soon as the PESB recommendation is received by them. The Ministry shall also obtain complete details of the cases/complaints, if any, which are pending for enquiry and the concerned Department's views thereon.

5. The timelines currently prescribed for processing ACC proposals and the existing instructions regarding vigilance clearance shall accordingly stand modified to the extent stipulated above.
6. This issues with the approval of the Competent Authority.

  
(B. P. Sharma)  
Establishment Officer & Additional Secretary  
■ : 23092370

To

All the Secretaries in Ministries/Departments of the Government of India

Copy to:-

1. The Prime Minister's Office(Shri V. Sheshadri, Director) New Delhi.
2. Cabinet Secretariat(Ms. Nivedita Shukla Verma), New Delhi.
3. The Secretary, Central Vigilance Commission, New Delhi.
4. The Secretary, PESB, New Delhi.
5. NIC (DoP&T)-with request to upload the O.M. on the website of DoPT.
6. EO(ACC)- (30) copies.

  
29.10.2014  
(Virender Singh)  
Under Secretary to the Government of India  
■ : 23093671

सं. / No.17(9)EO/2014-ACC

भारत सरकार

Government of India

मंत्रिमंडलीय नियुक्ति समिति का सचिवालय

Secretariat of the Appointments Committee of the Cabinet

कार्मिक एवं प्रशिक्षण विभाग

Department of Personnel & Training

स्थापना अधिकारी का कार्यालय

Office of the Establishment Officer

\*\*\*\*\*

नॉर्थ ब्लॉक, नई दिल्ली

North, Block, New Delhi

दिनांकित / Dated : 30.10.2014

कार्यालय ज्ञापन

OFFICE MEMORANDUM

**Subject:** Policy guidelines for Extension of tenure of Board level incumbents where vigilance clearance is not available.

As per extant policy, in case the initial term of 05 years of a Board-level appointee come to an end prior to his/her date of superannuation, extension of his/her tenure upto the date of superannuation is considered with the approval of the ACC subject to his/her being free from vigilance angle and meeting the prescribed performance parameters. In terms of existing instructions, services of any Board-level appointee cannot be terminated on completion of his initial term, if he/she is due for extension, without specific orders of the ACC. There are many cases, however, where vigilance clearance is not given in time by CVC/concerned administrative Ministry/Department due to complaints/inquiries pending against the concerned officer.

2. The issue of extension of tenure of Board level incumbents has been examined and with the approval of the ACC, it has been decided to henceforth follow the following procedure in this regard :-

- (I) As in the case of fresh appointments, in line with CVC's instructions dated 31.08.2004, no cognizance should be taken of any complaint which is received within 06 months prior to the terminal date of the approved tenure of Board-level appointees. This is imperative as it has been frequently observed that there is a spate of allegations and complaints against Board-level officials whose cases become due for extension of tenure.
- (II) The Department should take a conscious decision on whether to extend the term of a Board-level appointee at least one year in advance of the completion of his initial term so that adequate time is available for the Department to obtain CVC clearance.
- (III) Taking into account the vigilance status as on the date six months before the terminal date of initial appointment, the CVC may give its clearance within two months of receiving the reference in this

regard from the Administrative Ministry. This limit of two months will include time taken for back references, CBI references/inquiries, etc.

(IV) Even though complaints received after the cut-off date shall have no bearing upon the process of extension of tenure and would not prejudice the same, such complaints shall be dealt with as per the normal procedure. Disregarding such complaints received after the cut off date at the time of deciding upon extension of tenure may not be of any serious consequence as the appointment can always be terminated at a later date if the charges are substantiated on the basis of an inquiry.

(V) (a) In respect of the cases where CVC clearance has been delayed beyond the prescribed timelines, merely on account of procedural reasons, and where there is no denial of vigilance clearance, the case of extension could be processed without waiting any further.

(b) In respect of the cases where CVC clearance is awaited, and there are cases/complaints pending against the officer, the Ministry shall submit to ACC, a proposal for extension of tenure, at least two months prior to the officer's approved tenure with:

- (i) all available information in respect of the complaint;
- (ii) material received from/sent to CVC, including enquiry report, if any, of the CVO of the Ministry;
- (iii) the comments of the Ministry thereon.

3. All the Ministries/Departments are requested to strictly adhere to the time-line and procedural guidelines stipulated above for processing the proposals for extension of tenure of Board level appointees.

CA  
(Anand Madhukar)  
Director (ACC)  
☎: 23092272

To

All the Secretaries in Ministries/Departments of the Government of India

Copy to:-

1. The Prime Minister's Office (Shri V. Sheshadri, Director) New Delhi.
2. Cabinet Secretariat (Ms. Nivedita Shukla Verma), New Delhi.
3. The Secretary, Central Vigilance Commission, New Delhi.
4. The Secretary, PESB, New Delhi.
5. NIC (DoP&T)-with request to upload the O.M. on the website of DoPT.
6. EO(ACC)- (30) copies.

CA  
(Anand Madhukar)  
Director (ACC)  
☎: 23092272

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स / Fax : 24651186



सत्यमेव जयते

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए, नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023  
011/VGL/094(Part-1)

सं./No.....

दिनांक / Dated..... 14<sup>th</sup> July, 2014

OFFICE ORDER NO.03/07/14

**Sub: Constitution of Committee of Experts for scrutiny of prosecution sanctions.**

The Commission, in accordance with para 2(iii) of the guidelines issued by Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training) vide O.M No.399/33/2006-AVD-III dated 06.11.2006, had constituted a committee of experts(drawn from the civil services, public sector undertakings and banks) to examine reconsideration proposals received in the Commission from various Ministries/Departments/Organisations in matters where Commission had earlier advised grant of sanction for prosecution.

2. The tenure of the panel of experts of the Committee last constituted vide circular No.13/06/12 dated 29<sup>th</sup> June, 2012 for a period of two years w.e.f 01.07.2012, has been extended by the Commission, for a period of six months with effect from 1<sup>st</sup> July, 2014.
3. Terms and conditions of the Committee of Experts would remain unchanged.

(Salim Haque)  
Additional Secretary

To

1. Members of the Committee of Experts
2. Shri S.K Sarkar, Secretary, DoPT, North Block, New Delhi
3. Shri Ranjit Sinha, Director, CBI, North Block, New Delhi

No.011/VGL/094(Part-1)  
Central Vigilance Commission

\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi-110 023  
Dated the 29<sup>th</sup> June, 2012

OFFICE ORDER NO.13/06/12

**Sub: Constitution of Committee of Experts for scrutiny of prosecution sanctions.**

The Commission, in accordance with the guidelines issued by Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training) vide O.M No.399/33/2006-AVD-III dated 06.11.2006, had constituted a committee of experts((drawn from civil services, public sector undertakings/banks) to examine reconsideration proposals received in the Commission from various Ministries/Departments/Organisations in matters where Commission had earlier advised grant of sanction for prosecution.

2. The tenure of the panel of experts of the committee last constituted vide circular No.30/10/09 dated 29<sup>th</sup> October 2009 having expired, the Commission hereby, reconstitutes the panel of experts with effect from 1<sup>st</sup> July, 2012 with the following persons:-

1. Shri A.K.Jain, IAS(Retd.) former Secretary, Department of Disinvestment \*\*
2. Shri Vivek Mehrotra, IAS(Retd.), former Secretary, Ministry of Minority Affairs
3. Shri V.S. Jain, ex-Chairman, SAIL & Member, PESB
4. Shri Uday Shankar Dutt, IPS(Retd.)
5. Shri Balwinder Singh, IPS(Retd.)
6. Shri R.N.Ravi, IPS(Retd.)
7. Shri Prakash Chandra, IRS(Retd.), ex-Chairman, CBDT
8. Shri D.L Rawal, ex-CMD, Dena Bank
9. Shri M.Venugopalan, ex-CMD, Bank of India.

3. Depending upon the nature of the case, a committee consisting of three members including the Chairperson (i.e. Vigilance Commissioner) shall examine the CBI recommendation and the tentative views of the Ministry/Department concerned in greater detail. Two members of the Committee would be drawn from the panel of experts and one of the Vigilance Commissioners in the Commission would chair the meeting. In the light of the expert committee's recommendation, the CVC would render appropriate advice to the competent authority within 15 days of the meeting of the committee.

\*\* (Sl.No. 1 - Shri A. K. Jain, IAS(Retd.) - is not available)



4. The tenure of the panel of experts would be for a period of two years from 01.07.2012. The terms and conditions would be as indicated in the annex.

5. The meetings of the committee would be held in Delhi. Central Vigilance Commission would provide the required secretarial services alongwith the necessary funds to meet the expenditure to be incurred regarding the meetings of the committee.

*K.D. Tripathi*  
(K.D. Tripathi)  
Secretary

Encl: as above

To.

1. Members of the Committee of Experts
2. Shri P.K. Misra, Secretary, DoPT, North Block, New Delhi
3. Shri A.P. Singh, Director, CBI, North Block, New Delhi
4. All Chief Vigilance Officers.

**Terms of appointment of the Committee of Experts**

**1. Period**

The term will be for a period of two years .

**2. Honorarium**

An honorarium of ₹3000/- (Three thousand only) per day would be paid to the members.

**3. Secretarial Assistance**

Secretarial assistance would be provided by the Commission as per requirements.

**4. Fare, Transport & Accommodation**

The fare, transport and accommodation would be provided by the Commission as per entitlement of the members .

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स / Fax : 24651186



केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

सं./No. 003/DSP/3

19<sup>th</sup> May, 2014

दिनांक / Dated.....

Circular No. 02/05/2014

**Subject: Need for self-contained speaking and reasoned order to be issued by the authorities exercising disciplinary powers.**

Attention is invited to the Commission's office order No. 51/9/03 dated 15.09.2003, officer order No. 14/2/04 dated 26.02.2004 and circular No. 02/01/09 dated 15.01.2009, wherein it was clarified that Disciplinary Authorities (DAs) should issue a self-contained, speaking and reasoned order which must indicate, inter-alia, due application of mind by the authority issuing the order.

2. The Commission has observed that in spite of the above said instructions, the orders issued in disciplinary matters by the Disciplinary Authorities concerned are sometimes not in the form of a speaking and reasoned order indicating due application of mind. The Commission would, therefore, again advice all administrative authorities to ensure that officials exercising disciplinary powers conferred under the applicable statutory rules/CDA Rules etc. governing the public servants concerned in the CPSUs/PSBs/Ministries/ Departments/Organizations to issue the orders which are self-contained, speaking and reasoned indicating due application of mind by them especially when they differ with the advice/recommendations of CVO or Inquiry Officer or the Commission as the case may be giving cogent reasons thereof.

3. Instances have also come to the notice of the Commission wherein the orders passed by Disciplinary Authorities only indicate their designation in the organization and the name of the officer is not indicated in the orders issued. Commission would, therefore, advice that in all such orders issued in disciplinary matters, the name and designation should also be clearly indicated.

4. Heads of Departments/Organizations and CVOs should ensure that all the Disciplinary Authorities in their organization(s) strictly follow the above guidelines of the Commission in future.

(J. Vinod Kumar)  
Officer on Special Duty

All Secretaries in Ministries/Departments to the Government of India  
All CMDs of CPSUs/PSBs/Insurance Companies/Autonomous Organisations  
All Chief Vigilance Officers



सत्यमेव जयते



Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स / Fax : 24651186

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

सं./No. 004/VGL/090/22053

दिनांक / Dated. 11.9.2013

Circular No. 03/09/13

Subject:- Rotation of officials working in sensitive posts-regarding.

Central Vigilance Commission and the Department of Personnel and Training have issued instructions for effecting rotational transfers of officials posted on sensitive posts. As per Commission's instructions issued vide letter Nos. 98/VGL/60 dated 15.4.1999, 02.11.2001 and 004/VGL/90 dated 01.5.2008 and 04.01.2012 (for public sector banks) on this issue, it was prescribed that Ministries/Departments/Organisations and CVOs are to identify the sensitive posts and staff working in these posts and also ensure that they are strictly rotated after every two/three years to avoid developing vested interests.

2. The Commission in the superintendence of vigilance administration over the years has observed that such rotational transfers are not effected in many organisations due to which officials continue to remain in the same posts for long periods. Such overstay and continuous postings afford scope for indulging in corrupt activities, developing vested interests etc. which may not be in the interest of the organisation. The Commission would, therefore, emphasise that periodical rotation of officials holding sensitive posts/jobs needs to be ensured. As such, officials should not be retained in the same place/position for long by the Ministries/Departments/PSUs/Banks/Organisations etc.

3. Heads/CVOs of all Departments/Organisations are advised to ensure strict compliance of the Commission's guidelines and implement the same in letter and spirit. Further, the CVOs should specifically report the action taken indicating the number of officials rotated/transferred in the respective organisations in the Monthly Report of CVOs submitted to the Commission.

*K D Tripathi*  
(K D Tripathi)  
Secretary

1. All Secretaries of Ministries/Departments.
2. All CMDs/Heads of CPSUs/Public Sector Banks/Organisations.
3. All CVOs of Ministries/Departments/ CPSUs/Public Sector Banks/Organisations.



सत्यमेव जयते



Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24651001 - 07

फैक्स/Fax : 24616286

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

सं./ No. .... 005-CVO-35

दिनांक / Dated..... 08.02.2013

**CIRUCLAR No. 01/02/13**

Subject: Conduct of CVO's functioning in Banks & other organizations regarding.

The Commission has been receiving references on the functioning of CVOs, in the matters of availing perks from the organization.

2. The Commission would like to emphasise that CVOs functioning in Bank and other organizations need to show exemplary conduct in their functioning, while availing perks from the organization, where they are functioning as CVO. Conduct of highest standard is imperative on the part of CVOs as the independence of their functioning and vigilance administration will be adversely affected, if they seek favours for themselves from the organization where they are working as CVO.

3. The Commission would, therefore, advise all CVOs to be prudent and refrain from availing any extra facilities/benefits beyond their eligibility from the Managements of the organization they are working in.

(Prabhat Kumar)  
Director (Coord-II)  
Telefax:-24657638

All Chief Vigilance Officers.

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24651001 - 07

फैक्स/Fax : 24616286



सत्यमेव जयते

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

010VGL/095

सं./No. ....

दिनांक / Dated 07.12.2012 .....

Circular No.17/12/12

**Subject: Second stage consultation with the CVC in disciplinary cases involving consultation with UPSC - Amendment to the Vigilance Manual –reg.**

The Commission, at present, is being consulted at two stages in vigilance cases/disciplinary proceedings, i.e. first stage advice is obtained on the investigation reports, and second stage advice is obtained before a final decision is taken at the conclusion of the proceedings. The Department of Personnel & Training (DoPT) had issued guidelines vide OM No.372/19/2011-AVD-III(Pt.) dated 26.09.2011 regarding dispensing with second stage consultation with the Central Vigilance Commission (CVC) in disciplinary cases involving consultation with Union Public Service Commission (UPSC).

2. In order to ensure speedy finalisation of disciplinary matters and to avoid possibilities of difference of opinion between UPSC and CVC, it has been decided as a policy to prescribe only one consultation (either with UPSC or with CVC). The Commission therefore, in supersession of all its existing instructions/provisions in the Vigilance Manual hereby prescribes that in disciplinary cases involving Group 'A' officers of the Central Government, members of All India Services and such categories of officers where an original order is to be issued by the President imposing any of the penalties wherein, the UPSC is required to be consulted as per extant rules, the Central Vigilance Commission need not be consulted for second stage advice on conclusion of the disciplinary proceedings. In all such disciplinary cases, in which it is necessary to consult the UPSC, the disciplinary authorities concerned would forward the records of the disciplinary case to the UPSC for its advice and take further action taking into consideration, the advice of the UPSC.

3. However, in disciplinary cases wherein, the disciplinary authorities tentatively propose not to impose any of the statutory penalties at the conclusion of the disciplinary proceedings, (i.e. cases where the UPSC are not required to be consulted), the second stage consultation would continue to be made with the Central Vigilance Commission, involving Group 'A' officers of the Central Government, members of All India Services and such other categories of officers of the Central Government involved in composite cases. In other words, all disciplinary proceedings in which the disciplinary authorities propose to exonerate or drop the charges, the consultation at second stage would continue to be made to the CVC by the concerned administrative authorities.

4. The above dispensation would not be applicable to the disciplinary cases being referred to the Commission involving officials of the CPSEs/PSBs/Public Sector Insurance Companies/Societies/Local Authorities/Autonomous Organisations etc. and such cases would continue to be referred to the Commission for its second stage advice as per existing prescribed procedure.



(J. Vinod Kumar)  
Officer on Special Duty

To,

- i) The Secretaries of Ministries/Departments of Government of India
- ii) The Chief Secretaries to Union Territories
- iii) The Chief Vigilance Officers of Ministries/Departments of Government of India

Copy for information to:-

- i) The Secretary, Union Public Service Commission
- ii) The Secretary, Department of Personnel & Training
- iii) The Director, Central Bureau of Investigation

No.011/VGL/094(Part-1)  
Central Vigilance Commission

\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi-110 023  
Dated the 29<sup>th</sup> June, 2012

OFFICE ORDER NO.13/06/12

**Sub: Constitution of Committee of Experts for scrutiny of prosecution sanctions.**

The Commission, in accordance with the guidelines issued by Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training) vide O.M No.399/33/2006-AVD-III dated 06.11.2006, had constituted a committee of experts((drawn from civil services, public sector undertakings/banks) to examine reconsideration proposals received in the Commission from various Ministries/Departments/Organisations in matters where Commission had earlier advised grant of sanction for prosecution.

2. The tenure of the panel of experts of the committee last constituted vide circular No.30/10/09 dated 29<sup>th</sup> October 2009 having expired, the Commission hereby, reconstitutes the panel of experts with effect from 1<sup>st</sup> July, 2012 with the following persons:-

1. Shri A.K.Jain, IAS(Retd.) former Secretary, Department of Disinvestment \*\*
2. Shri Vivek Mehrotra, IAS(Retd.), former Secretary, Ministry of Minority Affairs
3. Shri V.S. Jain, ex-Chairman, SAIL & Member, PESB
4. Shri Uday Shankar Dutt, IPS(Retd.)
5. Shri Balwinder Singh, IPS(Retd.)
6. Shri R.N.Ravi, IPS(Retd.)
7. Shri Prakash Chandra, IRS(Retd.), ex-Chairman, CBDT
8. Shri D.L Rawal, ex-CMD, Dena Bank
9. Shri M.Venugopalan, ex-CMD, Bank of India.

3. Depending upon the nature of the case, a committee consisting of three members including the Chairperson (i.e. Vigilance Commissioner) shall examine the CBI recommendation and the tentative views of the Ministry/Department concerned in greater detail. Two members of the Committee would be drawn from the panel of experts and one of the Vigilance Commissioners in the Commission would chair the meeting. In the light of the expert committee's recommendation, the CVC would render appropriate advice to the competent authority within 15 days of the meeting of the committee.

\*\* (Sl.No. 1 - Shri A. K. Jain, IAS(Retd.) - is not available)



4. The tenure of the panel of experts would be for a period of two years from 01.07.2012. The terms and conditions would be as indicated in the annex.

5. The meetings of the committee would be held in Delhi. Central Vigilance Commission would provide the required secretarial services alongwith the necessary funds to meet the expenditure to be incurred regarding the meetings of the committee.

*K.D. Tripathi*  
(K.D. Tripathi)  
Secretary

Encl: as above

To.

1. Members of the Committee of Experts
2. Shri P.K. Misra, Secretary, DoPT, North Block, New Delhi
3. Shri A.P. Singh, Director, CBI, North Block, New Delhi
4. All Chief Vigilance Officers.

**Terms of appointment of the Committee of Experts**

**1. Period**

The term will be for a period of two years .

**2. Honorarium**

An honorarium of ₹3000/- (Three thousand only) per day would be paid to the members.

**3. Secretarial Assistance**

Secretarial assistance would be provided by the Commission as per requirements.

**4. Fare, Transport & Accommodation**

The fare, transport and accommodation would be provided by the Commission as per entitlement of the members .

TelegraphicAddress :  
"SATARKTA: New Delhi

सं. / No. No.004/VGL/90

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24651001 - 07

फैक्स/Fax : 24616286

भारत सरकार  
केन्द्रीय सतर्कता आयोग  
GOVERNMENT OF INDIA  
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

दिनांक / Dated..04<sup>th</sup> Jan., 2012

Circular No.02/01/12

**Sub: Rotation of officials working in sensitive posts – reg.**

**Ref: Commission's circulars No. 98/VGL/60 dated 15/4/1999, 1/11/2001  
and circular No.17/4/08(004/VGL/90) dated 1/5/2008**

Attention is invited to the Commission's instructions contained in circulars under reference wherein all CVOs were asked to identify the sensitive posts and also to ensure that officials posted on sensitive posts are rotated every two/three years to avoid vested interests. These instructions are not being strictly followed which is a matter of serious concern.

2. Recently, the Commission while dealing with a case pertaining to a Public Sector Bank noticed that a senior ranking official who was associated with procurements etc. was posted in the department for an unduly long period which is against the spirit of the Commission's guidelines. The Commission would once again emphasize that periodical rotation of officials, holding sensitive posts/jobs especially at senior levels need to be ensured. As such, officials should not be retained in the same place/position for unduly long periods in the guise of indispensability etc. by the Management of Public Sector Banks.

3. The Commission while reiterating its guidelines would advise the CVOs of Public Sector Banks to bring to the notice of all concerned to ensure strict compliance of the same. Further, the CVOs should specifically mention the action taken status in this regard indicating the number of officials rotated/transferred in the Bank in the Monthly Report of CVOs to the Commission.

  
(J Vinod Kumar)  
Officer on Special Duty

All CVOs of Public Sector Banks

**No. 012/VGL/020**  
**Central Vigilance Commission**

\*\*\*\*\*

Satarkta Bhawan, Block 'A'  
INA New Delhi- 110023  
the, 29<sup>th</sup> March, 2012

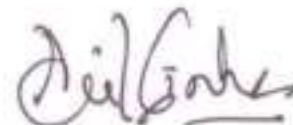
**Circular No. 08/03/12**

**Sub: Sanction for prosecution requests under the PC Act, 1988 against All India Service Officers – procedure regarding.**

It has been brought to the notice of the Commission that the investigating agencies while sending their proposals seeking previous sanction for prosecution of All India Service Officers (AIS) under Section 19 of PC Act, 1988, are not following the prescribed guidelines as contained in the DoPT's Circular No. 107/8/99-AVD.1 dated 27.10.1999, addressed to All Chief Secretaries of State Governments/UT Administrations. It is often found that such prosecution proposals/requests are not accompanied with complete set of relied upon documents/evidences etc., due to which the Competent Authorities are not in a position to take a view in such matters. Further, in respect of members of the All India Services, serving in connection with the affairs of the State Government, such sanction in terms of Section 19(1) of PC Act, 1988 is required to be accorded by the Central Government, i.e. Department of Personnel and Training in respect of IAS officers, Ministry of Home Affairs in respect of IPS officers and the Ministry of Environment and Forests in respect of IFS officers. When such sanction under the PC Act is required against an IAS/IPS/IFS officer by the State Government and the concerned officer is serving in connection with the affairs of the State Government, the Competent Authority under the State Government is required to examine the case on the basis of evidence on records and forward the documents to the Central Government along with their views/recommendation thereon and also enclosing the sanction, if any, issued by the State Government under Section 197(1) of the Cr.PC.

2. The Commission under Section 8(1) (f) of the CVC Act, 2003 has been empowered to review the progress of applications pending for sanction for prosecution under the PC Act, 1988. In this context, it has been observed that processing requests of sanction for prosecution by the State Governments and the Central Government gets inordinately delayed. The Supreme Court in Vineet Narain Vs. Union of India, has prescribed a time limit of three months, which needs to be strictly adhered to and an additional time of one month is allowed where consultation is required with the Attorney General or any Law Officer in the AG's office. Recently, the Supreme Court in CA No. 1193 of 2012 has reiterated the above time limits prescribed for the Competent Authorities to decide sanction for prosecution matters. Delays in issuing the sanction hold up the launching of prosecution leading to delay in conclusion of the proceedings. Such delays also adversely affect the morale of the public servants.

3. In view of the above, all investigating agencies, Competent Authorities in the State Governments and Cadre Controlling Authorities in the Central Government while dealing and processing matters of prosecution sanction of AIS officers under Section 19(1) of PC Act, 1988 or Section 197(1) of Cr.PC are advised to strictly adhere to the guidelines issued vide DoPT's Circular No. 107/8/99-AVD.1 dated 27.10.1999, and should also ensure that sanction for prosecution requests received are processed timely and decided in accordance with the time limits laid down by the Apex Court.



(Anil K. Sinha)  
Additional Secretary

To,

- (i) All Chief Secretaries of State Governments/UT Administrations
- (ii) Secretary, Department of Personnel and Training
- (iii) Secretary, Ministry of Home Affairs
- (iv) Secretary, Ministry of Environment and Forests
- (v) Director, CBI

Circular No. 07/03/12

**Sub: Guidelines for checking delay in grant of sanction for prosecution**

The Central Vigilance Commission has been emphasising the need for prompt and expeditious disposal of requests of sanction for prosecution received from CBI/other investigating agencies under the Prevention of Corruption Act, 1988. It may be recalled that the Supreme Court had in the case of Vineet Narain & Ors. Vs. Union of India in its judgment dated 18.12.1997, issued directions to the effect that "Time limit of three months for grant of sanction for prosecution must be strictly adhered to. However, additional time of one month may be allowed where consultation is required with the Attorney General (AG) or any other Law Officer in the AG's office".

2. The Central Vigilance Commission under the CVC Act, 2003 has been empowered to review the progress of applications pending with the Competent Authorities for sanction of prosecution under the PC Act, 1988. Taking into account delays involved and the lack of appreciation on the part of Competent Authorities as to what is to be done while processing such requests, the Commission had prescribed detailed guidelines based on various decisions of the Supreme Court including the Vineet Narain case, to be followed strictly by the Competent Authorities while processing requests for sanction for prosecution vide its office order No. 31/5/05 dated 12.05.2005.

3. In the recent judgment of the Supreme Court, dated 31.01.2012, in the matter of Dr. Subramanian Swamy Vs. Dr. Manmohan Singh & another (Civil Appeal No. 1193 of 2012) while reiterating the time limits prescribed for grant or otherwise of sanction for prosecution, the Apex Court, also observed that the guidelines laid down by the Central Vigilance Commission in its office order dated 12.05.2005 (copy enclosed) are in conformity with the law laid down by the Apex Court. The grant of sanction is an administrative act and the purpose is to protect the public servant from harassment by frivolous or vexatious prosecution and not to shield the corrupt. The question of giving opportunity to the public servant at that stage does not arise and the sanctioning authority has only to see whether the facts would prima facie constitute the offence.

4. In view of the above, the Commission would reiterate its guidelines dated 12.05.2005 and also advise all concerned Competent Authorities that while processing requests of sanction for prosecution under Section 19 of PC Act, 1988, the time limits laid down by the Apex Court are adhered to in letter and spirit.

  
(Anil K. Sinha)  
Additional Secretary

**Encl: as above.**

To

- (i) All the Secretaries of Ministries/Departments
- (ii) All CMDs of Public Sector Undertaking/Public Sector Banks/Insurance Companies/Organisations/Societies and Local authorities etc.
- (iii) All Chief Vigilance Officers of Ministries/Departments/Public Sector Undertaking/Public Sector Banks/Insurance Companies/Organisations/ Societies and Local authorities etc.
- (iv) Department of Personnel and Training [Joint Secretary (S&V)]
- (v) CBI [Joint Director (Policy)]

No. 005/VGL/11  
Central Vigilance Commission  
Coordination I  
\*\*\*\*\*

Satarkta Bhawan, Block 'A'  
INA, New Delhi-110023  
The, 12<sup>th</sup> May, 2005.

OFFICE ORDER NO. 31/5/05

**Sub:- Guidelines to be followed by the authorities competent to accord sanction for prosecution u/s. 19 of the PC Act.**

\*\*\*\*\*

The Commission has been concerned that there have been serious delays in according sanction for prosecution under section 19 of the PC Act and u/s 197 of CrPC by the competent authorities. The time limit prescribed by the Hon'ble Supreme Court for this is 3 months generally speaking. The Commission feels this delay could be partly due to the lack of appreciation of what the competent authority is expected to do while processing such requests.

There have been a number of decisions of the Supreme Court in which the law has been clearly laid down on this issue:-

1. Jagjit Singh Vs. State of Punjab, 1996 Cr.L.J. 2962.
2. State of Bihar Vs. P.P. Sharma, AIR 1991 SC 1260,
3. Superintendent of Police (CBI) Vs. Deepak Chowdhary, AIR 1996 SC 186.
4. Vineet Narain Vs. Union of India, AIR 1998 SC 889.

**2. The guidelines to be followed by the sanctioning authority, as declared by the Supreme Court are summarized hereunder:-**

- i) Grant of sanction is an administrative act. The purpose is to protect the public servant from harassment by frivolous or vexatious prosecution and not to shield the corrupt. **The question of giving opportunity to the public servant at that stage does not arise. The sanctioning authority has only to see whether the facts would prima-facie constitutes the offence.**
- ii) The competent authority cannot embark upon an inquiry to judge the truth of the allegations on the basis of representation which may be filed by the accused person before the Sanctioning Authority, by asking the I.O. to offer his comments or to further investigate the matter in the light of representation made by the accused person or by otherwise holding a parallel investigation/enquiry by calling for the record/report of his department.
- iii) When an offence alleged to have been committed under the P.C. Act has been investigated by the SPE, the report of the IO is invariably scrutinized by

the DIG, IG and thereafter by DG (CBI). Then the matter is further scrutinized by the concerned Law Officers in CBI.

- iv) When the matter has been investigated by such a specialized agency and the report of the IO of such agency has been scrutinized so many times at such high levels, there will hardly be any case where the Government would find it difficult to disagree with the request for sanction.
- v) **The accused person has the liberty to file representations when the matter is pending investigation.** When the representations so made have already been considered and the comments of the IO are already before the Competent Authority, there can be no need for any further comments of IO on any further representation.
- vi) **A representation subsequent to the completion of investigation is not known to law, as the law is well established that the material to be considered by the Competent Authority is the material which was collected during investigation and was placed before the Competent Authority.**
- vii) However, if in any case, the Sanctioning Authority after consideration of the entire material placed before it, entertains any doubt on any point the competent authority may specify the doubt with sufficient particulars and may request the Authority who has sought sanction to clear the doubt. But that would be only to clear the doubt in order that the authority may apply its mind proper, and not for the purpose of considering the representations of the accused which may be filed while the matter is pending sanction.
- viii) If the Sanctioning Authority seeks the comments of the IO while the matter is pending before it for sanction, it will almost be impossible for the Sanctioning Authority to adhere to the time limit allowed by the Supreme Court in Vineet Narain's case.

**The Commission has directed that these guidelines as at para 2(i)-(vii) should be noted by all concerned authorities for their guidance and strict compliance.**

Sd/-  
**(Sujit Banerjee)**  
Secretary

To

Secretaries of All Ministries/Departments  
CMDs/CEOs of all PSEs/PSUs/PSBs/Financial Institutions  
Autonomous Organisations  
All CVOs



No.007/VG/052  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A'  
GPO Complex, INA,  
New Delhi - 110023  
Dated: 11/03/2011

Circular No. 03/03//11

**Subject:- Expeditious disposal of cases involving public servants due to retire shortly.**

Attention is invited on Commission's circular of even No dated 27.09.2007 wherein all Ministries/ Departments/ Organisations were impressed on the need for expeditious completion of disciplinary proceedings/ action, particularly against officials likely to retire. Commission has of late, observed that some Departments/ Organisations have a marked tendency to refer the vigilance cases to the Commission seeking its advice at the last moment and sometimes even a few days before retirement of officers.

2. The Commission has taken a serious note of such lax attitude on the part of CVO's/ DAs in making such references which leaves no option for the Commission, except to examine the case in a hurry. Such delayed references ultimately result in situations which either serve to the advantage of the suspect public servants/ charged officers (SPS/COs) or initiation of disciplinary proceeding at the fag end of service of an officer.

3. While reiterating its earlier instructions in this regard, the Commission emphasises that the vigilance functionaries as well as administrative authorities concerned should prioritise their activities of conducting investigation and disciplinary action so as to avoid such late references to the Commission. Undue delays on part of administrative authorities, in dealing with vigilance matters/ disciplinary cases, will henceforth be viewed seriously by the Commission and it would be constrained to take an adverse view of CVOs/Administrative authorities for such avoidable delays.

4. All CVOs/Administrative Authorities should ensure strict compliance to the above instructions.



(J. Vinod Kumar)  
Officer on Special Duty

All Secretaries/Heads/CMDs of Ministries/Departments/PSU's/Banks/Autonomous organisations etc.

All Chief Vigilance Officers of Ministries/Departments/PSU's/Banks/Autonomous organisations etc.

No 010/CRD/003 /103208  
Central Vigilance Commission

Satarkta Bhawan, GPO Complex,  
INA, New Delhi  
Dated 28<sup>th</sup> September, 2010

Circular No. 33/09/10

**Sub: Guidelines for checking delay in grant of sanction for prosecution – reg.**

Attention is invited to Department of Personnel & Training's Office Memorandum No.399/33/2006-AVD-III dated 06/11/2006 and dated 20/12/2006 and Commission's Circular No.22/06/10 dated 23/06/2010 regarding guidelines for checking delay in grant of sanction for prosecution. It has been prescribed that Ministries/Deppts./Orgns. are required to formulate their tentative views within **three weeks** of receipt of CBI's requests seeking sanction for prosecution and seek the advice of the Commission.

2. It has come to the notice of the Commission that the provisions of the DoPT circular referred above, are not strictly adhered to. It is, therefore, decided that in case the Commission does not receive communication/comments on CBI report from the competent authority within 3 weeks, the Commission would suo moto tender its advice. Any communication/comments received from competent authority after three weeks but before 31 days will be entertained by the Commission as a reconsideration request and CVC within a fortnight, after consulting experts, will tender its advice. Any communication/comments received from the competent authority after 31 days of receipt of CBI's report will not be entertained by the Commission and will be sent to DoPT for a final decision.



(Vineet Mathur)  
Director

To

1. All Secretaries of all Ministries/Departments of Govt. of India
2. All CMDs/CEOs of all PSEs/PSBs/Financial Institutions/ Autonomous Orgs.
3. All CVOs
4. CBI.

Circular No. 22/06/10

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

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

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

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

  
23/6/2010  
(Shalini Darbari)  
Director

To

All Secretaries of all Ministries/Departments  
All CMDs/CEOs of all PSEs/PSBs/Financial Institutions/Autonomous Orgs.  
All CVOs  
CBI

Dated: 2<sup>nd</sup> June, 2010

Circular No. 21/05/10

**Subject: Delay in initiating Disciplinary Proceedings.**

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

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

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

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

- (a) Whenever, any excess payment is detected, it should be recovered from the contractor from the available amount at the first opportunity following due procedure prescribed in the contract, unless any stay has been granted by any Court.
- (b) Reference to arbitration should not be linked with investigation and for identifying the officials responsible for lapses/excess payment involving 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.

  
(V.K. Gupta) 2/6/10  
Chief Technical Examiner

No. 009/VGL/067  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A'  
GPO Complex, INA,  
New Delhi- 110023  
Dated the 9<sup>th</sup> March 2010

Office Order No.13/03/10

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

- Ref: (i) Commission's Instruction No. 8(1)(g)/99(2) dated 19/02/1999  
(ii) Commission's Instruction No. 8(1)(g)/99(3) dated 03/03/1999  
(iii) Commission's Circular No. 3(v)/99/7 dated 06/09/1999  
(iv) Commission's Circular No. NZ/PRC/1 dated 26/02/2004  
(v) Commission's Office Order No. 30/4/04 dated 26/04/2004  
(vi) Commission's Circular No. 3/1/06 dated 18/01/2006

Natural justice demands that disciplinary proceedings are finalised in an expeditious manner. The delay in completion of proceedings works against the institutional incentive built to fight corruption. It may either cause undue harassment and demoralization of innocent employees, who at the end of the proceedings are exonerated of the charges framed against them; or it enables the guilty officers to evade punitive action for longer periods of time. In the former, it is not fair to the official concerned. In the latter, it provides perverse incentive for the corrupt. The delay in handling disciplinary cases has, on several occasions, been viewed adversely by the courts also. There have in fact been instances where the proceedings initiated against the delinquent employees were quashed solely on the ground that there were inordinate delays in handling the disciplinary cases. It is important that the formal proceedings, once instituted, are completed within the time frame laid down by the Government so that timely action can be taken against the delinquent employees.

2. An Inquiry Officer (IO) appointed by the Disciplinary Authority to conduct departmental inquiry in a particular case cannot start the inquiry unless related documents, viz., a copy of the charge sheet, reply of the Charged Officer, order of appointment of the Presenting Officer (PO) and the listed documents/witnesses, are furnished to the Inquiry Officer.

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



(Vineet Mathur)  
Director

To

- (i) All Ministries/Departments of Gol
- (ii) All Chief Executives of CPSUs/Public Sector Banks/Insurance Companies/Autonomous Bodies.
- (iii) All Chief Vigilance Officers

No. 99/DSP/1  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A'  
GPO Complex, INA,  
New Delhi- 110023  
Dated the 3<sup>rd</sup> March 2010

Office Order No. 11/03/10

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

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

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

*Vineet Mathur*  
3/3/2010 (Vineet Mathur)  
Director

To

All Chief Vigilance Officers.

No.007/VGL/010  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block-A  
GPO complex, INA,  
New Delhi-110023  
Dated the 12<sup>th</sup> February, 2010


Circular No. 06/02/10

**Sub:- Constitution of Committee of Experts for scrutiny of prosecution sanctions.**

Please refer to Commission's Circular No.30/10/09 dated 29<sup>th</sup> October, 2009 on the subject mentioned above.

2. Para 5 of the Commission's Circular has been amended and would read as under:-

**Para 5** 'Depending upon the nature of the case, a committee consisting of three members including the Chairperson shall examine the CBI recommendation and the tentative view of the Ministry/Department concerned in greater detail. The Committee shall consist of two members drawn from the panel of experts and one of the Vigilance Commissioners in the Commission would chair the meeting. In case the Vigilance Commissioners are unable to chair the meeting owing to posts being vacant or due to absence on leave or otherwise, the Secretary, CVC will be the Chairperson of the Expert Committee. In the light of the expert Committee's recommendation, the CVC would render appropriate advice to the competent authority within 15 days of the meeting of the Committee.

  
12/2/2010 (Vineet Mathur)  
Director

To,

1. Members of the Committee of Experts
2. Shri Shantanu Consul, Secretary, DOPT, North Block, New Delhi
3. Shri, Ashwani Kumar, Director, CBI, North Block, New Delhi
4. All Chief Vigilance Officers



**Office Order No.03/01/10**

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

- Ref: (i) Commission's circular No.002/VGL/61 dated 23-9-2003 and 1-4-2004.  
(ii) Commission's Circular No. 000/VGL/187 dated 3-8-2001.**

\*\*\*\*


**1. Complaints:**

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

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

**2. Vigilance Cases:**

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

  
( Vineet Mathur )  
Director

To

- (1) The Secretaries of all Ministries/Departments of Government of India.
- (2) The Chief Secretaries of all Union Territories.
- (3) The CMDs of all CPSUs/Public Sector Banks/Insurance Companies / Autonomous Bodies / Societies.
- (4) Chief Vigilance Officers of Ministries / Departments / Organisations /CPSUs / Public Sector Banks / Insurance Companies / Autonomous Bodies / Societies.

No. 007/VGL/010  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A'  
GPO Complex, INA,  
New Delhi- 110023  
Dated the 29<sup>th</sup> October, 2009

Circular No. 30/10/09

**Subject: Constitution of Committee of Experts for scrutiny of prosecution sanctions.**

Central Vigilance Commission, in accordance with the power conferred upon it vide section 8(1) (f) and (h) of CVC Act, 2003, tenders advice in respect of officers coming under its jurisdiction against whom the Central Bureau of Investigation, after investigating the case, has recommended sanction for prosecution.

2. On a few occasions, where the Commission has, in agreement with the CBI's recommendations, advised sanction for prosecution against a public servant, the disciplinary authority, in disagreement with the CBI's recommendations, approaches the Commission for reconsideration of its advice.

3. In accordance with the guidelines issued by the Ministry of Personnel, Public Grievances & Pensions (Deptt. of Personnel & Training) vide O.M. No. 399/33/2006-AVD-III dated 6/11/2006, a committee of experts is to be set-up by the Central Vigilance Commission (with experts drawn from civil services, public sector undertakings and banks) to examine such reconsideration proposals received from various ministries/departments/organizations.

4. Accordingly, the Commission had initially constituted a panel of experts of six eminent persons, for scrutiny of reconsideration proposals where the Commission and CBI have advised sanction for prosecution against the suspected public servants vide its circular no 17/5/07 dt. 13<sup>th</sup> June 2007. The tenure of the said Committee of experts which was for a period of two years was last extended vide Commission's circular no 25/8/09 dt 28<sup>th</sup> August, 2009 upto 31/10/2009. The Commission has decided to reconstitute the panel of experts with effect from 01/11/2009 with the following persons:-

1. Shri M.M.K. Sardana, IAS (Retd.)
2. Shri Naresh Narad, IAS (Retd.)
3. Shri R.C. Aggarwal, IPS (Retd.) DG, ITBP.
4. Shri A.P. Bhatnagar, IPS (Retd.)
5. Shri S.R. Mehra, IPS (Retd.)
6. Shri J.S. Juneja, (Retd.) Chairman, NSIC.
7. Shri Rohit M. Desai, (Retd.), ED, Indian Overseas Bank.
8. Shri Gautam Kanjilal, (Retd) Chief General Manager, SBI.

5. Depending upon the nature of the case, a committee consisting of three members including the Chairperson shall examine the CBI recommendation and the tentative view of the Ministry/Department concerned in greater detail. The committee shall consist of two members drawn from the panel of experts and one of the Vigilance Commissioners in the Commission would chair the meeting. In the light of the expert committee's recommendation, the CVC would render appropriate advice to the competent authority within 15 days of the meeting of the committee.

6. The tenure of panel of experts would be for a period of two years. The terms and conditions would be as indicated in the annexure.

7. The meetings of the committee would be held in Delhi. Central Vigilance Commission would provide the required secretarial services alongwith the necessary funds to meet the expenditure to be incurred regarding the meetings of the committee.

*K S Ramasubban* 29.10.09  
(K S Ramasubban)  
Secretary

To

1. Members of the Committee of Experts.
2. Shri Shantanu Counsel, Secretary, DoPT, North Block, New Delhi
3. Shri Ashwani Kumar, Director, CBI, North Block, New Delhi
4. All Chief Vigilance Officers

**Terms of appointment of the Committee of Experts:-**

**1. Period**

The term will be for a period of two years.

**2. Honorarium**

An honorarium of Rs. 3000/- (Three thousand only) per day would be paid to the members.

**3. Secretarial Assistance**

Secretarial assistance would be provided by the Commission as per requirements.

**4. Fare, Transport & Accommodation**

The fare, transport and accommodation would be provided by the Commission as per entitlement of the members.

No.007/VGL/010  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

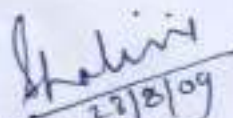
Satarkta Bhawan, Block-A  
GPO complex, INA,  
New Delhi-110023  
Dated the 28<sup>th</sup> August, 2009

Circular No. 25/8/09

**Sub:- Constitution of Committee of Experts for scrutiny of prosecution sanctions.**

The Commission, in accordance with the guidelines issued by M/o Personnel, Public Grievances & Pensions (Deptt. of Personnel & Training) vide O.M. No.399/33/2006-AVD-III dated 6.11.2006, had, vide circular No.17/5/07 dated 13.6.2007 and No.11/3/08 dated 24.3.2008 constituted a committee chaired by a Vigilance Commissioner for scrutiny of reconsideration proposals where the Commission and CBI have advised sanction for prosecution against the suspected public servants.

2. The tenure of the said Committee of experts was for a period of two years which was expired on 13.6.2009 which has been extended till 31.8.09 vide circular No. 24/8/09 dated 20.8.09. It has further been decided to extend the tenure of the Committee till 31/10/09.
3. Terms and conditions of the Expert Committee would remain unchanged.

  
28/8/09  
(Shalini Darbar)  
Director

To,

1. Members of the Committee of Experts
2. Shri Rahul Sarin, Secretary, DOPT, North Block, New Delhi
3. Shri Ashwani Kumar, Director, CBI, North Block, New Delhi
4. All Chief Vigilance Officers

No.007/VGL/010/53087  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block-A  
GPO complex, INA,  
New Delhi-110023  
Dated the 20<sup>th</sup> August, 2009

**Circular No. 24/8/09**

**Sub:- Constitution of Committee of Experts for scrutiny of prosecution sanctions.**

The Commission, in accordance with the guidelines issued by M/o Personnel, Public Grievances & Pensions (Deptt. of Personnel & Training) vide O.M. No.399/33/2006-AVD-III dated 6.11.2006, had, vide circular No.17/5/07 dated 13.6.2007 and No.11/3/08 dated 24.3.2008 constituted a committee chaired by a Vigilance Commissioner for scrutiny of reconsideration proposals where the Commission and CBI have advised sanction for prosecution against the suspected public servants.

2. The tenure of the said Committee of experts was for a period of two years which has expired on 13.6.2009. Now, the Commission has decided to extend the tenure of the Committee till 31/8/2009.
3. Terms and conditions of the Expert Committee would remain unchanged.

  
20/8/09  
(Shalini Darbari)  
Director

To,

1. Members of the Committee of Experts
2. Shri Rahul Sarin, Secretary, DOPT, North Block, New Delhi
3. Shri Ashwani Kumar, Director, CBI, North Block, New Delhi
4. All Chief Vigilance Officers

No.006/PRC/1  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 6<sup>th</sup> August, 2009

Circular No.21/8/09

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

**Reference:** (i) Commission's circular No.NZ/PRC/1 dated 26.2.2004;  
(ii) Commission's circular No.NZ/PRC/1 dated 9.5.2005;  
(iii) Commission's circular No. 006/PRC/1 dated 13.3.2006; and  
(iv) Commission's circular No.006/PRC/1 dated 1.12.2008

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

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

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

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

Contd...2/-

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

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

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

  
6/8/09  
(Shalini Darbari)  
Director

**All Chief Vigilance Officers**

**Encl: As proposed.**



**Vigilance Report****Title of the report****1. Source**

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

**2. Gist of allegations****3. Facts**

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

**4. Observations**

- Ordinarily, observations are logical deductions arrived at through a set of facts. They are in the nature of objections or anomalies observed with reference to the gathered facts. There may be several observations arising out of the analysis of facts.

- Observations are also arrived at by evaluating the facts against certain criteria viz. rules, regulations, policies, procedures, norms, good practices or normative principles. Evidence of these criteria (extracts of rules, procedures, etc.) should also be presented as E1, E2, etc.

## **5. Response of the officials concerned**

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

## **6. Counter to the response**

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

## **7. Conclusion**

- Conclusion is the logical summation of the observations. The observations denoting various counts of irregularity, lapses or impropriety should finally lead to a logical conclusion on whether the case involves commission of irregularity/impropriety with the intention of corruption.
- Undue favour given to a party or obtained for self and its adverse impact on the government or the citizens in terms of

additional cost, poor quality or delayed service should be clearly highlighted.

#### **8. Responsibility of officials**

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

#### **9. Recommendation for action**

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

#### **10. Recommendation for systemic improvement**

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

**ASSURANCE MEMO**

This is to provide reasonable assurance to the Commission:

- (a) That all necessary facts and relevant evidence have been gathered.
- (b) That all facts and supporting evidence have been duly verified.
- (c) That contested evidence, if any, have been conclusively handled with reference to the facts at the disposal of Vigilance.

Chief Vigilance Officer

**Format of Bio-Data of officer(s) against whom Commission's advice is sought****(To be incorporated in the Vigilance Report of the CVO)**

1. Name of the officer :
2. Designation  
(a) At present :  
(b) At the time of alleged misconduct :
3. Service to which belongs :  
(Cadre and year of allotment in case of officers of the organized/All India Services)
4. Date of birth :
5. Date of superannuation :
6. Level/group of the present post and pay scale :
7. Date of suspension [if under suspension] :
8. Disciplinary Rules applicable to the officer :

\*\*\*\*\*

No.009/VGL/028  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 24<sup>th</sup> July 2009

Circular No.18/7/09

**Subject: Authorization of the Central Government to file an application u/s 3 of the Criminal Law (Amendment) Ordinance, 1944 for attachment of the money or property procured by means of the scheduled offence.**

Sir,

A copy of the DOPT's OM No.219/12/2009-AVD-II dated 13.5.2009 on the subject mentioned above is enclosed for information and necessary action.



(J. Vinod Kumar)  
Under Secretary

All Chief Vigilance Officers

Encl: As above.

No.219/12/2009-AVD-II  
Government of India  
Ministry of Personnel, Public Grievances and Pensions  
(Department of Personnel and Training)

...  
New Delhi dated the 13<sup>th</sup> May, 2009.

**OFFICE MEMORANDUM**

Subject: - Authorization of the Central Government to file an application u/s 3 of the Criminal Law (Amendment) Ordinance, 1944 for attachment of the money or property procured by means of the scheduled offence.

...  
The undersigned is directed to say that for attachment and forfeiture of illegally acquired property of public servants, the CBI/Prosecution Agency is presently invoking the provisions of the Criminal Law (Amendment) Ordinance, 1944 (Ordinance No. 38 of 1944).

2. It has been observed that although, "Central Government" has not been defined in the said Ordinance, the Central Bureau of Investigation (CBI) has been requesting the Department of Personnel & Training seeking authorization of the Central Government to file an application u/s 3 of the Criminal Law (Amendment) Ordinance, 1944 for attachment of the money or property procured by means of the scheduled offence, in the cases investigated by the CBI. It has now been decided to issue these instructions to clarify and settle the definition of Central Government for the purpose of the Prevention of Corruption Act, 1988 and Criminal Law (Amendment) Ordinance, 1944.

3 Under Section 5(6) of the Prevention of Corruption Act, 1988, a Special Judge while trying an offence punishable under this Act, shall exercise all the powers and functions exercisable by a District Judge under the Criminal Law (Amendment) Ordinance, 1944 (Ordinance 38

of 1944). As per Section 19 of the P.C. Act, 1988 previous sanction is necessary -

(1) No court shall take cognizance of an offence punishable under section 7, 10, 11, 13 and 15 alleged to have been committed by a public servant, except with the previous sanction,-

(a) in the case of a person who is employed in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government, of that Government,

(b) in the case of a person who is employed in connection with the affairs of a State and is not removable from his office save by or with the sanction of the State Government, of that Government,

(c) in the case of any other person, of the authority competent to remove him from his office.

(2) Where for any reason whatsoever any doubt arises as to whether the previous sanction as required under sub-section (1) should be given by the Central Government or the State Government or any other authority, such sanction shall be given by that Government or authority which would have been competent to remove the public servant from his office at the time when the offence was alleged to have been committed.

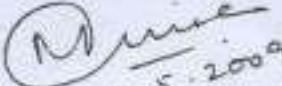
4. Under Section 3 of the Criminal Law (Amendment) Ordinance, 1944, if the State Government or the Central Government, as the case may be, has reason to believe that any person has committed (whether after commencement of this ordinance or not) any scheduled offence, the State Government or the Central Government, as the case may be, may whether or not any court has taken cognizance of the offence, authorize for making of an application to the District Judge within the local limits of whose jurisdiction the said person ordinarily resides or carries on business, for the attachment under this ordinance of the money or other property which the State Government or the Central Government believes the said person to have procured by means, of the offence, or if such money or property cannot for any reason, be attached or other property of the said person of value as nearly as may be equivalent to that of the aforesaid money or other property.

5. The matter has been considered in consultation with the Ministry of Law and Justice, as to which Ministry/Department/Authority may be considered the "Central Government" for the purpose of Section 3 of Criminal Law (Amendment) Ordinance, 1944. In the light of the said provisions of the PC Act, 1988, admittedly the sanction for prosecution in respect of a public servant under PC Act has to be given by such Government or authority which would be competent to remove the



public servant from his office. Since the properties referred to in Section 3 would have a correlation with the offence committed under the PC Act, the obvious conclusion would be that the authorization u/s 3 of the Criminal Law (Amendment) Ordinance, 1944 (Ordinance No. 38 of 1944) would also have to be given by such authority who would be competent to accord sanction u/s 19 of PC Act, in a given case.

6. In accordance with the above, it has been decided that henceforth, all references seeking authorization of Central Government to file an application u/s 3 of the Criminal Law (Amendment) Ordinance, 1944 for attachment of the money or property procured by means of the scheduled offence by the person, who is employed in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government, shall be addressed to the competent authority who accorded sanction of prosecution under section 19(1) of the PC Act, 1988.

  
12.5.2009

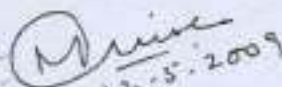
(Manisha Saxena)

Deputy Secretary to the Govt. of India

Tele:23094319

To

1. All Ministries/Departments of the Government of India.
2. Director, CBI, CGO Complex, New Delhi.
3. Joint Director (Policy), CBI, Room No.27, North Block, New Delhi.
4. All Directors/Deputy Secretaries/Under Secretaries/Section Officers of the Vigilance Division, Deptt. of Personnel & Training, New Delhi.
- ✓ 5. Director, NIC, North Block, New Delhi with the request to put the OM on the website of DOPT under "Circulars" head of the Vigilance Division.
6. 100 Spare copies.

  
12.5.2009

(Manisha Saxena)

Deputy Secretary to the Govt. of India

Satarkta Bhawan, Block-A,  
GPO Complex, INA,  
New Delhi- 110023  
Dated the 1<sup>st</sup> July, 2009

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

**Sub: Access of complaints to the CVOs- Instructions regarding.**

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

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

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

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



(Shalini Darbari)  
Director

To

All Chief Vigilance Officers

No.006/PRC/1  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated: 18<sup>th</sup> February, 2009

**Circular No.43/02/09**

**Subject: Reference to the Commission for advice – information to be enclosed along with organisations' recommendations.**

In order to streamline the process of assessment and proper examination of the cases, being referred for the advice of the Commission, a proforma for submission of the details pertaining to the officials involved in tabular statement was circulated vide Commission's circular No. 32/12/08 dated 01.12.08. The said circular is also available on the Commission's website [www.cvc.nic.in](http://www.cvc.nic.in).

2. It has been observed that a large number of organizations are still not following the aforementioned instructions and the required information is still not being provided in the said tabular statement. The Commission has taken a serious note of non observance of its guidelines and has decided that henceforth, the references for first /second stage advice received without information in the requisite tabular form will be returned to the departments/organizations concerned. CVOs of the concerned departments/organizations will also be held responsible for the same.

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

  
18/2/09.  
(Shalini Darbari)  
Director

All Chief Vigilance Officers

No. 003/DSP/3/31364  
Government of India  
Central Vigilance Commission

Satarkta Bhawan, Block 'A'  
GPO Complex, INA,  
New Delhi- 110023  
Dated the 15/01/09

Circular No. 02/01/09

**Subject: Need for self-contained speaking and reasoned order to be issued by the authorities exercising disciplinary powers.**

Attention is invited to the Commission's Office Order No. 51/9/03 dated 15.09.2003 and Office Order No. 14/2/04 dated 26.2.2004 wherein, it was clarified that disciplinary authorities (DAs) should issue a self-contained, speaking and reasoned order which must indicate, inter-alia, due application of mind by the authority issuing the order.

2. As regards, making available a copy of CVC's first and second stage advises to the employees concerned, the Commission vide its circular No. 99/VGL/66 dated 28.09.2000, had prescribed that the same should be supplied to the employees by the Disciplinary Authorities. It was precisely stated, therein that a copy of CVC's 2<sup>nd</sup> state advice should be supplied to the employee concerned alongwith the IOs report, in order to give him an opportunity to make a representation against IO's findings and CVC's advice.

3. Instances have, however, come to the notice of the Commission in which the final orders passed in disciplinary cases by the competent disciplinary authorities did not indicate proper application of mind, but a mere endorsement of the Commission's recommendations which leads to an unwarranted presumption that the DA has taken the decision under the influence of the Commission's advice. Further, it is also observed that the DA's in the Departments/Organisations, in practice, do not provide a copy of Commission's advice to the employees concerned. The cases where the final orders do not indicate proper application of mind by the DA and or non supply of Commission's advises, are liable to be quashed by the courts.

4. The Commission would, therefore, again reiterate that the CVC's views/advises in disciplinary cases are advisory in nature and it is for the DA concerned to take a reasoned decision by applying its own mind. The DA while passing the final order, has to state that the Commission has been consulted and after due application of mind, the final orders have been passed. Further, in the speaking order of DA, the Commission's advice should not be quoted verbatim.

5. CVOs should ensure that the DAs in their respective Departments/Organisations strictly follow the above guidelines/procedures while processing the disciplinary cases.

  
[Shalini Darbari]  
Director

All Chief Vigilance Officers

No.006/PRC/1/27483  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 1<sup>st</sup> December 2008

**Circular No.32/12/08**

**Subject: Reference to the Commission for advice – information to be enclosed along with organisations' recommendations.**

The Commission, in order to ensure correct assessment and speedy examination of the cases, being forwarded to it for obtaining its advice, has been emphasizing on the need for sending complete details/records pertaining to such case(s). However, it is noted that despite the Commission's circular No.14/3/06 dated 13.3.2006 on the aforementioned subject, there is no uniformity regarding the manner of sending information to it in cases where Commission's advice is being sought. The Commission, with a view to further streamline the procedure and to avoid delay on account of incomplete information, has decided that, along with other records/documents, the following tabular statement should accompany the organisations' recommendations:-

S. No.	Name & Designation of the suspected officer	Allegations in brief	Findings of the investigation /inquiry on each allegation	Defence of the suspected officer	Comments/ Recommendation of the DA	Comments/ Recommendation of the CVO

2. The information in the tabular statement should accompany the organisations' recommendations in both first/second stage advice cases. This may be noted for strict compliance.

  
(Shalini Darbar)  
Director  
1/12/08

No.004/VGL/90  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 1<sup>st</sup> May, 2008

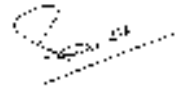
**CIRCULAR NO.17/4/08**

**Subject:- Rotation of officials working in sensitive posts.**

Attention is invited to the Commission's circular No. 98/VGL/60 dated 15/4/99 and 2/11/01.

2. The Commission vide circular dated 15/4/99, had asked the CVOs of Ministries/Departments/Organisations to identify the sensitive posts in their organizations and also to send to the Commission, the list of posts so identified. Further, CVOs were also asked to ensure that officials posted on sensitive posts were rotated every two/three years to avoid developing vested interest.

3. No information in this regard has been received in the Commission so far. The CVOs may, therefore, complete the exercise expeditiously now, and send to the Commission, a list of posts identified as sensitive in their organization. The exercise may be completed by 30<sup>th</sup> June 2008.



(Rajiv Verma)  
Under Secretary

All Chief Vigilance Officers

No.008/VGL/027  
Government of India  
Central Vigilance Commission  
\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi-110023.  
Dated, the 24<sup>th</sup> April, 2008

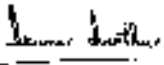
**Circular NO.15/4/08**

**Sub:-Reference to the Commission for reconsideration of its advice - regarding**

The Commission has expressed serious concern about receiving repeated requests for the reconsideration of its advice that give the impression of being routine in nature. The present instructions contained in para 5.16, Chapter I of Vigilance Manual, Vol. I provide that where the department propose to take a lenient view or stricter view than that recommended by the Commission, consultation with the CVC is necessary. The departments, therefore, are required to approach the Commission for advice in such cases before a final decision is taken. It has also been stated that the reference for reconsideration of the Commission's advice should be made only once. Subsequently it was instructed vide letter No.000/DSP/1 dated 6.3.2000 that reconsideration proposals should be sent within a period of two months from the date of receipt of the Commission's advice. It has been observed that the proposals for reconsideration of the Commission's advice are not sent within the stipulated time. Further, justification warranting reconsideration is also not given.

2. In view of the position stated above, the Commission has reviewed its instructions in the matter. The Commission's advice is based on the inputs received from the organization and where the Commission has taken a view different from the one proposed by the organization, it is on account of the Commission's perception of the seriousness of the lapses or otherwise. In such cases, there is no scope for reconsideration. The Commission has, therefore, decided that no proposal for reconsideration of the Commission's advice would be entertained unless new additional facts have come to light which would have the effect of altering the seriousness of the allegations/charges leveled against an officer. Such new facts should be substantiated by adequate evidence and should also be explained as to why the evidence was not considered earlier, while approaching the Commission for its advice. The proposals for reconsideration of the advices, if warranted, should be submitted at the earliest but within two months of receipt of the Commission's advice. The proposals should be submitted by the disciplinary authority or it should clearly indicate that the proposal has the approval of the disciplinary authority.

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

  
\_\_\_\_\_  
(Vineet Mathur)  
Deputy Secretary

All Chief Vigilance Officers

No.007/VGL/010/53087  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block-A  
GPO complex, INA,  
New Delhi-110023  
Dated the 20<sup>th</sup> August, 2009

**Circular No. 24/8/09**

**Sub:- Constitution of Committee of Experts for scrutiny of prosecution sanctions.**

The Commission, in accordance with the guidelines issued by M/o Personnel, Public Grievances & Pensions (Deptt. of Personnel & Training) vide O.M. No.399/33/2006-AVD-III dated 6.11.2006, had, vide circular No.17/5/07 dated 13.6.2007 and No.11/3/08 dated 24.3.2008 constituted a committee chaired by a Vigilance Commissioner for scrutiny of reconsideration proposals where the Commission and CBI have advised sanction for prosecution against the suspected public servants.

2. The tenure of the said Committee of experts was for a period of two years which has expired on 13.6.2009. Now, the Commission has decided to extend the tenure of the Committee till 31/8/2009.
3. Terms and conditions of the Expert Committee would remain unchanged.

  
20/8/09  
(Shalini Darbari)  
Director

To,

1. Members of the Committee of Experts
2. Shri Rahul Sarin, Secretary, DOPT, North Block, New Delhi
3. Shri Ashwani Kumar, Director, CBI, North Block, New Delhi
4. All Chief Vigilance Officers



F.No.007/MISC/Legal/04(Pt.)  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkata Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi-110 023  
Dated:1<sup>st</sup>November, 2007

Circular No.39 /11/07

**Subject: Criteria to be followed while examining the lapses of authorities exercising quasi-judicial powers in accordance with the criteria laid down by the Hon'ble Supreme Court.**

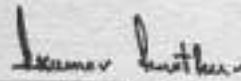
The Commission has observed that certain departments, while approaching the Commission for advice in respect of alleged/perceived lapses of the officials exercising quasi-judicial powers, do not follow a uniform approach in examining such lapses. In certain cases, it is routinely defended that the official had exercised his quasi-judicial powers and no disciplinary proceedings were warranted. In certain other cases, for similar lapses, disciplinary proceedings were proposed alleging that the official had shown recklessness or acted negligently and lacked devotion to duty. The Commission is of the view that there should be a uniform approach in examining such cases and it is important not to create an impression that the department was following a policy in targeting only few officials exercising such powers.

It is observed that the Hon'ble Supreme Court had laid down the criteria in K.K.Dhawan's case which, however, were being ignored and the officials were being defended on the basis of a subsequent Supreme Court judgement in the case of Z.B. Nagarkar Vs. Union of India. The Hon'ble Supreme Court in its judgment in the case of Union of India Vs. Duli Chand has held that the decision in the Z.B. Nagarkar's case did not represent the law correctly and decided that the decision in the K.K. Dhawan's case (decided earlier by a larger bench of the Supreme Court) would prevail. The judgment in K.K. Dhawan's case, had laid down the following criteria:

- (i) Where the officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty.
- (ii) If there is prima facie material to show recklessness or misconduct in the discharge of his duty;

- (iii) If he has acted in a manner which is unbecoming of a Government Servant;
- (iv) If he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;
- (v) If he had acted in order to unduly favour a party;
- (vi) If he had actuated by corrupt motive, however, small the bribe may be because Lork Coke said long ago "though the bribe may be small, yet the fault is great".

The Commission has therefore, decided that the CVOs, while sending the case to the Commission for advice against the lapses of officials exercising quasi-judicial powers, should examine critically whether any of the above criteria listed, was attracted or not. In either case, detailed justification should be given in arriving at the conclusion as to how none of the criteria was attracted, or how any of them was attracted.



---

(Vineet Mathur)  
Deputy Secretary

To

All Chief Vigilance Officers

No.006/VGL/11  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block-A  
GPO Complex, INA,  
New Delhi-110023  
Dated the 18<sup>th</sup> October 2007

**Office Order No.37/10/07**

**Subject: Jurisdiction of CVC over employees of PSUs, Insurance companies, RBI, NABARD, SIDBI, societies and other local authorities.**

DOPT, in accordance with Section 8 (2) (b) of the CVC Act 2003, has notified the level of officers of PSUs, Insurance companies, RBI, NABARD, SIDBI, societies and other local authorities who would be covered under the normal advisory jurisdiction of the Commission.

2. A copy of the gazette notification dated 12.9.2007 issued by DOPT on the subject cited above is enclosed. The levels specified in the DOPT's gazette notification may be kept in view while forwarding the cases to the Commission for seeking its advice.

  
(Rajiv Verma)  
Under Secretary

All Chief Vigilance Officers



# भारत का राजपत्र

## The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)प्राधिकार से प्रकाशित  
PUBLISHED BY AUTHORITYसं. 1109]  
No. 1109]नई दिल्ली, बुधस्मतिवार, सितम्बर 13, 2007/भाद्र 22, 1929  
NEW DELHI, THURSDAY, SEPTEMBER 13, 2007/BHADRA 22, 1929

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

( कार्मिक और प्रशिक्षण विभाग )

अधिसूचना

नई दिल्ली, 12 सितम्बर, 2007

का.आ. 1538(अ).—केन्द्र सरकार, केन्द्रीय सतर्कता आयोग अधिनियम, 2005 (2003 का 45) की धारा 8 की उप-धारा (2) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निम्नलिखित सारणी के कॉलम (3) में उल्लिखित निम्नलिखित स्तर के अधिकारियों को, उपर्युक्त अधिनियम की धारा 8 की उप-धारा (1) के खण्ड (घ) के प्रयोजन से उक्त सारणी के कॉलम (2) में उल्लिखित, केन्द्र सरकार द्वारा अथवा किसी केन्द्रीय अधिनियम द्वारा स्थापित निगमों, केन्द्र सरकार के स्वामित्व वाली अथवा इसके द्वारा नियंत्रित सरकारी कम्पनियों, सोसाइटियों और अन्य स्थानीय प्राधिकरणों के लिए एतद्वारा विनिर्दिष्ट करती है :—

सारणी

क्र. सं.	निगमों/सरकारी कम्पनियों/सोसाइटियों और अन्य स्थानीय प्राधिकारियों का नाम और श्रेणी	अधिकारियों का स्तर
(1)	(2)	(3)
1.	सार्वजनिक क्षेत्र के अनुसूची 'क' और 'ख' के उपक्रम	बोर्ड के मुख्य कार्यकारी और कार्यकारी ई-8 और इससे ऊपर के स्तर के अन्य अधिकारी।
2.	सार्वजनिक क्षेत्र के अनुसूची 'ग' और 'घ' के उपक्रम	बोर्ड के मुख्य कार्यकारी और कार्यकारी ई-7 और इससे ऊपर के स्तर के अन्य अधिकारी।
3.	भारतीय रिजर्व बैंक, नाबाई और एस.आई.डी.बी.आई.	ग्रेड 'जी' और इससे ऊपर के स्तर के अधिकारी।
4.	सामान्य बीमा कम्पनियाँ	प्रबंधक और इससे ऊपर के स्तर के।
5.	जीवन बीमा निगम	वरिष्ठ प्रभालीय प्रबंधक और इससे ऊपर के स्तर के।
6.	सोसाइटियों और अन्य स्थानीय प्राधिकरण	अधिसूचना की तारीख को और समय-समय पर संशोधित किए जा सकने वाले, केन्द्रीय सरकार की वृत्तवृद्धि पैटर्न के आधार पर 8700/- रुपये प्रति माह और इससे अधिक वेतन प्राप्त करने वाले अधिकारी।

[सं. 418/2/2004-ए.वी.डी.-IV]

पी. के. त्रिपाठी, संयुक्त सचिव

## MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

## NOTIFICATION

New Delhi, the 12th September, 2007

**S.O. 1538(E).**—In exercise of the powers conferred by clause (b) of sub-section (2) of section 8 of the Central Vigilance Commission Act, 2003 (45 of 2003), the Central Government hereby specifies the following level of officers mentioned in column (3) of the table below of the corporations established by or under any Central Act, the Government companies, societies and other local authorities owned or controlled by the Central Government mentioned in column (2) of the said Table for the purpose of clause (d) of sub-section (1) of section 8 of the said Act —

TABLE

Sl.No.	Name and categories of corporation/ Government companies/societies and other local authorities	Level of officers
(1)	(2)	(3)
1.	Schedule 'A' and 'B' Public Sector Undertakings	Chief Executive and Executives on the Board and other officers of E-8 and above.
2.	Schedule 'C' and 'D' Public Sector Undertakings	Chief Executive and Executives on the Board and other officers of E-7 and above.
3.	Reserve Bank of India, NABARD and SIDBI	Officers in Grade 'D' and above.
4.	General Insurance Companies	Managers and above.
5.	Life Insurance Corporations	Senior Divisional Managers and above.
6.	Societies and other Local Authorities	Officers drawing salary of Rs. 8700/- p.m. and above on Central Government D.A. pattern, as on the date of the notification and as may be revised from time to time.

[No. 418/2/2004-A.V.D.IV]

P. K. TRIPATHI, Jr. Secy.

No.007/VGL/052  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 27<sup>th</sup> September 2007

**Office Order No.34/9/07**

**Subject: Expeditious disposal of cases involving public servants due to retire shortly.**

The Commission had, vide its letter No.DO/DSP/15 dated 26.2.1981 and 6.5.1981 directed expeditious completion of disciplinary action, particularly against the officials likely to retire soon. Later, vide Commission's circular No.14/3/06 dated 13.3.2006, detailed instructions were issued on the pre-requisites for seeking first/second stage advice. In this circular a specific mention had been made about the requirement of bio-data, which inter-alia contains the date of superannuation of the SPS/CO.

2. The ready availability of date of superannuation of the SPS/CO is meant to serve as a guide to the CVO/DA to handle the case at a pace that should complete the action well in time. It has, however, come to repeated notice of the Commission that the CVOs/DAs often tend to lose sight of the superannuation dates, thereby creating situations which serve to the advantage of the SPS/COs. The entire effort is rendered all the more infructuous in organizations where the Conduct Rules do not provide for continuance of disciplinary action after retirement.

3. The Commission has, therefore, emphasized once again that all vigilance/administrative functionaries in an organization must invariably keep in mind the date of superannuation of the SPS/CO while handling disciplinary cases and anyone found to have consciously ignored the fact should be held accountable for the delay that may lead to the eventual dropping of the proceedings.

4. All CVOs should ensure strict compliance to the above instructions.



(Vineet Mathur)  
Deputy Secretary

All Chief Vigilance Officers

No. 007/VGL/010  
Government of India  
Central Vigilance Commission  
\*\*\*\*

Satarkta Bhawan, Block-A  
INA, GPO complex,  
New Delhi-110023  
Dated, the 13<sup>th</sup> June, 2007

**Circular No. 17/5/07**

**Sub:- Constitution of Committee of Experts for scrutiny of prosecution sanctions.**

Central Vigilance Commission, in accordance with the power conferred upon it vide section 8 (1)(f) and (h) of CVC Act, 2003, tenders advice in respect of officers coming under its jurisdiction against whom the Central Bureau of Investigation, after investigating the case, has recommended sanction for prosecution.

2. On a few occasions, where the Commission has, in agreement with the CBI's recommendations, advised sanction for prosecution against a public servant, the disciplinary authority, in disagreement with the CBI's recommendations, approaches the Commission for reconsideration of its advice.

3. In accordance with the guidelines issued by M/o Personnel, Public Grievances & Pensions ( Deptt. of Personnel & Training) vide O.M. No. 399/33/2006-AVD-III dated 6/11/2006, a committee of experts is to be set-up by the Central Vigilance Commission (with experts drawn from civil services, public sector undertakings and banks) to examine such reconsideration proposals received from various ministries/departments/organizations.

4. It has, therefore, been decided to constitute a panel of experts of six eminent persons, for scrutiny of reconsideration proposals where the Commission and CBI have advised sanction for prosecution against the suspected public servants. Depending upon the nature of the case, a committee of 3 members from amongst the panel of six experts would be drawn, who shall examine the CBI recommendation and the tentative view of the Ministry/Department concerned in greater detail and, based on the experts committee's recommendation, the CVC would render appropriate advice to the competent authority within 15 days of the meeting of the committee. The three-member committee would be chaired by one of the Vigilance Commissioners in the Commission.

5. The following persons would form the panel of experts:-

1. Shri B.S. Minhas, IAS (Retd.)
2. Shri J.S. Juneja, Chairman (Retd), NSIC
3. Shri S.N. Menon, IAS (Retd) Ex-commerce Secretary
4. Shri R.C. Aggarwal, IPS (Retd. DG, ITBP)
5. Shri Himanshu Kumar, IPS (Retd DG, SSB)
6. Shri A.K. Purwar, Ex CMD, SBI

6. The tenure of panel of experts would be for a period of two years. The terms and conditions would be as indicated in the annexure.

7. The meetings of the committee would be held in Delhi. Central Vigilance Commission would provide the required secretarial services alongwith the necessary funds to meet the expenditure to be incurred regarding the meetings of the committee. The Commission would tender advice within 15 days of the meeting of the experts committee.



**(SUJIT BANERJEE)**  
**SECRETARY**

To,

1. Members of the Committee of Experts.
2. Shri Satyananda Mishra, Secretary, DOPT, North Block, New Delhi.
3. Shri Vijay Shanker, Director, CBI, North Block, New Delhi.
4. All Chief Vigilance Officers.



**Terms of appointment of the Committee of Experts’:-**

**1. Period**

The term will be for a period of two years from date of issue of orders.

**2. Honorarium**

An honorarium of Rs. 3000/- (Three thousand only) per day would be paid to the members.

**3. Secretarial Assistance**

Secretarial assistance would be provided by the Commission as per requirements.

**4. Fare, Transport & Accommodation**

The fare, transport and accommodation would be provided by the Commission as per entitlement of the members.

No.007/VGL/013  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 23<sup>rd</sup> February 2007

**Circular No.3/2/07**

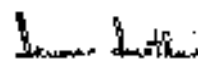
**Subject: Investigation of complaints by the CVOs - seizure of records reg.**

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, 6<sup>th</sup> 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.



(Vineet Mathur)  
Deputy Secretary

All Chief Vigilance Officers

No.006/VGL/ 098  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block –A,  
GPO Complex,  
INA, NEW DELHI-110 023.  
New Delhi, the 10<sup>th</sup> October, 2006

**Circular No.39/10/06**

**Subject: Difference of opinion with CVC's advice regarding quantum of penalty, etc.**

Reference is invited to the Department of Personnel & Training O.M. No. 134/2/95-AVD-I dated 13.6.1995 and the earlier instructions contained in Department of Personnel & Administrative Reforms O.M. No.118/2/78-AVD-I dated 28.9.78 on the above subject.

The Commission has observed that in a number of cases of disagreement with the Commission's advice, the Commission has not been informed about the reasons for disagreement or whether a reference to the DOPT, as required under the above instructions, was made. The CVOs are, therefore, directed to ensure that before it is finally decided to disagree with the Commission's advice on further action on a complaint or on an investigation report, or in a vigilance case, reference is made to the Department of Personnel in respect of all such cases, where the appointing authority is the President or the disagreement is due to UPSC's advice.

The CVOs may please note these instructions for strict compliance. They should also ensure that wherever it has been finally decided to disagree with the Commission's advice, reasons for the same are communicated to the Commission along with a final order in the case, to enable the Commission to decide about inclusion of the case in its Annual Report.

SD/-  
(V.KANNAN)  
DIRECTOR

All Chief Vigilance Officers

No.006/PRC/1  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 21<sup>st</sup> September, 2006

**Circular No. 34 /09/06**

**Subject:- Delay in completion of departmental proceedings - reg.**

**Reference: Circular No.14/3/06 - F.No. 006/PRC/001 dt. 13.3.06**

\*\*\*\*\*

The Commission has been emphasising the need for completing the departmental inquiry proceedings expeditiously so that errant officials are punished at the earliest. It has been observed that one of the major causes for delay lies in making the listed documents available for the inquiry. Sometimes, poor drafting of the charge sheet also creates confusion about the documents relied upon. The Commission has also noted with serious concern, that while advice of the Commission is sought on the basis of indicated lapses/irregularities and the suspected public servants' role, the charge-sheets are not drafted properly to reflect the seriousness of the lapses. The lapses are not covered precisely in the articles of charge and certain lapses, on the basis of which advice is obtained, are not included in the charge-sheets, thereby limiting the areas of operation/effectiveness of the Inquiry Officer. There are also cases where there was no credible evidence to back the charge, as a result of which, the said charge could not be proved during the inquiry. This not only results in errant officials escaping punishment, but also causes avoidable embarrassment to the Vigilance Administration and the Commission.

2. It is with a view to checking such occurrences that the Commission has been emphasising that while seeking Commission's advice, wherever disciplinary proceedings are proposed, references, complete in all respects, including the draft charge-sheets with supporting evidence, should be made to the Commission. While this was not to be construed as vetting of the charge-sheets by the Commission, it was intended to ensure that the specific lapses were duly reflected in the charge-sheet before it was decided to proceed against an officer. It may be pointed out that in Para 2.14.1(v) of Chapter II of the Vigilance Manual (Vol.I), it has been clearly stipulated that the CVO is required **"to ensure that the charge-sheets to the concerned employees are drafted properly"**. It is needless to say that this includes the different aspects of the charge-sheet mentioned in the aforesaid para. Accordingly, the CVOs are directed to carefully scrutinise the draft charge-sheets before sending their proposals, suggesting departmental proceedings and seeking Commission's advice on the same. **The Commission may take an adverse view on a CVO, who sends incomplete references, besides being constrained to return such proposals.**

3. Another cause for concern is the transfer of officials appointed as P.Os., while the inquiry is in progress, and appointment of new P.Os. in their place. In certain cases, it has been observed that the P.Os. were changed a number of times, leading to avoidable delay. Appointment of very junior official as P.O. also defeats the purpose of the inquiry against a senior officer, as such a P.O. is not able to present the case confidently.

4. After due consideration, the Commission has directed that the Disciplinary Authority should consider all relevant aspects about the official to be appointed as I.O./P.O. in a particular case, with particular reference to his/her continued availability to complete the inquiry proceedings. It should be ensured that only such officials, who are not likely to be transferred during the pendency of the inquiry proceedings, are appointed as P.Os./I.Os. In extreme cases where the transfers are unavoidable, it should be ensured that the I.Os./P.Os. complete the inquiry proceedings as expeditiously as possible, before they are relieved or at the earliest after their relief. It should also be kept in view, that to the extent possible, an official of appropriate seniority, with reference to the status of the charged official, is appointed as the P.O.

5. The CVOs may also apprise the competent authority of these instructions in their respective organisations.



(V. Kannan)  
Director

To

All Secretaries of Ministries/Departments in GOI.  
All Chief Vigilance Officers  
All CEOs/CMDs of PSUs/PSBs

No.006/VGL/025  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block-A,  
GPO Complex, INA,  
New Delhi-110023.  
Dated the 21<sup>st</sup> July, 2006

**Circular No. 28/7/06**

**Subject:- Adherence to time limit in processing of disciplinary cases.**

Attention is invited to the Commission's Office Order No. 50/05/04 issued vide No. 000/VGL/18 dated 9/8/04 on the above mentioned subject.

2. The Commission has noted with concern that the observance of time schedule in conducting investigations and departmental inquiries, as laid down in its letter no. 000/VGL/18 dated 23/5/2000, is often lax and there are similar delays noticed on part of the decision making authorities, leading to the disciplinary proceedings getting indefinitely prolonged.

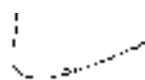
3. The Commission has also noticed that sometimes the disciplinary authorities misinterpret the Supreme Court judgment in the case of K.V.Jankiraman etc. vs Union of India, regarding adopting sealed cover procedure on the recommendations of departmental promotion committee for certain categories of officials. In this regard, DOPT has already issued instructions/clarifications vide letter no. 22011/4/91-Estt(A) dated 14/9/92 clearly stating that in accordance with the Supreme Court ruling in the K.V. Jankiraman etc. vs Union of India case, the findings of the departmental promotion committee in respect of the following categories of officials would be kept in a **sealed cover**:-

- (i) Government servants under suspension;
- (ii) Government servants in respect of whom a charge-sheet has been issued and disciplinary proceedings are pending; and
- (iii) Government servants in respect of whom prosecution for a criminal charge is pending.

4. The above instructions also provide that a Government servant who is recommended for promotion by the DPC but in whose case any of the above circumstances arise after the date of receipt of recommendation of the DPC but before he is actually promoted, would be considered as if his case had been placed in a sealed cover by the DPC. He shall not be promoted until he is completely exonerated of the charges against him.

5. All administrative authorities may be suitably advised to take note of, and strictly adhere to the prescribed time schedule in dealing with the disciplinary cases. Further, it is also necessary to correctly interpret/apply the Supreme Court judgment in Jankiraman case on 'sealed cover' in the light of instructions issued by the DOPT.

6. Undue delays on part of administrative authorities, in dealing with disciplinary cases, will be viewed seriously by the Commission and it would be constrained to advise penal action against those found responsible.

  
(V. Kannan)  
Director

All Secretaries to Govt. of India  
All CEOs/Head of Organisations  
All Chief Vigilance Officers

No.006/VGL/ 065  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi-110 023  
Dated the 6<sup>th</sup> July, 2006

**Circular No.25/7/06**

**Sub: Vigilance Administration – Role of CVO- regarding.**

The Commission has issued a number of instructions on different aspects of vigilance administration and the CVO's role in the same. During the Annual Zonal Meetings and interactive sessions with the CVOs, a number of issues were raised on most subjects, on which, though already instructions exist, the Commission has felt the need to reiterate/clarify and focus on some of the select issues raised in these meetings. Accordingly, the following guidelines are laid down:-

**i) Complaints.**

Meaningful and prompt investigation of complaints with desired follow up action is an important aspect of effective vigilance administration. Inordinate delay in investigation of the complaint sent by the Commission for investigation and report, reflects poorly on the performance of the CVO. Therefore, complaints need to be attended to promptly. Any anonymous complaint sent by the Commission for investigation, needs to be treated as source information and duly investigated, and report sent to the Commission.

It is also seen that in many a case, the complainant is not able to clearly articulate his allegations. In such cases, the CVO should contact the complainant for such additional information/clarification that the complainant could provide so that investigation, if need be, could be undertaken on serious allegations, in a focused manner. Further, wherever the complainant is addressed either for verification or for additional information, in order to avoid delay, the CVO should simultaneously call for the records of the case, scrutinize the same in the light of the allegations made, and take necessary action.

The Commission's prior approval is necessary to take up any anonymous/pseudonymous complaint for investigation. Even though such complaints apparently contain verifiable information, the CVO is expected to conduct a preliminary enquiry and if it is considered that a detailed investigation is called for, then the Commission should be approached for seeking its approval.

While complaints against Board level officials are within the purview of the administrative Ministry's CVO, if it is referred to the CVO of the organisation under the Ministry, he should gather all factual information and submit the same to the Ministry's CVO. He is not required to make analysis or draw conclusions. A copy of his report, whenever called by the Ministry CVO should be sent to the Commission for information. It is also reiterated that no vigilance complaint against any official

under the Commission's jurisdiction should be closed without the prior approval of the Commission.

On receipt of any complaint containing allegations against any tender in process, the tender process need not be stopped. However, the allegations should be brought to the notice of the competent authority, including the purchase committee, tender committee, negotiation committee, etc, and the complaint should be taken up for investigation independently.

It should be borne in mind that if a CVO fails to notice a serious irregularity or to take necessary follow up action, and if such an irregularity is unearthed on investigation of a complaint received by the Commission, it would reflect poorly on the performance of the CVO, and he would need to explain in this regard.

## **ii) Consultation with CVOs.**

The CVO has an important role in effective vigilance administration and functions as an extension of the Commission. While the Commission's jurisdiction is confined to Group 'A' officers and other officials of and above the level notified, and the Commission's advice is only to the Disciplinary Authority, there is no such restriction on the CVOs. They are required to be consulted by the Disciplinary Authority/Appellate Authority, irrespective of the level of officers involved. Wherever the Appellate Authority has disagreed with the Commission's advice, which was accepted by the Disciplinary Authority, the CVOs should scrutinise the matter carefully to take up the matter with the reviewing authority and also report such cases to the Commission. In respect of officials not under the jurisdiction of the Commission, where the Disciplinary Authority has disagreed with the CVO's advice, such cases should be specifically brought to the notice of the Board.

While CVOs may be consulted by the management in formulating a policy, to provide for necessary checks and balances as a preventive vigilance measure, they should not get involved in decisions in individual cases like works/procurement, etc, having financial implications.

The Commission further directs that the CVOs should not be given any operational duties. If any such duty with financial implications is assigned to him, the CVO should promptly bring it to the notice of the Commission for its intervention.

## **iii) Review of Vigilance work by Board**

The Commission's instructions vide No.98/VGL/51 dated 9/12/2003 requires that the Board of Directors review the Vigilance Work in the organisation and the CVO should send a copy of such review to the Commission. It has been observed that in a number of organisations, the CVOs are not invited to the Board Meeting. In the absence of the CVO, the review of the vigilance work by the Board would not be meaningful. The Commission has, therefore, decided that the CMDs/CEOs should ensure that the CVO of the organisation is invited and remains present at the time of the review of vigilance work by the Board.



**iv) Monthly/Quarterly/Annual Report of the CVOs**

The CVOs should take utmost care in sending the monthly report, which enables the Commission to assess their performance. They can attach additional sheets if they want to bring any special vigilance related issue to the notice of the Commission. A statement should also be enclosed along with the monthly report giving details of complaints/vigilance cases relating to officials falling under the Commission's jurisdiction, which are pending for more than a year, giving reasons for delay.

The QPR should contain details of all projects and progress relating thereto and the CVO would be responsible for its accuracy. As the annual reports of CVOs form the basis for certain incorporations in the Commission's Annual Report, the CVOs should ensure that their Annual Reports are sent positively by 31<sup>st</sup> January of the year following the completed calendar year.

**v) Reference to the Commission**

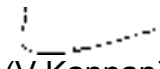
The Commission has issued detailed instructions regarding the manner of seeking the advice of the Commission. The CVOs should invariably ensure that the reference to the Commission for seeking first stage/second stage advice is made along with the views of the Disciplinary Authority, etc. However, in respect of such officials where the President is the Disciplinary Authority, the case could be referred to the Commission for seeking first stage advice with the views of the Secretary of the concerned administrative department.

**vi) Disciplinary Cases**

The CVOs should ensure that charg-sheets are carefully drafted covering all lapses. It is seen that in some CBI cases, there is delay in obtaining the documents. It should be ensured that the listed documents are obtained from the CBI before issuing the chargesheet and, where parallel proceedings are to be initiated, a set of listed documents, duly certified, is obtained from the CBI.

**vii) Irregularities in Recruitment:**

The Commission has been seriously concerned with certain instances of irregularities in recruitment. Every organisation is expected to have a recruitment policy and proper recruitment rules in keeping with the guidelines of the GOI. The CVOs should monitor and take up for necessary action, any case of recruitment in violation of the laid down rules and procedures, and wherever necessary, report the matter to the Commission.

  
(V.Kannan)  
Director

To

All CVOs  
All CMDs/CEOs

No.006/DSP/002  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block-A,  
GPO Complex, INA,  
New Delhi-110023  
Dated the 23<sup>rd</sup> June, 2006

**Office Order No.23/6/06**

**Subject:- Difference of opinion between State Anti Corruption Bureaus and Central Government authorities regarding sanction of prosecution of Central Government officials – reg.**

The Commission has noted certain instances where the competent authority in the concerned Central Government organisation has declined the request of the State ACB for sanction of prosecution against certain central government officials in cases investigated by the concerned State ACB. The Commission has felt that there is a need to establish a mechanism to resolve such differences of opinion between the State ACBs and the Central Government Authorities.

2. In this connection, it may be mentioned that such a mechanism is provided in para 11.2 of Chapter VII of Vigilance Manual (Vol. I) in respect of cases investigated by the Central Bureau of Investigation. The relevant provisions are extracted below:

(a) In the case of government servants, the competent authority may refer the case to its Administrative Ministry/Department which may after considering the matter, either direct that prosecution should be sanctioned by the competent authority or by an authority higher to the competent authority, or in support of the view of the competent authority, forward the case to the Central Vigilance Commission along with its own comments and all relevant material for resolving the difference of opinion between the competent authority and the CBI. If the Commission advice grant of sanction for prosecution but the Ministry/Department concerned proposes not to accept such advice, the case should be referred to DOPT for a final decision.

(b) In the case of public servants other than government servants (i.e. employees of local bodies, autonomous bodies, public sector organisations, nationalised banks, insurance companies etc.) the competent authority may communicate its views to the Chief Executive of the Organisation who may either direct that sanction for prosecution should be given, or in support of the views of the competent authority have the case forwarded to the Central Vigilance Commission for resolving the difference of opinion between the competent authority and the CBI.

: 2 :

3. The Commission has, decided that the same procedure be followed in respect of difference of opinion on action to be taken on the recommendations of the State Anti Corruption Bureaus also, in respect of cases investigated by them. Such cases should be dealt with as provided above, and if the difference of opinion persists, the case should be referred to the Commission, irrespective of the level of the official involved whether he is under the normal advisory jurisdiction of the Commission or not.

4. All CVOs may note for strict compliance.

(V. Kannan)  
Director

Chief Secretaries of all States  
All Chief Vigilance Officers  
D/o Personnel & Training, North Block, New Delhi  
All State Vigilance Commissioners

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 28<sup>th</sup> March 2006

**Circular No.16/3/06**

**Sub: Protection against victimisation of officials of the Vigilance Units of various Ministries/Departments/organisations.**

The Commission has viewed seriously certain instances of harassment and attempts at victimisation of vigilance officials of certain organisations. The need to allow the vigilance officials to work independently and freely without any fear, which is the foundation for effective vigilance administration in any organisation, has been recognized since long. In fact, the Committee on Prevention of Corruption (Santhanam Committee) had recommended that "those posted to the Vigilance Organisations should not have the fear of returning to their parent cadre with the possibility of facing the anger and displeasure of those against whom they made inquiries". The Committee had also recommended that "those working in Vigilance Organisations should have an assurance that good and efficient work in the Vigilance Organisation will enhance their opportunities for promotion and not become a sort of disqualification".

2. The Commission has considered the problem of possible victimisation of Vigilance officials after they finish their tenure in the Vigilance Department and revert to their normal duties. In the case of CVOs, already, the Commission, as Accepting Authority, is in a position to moderate, if necessary, any biased reporting against the CVO in his ACR. Similarly, the Commission has always been extremely careful and cautious while taking cognizance of complaints against the CVOs and as a matter of principle always obtains the CVOs' response before coming to any conclusion on the need to investigate such complaints.

3. In order that the required degree of protection is conferred on the Vigilance officials supporting the CVO and keeping in view the spirit of the Santhanam Committee which with commendable foresight had anticipated very clearly some of these issues, the Commission issues the following consolidated instructions in exercise of its powers under Section 8 (1) (h) of the CVC Act:

- (i) All personnel in Vigilance Units will be posted only in consultation with and the concurrence of the CVOs. They will be for an initial tenure of three years extendable up to five years. Any premature reversion before the expiry of such tenure will only be with the concurrence of the CVO. The CVO shall bring to the notice of the Commission any deviation from the above.

Contd....2/-

: 2 :

- (ii) The ACR of personnel working in the Vigilance Department will be written by the CVO and reviewed by appropriate authority prescribed under the relevant conduct rules. The remarks in review shall be perused by the CVO and in case he has reservations about the comments made under the review, he shall take it up with the Chief Executive/HOD to resolve the issue. In case he is unable to do this, he shall report the matter to the Commission who will intercede in the matter suitably.
- (iii) Since the problem of victimisation occurs, if at all, after the reversion of the personnel to their normal line departments, the Commission would reiterate the following:
  - (a) On such reversion the vigilance personnel shall not be posted to work under an officer against whom, while working in the vigilance department, he had undertaken verification of complaints or detailed investigation thereafter. Needless to say his ACR shall not be written by such officer/s.
  - (b) All such Vigilance personnel will be deemed to be under the Commission's purview for purposes of consultation in disciplinary matters. This is irrespective of their grade. This cover will be extended to a period of not less than five years from the date of reversion from the vigilance department.
  - (c) All Vigilance personnel on reversion shall be entitled to represent through the CVO and chief executive of the organisation to the Commission if they perceive any victimisation as a consequence of their working in the Vigilance department. This would include transfers, denial of promotion or any administrative action not considered routine or normal. This protection will be extended for a period not less than five years after the reversion of such personnel from the vigilance department.

4. The above instructions may be noted for strict compliance. The CVO should report promptly to the Commission, the details of any real or perceived victimisation of any official who is working in the Vigilance Unit. Similarly, he should also report such instances pertaining to the former officials of the Vigilance Unit, up to a period of five years after they had completed their tenure in the Vigilance Unit. He should also report where such deserving officials are ignored/superseded in matters of promotion.

  
(V. Kannan)  
Director

All CMDs of Public Sector Undertakings/Public Sector Banks  
All Chief Vigilance Officers

No.006/PRC/1  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 13<sup>th</sup> March 2006

**Circular No. 14/3/06**

**Subject:- Reference to the Commission for its advice – Documents including the draft charge sheet to be enclosed for seeking first stage advice and the documents to be enclosed for seeking second stage advice reg.**

Reference:- (i) No. NZ/PRC/1 dated 9.5.2005  
(ii) No. NZ/PRC/1 dated 26.2.2004

\*\*\*\*\*

The Commission has been repeatedly emphasizing the need for sending complete information to the Commission along with the relevant documents while seeking its advice. In particular, it was emphasized that while seeking first stage advice, the draft charge sheet should be enclosed. It is a matter of serious concern that these instructions are not being strictly complied with.

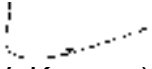
2. In supersession of all earlier instructions it is reiterated that following material should be furnished to the Commission while seeking its advice:-

- (a) A self contained note clearly bringing out the facts and the specific point(s) on which Commission's advice is sought. The self contained note is meant to supplement and not to substitute the sending of files and records.
- (b) The bio-data of the officer concerned in the enclosed format (Annexure-I).
- (c) Other documents required to be sent for first stage advice:
  - (i) A copy of the complaint/source information received and investigated by the CVOs;
  - (ii) A copy of the investigation report containing allegations in brief, the results of investigation on each allegation;
  - (iii) Version of the concerned public servant on the established allegations, the reasons why the version of the concerned public servant is not tenable/acceptable, and the conclusions of the investigating officer;
  - (iv) Statements of witnesses and copies of the documents seized by the investigating officer;

: 2 :

- (v) Comments of the Chief Vigilance Officer and the disciplinary authority on the investigation report {including investigation done by the CBI and their recommendation}
  - (vi) A copy of the draft charge sheet against the SPS alongwith the list of documents and witnesses through which it is intended to prove the charges.
- (d) Other documents required for second stage advice:
- (i) A Copy of the charge sheet issued to the public servant;
  - (ii) A copy of the inquiry report submitted by the inquiring authority {along with a spare copy for the Commission's records};
  - (iii) The entire case records of the inquiry, viz copies of the depositions, daily order sheets, exhibits, written briefs of the Presenting Officer and the Charged Officer;
  - (iv) Comments of the CVO and the disciplinary authority on the assessment of evidence done by the inquiring authority and also on further course of action to be taken on the inquiry report.

This is brought to the notice of all CVOs for strict compliance.

  
(V. Kannan)  
Director

To

All Chief Vigilance Officers

**Bio-Data of the officer against whom Commission's advice is sought**

1. Name of the officer :
2. Designation  
(a) At Present :  
(b) When the alleged misconduct was committed :
2. Service to which belongs :  
(Also please mention the cadre and year of allotment  
in case of officers of the organized/All India Services)
3. Date of Birth :
4. Date of Superannuation :
5. Level/Group of the present post and pay scale :
6. Date of suspension [If under suspension] :
7. Disciplinary Rules applicable to concerned public servant
8. Nature of misconduct, in brief [Like false TA claims, :  
Exceeding delegated powers, supervisory lapses etc.]
9. Allegations/charges in details [which were investigated/  
Inquired] and results thereof
10. Version of public servant on established allegations/:  
Charges [Separately for each allegation/charge]
12. Reasons why version of public servant is not acceptable
13. Misconduct imputed [Whether lack of integrity and/or:  
devotion to duty] with relevant clauses of CDA Rules
14. Recommendation of CVO and disciplinary authority:  
on the findings of investigating/inquiring authority
15. Involvement of officer in previous complaints, if any,  
and results of investigations/inquiries authority
16. Brief particulars of similar cases, if any, in the organization  
in which same or other officer might have been indulged; and  
action taken in the matter

Signature of C.V.O. \_\_\_\_\_  
Date \_\_\_\_\_  
Tel. No. \_\_\_\_\_



F.No. 006/VGL/5  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block-A,  
GPO Complex, INA,  
New Delhi-110023.  
Dated, the 18/01/2006.

**Circular No. 3/1/06**

**Subject:- Reducing delay in departmental proceedings- ensuring availability of documents-regarding.**

The Commission has observed that non-availability of documents relevant to the departmental inquiry proceedings continues to be a major problem contributing to the delay in the finalisation of the inquiry. Commission would reiterate its instructions under circular no. NZ/PRC/1 dt. 26.2.2004 circulated vide Office Order No. 12/02/2004 in which the Disciplinary Authority is required to ensure that the P.O. is given custody of all the listed documents in original and certified copies thereof. It would also reiterate its instructions vide order No. 3(v)/99/7 dated the 6<sup>th</sup> September, 1999 wherein it has been decided that in respect of the CBI cases, the CBI should make available to the organization, legible certified photocopies of all documents seized by them. It is, therefore, reiterated that CBI/CVO of the concerned organization should ensure that legible certified copies of the documents taken over by CBI are made available to the organization to pursue the departmental proceedings.

The above instructions may be noted for strict compliance.

Sd/-  
(V.KANNAN)  
DIRECTOR

All Chief Vigilance Officers/CBI

No. 004/VGL/18  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkata Bhawan, Block-A,  
GPO Complex, INA,  
New Delhi-1100 23.  
Dated the 21<sup>st</sup> December, 2005

**Office Order No.74/12/05**

**Sub:- 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

All Chief Vigilance Officers

Copy to:-

1. Director CBI, New Delhi.
2. AVD-III, Deptt of Personnel & Training, North Block, New Delhi.

No. 004/VGL/18  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkata Bhawan, Block-A,  
GPO Complex, INA,  
New Delhi-1100 23.  
Dated: 13<sup>th</sup> April, 2004

**Office Order No. 23/04/04**  
**( read with modification vide Office Order No. 74/12/05)**

**Subject: Vigilance angle – definition of.**

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(a)\*\* 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.**

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.**

**\*\* as modified vide Officer Order No. 74/12/05 dated 21/12/05.**

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

All Chief Vigilance Officers

No. 000/VGL/154  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, 'A' Block,  
GPO Complex, INA,  
New Delhi – 110 023  
Dated: 15<sup>th</sup> December, 2005

**Office Order No. 73/12/2005**

**Sub: Action against public servants, serving as witnesses, but turning hostile in trap and other cases of CBI.**

You are aware that CBI often requisitions the services of Government servants from various organisations in order to utilise them as witnesses in cases of search, trap, etc. The underlying objective behind such practice is to have reliable independent witnesses, who withstand the scrutiny during court trials. However, CBI has brought to the notice of the Commission that in large number of cases, Government servants, who are engaged as such witnesses, are found resiling their original statements during trials, on pleas that they had signed the memoranda without reading the contents or they had not witnessed the real proceedings.

2. It is obvious that these public servants, whose services are thus utilised by the CBI, are turning hostile for ulterior reasons. It is surely not expected that educated and responsible public servants should resort to such devious behaviour, which undermines CBI cases and goes against public interest.

3. Rule 16, Chapter XIII of Vigilance Manual Vol. I, provides that if a Government servant, who had made a statement in course of a preliminary enquiry, changes his stand during evidence in the enquiry, and if such action on his part is without justification or with the objective of favouring one or the other party, his conduct would constitute violation of Rule 3 of the Conduct Rules, rendering him liable for disciplinary action. Such misconduct in the context of criminal cases becomes all the more grave.

4. The Commission is of the view that this unhealthy tendency on part of public servants needs to be curbed effectively. The Commission, therefore, desires that such misconduct, whenever reported by the CBI, should be viewed with utmost seriousness and necessary disciplinary action initiated promptly.

Sd/-  
(Balwinder Singh)  
Additional Secretary

All Chief Vigilance Officers

Copy to:  
Director, CBI, New Delhi

No.003/VGL/28  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi-110 023  
Dated the 28.11.2005

Office Order No. 72/12/05

**Sub: Vigilance Manual –Sixth Edition-2004 - Clarification regarding.**

The Vigilance Manuals issued by the Commission are ready reference books for use by all officers involved in vigilance administration. It is not a substitute for reference to the concerned rules and orders issued by the Commission/Government. The Vigilance Manual comprises of three volumes as under:-

(i) **Vigilance Manual Volume-I:** It is a subject-wise write up on all matters pertaining to the Commission's role and functions including role and functions of the CVOs' handling and investigation of complaints; penalties under the CDA Rules and the procedure for its imposition; the provisions for appeal, revision and review; consultation with UPSC etc. It also contains writes-up on general issues like assistance to the CBI, suspension of public servants and payment of subsistence allowance etc; important penal provisions under the PC Act; and the Constitutional provisions relating to disciplinary matters against the civil servants.

(ii)(a) **Vigilance Manual Volume II (Part-I):** It contains verbatim reproduction of conduct, discipline and appeal rules pertaining to various categories of Government servants, like CCS(CCA) Rules, CCS(Conduct) Rules, AIS( D&A) Rules, Railway Servants (D&A) Rules, etc. It also contains extract from various Acts and Rules, and standard forms. (Last updated in 20.9.1981).

(b) **Vigilance Manual Volume II (Part II):** This volume is divided into three parts and contains verbatim reproduction of instructions issued by the Ministry of Home Affairs/DOPT, the Central Vigilance Commission and the Ministry of Finance respectively, arranged in order of dates of issue of the circulars. (Last update 31.12.1982. A supplement by DOPT on 29.7.1987).

(iii) **Vigilance Manual Volume III (Digest of Case Laws):** This contained summary of case laws having bearing on disciplinary proceedings. It was brought out on 11.2.1970 as a consequence of a suggestion made at the meeting of Chief Vigilance Officers held in 1966. This volume was not updated thereafter. However, in eighties and early nineties, the Commission had been bringing out quarterly bulletins in which summaries of important case laws were being included.

**2. The latest update of Vigilance Manual Volume-I dated 2004 covers only the following chapters:**

contd.....p/2

Chapter-I	Organisaiton.
Chapter-II	CVO-Appointment, Role and Functions.
Chapter-III	Complaints.
Chapter-IV	Preliminary Inquiry/Investigation.
Chapter-V	Facilities and Co-operation to be extended by Administrative Authority to the CBI during Investigation of cases.
Chapter-VI	Suspension.

**3. The other chapters of earlier edition i.e. Vigilance Manual Vol.I, 1991 viz**

Chapter-VI	Penal provisions pertaining to bribery and corruption among public servants.
Chapter-VII	Prosecution.
Chapter-VIII	Action against temporary Government servant by the appointing authority.
Chapter-IX	Constitutional provisions.
Chapter-X	Disciplinary Proceedings I (Initial Action).
Chapter-XI	Disciplinary Proceedings II (Oral Inquiry)
Chapter-XII	(Disciplinary Proceedings III (Action on the report of the inquiring Authority).
Chapter-XIII	Disciplinary Proceedings IV (Miscellaneous)
Chapter-XIV	Action after reinstatement.
Chapter-XV	Action against pensioners.
Chapter-XVI	Consultation with Union Public Service Commission in disciplinary matters.
Chapter-XVII	Appeals, Revision, Review, petitions and Memorials.

are yet to be updated and hence Vol.I edited in 1991 may be referred with respect to these chapters alongwith circulars issued by DOPT/CVC from time to time. These will be updated in due course and released as Vigilance Manual Volume I (Part-II). The Vigilance Manual Volume I edition 2004, referred in para 2 above, will hence be referred as Vigilance Manual Volume I (Part-I) edition 2004.

4. It is also brought to the notice that till the finalisation of CVC Regulations all the procedures for references to CVC are as per the circulars printed in Vigilance Manual Volume –II, Part –II (third edition), supplement to Volume–II, Part-II and circulars issued by DOPT, CVC from time to time. Special attention is drawn to letter No.9/1/64- DP dated 13<sup>th</sup> April, 1964 and subsequent amendments/clarifications of CVC/DOPT in these matters.

Sd/-  
(Anjana Dube)  
Deputy Secretary

Copy to:-

All Chief Vigilance Officers

21

Confidential

No.99/VG/87  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi-110 023  
Dated the 30<sup>th</sup> September, 2005

Office Order No.52/08/05

**Subject:- Prosecution and Departmental Action.**

The Commission vide para 4.3 of the Vigilance Manual 2004, regarding parallel investigation by Departmental Vigilance Agency and the CBI, had directed that once the case has been referred to and taken up by the CBI for investigation, further internal investigation should be avoided.

2. Accordingly, the Commission has been generally advising that organisations need not proceed with the RDA independently if the CBI is undertaking investigation of the issues involved. The intention is that the CBI investigation being statutory and more professional and thorough will bring out all the aspects of the matter and identify all the officials involved in the matter. The CBI report contains recommendation on both criminal action for prosecution as also departmental action for major or minor penalty as the case may be. The Commission feels that the DAs should await such final recommendations before proceeding with RDA so that no officer can escape punitive action and no situation should arise wherein an officer on prima facie material undergoes action for minor penalty etc. and later on CBI bring out facts which would justify for major penalty. In other words, in cases where the matter is yet to be investigated, CVOs should not undertake parallel investigation when the local police or the CBI are seized of the matter.

3. There are cases especially in banks where thorough investigation of the case has already taken place and action against the officials through RDA clearly identified. The matter is referred to CBI because it is felt that the officials involved should also undergo action under the P.C. Act etc. **In such cases, since the officials involved and the role have already been established, there is no difficulty in going ahead with parallel RDA** especially considering that action under the P.C. Act is usually protracted and it will be desirable to deal with COs under the Conduct Rules for quick punitive action without waiting for the outcome of the criminal prosecution. Consultations with CBI in such cases, however, is desirable as regards the timing of action under the RDA.

Contd....2/-



22

2:

4. All the CVOs should appreciate this spirit of the Commission's instructions and analyse each case on this basis.



(Anjana Dube)  
Deputy Secretary

All Chief Vigilance Officers

AVD-III, DOPT

JD (Policy), CBI

F.No. 004/VGL/87  
Government of India,  
Central Vigilance Commission

\*\*\*\*\*

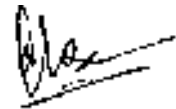
Satarkta Bhawan, GPO Complex,  
Block-'A', I N A,  
New Delhi-110023  
Dated, the 27<sup>th</sup> September, 2005

**Officer Order No.60/09/05**

**Subject:- Foreign Visits by Government Employees.**

Please refer to this Commission's Circulars of even no. dated 25/10/2004 & 8/12/2004 on the above subject.

2. It has been noticed by the Commission that some of the Departments/Organisations have not furnished information regarding foreign visits performed by their officials on private visits during 2000 to 2004. All Organisations who have not furnished these details must do the needful immediately as per the format already circulated (format-1 enclosed). Separately information on 'exception list' and a summary of numbers of employees should also be provided in the enclosed format-2. In addition, the detail information may also be sent through e-mails i.e. [cdi4@CVC.delhi.nic.in](mailto:cdi4@CVC.delhi.nic.in) or [ro-coord@cvc.delhi.nic.in](mailto:ro-coord@cvc.delhi.nic.in).



**(Anjana Dube)**  
**Deputy Secretary**

(i) All Chief Vigilance Officers of Ministries/Departments/Autonomous Organisations /Public Sector Undertakings/Public Sector Banks/Insurance Companies/Societies

(ii) President's Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/Prime Minister's Office.

## Format-1

### Name of the organisation

Details of Officers/Officials who had gone abroad on private visits during \_\_\_\_\_ (year-wise)

Title	Name of the officer	Designation	Name of country visited	Duration of stay (From-To)	Source of funding	Remarks (purpose/ reason of visit)

## Format-2

Private foreign visits by Govt. Employees during the years 2000 to 2004 (Nos.)

S.No.	Name of the Organisation	2000	2001	2002	2003	2004
1	XYZ	5(1)	6	8(2)	10	4

figures in bracket shows the no. of officers who have gone more than once in a calender year  
e.g. if 4 officers have gone only once in 2000 and 1 officer has gone more than once in 2000  
then it will show as 5(1)

Exception list: Details of officers who have travelled on private foreign visits more than once  
in a calender year as per format 1.

Competent authority to certify that sources of funds have been verified.

No. 004/VGL/18  
Government of India  
Central Vigilance Commission

\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi-110023  
Dated the 2<sup>nd</sup> June, 2005

**Office Order No.32/6/05**

**Subject: Commission's advice in LTC, TA, etc. fraud cases - reference to the Commission - regarding.**

In certain cases of the nature of LTC fraud, TA fraud etc., the Commission has been advising the organizations to take such action as deemed fit. This did not mean that no action is to be taken. A need has been felt to clarify the Commission's intention. The Commission has already clarified "vigilance angle" in its Office Order No. 23/4/04 dated 13.4.04 and **any lapse including the lapses of the above nature which reflect adversely on the integrity of the officer would be a matter of vigilance case.** The Commission's intention was only that while such lapses are definitely to be considered as serious misconduct and the CVO/DA need to take action in these cases, **only they need not be referred to the Commission** for second stage advice.

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

Sd/-  
(Anjana Dube)  
Deputy Secretary

All Chief Vigilance Officers.

**No. 005/VGL/11**  
**Central Vigilance Commission**  
**Coordination I**  
\*\*\*\*\*

**Satarkta Bhawan, Block 'A'**  
**INA, New Delhi-110023**  
**The, 12<sup>th</sup> May, 2005.**

**OFFICE ORDER NO. 31/5/05**

**Sub:- Guidelines to be followed by the authorities competent to accord sanction for prosecution u/s. 19 of the PC Act.**

.....

**The Commission has been concerned that there have been serious delays in according sanction for prosecution under section 19 of the PC Act and u/s 197 of CrPC by the competent authorities. The time limit prescribed by the Hon'ble Supreme Court for this is 3 months generally speaking. The Commission feels this delay could be partly due to the lack of appreciation of what the competent authority is expected to do while processing such requests.**

There have been a number of decisions of the Supreme Court in which the law has been clearly laid down on this issue:-

1. Jagjit Singh Vs. State of Punjab, 1996 Cr.L.J. 2962.
2. State of Bihar Vs. P.P. Sharma, AIR 1991 SC 1260.
3. Superintendent of Police (CBI) Vs. Deepak Chowdhary, AIR 1996 SC 186.
4. Vineet Narain Vs. Union of India, AIR 1998 SC 889.

**2. The guidelines to be followed by the sanctioning authority, as declared by the Supreme Court are summarized hereunder:-**

- i) Grant of sanction is an administrative act. The purpose is to protect the public servant from harassment by frivolous or vexatious prosecution and not to shield the corrupt. **The question of giving opportunity to the public servant at that stage does not arise. The sanctioning authority has only to see whether the facts would prima-facie constitutes the offence.**
- ii) The competent authority cannot embark upon an inquiry to judge the truth of the allegations on the basis of representation which may be filed by the accused person before the Sanctioning Authority, by asking the I.O. to offer his comments or to further investigate the matter in the light of representation made by the accused person or by otherwise holding a parallel investigation/enquiry by calling for the record/report of his department.
- iii) When an offence alleged to have been committed under the P.C. Act has been investigated by the SPE, the report of the IO is invariably scrutinized by

the DIG, IG and thereafter by DG (CBI). Then the matter is further scrutinized by the concerned Law Officers in CBI.

- iv) When the matter has been investigated by such a specialized agency and the report of the IO of such agency has been scrutinized so many times at such high levels, there will hardly be any case where the Government would find it difficult to disagree with the request for sanction.
- v) **The accused person has the liberty to file representations when the matter is pending investigation.** When the representations so made have already been considered and the comments of the IO are already before the Competent Authority, there can be no need for any further comments of IO on any further representation.
- vi) **A representation subsequent to the completion of investigation is not known to law, as the law is well established that the material to be considered by the Competent Authority is the material which was collected during investigation and was placed before the Competent Authority.**
- vii) However, if in any case, the Sanctioning Authority after consideration of the entire material placed before it, entertains any doubt on any point the competent authority may specify the doubt with sufficient particulars and may request the Authority who has sought sanction to clear the doubt. But that would be only to clear the doubt in order that the authority may apply its mind proper, and not for the purpose of considering the representations of the accused which may be filed while the matter is pending sanction.
- viii) If the Sanctioning Authority seeks the comments of the IO while the matter is pending before it for sanction, it will almost be impossible for the Sanctioning Authority to adhere to the time limit allowed by the Supreme Court in Vineet Narain's case.

**The Commission has directed that these guidelines as at para 2(i)-(vii) should be noted by all concerned authorities for their guidance and strict compliance.**

Sd/-  
**(Sujit Banerjee)**  
**Secretary**

To

Secretaries of All Ministries/Departments  
CMDs/CEOs of all PSEs/PSUs/PSBs/Financial Institutions  
Autonomous Organisations  
All CVOs



No.NZ/PRC/1  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 9<sup>th</sup> May,2005

**Office Order No. 30/5/05**

**Subject:- Reference to the Commission for its advice.**

Reference:- (i) No. 1/14/73-R dated 24.7.1973  
(ii) No. DO PRC 4 dated 11.8.1986  
(iii) No. NZ PRC 1 dated 7.12.1995  
(iv) No. NZ PRC 1 dated 9.8.1996  
(v) No. NZ PRC 1 dated 16.3.2000  
(vi) No. NZ PRC 1 dated 12.5.2003  
(vii) No. NZ PRC 1 dated 10.9.2003  
(viii) No. NZ PRC 1 dated 26.3.2004

\*\*\*\*\*

The Commission has issued instructions regarding the manner in which the references to the Commission for first stage and second stage advice are required to be made. Although these instructions have been reiterated by the Commission several times, the complete information is not being sent by all the CVOs. The Commission has noted this lapse with concern and desires that the cases received with incomplete information will not be entertained in future and returned to the concerned departments/Organisation.

2. In supersession of all earlier instructions it is reiterated that following material should be furnished to the Commission while seeking its advice:-

- (a) A self contained note clearly bringing out the facts and the specific point(s) on which Commission's advice is sought. The self contained note is meant to supplement and not to substitute the sending of files and records.
- (b) The bio-data of the officer concerned in the enclosed format (Annexure-I).
- (c) Other documents required to be sent for first stage advice:
  - (i) A copy of the complaint/source information received and investigated by the CVOs;
  - (ii) A copy of the investigation report containing allegations in brief, the results of investigation on each allegation;
  - (iii) Version of the concerned public servant on the established allegations, the reasons why the version of the concerned public servant is not tenable/acceptable, and the conclusions of the investigating officer;



- (iv) Statements of witnesses and copies of the documents seized by the investigating officer;
  - (v) Comments of the Chief Vigilance Officer and the disciplinary authority on the investigation report {including investigation done by the CBI and their recommendation}
- (d) Other documents required for second stage advice:
- (i) A Copy of the charge sheet issued to the public servant;
  - (ii) A copy of the inquiry report submitted by the inquiring authority {along with a spare copy for the Commission's records};
  - (iii) The entire case records of the inquiry, viz copies of the depositions, daily order sheets, exhibits, written briefs of the Presenting Officer and the Charged Officer;
  - (iv) Comments of the CVO and the disciplinary authority on the assessment of evidence done by the inquiring authority and also on further course of action to be taken on the inquiry report.

This is brought to the notice of all CVOs for strict compliance.

(Anjana Dube)  
Deputy Secretary

To

All Chief Vigilance Officers

**Bio-Data of the officer against whom Commission's advice is sought**

1. Name of the officer :
2. Designation :  
(a) At Present :  
(b) When the alleged misconduct was committed :
2. Service to which belongs :  
(Also please mention the cadre and year of allotment  
in case of officers of the organized/All India Services)
3. Date of Birth :
4. Date of Superannuation :
5. Level/Group of the present post and pay scale :
6. Date of suspension [If under suspension] :
7. Disciplinary Rules applicable to concerned public servant
8. Nature of misconduct, in brief [Like false TA claims, :  
Exceeding delegated powers, supervisory lapses etc.]
9. Allegations/charges in details [which were investigated/  
Inquired] and results thereof
10. Version of public servant on established allegations/  
Charges [Separately for each allegation/charge]
12. Reasons why version of public servant is not acceptable
13. Misconduct imputed [Whether lack of integrity and/or:  
devotion to duty] with relevant clauses of CDA Rules
14. Recommendation of CVO and disciplinary authority:  
on the findings of investigating/inquiring authority
15. Involvement of officer in previous complaints, if any,  
and results of investigations/inquiries authority
16. Brief particulars of similar cases, if any, in the organization  
in which same or other officer might have been indulged; and  
action taken in the matter

Signature of C.V.O. \_\_\_\_\_  
Date \_\_\_\_\_  
Tel. No. \_\_\_\_\_

No.002/VGL/61  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi-110 023  
Dated the 16<sup>th</sup> March 2005

**Office Order No.12/3/05**

**Subject: Action taken on Advices tendered/Complaints referred by the Commission.**

The Commission has observed that some of the Govt. Departments were not following the prescribed guidelines as regards action taken on Commission's Ist/Ind stage advices. **It is also seen that some of the departments are closing the complaints on their own which were forwarded by the Commission for investigation and report.**

2. Para 22 of Chapter X of Vigilance Manual provides that all cases pertaining to Gazetted Officers (may be read as Group A Officers after passing of CVC Act-2003), in respect of whom the Central Vigilance Commission is required to be consulted, will be referred to the Commission for advice (first/second stage advice). The major penalty cases pertaining to such officers envisage consultation with the Commission at two stages. The first stage of consultation arises while initiating disciplinary proceedings, while second stage consultation is required before a final decision is taken at the conclusion of the proceedings. It follows that the **CVC should also be consulted** in cases where the disciplinary authority have initiated action for major/minor penalty proceedings and **propose to close the case** on receipt of Statement of defence.

3. As regards the complaints, para 4.1 of Chapter II of CVC Manual envisages that the complaints forwarded for inquiry to the administrative Ministries/ Departments, the CVO concerned will make an inquiry or have an inquiry made into the complaints to verify the allegations and will submit his report together with the relevant records to the Central Vigilance commission. **The reports of investigation should normally be sent to the Commission within three months from the date of receipt of the reference from the Commission. In cases where the CVO need more time, an interim reply should be sent to the Commission. It is reiterated that no complaint is to be closed by the department on its own without consulting the Commission, in case the same has been forwarded by the Commission for a report.**

The above may be noted for strict compliance by the Ministries/ Departments.

Sd/-  
(Anjana Dube)  
Deputy Secretary

To

All CVOs of Ministries/Departments



IMMEDIATE  
CONFIDENTIAL

No.004/VGL/87  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block-A,  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 8<sup>th</sup> December, 2004

**Office Order No.74/12/04**

**Subject: Foreign visits by the Government employees.**

On the directives of the Hon'ble High Court, Delhi, the Commission vide its Office Order No. 67/10/2004 dtd. 25/10/2004 issued instructions to all the Chief Vigilance Officers of Ministries/Departments/Autonomous Bodies, Organisations/Public Sector Bank/Public Sector Undertakings/Insurance Companies and Societies etc. to furnish the information about private foreign visits made by the employees of their respective organisations during 2003 and 2004.

2. As further directed by the High Court on 17.11.2004, it is desired that the above information may be furnished for the five years i.e. since 1.1.2000 till 2004. The information should be furnished by January 7, 2005. The CVO should give separately an 'exception list' to include names of the officers who have undertaken private foreign visits more than once in a calendar year.

Sd/-  
(Anjana Dube)  
Deputy Secretary

- (i) All Chief Vigilance Officers of Ministries/Departments/Autonomous Organisations /Public Sector Undertakings/Public Sector Banks/Insurance Companies/Societies
- (ii) President's Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/Prime Minister's Office.

No.004/VGL/63  
Government of India  
Central Vigilance Commission

\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 18<sup>th</sup> November 2004

**Office Order No.70/11/04**

To

All Chief Vigilance Officers

**Subject: Appointment of retired officers as Inquiring Authority.**

The Commission vide its Office Order No. 34/7/2003 dated 1.8.2003 had directed for suitable amendment in the provisions for appointment of retired officers as Inquiring Authorities by PSEs.

2. In recent case (Ravi Malik Vs. National Film Development Corporation Ltd.-Civil Appeal No. 4481 of 2004), the Supreme Court in their judgement delivered on 23.7.2004 have inter-alia held that "the words 'public servants' used in Rule 23 (b) of the NFDC Service Rules and Regulations, 1982 mean exactly what they say, namely, that the person appointed as an Inquiring Officer must be a servant of the public and not a person who was a servant of the public. Therefore, a retired officer would not come within the definition of 'public servant' for the purpose of Rule 23(b)".

3. Rule 14(2) of the CCS (CCA) Rules, 1965 provides that "Whenever the Disciplinary Authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a Government Servant, it may itself inquire into, or appoint under this rule or under the provisions of the Public Servants (Inquiries) Act, 1850, as the case may be, an authority to inquire into the truth thereof".

4. CVOs of organisations (other than those, which follow CCS (CCA) Rules, 1965) may review the service rules and regulations of their organisations and take necessary measures to amend the provisions relating to appointment of Inquiring Authorities, if they are inconsistent with the provisions under Rule 14(2) of the CCS (CCA) Rules, 1965. If any Service/Departmental Rules are in conflict with appointment of retired persons as Inquiring Authorities, they should be suitably amended before any such appointments are made.

Sd/-  
(Anjana Dube)  
Deputy Secretary

No.004/VGL/87  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block-A,  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 25<sup>th</sup> October 2004

**Office Order No.67/10/04**

**Subject: Foreign visits by the Government employees.**

The High Court of Delhi, in its judgment dated the 28<sup>th</sup> May, 2004 in the Criminal Writ Petition No. 1004/03, (Shri C.K. Jain v/s Union of India) has observed that a Govt. servant who had visited Dubai & Singapore 161 times on private visits without permission was never ever questioned by any authority like Customs and Immigration and other. In a subsequent direction based on the reply filed by the Government, the High Court directed that the "Central Vigilance Commission may collect information about Government servants going abroad on private visits and possibly a data bank should be kept on them".

2. Keeping in view the directives of the High Court, all the Chief Vigilance Officers are requested to collect information about government servants/employees in their respective Organizations, who had gone abroad on private visits during 2003 (January to December) and 2004 (till October 2004), in the enclosed proforma and send the same to the Commission immediately so that the Hon'ble High Court may be intimated timely.

3. Information of such Foreign visits on private account by Government employees be sent in consolidated form (calender year wise) in January of every year.

Sd/-

(Anjana Dube)  
Deputy Secretary

- (i) All Chief Vigilance Officers of Ministries/Departments/Autonomous Organisations/Public Sector Undertakings/Public Sector Banks/Insurance Companies/Societies
- (ii) President's Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/Prime Minister's Office.

Name of the Organisation

Sl. No.	Name & Designation of the Officer	Name of the country visited	Duration of stay	Source of funding	Remarks
1	2	3	4	5	6



No.004/VGL/79  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi-1100 23  
Dated the 4<sup>th</sup> October 2004

**Office Order No. 62/9/04**

**Subject: Reporting in ACRs by the officers under investigation of the officers conducting vigilance investigation.**

The Commission vide its letter No.4/53/73-R, dated 31<sup>st</sup> Oct.1973 had reiterated the instructions of Min. of Home Affairs issued vide its OM No.43/107/64-AVD dated 23.10.1964 that those posted to the vigilance organisations should not have the fear of returning to their parent cadre after a short period with the possibilities of facing displeasure of those against whom they had made enquiries.

2. The Commission reiterates the above instruction. Further, it may be ensured that no officer should be asked to undertake investigation against an officer under whom he/she is posted. If any such occasion arises wherein an officer had inquired against an officer who is his controlling officer or is likely to assess his performance for the past period, it should be ensured that the ACR may be written by the next reporting level, to prevent undue penalisation. Thus those officials who are/were under investigation should not be allowed to write the ACRs of the officers who conducted vigilance investigation, against them.

(Anjana Dube)  
Deputy Secretary

To

The Secretaries of all Ministries/Departments of Government of India  
Chief Executives of PSUs/Banks/Organisations  
All Chief Vigilance Officers

No. 000/VGL/18  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block-A,  
GPO Complex, INA,  
New Delhi-110023  
Date the 10<sup>th</sup> August, 2004

**Office Order No.51/08/2004**

**Subject:- Adherence to time-limits in processing of disciplinary cases.**

It has been observed that the schedule of time limits in conducting investigations and departmental inquiries laid down in Commission's letter of even number dated the 23<sup>rd</sup> May 2000 are not being strictly adhered to. In this context, attention is invited to Department of personnel & Training O.M. No. 11013/2/2004-Estt.(A) dated the 16<sup>th</sup> February 2004 regarding accountability for delay in decision making ( copy enclose for ready reference).

2. Delay in decision-making by authorities in processing of vigilance cases would also be construed as misconduct under the relevant Conduct Rules and would be liable to attract penal action. All administrative authorities are requested to take not and strictly adhere to the prescribed schedule of time-limits in dealing with disciplinary cases.

sd/-  
(Anjana Dube)  
Deputy Secretary

Encl:- As above

To,

All Secretaries to the Government of India,  
All Chief Vigilance Officers of Ministries/Departments of Government of India.

Copy to:-

1. Comptroller and Auditor General of India, New Delhi.
2. Union Public Service Commission, New Delhi.
3. Central Bureau of Investigation, New Delhi.
4. All Union Territory Administrations.
5. Lok Sabha/Rajya Sabha Secretariat.

No.11013/2/2004-Estt.(A)  
Government of India  
Ministry of Personnel, P.G. & Pensions  
(Department of Personnel & Training)

-----  
New Delhi, dated the 16<sup>th</sup> February, 2004

**OFFICE MEMORANDUM**

Sub:- Accountability for delay in decision making.  
-----

A Core Group on Administrative Reforms (CGAR) has been constituted under the chairmanship of Cabinet Secretary in February, 2003 to formulate specific changes in the systems and procedures in consultation with the ministries/departments concerned and to advise strategies for changing attitudes. The Core Group has decided that the existing provisions about accountability mechanism should be reiterated with a view to bring to everyone's notice that these provisions are adequate for initiating disciplinary proceedings when an officer adopts a dilatory attitude leading to delay in decision-making and/or harassment of the public.

2. In view of the above, the following provisions of CCS (Conduct) Rules, 1964 are brought to the notice of all Ministries/Departments for information and necessary action:-

**Rule 3. General**

- (1) Every Government servant shall at all times:-
  - (i) maintain absolute integrity;
  - (ii) maintain devotion to duty; and
  - (iii) do nothing which is unbecoming of a Government servant.
  
- (2) (i) Every Government servant holding a supervisory post shall take all possible steps to ensure the integrity and devotion to duty of all Government servants for the time being under his control and authority;
  
- (ii) No Government servant shall, in the performance of his official duties, or in the exercise of powers conferred on him, act otherwise than in his best judgement except when he is acting under the direction of his official superior;

\*\*\*

\*\*\*

\*\*\*

Explanation 1:- A Government servant who habitually fails to perform the task assigned to him within the time set for the purpose and with the quality of performance expected of him shall be deemed to be lacking in devotion to duty within the meaning of clause(ii) of sub-rule (1).

Explanation II:- Nothing in clause (ii) of sub-rule (2) shall be construed as empowering a Government servant to evade his responsibilities by seeking instructions from, or approval of, a superior officer or authority when such

instructions are not necessary under the scheme of distribution of powers and responsibilities.

**Rule 3A. Promptness and Courtesy**

No Government servant shall

- (a) in the performance of his official duties, act in a discourteous manner;
- (b) in his official dealings with the public or otherwise adopt dilatory tactics or willfully cause delays in disposal of the work assigned to him.

3. Rule 11 of the CCS (CCA) Rules, 1965 provides that the penalties (ranging from 'censure' to 'dismissal') mentioned therein may be imposed on a Government servant 'for good and sufficient reasons'. Thus any Government servants violating the provisions of Conduct Rules can be proceeded against as it will form 'good and sufficient reasons' for imposing the penalties prescribed in Rule 11. In other words, disciplinary proceedings could be initiated if an officer adopts a dilatory attitude, leading to delay in decisions making and/or harassment of the public.

4. Ministries/Departments are also requested to bring the above cited provisions of the Conduct Rules and CCA Rules to the notice of all the officers and officials in the Ministries/Departments (proper) and in the organizations/offices under their administrative control to clarify that if they are found responsible for willful delay in disposal of the various types of cases dealt with them, finally leading to delay in decisions making, they shall be liable for disciplinary action in terms of the relevant provisions referred to in para 2 and 3 of this OM.

Sd-  
(Mrs. Pratibha Mohan)  
Director

To

All Ministries/Departments of the Government of India.

Copy to:

1. Comptroller and Auditor General of India, New Delhi.
2. Union Public Service Commission, New Delhi.
3. Central Vigilance Commission, New Delhi.
4. Central Bureau of Investigation, New Delhi.
5. All Union Territory Administrations.
6. Lok Sabha/Rajya Sabha Secretariat.
7. All attached and Subordinate Offices of the Ministry of Personnel, Public Grievances and Pensions and Ministry of Home Affairs.
8. All officers and sections in the Ministry of Personnel, Public Grievances and Pensions and Ministry of Home Affairs.

Sd-  
(Smt. Pratibha Mohan)  
Director(E-II)

No. 000/VGL/18  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block-A,  
GPO Complex, INA,  
New Delhi-110023  
Date the 10<sup>th</sup> August, 2004

**Office Order No.51/08/2004**

**Subject:- Adherence to time-limits in processing of disciplinary cases.**

It has been observed that the schedule of time limits in conducting investigations and departmental inquiries laid down in Commission's letter of even number dated the 23<sup>rd</sup> May 2000 are not being strictly adhered to. In this context, attention is invited to Department of personnel & Training O.M. No. 11013/2/2004-Estt.(A) dated the 16<sup>th</sup> February 2004 regarding accountability for delay in decision making ( copy enclose for ready reference).

2. Delay in decision-making by authorities in processing of vigilance cases would also be construed as misconduct under the relevant Conduct Rules and would be liable to attract penal action. All administrative authorities are requested to take not and strictly adhere to the prescribed schedule of time-limits in dealing with disciplinary cases.

sd/-  
(Anjana Dube)  
Deputy Secretary

Encl:- As above

To,

All Secretaries to the Government of India,  
All Chief Vigilance Officers of Ministries/Departments of Government of India.

Copy to:-

1. Comptroller and Auditor General of India, New Delhi.
2. Union Public Service Commission, New Delhi.
3. Central Bureau of Investigation, New Delhi.
4. All Union Territory Administrations.
5. Lok Sabha/Rajya Sabha Secretariat.

No.11013/2/2004-Estt.(A)  
Government of India  
Ministry of Personnel, P.G. & Pensions  
(Department of Personnel & Training)

-----  
New Delhi, dated the 16<sup>th</sup> February, 2004

**OFFICE MEMORANDUM**

Sub:- Accountability for delay in decision making.  
-----

A Core Group on Administrative Reforms (CGAR) has been constituted under the chairmanship of Cabinet Secretary in February, 2003 to formulate specific changes in the systems and procedures in consultation with the ministries/departments concerned and to advise strategies for changing attitudes. The Core Group has decided that the existing provisions about accountability mechanism should be reiterated with a view to bring to everyone's notice that these provisions are adequate for initiating disciplinary proceedings when an officer adopts a dilatory attitude leading to delay in decision-making and/or harassment of the public.

2. In view of the above, the following provisions of CCS (Conduct) Rules, 1964 are brought to the notice of all Ministries/Departments for information and necessary action:-

**Rule 3. General**

- (1) Every Government servant shall at all times:-
  - (i) maintain absolute integrity;
  - (ii) maintain devotion to duty; and
  - (iii) do nothing which is unbecoming of a Government servant.
  
- (2) (i) Every Government servant holding a supervisory post shall take all possible steps to ensure the integrity and devotion to duty of all Government servants for the time being under his control and authority;
  
- (ii) No Government servant shall, in the performance of his official duties, or in the exercise of powers conferred on him, act otherwise than in his best judgement except when he is acting under the direction of his official superior;

\*\*\*

\*\*\*

\*\*\*

Explanation 1:- A Government servant who habitually fails to perform the task assigned to him within the time set for the purpose and with the quality of performance expected of him shall be deemed to be lacking in devotion to duty within the meaning of clause(ii) of sub-rule (1).

Explanation II:- Nothing in clause (ii) of sub-rule (2) shall be construed as empowering a Government servant to evade his responsibilities by seeking instructions from, or approval of, a superior officer or authority when such

instructions are not necessary under the scheme of distribution of powers and responsibilities.

**Rule 3A. Promptness and Courtesy**

No Government servant shall

- (a) in the performance of his official duties, act in a discourteous manner;
- (b) in his official dealings with the public or otherwise adopt dilatory tactics or willfully cause delays in disposal of the work assigned to him.

3. Rule 11 of the CCS (CCA) Rules, 1965 provides that the penalties (ranging from 'censure' to 'dismissal') mentioned therein may be imposed on a Government servant 'for good and sufficient reasons'. Thus any Government servants violating the provisions of Conduct Rules can be proceeded against as it will form 'good and sufficient reasons' for imposing the penalties prescribed in Rule 11. In other words, disciplinary proceedings could be initiated if an officer adopts a dilatory attitude, leading to delay in decisions making and/or harassment of the public.

4. Ministries/Departments are also requested to bring the above cited provisions of the Conduct Rules and CCA Rules to the notice of all the officers and officials in the Ministries/Departments (proper) and in the organizations/offices under their administrative control to clarify that if they are found responsible for willful delay in disposal of the various types of cases dealt with them, finally leading to delay in decisions making, they shall be liable for disciplinary action in terms of the relevant provisions referred to in para 2 and 3 of this OM.

Sd-  
(Mrs. Pratibha Mohan)  
Director

To

All Ministries/Departments of the Government of India.

Copy to:

1. Comptroller and Auditor General of India, New Delhi.
2. Union Public Service Commission, New Delhi.
3. Central Vigilance Commission, New Delhi.
4. Central Bureau of Investigation, New Delhi.
5. All Union Territory Administrations.
6. Lok Sabha/Rajya Sabha Secretariat.
7. All attached and Subordinate Offices of the Ministry of Personnel, Public Grievances and Pensions and Ministry of Home Affairs.
8. All officers and sections in the Ministry of Personnel, Public Grievances and Pensions and Ministry of Home Affairs.

Sd-  
(Smt. Pratibha Mohan)  
Director(E-II)

No. 99/VGL/3  
Government of India  
Central Vigilance Commission

\*\*\*\*\*

Satarkta Bhawan, Block "A", GPO  
Complex, INA, New Delhi

Dated 26<sup>th</sup> April, 2004

**Office Order No 30.4/04**

To

All Chief Vigilance Officers

**Subject:- Reducing Delays in Departmental Inquiries**

The Commission had issued instruction on reducing delays in departmental inquiries vide No. 8(I)(g)/99(2) dated 19.02.1999. The Commission reiterates the instruction contained therein and direct that there should not be delay in appointing IO and PO. Generally it should not take more than 4 weeks time in appointing IO and PO since it is purely an administrative function.

Yours faithfully,

Sd/-

(Anjana Dube)  
Deputy Secretary



No.98/VGL/15  
Government of India  
Central Vigilance Commission

\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, I.N.A.,  
New Delhi-110 023  
Dated the 16/04/2004

**Office Order No. 26/4/04**

To

The Secretaries of All Ministries/Deptts. of Government of India  
The Chief Secretaries to all Union Territories  
The Comptroller & Auditor General of India  
The Chairman, Union Public Service Commission  
All Chief Vigilance Officers in the Ministries/Departments,  
Autonomous Organisations/Societies etc.  
President Secretariat/Vice-President's Secretariat/Lok Sabha  
Secretariat /Rajya Sabha Secretariat/PMO

**Subject: Jurisdiction of the Central Vigilance Commission in relation to the officers of the level of Group-B, Gazetted.**

Attention is invited to para 5.4,Chapter.I of the Vigilance Manual, Volume-I on the above subject, requiring that vigilance cases of the Gazetted officers of the Central Government and its equivalent grade in other Government organisations might be referred to the Commission for advice.

2. Keeping in view the large increase in number of cases being referred to the Commission for advice, the Commission has decided that, henceforth, only cases of officers of the level of Group 'A' and above of the Central Govt. and Members of All India Services in connection with the affairs of the Union and Group 'A' officers of the Central Govt may be referred to the Commission for advice. It is, however, clarified that the Commission's advice would be necessary in respect of all officers of the Central Government irrespective of their level, if they are involved in the same matter in which an officer of the level of Group 'A' or above is involved. The Commission's advice would also be necessary in cases of difference of opinion between the disciplinary authority and the CVO with regard to the action to be taken against officers who are not within the jurisdiction of the Commission if these differences cannot be resolved with the intervention of the Secretary of the Ministry or Head of the Departments.

3. While delegating the powers to the concerned Ministries/Organisations with regard to gazetted officers below Group 'A' of Central Government, the Commission expects that (i) appropriate expertise would be available to the CVOs; (ii) the CVO would be in a position to exercise proper check and supervision over such cases and would ensure that the cases are disposed off expeditiously within the time norms stipulated by the Commission; and (iii) the punishment awarded to the concerned employee would commensurate with the gravity of the misconduct established on his/her part. In order to ensure that the Commission's expectations are fully met, the Commission may depute its officers to conduct vigilance audit through onsite visits and also through the monthly information system (monthly reports etc.). If the Commission comes across any matter, which in its opinion has not been handled properly, it may recommend its review by the appropriate authority or may give such directions as it considers appropriate.

4. In respect of cases involving Gazetted officers below Group 'A' of the Central Government, in which the Commission has tendered its first stage advice before issue of these instructions, the matter need not be referred to the Commission for second stage advice if the disciplinary authority, on conclusion of the disciplinary proceedings, proposes to impose a penalty which coincides with the Commission's first stage advice, provided that none of the officers involved in that matter is an officer of All-India Service or Group A' officers. The case, however, may be referred to the Commission for its advice if the disciplinary authority proposes to take action, which does not coincides with the Commission's first stage advice, (or it differs with the recommendation of the CVO with regard to the quantum of punishment to be imposed).

Sd/-  
(Anjana Dube)  
Deputy Secretary

No. 004/VGL/18  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkata Bhawan, Block-A,  
GPO Complex, INA,  
New Delhi-1100 23.  
Dated: 13<sup>th</sup> April, 2004

**Office Order No. 23/04/04**

**Subject: Vigilance angle – definition of.**

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

All Chief Vigilance Officers

No. 000/VGL/18  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhavan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 27<sup>th</sup> February 2004

**Office Order No. 13/02/04**

To

All Chief Vigilance officers of Ministries / Departments / autonomous organisations and societies.

**Sub: Delay in finalising of Vigilance cases.**

Sir/Madam,

The Commission has observed that a large number of departmental inquiries remain pending with the disciplinary authorities for long periods. The Commission has laid down the time limits in conducting investigations and departmental inquiries vide instruction No. 000/VGL/18 dt. 23.5.2000 and dated 3.3.2003. However, it is seen that these time limits are not adhered to by various organisations and there is no mechanism to monitor the progress made in the inquiries.

2. It has come to notice of the Commission, that one of the PSUs has formed a vigilance committee consisting of Director (P), Director (OP) and CVO to monitor the progress of the departmental inquiries. This committee reviews the progress of the departmental inquiries quarterly.

3. The Commission suggests that similar type of system should be adopted in other organisations, suited to their requirement, to monitor the progress made in departmental inquiries and check delays in completion of inquiries.

4. Action taken in this regard may be intimated.

Yours faithfully,

Sd/-  
(Anjana Dube)  
Deputy Secretary

No.003/DSP/3  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhavan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 26<sup>th</sup> February 2004

**Office Order No.14/02/04**

To

All Secretaries to the Government of India  
All Chief Vigilance Officers  
Deputy Secretary (AVD III), DOPT

**Subject:- Role of Disciplinary Authority in decision taken.**

Sir/Madam,

The Commission vide its Office Order No. 51/9/03 dated 15.9.2003 stressed the need for self-contained speaking and reasoned orders to be issued by the authorities exercising disciplinary powers. The Commission has however, noticed that at the time of issuing final orders imposing a penalty on the charged officer on the advice of the Commission and/or at the time of deposing affidavits in the courts, some Disciplinary Authorities (DA) mention the Commission's reference. The Commission has observed that this leads to an unwarranted presumption that the DA has acted under the influence/pressure of the Commission.

2. The DAs are again informed that, their orders in the matter of disciplinary cases or affidavits to the courts, should in no case imply that any decision has been taken under the influence of the Commission; as the Commission is only an Advisory Body and it is for the Disciplinary Authority to apply its mind subsequent to obtaining the Commission's advice and take reasoned decisions on each occasion. The Disciplinary Authorities are required to strictly follow the above guidelines of the Commission at all stages.

Yours faithfully,

Sd/-  
(Anjana Dube)  
Deputy Secretary

No.NZ/PRC/1  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhavan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 26<sup>th</sup> February 2004

**Office Order No.12/02/04**

To

All Secretaries to the GOI/ CEOs of PSEs/PSBs  
All Chief Vigilance Officers

**Sub: Procedure for making reference to the Commission for its first stage advice – regarding.**

Reference is invited to the Commission's circular of even number dated 12.05.2003 on the above subject. It has been observed that after the Commission tenders its first stage advice in cases of major penalty, the vigilance cases get unnecessarily delayed or result in exoneration due to non-availability of proper documents. The Commissioners for Departmental Inquiries (CDIs) have also pointed out that in many cases the Presenting Officers find problems even in the production of prosecution/management documents. This results in undue delay in finalisation of the inquiries.

2. The Commission is, therefore, of the view that the Disciplinary Authority should go through all the documents/evidences carefully at the initial stage itself before deciding whether the case(s) against the SPS(s) warrants major penalty or not. Once a decision is taken by the DA and the case is referred to the Commission for its first stage advice with the recommendation of major penalty proceedings against the SPS(s), the Disciplinary Authority should enclose a copy of draft charge-sheet alongwith the list of documents and witnesses through which the department intends to prove the charges besides the completed 'proforma for seeking advice'.

3. Disciplinary Authority should also ensure that the Presenting Officer(s) is/are given the custody of all the listed documents in original or certified copies thereof alongwith his appointment order so that the delay in disciplinary proceedings are reduced.

Sd/-  
(Anjana Dube)  
Deputy Secretary

No.004/VGL/3  
GOVERNMENT OF INDIA  
CENTRAL VIGILANCE COMMISSION  
\*\*\*\*\*

Satarkata Bhawan, A, Block,  
GPO Complex, INA,  
New Delhi-1100 23.  
Dtd:19<sup>th</sup> February, 2004

**Office Order No.11/02/04**

To,

- (1) All Secretaries to the GOI.
- (2) Chief Executives of all PSUs/Banks/Orgn.
- (3) All CVOs
- (4) Dy. Secy.(AVD.III), DOPT

**SUB: Commission's advice in cases not having vigilance angle.**

Sir,

The Commission has observed that the Deptts./Ministries are not properly interpreting and appreciating the advice of the Commission that "there is no vigilance angle to the alleged lapses and the Department may take appropriate action in the matter".

2. The Cases where the lapses are not having vigilance angle, it does not automatically mean that no disciplinary proceedings have to be taken. In such cases the disciplinary authority may take appropriate action under the Conduct and Disciplinary Rules and the matter need not be referred to the Commission again for consultation.

Yours faithfully,

Sd/-  
(Anjana Dube)  
Deputy Secretary



No.000/VGL/187  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 8<sup>th</sup> January, 2004

**Office Order No. 2/1/04**

To

All CVOs of Public Sector Enterprises

**Subject:- Obtaining Commission's advice in composite cases.**

Sir,

Para 16.2 of Special Chapter on Vigilance Management in Public Sector Enterprises provides that if an employee of a PSU involved in a case, falls within the Commission's jurisdiction, latter's advice would be required and any decision of the disciplinary authority at this juncture may be treated as tentative. Such a reference would be required to be made even in respect of an officer/staff who are not within the Commission's jurisdiction if they are involved alongwith other officers who are within the jurisdiction of the Commission, as the case would than become a composite case and falls within the Commission's jurisdiction.

2. However, it has been observed by the Commission that a number of organisations are not following this procedure and de-linking the suspected employees in a composite case. This is not in consonance with the Commission's directives. The Commission again reiterates that a composite case should be processed as 'one' and action against every individual employee should be taken only on Commission's advice, even if there is only one official who comes within Commission's jurisdiction.

Yours faithfully,

Sd/-  
(Anjana Dube)  
Deputy Secretary

Confidential

No.003/DSP/9  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 8<sup>th</sup> January, 2004

**Office Order No. 1/1/04**

To

All Chief Vigilance Officers

**Subject: Difference of opinion between CBI and Administrative authorities.**

Sir/Madam,

The Commission has decided that where there is difference of opinion between the Deptt./organisation and the CBI in cases where the latter have recommended prosecution under PC Act etc., the Commission would hold a joint meeting with the representatives of CBI and concerned Deptt./organisation. In such a meeting the CVO of the Deptt./organisation should take a brief from the disciplinary authority in this regard. However, if the DA wishes to attend the joint meeting, the Commission has no objection to it.

2. CVOs may bring this to the notice of all concerned Disciplinary Authorities.

Sd/-  
(Anjana Dube)  
Deputy Secretary

No.003/DSP/3  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhavan, Block "A"  
GPO Complex, I.N.A.  
New Delhi –110023  
Dated 15<sup>th</sup> September 2003

**Office Order No. 51/9/03**

To

- (i) The Secretaries of All Ministries/Departments of Government of India
- (ii) The Chief Secretaries to All Union Territories
- (iii) The Comptroller & Auditor General of India
- (iv) The Chairman, Union Public Service Commission
- (v) The Executives of All PSEs/Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies
- (vi) The Chief Vigilance Officers in the Ministries/Departments/PSEs./Public Sector Banks/Insurance companies/Autonomous Organisations/Societies
- (vii) President's Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO

**Subject:- Need for self-contained speaking and reasoned order to be issued by the authorities exercising disciplinary powers.**

Sir/Madam,

It was clarified in the Department of Personnel & Administrative Reforms' OM No. 134/11/81/AVD-I dated 13.07.1981 that the disciplinary proceedings against employees conducted under the provisions of CCS (CCA) Rules, 1965, or under any other corresponding rules, are quasi-judicial in nature and therefore, it is necessary that orders issued by such authorities should have the attributes of a judicial order. It was also clarified that the recording of reasons in support of a decision by a quasi-judicial authority is obligatory as it ensures that the decision is reached according to law and is not a result of caprice, whim or fancy, or reached on ground of policy or expediency. Such orders passed by the competent disciplinary/appellate authority as do not contain the reasons on the basis whereof the decisions communicated by that order were reached, are liable to be held invalid if challenged in a court of law.

2. It is also a well-settled law that the disciplinary/appellate authority is required to apply its own mind to the facts and circumstances of the case and to come to its own conclusions, though it may consult an outside agency like the CVC. There have been some cases in which the orders passed by the competent authorities did not indicate application of mind, but a mere endorsement of the Commission's recommendations. In one case, the competent authority had merely

endorsed the Commission's recommendations for dropping the proposal for criminal proceedings against the employee. In other case, the disciplinary authority had imposed the penalty of removal from service on an employee, on the recommendations of the Commission, but had not discussed, in the order passed by it, the reasons for not accepting the representation of the concerned employee on the findings of the inquiring authority. Courts have quashed both the orders on the ground of non-application of kind by the concerned authorities.

3. It is once again brought to the notice of all disciplinary/appellate authorities that Disciplinary Authorities should issue a self-contained, speaking and reasoned orders conforming to the aforesaid legal requirements, which must indicate, inter-alia, the application of mind by the authority issuing the order.

Yours faithfully,

Sd/-  
(Anjana Dube)  
Deputy Secretary

No.NZ/PRC/1  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 10<sup>th</sup> September, 2003

**Office Order No. 47/9/03**

To

All Chief Vigilance Officers

**Subject: Procedure for making reference to the Commission for its second stage advice- regarding.**

Sir/Madam,

**The Commission has observed that Ministries/Departments/Organisations are not properly following the laid down procedure and also making incomplete reference to the Commission while seeking its second stage advice. This results in back references to the department and causes unnecessary delay in disciplinary proceedings. In order to obviate delays on this account, the Commission reiterates that the cases requiring the Commission's second stage advice may be referred to it along with the following documents:-**

- (i) Copy of the Charge-sheet with all the annexures,
- (ii) CO's statement of defence,
- (iii) The IO's report and connected documents (including PO's brief and CO's brief),
- (iv) Self-contained note on findings of the DA on each of article of charges along with tentative view of DA and CVO.

Yours faithfully,

Sd/-  
(Anjana Dube)  
Deputy Secretary

**No.98/DSP/9**  
**Government of India**  
**Central Vigilance Commission**

**Satarkta Bhavan, Block "A"**  
**GPO Complex, I.N.A.**  
**New Delhi-110023**  
**Dated the 13th August, 2003**

**OFFICE ORDER NO. 36/7/03 dated 9.7.2003**

**Subject:- Clarifications on Commission's Directions**

**During the meeting of the Central Vigilance Commission with CMDs of Public Sector Banks at IBA, Mumbai on 25.02.2003, a number of issues were raised. The Commission clarified these issues as follows:**

**(i) Commission's directive dated 11.10.2002 on dealing with anonymous/pseudonymous complaints.**

It was requested to reconsider the Commission's directive on dealing with anonymous/pseudonymous complaints modifying the earlier advice of not to take cognizance of such complaints. The Commission is of the view that such a verification cannot be done in a routine manner and in case any department/organization wanted to verify the facts, then a reference to the Commission is necessary. There is, therefore, no change in the Commission's earlier ruling on action on anonymous/pseudonymous complaints.

**(ii) Commission's clarification dated 10.02.2003 on non-acceptance of the Commission's advice in the matter of appeals.**

It was requested to reconsider the Commission's clarification dated 10.02.2003 on non-acceptance of the Commission's advice in the matter of appeals. It was clarified that the DA could differ with the Commission's 2<sup>nd</sup> stage advice for valid reasons and this applied to the Appellate Authority also. The right to the Appellate Authority to differ with the Commission, therefore, not interfered with. The Appellate Authority should satisfy himself that the DA has applied his mind and then take his own independent decision. The Commission, however, would take a view as to whether the 'deviation' in such cases is serious enough to warrant inclusion in its Annual Report.

**(iii) Reference of cases to CBI**

It was clarified that the institution, at the initial stage itself, depending on the facts of the case, should decide whether the case is to be entrusted to the local police or CBI.

**(iv) Posting of officer in 'agreed list'**

It was clarified that drawing up and revising the agreed list with the assistance of CVO is left to the CEOs and if it is desired that a person in the agreed list is to be posted in a particular position, the institution may take the decision for specific reasons.

**Sd/-**  
**(Anjana Dube)**  
Deputy Secretary

No.98/MSC/23  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkata Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi-110 023  
Dated the 1<sup>st</sup> August, 2003

**OFFICE ORDER NO. 34/7/2003**

To

All Chief Vigilance Officers

**Subject: Utilising the services of outsiders including retired officers for conducting Departmental inquiries.**

Sir/Madam,

Please refer to the Commission's letter of even number dated 25<sup>th</sup> March 2003 on the above subject.

2. The rules applicable to public sector enterprises generally provide that the disciplinary authority may itself inquire into the truth of any imputation of misconduct against an employee, or appoint any public servant (called as inquiring authority) to inquire into the truth thereof. The term "public servant" has been defined in the CDA rules, which means and includes a person as mentioned in section 21 of the IPC. The retired employees of the public sector undertakings do not fall within the definition of public servants as defined in 21 IPC and therefore cannot be appointed as inquiring authority unless the aforesaid provision is suitably amended. Such public sector undertakings as have not amended the aforesaid provision may take expeditious action to provide for appointment of retired public servants as inquiring authorities.

3. Further, the Commission has also decided that keeping Para 2 above in view **the departments/public sector undertakings/organisations depending upon their need, and if they so desire, may maintain a panel of retired officers from within or outside the department or organization for appointment as inquiring authorities, in consultation with the Chief Vigilance Officer. In case, there is difference of opinion between the Disciplinary Authority and the Chief Vigilance Officer about the inclusion of any name in the panel or appointment of any one out of the panel as IO in any case, the CVO may report the matter to the next higher authority, or the CMD for the resolution of the difference. If still unresolved, the CVO may refer the matter to the CVC. A case of difference of opinion between the CVO and the CMD, if acting as Disciplinary Authority, may be referred to the Commission for its advice.**

Contd./-

4. It however may be ensured that the officer appointed as inquiring authority has no bias or/ and had no occasion to express an opinion at any stage of the preliminary inquiry.

5. CVOs may bring this to the notice of all concerned.

Yours faithfully,

Sd/-  
(Anjana Dube)  
Deputy Secretary



NO.99/DSP/1  
GOVERNMENT OF INDIA  
CENTRAL VIGILANCE COMMISSION

Satarkta Bhavan, Block "A"  
GPO Complex, L.N.A.  
New Delhi-110023  
Dtd. The 20<sup>th</sup> June, 2003

To

All Chief Vigilance Officers.

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

Sir/Madam,

The Commission had clarified the term "stiff/severe minor penalty" vide its circular of even No. dtd. 11.8.1999.

2. The Commission has received a number of references from various organizations and the Commission has again reviewed the issue. The Commission has decided that henceforth the Commission will advise two kinds of minor penalties (1) suitable minor penalty which would include 'censure' or (2) minor penalty other than 'censure'.

3. This supersedes the earlier circular of the Commission dated 11.8.1999.

Yours faithfully,

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

No.NZ/PRC/1  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 12<sup>th</sup> May 2003

To

All Chief Vigilance Officers

**Subject: Procedure for making references to the Commission for seeking advice.**

Sir/Madam,

Kind attention is invited to the Commission's circular letter of even number dated 16.3.2000 reiterating the Commission's instructions dated 7.12.1995 and dated 24.11.1997 on the procedure for making references to the Commission.

2. It has been observed that organisations are still making references with incomplete bio-data forms and insufficient justification to support recommendations. The Commission has, therefore, devised a format, a copy of which is enclosed alongwith instructions thereto. The CVOs are therefore, requested to ensure that bio-data forms are properly filled in and recommendation against allegations are given in the enclosed format.

3. Kindly acknowledge receipt.

Yours faithfully,

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

Copy for internal distribution

**PROFORMA FOR SEEKING FIRST STAGE ADVICE OF THE COMMISSION**

- Name & Date of Birth :
- Designation
- (a) Present :
- (b) At the material time :
1. Date of occurrence of the alleged misconduct :
2. Source :
3. Nature of Lapse(s) :
4. Details of Allegation(s) :
5. Evidence(s) with type :
6. Explanation of SPS and reasons as to why the same is acceptable or not acceptable :
7. Misconduct imputes, with relevant clause(s) of CDA Rules :
8. Recommendation of the CVO :
9. Recommendation of the Disciplinary Authority :

Chief Vigilance Officer

**Instructions to the departments on filling up the proforma  
in reference(s) seeking first stage advice of the Commission**

1. A separate proforma should be used for allegation(s) in respect of each official.
2. It is mandatory to mention the date of birth. A proposal that does not contain date of birth will be returned back to the department.
3. In Column (3), the nature of allegation would mean a brief description, say false TA claim; Use of Excess Authority; Supervisory Lapse; etc.
4. Details of allegation(s) should be indicated in Column (4).
5. Evidences in support of each allegation should be indicated clearly in Column (5). Type of evidences should be indicated, using 'O' for Oral evidence and 'D' for Documents.
6. In Column (6), the department should specifically comment on explanation of the official and give reasons why it is not acceptable.
7. In Column (7), nature of misconduct, along with relevant clause(s) of CDA Rules, should necessarily be mentioned. For instance, it must be indicated whether the allegation/imputation reflects lack of devotion to duty or lack of integrity or it is a violation of some other CDA Rule.

No.000/DSP/1  
Government of India  
Central Vigilance Commission

Satarkta Bhavan, Block "A"  
GPO Complex, INA  
New Delhi -110023  
Dated the 5<sup>th</sup> May, 2003

To

All Chief Vigilance Officers

Subject:- Non-Acceptance of the Commission's advice in the matter of  
appeals.

Sir/Madam,

The Commission has issued instructions vide circular No. 000/DSP/1 dated 10<sup>th</sup> February, 2003 on consideration of appeals preferred by the punished officers against the orders of punishment imposed on them. Accordingly, the relevant provision on appeal, in the Vigilance Manual, and Special Chapters on Vigilance Management in public sector banks/public sector enterprises/public sector insurance companies, would stand amended to that extent.

Yours faithfully,

Sd/-  
(Mange Lal)  
Deputy Secretary  
Telefax-24651010

Copy for internal distribution

No.98/MSC/23  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Blcok 'A',  
GPO Complex, INA,  
New Delhi 110 023  
Dated the 25<sup>th</sup> March 2003

To

All Chief Vigilance Officers

**Subject:- Utilising the services of outsiders including retired officers for conducting Departmental Inquiries.**

Sir/Madam,

Attention is hereby invited to the instructions contained in the Commission's circular letter No.98-MS-23 dated 29<sup>th</sup> November, 2002 on the subject cited above.

2. The matter relating to appointment of outsiders including retired officer as Inquiry Officer has been considered further in the Commission and in supersession of all the instructions issued on the subject, it has now been decided that the disciplinary authority may appoint outsiders including retired officer as Inquiry Officer with the approval of the CVO. In case the CVO does not agree to his appointment as Inquiry officer and the DA/management insist on his appointment, only then the approval of the Commission should be sought.

3. However, before doing so, the organizations should lay down clear cut guidelines for appointment of Inquiry Officers.

4. In view of the aforesaid instructions, the Commission does not find the need to maintain a centralized panel.

Yours faithfully,

-sd-  
(MANGE LAL)  
Deputy Secretary  
Telefax- 24651010

No.000/VGL/18  
Government of India  
Central Vigilance Commission

\*\*\*\*\*

Satarkta Bhavan, Block "A"  
GPO Complex, I.N.A.  
New Delhi –110023  
Dated the 3<sup>rd</sup> March 2003

To

- (1) The Secretaries of Ministries/Departments, autonomous organizations and Societies etc.
- (2) CMDs of all PSUs including PSBs.

**Subject:- Delay in implementation of Commission's advice.**

**Reference: Commission's instructions vide Circular letter No. 000/VGL/18 dated 23.05.2000 and 003/MMT/02 dated 07.01.2003.**

The Commission would like to invite the attention of disciplinary authorities to a large number of advices from it at both first and second stage pending implementation for long periods. It must be understood that a reasonable time limit for concluding and finalizing vigilance cases is already built in the procedure for disciplinary proceedings. Besides the responsibility for ensuring quick disposal of disciplinary proceedings rest with the administration and the vigilance department cannot be called in to share it at the advice implementation stage. Therefore administration must appreciate that it will be called upon to explain inordinate delay over the above the prescribed time limits for finalizing disciplinary cases. **Accordingly the Commission would like to direct that subsequent to its first and second stage advice the responsibility for finalization and award of punishment passes on from the vigilance to the personnel department.**

**Administration may impress upon all concerned and especially the personnel departmental that in view of the shift in responsibility from the vigilance to the personnel, any delay over and above the prescribed time limits for finalization of disciplinary cases will be viewed as misconduct by the Commission and will render the concerned officials of the personnel department and others concerned liable for being proceeded from the vigilance angle with its attendant ramifications.**

Kindly acknowledge receipt and confirm having taken steps for compliance of the above instructions. A copy of this letter is also being endorsed to the CVOs of the organizations for necessary followed up action.

Yours faithfully,

Sd/-  
(R. Ashok)  
Additional Secretary  
Telefax: 24651017

No.002/MS/15  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 10<sup>th</sup> February 2003

To

All Chief Vigilance Officers

**Subject: Entitlement of TA/DA to the private witnesses and the retired employees appearing before departmental inquiry.**

Sir,

It has come to the notice of the Commission that some of the organisations are reluctant to pay TA/DA to their retired employees for appearance in departmental inquiries. It has also been noticed that some of the private persons, summoned to appear as witnesses, had made payment of advance TA/DA a pre-condition for appearance.

2. The position regarding the payment of TA/DA to private persons or retired employees appearing as defence witnesses has been provided in the Ministry of Finance U.O. Note 3221-E IV(B)/61 dated 20.11.1961 and O.M. No. F.5(15) F.IV (B)/68 dated 15.09.1969 which inter-alia lay down that the private persons or retired employees appearing as prosecution or defence witnesses in departmental inquiries including those conducted by the Commissioner of Departmental Inquiries should be paid TA/DA. The Commission reiterates these instructions and expects the organisations/departments to follow these scrupulously.

Yours faithfully,

Sd/-  
(Mange Lal)  
Deputy Secretary  
Telefax- 24651010



No.000/DSP/1  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhavan, Block "A"  
GPO Complex, INA,  
New Delhi – 110023  
Dated the 10<sup>th</sup> February 2003

To

All Chief Vigilance Officers.

**Subject:- Non-acceptance of the Commission's advice in the matter of appeals.**

The Commission tenders its second stage advice before the DA decides on the outcome of the inquiry in the case of major penalty or takes a view on the minor penalty proceedings after receipt of the explanation of the charged official. Sometimes after imposition of the punishment by the disciplinary authority, the charged official makes an appeal. The Appellate Authority is expected to keep the advice tendered by the Commission and decide on the appeal. In case the Appellate Authority decides to deviate from the advice given by the Commission on appeal, the CVO will report this to the Commission which will take an appropriate view whether the deviation is serious enough to be included in its Annual Report.

2. The Commission further wishes to stress that reconsideration of advice will be only in exceptional cases at the specific request of the DA, before a decision is taken by it to impose the punishment or otherwise. After a decision has been taken by DA or the Appellate Authority the Commission will not entertain any reconsideration proposal. Such cases will be treated only as "deviation" from and non-acceptance of Commission's advice.

Yours faithfully,

Sd/-  
(Mange Lal)  
Deputy Secretary  
Telefax : 24651010

No.000/DSP/1  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhavan, Block "A"  
GPO Complex, INA,  
New Delhi – 110023  
Dated the 10<sup>th</sup> February 2003

To

All Chief Vigilance Officers.

**Subject:- Non-acceptance of the Commission's advice in the matter of appeals.**

The Commission tenders its second stage advice before the DA decides on the outcome of the inquiry in the case of major penalty or takes a view on the minor penalty proceedings after receipt of the explanation of the charged official. Sometimes after imposition of the punishment by the disciplinary authority, the charged official makes an appeal. The Appellate Authority is expected to keep the advice tendered by the Commission and decide on the appeal. In case the Appellate Authority decides to deviate from the advice given by the Commission on appeal, the CVO will report this to the Commission which will take an appropriate view whether the deviation is serious enough to be included in its Annual Report.

2. The Commission further wishes to stress that reconsideration of advice will be only in exceptional cases at the specific request of the DA, before a decision is taken by it to impose the punishment or otherwise. After a decision has been taken by DA or the Appellate Authority the Commission will not entertain any reconsideration proposal. Such cases will be treated only as "deviation" from and non-acceptance of Commission's advice.

Yours faithfully,

Sd/-  
(Mange Lal)  
Deputy Secretary  
Telefax : 24651010

No.98/MSc/23  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 29<sup>th</sup> November 2002

To

All Chief Vigilance Officers

Subject: Utilising the services of retired officers for conducting Departmental Inquiries.

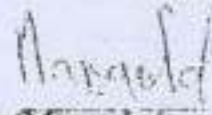
Sir,

Please refer to the Commission's circular of even number dated 16.09.1999 informing about the maintenance of a panel of retired officers by the Commission for appointment as inquiring authorities in the disciplinary proceedings and the terms and conditions for their appointments.

2. The issue of utilising the services of retired officers for conducting departmental inquiries has been reviewed in the Commission and it has been decided that the Commission would not involve itself in maintaining a panel of retired officers henceforth. However, in case any organisation requires the services of a retired/outside inquiry officers including those officers who are on the Commission's panel, they may do so after obtaining the prior concurrence of the Commission for that person.

3. This is for information and necessary action of all concerned.

Yours faithfully,



(Mangal Lal)

Deputy Secretary  
Tel.No. 4651010

Confidential

No.002/VGL/49  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhavan, Block 'A',  
GPO Complex, INA,  
New Delhi-110023  
Dated the 18<sup>th</sup> September 2002

To

All Chief Vigilance Officers.

**Subject: Delay in implementation of CVC's advice.**

Sir/Madam,

As per the information available on the CVC's web-site, updated on 20.08.2002, 3202 cases are pending with the disciplinary authorities for implementation of the Commission's first stage advice and 1473 cases for implementation of the Commission's second stage advice. This includes as many as 1947 cases (1<sup>st</sup> Stage) and 893 cases (2<sup>nd</sup> Stage) pending for more than a year.

2. The instructions issued by the Commission, vide letter No. 000/VGL/18 dated 23.05.2000 and the provisions made in the Special Chapters on Vigilance Management for Public Sector Undertakings/Banks/Insurance Companies provide for implementation of the CVC's first and second stage advice within a month of the receipt of Commission's advice. The Commission has, therefore, taken a serious note of delay in implementation of its advice. It desires that the Chief Vigilance Officers may pursue the matters vigorously with the concerned disciplinary authority to get the orders issued on such matters. In the Commission's view, the CVO's performance would need to be assessed, among others, on the basis of their effectiveness in expeditious decision in these cases.

Yours faithfully,

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

Immediate

No. 3S/DSP/1  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110023  
Dated the 14<sup>th</sup> June 2002

To

All Chief Vigilance Officers

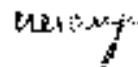
**Subject: Promotion of Govt. Servants against whom preliminary inquiries are pending – clarification regarding.**

\*\*\*\*\*

Sir/Madam,

The undersigned has been directed to refer to the Commission's letter of even number dated 28.03.2002, on the above subject, and to say that the instructions contained therein are hereby withdrawn. The Commission, however, desires that in the matter of promotion of public servants, the instructions contained in DOPT's O.M.No.22011/4/91-Estt.(A) dated 14.09.1992 may be followed strictly.

Yours faithfully,



(K.L. Ahuja)  
Officer on Special Duty

No.001/VGL/82  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi – 110023.  
Dated: 11<sup>th</sup> February 2002

To

All Chief Vigilance Officers

**Sub: Video taping of evidence.**

Sir,

It has been brought to the notice of the Commission that in Indian Airlines, departmental proceedings have been initiated and brought to successful completion in a case which emanated from a complaint that an official had demanded illicit gratification from a user. The crucial witness in the proceedings was the complainant who could not be personally present; a videotape of the complaint was utilised in the proceedings and it was considered sufficient to establish the case though preponderance of probability.

2. This is being brought to the notice of all concerned for similar action in such situations.

Yours faithfully,

Sd/-

**(C.J. Mathew)**  
**Deputy Secretary**

No.: 98/VGL/60  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi – 110 023.  
Dated the 2<sup>nd</sup> November, 2001.

To

All Chief Vigilance Officers

**Subject: Rotation of officials working in sensitive posts.**

\*\*\*\*\*

Attention is invited to Circular No. 98/VGL/60 dated 15<sup>th</sup> April 1999 of the Central Vigilance Commission regarding rotation of officials working in sensitive posts.

2. It is hereby clarified that postings in the vigilance wings/departments are classified as sensitive. Therefore, the above instructions should be strictly followed while transferring officials to and from vigilance.

3. Accordingly, personnel deputed to the vigilance wing from operational wings are to have a tenure of three years following which they are to be reverted to operational areas. In the case of organizations that have a separate cadre for vigilance, the rotation should be done across regions on expiry of tenure of three years in a particular office.

4. CVOs may certify annually that this exercise has been carried.

5. This is for strict compliance by all concerned.

This issues with the approval of the Commission.

Sd/-  
(C.J. Mathew)  
**Deputy Secretary**

No.: 001/DSP/6  
Government of India  
Central Vigilance Commission

\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi – 110023.  
Dated the 2<sup>nd</sup> November, 2001.

To

The All Chief Vigilance Officers

**Sub: Ensuring attendance by private witnesses in Departmental Inquiries.**

Sir,

It has been observed that in many cases warranting initiation of major penalty proceedings, the main impediment is the distinct possibility that private witnesses, who are required to provide crucial evidence, are likely to evade appearance before the Inquiry Authority.

2. The provisions of Departmental Inquiries (Enforcement of Attendance of witnesses and Production of Documents) Act, 1972 can be taken recourse to in such cases. This Act is applicable to all inquiry proceedings where lack of integrity is a charge or part of a charge. The inquiry authority authorised under the Act is conferred with the powers of a trial court to summon witnesses/documents and such summons shall be served through a District Judge. The authorisation to summon under the Act can be issued only by the Central Govt. Therefore, wherever lack of integrity is a charge and witnesses have to be compelled to attend, a proposal will have to be made to the Central Govt. by the concerned inquiry authority for issue of a notification conferring the power under the Act.

3. This may be resorted to when considered necessary.
4. This issues with the approval of the Commission.

Yours faithfully,

Sd/-  
**(C.J. Mathew)**  
**Deputy Secretary**



No. 98/MSC/23  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block "A",  
GPO Complex, INA,  
New Delhi.  
Dated: 10th September 2001.

To

All Chief Vigilance Officer,  
Public Sector Undertakings/Public Sector Banks.

Subject: Utilising the services of Retired Government Officer as Inquiry Officer in the disciplinary proceedings against the employees of Banks/PSUs.

Sir,

**This has reference to the CVC's instructions vide No. 8(1)(h)/98(1) dated 18.11.98 regarding review of the cases pending for departmental inquiries and utilizing the services of retired Government officers as Inquiry Officer for completing the inquiry in time.**

2. The Commission is reviewing the position. The following information is required in this regard:-

- (i) Whether PSUs/Banks have taken steps to amend the Conduct, Discipline and Appeal Rules, so as to provide for appointment of retired officers as Inquiry Officers.
- (ii) If the answer to (i) above is in the affirmative whether they have operated the panel prepared by the CVC.

3. It is requested the above mentioned information may be furnished to the Commission on priority basis.

Yours faithfully,

Sd/-  
(C.J. Mathew)  
Deputy Secretary

**000/VGL/187**  
**Government of India**  
**Central Vigilance Commission**

\*\*\*\*\*

**Satarkta Bhawan, Block 'A',**  
**GPO Complex, INA,**  
**New Delhi- 110 023**  
**Dated the 3<sup>rd</sup> August 2001**

**To**

- (i) The Secretaries of All Ministries/ Departments of Government of India**
- (ii) All Chief Vigilance Officers of Ministries/Departments/Banks/PSUs/UTs/ Autonomous Bodies/ Insurance Sectors.**

**Subject: References to the Commission seeking second stage advice.**

The Central Vigilance Commission is empowered to exercise superintendence over the vigilance administration of the various Ministries of the Central Government or Corporations established under any Central Act, Government Companies, Societies and local authorities owned or controlled by that Government in terms of para 3(V) of the Ministry of Personnel, Public Grievances & Pensions, DOPT Resolution No. 371/20/99-AVD.III dated 4<sup>th</sup> April 1999.

2. Though there is no categorisation of public servants for determining the Commission's jurisdiction, in view of the magnitude of the total employee strength the Commission had delineated certain levels for making references to the Commission for advice, both first and second stage. It was also directed that this delineation would not operate in composite cases cutting across levels.

3. The Commission observes that, after seeking the Commission's first stage advice in composite cases, the concerned departments/organisations fail to seek second stage advice in the cases of all covered by the first stage advice ostensibly on the ground that certain employees do not come within the purview of the Commission.

4. In view of the comprehensive jurisdiction of the Commission and instructions regarding handling of composite cases, it is hereby clarified that, irrespective of level of the public servant, Commission's second stage advice should be sought in the case of all employees where first stage advice has been rendered by the Commission.

5. This issues with the approval of the Commission.

Yours faithfully,

Sd/-  
**(C.J. Mathew)**  
**Deputy Secretary**

**No.3(v)/99/14**  
**Government of India**  
**Central Vigilance Commission**

\*\*\*\*\*

**Satarkta Bhawan, Block 'A',**  
**GPO Complex, I.N.A.,**  
**New Delhi- 110 023**  
**Dated the 16<sup>th</sup> May 2001**

**Subject: System improvement to fight corruption through better synergy between CAG and CVC.**

\*\*\*\*\*

Under the powers vested in the DOPT Resolution No.371/20/99-AVD.III dated 4<sup>th</sup> April 1999, para 3(v), the following instructions are issued:

The audit reports of the Comptroller & Auditor General many a time reveal not only administrative and financial irregularities but also actual cases of corruption. The CAG reports are generally well documented and would be useful in bringing the corrupt public servants to book.

2. There is a need for introducing a system for prompt follow up action in the cases of corruption brought out by the CAG in its audit reports. The Public Accounts Committee and the Committee on Public Undertakings which scrutinise the CAG reports may not have the time to scrutinise all the reports and all the paragraphs. At the same time, the valuable information available through the CAG audit reports in the form of documented cases of corruption call for prompt action on the part of the disciplinary authorities.

3. It is, therefore, decided that with immediate effect the CVOs in all the organisations must scrutinise the CAG audit reports issued after the date of this circular to check whether any cases of corruption are revealed in them. In all such cases immediate action must be initiated against the public servants concerned through the standard practice of referring vigilance cases to CVC.

4. The Commission had also been in correspondence with the CAG on this subject. It has been agreed that all serious cases of malpractices reported by CAG which are perceived to have a vigilance angle would also be sent to the Commission for examination and follow up action. On receiving such references from CAG, the CVC would take follow up action with the disciplinary authorities. In this way, it will be ensured that the cases of corruption and issues having a vigilance angle are not lost sight of and there is effective synergy between CAG and CVC to Strengthen the system to fight corruption.

5. This instruction is also available on the CVC web site at <http://cvc/nic.in>.



(N. VITTAL)

**CENTRAL VIGILANCE COMMISSIONER**

To

1. The Secretaries of all Ministries/Departments of Government of India
2. The Chief Secretaries to all Union Territories
3. The Comptroller & Auditor General of India
4. The Chairman, Union Public Service Commission
5. The Chief Executives of all PSEs/Public Sector Banks/ Insurance Companies/Autonomous Organisations/ Societies
6. The Chief Vigilance Officers in the Ministries/Departments/PSEs/ Public Sector Banks/Insurance Companies/Autonomous Organisations /Societies
7. President's Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO
8. Director, CBI
9. Department of Personnel & Training, North Block, New Delhi

001/VGL/5  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 25<sup>th</sup> April 2001

To

- (i) Secretaries of all Ministries/Departments of Government of India.
- (ii) Chief Executives of all PSEs/Public Sector Banks/Insurance Companies/  
Autonomous Organisations/Societies.
- (iii) CVOs of all Ministries/ Departments / Public Sector Undertakings/  
Organisations.

**Subject: Tackling corruption through a proper follow up of audit reports.**

Sir,

Audit is an important tool available for proper control of organisations and the office of the Comptroller and Auditor General (CAG) has been envisaged as the body established for carrying out the necessary checks and reporting of irregularities. It has, however, been observed by the Commission that in response to CAG reports, apart from replying to the office of CAG and to the Public Accounts Committee, no serious effort is undertaken to identify the officials responsible and to initiate disciplinary proceedings, where warranted. As a result, the audit exercise remains an unfulfilled one and irregularities continue to be repeated.

2. The Commission has been in correspondence with CAG on this subject and it has been decided that all serious cases of malpractices reported by the CAG which have a perceived vigilance angle would be sent to the Commission for examination and follow up action.

3. However, this does not absolve the Ministries, Departments and other organisations of their administrative responsibility. It has, therefore, been decided that, in future, all audit reports should be examined by the administrative head to identify the officials responsible for the lapses. Initiation of disciplinary action should be the objective of this examination and the matter is to be referred thereafter to the CVO for complying with the procedure stipulated. Any audit report on which it has been decided that no action is to be initiated is to be furnished, within three months of receipt, to the CVO for a further examination. The CVO is to furnish quarterly data to the Commission about such cases.

This is issued for strict compliance by all concerned.

Yours faithfully,

Sd/-  
**(C.J. Mathew)**  
**Deputy Secretary**

No.000/VGL/166  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkata Bhavan, Block "A"  
GPO Complelx, I.N.A.,  
New Delhi-110023  
Dated the 16<sup>th</sup> January 2001

To

All CVOs of Ministries/Departments of Govt. of India/Nationalised Banks/  
PSUs/Autonomous Bodies etc.

**Subject: Advance copy of CVO investigation report to CVC.**

Please refer to instructions issued under the Commission's Circular of even number dated 9/11/2000 regarding advance copy of CVO investigation report to CVC. Consequent upon the issue of the instructions, certain clarifications have been sought by some Departments/Organisations on the issue. The matter has been considered in the Commission and it is clarified as under:

- i) The Commission's circular dated 9.11.2000 refers to investigations carried out by the Vigilance Wing of the concerned Ministries/Departments/Organisations into acts of omission and commission on the part of officers coming within the purview of the Commission's jurisdiction.
- ii) It is reiterated that notwithstanding the submission of advance copy by the CVO, a separate reference in accordance with the usual procedure needs to be made to the Commission to enable tendering of advice.
- iii) CVOs are to furnish advance copies to the Secretary, Central Vigilance Commission and not to the undersigned.

This issues with the approval of the Commission.

Yours faithfully,

Sd/-  
(C.J.Mathew)  
Deputy Secretary

**000/VGL/166**  
**Government of India**  
**Central Vigilance Commission**  
\*\*\*\*\*

**Satarkta Bhawan, Block 'A',  
GPO Complex, INA  
New Delhi-110013.**

**Dated the 9<sup>th</sup> November, 2000**

**To**

**All Chief Vigilance Officers of Ministries/ Departments of Government of India/ Nationalised Banks/ PSU's Autonomous Bodies, Societies etc.**

**Subject: Advance copy of CVO investigation reports to CVC.**

The Commission finds that there is a disturbing trend noticed in certain organisations under its purview to shield corrupt public servants especially at the senior levels. The modus operandi is not to respond to the CVC's communications and delay the report as far as possible. Secondly when the CVOs report is submitted, attempts are made to dilute the gravity of offence before reference is made to CVC, if it all made.

2. In order to reduce such in-built safety nets for the corrupt public servants, it has been decided that with immediate effect all CVOs, when they complete their investigation in vigilance cases, will endorse an advance copy of their report to the CVC while submitting their reports/ comments to the superiors in the organisations. The CVC in turn would analyse the reports/ comments and keep the course of action ready. As soon as the reference is received from the appropriate disciplinary authority, could be taken for giving the advice after taking into account the specific advice of the disciplinary authorities. If attempts have been made to dilute the CVOs report and shield the corrupt, this would also become clear.

3. After the CVO gives the investigation report generally the appropriate authorities must be able to send the report to the CVC within one month of the submission of the report. It is quite possible that a series of queries can be raised by way of scrutiny of the CVOs report which can sometimes be a deliberate attempt to shield the corrupt. In such cases, the CVC will be constrained to draw appropriate conclusion about the action being taken by the CVO.

Yours faithfully,

Sd/-  
(C.J. Mathew)  
Deputy Secretary

No.99/VGL/66  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhavan, Block "A",  
GPO Complex, I.N.A.,  
New Delhi-110023  
Dated the 28<sup>th</sup> September 2000

**To**

**All Chief Vigilance Officers of Ministries / Departments of Government of India/ Nationalised Banks / PSUs / Autonomous Bodies, Societies etc.**

**Subject: - Consultation with the CVC - Making available a copy of the CVC's advice to the concerned employee.**

Sir,

Para 3.6 (iii), chapter XI and para 8.6, Chapter XII of the Vigilance Manual, Vol. I, provide that the advice tendered by the Central Vigilance Commission is of a confidential nature meant to assist the disciplinary authority and should not be shown to the concerned employee. It also mentions that the Central Vigilance Commission tenders its advice in confidence and its advice is a privileged communication and, therefore, no reference to the advice tendered by the Commission should be made in any formal order.

2. The Commission has reviewed the above instructions in view of its policy that there should be transparency in all matters, as far as possible. The Commission has observed that the Hon'ble Supreme Court had held a view in the case - State Bank of India Vs. D.C. Aggarwal and another [Date of Judgement: 13.10.1992] - that non-supply of CVC's instructions, which was prepared behind the back of respondent without his participation, and one does not know on what material, which was not only sent to the disciplinary authority but was examined and relied, was certainly violative of procedural safeguard and contrary to fair and just inquiry. Further, the Hon'ble High Court of Karnataka at Bangalore, in writ Petition No. 6558/93, has also observed that if a copy of the report (CVC's advice) was furnished to the delinquent officer, he would have been in a position to demonstrate before the disciplinary authority either to drop the proceedings or to impose lesser punishment instead of following blindly the directions in the CVC's report.

3. The Commission, at present, is being consulted at two stages in disciplinary proceedings, i.e. first stage advice is obtained on the investigation report before issue of the charge sheet, and second stage advice is obtained either on receipt of reply to the charge sheet or on receipt of inquiry report. It, however, does not seem necessary to call for the representation of the concerned employee on the first stage advice as the concerned employee, in any case, gets an opportunity to represent against the proposal for initiation of departmental proceedings against him. Therefore, a copy of the Commission's first stage advice may be made available to the concerned employee along with a copy of the charge



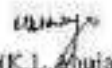
sheet served upon him, for his information. However, when the CVC's second stage advice is obtained, a copy thereof may be made available to the concerned employee, along with the IO's report, to give him an opportunity to make representation against IO's findings and the CVC's advice, if he desires to do so.

4. In view of the position stated above, para 3.6 (iii), Chapter XI and para 8.6, Chapter XII of the Vigilance manual, Vol. I, and also para 2 of the Commission's letter No. 6/3/73-R dated 20.08.1973 may be treated as deleted.

5. Para 12.4.4 of Special Chapter on Vigilance Management in Public Sector Banks and para 22.6.4 of the Special Chapter on Vigilance Management in Public Sector Enterprises envisage that the inquiring authorities, including the CDIs borne on the strength of the Commission, would submit their reports to the disciplinary authority who would then forward the IO's reports, along with its own tentative views to the Commission for its second stage advice. The existing procedure in this regard may broadly continue. The disciplinary authority may, after examination of the inquiry report, communicate its tentative views to the Commission. The Commission would thereafter communicate its advice. This, along with the disciplinary authority's views, may be made available to the concerned employee. On receiving his representation, if any, the disciplinary authority may impose a penalty in accordance with the Commission's advice or if it feels that the employee's representation warrants consideration, forward the same, along with the records of the case, to the Commission for its reconsideration.

6. Thus, if on the receipt of the employee's representation, the concerned administrative authority proposes to accept the CVC's advice, it may issue the orders accordingly. But if the administrative authority comes to the conclusion that the representation of the concerned employee necessitates reconsideration of the Commission's advice, the matter would be referred to the Commission.

Yours faithfully,

  
(K.L. Ahuja)  
Officer on Special Duty

**No.000/VGL/70**  
**Government of India**  
**Central Vigilance Commission**

\*\*\*\*\*

**Satarkata Bhavan, Block "A",**  
**GPO Complex, I.N.A.,**  
**New Delhi - 110 023.**  
**Dated 25<sup>th</sup> September 2000**

**Subject: - Suspension of public servants involved in criminal/departmental proceedings.**

\*\*\*\*\*

Suspension is an effective tool for checking corruption. There have been many instances where senior officials, who had been trapped or were alleged to have disproportionate wealth or who were facing charge sheets on other serious charges, had not been suspended. It has also come to notice that officers charged of corruption, if not suspended, manage to get their inquiries delayed because delay in criminal/departmental proceedings enables them to continue in service even though the charges against them are grave enough to deserve the punishment of dismissal from service. Such officials can also use the opportunity of continuance in service for earning money through illegal/corrupt means. The Commission, therefore, is of the view that officers facing criminal/ departmental proceedings on serious charges of corruption should be placed under suspension as early as possible and their suspension should not be revoked in a routine manner.

2. It has been provided in para 2.4, Chapter V of the Vigilance Manual, Volume-I, that public interest should be the guiding factor in deciding whether, or not, a public servant should be placed under suspension; or whether such action should be taken even while the matter is under investigation and before a prima-facie case has been established. The instructions provide that it would be appropriate to place a person under suspension if: -

- (i) the continuance of the public servant in office is likely to prejudice investigation, trial or inquiry [apprehending tampering with documents or witness]; or
- (ii) where the continuance in office of the public servant is likely to seriously subvert discipline in the office in which he is working;
- (iii) where the continuance in office of the public servant will be against the wider public interest, e.g., if there is a public scandal and it is considered necessary to place the public servant under suspension to demonstrate the policy of the Government to deal strictly with officers involved in such scandals, particularly corruption;

- (iv) where the investigation has revealed a prima-facie case justifying criminal/departmental proceedings which are likely to lead to his conviction and/or dismissal, removal or compulsory retirement from service; or
- (v) where the public servant is suspected to have engaged himself in activities prejudicial to the interest of the security of the State.

3. Para 2.5, Chapter V of the Vigilance Manual, Volume-I also lays down that it may be considered desirable to suspend a public servant for misdemeanor of the following types: -

- (i) an offence or conduct involving moral turpitude;
- (ii) corruption, embezzlement or misappropriation of Government money, possession of disproportionate assets, misuse of official powers for personal gains;
- (iii) serious negligence and dereliction of duty resulting in considerable loss to Government;
- (iv) desertion of duty; and
- (v) refusal or deliberate failure to carry out written orders of superior officers.

[In case of types (iii), (iv) and (v) discretion should be exercised with care].

4. It has also been provided in para 17 of the "Directive on investigation of cases by the Special Police Establishment Division of the CBI" that the CBI would recommend suspension of the concerned employees in appropriate cases.

5. The Central Vigilance Commission has been empowered, vide para 3 (v) of the Government of India's Resolution No.371/20/99-AVD.III dated 4<sup>th</sup> April 1999, to exercise superintendence over the vigilance administration of 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. Since the suspension of a public servant on serious charges, like corruption, is directly related to the vigilance administration, the Commission hereby desires that all disciplinary authorities should follow the instructions enumerated in paras 2, 3 and 4 supra strictly. It also desires that if the CBI recommends suspension of a public servant and the competent authority does not propose to accept the CBI's recommendation in that regard, it may be treated as a case of difference of opinion between the CBI and the administrative authority and the matter may be referred to the Commission for its advice. It also directs that if a

person had been suspended on the recommendations of the CBI, the CBI may be consulted if the administrative authority proposes to revoke the suspension order.

6. These instructions are available on the CVC's web-site <http://cvc.nic.in>



(N. VITTAL) 25.9.2000  
CENTRAL VIGILANCE COMMISSIONER

To

1. The Secretaries of all Ministries/Departments of Government of India.
2. The Chief Secretaries to All Union Territories.
3. The Comptroller & Auditor General of India.
4. The Chairman, Union Public Service Commission.
5. The Chief Executives of All PSEs/Public Sector Banks/ Insurance Companies/Autonomous Organisations/ Societies.
6. The Chief Vigilance Officers in the Ministries/ Departments/PSEs/Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies.
7. President's Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO.
8. Director, CBI.
9. Department of Personnel & Training, North Block, New Delhi.

**No.3(V)/99/12**  
**Government of India**  
**Central Vigilance Commission**  
\*\*\*\*\*

Satarkata Bhavan, Block 'A'  
GPO Complex, I.N.A.,  
New Delhi-110023  
Dated the 14<sup>th</sup> August 2000

**Subject: - Appointment of consultants in vigilance departments.**

It was stated in the Department of Personnel & Training's OM No.371/32/97-AVD.III dated 28.11.1997 that contrary to the instructions governing appointment of CVOs, such functions as are to be performed strictly by the CVOs or vigilance set-ups in the Ministries/Departments were assigned to outsiders engaged as consultants. It was clarified that consultants are not appointed against any regular post and, therefore, their engagement itself for sensitive functions of vigilance and discipline was against the spirit of the scheme of "vigilance and discipline".

2. The appointments against the posts of CVOs are made with the prior approval of the Commission. The Commission, therefore, takes care of the situation that no organisation appoints a consultant to perform the functions of a CVO. It has, however, been observed by the Commission that some of the organisations have appointed retired officers as consultants in the vigilance/personnel departments to perform vigilance functions, in the capacities of other than the CVO.

3. A person, who is not a full-time employee of the Government/public sector enterprise etc., may be amenable to influence. There is also a possibility that the retired officers, appointed as consultants, may provide a convenient legal cover for going easy on corrupt practices, as they may be financially obliged to the Management. It is also difficult to make them accountable for the misconduct committed by them. Therefore, the Commission in exercise of the powers conferred upon it, vide para 3(v) of the Government of India's Resolution No. 371/20/99-AVD.III dated 04.04.1999, directs that the vigilance functionaries should always be full-time employees of the organisation and in no case a retired employee should be appointed as a consultant to perform vigilance functions. If there is not sufficient vigilance work for a full-time functionary in the organisation, the organisation may entrust him some other work in addition to vigilance work.

4. The above instructions may please be followed strictly. For any violation of the above instructions, the CVO and the chief executive of the concerned organisation may be held responsible.

5. This order is available on the CVC's website <http://cvc.nic.in>.

  
(N. VITTAL) 14.8.2000  
CENTRAL VIGILANCE COMMISSIONER

To

- (i) The Secretaries of all Ministries/Departments of Government of India
- (ii) The Chief Secretaries to all Union Territories
- (iii) The Comptroller & Auditor General of India
- (iv) The Chairman, Union Public Service Commission
- (v) Chief Executives of all Public Sector Undertakings/ Banks/ autonomous organisations etc.
- (vi) All Chief Vigilance Officers in the Ministries/Departments/ PSEs/Public Sector Banks/Insurance Companies/ Autonomous Organisations/Societies
- (vii) President's Secretariat/Vide President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO/CBI
- (viii) The NGOs/Institutes/Service Associations (appearing in the Commission's mailing list)

No.3M-VGL-3  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkata Bhawan,  
GPO Complex,  
Block-A, INA,  
New Delhi - 23.  
Dated 7<sup>th</sup> April 2000

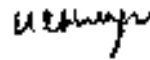
**OFFICE MEMORANDUM**

Subject:- Powers and functions of the Central vigilance Commission in relation to autonomous bodies 'other than the public sector undertakings' under various Ministries/Departments.

\*\*\*\*\*

The Commission, vide its OM No. DM-VGL-10 dated 18.10.1984, had advised all Ministries/Departments of Government of India that the vigilance cases against those officials of autonomous bodies, which did not fall in the category of public sector undertakings or local bodies and also whose employees could not be considered to be Government servants, drawing basic pay of Rs.1000/- per month and above might be referred to the Commission for advice. Such bodies included those set up by Acts of Parliament, or registered under the Societies Act, or those set up in some other manner such as a Resolution of the Government.

2. The above pay limit of Rs.1000/- was based on the pay pattern recommended by the Third Pay Commission. The aforesaid pay limit for reference to the Commission was revised to Rs.2825/- for those organisations, who had revised their pay-scale on the pattern of the recommendations of Fourth Pay Commission [para 5.4 of Chapter I of the Vigilance Manual, Volume-I refers]. Consequent upon the implementation of the recommendations of Fifth Pay Commission, the Commission has reviewed the aforesaid pay limit and has decided that the cases against those officials of autonomous bodies/cooperative societies etc., who are in receipt of basic pay of Rs.8700/- per month and above may be referred to the Commission for advice.



(K.L. Ahuja)  
Officer on Special Duty

To

- (1) The Secretaries of all Ministries/Departments of Government of India.
- (2) The CVOs of all autonomous organisations/cooperative societies within the purview of the Commission.

**No.000/VGL/18**  
**Government of India**  
**Central Vigilance Commission**  
\*\*\*\*\*

**Satarkta Bhawan, Block 'A',**  
**GPO Complex, INA,**  
**New Delhi- 110 023**  
**Dated the 23<sup>rd</sup> May 2000**

**To**

**The CVOs of Ministries/Departments, autonomous organisations and Societies etc.**

**Subject: Schedule of time limits in conducting investigations and departmental inquiries.**

Sir,

Delays in disposal of disciplinary cases are a matter of serious concern to the Commission. Such delays also affect the morale of the suspected/charged employees and others in the organisation. The Commission has issued instructions, vide its communication No. 8(1)(g)/99(3) dated 03.03.1999, that departmental inquiries should be completed within a period of six months from the date of appointment of Inquiry Officers. Regarding other stages of investigation/inquiry, the time-schedule, as under, has been laid down in the Special Chapters on Vigilance Management in Public Sector Banks/Enterprises, which are applicable to the employees of public sector banks / enterprises. The Commission desires that these time-limits should also be adhered to by the Ministry/Departments of Government of India, autonomous organisations and other Cooperative Societies, in respect of their employees, so as to ensure that the disciplinary cases are disposed of quickly.

<b>S.No</b>	<b>State of Investigation or inquiry</b>	<b>Time Limit</b>
1.	Decision as to whether the complaint involves a vigilance angle.	One month from receipt of the complaint.
2.	Decision on complaint, whether to be filed or to be entrusted to CBI or to be taken up for investigation by departmental agency or to be sent to the concerned administrative authority for necessary action.	-do-
3.	Conducting investigation and submission of report.	Three months.
4.	Department's comments on the CBI reports in cases requiring Commission's advice.	One month from the date of receipt of CBI's report by the CVO/Disciplinary Authority.
5.	Referring departmental investigation reports to the Commission for advice.	One month from the date of receipt of investigation report.
6.	Reconsideration of the Commission's advice, if required.	One month from the date of receipt of Commission's advice.



7.	Issue of charge-sheet, if required.	(i) One month from the date of receipt of Commission's advice. (ii) Two months from the date of receipt of investigation report
8.	Time for submission of defence statement.	Ordinarily ten days or as specified in CDA Rules.
9.	Consideration of defence statement.	15 (Fifteen) days.
10.	Issue of final orders in minor penalty cases.	Two months from the receipt of defence statement.
11.	Appointment of IO/PO in major penalty cases.	Immediately after receipt and consideration of defence statement.
12.	Conducting departmental inquiry and submission of report.	Six months from the date of appointment of IO/PO.
13.	Sending a copy of the IO's report to the Charged Officer for his representation.	i) Within 15 days of receipt of IO's report if any of the Articles of charge has been held as proved; ii) 15 days if all charges held as not proved. Reasons for disagreement with IO's findings to be communicated
14.	Consideration of CO's representation and forwarding IO's report to the Commission for second stage advice.	One month from the date of receipt of representation.
15.	Issuance of orders on the Inquiry report.	i) One month from the date of Commission's advice. ii) Two months from the date of receipt of IO's report if Commission's advice was not required.

Yours faithfully,

Sd/-

**(K.L. Ahuja)**  
**Officer on Special Duty**

No. 000/DSP/1  
Government of India  
Central Vigilance Commission

Satarkata Bhawan,  
Block "A", GPO Complex,  
INA, New Delhi- 110 023.  
Dated the 6<sup>th</sup> March 2000

To

All Chief Vigilance Officers of the  
Ministries/Departments/PSUs/Banks/autonomous organisations etc.

Subject: References to the Commission for reconsideration of its advice - Prescribing  
time-limits.

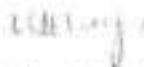
\*\*\*\*\*

Sir,

Para 5.16, Chapter I of the Vigilance Manual Volume-I, provides for consultation with the Commission if the administrative authorities do not agree with the Commission's advice and propose to take either a "lenient view" or a "stricter view" than recommended by it. Such references, however, may be made only once and that too with the prior approval of the authorities indicated in para 5.13(b), Chapter I ibid. Similar provisions also exist in para 11 and 19 respectively of the Special Chapters on Vigilance Management in Public Sector Banks and Public Sector Enterprises.

2. Delay in disposal of disciplinary cases has been a matter of serious concern to the Commission. Such delays, while affecting the morale of the concerned employees, also lose the deterrent effect for the dishonest employees. The Commission has, therefore, laid down a schedule of time limits for conducting investigations and departmental inquiries in para 41 of the Special Chapters on Vigilance Management in Public Sector Enterprises. It has, however, been observed that references to the Commission for reconsideration of its advice are being made in a number of cases after the lapse of a considerable time after it tendered its advice. This could be in order to cover up the delays in finalisation of the proceedings or with an intention to prolong the proceedings. Thus, in order to prompt the administrative authorities to accord priority to the disciplinary cases, the Commission has decided that the administrative authorities, if they so desire, may make references to the Commission for reconsideration of its advice within a period of two months from the date of receipt of its advice, failing which the Commission may decline to entertain such references.

Yours faithfully,

  
(K.L. Ahuja)  
Officer on Special Duty

**No.99/VGL/62**  
**Government of India**  
**Central Vigilance Commission**

\*\*\*\*

**Satarkta Bhavan, Block "A"**  
**GPO Complex, I.N.A.**  
**New Delhi-110023**  
**Dated the 29<sup>th</sup> November 99**

To

**All Chief Vigilance Officers.**

**Subject:- Amendment of Para 11.4, Chapter X of Vigilance Manual Vol. I.**

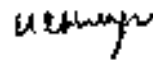
Sir,

Para 11.4, Chapter X of the Vigilance Manual Volume I refers to the illustrative types of vigilance cases in which it might be desirable to initiate proceedings for imposing a major penalty. Sub-para (iii) thereof refers to the "Gross irregularity or negligence in the discharge of official duties with a dishonest motive". It has been observed that some of the disciplinary authorities did not initiate departmental proceedings for imposition of a major penalty in the cases involving gross negligence/flagrant violation of systems and procedures on the consideration that there was no material to prove the element of "dishonest motive". The cases involving gross negligence/flagrant violation of systems and procedures do involve a vigilance angle and the involvement of "malafides" are to be inferred or presumed from the actions of the concerned employee depending upon the facts and circumstances of the case. However, with a view to remove the ambiguity, the Commission has decided to amend para 11.4 (iii) **ibid** as under:-

"The case involving any of the lapses such as gross or wilful negligence, recklessness, exercise of discretion without or in excess of powers/jurisdiction, causing undue loss to the organisation or a concomitant gain to an individual, and flagrant violation of systems and procedures".

2. This is brought to the notice of all concerned for appropriate action.

Yours faithfully,



(K.L.Ahuja)  
Officer on Special Duty

Copy forwarded for information and necessary action to:-

1. The Department of Personnel & Training (Shri I.S.Chaturvedi, Deputy Secretary (Vig.), North Block, New Delhi.
2. The Central Bureau of Investigation (Shri N.K.Balachandran, JD (Policy), CGO Complex, New Delhi.

**Immediate**

**No.98/MSc/23  
Government of India  
Central Vigilance Commission**

\*\*\*\*\*

**Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi - 110 023  
Dated the 16<sup>th</sup> September, 1999**

**To**

**All Chief Vigilance Officers**

**Subject: Utilising the services of retired officers for conducting Departmental Inquiries.**

**Sir,**

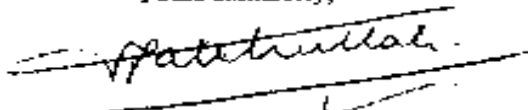
As you are aware the Commission, in order to ensure that the departmental inquiries are completed in time, had advised all Departments/Organisations vide its instruction No. 8(1)(h)/98(1) dated 18.11.98 to immediately review all pending cases and appoint IOs from among retired Government Officers. In the said instruction, the Commission had interalia stated that it would build a panel of officers for this purpose.

2. Accordingly, after verifying the antecedents of Retired Officers, the Commission has built a database. The details of retired officers who have been empanelled by the Commission as on date is enclosed. The terms and conditions formulated by the Commission for appointing these officers is also enclosed.

3. This is brought to the notice of all concerned in order to utilise the services of the empanelled retired officers of IOs.

4. This instruction as well as the panel of retired officers and the terms and conditions are available on the web site of CVC as <http://cvc.nic.in>. The panel will be updated from time to time in the web site, which can be downloaded. Those Departments/Organisations who do not have Internet facility may approach the Commission for the updated panel.

Yours faithfully,



**(P.S. Fatehullah)  
Director**

---

---

## **TERMS AND CONDITIONS FOR APPOINTING RETIRED OFFICERS AS INQUIRY OFFICERS**

---

---

The Retired Government Officer, hereinafter, referred to as Inquiry Officer (IO):

1. should not be more than 70 years of age as on the 1<sup>st</sup> July of the year of his empanelment;
2. should be in sound health, physically and mentally;
3. shall not engage himself/herself in any other professional work or service, which is likely to interfere with the performance of his/her duties as Inquiry Officer;
4. shall be appointed as IOs by the Disciplinary authority of the Charged Officer whose case is entrusted to him/her;
5. will be entrusted with the Inquiries on 'Case-to-case' basis, by the Disciplinary authority;
6. shall maintain strict secrecy in relation to the documents he/she receives or information/data collected by him/her in connection with the Inquiry and utilise the same only for the purpose of Inquiry in the case entrusted to him/her. No such documents/information or data are to be divulged to any one during the Inquiry or after presentation of the Inquiry Report. The I.O. entrusted with the Inquiries will be required to furnish an undertaking to maintain strict secrecy and confidentiality of all records/documents/ proceedings etc. All the records, reports etc. available with the I.O. shall be duly returned to the authority which appointed him/her as such, at the time of presentation of the Inquiry Report;
7. shall be paid a lumpsum remuneration of Rs.5000/- (Rupees Five thousand only), per Departmental Inquiry Report, in a case, by the Department/Organisation to which the charged officer belongs;
8. shall be paid, in addition to the remuneration of Rs.5000/-, an amount of Rs.1000/- (Rupees One thousand only) per Departmental Inquiry Report, for clerical and Stenographic work, which the IO has to arrange by himself/herself.

- 
- 
9. will be entitled, besides the above, reimbursement of Rs.500/- (Rupees five hundred only) as Conveyance Charges, per Departmental Inquiry Report (applicable only if the place of Inquiry is a 'A' or 'B-1" class cities);
  10. shall conduct the inquiry proceedings only in the office premises of the Department/Organisation, which engages him/her.
  11. the inquiry proceedings are to be conducted at the headquarters of the Departments/Organisations or at the place of concentration of the charged officer(s), witnesses etc. In unavoidable circumstances where the Inquiry Officer has to undertake travel for conducting inquiry, the rate of TA/DA in such cases may be permissible to the rate applicable to the serving officers of equivalent rank;
  12. shall be provided with a room with furniture and lockable almirahs by the concerned Department/Organisation, which engages him/her on the days of Inquiry;
  13. shall be provided with the stationery/postage by the Department/Organisation, which engages him/her;
  14. shall be terminated from the services of an IO at any time by the Appointing Authority, without notice and without assigning any reasons. However, the concerned authority has to intimate the Central Vigilance Commission the reasons for doing so that the Commission can take in to account those things while reviewing the panel; and
  15. shall submit the inquiry report after completing the inquiry within six months from the date of his appointment as Inquiry Officer to become eligible for payment of remuneration as indicated at item No. 7 to 9.

**NO.3(v)/99/7**  
**Central Vigilance Commission**

\*\*\*\*\*

**Satarkta Bhavan, Block "A**  
**GPO Complex, I.N.A.**  
**New Delhi -110023**  
**Dated the 6<sup>th</sup> September 1999**

**Subject:- Improving vigilance administration- Reducing delays in Departmental Inquiries.**

Prolonged departmental inquiries not only delay justice to the honest persons but also help the guilty to breath freely. The Central Vigilance Commission issued an instruction in this regard vide No.8 (1)(g)/99(3) dated the 3<sup>rd</sup> March, 1999 thereby stipulating a model time schedule for conducting departmental inquiries. In order to eliminate the delays in the departmental inquiries, by virtue of the powers vested in the CVC under para 3(v) of the Ministry of Personnel, Public Grievances & Pension, Department of Personnel and Training Resolution No.371/20/99-AVD.III dated the 4<sup>th</sup> April, 1999, the Commission issues the following guidelines after having identified some of the reasons for delay in the departmental inquiries:-

1.1 **Certified photocopies of documents**

As per the extant instructions, while the CBI can pursue the prosecution cases in the Courts, simultaneously departmental inquiries can also be held. In order to ensure that the critical documents needed in the departmental inquiries are made available, the responsibility has been put on the CBI to make photocopies of seized documents within four days so that the departmental proceedings can be proceeded with. A large number of cases are pending for more than two years because of non-availability of documents for inspection, which are already before the Court.

It has therefore, been decided with immediate effect that the CBI should make legible certified photocopies of all the documents, which they seize, for launching the prosecution against the charged officer to concerned departments. It is also the responsibility of the CVOs to ensure that these certified legible photocopies of documents are made available when the CBI seizes the documents in any Government organisation. This is applicable to all Government organisations Public Sector Undertakings and Banks.

1.2 **Availability of documents to CDIs/IOs**

In many cases the concerned departments do not make the documents available during the departmental inquiries conducted by the Commissioner for Departmental

Inquiries (CDIs). This may be either due to inefficiency or collusion. There have been a lot of cases where important/critical files have disappeared. As failure to safeguard documents is an offence it has been decided that henceforth the following practice will be adopted by all concerned:-

The inquiry officer/CDI will ask the concerned departments to produce the documents within a time limit fixed by the IO/CDI. While doing so it will be indicated that if within the stipulated time frame the concerned department is not able to produce the documents the disciplinary authority will fix responsibility for the loss of the documents and compliance reported to the Commission within a period of 3 months.

These documents would cover not only those listed in the charge-sheet but also additional documents as sought out by the charged officer and permitted by the Inquiring Authority.

2. All CVOs must ensure that strict compliance of the above guidelines of the Commission.
3. This order is also available on web site of the CVC at <http://cvc.nic.in>

  
(N.VITTAL) 6.9.99  
**CENTRAL VIGILANCE COMMISSIONER**

To

- (i) The Secretaries of All Ministries/Departments of Government of India
- (ii) The Chief Secretaries to All Union Territories
- (iii) The Chief Executives of PSUs/Banks/Organisations
- (iv) The Comptroller & Auditor General of India
- (v) The Chairman, Union Public Service Commission.
- (v) The Director, CBI
- (vii) All Chief Vigilance Officers in the Ministries/Departments/PSEs/Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies.
- (viii) President's Secretariat/Vic-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO.



Immediate

No.99/DSP/1  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 11<sup>th</sup> August 1999

To

All Chief Vigilance Officers

Subject: Definition of the term Stiff/Severe minor penalty.

Sir,

The Central Vigilance Commission has clarified the term "stiff/severe major penalty" vide its circular of even number dated the 5<sup>th</sup> February 1999.

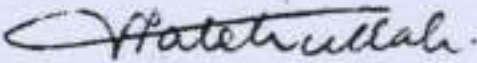
2. In order to standardise the interpretation of the term stiff/severe minor penalty, it is hereby clarified that "Stiff/Severe minor penalty" means:

- (a) reduction to a lower stage in the time-scale of pay for a period not exceeding 3 years, without cumulative effect and not adversely affecting his pension.
- (b) withholding of increments of pay.

No other interpretation of the given term is intended by the Commission. The Ministries/Departments/Organisations may, therefore, adhere to the said interpretation strictly and bring this to the notice of all concerned.

3. This issues with the approval of the Central Vigilance Commissioner.

Yours faithfully,

  
(P.S. Fatehullah)  
Director

Stands withdrawn vide Office Order No.11/03/10 03<sup>rd</sup> March, 2010

**No.3(v)/99/8**  
**CENTRAL VIGILANCE COMMISSION**  
\*\*\*\*\*

**Satarkta Bhavan, Block "A"**  
**GPO Complex, I.N.A.**  
**New Delhi-110023**  
**Dated the 5<sup>th</sup> October,1999.**

**Subject:- Drafting of charge- sheet.**

Inadequate skill in drafting the charge-sheet is one of the reasons which help the charged officials to get away with lapses/misconduct committed by them. Many cases fail before the Courts of Law just because of the defective framing of charge-sheets. It has been observed by the Commission that the chargesheets are sometimes framed in a very general way and the existing practice with regard to framing of charges and imputations vary widely. Sometimes the charge itself is framed in a very general way, only pointing out that the official concerned has acted in an unbecoming manner or has shown lack of devotion to duty or has acted without integrity. The real issues, in such circumstances, are to be found in the statement of imputations. It has also been observed by the Commission that the organisations/Ministries etc. while framing the charge sheets list serious irregularities/charges in the imputations but do not mention the same in the articles of charge. Many a times the charges are not framed in accordance with the advice given by the Commission, thereby diluting the central issues.

2. Rule 14(3)(i) of the CCS (CCA) Rules stipulates that "the substance of the imputations of misconduct or misbehaviour into distinct articles of charge" should be drawn up by the Disciplinary Authority whenever it is proposed to hold an enquiry against a Government servant. This would mean that no charge can be proper or complete without including therein elements of the main content of the allegations/imputations. Therefore, the spirit of all Conduct, Discipline & Appeal Rules imply that there should be a specific finding on each allegation made against the officer. At the end, the IO must then apply his mind to come to a conclusion as to whether the charge as a whole has been proved wholly, partially or not at all.

3. It has to be understood that the statement of imputations/allegations annexed are supplementary/supportive material to the charge sheet; they are details of facts/evidence to support the charges made, and should contain names of witnesses/documents in support of the charges. That is, the statement of imputations is to make the basis of the charge, allegation-wise, precise and specific and should include details of what exactly each witness/document is going to prove regarding every charge. Each charge should also have a separate statement of imputations of

misbehaviour/misconduct. The common failing of listing out one long statement of misconduct/misbehaviour ought to be avoided.

4. The Commission has also issued instructions earlier which are reproduced in Para 14.1 to 14.3 of Chapter X of Vigilance Manual Part I stipulating that the articles of charge should be framed with great care. Broad guidelines as to how the articles of charge should be framed have also been indicated therein. Similarly, the common mistakes which have been noticed by the Commission in framing the chargesheet have also been incorporated in Para 12.1.3 of the special Chapter on Vigilance Management in Banks and Para 20.1.3 in the Special Chapter in PSEs. These are reproduced below:-

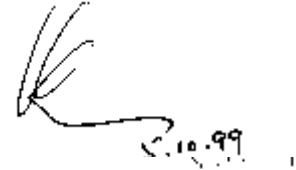
"Special care has to be taken while drafting a chargesheet. A charge of lack of devotion to duty or integrity or unbecoming conduct should be clearly spelt out and summarised in the Articles of charge. It should be remembered that ultimately the IO would be required to give his specific findings only on the Articles as they appear in the chargesheet. The Courts have struck down chargesheets on account of the charges framed being general or vague (S.K. Raheman Vs. State of Orissa 60 CLT 419.) If the charge is that the employee acted out of an ulterior motive that motive must be specified (Uttar Pradesh Vs. Salig Ram AIR 1960 All 543). Equally importantly, while drawing a charge sheet, special care should be taken in the use of language to ensure that the guilt of the charged official is not pre-judged or pronounced upon in categorical terms in advance (Meena Jahan Vs. Deputy Director, Tourism 1974 2SLR 466 Cal). However, the statement merely of a hypothetical or tentative conclusion of guilt in the charge, will not vitiate the charge sheet (Dinabandhu Rath Vs. State of Orissa AIR 1960 Orissa 26 cf. Also Powari Tea Estate Vs. Barkataki (M.K.) 1965 Lab LJ 102)".

5. Notwithstanding the extant instructions/guidelines many organisations continue to make avoidable mistakes while framing the charge sheets. Therefore, it is reiterated that the extant instructions on the subject as stated in the aforesaid paras may be followed carefully while drafting the charge sheet, in order to avoid subsequent difficulties. The CVOs of the organisations/Ministries etc. should ensure that these instructions are implemented scrupulously.

6. In addition as already summarised above, an IO is required to give his finding in respect of each article of charge and reasons thereof. As the articles of charge are definite and distinct substance of the statement of imputations of misconduct or misbehaviour, the findings on each articles of charge have to be inter-alia based on statement of imputations. Therefore, the Inquiry Officers are required to record their findings in respect of each allegation framed in support of an article of charge in order to ensure that inquiry reports do not suffer due to deficiencies.

7. All CVOs may ensure strict compliance of the above instructions. CVOs are also instructed to carry out an exercise on their own in respect of cases where the Commission has tendered its first stage advice to ensure that the articles of charge and statement of imputations are in conformity with the advice. The CVOs of Ministries can also check charge sheets in a random manner during their visits/inspections.

8. This instruction is available in the website of CVC at <http://cvc.nic.in>.



**(N.VITTAL)**

**CENTRAL VIGILANCE COMMISSIONER**

TO

- (i) The Secretaries of All Ministries/Departments of Government of India.
- (ii) The Chief Secretaries to All Union Territories.
- (iii) The Comptroller & Auditor General of India.
- (iv) The Chairman, Union Public Service Commission.
- (v) All Chief Vigilance Officers in the Ministries/Departments/PSEs/Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies.
- (vi) President's Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO.
- (vii) The Director/CBI, New Delhi.

**98/VGL/60**  
**Government of India**  
**Central Vigilance Commission**  
\*\*\*\*\*

**Satarkta Bhawan, Block 'A',**  
**GPO Complex, INA,**  
**New Delhi – 110 023**  
**Dated the 15<sup>th</sup> April 1999**

**To**

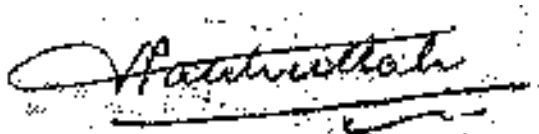
**All Chief Vigilance Officers**

**Subject:      Rotation of officials working in sensitive posts.**

\*\*\*\*\*

Instructions have been issued from time to time by the Central Vigilance Commission and the Department of Personnel and Training for making rotational transfers in respect of the officials posted on sensitive posts at periodic intervals. These instructions are not being strictly followed and fallen into disuse.

2. In order to implement these instructions in a letter and spirit, it has been decided by the Commission that a list of sensitive posts in various Departments/Organisations should be identified by the Chief Vigilance Officer of the Department/Organisation. A list of posts so identified by the CVOs may be intimated to the Commission immediately. Thereafter CVOs in consultation with the Chief Executives would ensure that officials posted on sensitive posts are rotated every two/three years to avoid developing vested interests. In case officials posted on the sensitive posts continue to function in violation of the existing orders, the Commission may be apprised so that it may take up the matter with the concerned Departments/Organisations for implementing these instructions.



**(P.S.FATEHULLAH)**  
**DIRECTOR**

No-8(1)(g)/99(2)  
CENTRAL. VIGILANCE COMMISSION

\*\*\*\*\*

SATARKTA BHAWAN  
GPO COMPLEX, BLOCK-"A"  
INA, NEW DELHI-110023  
DATED 19TH FEBRUARY, 1999.

**Subject:- Reducing Delays in Departmental Inquiries.**

One of the causes for delay in departmental inquiries is appointment of Presenting Officer. To avoid such delays, the Commission, in exercise of its powers conferred on it under Section 8(1)(g) of the CVC Ordinance 1999, directs all Departments/Organisations within its jurisdiction to indicate, henceforth, the names of the Presenting Officer to be appointed while referring the cases to the Commission for 1st Stage advice and where the Disciplinary Authority proposes to initiate major penalty action. After the Commission endorses the proposed action, the Departments/ Organisations will ensure that the Inquiry Officer and Presenting Officer are appointed simultaneously after service of charge-sheet and immediately on denial of charges by the Charged Officer. The Departments/organisations should also indicate appropriate disciplinary authority in each case while referring the case to the Commission for first stage advice. The Commission in turn will communicate its advice to the Disciplinary Authority/Secretary of the Ministries with a copy to the CVO for follow up action.

  
(N. VITTAL) 19/2/99  
**CENTRAL VIGILANCE COMMISSIONER**

To

- (i) The Secretaries of All Ministries/Departments of Government of India
- (ii) The Chief Secretaries to All Union Territories
- (iii) The Comptroller & Auditor General of India
- (iv) The Chairman, Union Public Service Commission
- (v) All Chief Executives of PSEs/Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies

- (vi) All Chief Vigilance Officers in the Ministries/Departments/PSEs/Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies
- (vii) President Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO

**IMMEDIATE**

No.8(1)(h)/98(3)

**CENTRAL VIGILANCE COMMISSION**

Jaisalmer House, Man Singh Road  
New Delhi – 110 011

Dated the 27th November 98.

**Sub: Sanction of Prosecution**

The Central Vigilance Commission, while reviewing the overall functioning of the vigilance administration of the Departments/Organisations has observed that one of the methods of improving the vigilance functions is to give prompt clearance for sanction for Prosecution under the Prevention of Corruption Act. The Supreme Court has also in the case of Vineet Narain and others Vs. Government of India directed that **a time limit of 3 months in grant of sanction for prosecution must be strictly adhered to. However, additional time of one month may be allowed where consultation is required with the Attorney General or any other Law Officer in the AG's Office.** Subsequently, the Commission had also issued instructions vide its letter No.98/VGL/7 dated the 12<sup>th</sup> March,1998,directing all Ministries/Departments / Organisations to furnish their comments on CBI reports within 30 days of the receipt of CBI reports in respect of prosecution and disciplinary cases. Notwithstanding these directions/instructions, delays on the part of the disciplinary/administrative authorities in the cases of sanction of prosecution continue to exist.

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

“to review the progress of applications pending with the competent authorities for sanction of prosecution under the Prevention of Corruption Act, 1988”

3. Therefore, in exercise of powers conferred on CVC under Section 8(1)(f) in conjunction with Section 8(1)(h) of the CVC Ordinance 1998, it is hereby directed that:

Page 1 of 2

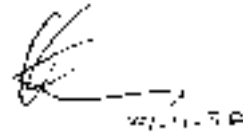


(i) In respect of CBI reports/cases in which the Commission's advice is not necessary, the competent authorities may exercise their mind and give or refuse sanction for prosecution under the PC Act, within the time limit of 30 days from the date of receipt of request from CBI; and

(ii) In respect of the cases of Presidential appointees, in which the Commission's advice is required, the competent authorities may furnish their comments within 30 days to the Commission and give the sanction of prosecution or otherwise, within a period of 60 days from the date of receipt of request from CBI.

4. If at the end of the above said time limits no decision had been given by the competent authorities, then the CVC will take an adverse view and deem it as a case of misconduct on the part of the competent authority.

5. This comes into force with immediate effect.



(N.VITTAL)

**CENTRAL VIGILANCE COMMISSIONER**

To

- (i) The Secretaries of All Ministries/Deptts. of Government of India.
- (ii) The Chief Secretaries to all Union Territories.
- (iii) The Comptroller & Auditor General of India.
- (iv) The Chairman, Union Public Service Commission.
- (v) The Director, CBI
- (vi) All Chief Vigilance Officers in the Ministries/ Departments/PSEs/ Public Sector Banks/ Insurance Companies/ Autonomous Organisations/Societies.
- (vii) President's Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO.

No.98/VGL/7  
Government of India  
Central Vigilance Commission  
\*\*\*\*

Bikaner House, 1<sup>st</sup> Floor,  
New Delhi, dtd.12/3/98

To

All Chief Vigilance Officers

Sub: Action on CBI reports – Revised time limit for furnishing comments to the Commission.

Ref: 1) Commission's letter No.4/62/70-R-dated 3<sup>rd</sup> November, 1973  
2) Commission's letter No.4/62/70-R-dated 8<sup>th</sup> February, 1974

Sir,

As per existing instructions, the Ministries/Departments etc. are required to furnish their comments on CBI reports within a period of two months from the receipt of the CBI's report to the Commission. The Department of Personnel and Training vide their OM No.142/10/97-AVD I dated 14<sup>th</sup> January, 1998 advised all Ministries/Departments to strictly adhere to a time limit of three months for grant of sanction for prosecution of public servants.

2. The Commission in order to streamline the process and eliminate delays in the processing of prosecution as well as disciplinary cases has reviewed the time limits prescribed for consultation with it. It has, therefore been decided all Ministries/Departments/Organisation would furnish their comments on CBI reports within 30 days of the receipt of the CBI reports by them. It may therefore, be ensured in future that the comments are sent to the Commission within the specified period. If no comments are received within 30 days, it will be presumed that the Ministry/Department/Organisation has no comments to make and the Commission will thereafter, proceed with the examination of the case and tender advice without waiting further for the comments.

3. Commission's letter No.4/62/70-R dated 8<sup>th</sup> February, 1974 stands modified to the above extent.

4. All Ministries/Departments/Organisations may kindly note the above revised instructions for strict compliance.

Yours faithfully

Sd/-  
(A.K.KADYAN)  
DY.SECRETARY



सत्यमेव जयते



Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.evc.nic.in

EPABX  
24600200

फैक्स/Fax : 24651186

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

सं./No. 017/MSC/002-

दिनांक / Dated. 07.03.2017

OFFICE MEMORANDUM

**Subject: Expeditious finalisation of departmental proceedings pending with the Ministries / Departments / Organisations – regarding.**

**Reference: Commission's O.M. of even no. dated 10.01.2017.**

The Commission had vide its O.M. referred to above directed CVOs of all Ministries/Departments/Organisations to furnish particulars of all departmental inquiries, as on 31.12.2016, pending with them after submission of IO's report in respect of officials under the CVC jurisdiction (Category 'A' cases) and other officials (Category 'B' cases) in a prescribed format by 31.01.2017.

2. The Commission has since received information from around 290 organisations till date. On perusal of the data furnished by the individual organisations, the Commission has noticed that significant number of IO's reports in disciplinary cases are pending for consideration / processing at various stages with 173 organisations. The Commission has been time and again emphasising the need for expeditious finalisation of disciplinary proceedings and adherence to the time lines prescribed by the DoPT/CVC by all Administrative Authorities. Despite such persuasion, it is observed that the required attention is not being accorded to this activity by the DA's concerned entailing inordinate delays in finalisation of cases.

3. All Disciplinary Authorities (DAs) may note that such inordinate delay in processing inquiry reports is neither in the interests of the organisation nor the officer concerned. The Commission has directed that all such departmental inquiries pending after receipt of IO's report are required to be brought to a logical conclusion within the prescribed timeline by issue of final orders by the competent authorities concerned in the Ministries/Departments/Organisations expeditiously without any further delay, following

laid down procedure. The DAs concerned in the individual organisations are, therefore, advised to expeditiously process all such pending reports. Further, the CVOs concerned are also directed to vigorously pursue all such pending matters with the DAs. Non-compliance to the above directions and timelines would be viewed adversely by the Commission.

4. This issues with the approval of the Central Vigilance Commissioner.



(J Vinod Kumar)  
Director  
Tel.No. 2465 1019

To:

The CEOs / CVOs as per enclosed list (173 nos.)

**Departmental Inquiries pending with Ministries/Departments/Organisations as on 31.12.2016**

**Information received upto 07.03.2017**

**UNDER THE CVC JURISDICTION (CATEGORY 'A' CASES)**

S. No.	Organisation name	1 No. of disciplinary cases pending with IO's	2 No. of IO's reports received and pending finalisation with DA	3 Total (1+2)	Details and break up of IO's reports pending finalisation.						
					No. of reports received and pending consideration of DA		No. of cases wherein after consideration by DA, sent for representation of charged officer, which is awaited		No. of cases wherein charged Officer's representation received and is under consideration of DA		
					<2 months	Over months	<2 months	Over months	<2 months	Over 2 months	
1.	CPCL	0	0	0	0	0	0	0	0	0	0
2.	MSTC	0	0	0	0	0	0	0	0	0	0
3.	GIC	0	1	1	0	0	0	0	0	0	1
4.	KPT	2	0	2	0	0	0	0	0	0	0
5.	WCL	2	1	3	0	0	1	0	0	0	0
6.	Swami VNIRT&R	0	1	1	0	1	0	0	0	0	0
7.	SJVNL	0	0	0	0	0	0	0	0	0	0
8.	Andhra Bank	2	0	2	0	0	0	0	0	0	0
9.	CONCOR	0	0	0	0	0	0	0	0	0	0
10.	CPWD	29	18	47	3	1	0	0	1	13	0
11.	IOCL	1	17	18	15	2	0	0	0	0	0
12.	Engineers India Ltd.	1	2	3	0	0	0	0	0	0	2
13.	BIS	5	4	9	1	3	0	0	0	0	0
14.	Coal India Ltd.	2	0	2	0	0	0	0	0	0	0
15.	BCCL	2	2	4	0	0	2	0	0	0	0
16.	NHPC	0	0	0	0	0	0	0	0	0	0
17.	Pastour Institute of India	0	2	2	0	0	0	0	0	0	2

18.	Indian Institute of Entrepreneurship	0	1	0	1	0	0	0	0	0	0	0	0	0
19.	South Eastern Coalfields Ltd.	3	0	0	3	0	0	0	0	0	0	0	0	0
20.	M/o Civil Aviation	2	3	0	5	0	0	0	0	0	0	0	0	3
21.	SAH.	6	0	0	6	0	0	0	0	0	0	0	0	0
22.	STC	6	0	0	6	0	0	0	0	0	0	0	0	0
23.	PGCH.	2	1	1	3	1	0	0	0	0	0	0	0	0
24.	Bank of India	2	4	3	6	1	0	0	0	0	0	0	0	0
25.	IRCON International Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0
26.	Hindustan Insecticides Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0
27.	Oriental Bank of Commerce	4	0	0	4	0	0	0	0	0	0	0	0	0
28.	PFC Ltd.	1	0	0	1	0	0	0	0	0	0	0	0	0
29.	State Bank of Hyderabad	0	0	0	0	0	0	0	0	0	0	0	0	0
30.	Central Institute of Plastics Engineering & Technology	0	0	0	0	0	0	0	0	0	0	0	0	0
31.	M/o Food Processing Industries	0	0	0	0	0	0	0	0	0	0	0	0	0
32.	M/o R1&H	1	1	0	2	0	0	0	0	0	0	0	1	0
33.	State Bank of Travancore	0	0	0	0	0	0	0	0	0	0	0	0	0
34.	D/o Heavy Industry	3	1	0	4	0	0	0	0	0	0	0	1	0
35.	State Bank of India	41	11	0	52	0	0	0	0	0	0	0	8	3
36.	Indian Institute of Forest Management	0	0	0	0	0	0	0	0	0	0	0	0	0
37.	NMDC Ltd.	1	0	0	1	0	0	0	0	0	0	0	0	0
38.	Oriental Bank of Commerce	4	0	0	4	0	0	0	0	0	0	0	0	0
39.	Union Bank of India	9	2	0	11	0	0	0	0	0	0	0	1	0
40.	GAIL India Ltd.	4	0	0	4	0	0	0	0	0	0	0	0	0
41.	TCH.	0	0	0	0	0	0	0	0	0	0	0	0	0
42.	Central Warehousing Corp.	4	0	0	4	0	0	0	0	0	0	0	0	0
43.	Prime Minister's Office	0	0	0	0	0	0	0	0	0	0	0	0	0
44.	Bank of Baroda	2	1	0	3	0	0	1	0	0	0	0	0	0
45.	Mahanesi Coalfields Ltd.	1	0	0	1	0	0	0	0	0	0	0	0	0
46.	Bharat Dynamics Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0

47.	M/o Social Justice & Empowerment	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
48.	HUDCO	12	3	0	15	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
49.	Bank of Maharashtra	9	5	0	14	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
50.	M/o Steel	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
51.	Central Coalfields Ltd.	3	0	0	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
52.	NBCC (India) Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
53.	National Textile Corp. Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
54.	The New India Assurance Co. Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
55.	RINL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
56.	Cement Corp. of India Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
57.	Birla Group of Companies	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
58.	M/o Power	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
59.	MMTC Ltd.	1	1	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
60.	CRPF	9	7	3	16	2	2	0	0	0	0	0	0	0	0	0	0	0	0	0
61.	NITRO	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
62.	SCI	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
63.	Chennai Port Trust	1	2	0	3	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0
64.	National Institute for the Empowerment of Persons with Intellectual Disabilities	8	1	1	9	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
65.	Hindustan Shipyard Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
66.	NTPC	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
67.	The Rubber Board	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
68.	University of Delhi	1	2	0	3	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0
69.	Prasar Bharti	13	3	0	16	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3
70.	MTNL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
71.	Mumbai Port Trust	4	1	1	5	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
72.	M/o Ayush	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
73.	Vijaya Bank	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
74.	Scooters India Ltd.	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
75.	Kendriya Bhandar	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
76.	D/o Expenditure	4	0	0	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
77.	Punjab & Sind Bank	3	3	1	6	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
78.	State Bank of Mysore	2	7	0	9	0	4	0	0	0	0	0	0	0	0	0	0	0	0	0
79.	IDBI Bank Ltd.	3	1	1	4	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0







126.	Archaeological Survey of India	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
127.	Bharat Sanchar Nigam Ltd. (BSNL)	66	64	130	3	13	2	3	6	37	0	0	0	0	0	0	0	0	0
128.	Central Electricity Authority (M/o Power)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
129.	D/o Agriculture, Cooperation & Farmers Welfare	6	1	7	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
130.	M/o Mines	0	1	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
131.	Dena Bank	9	5	14	0	1	0	0	3	1	0	0	0	0	0	0	0	0	0
132.	Employees' Provident Fund Organisation (EPFO)	44	25	69	0	18	2	0	0	5	0	0	0	0	0	0	0	0	0
133.	Central Electronics Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
134.	Narcotics Control Bureau (NCB) MHA	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
135.	Dte. General Border Security Force, MHA	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
136.	Atomic Energy Education Society	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
137.	M/o Electronics & Information Technology	2	1	3	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
138.	Air India	0	6	6	0	2	0	0	0	4	0	0	0	0	0	0	0	0	0
139.	Controller General of Accounts	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
140.	M/o Corporate Affairs	3	5	8	0	1	0	0	0	4	0	0	0	0	0	0	0	0	0
141.	GNCTD	32	16	48	3	2	1	0	2	8	0	0	0	0	0	0	0	0	0
142.	National School of Drama (M/o Culture)	0	1	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0
143.	Nehru Memorial Museum & Library	0	3	3	1	0	0	0	0	2	0	0	0	0	0	0	0	0	0
144.	M/o Railways	165	185	350	21	58	8	3	10	85	0	0	0	0	0	0	0	0	0
145.	National Insurance Co. Ltd., Kolkata	0	1	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0
146.	Punjab National Bank (PNB)	6	1	7	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
147.	India Trade Promotion Organisation (ITPO)	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
148.	NCCF of India Ltd.	0	6	6	0	4	0	1	0	1	0	0	0	0	0	0	0	0	0



**NON – CVC INQUIRIES (CATEGORY ‘B’ CASES)**

S. No.	Organisation name	1			2		3	Details and break up of IO's reports pending finalisation						
		No. of disciplinary cases pending with IO's		No. of IO's reports received and pending finalisation with DA	Total (1+2)			No. of reports received and pending consideration of DA		No. of cases wherein after consideration by DA, sent for representation of charged officer, which is awaited		No. of cases wherein Charged Officer's representation and is under consideration of DA		
					<2 months	Over months		<2 months	Over months	<2 months	Over months	<2 months	Over months	
1.	CPCL	1		1	2	0	0	0	0	0	0	1	0	2
2.	MSTC	0		1	1	0	1	0	0	0	0	0	0	0
3.	GIC	0		0	0	0	0	0	0	0	0	0	0	0
4.	KPT	2		7	9	0	0	7	0	0	0	0	0	0
5.	WCL	3		0	3	0	0	0	0	0	0	0	0	0
6.	Swami VNIRT&R	0		0	0	0	0	0	0	0	0	0	0	0
7.	SIVNL	0		1	1	1	0	0	0	0	0	0	0	0
8.	Andhra Bank	12		11	23	5	0	2	1	2	1	2	1	1
9.	CONCOR	1		1	2	0	0	0	0	0	0	1	0	0
10.	CPWD	1		1	2	0	1	0	0	0	0	0	0	1
11.	IOCL	8		4	12	2	0	1	0	0	0	0	1	1
12.	Engineers India Ltd.	0		1	0	0	0	0	0	0	0	0	0	1
13.	BIS	0		0	0	0	0	0	0	0	0	0	0	0
14.	Coal India Ltd.	1		1	2	0	0	0	0	0	1	0	0	0
15.	BCCL	7		3	10	0	0	0	0	0	0	1	2	2
16.	NHPC	3		1	4	0	1	0	0	0	0	0	0	0
17.	Pasteur Institute of India	6		2	8	2	0	0	0	0	0	0	0	0
18.	Indian Institute of Entrepreneurship	0		0	0	0	0	0	0	0	0	0	0	0
19.	South Eastern Coalfields Ltd.	1		0	1	0	0	0	0	0	0	0	0	0



45.	Mahansidi Coalfields Ltd.	2		3		5		0		0		0		0		1		2
46.	Bharat Dynamics Ltd.	2		2		4		2		0		0		0		0		0
47.	M/o Social Justice & Empowerment	1		0		1		0		0		0		0		0		0
48.	HUDCO	4		0		4		0		0		0		0		0		0
49.	Bank of Maharashtra	47		21		68		0		0		1		0		8		12
50.	M/o Steel	0		0		0		0		0		0		0		0		0
51.	Central Coalfields Ltd.	7		2		9		0		0		1		0		1		0
52.	NBCC (India) Ltd.	1		1		2		0		1		0		0		0		0
53.	National Textile Corp. Ltd.	13		7		20		6		1		0		0		0		0
54.	The New India Assurance Co. Ltd.	15		15		30		0		1		0		2		2		10
55.	RINL	0		4		4		0		0		1		0		3		0
56.	Cement Corp. of India Ltd.	0		1		1		0		0		0		0		0		1
57.	Bird Group of Companies	1		0		1		0		0		0		0		0		0
58.	M/o Power	0		0		0		0		0		0		0		0		0
59.	MMTC Ltd.	2		1		3		0		0		0		0		0		1
60.	CRPF	10		21		31		13		2		5		0		1		0
61.	National Technical Research Orgn.	8		3		11		0		3		0		0		0		0
62.	SCI	5		7		12		0		7		0		0		0		0
63.	Chennai Port Trust	9		12		21		2		10		0		0		0		0
64.	National Institute for the Empowerment of Persons with Intellectual Disabilities	0		0		0		0		0		0		0		0		0
65.	Hindustan Shipyard Ltd.	7		1		8		1		0		0		0		0		0
66.	NTPC	1		16		17		15		0		0		0		1		0
67.	The Rubber Board	1		0		1		0		0		0		0		0		0
68.	University of Delhi	1		2		3		0		0		0		0		0		2
69.	Prasar Bharti	16		9		25		6		2		0		0		0		1
70.	MTNL	19		15		34		0		0		2		0		4		9
71.	Mumbai Port Trust	3		0		3		0		0		0		0		0		0



96.	Controller General of Defence Accounts	31	12	43	3	1	0	1	3	4
97.	Hindustan Copper Ltd. (HCL)	1	2	3	1	1	0	0	0	0
98.	D/o Higher Education (M/o HRD)	0	0	0	0	0	0	0	0	0
99.	Canara Bank	27	2	29	1	0	0	0	1	0
100.	Delhi Transport Corp. (DTC)	3	0	3	0	0	0	0	0	0
101.	Sashastra Seema Bal. MHA	2	0	2	0	0	0	0	0	0
102.	Indian Bank	17	6	23	1	0	2	1	0	2
103.	State Bank of Bikaner & Jaipur (SBBJ)	8	12	20	0	0	8	0	3	1
104.	NLC India Ltd.	1	6	7	0	0	0	0	1	5
105.	M/o Human Resource Development (M/o HRD)	0	0	0	0	0	0	0	0	0
106.	North Eastern Regional Institute of Science and Technology	0	0	0	0	0	0	0	0	0
107.	Central Council for Research in Ayurvedic Sciences	0	0	0	0	0	0	0	0	0
108.	Central Cottage Industries Corp. of India Ltd.	1	0	1	0	0	0	0	0	0
109.	Nuclear Power Corp. of India Ltd. (NPCIL)	0	0	0	0	0	0	0	0	0
110.	Indian Institute of Tropical Meteorology	3	0	3	0	0	0	0	0	0
111.	Visakhapatnam Port Trust	4	0	4	0	0	0	0	0	0
112.	Software Technology Parks of India	0	0	0	0	0	0	0	0	0
113.	National Aluminium Co. Ltd. (NALCO)	10	1	11	0	0	1	0	0	0
114.	REPCO Bank	2	2	4	0	2	0	0	0	0
115.	M/o Textile	0	0	0	0	0	0	0	0	0
116.	AAI	7	2	9	0	1	0	0	1	0



117.	DDA	0	4	4	1	0	0	0	1	0	0	2
118.	Directorate General, ITB Police	3	4	7	1	3	0	0	0	0	0	0
119.	D/o Economic Affairs	0	0	0	0	0	0	0	0	0	0	0
120.	M/o Shipping	0	0	0	0	0	0	0	0	0	0	0
121.	Rashtriya Chemicals and Fertilizers Ltd.	1	4	5	4	0	0	0	0	0	0	0
122.	Directorate General of Civil Aviation	0	0	0	0	0	0	0	0	0	0	0
123.	India Tourism Development Corp. Ltd.	4	4	8	0	2	0	0	1	0	0	1
124.	Hindustan Aeronautics Ltd.	13	9	22	5	4	0	0	0	0	0	0
125.	Life Insurance Corp. of India (LIC)	31	44	75	1	14	0	0	27	0	0	2
126.	Archaeological Survey of India	4	2	6	2	0	0	0	0	0	0	0
127.	Bharat Sanchar Nigam Ltd. (BSNL)	140	256	396	11	96	7	15	3	15	124	
128.	Central Electricity Authority (M/o Power)	1	0	1	0	0	0	0	0	0	0	0
129.	D/o Agriculture, Cooperation & Farmers Welfare	0	0	0	0	0	0	0	0	0	0	0
130.	M/o Mines	0	0	0	0	0	0	0	0	0	0	0
131.	Deesa Bank	20	14	44	2	0	1	4	1	4	6	
132.	Employees' Provident Fund Organisation (EPFO)	38	35	73	2	23	0	1	8	1	1	
133.	Central Electronics Ltd.	0	1	1	1	0	0	0	0	0	0	0
134.	Narcotics Control Bureau (NCB) MHA	8	2	10	2	0	0	0	0	0	0	0
135.	Dir. General Border Security Force, MHA	2	4	6	1	2	1	0	0	0	0	0
136.	Atomic Energy Education Society	4	1	5	0	0	0	0	0	1	0	0



160.	National Training Institute (NPTI)	Power Institute	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
161.	Dattopant National Board for Workers Education and Development	Thengadi	5	3	0	8	0	2	0	0	0	0	0	0	0	0	0	0	0
162.	Indian Institute of Mass Communication	Indian Institute of Mass Communication	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
163.	Indian Overseas Bank	Indian Overseas Bank	122	60	3	182	0	0	10	06	27	14	0	0	0	0	0	0	0
164.	Indian Rare Earths Ltd.	Indian Rare Earths Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
165.	Central Council of Indian Medicine	Central Council of Indian Medicine	1	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
166.	Madras Fertilizers Ltd.	Madras Fertilizers Ltd.	2	0	0	2	0	2	0	0	0	0	0	0	0	0	0	0	0
167.	National Institute of Industrial Engineering	National Institute of Industrial Engineering	0	1	0	1	0	0	0	1	0	1	0	0	0	0	0	0	0
168.	State Bank of Patna	State Bank of Patna	13	9	1	22	1	8	0	0	0	0	0	0	0	0	0	0	0
169.	Establishment Division of DAC&FW	Establishment Division of DAC&FW	7	2	1	9	1	0	1	0	1	0	0	0	0	0	0	0	0
170.	National Horticulture Board	National Horticulture Board	1	0	0	1	0	0	1	0	0	0	0	0	0	0	0	0	0
171.	Mazagon Dock Ltd.	Mazagon Dock Ltd.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
172.	Staff Selection Commission	Staff Selection Commission	1	6	1	7	1	5	0	0	1	0	0	0	0	0	0	0	0
173.	NABARD	NABARD	5	2	2	7	2	0	1	1	0	0	0	0	0	0	0	0	0



सत्यमेव जयते



Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स/Fax : 24651186

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023  
007/VGL/054-

सं./No.....

24<sup>th</sup> Oct.2016

दिनांक / Dated.....

Circular No. 12/10/16

**Subject:-** Criteria to be followed while examining the lapses of authorities exercising judicial or quasi-judicial functions— regarding.

The Commission vide its Circular No. 39/11/07 dated 1<sup>st</sup> November 2007 had desired that while examining cases of officials exercising quasi-judicial functions, the criteria laid down by the Supreme Court in the K.K. Dhawan's case should be kept in mind for a uniform approach in such matters.

2. In a recent judgment dated 12<sup>th</sup> July 2016 in R.P. Parekh Case (Civil Appeal Nos. 6116-6117 of 2016), the Supreme Court has prescribed the procedure / principles to be followed while examining the case against an officer exercising judicial/quasi-judicial function. The relevant para -15 of the judgment is reproduced below:

*"The issue of whether a judicial officer has been actuated by an oblique motive or corrupt practice has to be determined upon a careful appraisal of the material on the record. Direct evidence of corruption may not always be forthcoming in every case involving a misconduct of this nature. A wanton breach of the governing principles of law or procedure may well be indicative in a given case of a motivated, if not reckless disregard of legal principle. In the absence of a cogent explanation to the contrary, it is for the disciplinary authority to determine whether a pattern has emerged on the basis of which an inference that the judicial officer was actuated by extraneous considerations can be drawn. Cases involving misdemeanours of a judicial officer have to be dealt with sensitivity and care. A robust common sense must guide the disciplinary authority. At one end of the spectrum are those cases where direct evidence of a misdemeanour is available. Evidence in regard to the existence of an incriminating trail must be carefully scrutinized to determine whether an act of misconduct is established on the basis of legally acceptable evidence. Yet in other cases, direct evidence of a decision being actuated by a corrupt motive may not be available. The issue which arises in such cases is whether there are circumstances from which an inference that extraneous considerations have actuated a judicial officer can legitimately be drawn. Such an inference cannot obviously be drawn merely from a*

*hypothesis that a decision is erroneous. A wrong decision can yet be a bona fide error of judgment. Inadvertence is consistent with an honest error of judgment. A charge of misconduct against a judicial officer must be distinguished from a purely erroneous decision whether on law or on fact....."*

3. The Supreme Court in R P Parekh case has laid down the following conditions / procedure to be followed to determine as to whether an act of a judicial officer has been actuated by an oblique motive or corrupt practice:

- (i) Since, direct evidence of corruption may not always be forthcoming in every case involving a misconduct, a wanton breach of the governing principles of law or procedure may well be indicative in a given case of a motivated, if not reckless disregard of legal principle.
- (ii) In the absence of cogent explanation, it is for the disciplinary authority to determine whether a pattern has emerged on the basis of which an inference that an officer was actuated by extraneous considerations can be drawn.
- (iii) The disciplinary authority has to determine whether there has emerged from the record one or more circumstances that indicate that the decision which form the basis of the charge of misconduct was not an honest exercise of judicial power.
- (iv) A charge of misconduct against a judicial officer must be distinguished from a purely erroneous decision whether on law or on fact.

4. The Commission desires that in addition to the principles enunciated in the Commission's Circular dated 1<sup>st</sup> November, 2007, the afore-mentioned criteria in the judgment may also be kept in mind while examining alleged lapses/misconducts in respect of officials exercising quasi-judicial functions/powers.

5. All CVOs are also advised to apprise the above said principles to all Disciplinary Authorities / Administrative Authorities in the Organisations for guidance.



(J. Vinod Kumar)  
Director

To,

All CVOs of Ministries/Depts./CPSEs/ PSBs/FIs/PSICs/Autonomous Organisations.

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स/Fax : 24651186



केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

सं./No. 016/CRD/001-313425

दिनांक / Dated 02.05.2016

Circular No. 05/05/2016

Subject:- Inquiry proceedings pending before the IOs – regarding.

The Commission has observed that a number of inquiry proceedings are pending with the Departmental Inquiry Officers as the Chief Vigilance Officer / Presenting Officer; as the case may be, are not able to make available listed documents of the case. It appears that this problem is particularly acute in respect of disciplinary proceedings initiated on account of investigations by the CBI.

2. All CVOs are therefore, advised to review the pending inquiries with the Departmental Inquiry Officers and furnish a status report in their next monthly report to the Commission.

[Asit Gopal]  
Director

All CVOs of Ministries / Departments / CPSUs / Public Sector Banks / Insurance Companies / Autonomous Organisations / Societies etc.



सत्यमेव जयते



Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स/Fax : 24651186

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

सं./No..... 000-VGL-18

दिनांक / Dated 18.01.2016

Circular No. 02/01/2016

**Subject:** Timely completion of disciplinary proceedings/departmental inquiry proceedings—improving vigilance administration.

**Ref:** (i) Commission's Circular No. 8(1)(g)/99(2) dated 19.02.1999  
(ii) Commission's Circular No. 8(1)(g)/99(3) dated 03.03.1999  
(iii) Commission's Circular No. 3(v)/99(7) dated 06.09.1999  
(iv) Commission's Circular No. 000/VGL/18 dated 23.05.2000  
(vi) Commission's Office Order No. 51/08/2004 dated 10.08.2004

The Commission has noted with serious concern that the administrative authorities are not adhering to the time-schedules prescribed for completion of disciplinary proceedings. In a recent study conducted by the Commission, it has been noticed that while the average time taken by the administrative authorities in finalisation of disciplinary proceedings is more than 2 years, the maximum time taken in a particular case was eight (8) years and at least in 22% cases the inquiry took more than two years. The Commission vide its Circular No. 8(1)(g)/99(3) dated 03.03.1999 and No. 000/VGL/18 dated 23.05.2000 has laid down the time limits for various stages of disciplinary proceedings right from the stage of investigation to finalisation of the disciplinary case. The time-limit for completion of departmental inquiry is six months from the date of appointment of the IO. Thus, it appears that this time limit is not being adhered to by a majority of the Departments/Organisations. Such long delays not only are unjust to officials who may be ultimately acquitted, but help the guilty evade punitive action for long periods. Further, they have an adverse impact on others who believe that "nothing will happen". The Commission has been emphasising from time to time on the need for expeditious completion of disciplinary proceedings.

2. Recently, the Hon'ble Supreme Court in its judgment dated 16.12.2015 in Civil Appeal No. 958 of 2010 Prem Nath Bali Vs. Registrar, High Court of Delhi & Anr has viewed the delay in handling of disciplinary cases adversely. The Hon'ble Supreme Court while allowing the said appeal in favour of the Appellant Employee has observed as follows:

“29. One cannot dispute in this case that the suspension period was unduly long. We also find that the delay in completion of the departmental proceedings was not wholly attributable to the appellant but it was equally attributable to the respondents as well. Due to such unreasonable delay, the appellant naturally suffered a lot because he and his family had to survive only on suspension allowance for a long period of 9 years.

30. We are constrained to observe as to why the departmental proceeding, which involved only one charge and that too uncomplicated, have taken more than 9 years to conclude the departmental inquiry. No justification was forthcoming from the respondents' side to explain the undue delay in completion of the departmental inquiry except to throw blame on the appellant's conduct which we feel, was not fully justified.

31. Time and again, this Court has emphasized that it is the duty of the employer to ensure that the departmental inquiry initiated against the delinquent employee is concluded within the shortest possible time by taking priority measures. In cases where the delinquent is placed under suspension during the pendency of such inquiry then it becomes all the more imperative for the employer to ensure that the inquiry is concluded in the shortest possible time to avoid any inconvenience, loss and prejudice to the rights of the delinquent employee.

32. As a matter of experience, we often notice that after completion of the inquiry, the issue involved therein does not come to an end because if the findings of the inquiry proceedings have gone against the delinquent employee, he invariably pursues the issue in Court to ventilate his grievance, which again consumes time for its final conclusion.

33. Keeping these factors in mind, we are of the considered opinion that every employer (whether State or private) must make sincere endeavor to conclude the departmental inquiry proceedings once initiated against the delinquent employee within a reasonable time by giving priority to such proceedings and as far as possible it should be concluded within six months as an outer limit. Where it is not possible for the employer to conclude due to certain unavoidable causes arising in the proceedings within the time frame then efforts should be made to conclude within reasonably extended period depending upon the cause and the nature of inquiry but not more than a year.”

3. The Commission has observed that a number of factors contribute to the delay in the conduct of departmental inquiries and with prudent management this needs to be checked. The departmental inquiry is often delayed due to laxity on the part of IO, lack of monitoring by DA & CVO, non-availability of listed or additional documents, delay in inspection of original or certified documents, frequent adjournments, non-attendance of witnesses, especially private witnesses, faulty charge-sheets and frequent change of IO/PO and non-monitoring of progress of inquiry. The Commission suggests that the following steps may be ensured and complied strictly by the IOs/administrative authorities:

- (i) In cases where investigation has been conducted by the CBI/ other investigating agency and the documents have been seized by them for prosecution in courts and RDA is also contemplated, it is the responsibility of the CVO/DA to procure from the CBI/investigating agency legible certified copies of seized documents required for RDA. In cases investigated by CVOs it must be ensured that certified legible photocopies of all documents are made available at the time of preparation of draft charge-sheet itself.



- (ii) While drafting the charge-sheet it may be ensured that all the relied upon documents as well as copies of relevant rules/instructions are in the custody of CVO. After issue of charge-sheet and submission of defence statement, the DA is required to take a decision within 15 days for appointment of IO/PO in major penalty cases.
- (iii) As far as practicable, the IO should be chosen from amongst the serving officers/retired officers in the same station where the charged officer is posted, who is likely to continue till the conclusion of inquiry.
- (iv) It may be ensured that the PO is appointed simultaneously. Changes in IO/PO be resorted to only in exceptional cases under intimation to the Commission (in respect of officers within the jurisdiction of the Commission).
- (v) In cases involving more than one charged officer, it may be ensured that, as far as practicable, same IO/PO is appointed in all cases.
- (vi) The PO must keep copies of relevant Rules/Regulations/Instructions etc. readily available with him. Departments/Organisations should also ensure online availability of all their Rules/Regulations/Instructions etc. so that it can be downloaded during the inquiry proceedings without any loss of time.
- (vii) It may be ensured that the defence documents are made available within the time allowed by the IO. Responsibility should be fixed on the custodian of such documents for any undue delay/not producing it in time or loss of these documents.
- (viii) The IO should normally conduct Regular Hearing on a day to day basis and not grant more than one adjournment for appearance of witnesses. It may be ensured that all the prosecution or defence witnesses are summoned and examined in separate but simultaneous batches expeditiously.
- (ix) If witnesses do not appear in response to notices or are not produced by PO/CO as the case may be, powers conferred under the Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1972 be exercised to request the Competent Court to pass orders for production of the witness through summons issued by the Court.
- (x) The IO should, as far as practicable, desist from allowing interlocutory documents sought either by the PO or the CO as additional documents during the deposition of witnesses.
- (xi) The time-limit for various stages of inquiry, as prescribed by the Commission vide its Circular No. 8(1)(g)99(3) dated 03.03.1999, may be complied with strictly by the disciplinary authorities and the inquiry officers.
- (xii) Where the CO or PO do not co-operate in the manner of attendance, production of documents, witnesses etc., IO may after affording reasonable opportunity, proceed to give a report ex-parte based on facts, documents, witnesses produced before him.

4. The suggested time limits for conducting departmental inquiries prescribed by the Commission for various stages is annexed for ready reference. Timely completion of departmental inquiry/departmental proceedings is the prime responsibility of the Disciplinary Authority. Therefore, the disciplinary authorities in each Ministry/Department/Organisation may regularly monitor the progress of inquiry on regular basis and ensure that the inquiry/departmental proceedings are completed within the time-limit prescribed as laid down by Hon'ble Supreme Court in the above cited case. The CVO concerned would assist the disciplinary authority in monitoring the progress of departmental proceedings. The Commission may recommend adverse action against the concerned disciplinary/administrative authority who is found responsible for any unexplained delay observed in any case. In appropriate cases wherein the IO delays the proceedings, DA may not hesitate to take necessary and appropriate action against the IO.



(J. Vinod Kumar)  
Director

To

- (i) The Secretaries of all Ministries/Departments of GoI
- (ii) All Chief Executives of CPSUs/Public Sector Banks/Public Sector Insurance Companies/Autonomous Bodies/etc.
- (iii) All CVOs of Ministries/Departments of GoI/CPSUs/Public Sector Banks/Public Sector Insurance Companies/Autonomous Bodies/ etc.
- (iv) Website of CVC

Copy to:

Department of Personnel & Training [Shri Jishnu Barua, Joint Secretary (S&V2) & CVO], North Block, New Delhi-110001 for information and necessary action.

**Model Time Limit for Departmental Inquiries as laid down in Circular No. 8(1)(g)99(3) dated 03.03.1999**

Stage of Departmental Inquiry	Time Limit prescribed
<ul style="list-style-type: none"> <li>• Fixing date of Preliminary Hearing and inspection of listed documents, submission of Defence documents/witnesses and nomination of a Defence Assistant (DA) (if not already nominated)</li> </ul>	Within four weeks
<ul style="list-style-type: none"> <li>• Inspection of relied upon documents/submission of list of DWs/Defence documents/Examination of relevancy of Defence documents/DWs, procuring of additional documents and submission of certificates confirming inspection of additional documents by CO/DA</li> <li>• Issue of summons to the witnesses, fixing the date of Regular Hearing and arrangement for participation of witnesses in the Regular Hearing</li> <li>• Regular Hearing on Day to Day basis</li> </ul>	3 months
<ul style="list-style-type: none"> <li>• Submission of Written Brief by PO to CO/IO</li> </ul>	15 days
<ul style="list-style-type: none"> <li>• Submission of Written Brief by CO to IO</li> </ul>	15 days
<ul style="list-style-type: none"> <li>• Submission of Inquiry Report from the date of receipt of written Brief by PO/CO</li> </ul>	30 days

NB: If the above schedule is not consistent /in conflict with the existing rules/ regulations of any organisation, the outer time limit of six months for completing the Departmental Inquiries should be strictly adhered to.

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvjgil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स/Fax : 24651186



सत्यमेव जयते

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023

Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

सं./No..... 015/IT/01-317795

दिनांक / Dated..... 21.06.2016

Circular No. 07/06/2016

Subject:- Processing of priority cases on Fast Track basis – regarding.

The Commission has taken a serious note of huge delays in finalisation of Vigilance cases and accordingly has decided to fast track important cases for being attended on priority. Following type of cases shall be considered as Fast track Cases:

- Cases involving serious nature of misconduct like bribery, embezzlement of Government fund, forgery, frauds of amount exceeding Rs 10 crores and cases of nature of scam which attracted national public attention and which are likely to have deterrent or demonstrative effect on other employees/officers.
- Cases referred by Supreme court/High courts to the Commission & being monitored by these courts and Cases referred by PMO/Committee of Parliament seeking specific report/attention of the Commission.
- Cases wherein retirement of charged officer is due within next six months and in case of retired government officers within the limitation period.
- Cases of Board level officers in PSUs, Public Sector Banks, Insurance companies, Autonomous Bodies etc. and of the rank of AS & above in Central Government & in All India services.
- Any other case as may be decided by the Commission.

2. The time limits for various activities of a vigilance case like conducting investigation and submission of report, action on investigation report, reference to CVC for first stage advice, action taken on CVC's advice, issue of charge sheet, if required, appointment of IO/PO, conduct of oral inquiry, forwarding the case for Commission's second stage advice etc have been prescribed by the Commission vide its circular no 000/VGL/18 dated 23/05/2000.

3. The Commission would therefore, flag vigilance cases of each Department / Organisation identified as such for fast tracking. It will be the personal responsibility of the CVO and the Disciplinary Authority concerned to follow and adhere to the above prescribed time limits for each Fast Track case. CVOs would be able to see the Fast Track references in their respective accounts with "FT" flag after the file number. CVOs should, therefore, regularly login to their respective accounts under the link CVO's corner on Commission's website [cve.nic.in](http://cve.nic.in) and take stock of the pendency so that action could be taken within the specified time limits.

4. All Administrative Authorities/Disciplinary Authorities/CVOs are therefore advised to ensure that the above time limits are adhered to in all cases designated as Fast Track case right from the start of investigation of complaints, processing of investigation reports, seeking & implementing Commission's advice.

  
[J. Vinod Kumar]  
Director

1. All Secretaries of Ministries/Departments.
2. All CMDs/Heads of CPSUs / Public Sector Banks / Insurance Companies / FIs / Organisations.
3. All CVOs of Ministries/Departments/ CPSUs/Public Sector Banks/ Insurance Companies/FIs/Organisations.

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स/Fax : 24651186



केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023

Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

015/VGL/016-281040

सं./No.....

17.04.2015

Circular No. 06/04/2015

दिनांक / Dated.....

Subject:- Delay in finalisation of vigilance cases arising out of Intensive Examination conducted by CTEO – regarding.

The Chief Technical Examiners' Organisation (CTEO) wing of the Commission conducts Intensive Examination (I/E) of works/procurements etc. of various Departments/Organisations. Some of the paras of the I/E report of CTEO are converted into vigilance paras and referred to the CVOs of the organisations for conducting investigation and to identify the officers responsible for the lapses. For the purpose of investigation, an independent and reliable engineer, if considered necessary, can also be appointed / hired for assisting the CVO. Many a time, such matters arising out of CTE's examination are not given the required priority by the CVOs and also the concerned administrative authorities in the Departments / Organisations who are responsible to provide the required support to finalise pending issues/matters.

2. The Commission has of late observed that the reports of CVO's and replies to such CTE related inspection matters are unduly delayed by the Ministries/Departments/Organisations. There are inordinate delays in processing such matters / furnishing replies to the Commission resulting sometimes in retirement of suspect officials concerned. Moreover, the delays have been viewed adversely by courts. Expeditious conduct of preliminary enquiry and subsequent disciplinary action as per time limits laid down for the purpose need to be strictly adhered to by all Ministries / Departments / Organisations. The Commission has been emphasising on this aspect over the years. The Commission would, therefore, reiterate and advise all CVOs and Administrative Authorities to ensure expeditious finalisation of pending vigilance / disciplinary cases and related matters as it is neither in the interests of the organization nor fair to the official (s) to keep them pending.

3. Any undue delays noticed by the Commission in processing / finalisation of vigilance matters by the CVOs / Administrative Authorities would be viewed seriously by the Commission.

[J. Vinod Kumar]

Officer on Special Duty

All CVOs of Ministries / Departments / CPSUs / Public Sector Banks / Insurance Companies / Autonomous Organisations / Societies etc.



# Complaints

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स / Fax : 24651186



केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi-110023  
004/VGL/020(Pt.)

सं./No.....

दिनांक / Dated **13.08.2020**

Circular No.07/08/2020

**Sub.: Action taken by Chief Vigilance Officers (CVOs) on complaints sent for necessary action (NA) and updation of status in Complaint Management System application by CVOs.**

In terms of Complaint Handling Policy (CHP) of the Commission and Para 3.4.3 of Chapter-III of Vigilance Manual, 2017, complaints are sent to CVOs for necessary action through Complaint Monitoring System (CMS application). Though, no reply/report is required to be sent by the CVOs, however CVOs are required to examine and decide on such complaints within a period of one month from the date of receipt of complaint from the Commission, in terms of time limits prescribed by the Commission for various vigilance activities.

2. Further, it is also prescribed in Para 3.4.3 (c) of Vigilance Manual that, "Complaints referred to CVOs for necessary action must be referred back to the Commission for advice, if they have been investigated and a vigilance angle has come to notice against an officer falling under the jurisdiction of the Commission. If any such complaints are taken up for inquiry/ investigation by the CVO, the time limit of 12 weeks for completion of investigation and submission of report would apply. *Otherwise, such complaints require no further reference to the Commission and are to be disposed of by the Departments / Organisations themselves after taking necessary action. CVO should update the status of complaints sent for necessary action on the Commission's website" (in CMS application).*

3. It has been observed that majority of such complaints sent for necessary action are not examined timely and not updated regularly. The Commission has noted this issue with concern and accordingly, **all CVOs are advised to promptly update the status of action taken on each complaint sent for necessary action on Commission's Portal (i.e., [portal.cvc.gov.in](http://portal.cvc.gov.in)).**

(J. Vinod Kumar)  
Director

To,  
All Chief Vigilance Officers of Ministries / Departments / CPSUs / Public Sector Banks/Insurance Companies / Autonomous Organisations / Societies, etc.



संख्या-28/02/18-प्रशासन  
केन्द्रीय सतर्कता आयोग

सतर्कता भवन, ब्लाक-ए  
जी.पी.ओ. कॉम्प्लेक्स,  
आई.एन.ए. नई दिल्ली-23  
दिनांक .08.2018

विषय: केन्द्रीय सतर्कता आयोग में दिनांक 18.09.2018 को सांय 03.00 बजे से 05.00 बजे तक पेंशन अदालत का आयोजन।

महोदय/महोदया,

केन्द्रीय सतर्कता आयोग से सेवानिवृत्त हुए अधिकारियों/कर्मचारियों की पेंशन/परिवार पेंशन संबंधी समस्याओं का समाधान करने के लिए केन्द्रीय सतर्कता आयोग, सतर्कता भवन, नई दिल्ली-110023 में दिनांक 18.09.2018 को सांय 03.00 बजे से 05.00 बजे तक एक पेंशन अदालत का आयोजन किया जाएगा।

2. केन्द्रीय सतर्कता आयोग से सेवानिवृत्त हुए अधिकारी/कर्मचारी अथवा संबंधित परिवार पेंशनभोगी/प्रतिनिधि अपनी समस्या, यदि कोई हो तो लिखित में निम्नलिखित दस्तावेजों के साथ अघोहस्ताक्षरी को दिनांक 24.08.2018 तक भेज सकते हैं:-

- क. पेंशनभोगी का नाम
- ख. पेंशनभोगी/परिवार पेंशनभोगी की जन्मतिथि तथा मृत्यु की तिथि
- ग. सेवानिवृत्ति के समय पेंशनभोगी का पद
- घ. पेंशन भुगतान आदेश [पीपीओ] की पूरी किताब
- ङ. सेवानिवृत्ति की तिथि/वर्ष
- च. पेंशनभोगी/परिवार पेंशनभोगी का पूरा डाक पता तथा मोबाइल/दूरभाष नम्बर
- छ. परिवार पेंशनभोगी/प्रतिनिधि का पहचान साक्ष्य [आधार कार्ड/वोटर कार्ड/ड्राइविंग लाइसेंस/बैंक पासबुक आदि]
- ज. पेंशन वितरण प्राधिकारी[बैंक] आदि का पूरा डाक पता

भवदीय



(टी.पी. शर्मा)

अवर सचिव[प्रशासन]

दूरभाष : 24651566



सत्यमेव जयते



केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi-110023

Telegraphic Address  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स / Fax : 24651186

सं. / No. ....

28/02/18-Admn

दिनांक / Dated. ....

14/08/2018

**Sub: - Pension Adalat to be organised in the Central Vigilance Commission on 18/09/2018 at 03.00 PM to 05.00 PM regarding.**

Sir/Madam,

In order to minimise grievance(s) pertaining to pension/family pension cases of officials/officers who retired from Central Vigilance Commission, a Pension Adalat will be organised in the Central Vigilance Commission, Satarkta Bhawan, New Delhi 110023, on 18/09/2018 at 03.00 PM to 05.00 PM.

2. Officers/officials [who retired from Central Vigilance Commission] or related family pensioners/representative, may forward their grievance(s), if any, [in writing] alongwith photocopies of following supporting document(s) to the undersigned by 24/08/2018:-

- (a) Name of pensioner
- (b) Date of Birth and Date of Death of pensioner/family pensioner
- (c) Designation of pensioner at the time of retirement
- (d) Complete Pension Payment Order [PPO] booklet
- (e) Date/Year of Retirement
- (f) Complete postal address and mobile/telephone number of pensioner/family pensioner.
- (h) Identity proof [Aadhar Card/Voter Card/Driving Licence/Bank passbook etc] of family pensioner/representative.
- (g) Complete postal address of pension disbursing authority [bank] etc.

Yours faithfully

  
(TP Sharma)

Under Secretary [Admn]  
Tel: 011-24651566

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स / Fax : 24651186



सत्यमेव जयते



केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए. नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi-110023  
017/MSC/002-333344

सं./No.....

दिनांक / Dated..... 10.01.2017

OFFICE MEMORANDUM

Subject: Complaints pending for investigation and report with CVO's – regarding.

As per the extant instructions of the Commission, CVOs are required to furnish investigation reports on complaints sent for investigation and report by the Commission within a period of three months. The Commission has, however, observed that several complaints are pending for long periods with the CVOs. A list of complaints pending with CVOs, department-wise, for more than six months and more than one year is enclosed herewith.

2. The Commission has desired that the CVOs concerned should expeditiously submit the investigation reports in respect of complaints pending for more than one year by 28.02.2017 and those pending for more than six months by 31.03.2017 to the Commission. In case the CVOs are not able to adhere to these time limits in any particular case, they shall submit the reasons for delay and expected time by which the report would be submitted, to the Commission by 31.03.2017.

3. CVOs concerned are requested to note the above instructions for strict compliance.

(J Vinod Kumar)  
Director

Tel.No. 2465 1019

**Encl:** 1. List of complaints pending for more than 1 year with CVOs.

2. List of complaints pending for more than six months with CVOs.

All CVOs of Ministries / Departments / CPSUs / Public Sector Banks / Insurance Companies / Autonomous Organisations / Societies etc.

<b>Complaints sent for investigation &amp; report and pending for more than one year</b>				
<b>S.No.</b>	<b>File No</b>	<b>Date sent for I&amp;R</b>	<b>CVO Reference No</b>	<b>Department</b>
1	008/EDN/014	31-01-2008		ALIGARH MUSLIM UNIVERSITY
2	CONF/2553/11	29-03-2011		ALIGARH MUSLIM UNIVERSITY
3	CONF/2592/11	27-04-2011		ALIGARH MUSLIM UNIVERSITY
4	008/EDN/115	02-09-2008		ALL INDIA COUNCIL FOR TECHNICAL
5	009/HFW/039	13-08-2009		ALL INDIA INSTITUTE OF MEDICAL SCIENCES
6	CONF/5954/15	12-06-2015		ANDAMAN & NICOBAR ADMN.
7	CONF/6381/15	13-11-2015		ANDAMAN & NICOBAR ADMN.
8	CONF/3732/12	30-08-2012		ASSAM RIFLES
9	CONF/6287/15	08-12-2015		BANK OF MAHARASHTRA
10	015/P&T/025	04-08-2015		BHARAT SANCHAR NIGAM LIMITED
11	011/DEF/086	11-06-2007	BRDB/01(120)/2006-GE-II	BORDER ROADS DEVELOPMENT BOARD.
12	011/DEF/085	15-07-2008	BRDB/01(05)/2008-GE-II	BORDER ROADS DEVELOPMENT BOARD.
13	011/DEF/101	04-08-2008	BRDB/01(05)/2008-GE-II	BORDER ROADS DEVELOPMENT BOARD.
14	009/DEF/047	18-08-2009		BORDER ROADS DEVELOPMENT BOARD.
15	011/DEF/098	05-09-2011		BORDER ROADS DEVELOPMENT BOARD.
16	011/DEF/105	04-10-2011		BORDER ROADS DEVELOPMENT BOARD.
17	CONF/5981/15	30-04-2015		CEMENT CORPORATION OF INDIA LTD
18	CONF/6215/15	14-09-2015		CEMENT CORPORATION OF INDIA LTD
19	012/ITX/027	21-03-2012		CENTRAL BOARD OF DIRECT TAXES
20	012/ITX/056	15-05-2012		CENTRAL BOARD OF DIRECT TAXES
21	012/ITX/098	01-08-2012		CENTRAL BOARD OF DIRECT TAXES
22	012/ITX/109	14-11-2012		CENTRAL BOARD OF DIRECT TAXES
23	CONF/3777/12	26-11-2012		CENTRAL BOARD OF DIRECT TAXES
24	CONF/3906/12	18-12-2012		CENTRAL BOARD OF DIRECT TAXES
25	CONF/4458/13	04-07-2013		CENTRAL BOARD OF DIRECT TAXES
26	CONF/4586/13	06-08-2013		CENTRAL BOARD OF DIRECT TAXES
27	014/ITX/037	18-07-2014		CENTRAL BOARD OF DIRECT TAXES
28	014/ITX/043	10-10-2014		CENTRAL BOARD OF DIRECT TAXES
29	015/ITX/018	30-10-2015		CENTRAL BOARD OF DIRECT TAXES
30	009/CEX/064	08-09-2009		CENTRAL BOARD OF EXCISE & CUSTOMS
31	CONF/6087/15	08-05-2015		CENTRAL BOARD OF EXCISE & CUSTOMS
32	CONF/6091/15	08-05-2015		CENTRAL BOARD OF EXCISE & CUSTOMS
33	015/DPT/011	01-10-2015		CENTRAL BUREAU OF INVESTIGATION
34	015/DPT/012	30-10-2015		CENTRAL BUREAU OF INVESTIGATION
35	015/DPT/014	08-12-2015		CENTRAL BUREAU OF INVESTIGATION
36	010/W&H/130	28-10-2010		CENTRAL PUBLIC WORKS DEPARTMENT
37	011/W&H/074	07-09-2011		CENTRAL PUBLIC WORKS DEPARTMENT
38	015/W&H/001	23-01-2015		CENTRAL PUBLIC WORKS DEPARTMENT
39	005/02/UTS/002	18-10-2007		CHANDIGARH ADMN.
40	009/03/UTS/003	24-08-2009		DADRA & NAGAR HAVELI
41	010/03/UTS/001	03-03-2010		DADRA & NAGAR HAVELI
42	010/03/UTS/004	29-07-2010		DADRA & NAGAR HAVELI
43	015/03/UTS/002	19-10-2015		DADRA & NAGAR HAVELI
44	010/03/UTS/003	26-07-2010		DAMAN & DIU
45	015/03/UTS/003	02-12-2015		DAMAN & DIU
46	009/W&H/162	04-11-2009		DELHI DEVELOPMENT AUTHORITY
47	010/W&H/067	21-05-2010		DELHI DEVELOPMENT AUTHORITY
48	010/W&H/131	28-10-2010		DELHI DEVELOPMENT AUTHORITY
49	010/W&H/151	09-11-2010		DELHI DEVELOPMENT AUTHORITY
50	011/W&H/043	03-06-2011		DELHI DEVELOPMENT AUTHORITY
51	011/W&H/067	29-07-2011		DELHI DEVELOPMENT AUTHORITY
52	012/W&H/041	09-07-2012		DELHI DEVELOPMENT AUTHORITY
53	012/MCD/058	15-10-2012		DELHI DEVELOPMENT AUTHORITY
54	013/MCD/019	11-03-2013		DELHI DEVELOPMENT AUTHORITY

55	013/W&H/060	04-07-2013		DELHI DEVELOPMENT AUTHORITY
56	015/W&H/019	17-07-2015		DELHI DEVELOPMENT AUTHORITY
57	012/DJB/001	13-01-2012		DELHI JAL BOARD
58	012/DJB/007	16-07-2012		DELHI JAL BOARD
59	013/DJB/006	23-04-2013		DELHI JAL BOARD
60	013/DJB/017	05-11-2013		DELHI JAL BOARD
61	009/DJB/022	11-06-2014	DJB/CVO/EE(C)/2014/3663	DELHI JAL BOARD
62	009/DLH/012	03-02-2009		DELHI POLICE
63	010/IPG/005	22-09-2010		DELHI TRANSCO LTD/IPGCL
64	009/EDN/053	10-06-2009		DEPARTMENT OF DISABILITY AFFAIRS
65	012/EDN/076	20-07-2012		DEPARTMENT OF DISABILITY AFFAIRS
66	013/EDN/012	15-03-2013		DEPARTMENT OF DISABILITY AFFAIRS
67	011/HFW/058	19-12-2011		DEPARTMENT OF HEALTH
68	012/HFW/003	23-02-2012		DEPARTMENT OF HEALTH
69	012/HFW/013	29-06-2012		DEPARTMENT OF HEALTH
70	CONF3470/12	29-06-2012		DEPARTMENT OF HEALTH
71	012/HFW/021	09-08-2012		DEPARTMENT OF HEALTH
72	013/HFW/049	01-08-2013		DEPARTMENT OF HEALTH
73	CONF/4743/13/7	02-01-2014		DEPARTMENT OF HEALTH
74	014/HFW/017	01-08-2014		DEPARTMENT OF HEALTH
75	015/HFW/015	15-10-2015		DEPARTMENT OF HEALTH
76	011/MNS/001	26-11-2013	HCL:CVO:997(MCP-OB)&9C	DEPARTMENT OF MINES
77	015/MNS/004	11-12-2015		DEPARTMENT OF MINES
78	015/P&T/043	15-10-2015		DEPARTMENT OF POSTS
79	014/SCT/004	11-09-2014		DEPARTMENT OF SCIENCE AND TECHNOLOGY
80	015/SCT/001	10-03-2015		DEPARTMENT OF SCIENCE AND TECHNOLOGY
81	015/SCT/002	24-04-2015		DEPARTMENT OF SCIENCE AND TECHNOLOGY
82	008/OCD/004	01-03-2005		DEPT. OF OCEAN DEVELOPMENT
83	008/OCD/006	23-04-2008		DEPT. OF OCEAN DEVELOPMENT
84	008/OCD/008	02-09-2008		DEPT. OF OCEAN DEVELOPMENT
85	010/AGR/010	18-03-2010		DEPTT. OF ANIMAL HUSBANDRY AND
86	CONF/3565/12	25-05-2012		DEPTT. OF CHEMICALS & PETROCHEMICALS
87	010/SPL/004	11-10-2010		DEPTT. OF COMMERCE (SUPPLY DIVISION)
88	CONF/5947/15	26-02-2015		DEPTT. OF FERTILIZERS
89	CONF/5886/15	09-02-2015		DEPTT. OF FINANCIAL SERVICES
90	015/INS/14	19-10-2015		DEPTT. OF FINANCIAL SERVICES
91	014/FNC/009	01-09-2014		DEPTT. OF FINANCIAL SERVICES
92	CONF/3779/12	31-12-2012		DEPTT. OF INDUSTRIAL POLICY,AND
93	007/FNC/010	12-06-2007		DEPTT. OF REVENUE
94	015/FNC/001	02-02-2015		DEPTT. OF REVENUE
95	011/CSR/003	13-09-2011		DEPTT. OF SCIENTIFIC & INDUSTRIAL
96	004/EDN/029	04-06-2004		DEPTT. OF SECONDARY AND HIGHER EDUCATION
97	CONF/772/05	18-01-2006		DEPTT. OF SECONDARY AND HIGHER EDUCATION
98	006/EDN/074	14-12-2006		DEPTT. OF SECONDARY AND HIGHER EDUCATION
99	008/EDN/067	14-05-2008		DEPTT. OF SECONDARY AND HIGHER EDUCATION
100	008/EDN/070	03-06-2008		DEPTT. OF SECONDARY AND HIGHER EDUCATION
101	008/EDN/082(A)	17-07-2008		DEPTT. OF SECONDARY AND HIGHER EDUCATION

102	009/EDN/020	04-03-2009		DEPTT. OF SECONDARY AND HIGHER EDUCATION
103	009/EDN/057	01-07-2009		DEPTT. OF SECONDARY AND HIGHER EDUCATION
104	009/EDN/072	28-07-2009		DEPTT. OF SECONDARY AND HIGHER EDUCATION
105	010/EDN/032	27-04-2010		DEPTT. OF SECONDARY AND HIGHER EDUCATION
106	CONF/2500/11	30-01-2011		DEPTT. OF SECONDARY AND HIGHER EDUCATION
107	011/EDN/022	21-03-2011		DEPTT. OF SECONDARY AND HIGHER EDUCATION
108	CONF/2794/11	24-08-2011		DEPTT. OF SECONDARY AND HIGHER EDUCATION
109	013/EDN/011	07-03-2012		DEPTT. OF SECONDARY AND HIGHER EDUCATION
110	CONF/3465/12	16-03-2012		DEPTT. OF SECONDARY AND HIGHER EDUCATION
111	CONF/3483/12	16-03-2012		DEPTT. OF SECONDARY AND HIGHER EDUCATION
112	CONF/3580/12	02-07-2012		DEPTT. OF SECONDARY AND HIGHER EDUCATION
113	CONF/3657/12	02-07-2012		DEPTT. OF SECONDARY AND HIGHER EDUCATION
114	CONF/2812/11	03-07-2012		DEPTT. OF SECONDARY AND HIGHER EDUCATION
115	012/EDN/075	20-07-2012		DEPTT. OF SECONDARY AND HIGHER EDUCATION
116	CONF/3476/12	31-07-2012		DEPTT. OF SECONDARY AND HIGHER EDUCATION
117	012/EDN/084	14-08-2012		DEPTT. OF SECONDARY AND HIGHER EDUCATION
118	012/MICS/014	17-10-2012		DEPTT. OF SECONDARY AND HIGHER EDUCATION
119	012/EDN/117	27-12-2012		DEPTT. OF SECONDARY AND HIGHER EDUCATION
120	013/EDN/019	15-03-2013		DEPTT. OF SECONDARY AND HIGHER EDUCATION
121	CONF/4399/13	16-05-2013		DEPTT. OF SECONDARY AND HIGHER EDUCATION
122	013/EDN/061	17-06-2013		DEPTT. OF SECONDARY AND HIGHER EDUCATION
123	CONF/4671/13	20-09-2013		DEPTT. OF SECONDARY AND HIGHER EDUCATION
124	013/EDN/121	10-12-2013		DEPTT. OF SECONDARY AND HIGHER EDUCATION
125	014/EDN/071	22-08-2014		DEPTT. OF SECONDARY AND HIGHER EDUCATION
126	CONF/5826/14	13-01-2015		DEPTT. OF SECONDARY AND HIGHER EDUCATION
127	008/EDN/006	16-01-2008	1-26/2007-VIG.	DEPTT. OF WOMEN & CHILD DEVELOPMENT
128	010/EDN/094	04-11-2010		DEPTT. OF YOUTH AFFAIRS & SPORTS,
129	008/HMA/062	13-10-2008	1/2008-VIG	DEVELOPMENT OF NORTH EASTERN REGION
130	004/W&H/081	26-10-2005		GOVT of N. C. T of DELHI
131	006/MCD/030	27-07-2006		GOVT of N. C. T of DELHI
132	008/W&H/003	11-01-2008		GOVT of N. C. T of DELHI
133	008/DLH/048	08-05-2008		GOVT of N. C. T of DELHI

134	008/DLH/134	06-11-2008		GOVT of N. C. T of DELHI
135	009/DLH/029	24-02-2009		GOVT of N. C. T of DELHI
136	009/MCD/077	21-05-2009		GOVT of N. C. T of DELHI
137	009/MCD/101	08-07-2009		GOVT of N. C. T of DELHI
138	009/W&H/105	28-07-2009	56/06/2011	GOVT of N. C. T of DELHI
139	009/DLH/107	07-08-2009		GOVT of N. C. T of DELHI
140	009/W&H/134	28-08-2009		GOVT of N. C. T of DELHI
141	009/DLH/130	06-10-2009		GOVT of N. C. T of DELHI
142	009/DLH/126	08-10-2009		GOVT of N. C. T of DELHI
143	009/DLH/139	06-11-2009		GOVT of N. C. T of DELHI
144	009/W&H/165	11-11-2009		GOVT of N. C. T of DELHI
145	009/DLH/148	02-12-2009		GOVT of N. C. T of DELHI
146	009/W&H/187	30-12-2009		GOVT of N. C. T of DELHI
147	010/DLH/024	23-04-2010		GOVT of N. C. T of DELHI
148	010/DLH/032	20-05-2010		GOVT of N. C. T of DELHI
149	010/MCD/050	01-06-2010		GOVT of N. C. T of DELHI
150	CONF/2276/10	20-09-2010		GOVT of N. C. T of DELHI
151	010/W&H/117	12-10-2010	27GC-854/10/VIG/AVO1	GOVT of N. C. T of DELHI
152	010/DLH/054	03-02-2011		GOVT of N. C. T of DELHI
153	011/DLH/027	26-04-2011		GOVT of N. C. T of DELHI
154	011/DLH/047	23-05-2011		GOVT of N. C. T of DELHI
155	011/DLH/057	02-06-2011		GOVT of N. C. T of DELHI
156	011/W&H/042	03-06-2011	06/SO/ADDL.DCP-III/EOW/CB	GOVT of N. C. T of DELHI
157	011/DLH/059	16-06-2011		GOVT of N. C. T of DELHI
158	011/DLH/070	06-07-2011		GOVT of N. C. T of DELHI
159	011/DLH/087	28-07-2011		GOVT of N. C. T of DELHI
160	011/DLH/106	26-09-2011		GOVT of N. C. T of DELHI
161	011/DLH/124	29-11-2011	25/55/2011/DOV/5665	GOVT of N. C. T of DELHI
162	CONF/3494/12	26-03-2012		GOVT of N. C. T of DELHI
163	012/DLH/003	27-03-2012		GOVT of N. C. T of DELHI
164	012/DLH/034	30-08-2012		GOVT of N. C. T of DELHI
165	012/DLH/037	03-09-2012		GOVT of N. C. T of DELHI
166	013/DLH/020	13-03-2013		GOVT of N. C. T of DELHI
167	013/DLH/016	15-03-2013		GOVT of N. C. T of DELHI
168	013/DLH/026	19-03-2013		GOVT of N. C. T of DELHI
169	013/DLH/040	28-05-2013		GOVT of N. C. T of DELHI
170	CONF/4618/13	16-07-2013		GOVT of N. C. T of DELHI
171	013/DLH/071	21-08-2013		GOVT of N. C. T of DELHI
172	013/DLH/079	30-08-2013		GOVT of N. C. T of DELHI
173	013/DLH/080	09-09-2013		GOVT of N. C. T of DELHI
174	CONF/4726/13	26-09-2013		GOVT of N. C. T of DELHI
175	013/DLH/093	04-10-2013		GOVT of N. C. T of DELHI
176	012/DLH/041	11-12-2013	F.56/35/2012/DOV/CVC/9687	GOVT of N. C. T of DELHI
177	014/DLH/010	19-02-2014		GOVT of N. C. T of DELHI
178	014/DLH/079	03-12-2014		GOVT of N. C. T of DELHI
179	CONF/5788/14	29-12-2014		GOVT of N. C. T of DELHI
180	009/06/UTS/002	26-10-2009		GOVT. OF PONDICHERRY
181	010/06/UTS/002	19-01-2010		GOVT. OF PONDICHERRY
182	CONF/3502/12	14-11-2012		HINDUSTAN ORGANIC CHEMICALS LTD
183	009/AGR/048	28-08-2009	31-1/2009-VIG.	INDIAN COUNCIL OF AGRICULTURAL RESEARCH
184	CONF/3499/12	16-03-2012		INDIAN COUNCIL OF AGRICULTURAL RESEARCH
185	CONF/3665/12	06-07-2012		INDIAN COUNCIL OF AGRICULTURAL RESEARCH
186	012/AGR/037	24-09-2012		INDIAN COUNCIL OF AGRICULTURAL RESEARCH

187	CONF/3955/12	31-12-2012		INDIAN COUNCIL OF AGRICULTURAL RESEARCH
188	CONF/5490/14	20-08-2014		INDIAN COUNCIL OF AGRICULTURAL RESEARCH
189	008/HFW/042	01-09-2008		INDIAN COUNCIL OF MEDICAL RESEARCH
190	009/EDN/085	27-10-2009		INDIRA GANDHI NATIONAL OPEN UNIVERSITY
191	010/EDN/035	12-05-2010		INDIRA GANDHI NATIONAL OPEN UNIVERSITY
192	013/EDN/023	15-03-2013		INDIRA GANDHI NATIONAL OPEN UNIVERSITY
193	CONF/2806/11	17-08-2011		KENDRIYA VIDYALAYA SANGATHAN
194	CONF/3759/12	29-10-2012		KENDRIYA VIDYALAYA SANGATHAN
195	014/IND/008	22-10-2014		KHADI & VILLAGE INDUSTRIES COMMISSION
196	011/MCD/032	27-04-2011		M.C.D.
197	012/MCD/052	09-08-2012		M.C.D.
198	012/MCD/057	10-10-2012		M.C.D.
199	013/MCD/081	02-09-2013		M.C.D.
200	013/MCD/097	05-11-2013		M.C.D.
201	014/MCD/082	05-01-2015		M.C.D.
202	003/W&H/49	22-04-2003		M.C.D. SOUTH DELHI
203	009/MCD/158	14-12-2009		M.C.D. SOUTH DELHI
204	010/MCD/144	15-11-2010		M.C.D. SOUTH DELHI
205	010/MCD/146	18-11-2010		M.C.D. SOUTH DELHI
206	011/MCD/071	05-07-2011		M.C.D. SOUTH DELHI
207	011/MCD/131	20-10-2011		M.C.D. SOUTH DELHI
208	012/MCD/020	09-05-2012		M.C.D. SOUTH DELHI
209	013/MCD/026	08-04-2013		M.C.D. SOUTH DELHI
210	CONF/4536/13	07-08-2013		M.C.D. SOUTH DELHI
211	014/MCD/013	21-02-2014		M.C.D. SOUTH DELHI
212	CONF/6224/15	11-09-2015		M.C.D. SOUTH DELHI
213	011/HFW/026	15-06-2011		MEDICAL COUNCIL OF INDIA
214	011/HFW/026	15-06-2011		MEDICAL COUNCIL OF INDIA
215	012/TCA/016	02-05-2012		MINISTRY OF CIVIL AVIATION
216	008/EDN/154	19-12-2008		MINISTRY OF CULTURE
217	009/EDN/043	19-05-2009		MINISTRY OF CULTURE
218	CONF/6342/15	02-11-2015		MINISTRY OF CULTURE
219	007/DEF/071	13-08-2007		MINISTRY OF DEFENCE
220	009/DEF/028	25-05-2009		MINISTRY OF DEFENCE
221	009/DEF/025	16-06-2009	BRDB/13(17)/2012-GE-II	MINISTRY OF DEFENCE
222	011/DEF/112	01-11-2010	719/2011-SO/D(VIG.)	MINISTRY OF DEFENCE
223	011/DEF/036	06-04-2011		MINISTRY OF DEFENCE
224	011/DEF/017	19-04-2011	308/US/VIG.I/2010	MINISTRY OF DEFENCE
225	011/DEF/051	29-04-2011		MINISTRY OF DEFENCE
226	011/DEF/067	18-05-2011		MINISTRY OF DEFENCE
227	011/DEF/111	17-10-2011		MINISTRY OF DEFENCE
228	012/DEF/004	19-01-2012		MINISTRY OF DEFENCE
229	012/DEF/041	12-07-2012		MINISTRY OF DEFENCE
230	013/DEF/005	08-02-2013		MINISTRY OF DEFENCE
231	013/DEF/018	25-04-2013		MINISTRY OF DEFENCE
232	013/DEF/037	15-07-2013		MINISTRY OF DEFENCE
233	CONF/5022/14-I	19-05-2014	13022/04/PIDPI/2014/DDP	MINISTRY OF DEFENCE
234	CONF/6282/15	06-08-2015		MINISTRY OF DEFENCE
235	CONF/6331/15	09-09-2015		MINISTRY OF DEFENCE
236	CONF/6358/15	07-10-2015		MINISTRY OF DEFENCE
237	015/DEF/025	05-11-2015		MINISTRY OF DEFENCE
238	015/EDN/011	11-02-2015		MINISTRY OF EARTH SCIENCES
239	000/AGR/22	21-07-2000		MINISTRY OF ENVIRONMENT AND FORESTS



240	009/AGR/022	09-03-2009		MINISTRY OF ENVIRONMENT AND FORESTS
241	CONF/2869/11	09-12-2011		MINISTRY OF ENVIRONMENT AND FORESTS
242	CONF/2886/11	09-12-2011		MINISTRY OF ENVIRONMENT AND FORESTS
243	013/AGR/007	18-03-2013		MINISTRY OF ENVIRONMENT AND FORESTS
244	010/EXA/001	04-02-2010		MINISTRY OF EXTERNAL AFFAIRS
245	009/HMA/050	26-11-2009		MINISTRY OF HOME AFFAIRS
246	012/HMA/008	14-06-2012		MINISTRY OF HOME AFFAIRS
247	000/W&H/074	21-01-2002	C-13015/27/2000-AVII	MINISTRY OF HUPA
248	011/W&H/016	08-03-2011		MINISTRY OF HUPA
249	012/W&H/035	18-06-2012	C-13019/10/2012-AVI	MINISTRY OF HUPA
250	013/W&H/004	05-02-2013		MINISTRY OF HUPA
251	010/I&B/050	06-12-2010		MINISTRY OF INFORMATION & BROADCASTING
252	011/I&B/002	17-03-2011		MINISTRY OF INFORMATION & BROADCASTING
253	011/I&B/025	25-10-2011	06/04/2011-B(FIN.)(PT.I)	MINISTRY OF INFORMATION & BROADCASTING
254	011/I&B/030	29-12-2011		MINISTRY OF INFORMATION & BROADCASTING
255	015/I&B/002	09-02-2015		MINISTRY OF INFORMATION & BROADCASTING
256	014/P&T/054	22-08-2014		MINISTRY OF INFORMATION TECHNOLOGY
257	012/MISC/015	29-10-2012		MINISTRY OF MINORITY AFFAIRS
258	008/PRL/001	09-05-2008		MINISTRY OF PARLIAMENTARY AFFAIRS.
259	011/AIS/002	11-02-2011		MINISTRY OF PERSONNEL, P.G. & PENSIONS
260	1517/RLY/33	30-11-2015		MINISTRY OF RAILWAY
261	010/SHT/050	11-08-2010		MINISTRY OF ROAD TRANSPORT & HIGHWAYS
262	008/AGR/045	08-08-2008		MINISTRY OF RURAL DEVELOPMENT
263	012/IND/006	28-06-2012		MINISTRY OF SMALL SCALE INDUSTRY AND
264	014/IND/003	27-05-2014	C-13011/4/2014-V&C	MINISTRY OF SMALL SCALE INDUSTRY AND
265	006/EDN/078	19-12-2006		MINISTRY OF SOCIAL JUSTICE & EMPOWERMENT
266	011/TXT/001	21-04-2011	C-13011/8/2011-VIG	MINISTRY OF TEXTILES
267	011/TXT/008	22-07-2011	C-13011/13/2011-VIG	MINISTRY OF TEXTILES
268	013/TXT/003	26-03-2013		MINISTRY OF TEXTILES
269	CONF/5623/14	27-10-2014		MINISTRY OF TEXTILES
270	CONF/5992/15	24-03-2015		MINISTRY OF TEXTILES
271	CONF/6170/15	03-07-2015		MINISTRY OF TOURISM
272	004/EDN/057	08-12-2004		MINISTRY OF TRIBAL AFFAIRS
273	014/EDN/089	20-11-2014		MINISTRY OF TRIBAL AFFAIRS
274	009/W&H/007	22-01-2009		MINISTRY OF URBAN DEVELOPMENT
275	011/W&H/038	23-05-2011		MINISTRY OF URBAN DEVELOPMENT
276	012/W&H/008	22-02-2012		MINISTRY OF URBAN DEVELOPMENT
277	015/W&H/031	07-05-2015	UO-10/V-1/(A-117)/2015-VS	MINISTRY OF URBAN DEVELOPMENT
278	015/W&H/018	28-07-2015		MINISTRY OF URBAN DEVELOPMENT
279	015/W&H/035	22-12-2015		MINISTRY OF URBAN DEVELOPMENT
280	009/IRR/022	24-11-2009		MINISTRY OF WATER RESOURCES
281	009/IRR/021	28-11-2009		MINISTRY OF WATER RESOURCES
282	009/IRR/029	07-01-2010		MINISTRY OF WATER RESOURCES
283	CONF/3965/12	24-12-2012		MINISTRY OF WATER RESOURCES
284	CONF/3896/12	31-12-2012		MINISTRY OF WATER RESOURCES
285	CONF/5926/15	26-02-2015		MINISTRY OF WATER RESOURCES
286	009/MNS/003	03-03-2009	CHRD/CVC/1619/09/CMD	NATIONAL ALUMINIUM CO. LTD.
287	015/W&H/016	23-06-2015		NATIONAL BUILDINGS CONSTRUCTION CORPN.

288	015/PWR/030	26-11-2015	REG. RECRUITMENT	NATIONAL THERMAL POWER CORPN.LIMITED.
289	008/EDN/052	17-04-2008		NAVODAYA VIDYALAYA SAMITI
290	009/EDN/027	05-03-2009		NAVODAYA VIDYALAYA SAMITI
291	007/NDM/003	27-02-2009	929/VIG/IMP./2014	NEW DELHI MUNICIPAL COUNCIL (NDMC)
292	011/NDM/008	05-07-2011	280/F-35/VIG/IMP/TO(C-I)F	NEW DELHI MUNICIPAL COUNCIL (NDMC)
293	015/DEF/002	20-01-2015	05/CVO/OFB//2015(6/1)	ORDNANCE FACTORY BOARD
294	015/DEF/014	22-06-2015		ORDNANCE FACTORY BOARD
295	CONF/6302/15	06-10-2015	A/VIG/CVC-370/2015	ORDNANCE FACTORY BOARD
296	010/HFW/030	30-09-2010		P.G.INSTT. OF MEDICAL EDUCATION &
297	009/CAB/001	01-12-2009		PMs OFFICE
298	011/I&B/007	06-05-2011		PRASAR BHARATI
299	010/FNC/001	12-01-2010		SECURITY AND EXCHANGE BOARD OF INDIA
300	014/FNC/013	10-10-2014		SECURITY AND EXCHANGE BOARD OF INDIA
301	014/FNC/015	26-11-2014		SECURITY AND EXCHANGE BOARD OF INDIA
302	014/FNC/017	27-11-2014		SECURITY AND EXCHANGE BOARD OF INDIA
303	CONF/917/06	27-12-2006	CB-II/2006/CPMP/22079	UNIVERSITY OF DELHI

**Complaints sent for investigation & report and pending between 6 months - one year**

<b>Sl No</b>	<b>File No</b>	<b>Date sent for I&amp;R</b>	<b>CVO Reference No</b>	<b>Department</b>
1	016/TCA/003	31-03-2016		AIR INDIA
2	1415/BNK/8	28-04-2016		BANK OF MAHARASHTRA
3	CONF/6649/16	18-05-2016		CANARA BANK
4	016/ITX/010	29-01-2016		CENTRAL BOARD OF DIRECT TAXES
5	CONF/6622/16	18-04-2016		CENTRAL BOARD OF DIRECT TAXES
6	016/ITX/018	04-05-2016		CENTRAL BOARD OF DIRECT TAXES
7	016/ITX/020	02-06-2016		CENTRAL BOARD OF DIRECT TAXES
8	016/ITX/021	06-06-2016		CENTRAL BOARD OF DIRECT TAXES
9	CONF/6598/16	06-04-2016		CENTRAL BOARD OF EXCISE & CUSTOMS
10	016/CEX/025	18-05-2016		CENTRAL BOARD OF EXCISE & CUSTOMS
11	016/DPT/003	10-05-2016		CENTRAL BUREAU OF INVESTIGATION
12	016/02/UTS/001	14-01-2016		CHANDIGARH ADMN.
13	015/TXT/008	14-01-2016	CCI/CVO/2016	COTTON CORPORATION OF INDIA
14	CONF/6734/16	04-05-2016		COUNCIL OF SCIENTIFIC & INDUSTRIAL
15	016/CSR/003	14-06-2016		COUNCIL OF SCIENTIFIC & INDUSTRIAL
16	016/STL/010	10-06-2016		DEPARTMENT OF STEEL
17	016/AGR/010	22-06-2016		DEPTT. OF ANIMAL HUSBANDRY AND
18	016/C&F/004	12-05-2016		DEPTT. OF FERTILIZERS
19	016/FNC/009	17-05-2016		DEPTT. OF FINANCIAL SERVICES
20	016/HVI/013	12-04-2016		DEPTT. OF HEAVY INDUSTRY
21	CONF/6646/16	07-04-2016		DEPTT. OF INDUSTRIAL POLICY,AND
22	016/FNC/002	22-01-2016		DEPTT. OF REVENUE
23	013/EDN/100(P)	07-04-2016		DEPTT. OF SECONDARY AND HIGHER EDUCATION
24	016/EDN/015	18-04-2016		DEPTT. OF SECONDARY AND HIGHER EDUCATION
25	015/POL/043	01-01-2016		HINDUSTAN PETROLEUM CORPN. LTD.
26	CONF/6569/16	11-04-2016	SZ/M704	LIFE INSURANCE CORPN. OF INDIA
27	016/DEF/001	28-01-2016		MINISTRY OF DEFENCE
28	CONF/6670/16	25-05-2016		MINISTRY OF DEFENCE
29	016/DEF/022	17-06-2016		MINISTRY OF DEFENCE
30	016/DEF/023	17-06-2016		MINISTRY OF DEFENCE
31	016/I&B/002	04-04-2016		MINISTRY OF INFORMATION & BROADCASTING
32	CONF/6420/15	04-01-2016		MINISTRY OF RAILWAY
33	CONF/6503/16	08-02-2016	2016/V3/CR/ENGG./3-PIDR	MINISTRY OF RAILWAY
34	CONF/6636/16	13-04-2016		MINISTRY OF RAILWAY
35	CONF/6748/16	03-05-2016		MINISTRY OF RAILWAY
36	016/SHT/003	17-02-2016		MINISTRY OF ROAD TRANSPORT & HIGHWAYS
37	016/SHT/004	17-02-2016		MINISTRY OF ROAD TRANSPORT & HIGHWAYS
38	016/SHT/012	11-04-2016		MINISTRY OF ROAD TRANSPORT & HIGHWAYS
39	016/SHT/017	08-06-2016		MINISTRY OF ROAD TRANSPORT & HIGHWAYS
40	CONF/6504/16	10-02-2016		MINISTRY OF SMALL SCALE INDUSTRY AND
41	CONF/6564/16	28-03-2016		MINISTRY OF TEXTILES
42	CONF/6594/16	12-04-2016		MINISTRY OF TEXTILES
43	014/SHT/018	15-01-2016		NATIONAL HIGHWAY AUTHORITY OF INDIA
44	1605/BNK/38	03-06-2016		STATE BANK OF INDIA

S.No 6 (I)

136



सत्यमेव जयते



Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स / Fax : 24651186

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लैक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

सं./No. 98/DSP/9(Part-2)

दिनांक / Dated. 7<sup>th</sup> March, 2016

Circular No. 03/03/16

**Sub:- Action on Anonymous / Pseudonymous Complaints - reg.**

The Commission has been receiving references from Departments / Organisations seeking clarification on the action to be taken on anonymous/pseudonymous complaints which were acted upon and at different stages of process including under disciplinary proceedings before issuance of CVC Circular No. 07/11/2014 dated 25<sup>th</sup> November, 2014 on the captioned subject. A few Court decisions arising out of the Commission's guidelines issued earlier on the subject were also brought to the notice of the Commission.

2. The Commission considered the details of the Court orders/judgments and in one instance, the Central Administrative Tribunal (CAT), Principal Bench, Delhi had quashed the charge sheet dated 14.10.2004 issued to the delinquent official based on the pseudonymous complaints dated 18.02.1997 and 02.04.1997, vide order dated 20.07.2005. CAT had quashed the charge-sheet served mainly considering the circulars of the Commission dated 29.6.1999 and 31.01.2002 on the subject. In the order dated 20.07.2005, it was observed that the charge-sheet dated 14.10.2004 was issued pursuant to pseudonymous complaints received earlier and therefore is in violation of Commission's circular dated 29.6.1999 and 31.01.2002. The High Court agreed with the findings and observations of the CAT and dismissed the department's Writ Petition filed against the order of the CAT *in limine*. Thereafter, the Supreme Court had also dismissed the department's Civil Appeal in the matter. CAT's decision is based on one of the judgement dated 26.09.2003 of Madras High Court (in another case) wherein it was observed that the preliminary enquiry report dated 25.05.2000 based on anonymous complaint was subsequent to the CVC's circular dated 29.06.1999 and, therefore, is liable to be quashed and further that the prohibition (in CVC circular) that "no action will cover all pending proceedings on that date."

3. The instructions / guidelines issued from time to time on the subject-matter by DoPT / CVC are as follows:

- i. DoPT's O.M. No. 321/4/910-AVD.III dated 29.09.1992 that no action is required to be taken on anonymous/pseudonymous complaints in general, provided the option to inquire into such complaints which contained verifiable details.
- ii. Commission's initial Circular No. 3(v)/99/2 dated 29.6.1999 prescribing that no action should be taken on anonymous/pseudonymous complaints and should just be filed.
- iii. Commission's circular No.98/DSP/9 dated 31.1.2002 reiterating that under no circumstances, should any investigation be commenced on anonymous/pseudonymous complaints.
- iv. Commission's circular No. 98/DSP/9 dated 11.10.2002 reviewing its earlier instructions of 1999, providing that if any Departments/ organisations proposes to look into the verifiable facts alleged in anonymous/pseudonymous complaints it may refer the matter to the Commission seeking its concurrence through the CVO or the Head of the organisation.
- v. DoPT O.M. No. 104/76/2011-AVD.I dated 18.10.2013 that no action is required to be taken on anonymous complaints, irrespective of the nature of allegations and such complaints need to be simply filed.
- vi. Commission's circular No.07/11/2014 dated 25.11.2014 withdrawing Circular dated 11.10.2002 and reiterating previous circulars dated 29.6.1999 and 31.1.2002 to the effect that no action should be taken on anonymous/pseudonymous complaints and such complaints should be filed.

4. Since, the aforesaid issues arising out of the observations of CAT and High Court of Madras involve interpretation of substantial questions of law, the opinion of Ld. Attorney General for India was sought by the Commission. Ld. Attorney General for India has furnished his opinion and clarified that unless expressly stated all Executive Circulars are prospective in nature and they do not have retrospective effect. Only a law can be retrospective if a law expressly states that it will be retrospective or the intention to that effect is very clear. It is further clarified that an anonymous / pseudonymous complaint, say made in 1997 i.e. prior to the prohibitory circular dated 29.06.1999 ought to have been generally not entertained but if there was verifiable material in accordance with the DoPT's O.M. of 1992 and investigation has commenced, the same would have to be taken to its logical conclusion notwithstanding the issue of a later circular dated 29.06.1999.

5. Based on the opinion furnished by Ld. AG, the following clarifications are being issued:-

- i. No action should be taken on anonymous / pseudonymous complaints in line with Commission's present instructions dated 25<sup>th</sup> November, 2014 and such complaints should be filed.

- ii. However, where the action was initiated on anonymous/ pseudonymous complaints prior to the issue of CVC's circular dated 29.6.1999 and was pending as on 29.6.1999, it can be pursued further to its logical end.
- iii. Where action was initiated on anonymous/ pseudonymous complaints between the period 11.10.2002 and 25.11.2014 with prior concurrence of CVC but is pending, further action is permissible on such complaints.
- iv. Material/evidence gathered during the investigation/verification of anonymous complaints when the action was prohibited on such complaints (i.e. between 29.06.1999 & 11.10.2002), or where such enquiry was initiated without the approval of CVC, can be utilised for further initiation of disciplinary proceedings on misconducts noticed in such verification / enquiry.

6. All Administrative Authorities / CVOs may note the above clarifications for guidance / compliance while handling and processing matters arising out of anonymous / pseudonymous complaints.



(J. Vinod Kumar)  
Director

To

All Chief Vigilance Officers in the Ministries / Departments / CPSUs / PSBs / PSICs/ FIs/ Societies and other Local Authorities.

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स/Fax : 24651186



केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

सं./No. 98/DSP/09

दिनांक / Dated 23<sup>rd</sup> January, 2015

Circular No. 01/01/2015

Subject:- Procedure for dealing with complaints – regarding.

The Commission under its powers conferred under Section 8 (1)(d) of CVC Act, 2003, causes inquiry/investigation into allegations of corruption and seeks reports from the CVOs of Ministries/Departments/Organisations. All CVOs are informed that henceforth, the Commission would be seeking confirmation from the complainant for owning / disowning the complaint, as the case may be. Therefore, any further confirmation would not be required to be sought by the CVOs from the complainant in respect of the complaints sent to CVO's for inquiry and report by the Commission. However, clarifications /any additional information, if required, could be obtained from the complainant (s) as part of inquiry in the matter undertaken by the CVOs.

2. As regards complaints received directly by the CVOs of Ministries / Departments / Organisations, if a complaint contains specific and verifiable allegations of corruption / vigilance angle and it is proposed to take cognizance of such complaints, the complaint will be first sent to be complainant for owning/disowning, as the case may be. If no response is received from the complainant within 15 days of sending the complaint, a reminder will be sent. 15 days after sending the reminder, if still nothing is heard, the said complaint may be filed as pseudonymous by the CVO of the Ministry/Department/Organisation concerned. CVOs are advised that in no case, any inquiry/investigation be initiated on complaints without receipt of confirmation from complainant on any complaint.

3. In so far as complaints sent by the Commission for "necessary action" to CVOs of Ministries/Departments/Organisations, no such confirmation would be made from the complainant by the Commission. In case the CVO on scrutiny of such complaints propose to inquire into the allegations, confirmation as stated in para 2 above should be made by the CVO.

[J. Vinod Kumar]  
Officer on Special Duty

To

All Chief Vigilance Officers in the Ministries / Departments / Public Sector Undertakings / Public Sector Banks / Insurance Companies / Societies and other Local Authorities.

Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स / Fax : 24651186



सत्यमेव जयते

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

98/DSP/9

सं./No. \_\_\_\_\_ 25<sup>th</sup> November, 2014

दिनांक / Dated.....

Circular No. 07/11/2014

**Subject: Action on anonymous / pseudonymous complaints.**

The Commission had vide its circular Nos. 3(v)/99/2 dated 29<sup>th</sup> June, 1999 and of even number dated 31<sup>st</sup> January, 2002 prescribed that no action should be taken on any anonymous or pseudonymous complaints. However, an enabling provision was made subsequently, vide circular of even number dated 11<sup>th</sup> October, 2002, that if any, verifiable facts contained in such complaints are proposed to be looked into, prior concurrence of the Commission is required to be taken by the departments / organizations.

2. The Commission has reviewed the matter and considering all aspects, would prescribe that no action should be taken on anonymous / pseudonymous complaints by Ministries / Departments / Organisations in line with its earlier instructions dated 29<sup>th</sup> June, 1999 and 31<sup>st</sup> January, 2002 and such complaints should be filed. Commission's circular of even number dated 11<sup>th</sup> October, 2002 stands withdrawn with immediate effect. Accordingly, Para 3.8.1 of Chapter -III of Vigilance Manual (Volume-I – Sixth Edition, 2004) would stand modified to that extent.

(J. Vinod Kumar)  
Officer on Special Duty

To

1. All Secretaries in Ministries/Departments to the Government of India
2. All Chief Vigilance Officers in the Ministries / Departments / Public Sector Undertakings / Public Sector Banks / Insurance Companies / Societies and other Local Authorities.



No. 012/VGL/022  
CENTRAL VIGILANCE COMMISSION

SATARKTA BHAVAN,  
BLOCK-A, GPO COMPLEX,  
INA, NEW DELHI-110023

Dated: 29.03.2012

**CIRCULAR No.09/03/12**

Subject: IT enabled application in CVC for the Core Processes:

\*\*\*\*\*

Central Vigilance Commission has been working towards leveraging IT for not only simplification of processes but also enhancing interaction with all the stakeholders in the fight against corruption. An IT enabled Application for Complaints processing online has been developed and implemented in the Commission. This Application handles complaints from all sources in electronic form and ensures expeditious disposal.

2. In this process, complaints on which it has been decided to send the same for 'Necessary Action' (NA) are being forwarded to the CVO concerned by the Commission through this Application. Such complaints sent for necessary action would henceforth not be sent in hard copy and will be transmitted electronically. However, the complaints sent for investigation and report to the CVO will continue to be handled/sent by post. In addition, the CVOs can also send the Monthly Reports electronically through this Portal.

3. E-mails and SMS systems are also being integrated by this application for sending alerts to all the CVOs and for status updates to the complainants.

4. All CVOs have to access their accounts with User ID and Passwords, through the CVC portal <http://portal.cvc.gov.in>. For any further query/help please contact the following numbers: 011-24657642 & 24651087.



(J. Vinod Kumar)

Officer on Special Duty

All Chief Vigilance Officers of Ministries / Departments / PSUs / Banks / Insurance Companies / Autonomous Organizations / Societies / UTs.

**No. 010/VGL/008**  
**Central Vigilance Commission**  
\*\*\*\*\*

Satarkta Bhawan, Block 'A'  
GPO Complex, I.N.A.,  
New Delhi- 110023  
Dated the 14<sup>th</sup> March, 2011

**Circular No. 06/03/11**

**Sub: Complaints against Secretaries to the Government of India and Chief Executives of the Public Sector Enterprises and CMDs of the Public Sector Banks and Financial Institutions.**

Attention is invited to DoPT OM No. 104/100/2009-AVD.1 dated 14.01.2010 / 08.03.2010 and DPE OM No. 15(1)/2010-DPE(GM) dated 11.03.2010 / 12.04.2010, constituting Groups under the Chairmanship of Cabinet Secretary and Secretary (Coordination) in the Cabinet Secretariat respectively for handling complaints received against Secretaries to the Government of India and Chief Executives of the Public Sector Enterprises and CMDs of the Public Sector Banks and Financial Institutions. In this connection, the Central Vigilance Commission (CVC) vide circular No. 29/07/10 dated 27/07/2010 had issued a clarification regarding handling complaints in respect of the above mentioned categories of officers received by the CVC and referred to the concerned administrative authorities by CVC.

2. Cabinet Secretariat has brought to the notice of the CVC that in spite of above clarifications issued by CVC, some Ministries/Departments which receive complaints from CVC for taking appropriate action, instead of taking further necessary action at their level continue to forward the same to the Group of Secretaries or Group of Officers for consideration. Cabinet Secretariat has therefore, desired that instructions be issued by CVC to all the Ministries/Departments in this regard.

3. In the light of above, the Commission would like to impress upon all Ministries/Departments of the Government of India that the Central Vigilance Commission has been assigned powers under Section 8(1) of the CVC Act, 2003 (45 of 2003) to inquire or cause an inquiry or investigation to be made into any complaint alleging commission of offences under Prevention of Corruption Act, 1988 against any official belonging to such categories of officials specified in sub-section (2) of ibid section. The categories of officials prescribed are the members of All India Services serving in connection with the affairs of the Union and Group 'A' Officers of the Central Government which would include the Secretaries to the Government of India. Further, the notifications issued by the DoPT under clause (b) of sub-section (2) of Section (8) of the CVC Act, 2003 dated 18.03.2004 and 12.09.2007 prescribing categories/levels of officers in PSUs /Banks etc. includes the Chief Executives and Functional Directors of the Public Sector Enterprises and CMDs and Functional Directors of the Public Sector Banks and Financial Institutions.

4. The Commission would, therefore, make it clear that all complaints referred by the Commission to the Ministries/Departments against the above categories of officials are to be dealt/inquired into and reports submitted to the Commission by the respective authorities to whom the complaints are sent by the Commission and such complaints should not be forwarded or referred to the Group of Secretaries or Group of Officers for consideration. All Ministries/Departments of the Government of India may ensure compliance in this regard.



(J. Vinod Kumar)  
Officer on Special Duty

To

Secretary to the Government of India,  
All Ministries/Departments

Copy to:

- (i) Additional Secretary (S&V), DoPT
- (ii) Joint Secretary (V), DoPT
- (iii) Cabinet Secretariat (Shri K.V.S. Rao, Director)
- (iv) Department of Financial Services
- (v) Department of Public Enterprises
- (vi) Chief Vigilance Officers of all Ministries/Departments


No.010/VGL/008  
Central Vigilance Commission  
\*\*\*

Satarkta Bhawan, GPO Complex,  
Block-A, INA, New Delhi  
Dated 27<sup>th</sup> July, 2010

Circular No.29/07/10

**Sub: Recent Gol circular setting up Committees to handle complaints against Secretaries etc. – CVC's Clarification.**

- Department of Personnel and Training has issued Circular No.104/100/2009-AVD.I dated 14.1.2010 forming a Committee to deal with the complaint against Secretaries to Government of India.
- The Department of Public Enterprise has issued similar circular vide Office Memorandum No.15(1)/2010-DPE(GM) dated 11<sup>th</sup> March 2010 forming a Committee to deal with the complaint against CMDs, Functional Directors of PSUs and Banks.
- An issue has been raised recently in the Press saying that these circulars:
  - a) dilute the powers of the CVC
  - b) seek to offer a measure of protection to certain class of officers in Government, PSUs and Public Sector Banks
- It is clarified that
  - a) In so far as the complaints received by CVC, the Committee so set up can enquire into complaints referred to the Cabinet Secretary by the CVC.
  - b) It is not incumbent on the part of the CVC to send all complaints against the Officers so classified to the said Committee.
  - c) It has been the practice even before the setting up of the Committees, for the Commission to send complaints against the Secretaries to Government of India to the Cabinet Secretary. Similarly, complaints against CMDs and the Functional Directors of PSUs Banks were sent to the Administrative Ministries concerned.
  - d) The complaints so received from the Commission are to be enquired by the authorities to whom they were sent and report submitted and advice sought from the Commission.

  
27/7/2010 (Vineet Mathur)  
Director

**No. 002/VGL/61**  
**Central Vigilance Commission**

\*\*\*\*\*

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

**Office Order No. 20/05/10**

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

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

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

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

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

  
19/5/2010 (Vineet Mathur)  
Director

To  
All Chief Vigilance Officers.

010/VGL/008  
Government of India  
Central Vigilance Commission

Satarkata Bhawan,  
GPO Complex, Block-A,  
INA, New Delhi – 110 023

Dated: 05<sup>th</sup> May, 2010

**Sub : Recent GOI Circular setting up Committees to handle complaints against Secretaries etc – CVC's Clarification.**

- \* Department of Personnel and Training has issued Circular No. 104/100/2009-AVD.1 dated 14.1.2010 forming a Committee to deal with the complaint against Secretaries to Government of India.
- \* The Department of Public Enterprise has issued similar circular vide Office Memorandum No. 15(1)/2010-DPE(GM) dated 11<sup>th</sup> March 2010 forming a Committee to deal with the complaint against CMDs, Functional Directors of PSUs and Banks.
- \* An issue has been raised recently in the Press saying that these Circulars
  - a) dilute the powers of the CVC
  - b) seek to offer a measure of protection to certain class of officers in Government, PSUs and Public Sector Banks.
- \* It is clarified that
  - a) The Committee so set up can only enquire into complaints referred to the Cabinet Secretary by the CVC.
  - b) It is not incumbent on the part of the CVC to send all complaints against the officers so classified to the said committee.
  - c) It has been the practice even before the setting up of the Committees, for the Commission to send complaints against the Secretaries to Government of India to the Cabinet Secretary. Similarly, complaints against CMDs and the Functional Directors of PSUs and Banks were sent to the Administrative Ministries concerned.
  - d) The complaints so received from the Commission are to be enquired by the authorities to whom they were sent and report submitted and advice sought from the Commission.

**THIS HAS BEEN SUBSTITUTED WITH CIRCULAR No.29/07/10 DATED 27/7/2010**

004/VGL/26  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block-A,  
GPO Complex, INA,  
New Delhi- 110023  
Dated 12<sup>th</sup> May, 2009

Circular No. 9/5/09

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

Please refer to the Commission's Office Order No. 33/5/04 dated 17.05.2004 prescribing the procedure to be followed by CVOs on complaints forwarded by the Commission under PIDPI Resolution, wherein, the Government of India authorised the Central Vigilance Commission (CVC) as the 'Designated Agency' to receive written complaints for disclosure on any allegation of corruption or misuse of office and recommend appropriate action. Commission vide Office Order No. 4/2/06 dated 27.02.2006 had recently advised the Ministry/Departments/Organisations to submit their investigation reports on complaints forwarded by the Commission under PIDPI Resolution within a period of one month from the receipt of reference of the Commission.

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

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

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

  
12/5/09  
(Shalini Darbari)  
Director

To  
All Chief Vigilance Officers

No.004/VGL/26  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 27<sup>th</sup> February 2009

Office Order No.4/2/09

**Subject:- Govt. of India Resolution on Public Interest Disclosures & Protection of Informer.**

Please refer to the Commission's Office Order No.33/5/2004 dated 17.5.2004 wherein the Government of India authorized the Central Vigilance Commission (CVC) as the 'Designated Agency' to receive written complaints for disclosure on any allegation of corruption or misuse of office and recommend appropriate action. CVOs of the Ministries/Depts./Orgns. were required to submit their investigation report on complaints forwarded by the Commission under the PIDPI Resolution within a period of two weeks.

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

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

  
27/2/09  
(Shalini Darbari)  
Director

All Chief Vigilance Officers



No.005/VGL/031  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 23<sup>rd</sup> November 2007

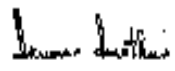
**Office Order No.40/11/07**

**Sub:- Reporting of cases in the monthly report of the CVOs, where sanction for prosecution is to be granted by the competent authority.**

The Hon'ble Supreme Court in Vineet Narain Vs Union of India case had directed that "time limit of three months for grant of sanction for prosecution must be strictly adhered to. However, additional time of one month may be allowed where consultation is required with the Attorney General (AG) or any Law Officer in the AG's office". It is observed that the time limit set by the Supreme Court is not being adhered to by the organizations concerned in many a cases.

2. The Commission had decided to modify para 4 of the monthly report and para 8 of the Annular Report to be submitted by the CVOs to the Commission to enable monitoring of delay in grant of sanction for prosecution. Copies of the modified format of para 4 of the Monthly Report and para 8 of Annual Report are enclosed. The complete and modified formats of the Monthly Report and Annual Report are available on the Commission's web-site i.e. <http://cvc.nic.in> in a downloadable forms.

3. All CVOs are directed to forward the data in the revised formats and the details pertaining to officers/officials of all category against whom sanction for prosecution is pending beyond the specified time limit may be attached alongwith the monthly/annual report as a separate annexure.

  
\_\_\_\_\_  
(Vineet Mathur)  
Deputy Secretary

All Chief Vigilance Officers

## Monthly Report

Details regarding request for Prosecution sanctions received and disposed

Category	Opening Balance	Received during the month	Total	Sanction granted	Sanction Refused	Balance	Age wise pendency (Months)	
							<3	>3*
Gr-A								
Gr-B								
Gr-C								
Gr-D								

\* (details of cases pending for prosecution sanction beyond 3 months to be shown in annexure)

Sl.No.	Name & Designation of officer	Date of recommendation by Investigating Agency	Reason for pendency

## Annual Report

Details regarding request for Prosecution sanctions received and disposed

Category	Opening Balance	Received during the year	Total	Sanction granted	Sanction Refused	Balance	Age wise pendency (Months)	
							<3	>3*
Gr-A								
Gr-B								
Gr-C								
Gr-D								

\* (details of cases pending for prosecution sanction beyond 3 months to be shown in annexure)

Sl.No.	Name & Designation of officer	Date of recommendation by Investigating Agency	Reason for pendency

**MONTHLY REPORT OF THE CVO**

**ORGANISATION:**

**MONTH:**

**CVO Email ID:**

**PART A (TO BE GENERATED FROM DCM & MIS)**

1. COMPLAINTS (Nos)

Source	Opening Balance	Received during the month	Total	Disposed	Balance	Age wise Pendency(Months)			
						< 1	1-3	3-6	>6
CVC									
OTHERS									

2. ACTION ON THE CVC ADVICE (Nos)

Stage of Advice	Type of Proceedings	Opening Balance	Received during the month	Total	Disposed *	Balance	Age wise pendency(Months)			
							<1	1-3	3-6	>6
I	Major									
	Minor									
II	Major									

3. DEPARTMENTAL INQUIRIES (Nos)

a) UNDER THE CVC JURISDICTION \*\*

Opening Balance	Received during the month	Total	Disposed	Balance	Age wise Pendency(Months)			
					< 6	6-12	12-18	>18

b) OTHERS (Nos) \*\*\*

Opening Balance	Received during the month	Total	Disposed	Balance	Age wise Pendency(Months)			
					< 6	6-12	12-18	>18

4. PROSECUTION SANCTIONS

Category	Opening Balance	Received during the month	Total	Sanction granted	Sanction refused	Balance	Age wise Pendency (Months)	
							<3	>3*
Gr-A								
Gr-B								
Gr-C								
Gr-D								

\*(details of cases pending for prosecution sanction beyond 3 months to be shown in annexure)

S. No.	Name & Designation of officer	Date of recommendation by Investigating Agency	Reason for pendency

5. Age-wise data of disposed departmental proceedings (time taken to conclude the proceedings from the stage of registration of complaint till final disposal) (nos)

Nature of Proceedings	< 3 Months	3-6 Months	6 Months-1year	1-2 year	>2years
Major					
Minor					

6. QUALITATIVE PARAMETERS OF VIGILANCE ADMINISTRATION

a) MAJOR PENALTY PROCEEDINGS

No. of Cases	No. of officials against whom proceedings finalized (out of column 1)	Cut in pension (out of column 2)	Dismissal/ Removal/ Compulsory Retirement	Reduction in Lower time Scale/Rank	Other Major penalties	Minor Penalties other than Censure/ Warning	Censure/ Warning	No action

b) MINOR PENALTY PROCEEDINGS

No. of Cases	No. of officials against whom proceedings finalized	Reduction to lower stage	Postponement /Withholding of Increment	Recovery from pay	With holding of promotion	Censure/ Warning	No action

c) RANK-WISE BREAK UP OF PUNISHMENT AWARDED

Group	No. of Cases	No. of officials against whom proceedings finalized	Cut in pension	Dismissal/ Removal/ Compulsory Retirement	Reduction to lower time scale/ in Rank	Other Major penalties	Minor Penalties other than Censure/ Warning	Censure/ Warning	No action
(1) Group C									
(2) Group B									
(3) Group A up to DS/Dir level									
(4) JS and above									

Note : For Banks and PSUs corresponding row entries in (1), (2), (3) and (4) are explained in the end.

7. List of cases where major penalty imposed

Jurisdiction	Sl.No.	Case No.	Name(s) of Charged Officer(s)	Date of issue of Charge sheet	Date of final order	Punishment	Remarks
CVC							
Others							

**PART B**

(TO BE PREPARED BY THE CVO)

## 8.a) INVESTIGATION REPORTS SUBMITTED BY THE CVO W.R.T. ALL COMPLAINTS/AUDIT REPORTS INVESTIGATIONS OF WORKS ETC. (Nos)

Upto the end of previous month (from Jan.)	During the Month	Action Recommended on the cases of the Month*			
		Major	Minor	Others	Closure

\*This should include information provided on complaints in Col. 1.

## b) RANK WISE DETAILS ON ACTION RECOMMEND ABOVE

Rank	Action recommended (No. of officers)				
	Major	Minor	Others	Closure	Total
(1) Group C					
(2) Group B					
(3) Group A up to DS/Dir level					
(4) JS and above					
Total					

Note: For Banks and PSUs corresponding row entries in (1), (2), (3) and (4) are explained in the end.

**PREVENTIVE VIGILANCE**

## 9. INSPECTIONS CONDUCTED BY THE CVO (Nos) [CTE LIKE INSPECTIONS &amp; OTHERS]

Type	Upto the end of the previous month	During this month	No. resulting in Vig. Cases	Recovery effected (in Rs.)
Periodic				
Surprise				
Major Works				

## 10. SCRUTINY OF ANNUAL PROPERTY RETURNS

Total No. of APRs	No. scrutinsed up to the end of the previous month	No. scrutinized during the month	Balance	Comments

## 11. WHETHER FOLLOWING LIST PREPARED

- a) Agreed List
- b) List of Officers of Doubtful Integrity

## 12. OTHER ACTIVITIES

- a) Training Courses conducted in vigilance awareness
- b) Systems Improvement undertaken
- c) Extent of IT usage and the e-governance
- d) Job Rotation
- e) Whether QPR has been forwarded by CVO [Yes/No]
- f) Whether CTE type inspections conducted by CVO [Yes/No]

13. a) Whether tender put up on web-site [Yes/No]
- b) Whether details of tenders above threshold value are put on web-site subsequent to finalisation of tenders. (Attach details) [Yes/No]

14. REMARKS/COMMENTS ON VIGILANCE MATTERS OF THE ORGANISATION

PLACE:  
DATE

SIGNATURE OF THE CVO  
NAME OF THE CVO

Criteria of disposal-

- 1) Complaints- Either issue of charge sheet or final decision for closing or dropping the complaint.
- 2) \*Action taken in table 2:
  - a) Minor Penalty
    - i) I Stage - Issuing Final Orders
  - b) Major Penalty
    - i) I Stage – Appointment of IO/case dropped by DA
    - ii) II Stage-Issue of Final Orders.

\*\*Departmental inquiries under the CVC jurisdiction would include cases of Group ‘A’ Officers (Government organized services), Board Level Appointees and two levels below Board Level (PSUs) Scale V and above (PSBs and others) and composite cases where one of the Charged Officers is one of the above categories.

\*\*\*Departmental inquiries - others would include the cases of Group ‘B’ and ‘C’ categories not required to be referred to CVC.

With respect to column 6(c) and 8, the categories (1), (2), (3) and (4) are as follows for Banks & PSUs:-

Category	Banks	PSUs
(1)	Below Scale-III	May give the break-up as per their prevalent scale*
(2)	Scale-III & IV	
(3)	Scale-V and above	Two level below board level
(4)	Board level appointees	Board level appointees

- \* (1) relates to Junior Management  
(2) relates to Middle Management  
(3) relates to Senior Management

**ANNUAL REPORT OF VIGILANCE WORK FOR THE YEAR \_\_\_\_\_**

ORGANISATION:

NAME OF THE CVO

E-mail ID:

**PART-I**

ORGANISATIONAL PROFILE

1. No. of employees
  - a) Group A or equivalent and above
  - b) Others
2. Nature of important activities carried out
3. Nature of Public Dealing                      Extensive/Moderate/Low/Indirect
4. Vigilance set up
  - a) Whether the CVO is full time or Part time
  - b) No. of Gazetted/executive level in the vigilance wing
  - c) No. of other officials in the Vigilance wing

**PART II**

ANNUAL PERFORMANCE FOR THE PERIOD TO BE GENERATED FROM THE DCM&MIS

5. COMPLAINTS (Nos)

Source	Opening Balance	Received during the year	Total	Disposed	Balance	Age wise Pendency (Months)			
						< 1	1-3	3-6	>6
CVC									
OTHERS									

6. ACTION ON THE CVC ADVICE (Nos)

Stage of Advice	Type of Proceedings	Opening Balance	Received during the year	Total	Disposed *	Balance	Age wise pendency (Months)			
							<1	1-3	3-6	>6
I	Major									
	Minor									
II	Major									

7. DEPARTMENTAL INQUIRIES (Nos)

a) UNDER THE CVC JURISDICTION

Opening Balance	Received during the year	Total	Disposed	Balance	Age wise Pendency(Months)			
					< 6	6-12	12-18	>18

b) OTHERS (Nos)

Opening Balance	Received during the year	Total	Disposed	Balance	Age wise Pendency (Months)			
					< 6	6-12	12-18	>18

8. PROSECUTION SANCTIONS

Category	Opening Balance	Received during the year	Total	Sanction granted	Sanction refused	Balance	Age wise Pendency (Months)	
							<3	>3*
Gr-A								
Gr-B								
Gr-C								
Gr-D								

\*(details of cases pending for prosecution sanction beyond 3 months to be shown in an annexure)

S. No.	Name & Designation of officer	Date of recommendation by Investigating Agency	Reason for pendency

9. AGEWISE DATA OF DISPOSED DEPARTMENTAL PROCEEDINGS (time taken to conclude the proceedings from the stage of registration of complaint till final disposal) (Nos)

Nature of Proceedings	< 3 Months	3-6 Months	6 Months-1year	1-2 year	>2years
Major					
Minor					

10. QUALITATIVE PARAMETERS OF VIGILANCE ADMINISTRATION

a) MAJOR PENALTY PROCEEDINGS (Grouping penalty wise)

No. of Cases	No. of officials against whom proceedings finalized	Cut in pension	Dismissal/ Removal/ Compulsory Retirement	Reduction to Lower time Scale/ Rank	Other Major penalties	Minor Penalties other than Censure/ Warning	Censure / Warning	No action

b) MINOR PENALTY PROCEEDINGS (Grouping penalty wise)

No. of Cases	No. of officials against whom proceedings finalized	Reduction to lower stage	Postponement /Withholding of Increment	Recovery from pay	With holding of promotion	Censure/ Warning	No action

c) RANK WISE BREAK UP OF PUNISHMENT AWARDED

Group	No. of Cases	No. of officials against whom proceedings finalized	Cut in pension	Dismissal/ Removal/ Compulsory Retirement	Reduction to lower time scale / in Rank	Other Major penalties	Minor Penalties other than Censure/ Warning	Censure/ Warning	No action
(1) Group C									
(2) Group B									
(3) Group A up to DS/Dir level									
(4) JS and above									

Note : For Banks and PSUs corresponding row entries in (1), (2), (3) and (4) are explained in the end.



11. LIST OF CASES WHERE MAJOR PENALTY WAS IMPOSED

Jurisdiction	Sl.No.	Case No.	Name(s) of Charged Officer(s)	Date of issue of Charge sheet	Date of final order	Punishment	Remarks
CVC							
Others							

**PART III (TO BE PREPARED BY THE CVO)**

12.a) INVESTIGATION REPORTS SUBMITTED BY THE CVO W.R.T. ALL COMPLAINTS/AUDIT REPORTS/ INVESTIGATIONS OF WORKS ETC. (Nos)

Upto the end of previous year	During the Year	Action Recommended on the cases of the Year*			
		Major	Minor	Others	Closure

\*This should include information provided on complaints in Col.5.

b) RANK WISE DETAILS ON ACTION RECOMMEND ABOVE

Rank	Action recommended (No. of officers)				
(1) Group C					
(2) Group B					
(3) Group A up to DS/Dir level					
(4) JS and above					
Total					

Note: For Banks and PSUs corresponding row entries in (1), (2), (3) and (4) are explained in the end.

13. INSPECTIONS CONDUCTED BY THE CVO (Nos) [CTE LIKE INSPECTIONS]

a) CONTRACTS AND MAJOR PURCHASES

Type	Up to the end of the previous year	During this year	No. resulting in Vig. Cases	Recovery effected (in Rs.)
Periodic				
Surprise				
Major Works				

b) OTHER THAN CONTRACTS AND MAJOR PURCHASES

Type	Up to the end of the previous year	During this year	No. resulting in Vig. Cases	Recovery effected (in Rs.)
Periodic				
Surprise				
Major Works				

14. CASES IN WHICH COMMISSION ADVICE HAS NOT BEEN COMPLIED WITH

Names of officers	IO's findings	CVC 2 <sup>nd</sup> Stage advice	Final Decision

15. ACTION TAKEN ON CTEs REPORT(IF ANY)

Names of works with date of inspection	No. of paras referred to CVO for action	No of paras in which action taken by CVOs	Paras settled by CTE	No. of paras referred for vigilance investigation with date	Paras pending for disposal	Recovery proposed by CTE	Recovery affected by dept

16. NATURE OF VIGILANCE ACTIVITY

Total No of Departmental Inquiries		No. of inquiries pertaining to core activities of the organization out of col 1		No. of inquiries pertaining to personnel matters out of col 1	
Major	Minor	Major	Minor	Major	Minor

17. ACTION ON APPOINTMENT OF CDIs AS IOs

Opening balance of pending appointment	Nominations received during the year	No. of appointment orders issued	Closing balance		
			<6 months	6m-1yr	>1year

18. DETAILS OF MISCONDUCTS WHERE MAJOR PENALTY WAS IMPOSED

- In respect of officers coming within the jurisdiction of CVC
- Others

Nature of misconduct	1 <sup>st</sup> stage advice of CVC	Findings of IO	2 <sup>nd</sup> stage advice of CVC	Nature of penalty imposed by disciplinary authority

This information is meant to see the consistency in nature of misconduct vis-à-vis penalty imposed by the DA.

PREVENTIVE VIGILANCE

19. SCRUTINY OF ANNUAL PROPERTY RETURNS

Total No. of APRs	No. scrutinsd upto the end of the previous month	No. scrutinized during the month	Balance	Comments

20. WHETHER FOLLOWING LIST PREPARED

- Agreed List
- List of Officers of Doubtful Integrity

21. OTHER ACTIVITIES

- Training Courses conducted in vigilance awareness
- Systems Improvement undertaken
- Extent of IT usage and the e-governance
- Job Rotation
- Whether QPR has been furnished by CVO [Yes/No]
- Whether CTE type inspections conducted by CVO [Yes/No]
- Amount of expenditure in gifts to public/Govt. servants in terms of CVC office order No. 60/9/04 dated 22.9.2004.

22. a) Whether tender put up web-site [Yes/No]  
 b) Whether details of tender about threshold value are put on web-site subsequent to finalisation of tenders. [Yes/No]
23. Has computerised file tracking system been introduced.
24. No. of cases in which deptl. Action initiated/punishment awarded for causing delays.
25. Any systems designed to ensure that principle of first come first serve in dealings with public/ others stake holders is followed.
26. No. of cases in which deptl. Action initiated/ punishment awarded for violating sequential approach.
27. Any steps taken to increase transparency in dealing with public /other stake holders.
28. Systems improvement recommended to reduce opportunities for corruption.
29. Remarks/comments on vigilance matters of the organization.

Place  
Date

SIGNATURE OF THE CVO  
(NAME OF THE CVO)

Criteria of disposal-

- 1) Complaints- Either issue of charge sheet or final decision for closing or dropping the complaint.
- 2) \*Action taken in Table-2:
- a) Minor Penalty  
1<sup>st</sup> Stage- Issuing Final Orders
- b) Major Penalty  
i) I Stage – Appointment of IO/case dropped by DA  
ii) II Stage – Issue of Final Orders

\*\*Departmental inquiries under the CVC jurisdiction would include cases of Group ‘A’ Officers (Government organized services), Board Level Appointees and two levels below Board Level (PSUs) Scale V and above (PSBs and others) and composite cases where one of the Charged Officers is one of the above categories.

\*\*\*Departmental inquiries - others would include the cases of Group ‘B’ and ‘C’ categories not required to be referred to CVC.

With respect to column 10(c) and 12(b), the categories (1), (2), (3) and (4) are as follows for Banks & PSUs:-

Category	Banks	PSUs
(1)	Below Scale-III	May give the break-up as per their prevalent scale*
(2)	Scale-III & IV	
(3)	Scale-V and above	Two level below board level
(4)	Board level appointees	Board level appointees

- \* (1) relates to Junior Management  
 (2) relates to Middle Management  
 (3) relates to Senior Management

No.004/VGL/20  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA  
New Delhi- 110 023  
Dated the 29<sup>th</sup> April, 2005

**OFFICE ORDER NO.25/4/05**

**Subject: Complaints forwarded by the Administrative Ministries/Departments.**

.....

The CVOs of the Public Sector Corporations and subordinate organizations of the Central Govt. undertake investigations of the complaints having vigilance angles concerning their organizations. These complaints also include complaints forwarded by the administrative Ministries/Departments.

2. It has been observed that quite often in such cases, CVOs furnish a report to the administrative Ministry/Department and the complaint is closed as per the decision of the administrative Ministry/Department. It is clarified that the complaints against officials who are within the purview of the Commission, can be closed only with the approval of the Commission. Accordingly in all such cases, CVOs would endorse a copy of the report being sent to the Ministry, to the Commission also and such complaints will be closed only with the approval of the Commission.

The above instructions may please be noted for strict compliance.

Sd/-  
(Mitter Sain)  
Deputy Secretary

To

All CVOs of Ministries/Departments/PSUs/Banks/Insurance Companies/  
Autonomous organizations/Societies

Copy for information to:- 1. All Branch Officers/ Section Officers  
2. Sr.PPS to CVC, PPS to VC(J)/VC(D)  
3. PS to Secretary/AS(B)/AS(G)

No.004/VGL/62  
Government of India  
Central Vigilance Commission

\*\*\*\*\*

Satarkta Bhawan, Block-A,  
GPO Complex, I.N.A.,  
New Delhi – 110023  
Dated, the 31<sup>st</sup> August 2004

**Office Order No. 57/8/04**

To

All the CVOs of:

- (i) Public Sector Undertakings
- (ii) Public Sector Banks

**Sub: Time limit for investigation for complaints- regarding.**

Sir/Madam,

The DOPT in their OM No. 27(12)(EO)/94/ACC dated 30.7.99 regarding guidelines for processing cases of Board level appointments in PSEs have taken cognizance of the fact that there are sometimes spate of complaints against individuals whose names are being considered/finalized by the PESB. It has also come to the notice of the Commission that sometimes when an official is due for promotion, some old complaints are taken cognizance of and investigations started against the official. This matter was also discussed in the meetings to review the performance of the CVOs wherein suggestions for modification in the time period were made.

2. The matter has been considered by the Commission and to avoid unnecessary harassment to the officials, against whom frivolous complaints are received at the time of their promotion/selection the Commission has decided that:

- (a) as a rule, complaints/cases which are more than 5 years old and no action has been taken till then, should not be investigated. However, the limit of 5 years will not apply to cases of fraud and other criminal offences; and
- (b) no cognizance should be taken of any complaint which is received 6 months prior to the initiation of selection process for senior posts.

Yours Faithfully,

Sd/-  
(Mange Lal)  
Deputy Secretary  
Telefax 24651010

No.004/VGL/26  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 17<sup>th</sup> May, 2004

**Office Order No. 33/5/2004**

**Subject:- Govt. of India Resolution on Public Interest Disclosures & Protection of Informer.**

The Government of India has authorised the Central Vigilance Commission (CVC) as the 'Designated Agency' to receive written complaints for disclosure on any allegation of corruption or misuse of office and recommend appropriate action.

2. A copy of the Public Notice issued by the Central Vigilance Commission with respect to the above mentioned Resolution is enclosed. All CVOs are further required to take the following actions with respect to the complaints forwarded by the Commission under this Resolution:

- (i) All the relevant papers/documents with respect to the matter raised in the complaint should be obtained by the CVO and investigation into the complaint should be commenced immediately. The investigation report should be submitted to the Commission within two weeks.
- (ii) The CVO is to ensure that no punitive action is taken by any concerned Administrative authority against any person on perceived reasons/ suspicion of being "whistle blower."
- (iii) Subsequent to the receipt of Commission's directions to undertake any disciplinary action based on such complaints, the CVO has to follow up and confirm compliance of further action by the DA and keep the Commission informed of delay, if any.
- (iv) Contents of this order may be brought to the notice of Secy./CEO/ CMD.

**All CVOs may note the above directions for compliance.**

Sd/-  
(Sujit Banerjee)  
Secretary

To

All Chief Vigilance Officers

## Central Vigilance Commission

### Press Release:

The Government of India has authorized the Central Vigilance Commission (CVC) as the 'Designated Agency' to receive written complaints for disclosure on any allegation of corruption or misuse of office and recommend appropriate action.

2. The jurisdiction of the Commission in this regard would be restricted to any employee of the Central Government or of any corporation established by or under any Central Act, government companies, societies or local authorities owned or controlled by the Central Government. **Personnel employed by the State Governments and activities of the State Governments or its Corporations etc. will not come under the purview of the Commission.**

3. In this regard, the Commission, which will accept such complaints, has the responsibility of keeping the identity of the complainant secret. **Hence, it is informed to the general public that any complaint, which is to be made under this resolution should comply with the following aspects.**

- i) The complaint should be in a closed / secured envelope.
- ii) The envelope should be addressed to Secretary, Central Vigilance Commission and should be superscribed "Complaint under The Public Interest Disclosure". If the envelope is not superscribed and closed, it will not be possible for the Commission to protect the complainant under the above resolution and the complaint will be dealt with as per the normal complaint policy of the Commission. The complainant should give his/her name and address in the beginning or end of complaint or in an attached letter.
- iii) Commission will not entertain anonymous/pseudonymous complaints.
- iv) The text of the complaint should be carefully drafted so as not to give any details or clue as to his/her identity. However, the details of the complaint should be specific and verifiable.
- v) In order to protect identity of the person, the Commission will not issue any acknowledgement and the whistle-blowers are advised not to enter into any further correspondence with the Commission in their own interest. The Commission assures that, subject to the facts of the case being verifiable, it will take the necessary action, as provided under the Government of India Resolution mentioned above. If any further clarification is required, the Commission will get in touch with the complainant.

4. The Commission can also take action against complainants making motivated/vexatious complaints under this Resolution.

5. A copy of detailed notification is available on the web-site of the Commission <http://www.cvc.nic.in>.

## Public Notices

### GOI Resolution on Public Interest Disclosure and Protection of Informer

The Government of India has authorized the Central Vigilance Commission (CVC) as the 'Designated Agency' to receive written complaints for disclosure on any allegation of corruption or misuse of office and recommend appropriate action.

2. The jurisdiction of the Commission in this regard would be restricted to any employee of the Central Government or of any corporation established by or under any Central Act, government companies, societies or local authorities owned or controlled by the Central Government. **Personnel employed by the State Governments and activities of the State Governments or its Corporations etc. will not come under the purview of the Commission.**

3. In this regard, the Commission, which will accept such complaints, has the responsibility of keeping the identity of the complainant secret. **Hence, it is informed to the general public that any complaint, which is to be made under this resolution should comply with the following aspects.**

- i) The complaint should be in a **closed / secured envelope**.
- ii) The envelope should be addressed to Secretary, Central Vigilance Commission and should be **superscribed "Complaint under The Public Interest Disclosure"**. If the envelope is not superscribed and closed, it will not be possible for the Commission to protect the complainant under the above resolution and the complaint will be dealt with as per the normal complaint policy of the Commission. The complainant should give his/her name and address in the beginning or end of complaint or in an attached letter.
- iii) Commission will **not entertain anonymous/pseudonymous** complaints.
- iv) The text of the complaint should be carefully drafted so as **not to give any details or clue as to his/her identity**. However, the details of the complaint should be specific and verifiable.
- v) In order to protect identity of the person, the Commission will not issue any acknowledgement and the whistle-blowers are **advised not to enter into any further correspondence** with the Commission in their own interest. The Commission assures that, subject to the facts of the case being verifiable, it will take the necessary action, as provided under the Government of India Resolution mentioned above. If any further clarification is required, the Commission will get in touch with the complainant.

4. The Commission can also take **action against complainants making motivated/vexatious complaints** under this Resolution.

5. A copy of detailed notification is available on the web-site of the Commission <http://www.cvc.nic.in>.

**Issued in Public Interest by the Central Vigilance Commission, INA, Satarkta Bhawan, New Delhi.**

Sd/-  
Secretary  
Central Vigilance Commission





# भारत का राजपत्र The Gazette of India

असाधारण  
EXTRAORDINARY  
भाग I—खण्ड 1  
PART I—Section 1  
प्राधिकार से प्रकाशित  
PUBLISHED BY AUTHORITY

सं. 89]  
No. 89]

नई दिल्ली, बुधवार, अप्रैल 21, 2004/वैशाख 1, 1926  
NEW DELHI, WEDNESDAY, APRIL 21, 2004/VAISHAKHA 1, 1926

कार्मिक, लोक-शिक्षा तथा पेंशन मंत्रालय  
(कार्मिक और प्रशिक्षण विभाग)

संकाय

नई दिल्ली, 21 अप्रैल, 2004

सं.-371/12/2002-ए.बी.डी.-III.—जबकि सर्वोच्च न्यायालय ने श्री साधेन्द्र दुने की हत्या के संबंध में रिट याचिका (सी.) संख्या-539/2003 की सुनवाई करते समय यह इच्छा व्यक्त की कि उपयुक्त विधान के बनावट होने तक "पदावस्था या भ्रष्टाचार (विशेष क्लोअर्स)" से प्राप्त शिकायतों पर कार्रवाई किए जाने के लिए उपयुक्त तंत्र व्यवस्था तैयार की जाए।

और जबकि विधि आयोग द्वारा तैयार किए गए लोकहित प्रकटीकरण और सुशुद्धि संरक्षण विधेयक, 2002 की जांच-पड़ताल चल रही है।

अतः अब, केन्द्र सरकार एतद्वारा निम्नलिखित संकल्प लेती है :—

1. केन्द्रीय सतर्कता आयोग को केन्द्रीय सरकार अथवा किसी केन्द्रीय अधिनियम के द्वारा अथवा इसके अंतर्गत स्थापित किन्हीं निगमों, केन्द्र सरकार के स्वाभिमत्य वाली अथवा इसके द्वारा नियंत्रित सरकारी कम्पनियों, सोसाइटियों अथवा स्थायी प्राधिकारों के किसी कर्मचारी पर भ्रष्टाचार के किसी आरोप अथवा पद के दुरुपयोग के सम्बन्ध में लिखित शिकायतों प्राप्त करने अथवा प्रकटीकरण सम्बन्धी दस्तावेज प्राप्त करने के लिए एतद्वारा मनोनीत अधिकार के रूप में प्राधिकृत किया जाता है। प्रकटीकरण अथवा शिकायत में यथासंभव सभी विवरण होंगे और इसमें समर्थक दस्तावेज अथवा अन्य सामग्री शामिल होगी।

2. मनोनीत अधिकार यदि ऐसा उचित समझे तो वह प्रकटीकरण करने वाले व्यक्तियों से और जानकारी अथवा विवरण मांगना सकता है। यदि शिकायत बेवामी है तो मनोनीत अधिकार इस मामले में कोई कार्रवाई नहीं करेगा।

3. शासकीय गुप्त अधिनियम, 1923 में विहित किसी बात के बावजूद भी संविधान के अनुच्छेद 33 के खण्ड (क) से (घ) में संदर्भित व्यक्तियों से भिन्न कोई लोक सेवक अथवा किसी गैर-सरकारी संगठन सहित कोई अन्य व्यक्ति मनोनीत अधिकार को लिखित प्रकटीकरण भेज सकता है।

4. यदि शिकायत में शिकायतकर्ता का भ्रूट भी दिया गया है तो मनोनीत अधिकार निम्नलिखित कदम उठाएगा :—

- (i) मनोनीत अधिकार शिकायतकर्ता से यह पता लगाने कि क्या वह नहीं व्यक्ति है अथवा नहीं है जिसने शिकायत की है।
- (ii) शिकायतकर्ता की पहचान उद्घाटित नहीं की जाएगी जब तक कि शिकायतकर्ता ने स्वयं शिकायत का भ्रूट सार्वजनिक न कर दिया हो अथवा किसी अन्य कार्यालय अथवा प्राधिकारी को अपनी पहचान नहीं बता दी हो।

(1)

(iii) शिकायतकर्ता को पहचान गुप्त रखने के परन्तु मनोनीत अधिकरण प्रथमतः यह पता लगाने के लिए विवेकपूर्ण जांच-पड़ताल करेगा कि क्या इस शिकायत पर आगे कार्रवाई करने का कोई आधार बनता है। इस प्रयोजन हेतु मनोनीत अधिकरण एक समुचित तंत्र बनाएगा।

(iv) शिकायत की विवेकपूर्ण जांच-पड़ताल करने के परिणामस्वरूप अथवा बिना जांच-पड़ताल के केवल शिकायत के आधार पर ही यदि मनोनीत अधिकरण का यह मत होता है कि मामले की और जांच-पड़ताल कार्रवाई जानी अपेक्षित है तो मनोनीत अधिकरण सम्बन्धित संगठन अथवा कार्यालय के विष्णुध्वज से सरकारी तौर पर उनकी टिप्पणियाँ/अथवा उनके स्पर्धीकरण मांगेगा। ऐसा करते समय मनोनीत अधिकरण मुखबिर की पहचान प्रकट नहीं करेगा और सम्बन्धित संगठन के अध्यक्ष को यह भी अनुरोध करेगा कि यदि उन्हें किसी कारणवश मुखबिर की पहचान का पता चल जाता है तो वे मुखबिर की पहचान गुप्त रखेंगे।

(v) सम्बन्धित संगठन का उत्तर प्राप्त होने के बाद यदि मनोनीत अधिकरण का यह मत होता है कि अन्वेषण से पद के दुरुपयोग अथवा प्रष्टधार के पुनः आरोपों का पता चलता है तो मनोनीत अधिकरण सम्बन्धित सरकारी विभाग अथवा संगठन को उपयुक्त कार्रवाई करने की संस्तुति करेगा। इनमें अन्य बातों के साथ-साथ निम्नलिखित शामिल होगा :—

(क) सम्बन्धित सरकारी कर्मचारी के विरुद्ध उपयुक्त कार्यवाहियाँ शुरू किया जाना।

(ख) भ्रष्टकृत्य अथवा पद के दुरुपयोग जैसी भी स्थिति हो, के परिणामस्वरूप सुनकर को हुई हाजि का पूर्ति के लिए उपयुक्त प्रशासनिक कदम उठाना।

(ग) मामले के तथ्यों और परिस्थितियों को देखते हुए यदि ऐसा न्यायसंगत हो तो उपयुक्त मामलों में आपराधिक कार्यवाहियाँ शुरू किए जाने के बारे में उपयुक्त प्राधिकारी/अभिप्रेत को सिफारिश करना।

(घ) भविष्य में ऐसी घटनाओं की पुनरावृत्ति रोकने के लिए सुधारत्मक उपाय किए जाने की सिफारिश करना।

5. पूर्ण जांच-पड़ताल करने अथवा सम्बन्धित संगठन से जानकारी प्राप्त करने के प्रयोजन से मनोनीत अधिकरण को प्राप्त शिकायत के अनुक्रम में जांच-पड़ताल को पूरी करने में सभी प्रकार की सहायता प्रदान करने के लिए पर्याप्ततक समझे जाने पर केंद्रीय अन्वेषण ब्यूरो अथवा पुलिस अधिकारियों को सहायता देने के लिए प्राधिकृत किया जाएगा।

6. यदि कोई व्यक्ति किसी कार्रवाई से इस आधार पर व्यथित होता है कि उसे इस तथ्य के आधार पर सीधित किया जा रहा है कि उसने शिकायत दायर की है अथवा प्रकटीकरण किया है तो वह इस मामले के निवारण की प्रार्थना करते हुए मनोनीत अधिकरण के समक्ष एक आवेदन दायर कर सकता है जो पर्याप्ततक उपयुक्त समझी जाने वाली कार्रवाई करेगा। मनोनीत अधिकरण सम्बन्धित सरकारी सेवक अथवा सरकारी प्राधिकारी को जैसी भी स्थिति हो, उपयुक्त निर्देश दे दे।

7. शिकायतकर्ता के आवेदन पर अथवा एकत्रित की गई जानकारी के आधार पर यदि मनोनीत अधिकरण का यह मत होता है कि शिकायतकर्ता अथवा गवाहों को संरक्षण दिए जाने की आवश्यकता है तो मनोनीत अधिकरण सम्बन्धित सरकारी प्राधिकारियों को उपयुक्त निर्देश जारी करेगा।

8. इस कार्य में प्रयुक्त तंत्र, मौजूदा कार्य तंत्र के अतिरिक्त होगा। तथापि, यदि शिकायत इस तंत्र के अन्तर्गत प्राप्त होती है तो पहचान को गुप्त रखा जाएगा।

9. यदि मनोनीत अधिकरण शिकायत को अभिरेखित अथवा कूटप्रद स्वरूप की धारा है तो मनोनीत अधिकरण उपयुक्त कदम उठाने के लिए स्वतंत्र है।

10. मनोनीत अधिकरण निम्नलिखित स्वरूप के प्रकटीकरण पर कार्रवाई अथवा उसकी जांच-पड़ताल नहीं करेगा :—

(क) ऐसे किसी मामले जिसमें लोक सेवक जांच अधिनियम, 1850 के अन्तर्गत एक औपचारिक और सार्वजनिक जांच का आदेश दे दिया गया हो; अथवा

(ख) ऐसा कोई मामला जिसे जांच आयोग अधिनियम, 1952 के तहत जांच के लिए भेजा गया है।

11. मनोनीत अधिकरण के निर्देशों के विपरीत मुखबिर की पहचान उद्घाटित हो जाने पर मनोनीत अधिकरण ऐसा प्रकटीकरण करने वाले किसी व्यक्ति अथवा अधिकरण के विरुद्ध मौजूदा विनियमों के अनुसार उपयुक्त कार्रवाई शुरू किए जाने के लिए प्राधिकृत है।

12. इस कार्य हेतु सुचित तंत्र, साधन इत्यादि इस विषय में कानून बनाए जाने तक लागू रहेगा।

श्रीमती मंजुलिका गौतम, अपर सचिव

**RESOLUTION**

New Delhi, the 21st April, 2004

No. 371/12/2002-AVD-III.—Whereas while hearing Writ Petition (C) No. 539/2003 regarding the murder of Shri Satyendra Dubey, the Supreme Court desired that pending enactment of a suitable legislation, suitable machinery should be put in place for acting on complaints from "whistle-blowers".

And whereas the "The Public Interest Disclosure and Protection of Informers' Bill, 2002, drafted by the Law Commission is under examination.

Now, therefore, the Central Government hereby resolves as under :

1. The Central Vigilance Commission (CVC) is hereby authorized, as the Designated Agency, to receive written complaints or disclosure on any allegation of corruption or of mis-use of office by any employee of the Central Government or of any corporation established by or under any Central Act, Government companies, societies or local authorities owned or controlled by the Central Government. The disclosure or complaint shall contain as full particulars as possible and shall be accompanied by supporting documents or other material.
2. The designated agency may, if it deems fit call for further information or particulars from the persons making the disclosure. If the complaint is anonymous, the designated agency shall not take any action in the matter.
3. Notwithstanding anything contained in the Official Secrets Act, 1923, any public servant other than those referred to clauses (a) to (d) of Article 33 of the Constitution or any other person including any non-governmental organisation, may make a written disclosure to the designated agency.
4. If the complaint is accompanied by particulars of the person making the complaint, the designated agency shall take the following steps :
  - (i) The designated agency will ascertain from the complainant whether he was the person who made the complaint or not.
  - (ii) The identity of the complainant will not be revealed unless the complainant himself has made the details of the complaint either public or disclosed his identity to any other office or authority.
  - (iii) After concealing the identity of the complainant, the designated agency shall make, in the first instance, discreet inquiries to ascertain if there is any basis of proceeding further with the complaint. For this purpose, the designated agency shall devise an appropriate machinery.
  - (iv) Either as a result of the discreet inquiry, or on the basis of the complaint itself without any inquiry, if the designated agency is of the opinion that the matter requires to be investigated further, the designated agency shall officially seek comments/or explanation from the Head of the Department of the concerned organisation or office. While doing so, the designated agency shall not disclose the identity of the informant and also shall request the concerned Head of the organisation to keep the identity of the informant secret, if for any reason, the concerned Head comes to know the identity.
  - (v) After obtaining the response of the concerned organisation, if the designated agency is of the opinion that the investigations reveal either mis-use of office or substantiate allegations of corruption, the designated agency shall recommend appropriate action to the concerned Government Department or Organization. These shall, *inter alia*, include following :
    - (a) Appropriate proceedings to be initiated against the concerned Government servant.
    - (b) Appropriate administrative steps for redressing the loss caused to the Government as a result of the corrupt act or mis-use of office, as the case may be.
    - (c) Recommend to the appropriate authority/agency initiation of criminal proceedings in suitable cases, if warranted by the facts and circumstances of the case.
    - (d) Recommend taking of corrective measures to prevent recurrence of such events in future.

5. For the purpose of making discreet inquiry or obtaining information from the concerned organisation, the designated agency shall be authorized to call upon the CBI or the police authorities, as considered necessary, to render all assistance to complete the investigation pursuant to the complaint received.
6. If any person is aggrieved by any action on the ground that he is being victimized due to the fact that he had filed a complaint or disclosure, he may file an application before the designated agency seeking redress in the matter, who shall take such action, as deemed fit. The designated agency may give suitable directions to the concerned public servant or the public authority as the case may be.
7. Either on the application of the complainant, or on the basis of the information gathered, if the designated agency is of the opinion that either the complainant or the witnesses need protection, the designated agency shall issue appropriate directions to the concerned Government authorities.
8. The machinery evolved herein shall be in addition to the existing mechanisms in place. However, secrecy of identity shall be observed, only if the complaint is received under this machinery.
9. In case the designated agency finds the complaint to be motivated or vexatious, the designated agency shall be at liberty to take appropriate steps.
10. The designated agency shall not entertain or inquire into any disclosure :
  - (a) in respect of which a formal and public inquiry has been ordered under the Public Servants Inquiries Act, 1850; or
  - (b) in respect of a matter which has been referred for inquiry under the Commissions of Inquiry Act, 1952.
11. In the event of the identity of the informant being disclosed in spite of the designated agency's directions to the contrary, the designated agency is authorized to initiate appropriate action as-per extant regulations against the person or agency making such disclosure.
12. The machinery created herein shall operate till Parliament passes a law on the subject.

SMT. MANULIKA GAUTAM, Addl. Secy.



# भारत का राजपत्र

## The Gazette of India

असाधारण  
EXTRAORDINARY  
भाग I—खण्ड 1  
PART I—Section 1  
आधिकार से प्रकाशित  
PUBLISHED BY AUTHORITY

पं. १४१  
No. १४१

नई दिल्ली, बुधवार, अप्रैल 29, 2004/वैशाख 9, 1926  
NEW DELHI, THURSDAY, APRIL 29, 2004/VAISAKHA 9, 1926

कार्यिक, लोक-शिक्षा तथा पेशा मंत्रालय

(कार्यिक और उशिक्षण विभाग)

सुद्धिपत्र

नई दिल्ली, 29 अप्रैल, 2004

सं. 371/12/2002-ए.पी.डी.-III.—भारत के असाधारण राजपत्र भाग-1, खण्ड 1 में दिनांक 21 अप्रैल, 2004 को प्रकाशित भारत सरकार के मन्त्रालय संख्या 89 का आंशिक संशोधन करते हुए, उक्त संकल्प के प्रारंभिक पैरा तथा पैरा-2 में निम्नलिखित संशोधन किए जाते हैं :

- (i) संकल्प के प्रारंभिक पैरा को निम्न प्रकार से प्रतिस्थापित किया जाता है :  
"अर्थात् श्री सायेन्द्र दुबे की हत्या के सम्बन्ध में रिट याचिका (सी.) संख्या 539/2003 की सुनवाई करते समय, 'नर्दाकारों या भागदारों' (विमल ब्लोअर्स) से प्राप्त शिकायतों पर कार्रवाई किए जाने के लिए उपयुक्त तंत्र का प्रारंभ उठा"।
- (ii) संकल्प के अंशिक पैरा के पैरा 2 में शब्द 'designateed' (डेजायनेटेड) को शब्द 'designated' (डेजायनेटेड) से प्रतिस्थापित किया जाता है।

श्रीमती मंजुलिका गौतम, अपर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

CORRIGENDUM

New Delhi, the 29th April, 2004

No. 371/12/2002-AVD.III.—In partial modification of the Government of India's Resolution No. 89, published in the Gazette of India Part I Section 1, Extraordinary dated 21st April, 2004, the following modifications are made in the opening para and para-2 of the said Resolution :

- (i) The opening para of the Resolution is substituted as :  
"Whereas while hearing Writ Petition (C) No. 539/2003 regarding the murder of Shri Satyendra Dubey, the question of a suitable machinery for acting on complaints from 'whistle-blowers' arose."
- (ii) In para 2 the word "designateed" is substituted as "designated".

Smt. MANJULIKA GAUTAM, Addl. Secy.

10/04/2004

Printed by the Manager, Govt. of India Press, Ring Road, Mayapuri, New Delhi-110064  
and Published by the Controller of Publications

No.002/VGL/61  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 1<sup>st</sup> April 2004

**Office Order No.16/03/04**

To

All Chief Vigilance Officers  
The Deputy Secretary (AVD.III), DOPT

**Subject: Disposal of complaints.**

Reference is invited to the Commission's Office Order No. 53/9/03 dated 23.9.2003 and para 4.2, Chapter 2 of Vigilance Manual Vol.I on the above subject.

2. In case the complaint does not attract vigilance angle, or the issue is of petty nature which could be settled at the level of the department/organisation, the Commission forwards such a complaint to the organisation for **necessary action** at their end, to redress the grievances of the complainant. The action on these complaints is **not required** to be sent to the Commission for further advice until and unless something more serious is brought out during the investigation. The departments/organisations may themselves dispose of and close these complaints after necessary action. The concurrence of Commission for closure of such complaints is not required. The CVOs may close the complaints at their level. However if the complaint is sent for **action and report**, the organisations should submit an investigation report within 3 months of receipt of complaint for obtaining necessary advice of the Commission. It has been observed that there is a long delay in matter of investigation of complaints, the organisations are advised to strictly adhere to the time-schedule in this regard.

Sd/-  
(Anjana Dube)  
Deputy Secretary

No.002/VGL/61  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhavan, Block 'A',  
GPO Complex, I.N.A.,  
New Delhi- 110 023  
Dated the 23<sup>rd</sup> September 2003

**Office Order No. 53/09/03**

To

All Chief Vigilance Officers.

**Subject:- Disposal of complaints- regarding**

Sir/Madam,

The Commission has received a number of references from the various departments/organisations seeking clarifications whether a complaint forwarded by the Commission for report may be first got confirmed from the complainant before taking up for investigations.

2. The Commission has examined the issue and decided that once it calls for a report on a complaint, the departments/organisations, should treat it as a signed complaint though on the face of it the complaint may be anonymous/ pseudonymous. Clarifications, if required, could be obtained from the complainant(s), as part of the enquiry into the matter.

3. CVOs may bring it to the notice of the concerned officials.

**Sd/-  
(Mange Lal)  
Deputy Secretary  
Telefax- 24651010**

No.98/DSP/9  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 11<sup>th</sup> October 2002

To

All Chief Vigilance Officers

**Subject:- Improving vigilance administration - Action on anonymous/  
pseudonymous complaints.**

Sir/Madam,

The undersigned has been directed to refer to the Commission's communication No. 3(v)/99/2 dated 29.06.1999 and the letter of even number dated 31.01.2002, on the above subject, and to say that the Commission has reviewed the instructions contained in the aforesaid communications and reiterates that no action is to be taken by the departments/organisations, as a general rule, on anonymous/pseudonymous complaints received by them. However, if any department/organisation proposes to look into any verifiable facts alleged in such complaints, it may refer the matter to the Commission seeking its concurrence through the CVO or the head of the organisation, irrespective of the level of employees involved therein.

Yours faithfully,

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



98/DSP/9  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 31<sup>st</sup> January 2002

To

All Chief Vigilance Officers

**Subject: Improving vigilance administration – no action to be taken on anonymous/pseudonymous petitions/complaints.**

The Commission had reviewed the instructions regarding action to be taken on anonymous/pseudonymous complaints and observed that the enabling provision in the DOPT's orders No.321/4/91-AVD.III dated 29.09.1992 had become a convenient loophole for blackmailing and detrimentally affecting the career of public servants whose promotions/career benefits were denied owing to consequent investigation. Considering all aspects, the Commission by virtue of powers invested under para 3(v) of the Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training Resolution No.371/20/99-AVD.III dated 4<sup>th</sup> April 1999, had instructed all Govt. Deptts./Orgns., PSEs and Banks not to take action on anonymous/pseudonymous complaints. All such complaints are to be filed vide CVC's instruction No.3(v)/99/2 dated 29<sup>th</sup> June 1999.

2. However, it has come to the notice of the Commission that some Govt. Deptts./Orgns. and, in particular, banks are not complying with the CVC's instructions and have been taking cognizance/action on anonymous/pseudonymous complaints. Very often, the content of the complaint, described as verifiable, is used as a justification for such action. The instruction of the Commission does not permit this line of action.

3. It is hereby reiterated that, under no circumstance, should any investigation be commenced or action initiated on anonymous/pseudonymous complaints; these should invariably be filed. Any violation of this instruction will be viewed seriously by the Commission.

4. This issues with the approval of the Commission.

Yours faithfully,

Sd/-  
**(C.J. Mathew)**  
**Deputy Secretary**

**No.3 (v)/99/2**  
**Central Vigilance Commission**

\*\*\*\*\*

**Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 29<sup>th</sup> June 1999**

**Subject: Improving vigilance administration - no action to be taken on anonymous/pseudonymous petitions/complaints.**

.....

By virtue of the powers invested in the CVC under para 3(v) of the Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training Resolution No.371/20/99-AVD.III dated 4<sup>th</sup> April 1999, the CVC is empowered to exercise superintendence over the vigilance administration of the various Ministries of the Central Government or Corporations established under any Central Act, Government Companies, Societies and local authorities owned or controlled by that Government.

2. One of the facts of life in today's administration is the widespread use of anonymous and pseudonymous petitions by disgruntled elements to blackmail honest officials. Under the existing orders, issued by Department of Personnel & Training letter No.321/4/91-AVD.III dt.29.9.92, no action should be taken on anonymous and pseudonymous complaints and should be ignored and only filed. However, there is a provision available in this order that in case such complaints contain verifiable details, they may be enquired into in accordance with existing instructions. It is, however, seen that the exception provided in this order has become a convenient loophole for blackmailing. The public servants who receive the anonymous/pseudonymous complaints, generally, follow the path of least resistance and order inquiries on these complaints. A peculiar feature of these complaints is that these are resorted to especially when a public servant's promotion is due or when an executive is likely to be called by the Public Enterprises Selection Board for interview for a post of Director/CMD etc. If nothing else, the anonymous/pseudonymous petition achieves the objective of delaying the promotion if not denying the promotion. These complaints demoralise many honest public servants.

3. A person will resort to anonymous or pseudonymous complaints because of the following reasons:

- i. He is an honest person who is a whistle blower but he is afraid to reveal his identity because of fear of consequences of the powerful elements in the organisation.
- ii. He is a blackmailer who wants to psychologically pressurise the public servant complained against

4. There could be a view that if the anonymous/pseudonymous complaints contain an element of truth and if no action is to be taken on them then an important source of information will be lost. To that extent, corrupt practices may get a boost. At the same time the Central Vigilance Commission has initiated a number of steps to provide a channel of communication against the corrupt public servants. These measures include the following:

- i. Under CVC's order No.8 (1)(h)(1) dated 18.11.98, even junior officers can complain to the CVC in cases of corruption against the seniors;
- ii. The CVC has issued instructions that the name of the complainant will not be revealed when the complaint is sent to the appropriate authorities for getting their comments or launching inquiries;
- iii. Under CVC Order No. 8(1)(g)/99(4) dated 12<sup>th</sup> March 1999, in every office there should be public notice displayed directing that no bribe should be paid. If any bribe is demanded, the complaint should be made to the appropriate authority like CVO, CVC etc.; and
- iv. The CVC is now available on web - <http://cvc.nic.in> If anybody wants to complain they can easily lodge complaints on the website of CVC and also through e-mail - **[vigilance@hub.nic.in](mailto:vigilance@hub.nic.in)**

5. In view of the above measures taken, there is very little possibility that genuine cases of corruption will not be brought to the notice of the appropriate authorities by those who were earlier resorting to anonymous/pseudonymous complaint route.

6. **It is, therefore, ordered under powers vested in the CVC under para 3(v) of the DOPT Resolution No.371/20/99-AVD.III dated 4<sup>th</sup> April 1999 that with immediate effect no action should at all be taken on any anonymous or pseudonymous complaints. They must just be filed.**

7. This order is also available on web site of the CVC at <http://cvc.nic.in>

All CVOs must ensure that these instructions are strictly complied with.

  
29.6.99  
**(N. VITTAL)**  
**CENTRAL VIGILANCE COMMISSIONER**

To

- (i) The Secretaries of All Ministries/Departments of Government of India
- (ii) The Chief Secretaries to All Union Territories
- (iii) The Comptroller & Auditor General of India
- (iv) The Chairman, Union Public Service Commission
- (v) All Chief Vigilance Officers in the Ministries /Departments/PSEs /Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies
- (vi) President's Secretariat/ Vice-President's Secretariat/Lok Sabha Secretariat/ Rajya Sabha Secretariat/PMO

No.3(v)/99/1  
Central Vigilance Commission

\*\*\*\*\*

**Satarkta Bhawan, Block "A"**  
**GPO Complex, I.N.A.,**  
**New Delhi-110023**  
**Dated the 21<sup>st</sup> June 1999**

**Subject:- Improving vigilance Administration- Bringing in  
accountability- Regarding.**

\*\*\*\*\*

Accountability is one of the major factors in the effective administration of the Organisations. Administration without accountability is disastrous and provides ample scope for corruption. Dealing with the complaints is one of the areas, which calls for more accountability. Therefore, in order to bring in a sense of accountability both in the complainant and in the office receiving the complaint, the Commission, in exercise of its powers conferred on it vide Section 3(v) of the Resolution No.371/20/99-AVD.III dated 4/4/99, hereby directs all Departments/Organisations under its purview to compulsorily give proper receipt of the complaints being received in person to the complainant, with immediate effect.

2. This is subject to surprise check by the Commission.

  
(N. VITTAL) 20.6.99 |

**CENTRAL VIGILANCE COMMISSIONER**

To

- (i) The Secretaries of All Ministries/Departments of Government of India
- (ii) The Chief Secretaries to All Union Territories
- (iii) The Comptroller & Auditor General of India
- (iv) The Chairman, Union Public Service Commission
- (v) All Chief Vigilance Officers in the Ministries /Departments/PSEs /Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies
- (vi) President's Secretariat/ Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO



P S U  
Guidelines

No.007/VGL/074  
Government of India  
Central Vigilance Commission

\*\*\*\*  
Satarkata Bhavan,  
Block A, GPO Complex,  
INA, New Delhi-110023  
Dated the 28<sup>th</sup> Dec. 2007

Circular No. 44 /12/07

Subject :-Amendment to CDA Rules of PSUs to enable imposition of penalty on Public Sector Employees after their retirement – reg.

The Commission has been seriously concerned that as Public Sector Undertakings (PSUs) are non-pensionable establishments, there is no possibility of imposing any penalty on such deviant employees after their retirement, who might have committed serious lapses while in service, just before their retirement. The gratuity amount also could not be withheld unless the person had been terminated consequent to disciplinary proceedings and the question of terminating an employee or imposing a penalty retrospectively, after retirement is not legally tenable. There was a situation that even disciplinary proceedings could not be continued against them beyond the retirement.

2. The Commission had earlier advised Public Sector Enterprises to make a provision in their CDA Rules to allow continuation of departmental proceedings after retirement of an employee. There is a need to incorporate a suitable provision to enable the imposition of penalty on delinquent employees on conclusion of such departmental proceedings continued beyond the date of their superannuation.

3. It is observed that the Public Sector Banks have incorporated a provision in their CDA Rules for deemed continuation of service for this purpose. The said provision reads as under:

“The officer against whom disciplinary proceedings have been initiated will cease to be in service on the date of superannuation but the disciplinary proceedings will continue as if he was in service until the proceedings are concluded and final order is passed in respect thereof. The concerned officer will not receive any pay and/or allowance after the date of superannuation. He will also not be entitled for the payment of retirement benefits till the proceedings are completed and final order is passed thereon except his own contribution to CPF.”

4. The Hon’ble Supreme Court of India has recently upheld the punishment of dismissal on a retired Bank employee on conclusion of departmental proceedings after his retirement, on the basis of the above provision, thus validating its legality. In its judgement dated 18.5.07 in the case of Shri Ramesh Chandra Sharma Vs Punjab National Bank, it has further noted that -

“.....it may be true that the question of imposition of dismissal of the delinquent officer from service when he has already reached the age of superannuation

would not ordinarily arise. However, as the consequences of such an order is provided for in the service rule, in our opinion, it would not be correct to contend that imposition of such a punishment would be wholly impermissible in law."

5. The Supreme Court has further held that –

"The said Regulation clearly envisages continuation of a disciplinary proceeding despite the officer ceasing to be in service on the date of superannuation. For the said purpose a legal fiction has been created providing that the delinquent officer would be deemed to be in service until the proceedings are concluded and final order is passed thereon. The said Regulation being statutory in nature should be given full effect."

"The effect of a legal fiction is well-known. When a legal fiction is created under a statute, it must be given its full effect, as has been observed in East End Dwellings Co. Ltd. v. Finsbury Borough Council 1951 (2) All E.R. 587 as under...."

6. As the legality of the above provision has been upheld by the Supreme Court, all Public Sector Undertakings are advised to amend their CDA Rules in order to incorporate a similar provision. The receipt of this circular may be acknowledged and action taken to amend the CDA Rules along with a copy of the amended rules, may be sent to the Commission by 20.01.2008.



29/12/2007 (Vineet Mathur)  
Deputy Secretary

To

1. The Secretary, Department of Personnel & Training
2. The Secretary, Department of Public Enterprises
3. The Secretary, Department of Administrative Reforms & Public Grievances
4. All Secretaries to the Ministries/Departments of the Government of India
5. The Chairman, SCOPE
6. All Chief Executives of Public Sector Enterprises
7. All CVOs of Ministers/Departments/PSEs



No.98/VGL/51  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhavan, Block 'A',  
G.P.O. Complex, I.N.A.,  
New Delhi- 110 023  
Dated the 9<sup>th</sup> December, 2003

**Office Order No.59/12/03**

To

- (i) The Secretary, Department of Personnel & Training
- (ii) The Secretary, Department of Public Enterprises
- (iii) The Secretary, Department of Administrative Reforms & Public Grievances
- (iv) All Secretaries to the Ministries/Departments of the Govt. of India
- (v) The Director, CBI
- (vi) The Chairman, SCOPE
- (vii) All Chief Executives of Public Sector Enterprises
- (viii) All CVOs of Ministries/Departments/PSEs

**Subject: Special Chapter on Vigilance Management in Public Sector Enterprises and the Role and Functions of the CVC-Amendment to Para 32.3 thereof.**

Sir/Madam,

Special Chapter on Vigilance Management in Public Sector Enterprises, notified by the Commission vide No. 3(v)/99/3 dated 7.7.1999 provide for review of vigilance matters in PSEs by Board of Directors. The provision for review of progress of vigilance work by the Board of Directors of PSEs was withdrawn by the Commission vide circular letter No. 98/VGL/51 dated the 28<sup>th</sup> March, 2002 because too many reviews were felt uncalled for.

2. The matter has been once again reviewed and the Commission has decided that the Board of Directors should review the vigilance work once in six months and CVO will send a copy of the review done by the Board to the Commission. Necessary provision of Special Chapter on Vigilance Management in PSEs relating to review of vigilance matters stands amended to that extent.

3. The report sent by the Chief Vigilance Officer to the Commission would be in the following format. A copy of the Memorandum put up to the Board reviewing vigilance cases should also be endorsed to the report of the CVO.

Name of the PSU	Period of Review	No. of cases reviewed	Specific remarks, if any

Yours faithfully,  
Sd/-  
(Anjana Dube)  
Deputy Secretary

No.003/VGL/18  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkata Bhawan,Block 'A',  
GPO Complex, INA,s  
New Delhi- 110 023  
Dated the 17<sup>th</sup> September 2003

**Officer Order No.45/9/03**

To

All Chief Executives of PSUs

**Subject:- Chief Vigilance Officers - status & perquisites in Public Sector Undertakings.**

Reference:- Commission's letter No. 3(V)/99/5 dated 29.07.1999.

Sir/Madam,

The Commission in the past had examined the role and functions of Chief Vigilance Officers in PSUs and to ensure their authority and functional independence, had issued instructions regarding their status and perquisites. It was envisaged that officers of Joint Secretary level joining as CVO would be accorded the status and perks of a functional director of board and officers of Director/Deputy Secretary level joining as CVO would be provided the status and perks of Executive Director.

2. Recently some CVOs have brought it to the notice of the Commission that the instructions of the Commission on the status and perks are not being implemented by PSUs for one reason or another. The Commission has considered the matter in detail and has observed that the basic reason for the problem is absence of categorization of CVO's post at the requisite level. Therefore as a first step towards implementation of its instructions, the post of CVO may be created at the functional director level in schedule "A" PSUs and at one level below the board in schedule "B", "C", and "D" PSUs. Once the posts are created at the requisite level, the status and perks will be automatically available to the incumbent joining as CVO.

3. The Commission desires that PSUs may take suitable action along the above lines at the earliest while keeping it advised of the progress.

4. The above instructions will not apply in the case of CVOs of public sector banks where the post of the CVO has already been appropriately categorized.

5. Kindly acknowledge receipt.

Yours faithfully,

Sd/-  
(Mange Lal)  
Deputy Secretary  
Telefax- 24651010

No.000/VGL/66  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 24<sup>th</sup> July 2003

Office Order No. 33/7/03

All Chief Vigilance Officers  
All Chief Executives of PSEs/PSBs/FIs

**Subject: Commission's jurisdiction over the employees of Organizations which have 50% or less Government's equity.**

Sir/Madam,

The Commission has received a number of queries from different Ministries/ Departments regarding question of CVC's jurisdiction as well as purview over the employees of the organizations in which the Central Government (including entities owned by Central Government) has 50% or less equity.

2. The jurisdiction of the Commission extends to the Central Government, Corporations established by or under any Central Act, Government companies, Societies and local authorities owned or controlled by the Central Government. Accordingly, the Commission has considered the issue and **has decided that its jurisdiction will continue over any organization, irrespective of the shareholding pattern, so long as the administrative Ministry/Department of the Central Government continues to exercise administrative control over these organizations including appointment of Chief Executives, board members, etc.** The Chief Vigilance Officers may accordingly review the situation and report to the Commission the organizations which will come under the purview of the Commission and those which will not.

Yours faithfully,

Sd/-  
(Anjana Dube)  
Deputy Secretary

001/VGL/67  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi – 110 023.  
Dated: 10.01.2002

**OFFICE MEMORANDUM**

**Sub: Exchange of information between PSBs and PSUs.**

\*\*\*\*\*

During the institutional coordination committee meeting as envisaged in the Special Chapter on Vigilance Management in Public Sector Banks held on 10.10.2001, the issue of exchange of information and documents between PSU/PSB where such information was required to facilitate investigations into cases of financial irregularities/frauds was discussed. It was agreed that such information may be parted within strict confidence after a written request from the concerned CVO is received and the Commission may issue suitable instructions in this regard.

2. Now, therefore, the Commission directs that all the Public Sector Undertaking and the Public Sector Banks may, henceforth, mutually or severally exchange, in strict confidence, any information or documents as may be required to facilitate investigation into financial irregularities/frauds. Such exchange may be made only after a written request from the concerned CVO is made.

**(C.J. Mathew)**

**Deputy Secretary**

To

1. All CVOs and CMDs of PSUs/PSEs/PSBs
2. RBI
3. Banking Division

No. 2(32)/97-DPE(WC) GL-XXXV  
Government of India  
Ministry of Heavy Industries & Public Enterprises  
Department of Public Enterprises

Block No.14, CGO Complex,  
Lodi Road, New Delhi –110003.  
Dated the 8<sup>th</sup> December, 2000.

**OFFICE MEMORANDUM**

Subject: Voluntary Retirement Scheme/Voluntary Separation Scheme for the employees of Public Enterprises.

The parameters on the basis of which the VRS could be formulated by the PSUs for their employees have been spelt out in this Department's OM of even number dated 5.5.2000. However, there are certain points on which clarifications have been solicited by the PSEs as well as the administrative Ministries/Departments. These points have been examined in the Government. The Points as well as the clarifications are given hereunder.

1. Whether allowances like Personal Pay, HRA, NPA, Family Planning increment are to be included for computation of ex-gratia?	Basis pay plus Disciplinary Authority only is to be taken into account for computation of ex-gratia under VRS.
2. Whether the post of the employee who has taken VRS is to be abolished?	There shall be no recruitment against vacancies arising out of VRS.
3. Whether any arrears of ex-gratia are to be paid in the even of pay revision being sanctioned subsequent to voluntary separation?	Ex-gratia will be re-calculated on the basis of revised pay scale and the difference be paid.
4. Can notice pay in lieu of notice and TA for settling in the Home Town or elsewhere be paid to the employees who are to opt or have opted for VRS?	One month/three months notice pay (as per service conditions application to the employees) may be paid. TA for the employee and family would also be admissible to the place where he intends to settle down after taking VRS. For this purpose, the entitlement will include transportation cost of personal effects and traveling cost of self and family members, as admissible under the entitled classes.
5. Under the Gujarat pattern, will the compensation for the balance service be calculated @ 25 days for every year of service left?	Compensation under VRS modeled on the Gujarat pattern will consist of salary of 35 days for every year of service completed and 25 days for every year of service left until superannuation.
6. Under VSS, will the employee be entitled for 60 months salary even if he has not completed 30 years of service?	No

7. 60 months salary as ex-gratia is permissible under VSS scheme of Deptt. of Heavy Industry. If the VSS scheme is modeled on Gujarat pattern (para 5 of OM dated 5.5.2000), will the employee be still entitled for 60 months salary if he has completed 30 years or more service?	Sixty months salary as compensation is attached to VSS package of the Department of Heavy Industry only and not under the Gujarat model.
8. Whether PF, leave encashment, gratuity, notice pay, LTC are payable to employees in case of Voluntary retirement?	There are to be paid to the employees opting for VRS as per the provisions of the relevant statutes and the service conditions. These are outside the computation of ex-gratia on voluntary retirement.
9. Is any minimum qualifying service necessary for opting for VRS?	No age bar or minimum qualifying service is prescribed.
10. Do the companies have the choice to opt for either the Gujarat model or VSS on DHI model for the sick and unviable units?	The Boards of the sick and unviable PSUs are obliged to offer VSS on DHI pattern to the employees. The Board have the option to offer, in addition, VRS on Gujarat pattern, in which event the employees will have a choice between the two schemes.
11. The managements have the right to reject the VR application of certain employees as they have to ensure that the company is not denuded of talents. In that case, what would be the treatment given to such employees who have been retained by the management in case of PSU is closed. Will they be offered VSS in case of PSU is closed. Will they be offered VSS even after a lapse of three months or will they be paid retrenchment compensation under ID Act?	The cases of such employees will be covered under the final settlement on closure of the unit. If the benefit of VSS is extended on closure, such employees will also receive it.
12. Whether Casual Leave may be encashed up to the date of notification of VRS or actual date of relief of employee?	CL may be encashed on pro-rate basis up to the date of relief of employee.
13. What would be the compensation payable in case where the balance of service left under superannuation is less than 250 days and sum of the salary for the balance period is less than Rs. 25000/-.	The computation is explained in the enclosure.
14. Whether the notice period pay is to be paid in addition to	If the application of an employee for voluntary retirement is accepted instantaneously and payment is

<p>60 months salary as compensation in case an employee has completed 30 years of service and the remaining period of service is 75 months.</p>	<p>arranged by the management on the same day, the concerned individual would be entitled to payment of ex-gratia along with the notice period pay. It is, however, clarified that payment of ex-gratia for service rendered or left over service before superannuation as well as the amount payable for the notice period should not exceed the basic pay plus D.A. that would have been paid to the employee who has opted for voluntary retirement till the date of is superannuation. For example, if an employee opts for voluntary retirement a few months before the date of superannuation, say at 57 years and 10 months, the payment should be restricted to 2 months basic pay plus Dearness Allowance.</p> <p>In circumstances where the management takes time to take a decision about the acceptance of an application submitted by the employee for voluntary retirement and allows the notice period to lapse or the individual concerned has drawn full salary during the notice period served by him, in these cases notice period pay would not be admissible as the individual has already drawn the salary during the notice period.</p>
<p>15. Whether it is mandatory to introduce new VR Scheme or continue with the existing scheme?</p>	<p>The new scheme has been introduced in supersession of the old scheme.</p>
<p>16.If the VRS is implemented in the middle of any particular month, whether full months salary is to be computed for VRS purpose?</p>	<p>An employee is entitled o payment of salary till the date of voluntary retirement, regardless of the date of implementation of the VRS. As for computing the completed years and months of service for the purpose of ex-gratia, the datum will be the date on which the employee in question had joined service.</p>
<p>17. If the employee has completed 20 years service whether he will be paid compensation for 20 years service or compensation for 20 years of service plus proportionate days salary for the nine months service also?</p>	<p>The calculation would have to be based on every completed year of service or part thereof. The part of the complete year served shall be entitled for ex-gratia on pro-rata basis.</p>
<p>18. Whether service rendered in other PSEs would be taken into account for purpose of computation of VRS from the latter employing organization.</p>	<p>This would be taken into account only on transfer of cash equivalent of Earned Leave and Provident Fund. Gratuity would be as per the provisions of the Act.</p>
<p>19.Will notional pay revision from 1992 and 1997 be taken for computation of VRS/VSS benefits?</p>	<p>In the new VRS/VSS scheme, there is no scope for computation of the ex-gratia on notional salary revision.</p>
<p>20. Will encashment of sick leave at the time of taking VRS/VSS be permissible?</p>	<p>Encashment of sick leave has nothing to do with VRS/VSS. Its encashment will depend on the management decision, based on the service conditions.</p>
<p>21. Will the casual workers be</p>	<p>Casual workers will not be entitled for VRS/VSS.</p>

included for the purpose of VRS/VSS who have completed more than 20 years of service?	Refer to para 9 of OM dated 5.5.2000.
22. Whether the contract employees appointed on contract basis can be considered as temporary employees for purposes of VRS? If yes, how the compensations would be calculated?	Contract employees are outside the purview of VRS.
23. How would the computation of ex-gratia (VRS) under Gujarat pattern be done?	As per enclosure.

All the administrative Ministries/Departments of Government of India are requested to bring the foregoing clarifications to the notice of the Public Enterprises under the administrative control for their information and necessary action.

Sd/-  
(A.K. Rath)  
Joint Secretary to the Govt. of India



No.001/DSP/4  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block "A"  
GPO Complex, I.N.A.,  
New Delhi -110023  
Dated the 10<sup>th</sup> September 2001.

To

All Chief Vigilance Officers,  
Public Sector Undertakings,

**Subject:- Voluntary Retirement Scheme/Voluntary Separation Scheme for the employees of Public Enterprises.**

The undersigned is directed to forward herewith the copies of the following OMs of the Department of Public Sector Undertaking on the aforesaid subject: for information and further necessary action.

- i) Ministry of Heavy Industry & Public Enterprises, Deptt. of Public Enterprises O.M. No. 2(32)-97-DPE(WC)GL-XXXV dated 8.12.2000.
- ii) Ministry of Heavy Industry & Public Enterprises, Deptt. of Public Enterprises O.M.No.2(32)97-DPE9WC)-GL-XXXXIV dated 3.5.2001.

Yours faithfully,

Sd/-  
(C.J. Mathew)  
Deputy Secretary

Encl: As above.

No.98/VGL/51  
Government of India  
Central Vigilance Commission  
\*\*\*\*\*

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 21<sup>st</sup> June 2001

To

- (1) The Secretary, Department of Personnel & Training
- (2) The Secretary, Department of Public Enterprises
- (3) The Secretary, Department of Administrative Reforms & PG
- (4) The Secretaries of the Ministries/Departments of Government of India
- (5) The Director, CBI
- (6) The Chairman, SCOPE
- (7) All Chief Executives of Public Sector Enterprises
- (8) All CVOs of Ministries/Departments/PSEs

**Subject: Special Chapter on Vigilance Management in Public Sector Enterprises and the Role and Functions of the CVC - Clarification on para 32.3 of the Chapter.**

Sir/Madam,

The undersigned has been directed to refer to the Commission's letter No.3(v)/99/3 dated 07.07.1999, notifying the Special Chapter on Vigilance Management in public sector enterprises, and to say that a clarification has been sought from the Commission as to whether, in terms of para 32.3 of the Special Chapter, the vigilance work/disciplinary cases involving Board level appointees of the PSEs, should be reviewed in the vigilance review to be undertaken by the Board of Directors of the concerned PSE. In this regard, kind attention is invited to para 15 of the Special Chapter, which stipulates that the complaints involving Board-level appointees of the PSEs are to be handled by the CVOs of the concerned administrative Ministries/Departments. Moreover, it would be quite embarrassing for the Directors to find one or more of themselves being discussed in a meeting in which they are participating. It is thus clarified that the Board of Directors level vigilance review, envisaged in para 32.3 of the Special Chapter, would relate to the complaints/cases involving the employees who are below the Board level. So far as complaints/cases involving Board level appointees are concerned, it would be for the administrative Ministry to do such reviews periodically.

Yours faithfully,

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

**MOST IMMEDIATE**

**No.98/VGL/51  
Government of India  
Central Vigilance Commission**

\*\*\*\*\*

**Satarkta Bhawan, Block "A"  
GPO Complex, I.N.A.,  
New Delhi- 110 023  
Dated the 11<sup>th</sup> August 1999**

**To**

- 1. The Secretary, Department of Personnel & Training**
- 2. The Secretary, Department of Public Enterprises**
- 3. The Secretary, Department of Administrative Reforms & Public Grievances**
- 4. All Secretaries to the Ministries/Departments of the Government of India**
- 5. The Director, CBI**
- 6. The Chairman, SCOPE**
- 7. All Chief Executives of Public Sector Enterprises**
- 8. All CVOs of Ministries/Departments/PSEs**

**Subject:- Special Chapter on Vigilance Management in Public Sector Enterprises and the Role and Functions of the CVC- Clarification of para 3.2 thereof.**

\*\*\*\*\*


The Commission has notified the Special Chapter on Vigilance Management in Public Sector Enterprises vide letter No.3(v)/99/3 dated 7/7/99. In Para 3.2 of the Chapter, the jurisdiction of the Commission over the officers of PSEs has been mentioned.

2. It is clarified that the existing jurisdiction of the Commission over the Board level appointees of PSEs has been extended to two levels below the Board level as per Para 3.2 of the Chapter. Therefore, from the date the Special Chapter has come into force i.e. 15/7/99, all cases involving vigilance angle in respect of all officials of Board level as well as two levels below the Board level will have to be referred to the Commission for its advice.

3. A doubt has arisen with regard to the last sentence of Para 3.2 of the Chapter which prescribes that "cases involving vigilance angle in respect of all employees two levels below the Board level may not ordinarily be referred to the Commission". It is clarified that cases involving vigilance angle in respect of all employees other than three categories namely, Board level, First and second levels below the Board level, may not ordinarily be referred to the Commission unless due to special reasons the Commission has called for a report or in cases where the PSE may like to seek the advice of the Commission.

4. This issues with the approval of Central Vigilance Commissioner.

**Yours faithfully,**

  
**(P.S. Fatchullah)**  
**Director**

**No. 3(v)/99/5**  
**Central Vigilance Commission**

\*\*\*\*\*

**Satarkta Bhavan, Block "A**  
**GPO Complex, I.N.A.,**  
**New Delhi-110 023**  
**Dated the 29<sup>th</sup> July,1999.**

**Subject:- Uniformity in designation of Heads of Vigilance in Public Sector Enterprises(PSEs).**

Uniformity in the work culture is one of the factors, which affects the overall functioning of any organisation. The nomenclature of the Heads of Vigilance in PSEs is one of the areas which lacks uniformity at present. Officers who are of same and equivalent rank are designated as Director (Vigilance) in some PSEs and as Executive Director (Vigilance) in others. This anomaly has caused a lot of heartburning and misunderstanding between the CVOs and in the PSEs itself.

2. In order to promote uniformity in the work culture, in exercise of powers conferred on CVC vide para 3(v) of the Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training Resolution No.371/20/99-AVD.III dated 4<sup>th</sup> April 1999, the Commission has decided that with immediate effect that all Heads of Vigilance Divisions in the PSEs will be designated only as "Chief Vigilance Officer" irrespective of their status in the parent organisation. However, those Chief Vigilance Officers who are of the level of Joint Secretary to the Government of India and above would be given a status, facilities and perquisites equivalent to that of a functional director in that PSE as has been provided in the DPE's O.M.No. 16(48)87-GM dated 2/8/96. The Chief Vigilance Officers, who are below the level of Joint Secretary to the Govt. of India will get status, facilities and perquisites as that of Executive Director in the concerned PSEs.

3. All the Administrative Ministries/Department concerned with the PSEs may take necessary action to implement the above decisions of the Commission and also advise all the PSEs under their administrative control accordingly.

4. This order is also available on web site of the CVC at <http://cvc.nic.in>



(N. VITTAL) 24.7.99

**CENTRAL VIGILANCE COMMISSIONER**

1. The Secretaries of All the Administrative Ministries/Departments
2. The Secretary, Department of Public Enterprises, Enterprises Bhavan, CGO Complex, Lodhi Road, New Delhi
3. All Chief Executive of Central PSEs
4. All CVOs of Central PSEs
5. Shri D.C. Gupta, Additional Secretary (S&V), Department of Personnel and Training, North Block, New Delhi
6. The Establishment Officer, Department of Personnel and Training, North Block, New Delhi. He is requested that in all future appointments, the designation in the appointment orders may be made only as CVO and not as Executive Director (Vigilance) etc. while getting the approval of ACC.

**No. 3(v)/99/4**  
**Central Vigilance Commission**

\*\*\*\*\*

**Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 12<sup>th</sup> July 1999**

**Subject: Guidelines for obtaining vigilance clearance from the Commission in respect of candidate(s) recommended for Board Level appointment(s) in Public Sector Enterprises.**

.....

The Central Vigilance Commission is empowered to exercise superintendence over the vigilance administration of the various Ministries of the Central Government or Corporations established under any Central Act, Government Companies, Societies and local authorities owned or controlled by that Government in terms of the powers invested in it under para (3)(v) of the Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training Resolution No.371/20/99-AVD.III dated 4<sup>th</sup> April 1999.

2. By virtue of these powers, the Commission has been taking various measures to improve the vigilance administration in the Organisations/Departments under its purview. One of the ways which the Commission considers appropriate for achieving this objective is ensure that the top level posts in the PSEs are occupied by persons with exemplary service records and clean vigilance track records. It is in this context, that a system has been evolved for according vigilance clearance, in particular, after the instructions of DOPT's OM No. 27(5)-EO/88(ACC) dated 4<sup>th</sup> August 1988. In keeping with this instruction, the Commission is consulted for vigilance clearance in respect of those officers, who are already holding board level posts and are being considered for some other board/higher board level posts. In respect of those candidates, who are holding posts below the board level and are recommended by PESB for board level post, vigilance clearance from the Commission is not being obtained. There are many instances, in which officers with adverse vigilance history have managed to occupy Board level positions in PSEs without obtaining vigilance clearance from the Commission, merely because of the fact that they were holding a post below the board level.

3. In order to remedy the defects arising from the existing procedure it has been decided that vigilance clearance should be obtained from the Commission in respect of all candidates/officers recommended by the PESB for appointment to any Board level position in PSEs, irrespective of their holding a board level or below board level post at that point of time.

4. CVOs of all Ministries/Departments must ensure strict compliance of these instructions with immediate effect.

5. This order is also available on web site of the CVC at <http://cvc.nic.in>



(N. Vittal)

12.7.59

**Central Vigilance Commissioner**

To

- i) The Secretaries of All Ministries/Departments of Government of India
- ii) All Chief Vigilance Officers in the Ministries/Departments/PSEs
- iii) Establishment Officer, O/o Establishment Officer, DOPT, New Delhi
- iv) Secretary, PESB, New Delhi
- v) President's Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO

**No.3(v)/99/3**  
**Central Vigilance Commission**

\*\*\*\*\*

**Satarkata Bhawan, Block 'A'**  
**G.P.O. Complex, INA,**  
**New Delhi -110023.**  
**Dated the 7<sup>th</sup> July, 1999**

**Subject:- Special Chapter on Vigilance Management in Public Sector Enterprises and the Role and Functions of the CVC.**

.....

Current wisdom emphasises the importance of Public Sector Enterprises (PSEs) functioning as self-reliant and profitable units, building themselves around their competitive strengths so as to meet challenges from the private sector. In the achievement of this objective, however, there has to be greater transparency and accountability within the functioning of these enterprises.

2. In the changed and liberalised scenario, vigilance functions have to be organised along proactive, rather than negative lines: their performance should not detract from, impair or inhibit commercial decision making. On the contrary, it must assist the management in the achievement of its organisational goals and objectives.

3. The present Special Chapter on Vigilance Management in PSEs has been prepared, keeping these objectives in view. It takes into account the special micro-level needs of managers in PSEs and addresses the complex problems faced by them in their day-to-day functioning. Since the rules governing vigilance have now been made transparent, managers need only to shed their inhibitions and contribute their best to the organisations they work for.

4. The Special Chapter has been prepared in consultation with the CBI, DPE and CMDs and CVOs of PSEs. Special care has been taken to ensure that the provisions of this Chapter are in conformity with the other Chapters of the Vigilance Manual. However, if there is any inconsistency

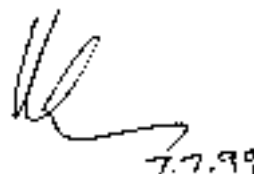


between the provisions of this Chapter and the provisions of the extant Vigilance Manual, the matter should be referred to the CVC for decision.

5. In terms of the powers conferred under para 3(v) of the Government's Resolution dated 4.4.1999 and the Order of the Supreme Court dated 18.12.1997 in the case of Vineet Narain and others v. Union of India (Criminal Writ Petition Nos. 340-343 of 1993) the Commission is pleased to notify the enclosed Special Chapter on Vigilance Management in Public Sector Enterprises. The provisions of this Chapter will come into force w.e.f. 15.7.99 and will be deemed to form an integral part of the Vigilance Manual, Volume-I.

6. This order as well as the enclosed Special Chapter is available on web site of the CVC at <http://cvc.nic.in>

7. Hindi version will follow.



(N. VITTAL)

CENTRAL VIGILANCE COMMISSIONER

To

- (i) The Secretary, Department of Personnel & Training
- (ii) The Secretary, Department of Public Enterprises.
- (iii) The Secretary, Department of Administrative Reforms & Public Grievances
- (iv) All Secretaries to the Ministries/Departments of the Government of India.
- (v) The Director, CBI,
- (vi) The Chairman, SCOPE
- (vii) All Chief Executives of Public Sector Enterprises
- (viii) All CVOs of Ministries/Departments/PSEs



**SPECIAL CHAPTER**  
**ON**  
**VIGILANCE MANAGEMENT IN**  
**PUBLIC SECTOR ENTERPRISES**  
**AND**  
**THE ROLE AND FUNCTIONS**  
**OF THE CVC**



Government of India  
CENTRAL VIGILANCE COMMISSION  
JULY, 1999

## INDEX

<b>Sl. No.</b>	<b>Para No.</b>	<b>Contents</b>	<b>Page No.</b>
1.	1	Introduction	1
2.	2	Central Vigilance Commission	1
3.	3	Jurisdiction of CVC	1
4.	4	Objectives and Functioning of PSEs	2
5.	5	What is a Vigilance Angle	3
6.	6	Vigilance cases in PSEs	4
7.	7	Advisory Board	5
8.	8	Investigation by CBI	5
9.	9	Interaction/Cooperation with CBI.	6
10.	10	Investigation reports received from CBI	7
11.	11	Action on complaints.	9
12.	12	Investigation of Complaints by CVO	10
13.	13	Investigation/Inquiry Report	12
14.	14	Investigation of complaints against Vigilance personnel in PSEs.	14
15.	15	Examination/investigation of complaints against Board-level appointees.	14
16.	16	Action on investigation report	15
17.	17	Reference to CVC	16
18.	18	Categorisation of cases	17
19.	19	Reconsideration of the Commission's advice	18

20.	20 - 23	Procedure for imposing major penalty	19-30
21.	24	Procedure for imposing minor penalties.	30
22.	25	Appeal and Review	31
23.	26	Action against persons making false complaints	32
24.	27	Difference of opinion between the CVO and the CMD	33
25.	28	Grant of immunity to 'Approvers' in departmental inquiries.	33
26.	29	Supervision over vigilance activities.	34
27.	30	Vigilance Staffing Structure in PSEs.	34
28.	31	Deputation tenure of CVOs in PSEs	35
29.	32	Review of vigilance matters in PSEs.	36
30.	33	Access to documents/information by the Vigilance Executives	36
31.	34	Sanction for prosecution	37
32.	35	Documents held up in Courts	37
33.	36	TA/DA to the PO/DA/Witnesses	38
34.	37	Past Misconduct	38
35.	38	Disciplinary provision for retired employees	39
36.	39	Rotation of Staff in sensitive posts/ Citizen's Charter	39
37.	40	Interpretation	39
38.	41	Schedule of time limits in conducting investigations and departmental inquiries	39

# **VIGILANCE MANAGEMENT IN PUBLIC SECTOR ENTERPRISES AND THE ROLE AND FUNCTIONS OF THE CVC**

## **1. INTRODUCTION**

1.1 This Chapter deals with the application of the principles of vigilance to Public Sector Enterprises (PSEs). Its objective is to apply and supplement rather than substitute the material contained in the earlier chapters of the Vigilance Manual (Vol. I) (Fifth Edition). To that extent, it is not and should not be construed as a self-sufficient code. This Chapter is therefore a part of the Vigilance Manual. If there is any inconsistency between the provisions of this Chapter and the provisions of the Vigilance Manual, the matter should be referred to the CVC for decision.

## **2. CENTRAL VIGILANCE COMMISSION**

2.1 The Central Vigilance Commission (hereinafter referred to as the Commission) was set up by the Government of India by its Resolution dated 11.2.1964 in pursuance of the recommendation made by the Committee on Prevention of Corruption (popularly known as the Santhanam Committee). The Commission acts as the apex body for exercising general superintendence and control over vigilance matters in administration and probity in public life. In compliance with the judgement of the Hon'ble Supreme Court of India in CWP 340-343 of 1993-Vineet Narain and others Vs. Union of India, the Commission was accorded statutory status with effect from 25.8.1998 through "The Central Vigilance Commission Ordinance, 1998". Since the CVC Bill was passed by the House of the People and was pending before the Council of States and since the CVC Ordinance, 1999 was to expire on 5th April, 1999, the Government of India (Department of Personnel & Training) passed a Resolution (dated 4th April, 1999) to continue the Commission beyond 5th April, 1999. Thus, the Commission would continue to discharge its duties and exercise its powers under this Resolution.

## **3. JURISDICTION OF CVC**

3.1 The Commission's jurisdiction is co-terminus with the executive powers of the Union. It can undertake any inquiry into any transaction in which a public servant is suspected or alleged to have acted for an improper or corrupt purpose; or cause such an inquiry or investigation to be made into any complaint of corruption, gross negligence, misconduct, recklessness, lack of integrity or other kinds of mal-practices

or misdemeanours on the part of a public servant. The Commission tenders appropriate advice to the concerned disciplinary authorities in all such matters.

3.2 Prior to 27th October, 1986, the CVC had the jurisdiction over employees of PSEs who were then placed in pay scales whose minimum was not less than Rs. 1800/- p.m. The Government decided on 27.10.86 that vigilance cases of only Board-level appointees of PSEs need be referred to the CVC for advice as they were appointed by the Government. As regards others, no reference ordinarily need be made to the CVC as the responsibility for initiating disciplinary proceedings against them rests either with the Board of Directors or an authority subordinate to it. This position was reviewed in consultation with PSEs and it was decided that as decision-making in most of the PSEs is related to two levels - below the Board level, the CVC's jurisdiction may be restricted, to begin with, only to that level. Therefore, cases involving vigilance angle in respect of all employees two levels below the Board level may not ordinarily be referred to the Commission.

#### 4. **OBJECTIVES AND FUNCTIONING OF PSEs**

4.1 Currently, PSEs account for a public investment of Rs. 2,04,054/- crores, spread over 240 Enterprises. The original purposes, for which these Enterprises were set up, varied and included such objectives as:

- (a) setting up of an infrastructure for rapid industrial growth;
- (b) creation of additional employment opportunities;
- (c) facilitation of balanced regional development;
- (d) generation of surplus funds for further investment for economic development; and
- (e) reduction in disparities in income and wealth through prevention of concentration of economic power in private hands.

4.2 Over the years, the focus has shifted towards providing greater autonomy and ensuring greater transparency within the functioning of these enterprises. Current thinking stresses the importance of these Units becoming self-reliant and profitable ventures and building themselves around their strengths to face competitive challenges from the private sector.

4.3 In the ultimate analysis, the vigilance function should not be organised so as to detract from, impair, or inhibit commercial decision-making within these Enterprises.

4.4 In the changed economic scenario, the vigilance function itself has thus become complex. The Commission has, as part of its proactive role, been urging PSEs to codify their systems and procedures. It is noticed, however, that in many PSEs adhocism still continues to characterise management decision-making and the style of functioning lends itself to charges of lack of transparency and accountability. Questions are often raised with regard to consistency and credibility of decisions. In this context, it is important that all PSEs should codify their rules, procedures, norms and systems in key areas such as purchases, stores, operations, finance, award of contracts and personnel management.

4.5 Vigilance is basically and admittedly a managerial function and, therefore, it is an integral part of the duties of an executive. Vigilance departments of PSEs should work in cooperation with other Divisions/Units of the Corporation at all levels. Besides, the vigilance departments of PSEs should also work in coordination with the CVC, the administrative ministry and the CBI. The role of CVOs has been fully explained in Chapter XVIII of Vigilance Manual (Vol. I). The primary responsibility for the maintenance of purity, integrity and efficiency in a PSE vests in the CMDs/MDs/Head of the PSEs. The CVO would act as his special adviser in all matters pertaining to vigilance. He would provide a link between the administrative Ministry/Department and the CVC. CVC's interface with the PSE would be through the CVO.

## 5. WHAT IS A VIGILANCE ANGLE?

5.1 The Chief Vigilance Officers (CVOs) in the organisations have been authorised to decide upon the existence of a vigilance angle in a particular case, at the time of registration of the complaint. Once a complaint has been registered as a vigilance case, it will have to be treated as such till its conclusion, irrespective of the outcome of the investigation. Although formulation of a precise definition is not possible, generally such an angle could be perceptible in cases characterised by:

- (i) commission of criminal offences like demand and acceptance of illegal gratification, possession of disproportionate assets, forgery, cheating, abuse of official position with a view to obtaining pecuniary advantage for self or for any other person; or



- (ii) irregularities reflecting adversely on the integrity of the public servant; or
- (iii) lapses involving any of the following ;
  - (a) gross negligence;
  - (b) recklessness;
  - (c) failure to report to competent authorities, exercise of discretion/powers without or in excess of powers/jurisdiction;
  - (d) cause of **undue** loss or a concomitant gain to an individual or a set of individuals/a party or parties; and
  - (e) flagrant violation of systems and procedures.

## 6. VIGILANCE CASES IN PSEs

6.1 As in other organisations, vigilance activity in PSEs should form an integral part of the managerial function. The *raison d'être* of such 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. It would be quite unfair to use the benefit of hind-sight to question the technical merits of managerial decisions from the vigilance point of view. At the same time, it would be unfair to ignore motivated or reckless decisions, which have caused damage to the interests of the organisation. Therefore, a distinction has to be drawn between a business loss which has arisen as a consequence of a bona-fide commercial/operational decision, and an extraordinary loss which has occurred due to any mala fide, motivated or reckless performance of duties. While the former has to be accepted as a normal part of business and ignored from the vigilance point of view, the latter has to be viewed adversely and dealt with under the extant disciplinary procedures.

6.2 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. It follows that vigilance investigation on a complaint would not be called for on the basis of a mere difference of opinion/ perception or an error of judgement simpliciter or lack of efficiency or failure to attain exemplary devotion in the performance of duties. (*Union of India vs. J. Ahmed AIR 1979 SC 1022*). Such failures

may be a matter of serious concern to the organisation but **not** from the vigilance point of view. They have to be dealt with separately.

6.3 Administrative misconduct, such as, unpunctuality, drunken behaviour at work, insubordination etc. would again be left to the disciplinary authority to deal with in an appropriate manner. If the lapse is without a vigilance angle, the disciplinary authority would be within its right to initiate appropriate penalty proceedings against such erring employees.

6.4 However, once a vigilance angle is evident, it becomes necessary to determine through an impartial investigation as to what went wrong and who is accountable.

## 7. **ADVISORY BOARD**

7.1 Considering the complexities involved in commercial decisions of the PSE, the CBI may find it worthwhile to obtain the benefit of expert advice from various disciplines before registration of PE/RC. A Central Advisory Board may be constituted to assist CBI for this purpose. Appointments on the Board would be made from the panel of names approved by the CVC. The Board would give its considered opinion within one month from the date of reference before registration of PE/RC, failing which the CBI would be competent to decide the matter without advice. Advice of the Board will not be binding on the CBI.

## 8. **INVESTIGATION BY THE CBI**

8.1 The Special Police Establishment, Central Bureau of Investigation, was constituted by the Government of India, under the DSPE Act, 1946. It inquires and investigates into offences pertaining to corruption and other malpractices involving public servants. The SPE takes up cases for investigation on the basis of the information collected by them from their own sources or received from members of the public. It also investigates cases referred to them by the Commission and the administrative authorities. If the information discloses, prima - facie, commission of a cognizable offence, a regular case (RC) is registered u/s 154 Cr.P.C. But if the information prima facie discloses commission of irregularities, which call for further enquiry, a preliminary enquiry (PE) is first registered. If the PE reveals commission of a cognizable offence, a regular case is registered for further investigation. As soon as a PE or a RC is registered, a copy thereof is sent to the Head of Department and/or the administrative ministry. A copy of PE/RC (i.e. FIR/Registration Report) is also sent to the Commission if the public servant concerned comes within

the advisory jurisdiction of the Commission. The SPE generally does not take up inquiries into or register a case where minor procedural flaws are involved. They are also expected to take note of an individual officer's positive achievements while recommending RDA so that a single procedural error does not cancel out a life time's good work.

## **9. INTERACTION/ COOPERATION WITH THE CBI**

9.1 The CVOs in PSEs and the concerned officer in the CBI should interact as frequently as possible with reference to exigencies of work. However, there should be a quarterly meeting between the CBI and CVO at the level of Zonal Joint Director of CBI to monitor and to take stock of the cases and exchange information for expeditious investigation and preparation of the 'Agreed List'.

9.2 Standard tender procedure, policy guidelines and manuals may be supplied to the CBI so that transactions under investigation/inquiry could be examined to find out whether criminal or departmental misconduct is made out or not. Such standardised procedures and guidelines should also be updated periodically as compilations of extant procedures make it easier to form a view about criminal liability, misconduct or innocence of an official in a particular case.

9.3 The CVO should screen all the complaints before sending the same to the CBI - whether the complaint should be forwarded to CBI or be dealt with departmentally, as per provisions contained in paras 11.2 and 11.3 (a) infra.

9.4 CBI should ordinarily be sent only cases involving transactions not less than Rs. 25 lakhs or otherwise possessing national or international ramifications. Other cases may be sent to the local police.

9.5 Full cooperation and facilities should be extended by the Public Sector Enterprises to the CBI during the course of investigation. This would include making available to them the requisite documents with the least possible delay, directing such employees as are to be examined to appear before the investigating officer and making suitable transport/accommodation in the PSE's guest houses, available to touring officers (subject to availability), in accordance with their entitlement and on payment of the prescribed charges. Assistance of technical experts to the Investigating Officer, if considered necessary, may also be provided to the extent possible in accordance with extant instructions on the subject.

9.6 When PSEs make reference to the CBI for investigation, they should also make available duly certified photocopies of all relevant documents along with the complaint so that there is no delay in initiating action on the part of the CBI. The originals may be handed over to them only at the time of the actual registration of the case. Similarly, when CBI seizes documents, authenticated copies of all the documents, should within four days of the seizure, be made available to the CVO of the PSE.

## 10. INVESTIGATION REPORTS RECEIVED FROM THE CBI

10.1 On completion of their investigation, the CBI forwards a copy of the SP's report to the concerned CVO for further action. A copy of the SP's report is also endorsed to the Commission in cases in which the Commission's advice is necessary.

10.2 The CBI generally recommends prosecution in cases of bribery, corruption or other criminal misconduct; it also considers making similar recommendations in cases involving a substantial loss to the Government or a public body. The Commission's advice for prosecution, however, is required only if the sanction for prosecution is necessary under any law promulgated in the name of the President. In such cases, CVOs should furnish the department's comments within a month of the receipt of the CBI report by the competent authority. In other cases, as directed by the Supreme Court, the matter should be processed expeditiously to ensure that the required sanction is issued within a period of three months (the instructions issued by the Department of Personnel & Training vide O.M. No. 142/10/97-AVD.I dated 14.01.1998 also refer). However, in case of difference of opinion between the CBI and the competent authority in the PSE, the matter may be referred to the Commission for its advice irrespective of the level of the official involved.

10.3 Prosecution proposals should be able to meet the legal and technical requirements laid down by the Courts. Apart from adequate evidence to establish that an offence has been committed under the relevant provision of the law, there should be some facts on record from which it should be possible to infer or presume a criminal or guilty intention behind the omission or commission. In the absence of mens rea violation of rules or codal formalities could at worst be considered as transgressions of systems and procedures of the organisation and the same would, as such, be more suitable as the subject matter of regular departmental action (RDA) rather than criminal prosecution.

10.4 In cases, where the CBI recommends RDA for major/minor penalty action or 'such action as deemed fit' against the officials and the Commission is to be consulted, the CVO should ensure that the comments of the department/PSE on the CBI report are furnished to the Commission within one month of the receipt of the CBI's investigation report, failing which the CVC will proceed to examine the case and tender advice. Further action in such cases may be taken as per the Commission's advice. In other cases, the CVO should take expeditious action to ensure that charge-sheets, if necessary, are issued within two months of the receipt of the investigation report from the CBI. It would not be necessary for the CBI to follow up the matter in such cases after the disciplinary authority has initiated action for RDA against the concerned officials in accordance with their recommendations. However, in case of difference of opinion between the CBI and administrative authorities, the matter would be referred to the Commission for advice irrespective of the level of the official involved. The organisation would take further action in accordance therewith.

10.5 The law of the land permits prosecution as well as RDA to proceed simultaneously (Jang Bahadur Singh v/s Baijnath Tewari, 1969 SCR, 134).

10.6 Where the suspect officer is primarily accountable for conduct which legitimately lends itself to both criminal prosecution in a court of law as well as RDA, as a general rule, both should be launched simultaneously after consultation with the CBI or other investigating agencies charged with conducting the prosecution. Such simultaneous conduct of RDA and criminal prosecution should be resorted to especially if the prosecution case is not likely to be adversely affected by the simultaneous conduct of RDA. Keeping RDA in abeyance should be an exception rather than rule. Copies of all the relevant documents authenticated by the competent authority may be retained, for the purpose of RDA, before the original documents are sent to the Court. If the documents have already been sent to a Court of Law for the purpose of criminal proceedings, certified copies may be procured for the purpose of RDA. Care, however, should be taken to draft the charge-sheet for the purpose of RDA in such a manner that it makes the suspect official accountable for violation of various provisions of CDA Rules without reference to criminal misconduct.

## 11. ACTION ON COMPLAINTS

11.1 Information about corruption, malpractices or misconduct on the part of public servants may come to the CVO's notice through various sources, such as, (i) the complaints received from the public, or through the administrative Ministry, CBI and the CVC; (ii) departmental inspection

reports and stock verification surveys, (iii) scrutiny of property returns and the transactions reported by the concerned employee under the CDA Rules, (iv) audit reports, (v) reports of parliamentary committees, etc. Information received verbally should be reduced to writing and dealt with similarly.

11.2 In the first instance, the decision with regard to the existence of a vigilance angle in a case may be taken by the CVO. The CMD or his nominee, may, if there are valid reasons, within a period of 15 days, differ from the CVO. In case of difference between CVO and CMD, the matter may be referred to the Commission. After registering the information as a complaint in the Vigilance Complaint Register, he would then process the matter further to decide as to whether the allegations are general or vague and deserve to be filed/ or the matter requires further investigation. In the latter case, he would also have to decide as to whether the investigation into the allegations should be entrusted to the CBI or local police or taken up departmentally.

11.3.1 The case may, with the approval of the CMD, be entrusted to the CBI, if the allegations:

- (i) are criminal in nature (e.g. bribery, corruption, forgery, criminal breach of trust, possession of assets disproportionate to known sources of income, cheating, etc.; or
- (ii) require inquiries to be made from non-official persons; or
- (iii) involve examination of private records; or
- (iv) need expert police investigation for arriving at a conclusion; or
- (v) need investigation abroad.

11.3.2 A decision in this regard may be taken by the CMD within 15 days from the date on which papers are received by him for consideration and decision.

11.4 In exercise of its extraordinary jurisdiction, the Commission has the power to call for a report in respect of any case with a vigilance angle in so far as it relates to any public servant belonging to an organisation falling within its jurisdiction.

11.5 A complaint involving a Board-level appointee, alone or with others, may be forwarded to the CVO of the administrative ministry, who, in the first instance, would decide whether the information involves a vigilance angle or not. If so, he would register that as a complaint in the

Vigilance Complaint Register and would process the matter further to decide whether the allegations are general in nature or vague and deserve to be filed, or the matter requires further investigation. In the latter case, he would also decide as to whether the investigation into the allegations should be entrusted to the CBI or taken up departmentally.

## 12. INVESTIGATION BY CVO

### 12.1 ANONYMOUS/PSEUDONYMOUS COMPLAINTS

12.1.1 It has been ordered under powers vested in the CVC under para 3 (v) of the DOPT Resolution No. 371/20/99-AVD.III dated 4th April, 1999 that with immediate effect no action should be taken on any anonymous or pseudonymous complaints. They must be filed. (Ref: CVC's Order No. 3 (v)/99/2 dated 29<sup>th</sup> June, 1999).

### 12.2 OTHER COMPLAINTS

12.2.1 After it has been decided that the allegations contained in a complaint should be looked into departmentally, the CVO should proceed to make a preliminary enquiry (generally termed as investigation). He may conduct the preliminary enquiry himself or entrust it to one of the Vigilance Officers. He may also suggest to the administrative authority to entrust the investigation to any other officer considered suitable for the purpose in the particular circumstances. The purpose of such an enquiry is to determine whether, prima-facie, there is some substance in the allegations.

12.2.2 The preliminary enquiry may be made in several ways depending upon the nature of allegations and the judgment of the investigating officer, e.g.

- (a) If the allegation contain information, which can be verified from documents, files or other departmental records, the investigating officer should, without loss of time, secure such records etc. for personal inspection. If any paper is found to contain evidence supporting the allegations, it should be taken over by him for retention in his personal custody to guard against the possibility of the available evidence being tampered with later on. If the papers in question are required for any current action, it may be considered whether the purpose would be served by substituting authenticated copies of the relevant portions of the record, the originals being retained by the investigating officer in his custody. If

that is not feasible, the officer requiring the documents or papers in question for current action should be made responsible for their safe custody after retaining authenticated copies for the purpose of enquiry.

- (b) In cases where the alleged facts are likely to be known to any other employee of the department, the investigating officer should interrogate them orally or ask for their written statement. In case of oral interrogation, a full record of interrogation may be kept and the person interrogated may be asked to sign as a token of his confirmation of his statement.
- (c) Wherever necessary, important facts disclosed during oral interrogation or in written statements should be sought to be corroborated.
- (d) If it is necessary to make enquiries from the employees of any other government department or organisation or PSE or Bank, the investigating officer should seek the assistance of the CVO/nodal authority concerned for providing the necessary facilities.

12.2.3 During the course of preliminary enquiry, the concerned employee may as a fundamental administrative requirement also be given an opportunity to tender his version of the facts so as to find out if he has any plausible explanation. In the absence of such an explanation, the concerned employee may be proceeded against unjustifiably. There is, however, no question of making available to him any document at this stage. Such an opportunity need not be given in cases in which a decision to institute department proceedings is to be taken without any loss of time, e.g. in cases in which the public servant is due to superannuate soon and it is necessary to issue the charge-sheet to him before his retirement.

12.2.4 After the preliminary enquiry has been completed, the investigating officer should prepare a self-contained report, containing **inter alia** the material to controvert the defence, and his own recommendations.

12.2.5 Where a case involves both criminal misconduct as well as flagrant violation of systems and procedures of the organisation, further investigation into the former should be left to the CBI. The PSE concerned however may simultaneously consider the latter and initiate appropriate disciplinary proceedings, in accordance with the prescribed procedure, if required. The CVO of the PSE and the DIG concerned of the CBI should



coordinate their efforts to ensure that violation of rules, regulations and PSE norms which are best covered under RDA are left to the disciplinary authority to deal with; the CBI on the other hand should focus their investigation on the criminal aspects of the case.

12.2.6 CVOs of the subsidiary companies should keep CVOs of the holding companies informed of the position of vigilance cases. CVOs of the holding companies will accord their approval within 15 days from the date of receipt of reference from the subsidiary company.

### 13. INVESTIGATION/INQUIRY REPORT

13.1 The Investigating Officer (IO) should indicate the allegations contained in the complaint in the first paragraph of his report. The next paragraph should contain the gist of the investigation carried out by him as well as documentary and oral evidence that he has relied upon. The IO should then detail the procedure and guidelines which the Suspected Public Servant (SPS) was required to follow/comply with. After reporting the SPS's explanation, the same along with evidence on record should be discussed and assessed by the IO. Finally, he should give his findings in the last paragraph of the report clearly bringing out the accountabilities of the officials. Seized documents and statements of the witnesses and the SPS recorded during the investigation should accompany the investigation report.

13.2 The report of the IO should thus be comprehensive, and completely documented so as to enable the CVO and DA to form an opinion whether any disciplinary or any other action is called for or not.

13.3 The report should be forwarded to the disciplinary authority through the CVO. The disciplinary authority/CVO should make a meticulous evaluation of the actions of various officials with reference to the nature of their duties. They are also required to assess the gap between what the managers at different levels of the decision-making hierarchy actually did and what they were required to do in accordance with manuals/guidelines/orders. They may follow the following criteria for the purpose and highlight in their reports if the answer to any of the questions is in the affirmative:-

- (a) Can mala fide be inferred or presumed from the actions of any of the concerned officials?
- (b) Could any of the officials be said to have engaged in a misconduct or misdemeanour?

- (c) Was the conduct of any of the officials reflective of lack of integrity?
- (d) Did the official(s) act in excess of their delegated powers/jurisdiction and failed to report the same to the competent authority?
- (e) Did they or any of them show any gross neglect of their official functions?
- (f) Is there any material to indicate that any of them acted recklessly?
- (g) Has the impugned decision caused any **undue** loss to the organisation?
- (h) Has any person/party or a set of persons/parties either within the organisation or outside it been caused any **undue** benefit?
- (i) Have the norms or systems and procedures of the organisation been flagrantly violated?

13.4 Timeliness in the conduct of the preliminary inquiry cannot be over-emphasised. Both the courts as well as administrative instructions have indicated that there should not be an inordinate delay between the occurrence of the impugned events and the issue of the charge-sheet. The current instructions of the Government are that the preliminary inquiry should be completed within three months. In the State of M.P. Vs. Bani Singh, 1990 Suppl. S.C.C. 738 it was held that an inordinate and inexplicable delay in finalisation of the charge sheet can itself be a ground for quashing of the same on the ground of denial of reasonable opportunity. Similarly, delayed charge sheets can also be legally challenged on grounds of staleness. Further, in State of Punjab Vs. Chaman Lal Goyal SLR (1995) (1) 700 S.C. it was held that in the case of inordinate delay the burden of proving that the delay was due to a reasonable cause would be on the department. Thus, although it may not be desirable to indicate a time limit for staff accountability, the need to ensure that the same is done at the earliest, needs to be reiterated.

#### 14. **INVESTIGATION OF COMPLAINTS AGAINST VIGILANCE PERSONNEL IN PSEs**

14.1 Complaints against the CVO in a PSE may be examined/investigated by the CVO of the administrative ministry. A report along with the original record together with comments of the Secretary of the Ministry/Department may be referred to the CVC for proper and independent examination of the case.

14.2 Complaints against vigilance executives other than the CVO of the PSE may be examined/investigated by the CVO of the PSE and a final decision may be taken with the approval of the CMD.

14.3 If the allegations are prima facie established against such vigilance functionaries, they should be shifted to non-sensitive positions and in case they are on deputation from some other organisations, they may be repatriated to their parent organisations with appropriate recommendation to their disciplinary authorities with regard to the disciplinary action to be initiated against them.

## 15. **EXAMINATION/INVESTIGATION OF COMPLAINTS AGAINST BOARD-LEVEL APPOINTEES**

15.1 If the CVO of an administrative ministry asks for a factual report against a Board-level appointee from the CVO of the PSE, the latter will send the same to the CVO of the ministry, after endorsing a copy of the report to the CMD to keep him informed of the developments. The CVO of the ministry may make a reference to the CVC after collecting all the relevant facts and following the prescribed procedure.

15.2 If a complaint against a Board-level appointee is directly received by the PSE, the CVO shall send the same to the CVO of the ministry for consideration. If the ministry directs the CVO of the PSE for investigation and factual report, the procedure indicated in Para 15.1 above may be followed.

15.3 In cases where CVC calls for investigation and report against a Board-level appointee, the CVO of the ministry shall initiate inquiries and may in this regard obtain factual information from the CVO of the PSE. Thus, CVO of the PSE under no circumstances should initiate action against the Board-level appointee on his own initiative.

## 16. **ACTION ON INVESTIGATION REPORT**

16.1 The disciplinary authority would consider the investigation report and the first stage advice of the CVO and decide, on the basis of the facts disclosed in the preliminary enquiry, whether the complaint should be dropped or warning/caution etc. administered or regular departmental proceedings launched. The test to be applied at this juncture relates to whether a prima-facie case has been built up on the basis of the evidence collected during the course of preliminary enquiry. Generally, if any of the criteria indicated in the paragraph 13.3 above is satisfied, a prima-facie case

for instituting regular departmental proceedings could be said to exist. If on the other hand the evidence on record falls short of establishing such a prima facie case, the disciplinary authority may either close the matter, or may take recourse to other forms of disapproval, such as reprimanding the concerned employee, issuing him an advisory memo or warning, or communicating the Organisation's displeasure etc., as per rules of the PSE. While taking such a decision, the disciplinary authority should bear in mind that a departmental proceeding is not a criminal trial, and that the standard of proof required is based on the principle of 'preponderance of probabilities' rather than 'proof beyond reasonable doubt'.

16.2 If any of the employees involved in the case falls within the Commission's jurisdiction, the latter's advice would be required and any decision of the disciplinary authority at this juncture may be treated as "tentative". Such a reference would be required to be made even in respect of an officer/staff who are not within the Commission's jurisdiction if they are involved along with other officers who are within the jurisdiction of the Commission, as the case would then become composite and fall within the Commission's jurisdiction. The matter may be referred to the Commission, through the CVO, for its advice. However, if an administrative authority investigates into an anonymous or pseudonymous complaint under the impression that it is a genuine signed complaint, or for any other reason, the Commission need not be consulted if it is found that the allegations are without any substance. Further action in the matter should be taken on receipt of the Commission's advice, wherever the same has been sought. Certain types of vigilance cases where it is desirable to initiate major penalty proceedings have been mentioned in para 11.4 of Chapter X of the Vigilance Manual (Vol.I) by way of illustrative guidelines. Besides, lapses/irregularities in a PSE would depend upon the functions which the PSE is performing. However, misconduct, lack of devotion to duty or integrity, as the case may be, could be inferred illustratively in the following circumstances, where the employee concerned :

- (a) has not acted in accordance with rules and his recommendations are not in the public interest; or
- (b) has failed to conduct himself in such a manner that his decisions or recommendations do not appear objective and transparent and seem to be calculated to promote improper gains for himself or for any one else; or
- (c) has acted in a manner to frustrate or undermine the policies of the organisation or decisions taken in the public interest by the management; or

- (d) seems to have complied with unauthorised and unlawful oral instructions of his seniors without bringing them to the notice of the CMD;
- (e) has exceeded his discretionary powers and his actions do not appear justifiable or to serve any organisational interests; or
- (f) has abused or misused his official position to obtain benefit for himself or for another ; or
- (g) has not reflected intellectual honesty in his decisions and recommendations.

## 17. REFERENCE TO CVC

17.1 The CVC is consulted at two stages of departmental proceedings as explained in para 19.1 infra. The Commission has noticed that references made to it both at the first as well as second stage are incomplete, resulting in back references to the PSE. It has therefore become necessary for the Commission to reiterate the extant procedure to be followed in this regard.

17.2 On completion of the preliminary investigation of the case, the disciplinary authority shall be required to forward:-

- (i) The preliminary investigation report;
- (ii) The relevant documents and records/files connected with the case;
- (iii) A self-contained note clearly indicating the facts on which the Commission's advice is sought;
- (iv) The disciplinary authority's own tentative recommendations;
- (v) In cases investigated by the Central Bureau of Investigation under the Special Police Establishment Act, 1946, the comments of the disciplinary authority on the recommendations of the CBI;
- (vi) A neatly typed tabular statement clearly indicating the allegations against the officer proposed to be included in the charge-sheet, his defence in respect thereof, and the disciplinary authority's and CVO's comments;
- (vii) A panel of employees to be nominated as Presenting Officers; and
- (viii) The bio-data of the officials concerned.

17.3 Since CVOs in PSEs are also experts in their respective fields, they should invariably provide their own analysis and assessment of the

facts of the case so that the Commission can have the benefit of their expertise.

17.4 It is necessary that before a case is referred to the CVC for advice, it receives due consideration at the appropriate level in the organisation. In order to ensure this, reference to the CVC may be made as follows:

- (a) At the level of CVO concerned, in cases seeking 1st stage/2nd stage advice on the first occasion.
- (b) At the level of CMD/Secretary of the ministry, in proposals for reconsideration of advice.

## 18. **CATEGORISATION OF CASES**

18.1 Before making references to the Commission, the CVO may classify references into Vigilance A and B. Vigilance-A would comprise cases where the lapses committed/irregularities noticed are serious and a prima-facie case for initiation of RDA for major penalty proceedings has been made out; Vigilance-B, on the other hand, would comprise less serious cases of procedural lapses, which in the opinion of the CVO, do not reflect adversely on the integrity of the official concerned. Vigilance-B cases ordinarily will not invite any administrative disabilities normally associated with the registration of a vigilance case against an official. These cases will continue to be monitored through the Vigilance Complaints Register till their disposal but only because they technically fall within the ambit of the term 'vigilance' and not because the official is accountable for a serious misdemeanour/misconduct or equivalent negligence. It follows then that an official can be proceeded against for a minor penalty but may not suffer any disability by way of posting, training, placement on 'Agreed List' etc., during the pendency of the disciplinary proceedings. If he is found accountable in the disciplinary proceedings, he will be duly punished but for all other purposes (except promotion, for which a separate sealed cover procedure exists) he will be treated at par with other equally/comparably placed employees facing minor penalty proceedings in a non-vigilance case.

## 19. **RECONSIDERATION OF THE COMMISSION'S ADVICE**

19.1 Para 5.16 of Chapter I and Para 22 of Chapter X of Vigilance Manual (Vol. I) contain provisions regarding reconsideration of the

Commission's advice. The scheme of consultation with the Commission envisages consultation at two stages. First stage advice is required at the time of initiation of disciplinary proceedings on the basis of investigation carried out by the CBI or the Department or PSE. Second stage advice on the other hand is required before a final decision is taken on the conclusion of the departmental proceedings. There is provision for another reference to the Commission requesting for reconsideration of its advice if the disciplinary authority disagrees with the Commission's perception of the case. Requests should be made soon after the receipt of the Commission's advice.

19.2 Reconsideration of the Commission's advice is necessary regardless of whether the disciplinary authority proposes to take "severer" or "lighter" action than that recommended by the Commission. Decisions taken in a manner, other than that mentioned above, would be treated as cases of non-acceptance of the Commission's advice and may be reported in the Commission's annual report to be placed on the Table of both the Houses of Parliament. Ordinarily, the Commission does not entertain more than one request for reconsideration and that too, if new facts not within its knowledge earlier are brought to light.

19.3 Compliance of CVC's first stage advice and second stage advice may be ensured within periods of one month and two months respectively.

## 20. **PROCEDURE FOR IMPOSING MAJOR PENALTY**

### 20.1 **CHARGE-SHEET**

20.1.1 Once the disciplinary authority decides to initiate major penalty proceedings against an employee, on the basis of the Commission's advice or otherwise, it should take immediate steps to issue the charge-sheet. A properly drafted charge-sheet is the sheet anchor of a disciplinary case. Therefore, the charge-sheet should be drafted with utmost accuracy and precision based on the facts gathered during the investigation (or otherwise) of the misconduct involved. It should be ensured that no relevant material and witnesses are left out and at the same time, no irrelevant material or witnesses are included.

20.1.2 The charge-sheet comprises the memorandum, informing the concerned employee about initiation of proceedings against him and giving him an opportunity to admit or deny the charge(s) within a period not

exceeding 15 days. The memorandum is to be signed by the disciplinary authority himself. In case, the disciplinary authority is the President, an officer, who is authorised to authenticate the orders on behalf of the President, may sign the memorandum. The Memorandum should be supported by annexures, namely, (i) article(s) of charge, (ii) statement of imputations of misconduct or misbehaviour in support of each article of charge, (iii) list of documents and (iv) list of witnesses. Lists of documents and witnesses should form an integral part of the charge-sheet even if the disciplinary rules applicable to the concerned employee do not contain such a provision. Guidelines in this regard contained in Para 14-17 of Chapter X of Vigilance Manual (Vol. I) may be kept in view.

20.1.3 Special care has to be taken while drafting a charge-sheet. A charge of lack of devotion to duty or integrity or unbecoming conduct should be clearly spelt out and summarised in the articles of charge. It should be remembered that ultimately the IO would be required to give his specific findings only on the articles as they appear in the charge-sheet. The Courts have struck down charge-sheets on account of the charges framed being general or vague ( S.K. Raheman Vs State of Orissa 60 CLT 419 .) If the charge is that the employee acted out of an ulterior motive that motive must be specified (Uttar Pradesh Vs Salig Ram AIR 1960 All 543). It is also equally important that while drafting a charge-sheet, special care should be taken in the use of language to ensure that the guilt of the charged official is not pre-judged or pronounced upon in categorical terms in advance (Meena Jahan Vs Deputy Director, Tourism 1974 2 SLR 466 Cal). However, the statement merely of a hypothetical or tentative conclusion of guilt in the charge, will not vitiate the charge-sheet (Dinabandhu Rath Vs State of Orissa AIR 1960 Orissa 26 cf. also Powari Tea Estate Vs Barkataki (M.K.) 1965: Lab LJ 102). Guidelines in this regard contained in Para 14.3 of Chapter X of Vigilance Manual (Vol.I) may be followed.

20.1.4 All relevant details supporting the charges should be separately indicated in the statement of imputations.

20.1.5 The concerned employee is not expected to furnish a detailed reply to the charge-sheet. He is required only to admit or deny the charge(s). Therefore, the rules do not provide for making available the relevant documents to the concerned employee for submission of his defence statement. However, notwithstanding the legal position, copies of the documents and the statements of witnesses relied upon, as far as possible, may be supplied to him along with the charge-sheet. If the documents are bulky and copies cannot be given, he may be given an opportunity to inspect those documents and submit his reply within 15 days' time.



## 21. **DEFENCE STATEMENT**

### 21.1 **ADMISSION OF CHARGE**

If the charged employee admits all the charges unconditionally, the disciplinary authority shall record its finding on each charge. Where the advice of the Commission is required, the case may be referred to the Commission, along with the comments of the disciplinary authority, for second stage advice. In other cases, the disciplinary authority should proceed to pass a self-contained and reasoned speaking order of punishment, defining the scope of punishment to be imposed in clear terms, in accordance with the relevant rules.

### 21.2 **ACCEPTING DEFENCE STATEMENT OR MODIFYING CHARGES**

The disciplinary authority has the inherent power to review and modify the articles of the charge, or drop some or all of the charges, after the receipt and examination of the written statement of defence. It is not bound to appoint an inquiring authority to inquire into such charges as are not admitted by the charged employee but about which the disciplinary authority is satisfied that these do not require to be proceeded with further. However, before the disciplinary authority exercises the aforesaid power, it may consult the CBI in cases arising out of the investigations conducted by them. The Commission should also be consulted where the disciplinary proceedings were initiated on its advice.

### 21.3 **CHARGES NOT ADMITTED/DEFENCE STATEMENT NOT SUBMITTED**

If the disciplinary authority finds that any or all the charges have not been admitted by the charged employee, or if he has not submitted the written statement of defence by the specified date, it may cause an inquiry to be made to inquire into the charges framed against the charged employee. The procedure for conducting the inquiry is indicated in the succeeding paragraphs.

## 22. **PROCEDURE FOR DEPARTMENTAL INQUIRY**

The procedure for conducting a departmental inquiry has been given in detail in Chapter XI of the Vigilance Manual Vol. I. The important provisions, however, are summarised below:

## 22.1 APPOINTMENT OF INQUIRING AUTHORITY/OFFICER

22.1.1 Under the disciplinary rules, the disciplinary authority may itself inquire, or appoint an inquiring authority/officer (IO) to inquire into such charges against the charged employee/officer (CO) if the latter does not admit the same or has otherwise not submitted his defence statement within the specified time. It should, however, be ensured that the officer so appointed has no bias and had no occasion to express an opinion at any stage of the preliminary inquiry. The inquiring authority should also be directed to ensure submission of the report mandatorily within a period of six months of his appointment. This time limit should be invariably adhered to at all cost.

22.1.2 The organisations in which large number of departmental inquiries are pending, may earmark some officers on a full-time basis to complete the inquiries within the specified time limit. The disciplinary authority may also consider appointing retired public servants as inquiring authorities, on payment of honorarium on case to case basis. All such appointments should be made from a panel duly approved by the competent authority in accordance with the extant rules. All organisations, however, should ensure that the inquiries are completed within the stipulated time limitation and no inquiry should suffer on account of non-availability of an IO.

22.1.3 Generally, the Commission nominates one of the Commissioners for Departmental Inquiries (CDI), borne on its strength, for appointment as inquiring authority to inquire into the charges against such employees against whom it advises initiation of major penalty proceedings. However, because of its limited manpower resources, the Commission cannot nominate a CDI in each and every case in which it tenders advice. It therefore permits the appointment of a departmental inquiring authority in certain cases. Because of similarity in rules, procedures and norms, PSEs will in future have a common pool of inquiry officers, details of which will be maintained in the Commission. The rationale behind the proposed provision is to ensure removal of bias and expedition in the conduct of the inquiry proceedings. Henceforth, the Commission would also nominate the name of the inquiring authority while tendering its first stage advice.

22.1.4 The disciplinary authority should give the charged officer a period of 15 days time after the service of the charge-sheet to deny or accept the charges. In case no reply is received within this period, the disciplinary authority may proceed to the next stage of the inquiry.

## 22.2 **APPOINTMENT OF PRESENTING OFFICER**

22.2.1 The disciplinary authority would also appoint an officer, called as Presenting Officer (PO), to present the case on its behalf before the inquiring authority. Unlike in the past, it would now not be necessary to nominate a CBI officer to act as PO in the cases investigated by them. All PSEs, among others, have already been directed to indicate, henceforth, the names of the Presenting Officers to be appointed while making a first stage reference to the Commission involving initiation of major penalty proceedings. After the Commission endorses the proposed action, the PSEs will ensure that the Inquiry Officer and Presenting Officer are appointed simultaneously after the service of the charge-sheet on denial of charges by the Charged Officer. (Ref. CVC's Directive No. 8 (1)(g)/99 (2) dated 19.2.99).

## 22.3 **DEFENCE ASSISTANT**

22.3.1 The charged employee has also a right to take assistance of a public servant, generally termed as Defence Assistant (DA), to help him in the presentation of his case in a departmental inquiry. Most rules provide that the CO may not engage a legal practitioner to present the case on its behalf before the IO, unless the PO appointed by the disciplinary authority is also a legal practitioner, or the disciplinary authority, having regard to the circumstances of the case, so permits. It is, however, clarified that if the case is being presented, on behalf of the disciplinary authority, by a "Prosecuting Officer" of the CBI or by the Law Officer of the Department, such as a Legal Adviser etc., there would evidently be good and sufficient circumstances for the disciplinary authority to exercise his discretion in favour of the delinquent employee and allow him to be represented by a legal practitioner. Any exercise of discretion to the contrary in such cases is likely to be held by the court as arbitrary and prejudicial to the defence of the delinquent employee.

22.3.2 In order to ensure expeditious disposal of inquiry proceedings, a person will not be permitted to act as defence assistant in more than three cases at any given point of time. The IO shall satisfy himself that the aforesaid condition is satisfied.

## 22.4 **PRELIMINARY HEARING**

22.4.1 On the date fixed for the purpose, the IO shall ask the CO whether he is guilty or has any defence to make. If the CO pleads guilty to any of the articles of charge, the IO will record the plea, sign the record and obtain the signature of the CO thereon. The IO will then return a finding of

guilt in respect of those articles of charge, which the CO admits. In respect of other charges, the IO would ask the PO to adduce evidence to prove the articles of charge and adjourn the case to a date within 30 days of the preliminary hearing.

22.4.2 While adjourning the case, the IO would also record the order permitting inspection of listed documents by the CO. The order should direct the latter to submit a list of witnesses to be examined on his behalf and the list of additional documents needed by him for his defence. The IO should make it clear to the CO, during preliminary hearing, both orally and in writing in the Daily Order Sheet that he should indicate the relevance of defence witnesses and additional documents to enable the IO to decide upon admissibility of evidence desired to be led by the defence. For reasons to be recorded by him in writing, the IO may refuse to requisition such documents, or allow such witnesses, as are in his opinion, not relevant to the case. On the other hand, where he is satisfied that the documents required by the defence are relevant, he may requisition the same from their custodian, through the PO or otherwise, by a specified date. The denial of access to documents, which have a relevance to the case, may amount to violation of reasonable opportunity. Therefore, the power to deny access on grounds of public interest, should be exercised only for reasonable and sufficient grounds to be recorded in writing.

## 22.5 **REGULAR HEARINGS**

(i) **General** - Once all the preliminaries are over, the IO would fix the dates and venue of regular hearings. He should, as a rule, hear the case on day-to-day basis and not grant any adjournments, save in unavoidable and exceptional circumstances. Admitted documents may be taken on record straightaway and marked as exhibits and admitted facts, if any, be taken note of in the order-sheet.

(ii) **Presentation of Prosecution case** - In the first instance, the PO would be asked to present his case. He should introduce unadmitted/disputed listed documents through relevant witnesses. He should in the examination-in-chief, examine his witnesses in such a way that brings out the case in a logical manner. The IO should also ensure that the witness understands the question properly. He should protect him against any unfair treatment, disallowing questions which are leading, irrelevant, oppressive or dilatory in nature. As far as possible, all evidence should be recorded in narrative form. Previous pre-recorded statements admitted by the witness should also be taken on record. After the examination of a witness is over, the witness may be cross-examined by the CO or his DA to bring out further facts, remove discrepancies, or throw

light on the reliability of the witness. After the cross-examination, the PO may re-examine the witness on any point on which he had been cross-examined but not on any new matter unless specifically allowed by the IO. In the latter case, the CO would have a right to further cross-examine the witness. The IO may also put such questions to a witness as he thinks fit, at any time during the inquiry, to bring out the truth and for the emergence of a fair and clear understanding of the case. With this end in view, he may allow both sides to cross-examine such a witness on any question put by him.

(iii) **Hostile Witness** - If during the examination-in-chief of a prosecution witness, the PO feels that the witness is hostile or that his testimony is likely to affect the prosecution case or that the witness is knowingly not telling the truth, he may seek the permission of the IO to cross-examine that witness after he has been declared hostile. In such situations, the PO may, with the prior permission of the IO, also put leading questions to the witness so as to bring out the truth.

(iv) **Admission of Guilt** - The CO may decide to plead guilty to any of the charges during the inquiry. In that case, the IO may accept the plea and record his findings. He should nonetheless, continue the case to its logical conclusion if, in his opinion, the admission is conditional or only relates to part of the charges.

(v) **New Evidence** - Before the closure of the case on behalf of the disciplinary authority, the IO, in his discretion, may allow the PO to produce evidence not included in the list given to the CO, or may himself call for new evidence. In such situations, the CO would be entitled to have a copy of such evidence, an adjournment of at least three clear days, and an opportunity for inspecting the relevant documents. The IO, however, should not allow such evidence for filling up any gap in the evidence on record but only when there has been an inherent lacuna or defect in the evidence originally produced.

(vi) **Defence Statement** - After closure of the case on behalf of the disciplinary authority, the IO shall ask the CO to state his defence. If the C.O. submits the defence in writing, he should sign every page of it. If he makes an oral statement, the IO should record the same and get it signed by the CO. A copy of the statement of defence should be given to the PO.

(vii) **Presentation of Defence Case** - The CO, thereafter, would be asked to produce evidence in support of his defence. Additional documents permitted by IO may be taken on record and marked as exhibits, if this task has not been performed earlier. The CO or his DA would then proceed to

examine his witnesses, who will be cross-examined by the PO, and re-examined by the CO on the basis of the same procedure as indicated in the case of prosecution witnesses.

(viii) **CO Appearing as Witness** - The CO may, in his discretion, offer himself as his own witness. Examination-in-chief of CO would be conducted by the Defence Assistant, cross-examination by the Presenting Officer and re-examination by the Defence Assistant. If there is no Defence Assistant, then the CO will make a suo motu statement and thereafter the Presenting Officer will cross-examine him.

(ix) **Mandatory Questions to CO** - If the CO does not offer himself as a witness, the IO shall examine him generally to enable him to explain the circumstances appearing against him. The IO may do so, even if the CO has offered himself as a witness.

(x) **Written Briefs by PO/CO** - After the completion of the production of evidence, the IO may hear the PO and the CO, or permit them to file written briefs of their respective case, if they so desire. If they are permitted to submit written briefs, the PO may submit his brief, first, within a week of the last hearing of the case. He should also certify that a copy of the brief has been given to the CO. The CO may, thereafter, furnish his brief to the IO within a further period of one week.

(xi) **Daily Order Sheets** - The IO would maintain a daily order sheet to record in brief the business transacted on each day of the hearing. Requests and representations by either party should also be dealt with and disposed of in this sheet. Copies of the recorded order-sheets will be given to the PO and CO with their signatures thereon, if they are present. If they are not present, these will be sent by post. The Defence Assistant will also sign the sheet, but a copy will not be given to him.

(xii) **Ex parte Proceedings** - If the CO does not submit his written statement of defence within the specified time, or does not appear before the IO on the dates fixed for the inquiry or refuses to comply with the provisions of the rules, the IO may hold the inquiry ex parte. In that event the copies of the depositions, daily order sheets etc. may be sent to him at his last known address. A copy of the written brief submitted by the PO may also be sent to him so as to give him a reasonable opportunity to submit defence brief. The CO, always has the option to participate in or join the inquiry at any stage.

(xiii) **Alleging Bias against IO** - If the CO represents alleging bias against the IO, the IO should keep the proceedings in abeyance and refer

the matter to the disciplinary authority. He should resume the inquiry only after he is advised by the disciplinary authority to go ahead. Wherever the Charged Officer submits a review petition against the Inquiry Officer on grounds of bias, the proceedings should be stayed and the representation referred, along with relevant material, to the appropriate Reviewing Authority for considering the same and passing appropriate order thereon. For this purpose, the Reviewing Authority would normally be the Appellate Authority. Obviously, any representation against the appointment of an Inquiry Officer on grounds of bias should be made as soon as the Inquiring Officer has been appointed, but not after the proceedings have commenced and reached an advance stage.

(xiv) **Change of IO** - Whenever for any reason the IO is changed and a new IO is appointed to continue the inquiry, he shall take into account the evidence recorded or partly recorded by his predecessor. If he is of the opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interest of justice, he may recall, examine, re-examine and cross-examine such witness.

## 22.6 SUBMISSION OF INQUIRY REPORT

22.6.1 After considering the oral and documentary evidence adduced during the inquiry, the IO may draw his own inferences, as a rational and prudent person, and record his findings on each charge. He should rely only on such facts as the CO had the opportunity to refute. Generally, the CO raises a plea of absence of mala fide. It is clarified that the PO is not expected to prove mala fide in cases where the act itself speaks of a dishonest motive e.g. a person travelling without ticket in a train or a person who has been unable to explain his assets satisfactorily. Mala fide, however, is not relevant in proving a misconduct as it does not form an essential ingredient of it. Also, every act of a public servant is expected to be honest, bona fide and reasonable. An act is not bona fide if it is committed without due care and attention. While assessing the evidence, the IO should also bear in mind that the proceedings are civil rather than criminal or quasi-criminal in nature. Accordingly, the standard of proof required in a disciplinary inquiry is that of “preponderance of probability” and not “proof beyond reasonable doubt”. The IO should confine his conclusion only up to the stage of recording whether the charge is proved, or partially proved or not proved. The conclusion should be derived from the facts and circumstances of the case and not on its extenuating aspects. He should not recommend the punishment to be imposed on the CO. Neither is he required to comment on the quality of drafting of the charge-sheet, nor the conduct of the disciplinary authority in framing the charges or

that of the PO in arguing the same. The IO becomes functus officio as soon as he submits the report and cannot make any change thereafter.

22.6.2 The initial burden in the departmental inquiry of proving the charge with evidence on record is that of the prosecution. Once the same is discharged, the burden of disproving the same and/or bringing to light special circumstances relating to the innocence of the CO will be that of the latter. Otherwise, the proceedings being only quasi-judicial rather than judicial in nature, the strict rules of evidence stipulated in the Indian Evidence Act would not be applicable except to the extent specifically indicated in the relevant rules.

22.6.3 The report of the IO should contain:

- (i) An introductory paragraph in which references to the orders of appointment of IO and PO and engagement of DA will be made;
- (ii) Brief account of hearings, marking of exhibits, recording of evidence;
- (iii) Reproduction of articles of charge (s);
- (iv) Indication about charges which are dropped, or admitted, or have been inquired into;
- (v) Brief statement of the case of the disciplinary authority in respect of the charges inquired into;
- (vi) Brief statement of the case of the Charged Officer;
- (vii) For each charge inquired into -
  - (a) the case in support of the charge;
  - (b) the case of defence;
  - (c) assessment of evidence; and
  - (d) the findings.
- (viii) A brief summary of the findings.

22.6.4 The IO should, in all cases, submit the report to the disciplinary authority, with extra copies, one each for the CO and the CBI, if the case had been investigated/presented by them. However, in cases in which a CDI of the Commission conducts the inquiry, he would also submit a copy of the report along with one copy each of the depositions and Daily Order Sheets to the Secretary of the Commission.

22.6.5 Along with the report, the Inquiry Officer should send to the disciplinary authority a folder containing the following:-

- (a) List of exhibits produced by the Presenting Officer.



- (b) List of exhibits produced by the Charged Officer.
- (c) List of prosecution witnesses.
- (d) List of defence witnesses.
- (e) A folder containing deposition of witnesses in the order in which they were examined.
- (f) A folder containing daily order-sheets.
- (g) A folder containing the written statement of defence.
- (h) Written briefs of both sides.
- (i) Correspondence Folder.

22.6.6 The IO must complete the inquiry proceedings and submit his report within a period of six months from the date of his appointment.

### 23. ACTION ON INQUIRY REPORT

23.1 The procedure regarding action to be taken on the report of the Inquiring Officer has been given in detail in Chapter XII of the Vigilance Manual (Vol. I). The important provisions, however, are summarised below.

23.2 The IO's report is intended to assist the disciplinary authority in coming to a conclusion about the guilt of the CO. The disciplinary authority has the inherent powers to disagree with the findings of the IO and come to his own conclusions on the basis of his own assessment of the evidence forming part of the inquiry.

23.3 In view of the Supreme Court's judgement in Ramzan Khan's case, if the disciplinary authority is different from the inquiring authority, and if the latter has held all or any of the charges against the CO as proved, the disciplinary authority should ask the CO for his representation, if any, within 15 days. In case the IO has held any or all the charges against the CO as "not proved", the disciplinary authority should consider the IO's report in the first instance. If he disagrees with the IO's findings, he should communicate his reasons for disagreement to the CO while asking for his representation. The disciplinary authority may take further action on the inquiry report on consideration of the CO's representation or on the failure of the CO to submit the same within the specified time.

23.4 The disciplinary authority, in exercise of his quasi-judicial powers, may issue an order imposing a major or a minor penalty on the CO; or exonerate him of the charges, if in his opinion, none of the charges has been proved or what has been proved, is non-actionable. He may remit the case for further inquiry if he considers that there are grave lacunae or procedural defects which vitiate the inquiry or if some important witnesses

were not examined. (K.R. Deb Vs. Collector of Central Excise, AIR 1971 S.C. 1447). The fact that the inquiry has gone in favour of the CO or the evidence led in the inquiry has gaps, should not be a reason for remitting the case for further inquiry (Dwarka Chand Vs State of Rajasthan – AIR 1959 Raj. 38). In such a case, the disciplinary authority may disagree with the IO's findings. The final order passed by the disciplinary authority should be a well-reasoned speaking order.

23.5.1 The cases requiring the Commission's advice may be referred to it, in the form of a self-contained note, along with the following documents:

- (i) The IO's report and the connected records mentioned in Para 22.6.5 above;
- (ii) Disciplinary authority's tentative findings on each article of charge;
- (iii) Representation of the CO on the inquiry report;
- (iv) Tentative conclusions of the disciplinary authority and the CVO; and
- (v) Wherever the inquiry proceedings have been delayed, the CVO shall specifically comment on the delay fixing accountability for the delay and the action taken/proposed against those responsible for the same.

23.5.2 The disciplinary authority is to forward the case, in the manner explained above, to the CVC within 30 days of the receipt of the inquiry report from the CDI/IO.

23.6 While imposing a punishment on the officer, the disciplinary authority should ensure that the punishment imposed is commensurate with the gravity of the misconduct proved against the CO. He may also take into account at this stage the following other criteria:

- (a) the extenuating circumstances, as they emerge from the inquiry; and
- (b) the track record of the charged officer.

It should also be ensured that the punishment so imposed is not academic or ineffective; for example, there is no point in imposing a penalty of withholding of an increment, if the CO has already been drawing pay at the maximum of the pay scale. Similarly, there is no point in imposing a penalty of withholding of promotion for a specified period if the officer is not due for promotion.

## 24. **PROCEDURE FOR IMPOSING MINOR PENALTIES**

24.1 The procedure for imposing a minor penalty is much simpler than that for imposing a major penalty. For the imposition of the former, the disciplinary authority is only required to serve a Memorandum on the concerned employee, enclosing therewith a statement of imputations of misconduct or misbehaviour and asking for a reply within a specified period, generally 10 days. On receipt of the written statement of defence, if the disciplinary authority is satisfied that the misconduct imputed to the CO has not been established, he may, through a written order, drop the charges. On the other hand, if the disciplinary authority considers the CO guilty of the misconduct in question, he may impose one of the minor penalties. The disciplinary authority, in his discretion, may also decide to conduct an inquiry following the same procedure as stipulated for the imposition of a major penalty, if in his opinion, holding of an inquiry is necessary to come to a definite conclusion about the guilt or innocence of the CO or if the employee requests for the same.

24.2 In cases, where minor penalty proceedings were instituted against an employee on the advice of the Commission, the Commission need not be consulted at the second stage if the disciplinary authority, after considering the defence statement, proposes to impose a minor penalty. But in cases where the disciplinary authority proposes to drop the charges, or an inquiry has been conducted, second stage consultation with the Commission is necessary.

## 25. **APPEAL AND REVIEW**

25.1 If in appeal or review, the appellate/reviewing authority proposes to modify the original order of punishment, the Commission's advice would not be necessary where such modification remains within the parameters of the Commission's original advice. For example, if on the Commission's advice for imposition of a major penalty, the appellate, or reviewing authority proposes to modify the original penalty imposing such a penalty with another major penalty, the Commission's advice at the appeal/review stage would not be necessary. On the other hand, in the instant case, if the modified penalty is not a major penalty, the Commission's advice would be necessary.

25.2 Where the Commission has not advised a specific penalty, the CVO shall scrutinise the final orders passed by the disciplinary authority and ascertain whether the penalty is commensurate with the nature and

gravity of the lapses. If the punishment imposed is inadequate or inappropriate, he may recommend a modification thereof to the reviewing authority. On satisfying himself that a case for review exists, the latter may thereafter, assume jurisdiction over the case as provided for under the rules.

## 26. ACTION AGAINST PERSONS MAKING FALSE COMPLAINTS

26.1 Section 182 IPC provides for prosecution of a person making a false complaint. Therefore, if a complaint against a public servant is found to be malicious, vexatious or unfounded, serious action should be considered against the complainant. Section 182 IPC reads as under:

“Whoever gives to any public servant any information which he knows or believes to be false intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant:

- (a) to do or omit anything which such public servant ought to do or omit if the true state of facts respecting which such information is given were known by him, or
- (b) to use the lawful power of such public servant to the injury or annoyance of any person;

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.”

26.2 Under Section 195(1)(e) Cr.P.C., a person making a false complaint can be prosecuted on a complaint lodged with a court of competent jurisdiction by the public servant to whom the false complaint was made or by some other public servant to whom he is subordinate.

26.3 Alternatively, if the complainant is a public servant, it may also be considered whether departmental action should be taken against him as an alternative or in addition to prosecution. When the Commission comes across any such complaint in the normal course of its functioning, it would advise the administrative authority concerned about appropriate action to be taken on its own initiative. However, in respect of cases which do not fall within the Commission’s normal jurisdiction, the organisation concerned may decide the matter on its own as it deems fit.

27. **DIFFERENCE OF OPINION BETWEEN THE CVO AND THE CMD**

27.1 Where there is a difference of opinion between the disciplinary authority and the CVO with regard to cases which are not to be referred to the Commission, the CVO may report the matter to the next higher authority/CMD for the resolution of the difference of opinion between the two. A case of difference of opinion between the CVO and the CMD in respect of any case falling within the jurisdiction of the CVC should be referred to the CVC. In the case of a Board level appointee, the comments of the administrative ministry along with all relevant files are required to be sent to the CVC so as to enable the Commission for better appreciation of the facts and circumstances of the case and the viewpoints of authorities who might have had the occasion to comment upon its various aspects.

28. **GRANT OF IMMUNITY TO ‘APPROVERS’ IN DEPARTMENTAL INQUIRIES**

28.1 The procedure for grant of immunity/pardon to an employee from the departmental inquiries is explained in Para 7 of Chapter IV and Para 36 of Chapter XIII of Vigilance Manual (Vol .I). It is felt that in cases of serious nature, the evidence of “Approvers” may sometimes lead to considerable headway in investigation of cases. This also facilitates booking of offences/misconduct of more serious nature. Therefore, the following procedure may be followed for grant of immunity/leniency to a public servant in the cases investigated by the CVO:

- (a) If during an investigation, the CVO finds that an officer, in whose case the advice of the Commission is necessary, has made a full and true disclosure implicating himself and other public servants or members of the public and further that such statement is free from malice, the CVO may send his recommendation to the CVC regarding grant of immunity/leniency to such officer from departmental action or punishment. The Commission would consider the CVO’s recommendation and advise that authority regarding the further course of action;
- (b) In cases pertaining to officials against whom the Commission’s advice is not necessary, the recommendation for grant of immunity/leniency may be made to the CVO who would consider and advise the disciplinary authority regarding the

further course of action. If there is a difference of opinion between the CVO and the disciplinary authority, the CVO would refer the matter to the Commission for advice.

## 29. **SUPERVISION OVER VIGILANCE ACTIVITIES**

29.1 The Commission exercises general superintendence over the vigilance administration and anti-corruption work in the public sector enterprises. In order to enable the Commission to discharge this function effectively, the CVOs of PSEs would continue to submit a quarterly report on receipt, disposal and pendency of complaints and vigilance cases to the Commission in the prescribed format.

## 30. **VIGILANCE STAFFING STRUCTURE IN PSEs**

30.1 With a view to tackling corruption and making the functioning of investigating and vigilance agencies more independent, effective, credible and prompt, the Department of Public Enterprises (Government of India), vide their letter No. DPE 15(7)/98(GL-009) GM dated the 25th September, 1998, have recommended the following model of vigilance set-up for the PSEs as a broad guideline to be adopted with such modifications as may be appropriate in the case of an individual undertaking:

### (I) **Corporate Office**

- i) Chief Vigilance Officer.
- ii) Dy. CVO (For Schedule 'A' & 'B' PSEs)
- iii) Vigilance Wings.

#### a) **Investigation Wing**

- Sr. Vigilance Officer - One
- Investigators - Two
- Steno - Two

#### b) **Anti-Corruption and Vigilance Wing**

- Sr. Vigilance Officer - One
- Vigilance Assistant - Two
- Steno - One

c) **Disciplinary Proceedings Wing**

- Sr. Vigilance Officer	-	One
- Vigilance Officer	-	Two
- Steno	-	One

d) **Preventive Vigilance Wing**

- Sr. Vigilance Officer	-	One
- Vigilance Officer	-	One
- Steno	-	One

e) **Technical Wing** (This is applicable to PSEs engaged in engineering and other technical operations)

- Sr. Vigilance Officer	-	One
- Vigilance Officer	-	One
- Expert	-	One
- Steno	-	One

II. **Regional/Project Plant Office** (This is applicable to Schedule 'A' & 'B' PSEs only)

- Sr. Vigilance Officer	-	One
- Investigators	-	One
- Steno	-	One

31. **DEPUTATION TENURE OF CVOs IN PSEs**

31.1 The existing guidelines on the subject are contained in para 2 (v) of the Department of Personnel & Training OM No. 36 (9)-EO/89-SM(I) dated 7.2.92. These stipulate that the tenure of a CVO will be for a period of five years irrespective of the grade of the post and the service to which the officer belongs; no other tenure rules would be applicable for this purpose. On the recommendation of the Central Vigilance Commission and the Civil Services Board, the Appointments Committee of the Cabinet has since approved partial modification of the aforesaid provisions. The initial deputation tenure of an officer in the post of Chief Vigilance Officer should be three years extendable up to a further period of two years in the same enterprise (maximum five years), with the approval of the CVC, or up to a further period of three years on transfer to another Public Sector Enterprise on completion of initial deputation tenure of three years in the previous Public Sector Enterprise. (Ref. DOPT's OM No. 372/7/97-AVD-III dated 7.8.98).

## 32. **REVIEW OF VIGILANCE MATTERS IN PSEs**

32.1 The CVO should invariably review all the pending investigation reports, disciplinary cases and other vigilance matters in the first week of every month and take necessary steps for expediting action on pending matters.

### 32.2 **REVIEW BY THE SECRETARY OF THE ADMINISTRATIVE MINISTRY AND CMD OF PSE.**

In addition to this monthly review by the CVO, the Secretary of each Ministry/Department and the Chief Executive of PSE should undertake a quarterly review of the vigilance work done in the enterprise in the first week of January, April, July and October every year. The result of the quarterly review consolidated separately for each enterprise should be communicated to the Department of Personnel & Training and the CVC by 15<sup>th</sup> day of the month in which such review is undertaken.

### 32.3 **REVIEW BY THE BOARD OF DIRECTORS OF PSE**

The Board of Directors of PSE should undertake review of progress of vigilance work/disciplinary cases at least once in 6 months.(Ref. DPE (Govt. of India) OM No. 16(48) 87-G dated 2.8. 1996. A copy each of the proceedings of the Board review meeting should be sent to the CVO of the administrative ministry and also the Secretary of the Commission for information.

## 33. **ACCESS TO DOCUMENTS/INFORMATION BY THE VIGILANCE EXECUTIVES**

33.1 Vigilance functionaries are required to inspect records, conduct surprise inspections and conduct on-the-spot investigations etc. in the discharge of their duties. Accordingly, they should at appropriate levels be authorised to have free access to all offices, sub-stations, stores and other work sites. They should have free access to the relevant records in connection with any investigation/inquiry. They may also take possession of records required by them, subject, however, to the arrangement that working of the Department should not be hampered for want of records.

## 34. **SANCTION FOR PROSECUTION**



34.1 Various aspects of prosecution have been explained in Chapter VII of Vigilance Manual (Vol. I). For all offences committed under the relevant sections of PC Act, 1988, sanction of the competent authority is required for launching prosecution. Such sanction, however, is not required if at the time of launching the prosecution, the concerned public servant has either retired or resigned from the service of the organisation. This protection is also not available to the employees of PSEs, as such persons cannot be brought within the ambit of Section 197 of Cr. P.C. even though PSEs constitute "State" within the meaning of the Article 12 of the Constitution. (Supreme Court Judgement. 1998 (3) SCALE. MOHD. HADI RAJA. Vs STATE OF BIHAR AND ANR)

34.2 In Vineet Narain and Others Vs. Union of India and another ( CWP No. 340-343 of 1993) the Supreme Court has directed that

"Time limit of 3 months in grant of sanction for prosecution must be strictly adhered to. However, additional time of one month may be allowed where consultation is required with the Attorney General or any other Law Officer in the AG's Office".

34.3 Administrative instructions have further emphasised that while the Supreme Court has laid down the outer time limits, all efforts should be made to decide the grant of sanction or rejection of the request for sanction as early as possible. (Ref. DOPT OM No. 142/10/97 AVD I dated 14.1.1998)

## 35. DOCUMENTS HELD UP IN COURTS

35.1 Where criminal prosecution and departmental proceedings have to be conducted simultaneously, duly authenticated photocopies of the documents by the competent authority should be retained by the CBI and one such set may be made available to the disciplinary authority for use in the departmental proceedings. If the CO desires to inspect the listed documents in the charge-sheet, inspection of the original documents may be arranged with the permission of the Court.

35.2 Policy and Coordination Division of the CBI vide their letter No. 21/90/98-PD dated 15.2.98 to all their offices has informed that as per the existing instructions contained at Paras 57/453 to 60/456 Chapter - XIII of CBI Crime Manual and provisions contained in Para 12, Chapter -VII of Vigilance Manual Vol. I, CBI Branches ought to furnish such original documents as can be sent by them along with the report. In respect of documents which the Branch would not like to part with due to genuine and

cogent reasons, attested copies of the same or a gist of their contents may be duly forwarded to the authority concerned. This would enable the latter to formulate his views/comments on the CBI report expeditiously. In order to avoid delay in processing CBI reports by various organisations/departments, all branch SPs/regional DIGs have already been advised to follow the prescribed procedure scrupulously so that the departments/organisations can process CBI reports expeditiously.

(Ref. CVC's letter No. 98/VGL/7 dated 11.11.98)

36. **TRAVELLING/DEARNESS ALLOWANCES TO THE PRESENTING OFFICERS, DEFENCE ASSISTANTS AND WITNESSES**

36.1 Presenting Officers appointed by the disciplinary authorities, duly authorised defence assistants, prosecution witnesses and defence witnesses permitted by IO are entitled to TA and DA in accordance with extant rules on the basis of certificate of hearing issued by the IO for the purpose.

37. **PAST MISCONDUCT**

37.1 Action can be taken against an employee in respect of misconduct committed by him in his previous or earlier employment if such misconduct was of such a nature as has a rational nexus with his present employment and renders him unfit and unsuitable for continuing in service. When such action is taken, the charge should specifically state that the misconduct alleged is such that it renders him unfit and unsuitable for continuance in service. The charge sheet will be issued with reference to the CDA Rule of the PSE where the employee is working presently.

38 **DISCIPLINARY PROVISION FOR RETIRED EMPLOYEES**

38.1 There is no provision in CDA Rules of almost all PSEs either to continue departmental proceedings initiated against an employee during his service after retirement or to initiate departmental proceedings in respect of prima facie established lapses/misconduct after retirement. All PSEs should amend their CDA Rules in this regard to provide for continuation of proceedings already initiated and also for initiation of departmental proceedings in respect of grave misconduct in respect of any event which took place not more than four years earlier.

39. **ROTATION OF STAFF IN SENSITIVE POSTS/  
CITIZENS' CHARTER**

39.1 CVO may identify sensitive posts and ensure rotation of staff in such posts every three years. Orders issued in this regard along with a list of the sensitive posts identified may be intimated to the CVC for record. The CVO may also review the functioning of public dealing departments. Each PSE may also draw up a Citizen's Charter prescribing time-limits for processing of applications and various categories of work involving public dealings. CVO may monitor the implementation of the Citizen's Charter and furnish a compliance report in this regard to the CVC.

40. **INTERPRETATION**

40.1 If there is inconsistency between provisions of this Chapter and the provisions of the CDA Rules of any PSE; the concerned PSE should get its CDA Rules amended/ updated/ modified to the extent necessary. If any question arises relating to the interpretation of these provisions, it may be referred to the CVC for clarification.

41. **SCHEDULE OF TIME LIMITS IN CONDUCTING  
INVESTIGATIONS AND DEPARTMENTAL  
INQUIRIES**

41.1 Delays in disposal of disciplinary cases are a matter of serious concern to the Government and the Commission. Such delays also affect the morale of the suspected/charged employees and others in the organisation. Therefore, in order to ensure that disciplinary cases are disposed of quickly, the CVO should ensure that the following time limits are strictly adhered to:

S.No.	State of Investigation or inquiry	Time Limit	Responsible Authority
1.	Decision as to whether the complaint involves a vigilance angle.	One month from receipt of the complaint.	CVO/CMD
2.	Decision on complaint, whether to be filed or to be entrusted to CBI or to be taken up for investigation by departmental agency or to be sent to the concerned administrative authority for necessary action.	-do-	CVO/CMD
3.	Conducting investigation and submission of report.	Three months.	IO/CVO
4.	Department's comments on the CBI reports in cases requiring Commission's advice.	One month from the date of receipt of CBI's report by the DA.	CVO Adm. Ministry/CVO/PSE

5.	Referring departmental investigation reports to the Commission for advice.	One month from the date of receipt of investigation report.	CVO
6.	Reconsideration of the Commission's advice, if required.	One month from the date of receipt of Commission's advice.	CVO/CMD/ Ministry's CVO
7.	Issue of charge-sheet, if required.	(i) One month from the date of receipt of Commission's advice. (ii) Two months from the date of receipt of investigation report	D.A.
8.	Time for submission of defence statement.	Ordinarily ten days or as specified in CDA Rules.	CO
9.	Consideration of defence statement.	15 (Fifteen) days.	DA
10.	Issue of final orders in minor penalty cases.	Two months from the receipt of defence statement.	DA
11.	Appointment of IO/PO in major penalty cases.	Immediately after receipt and consideration of defence statement.	DA
12.	Conducting departmental inquiry and submission of report.	Six months from the date of appointment of IO/PO.	IA
13.	Sending a copy of the IO's report to the CO for his representation.	i) Within 15 days of receipt of IO's report if any of the Articles of charge has been held as proved; ii) 15 days if all charges held as not proved. Reasons for disagreement with IO's findings to be communicated	DA
14.	Consideration of CO's representation and forwarding IO's report to the Commission for second stage advice.	One month from the date of receipt of representation.	CVO/DA
15.	Issuance of orders on the Inquiry report.	i) One month from the date of Commission's advice. ii) Two months from the date of receipt of IO's report if Commission's advice was not required.	DA

.....



Telegraphic Address :  
"SATARKTA: New Delhi

E-Mail Address  
cenvigil@nic.in

Website  
www.cvc.nic.in

EPABX  
24600200

फैक्स / Fax : 24651186



सत्यमेव जयते

केन्द्रीय सतर्कता आयोग  
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लैक्स,  
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023  
Satarkta Bhawan, G.P.O. Complex,  
Block A, INA, New Delhi 110023

सं./No. 014/VGL/066  
19<sup>th</sup> March, 2015

दिनांक / Dated.....

CIRCULAR No. 03/03/15

**Sub: Referring matters of alleged commission of criminal offences and frauds etc., in CPSEs to CBI – Special Chapter for Vigilance Management in CPSEs – reg.**

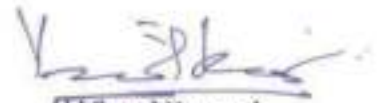
The Commission in terms of its powers under Section 8(1) (h) of the CVC Act, 2003 exercises its function of superintendence over the vigilance administration of the Central Public Sector Enterprises (CPSEs). The Commission has of late, observed that the number of cases/instances involving criminal misconduct including financial irregularities and frauds detected in the CPSEs being referred to the Central Bureau of Investigation (CBI) for investigation are very few every year.

2. As a general rule, investigations into such type of criminal matters should be entrusted to the CBI. The provisions laid down in Para 11.3.1 of the Special Chapter for Vigilance Management in CPSEs provide that cases are to be entrusted to CBI with the approval of the CMD of the CPSE, if the allegations: (i) are criminal in nature (e.g. bribery, corruption, forgery, criminal breach of trust, possession of assets disproportionate to known source of income, cheating etc. or (ii) require inquiries to be made from non-official persons; or (iii) involve examination of private records; or (iv) need expert police investigation for arriving at a conclusion; or (v) need investigation abroad. Further, vide Para 9 of the Special Chapter for Vigilance Management in CPSEs, the CVOs of the CPSEs are required to interact frequently and exchange information with CBI on a quarterly basis. In Para 9.4 *ibid*, it is also prescribed that the CPSEs should ordinarily send to CBI only cases involving transactions not less than ₹25 lakhs or otherwise possessing national or international ramifications and other cases are to be sent to the local police authorities. In other words, matters wherein, *prima-facie* commission of any criminal offence under the Indian Penal Code (IPC), PC Act, 1988 or any other law are required to be referred to the CBI by the CPSEs.

3. The Commission has also noticed instances of some CPSEs referring cases/matters *prima-facie* involving criminal offences, financial irregularities and high value frauds involving officials of CPSEs or outsiders to the Local police/State police authorities instead of referring to CBI for investigations. The Commission would advice all CPSEs to strictly adhere to the laid down procedure and principles as in the Special Chapter for Vigilance Management in CPSEs.

4. Accordingly, it is clarified that all such matters wherein involvement of officials of the CPSE is prima-facie evident shall be referred to the Anti-Corruption Branch of CBI and where involvement of officials is prima-facie not evident shall be referred to the Economic Offences Wing of CBI. Further, criminal matters of the above nature would be referred to the local police/State police only in matters wherein the CBI has refused/rejected to take-up investigations or transactions less than ₹25 lakhs.

5. All CPSEs are advised to comply with the above provisions in referring cases/matters of criminal nature involving both insider/outside detected in the CPSEs. The CVOs of CPSEs would report to the Commission, the details of cases/matters noticed in the CPSEs and the action taken status thereon regularly in their monthly reports.



(J Vinod Kumar)

Officer on Special Duty

To

All Chief Vigilance Officers of Ministries / Departments  
All Chairman & Managing Directors of CPSEs  
All Chief Vigilance Officers of CPSEs

Copy for information to: - The Joint Director (Policy), Central Bureau of Investigation, Policy Division, North Block, New Delhi – 110 001 – with the request to suitably inform all Anti-Corruption Branches/Economic Offences Wing Branches of CBI accordingly.



## Articles



# **CODE OF ETHICS FOR CHARTERED ACCOUNTANTS**

## **INTRODUCTION**

Financial statements of an enterprise depict the wholesome financial situation of the enterprise for a particular period / at a particular date. The information in these statements are of vital importance for a large section of the society, which deal with that enterprise. It may be suppliers of material, customers, investors, Banks, Financial Institutions, Insurers, Government, Tax Authorities, employees, collaborators and even their competitors. Keeping in view the importance of these statements and the large section of the society who use these statements for taking many vital decisions, it is necessary that these statements are attested by some person who is expert in this field so that the objectivity, integrity, reliability and credibility of the information is assured to a large extent. This function of attestation is done by professional accountants, who are Chartered Accountants in our country. It has been however, observed that there have been a number of cases in banks and financial institutions wherein due to the erroneous/ambiguous advice tendered by the respective Chartered Accountants, borrowal accounts have had to face quick mortality resulting in loss for the bank. Many a time this has also resulted in vigilance cases being initiated with the allegations of connivance/malafide/gross negligence being attributed to the concerned Bank officials.

1.1 For the success of the profession of accountancy a self-imposed Code of Ethics is essential to command the respect and confidence of the general public. Chartered Accountants in the service of the affairs of others have responsibilities and obligations to those who rely on their work.

1.2 A client, before engaging the services of a professional requires to be assured, (i) that he has the required competence and (ii) that he is a person of character and integrity. As regards the first, evidence is available to the client in the form of a certificate that the Chartered Accountant has undergone the training and passed the appropriate examination in accountancy and as regards the second, he would have an assurance only if the professional body to which he belongs has adopted a code of professional ethics for its members.

1.3 The International Federation of Accountants (IFAC), in its guidelines on Professional Ethics for the Accountancy Profession, has stated :-

“Persons who pursue a vocation in which they offer their knowledge and skills in the service of the affairs of others have responsibilities and obligations to those who rely on their work. An essential pre-requisite for any group of such persons is the acceptance and observance of professional ethical standards regulating their relationship with clients, employers, employees, fellow members of the group and the public generally.”

IFAC in its Code of Ethics for Professional Accountants has also stated as under:-

### **The Public Interest**

A distinguishing mark of a profession is acceptance of its responsibility to the public. The accountancy profession's public consists of clients, credit grantors, governments, employers, employees, investors, the business and financial community and others who rely on the objectivity and integrity of professional accountants to maintain the orderly functioning of commerce. This reliance imposes a public interest responsibility on the accountancy profession. The public interest is defined as the collective well-being of the community of people and institutions the professional accountant serves.

A professional accountant's responsibility is not exclusively to satisfy the needs of an individual client or employer. The standards of the accountancy profession are heavily determined by the public interest, for example :-

- Independent auditors help to maintain the integrity and efficiency of the financial statements presented to financial institutions in partial support for loans and to stockholders for obtaining capital;
- Financial executives serve in various financial management capacities in organizations and contribute to the efficient and effective use of the organization's resources;

- Internal auditors provide assurance about a sound internal control system which enhances the reliability of the external financial information of the employer;
- Tax experts help to establish confidence and efficiency in, and the fair application of, the tax system; and
- Management consultants have a responsibility towards the public interest in advocating sound management decision making.

Professional accountants have an important role in society. Investors, creditors, employers and other sections of the business community, as well as the government and the public at large rely on professional accountants for sound financial accounting and reporting, effective financial management and competent advice on a variety of business and taxation matters. The attitude and behaviour of professional accountants in providing such services have an impact on the economic well-being of their community and country.

Professional accountants can remain in this advantageous position only by continuing to provide the public with these unique services at a level which demonstrates that the public confidence is firmly founded. It is in the best interest of the worldwide accountancy profession to make known to users of the services provided by professional accountants that they are executed at the highest level of performance and in accordance with ethical requirements that strive to ensure such performance. In formulating their national code of ethics, member bodies should therefore consider the public service and user expectations of the ethical standards of professional accountants and take their views into account. By doing so, any existing “expectation gap” between the standards expected and those prescribed can be addressed or explained.

### **Objectives**

The Code recognizes that the objectives of the accountancy profession are to work to the highest standards of professionalism, to attain the highest levels of performance and generally to meet the public interest requirement set out above. These objectives require four basic needs to be met :-

\* **Credibility**

In the whole of society there is a need for credibility in information and information systems.

\* **Professionalism**

There is a need for individuals who can be clearly identified by clients, employers and other interested parties as professional persons in the accountancy field.

\* **Quality of Services**

There is a need for assurance that all services obtained from a professional accountant are carried out to the highest standards of performance.

\* **Confidence**

Users of the services of professional accountants should be able to feel confident that there exists a framework of professional ethics which governs the provision of those services.

### **Fundamental Principles**

In order to achieve the objectives of the Accountancy profession, professional accountants have to observe a number of prerequisites or fundamental principles. The fundamental principles are :-

\* **Integrity**

A professional accountant should be straightforward and honest in performing professional services.

\* **Objectivity**

A professional accountant should be fair and should not allow prejudice or bias, conflict of interest or influence of others to override objectivity.

\* **Professional Competence and Due Care**

A professional accountant should perform professional services with due care, competence and diligence and has a continuing duty to maintain professional knowledge and skill at a level required to ensure that a client or

employer receives the advantage of competent professional service based on up-to-date developments in practice, legislation and techniques.

\* Confidentiality

A professional accountant should respect the confidentiality of information acquired during the course of performing professional services and should not use or disclose any such information without proper and specific authority or unless there is a legal or professional right or duty to disclose.

\* Professional Behaviour

A professional accountant should act in a manner consistent with the good reputation of the profession and refrain from any conduct which might bring discredit to the profession. The obligation to refrain from any conduct which might bring discredit to the profession requires IFAC member bodies to consider, when developing ethical requirements, the responsibilities of a professional accountant to clients, third parties, other members of the accountancy profession, staff, employers and the general public.

\* Technical Standards

A professional accountant should carry out professional services in accordance with the relevant technical and professional standards. Professional accountants have a duty to carry out with care and skill, the instructions of the client or employer in-so-far as they are compatible with the requirements of integrity, objectivity and in the case of professional accountants in public practice, independence. In addition they should confirm with the technical and professional standards promulgated by :-

- IFAC (e.g. International Standards on Auditing);
- International Accounting Standards Board;
- The Member's professional body or other regulatory body; and
- Relevant legislation.

#### 1.4 Independence

When in public practice, an accountant should both be, and appear to be, free of any interest which might be regarded, whatever its actual effect, as being incompatible with integrity and objectivity.

1.5 The over-riding motto has been ‘pride of service in preference to personal gain’. A code of professional conduct may have the force of law, as is the case in this country in some matters, as well as the result of discipline and conventions voluntarily established by the members, any breach whereof would result in the person being disentitled to continue as a member of the professional body. In any event, it has a great deal of practical value in so far as it proclaims to the public that the members of the profession will discharge their duties and responsibilities, having regard to the public interest. This, in turn, will give an assurance to the public that in the event of a member straying away from the path of duty, he would be suitably dealt with by the professional body.

### **“Other Misconduct”**

In this background, the Chartered Accountants Act, 1949 (as amended up to date), was formulated to regulate the profession of Chartered Accountancy. This Act is being administered through the Institute of Chartered Accountants of India; which functions and discharges its duty through a ‘Council’. To ensure discipline in the profession, The Chartered Accountants Act along with its schedules sets out different forms of behaviour, which constitute misconduct under the law. The definition of misconduct in the Act is only an inclusive one and is not exhaustive. Over and above this, the council of the Institution (ICAI) has also been given powers under the law to enquire into the conduct of any member of the Institute other than those specified in the Act, which may in the view of the COUNCIL be not desirable and/or expected of a Chartered Accountant. This kind of misconduct is known as ‘other misconduct’. The ‘other misconduct’ may not necessarily arise out of professional work. With a view to bring harmony in presentation of the financial statements and an identical treatment in a particular situation, the ICAI has brought out various Statements, Auditing and Assurance Standards, Accounting Standards and Guidance Notes, which are mandatory for a practicing Chartered Accountant to be adhered to while discharging his professional duty of attestation of financial statements. These sets of documents necessitate that financial statements are depicted in a definite manner, and give the required information in the desired manner, which are professionally verified by

applying scientific audit techniques to ensure material correctness to a large extent. The objectivity and integrity of the financial statements attested by a Chartered Accountant following these sets of documents, are of a very high degree, and which enhance the credibility and reliability of these statements to the user. A Chartered Accountant who does not follow these sets of documents in discharging his professional duty of attestation, is guilty of professional misconduct, and thereby liable for disciplinary action and punishment under the Act, which may be;

- (i) Reprimanding the member or
- (ii) Removing his name from the Register of members for such period not exceeding five years, or
- (iii) Forwarding the case to the High Court with its recommendations where the council opines for removal of name for a period exceeding five years, or
- (iv) If the misconduct is of a nature, which as per the Chartered Accountants Act requires action by the High Court, reference to the High Court with recommendations of the council.

The procedure of enquiry in respect of disciplinary action against a Chartered Accountant is not only lengthy but rigorous also. Barring a few exceptions, the Chartered Accountant, who has to face action would feel so humiliated that his enthusiasm and working capacity comes to the lowest level. Removal of name as a punishment further nails him with a severe economic blow.

Still there are instances when it is noticed that the report of Chartered Accountants either misses vital information which must be there, or gives incomplete information or gives an information in a misleading manner or at times gives a completely wrong information. It is pertinently noticed by bank officials in dispensation of credit and monitoring of some financed cases, that information in the financial statements does not help in taking a right and judicious decision. Though it is difficult to substantiate by tangible evidences, but circumstantial evidences in certain cases, do point out that the intention of all concerned has not been bonafide, rather it is malafide and is done with some ulterior motive.

Some of the common points where reports of Chartered Accountants have not been of desirable level are :-

- Valuation of stocks including work in progress.
- Transactions with related parties.
- Valuation of investments
- Valuation and status of other assets.
- Status of Sundry Debtors
- Status of Creditors
- Status of loans
- Provision in respect of all the known liabilities.

All these issues have a considerable impact on profit and the real financial health of an enterprise, failure of which would prevent taking of a well informed, correct decision by banks and financial institutions.

Here it may not be out of place to mention that banks and financial institutions are heavily relying on Chartered Accountants in discharging their work in judicious manner. For this the banks get various type of reports and certificates which the banks have devised after much deliberations. If these certificates give the required information in the right perspective, the loan assets of the banks to a large extent may be saved from becoming bad.

These certificates and reports in general are :-

- Annual Audit Report on the Accounts of Borrower

CAs have to be transparent and absolutely honest while certifying the following items:

- (a) Valuation of inventory – stock, work in progress, finished goods, etc. (It may be observed that variations in the sale of the stocks declared by the companies in their stock statement for the year ending position in March and the value of stocks declared in the annual accounts subsequently are on account of this.)
- (b) Dealing with group accounts – Normally this is where diversion of funds take place. CAs also should comment whether transactions are at par with commercial transactions done with



other parties. CAs also should comment whether investments in group companies are safe and sound.

(c) It should also be commented whether any bad debt is included under Sundry Debtors, whether loans and advances to group companies are camouflaged under sundry debtors to avail book debt finance, whether any fictitious debt is created to avail finance from banks (like fertilizer subsidy financed against by banks).

(d) Whether any fictitious sales are booked to inflate sales/profit.

- Stock Audit of Borrowal accounts

CAs should bear in mind that based on their certificate, the banks value the security. Any false certificate will affect the security of the bank and jeopardize their funds. The valuation of stocks should be judged correctly. The valuation of especially work-in-progress should be studied in depth. The sundry creditors position should be analyzed to see whether paid for stocks is adequate. The sundry debtors position should be analyzed to ensure that:

- The debts are good and realizable;
- No bad debt is included;
- In case of debts relating to group company, they are reflecting genuine commercial transaction;
- No fictitious debt is created.

Regarding specific certificates/tasks, sometimes, in order to comply with the terms of sanction in a hurry, banks get these certificates from any CA. The purpose of the banks will be served better, if they insist that the 'statutory auditors' to the Company should give these certificates.

- Specific certificate with respect to infusion of capital or family loans.
- Monitoring of accounts with a specific objective.
- Certification of utilization of funds for the desired end use.

However the plight is that these certificates and reports do not give the required information in the required manner and therefore fail to serve the desired purpose. Besides the large number of disclaimers made lessen the authenticity of the Report made by the Chartered Accountant.

At times CAs also function as directors of companies on their Boards. What is to be Code of Conduct for them is well defined in Naresh Chandra Committee Report and should be implemented.

If these certificates and reports are objectively prepared keeping in view the statements, standards and guidance notes issued by ICAI, it is believed that the required information in the required manner will be available to a large extent.

In short, the essence of the whole issue is that the rigorous disciplinary action of ICAI also seems to be ineffective to some extent in deterring some of the Chartered Accountants from resorting to undesirable practices. The reason for this, seems to be that many a time undesirable practices are not caught and only sparingly CA(s) get punished for their intentional misdeeds; which again is a time taking process.

It is suggested that the following be mandated as a Policy :-

- (a) That banks and financial institutions have independent assessment of the work of Chartered Accountants and a list of Chartered Accountants, who work objectively, may be evolved and simultaneously the list of Chartered Accountants, whose work is undesirable, can also be evolved. Such lists may be shared by nationalized banks amongst themselves. Further, if it is found that the Chartered Accountant has not adequately reported non-adherence of the laid down Statements Standards and / or Guidance Notes in preparing his reports, the concerned banks should report the matter to The Institute of Chartered Accountants of India, who should take the required action against the concerned Chartered Accountant within a specific time schedule.
- (b) It could be made mandatory that companies should change their 'statutory auditors' every 3 years. Periodic changes will be healthy.

- (c) “Institute of Chartered Accountants of India” is the body to which banks normally complain. But this body, at the worst, only bars the concerned CA from practice. It could be seen whether deliberate misrepresentation given by CAs can be treated as a criminal or an economic offense?
  
- (d) Can the Institute of Chartered Accountants of India publish a list of names of tainted/banned CAs from time to time (like ECGC / DICGC list) so that banks can take cognizance of the same?

\*\*\*\*\*

## **CTE's INSPECTION: VALUE FOR GOVERNMENT MONEY**

The Chief Technical Examiner's Organization works under administrative control of Central Vigilance Commission. It deals with Technical matters including technical examination of works undertaken by various organizations, Ministries, Departments and Public Sector Undertakings etc.

The Public Accounts Committee, in 1947-48 recommended to set up an inter departmental committee to examine the question of setting up an independent inspection agency for Technical examination of expenditure of CPWD works.

The Committee, set up in May, 1948 recommended introduction of an organization on the pattern of Chief Technical Examiner and Chief Surveyor of the works in the CPWD.

Initially, only a Superintending Surveyor of work organisation was set up under the control of Chief Engineer, CPWD. The organization was signed to inspect the all important work, during their progress and after their completions, undertaken by CPWD.

Public Accounts Committee, in year 1956 reiterated and pressed for setting up CTE's Organisation and Central Government issued formal order for

creation of Chief Technical Examiner's Cell in the then Ministry of the Work Housing and Supply in May 1957.

As per recommendation of Committee on Prevention of Corruption under the Chairmanship of Sh. K. Santhanam, the jurisdiction of CTE was extended to cover the construction works undertaken by other Ministries/Departments/Public Sector Undertakings etc. and CTE's Organisation was placed under the administrative control of the Central Vigilance Commission in 1964.

CTE may carry out Intensive Examination of any work of any magnitude, yet, considering its limited resources, it generally examines works of larger size only. The quarterly progress reports of all important works are sent to CTE organization in January, April, July and October every year by the concerned PSU/Department.,

CTE's Inspections are mostly done with prior intimation so that concerned Engineers, Planners, Designers and the tender accepting authority may clarify their points.

After intensive examination is carried out by Technical Examiner of CTE's Organization, inspection report is sent to Chief Vigilance Officer of concerned Department/Ministry/PSU.

The report brings out instances of lapses/irregularities in awarding contract, defective contract conditions and clauses, overpayment made to the contractor, execution and acceptance of sub-standard work, infructuous and avoidable expenditure etc.

CTE may also suggest preventive measures in certain areas as a safeguard against malpractices or corrupt practices and to plug loopholes in procedure/rules, regulations etc.

In case, where serious irregularities or negligence are observed, such paras are referred to Chief Vigilance Officer for detailed investigation.

The defects, pointed out in CTE's report, should be removed either by contractor or otherwise (at the risk and cost of contractor). Minor irregularities brought in the report should be got regularized by competent authority after ascertaining reasons for the same. Preventive measures may be taken and defaulters may be suitably warned so that such irregularities do not occur in future.

The CTE's function has resulted in recovery of Rs.8.75 crores in year 2000-01 which was more than the total budget of year 2000-01 of CVC which was of the order of Rs. 4 crores.

The CTE's organization has carried out Intensive Examination of various works at Western Coalfields Limited in recent past. The irregularities, which are generally pointed out, in Intensive Examination Report of CTE are compiled as follows:

- Press release of NIT should not be released in anticipation of approval of NIT.
- Administrative approval, expenditure sanction and approval of preliminary must be obtained before making detailed estimate.
- Decision must be taken, for type of foundation to be adopted during execution, before award of work.
- Copy of sanctioned estimate must be made available to the site Engineer.
- Letter of extension of validity of offer must be obtained before expiry of validity of tenders to avoid difficulty in case of dispute by agency.
- Cutting and overwriting in tenders must be authenticated to avoid scope of any dispute at later stage.
- The condition of advancing the progress of one of model units in completing it in all respect in advance to avoid the recurrence of same discrepancy/mistakes in all repetitive units should be incorporated in tender.

- Letter of acceptance of tender incorporates period of completion of work excluding rainy-season. Why the period of completion including rainy season could not be specified? Period of rainy season should be prescribed.
- The item of pile foundation stipulates that bailing out water if any, met during bore is included in rate of item of boring. Such note has greater financial implication around 25% of cost of boring. It gives scope to tenderers to quote higher rate. It should have been covered under separate item after detailed survey of site condition.
- In addition responsibilities of contractor, contractor has to arrange insurance in the name of the company. It should be ascertained that necessary insurance cover has been obtained by the agency.
- Hindrances were recorded on account of non-availability of cement, labour shortage, machineries, which were responsibility of contractor. As such hindrances on this account are not admissible.
- Sources of receipt of cement, batch number and brand name of paint and theoretical consumption of paint should be mentioned in the cement and paint consumption registers to control the actual consumption of these materials.
- Number of mandatory tests are on lower side.



- Cement concrete cubes are not tested at regular interval of 7 days and 28 days, thus defeating the very purpose of testing concrete cubes.
- End beam should be provided in sloping roofs.
- Pinhead glasses are provided in place of Plain sheet glass.
- Ventilator frame are not of ISI marked.
- Groove, in plaster at junction of wall and roof, have not been provided.
- Size of Tower-bolt are of lesser length than specified.
- Thickness of waist slab of staircase was found 110 mm against 120 mm as specified.
- Dates are not being put on plasterwork to watch curing of plaster.
- Top of parapet had been plastered instead of coping.
- Half brick wall was provided without reinforcements in railing and parapet.
- Plinth protection level was lower than road level in some of the blocks.
- There is no system of making part rate payment still, some items have not been executed fully but paid at full rate and some amount has been withheld.

- Proper sequence for providing dado and flooring in W.C. and bath had not been followed, i.e. dado item has been executed before flooring.
- The sizes of rails and styles was changed.
- In one work, species of wood was found to be 'Hollock' instead of Bijasal as specified in agreement.
- Weight of holdfast and tie rod should not be included in the weight of doorframe while making payment as per CPWD specification.
- Smaller sizes of holdfast have been used for fixing frame in half brickwork.
- Manhole are at higher level than the plinth protection and Manhole covers are too light and size of manhole opening is too small.
- Date of expiry of chemical has not been mentioned on anti-termite register.
- Thickness of marble used in the work was less than 30 mm as required.
- Secured advance, on perishable items should not be paid without obtaining insurance cover.
- Theoretical consumption of murum, aggregate boulder, bitumen should be prepared to ascertain that the quantity of materials actually used are not less than the required theoretically.

- Floor trap used in building work are of contracted neck variety which are not permissible.
- Tack welding has been used in manufacturing of steel window against continuous flash butt welding.
- Rawl plug have not been provided at top and bottom member of steel window.
- 25 mm thick Kota stone has been used in kitchen slab in place of 25 mm thick Cuddappa stone as specified in agreement.
- Under coat of cement mortar plaster for providing glazed tiles had not been roughened and it had been much advanced, which will result in inadequate bond between tiles and floor.
- Bed blocks over brickwall under the RCC beam have not been provided.
- The acceptability of test result and action taken for failure of sample in respect of testing of mandatory test of several construction materials are not being recorded.
- Glazed tiles are not tested for their specification.
- No interest free mobilization advance should be paid to the contractor.
- Minimum weight of empty HDPE tank (500 litres) (Exclusive of man-hole lid & fitting) and the minimum wall thickness of top, bottom and sides as per IS 10146-1982 are 18.00 kg and 6 mm respectively.

- Size of kitchen sinks provided are less than the specified in agreement.
- Pro-rate progress had not been achieved.

*(This article of Sh. RK Kashyap, Superintending Engineer (Vig.), Western Coalfields Ltd. was published in the Journal "CONCERN" (March, 2003) of the Vigilance Department of Western Coalfields Ltd.)*

\*\*\*\*\*

## **Design mix concrete – Economy & Environmental issues**

(Nirmal Goel, Technical Examiner, Central Vigilance Commission, N. Delhi)

1. Concrete is most commonly used material in civil construction work all over the country. There is hardly any major original civil construction work where structural concrete is not used.
2. Nowadays concrete is produced in batch mixing plants located either at site of construction or away from the site in a location from where concrete is carried in transit mixers to the site. The later one is commonly called Ready Mix Concrete (RMC).
3. The proportion of various ingredients of concrete made in batch mixing plants mentioned above is usually determined in laboratory. This process is called designing (proportioning) of concrete mix and such a concrete is called design mix concrete. The designing process is a trial and error method in which right proportion of ingredients is sought to be determined so as to achieve targeted mean strength which is kept somewhat higher than the characteristic compressive strength of the concrete. Besides achieving the targeted strength, the workability and durability requirements are also required to be ensured while designing the concrete mix. All this has to be done keeping in mind the objective of achieving overall economy by reducing the content of costliest material in the concrete, i.e. the cement.
4. The designing process in most of the major projects is usually carried out through reputed laboratories. IS 10262:2009 is the relevant Indian standard stipulating guidelines for concrete mix proportioning.
5. Some important economy and environmental issues pertaining to design mix concrete are discussed hereunder: -

a) **Use of fly ash**: Fly ash is a waste product in thermal power generation. Besides occupying a large space in coal based thermal power plants, fly ash pollutes the air. Extremely fine particles of fly ash are a source of respiratory disease as these particles settle on the human lungs. Disposal of fly ash is a cause of concern from environmental consideration. Fortunately this harmful material is a very useful material in civil construction since it has got very good pozzolanic properties and up to 35% of the cement content in concrete can be substituted with fly ash without sacrificing strength and achieving durability and economy in the construction. The quality parameters of flyash for use in concrete are laid down in IS 3812(part 1). There should be uniform blending of flyash with ordinary Portland cement. In all civil construction in the vicinity of thermal power plants, the fly ash should be used as environmental friendly measure and for economizing construction cost. While selecting concrete items at the time of preparing estimates for construction works, provision should be kept for use of fly ash along with ordinary Portland cement. The tender documents should not discourage use of fly ash in concrete as the same approach is not backed by any scientific reasoning. The use of fly ash in concrete should be promoted not only from environmental consideration but also for economizing construction cost.

b) **Use of PPC**: IS Code permits use of flyash based Portland Pozzolana Cement (PPC) conforming to IS1489 (part 1) in concrete. The PPC many a times is available at lesser cost than OPC. Besides it is more environmental friendly compared to OPC since it utilizes the fly ash in its manufacturing. Use of PPC in concrete helps in environmental conservation and for economizing construction cost without sacrificing strength and achieving durability and economy in the construction.

c) **Specifying high quantity of cement in tender documents**: Quantity of cement in design mix concrete depends upon several factors, chiefly on workability requirement. Workability requirement (slump values) should not, therefore, be prescribed unnecessarily high but as given in table under Para 7.1 of IS 456-2000. Further, higher workability requirement should be met by use of suitable chemical admixtures (super plasticizers / water reducing admixtures) to reduce water requirement in the concrete. The design process takes care of various factors affecting strength, durability and workability of concrete. Still there is a tendency on the part of some NIT approving authorities to stipulate much higher cement content in the concrete than specified in Table 5 of IS Code 456 given below: -

**Table 5 Minimum Cement Content, Maximum Water-Cement Ratio and Minimum Grade of Concrete for Different Exposures with Normal Weight Aggregates of 20 mm Nomination maximum Size**

Sl No.	Exposure	Plain Concrete			Reinforced Concrete		
		Minimum Cement Content Kg/cum	Maximum Free Water-Cement Ratio	Minimum Grade of Concrete	Minimum Cement Content Kg/cum	Maximum Free Water-Cement Ratio	Minimum Grade of Concrete
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
i)	Mild	220	0.60	-	300	0.55	M 20
ii)	Moderate	240	0.60	M 15	300	0.50	M 25
iii)	Severe	250	0.50	M 20	320	0.45	M 30
iv)	Very Severe	260	0.45	M 20	340	0.45	M 35
v)	Extreme	280	0.40	M 25	360	0.40	M 40

#### **NOTES**

**1** Cement content prescribed in this table is irrespective of the grades of cement and it is inclusive of Mineral Admixtures, i.e. Pozzolanas, fly Ash, silica fume, rice husk ash, Metakaoline, Ground Granulated Blast furnace slag. The additions such as fly ash or ground granulated blast furnace slag may be taken into account in the concrete composition with respect to the cement content and water-cement ratio if the

suitability is established and as long as the maximum amounts taken into account do not exceed the limit of pozzolona and slag specified in IS 1489 (Part 1) and IS 455 respectively.

Thus, the minimum cement content specified ranges from 300 to 360 kg per cum of concrete for various exposure conditions and for various grades of concretes. It is the prerogative of the designer to find out the correct quantity of cement over and above these minimum values in Table 5 of IS456. The maximum cement content in concrete in normal course is also limited to 450 kg. per cum of concrete as per Para 8.2.4.2 of IS 456. By specifying cement content much higher than the stipulation in IS 456, the entire purpose of designing is defeated. Very often designer may be easily able to achieve required targeted mean strength in lesser cement than specified in the agreement but he has to perforce specify the higher quantity given in the agreement as intimated to him by client (project authorities). Thus, the entire purpose of designing concrete in economical and environmental friendly manner is lost. Unnecessary damage to the environment is caused by emission of greenhouse gases in the environment in the process of manufacturing of wasted cement. Besides wastage / pilferage, this approach also gives rise to scope for wastage and pilferage of cement in actual execution. .

d) **High quantity of cement in Mix Design Report**

It has also been noted that very high quantity of cement is sometimes specified in the design mix by the laboratory. The design mix report issued by the laboratory should not be directly used at site without approval of project Engineer. The Engineer should be made responsible for approval of design mix report. He should not instantly approve any design mix report which shows abnormally high cement content. In such cases, he should thoroughly check the design mix report particularly from economy angle.



He should check if the use of water reducing admixtures or plasticizers can help in reduction of water cement ratio and subsequent reduction in high quantity of cement prescribed in the design mix report particularly for higher grade of concrete where reduction in water cement ratio to value of 0.30 to 0.45 is needed. Thus, a design mix report showing very high cement content should not be readily accepted at its face value but after critical scrutiny only. The engineer should check the calculated design mix proportion by means of trial batches as per para 5 of IS10262-2009.

The author has come across a number of concrete design mix reports in various part of the country. In the opinion of author, following are the cement contents for various grades of concrete beyond which design mix report should be critically examined and rechecked: -

Grade of concrete	Cement content in kg. per cum of concrete
M 15	250 to 300
M 20	280 to 330
M 25	310 to 360
M 30	340 to 390
M 35	360 to 420
M 40	380 to 450
M 45 to M 55	400 to 450

**Note:** The above cement content (if OPC used) can be further reduced up to 35% by use of fly ash.

\*\*\*\*\*

## Doctrine of Contra- Proferentem in Contracts Management

(Nirmal Goel, Technical Examiner, CVC)

Occurrence of disputes is common feature in civil construction contracts. Often the disputes arise because of contract clauses which can be interpreted in more than one way. The job of arbitrator / court becomes more difficult when various interpretations argued by the parties to the dispute are equally good, reasonable and plausible. In such circumstances, the Doctrine of Contra- Proferentem becomes a handy tool to the arbitrator or the judge to decide the matter in accordance with principles of equity, good conscience and justice. This doctrine, which originated from insurance contracts, states that when a contract provision can be interpreted in more than one way, the Court will prefer that interpretation which is more favourable to the party who has not drafted the agreement (or simply that interpretation which goes against the party who has inserted / insisted on inclusion of the alleged ambiguous clause in the agreement).

The rationale behind this doctrine emanate from the fact that parties to the agreement are often not in equal position. One party dominates the execution of the agreement while the other party merely signs on the dotted line. Such contracts are mainly “standard form take it or leave it” contracts e.g. in insurance contracts, an individual usually has to accept all terms and conditions of insurance policy document framed by the insurer company with no liberty on part of the individual to negotiate or alter the conditions of the contract. Similar is the situation in Government contracts, wherein the tender notices floated by Government agencies prescribes that the bidder will not put any condition in the tender. The bidder is simply made to sign on the dotted lines and no deviation from the tender conditions is permitted. Therefore, this doctrine is very much applicable in the contracts entered into by the State with various private parties / contractors.

Another underlying philosophy behind this doctrine is that one should not be rewarded for his own fault. **Contra- Proferentem places the cost of losses on the party who was in the best position to avoid the harm.** The Courts / Arbitrators

expect that the party who drafts the agreement shall take due care and caution and shall not insert ambiguous provisions in the agreement. The doctrine seeks to encourage clear, explicit and unambiguous drafting of the agreement and to avoid latent and hidden meanings of its clauses.

However, this doctrine is not to be construed to encourage unreasonable or inequitable interpretation against the drafter of agreement. It is applicable only when the various interpretations are equally sound, reasonable and plausible and no clear intention contrary to the interpretation being adopted on this principle is prima-facie evident in the contract document.

Unconditional tenders are unavoidable necessity in Government contracts. In such scenario, it becomes an added responsibility on the part of NIT framers, checkers and approvers to **read, re-read and re-re-read** the various provisions of the tender document and ensure that its various provisions are clear, explicit and unambiguous. For carrying out this responsibility, a) the latent, hidden or implied meanings to contract clauses are to be avoided; b) the contract conditions need to be realistic; c) all information required for working out rates by prospective bidders needs to be given in the tender document; d) technical specifications and mode of measurements should be clear; and e) the tender document should take care of various contingent event. Since many of the construction disputes are repetitive in nature, one should take lessons from them and prescribe proper provision in the tender documents to deal with them.

Besides above discussion, this doctrine has got vigilance connotation also. Many a times, ambiguous provisions are interpreted in favour of contractors. In such case, the Vigilance Organization first dispute the ambiguity itself and try to assert that there has been an attempt to create ambiguity when there was none and then tries to search malafide angle in such interpretation especially when such an interpretation has resulted into passing of undue benefits to the contractor or has caused loss of public money. So by carefully preparing tender documents, NIT

framers, its checkers and approvers can protect their officials from unnecessary vigilance scrutiny also.

In essence, the doctrine of Contra-Proferentem puts an added responsibility on framer, checkers and approvers of tender documents and emphasizes additional efforts on their part to avoid ambiguities and to make contract documents clear, explicit and unambiguous in nature. Further, it requires tender documents to be complete ones so as to take care of not only foreseeable but unforeseen circumstances also.

---

**Note:** This Article has been published in the Magazines: -

1. **Crystal Clear**, Airports Authority of India Vigilance Magazine (Oct. 2010 issue)
2. **Civil Engineering & Construction Review** (Dec. 2010 issue).
3. Indian Institute of Arbitration and Mediation ( IIAM) Magazine "**The Indian Arbitrator**" – ( January 2011 issue )

## **Ethics & Governance – A Perspective**

It is a well known fact that management plays a vital role in shaping the future of any organization as the optimum utilization of all resources hinges upon the efficacy of the management. The core of a successful management lies in its Clarity of Vision, Plan of Action and more importantly Execution of the Plan of Action – the real gamut of operations as it were, and it is here that the importance of Corporate Governance and Ethics comes into being. Our Hon'ble Prime Minister, Dr. Manmohan Singh has said that whereas our policies and systems are good but the implementation needs much to be desired.

Organisations are managed by Policies, Guidelines and Systems. These are dynamic instruments, and therefore need to be reviewed from time to time to gauge their efficacy to the said organization. This review is all the more necessary when a lapse or an untoward incident takes place. It could happen that the review undertaken reveals that the said policy is very much sound and in place, however over a period of time wrong practices have come into being, and which are the reasons for the problems that have occurred, therefore corrective steps need to be taken forthwith.

A review could also reveal that the problems have occurred in spite of the policy in place, and which means that the policies would need to be modified or amended as the case may be in the best interest of the organization.

Normally, decisions are being taken within the framework of the policies and guidelines in place. Now, there could be critical situations wherein the policy in question would need to be slightly deviated from, in order to take the right decision, in the best interests of the organization. In such situations, a very clear and precise note should be brought out giving the reasons which necessitated the said deviation from the policy. The said note should also contain the implications to the organization if the decision was not taken. This would serve as a very Transparent and an Objective analysis, bringing out the need for deviation from the policy on this “case specific” issue, whereas the said policy in principle would continue on an as is where is basis.

1. Experience has taught us that it is the Economic Downturn, as we witness world wide today, rather than Up Swing, which raises sharp focus on issues relating to Ethics & Corporate Governance.
2. The two Major Reasons for Corporate failures have been “Greed” and “Excess Leverage”. The moot point is whether these two need to be completely done away with? If so, what is the Incentive for Aggressive growth and competition? If not, how are these to be kept within controllable limits and yet higher growth achieved?

It is here that Business Ethics & Corporate Governance need to be focused on.

3. Whether it was abroad in the U.S. earlier, or more recent, and nearer home, it is seen that a “slip” in Corporate Governance is always initiated by the Promoters themselves.
4. Independent Directors are expected to be “Watch Dogs”. They can at best be accused either of ‘Lack of application of mind’ or of, consciously or otherwise overlooking the “slip” that has taken place. But not necessarily initiating the actual wrong doing,

conspiracy, collusion or fraud as such. It has to be understood that they, the Independent Directors, cannot work as investigators as they are very much part of the decision making process in the Company.

5. Having said this, Each Member of the Board has a Key Role to play and an Important/Sacred Responsibility to deliver, and therefore they need not get unduly overawed or paranoid by size of the Company or any extraneous situation that they are faced with. They need to bring their Special Expertise and Experience on Corporate issues to the Board, and always, to keep “Broad Stakeholder Interest” in mind.
6. They need to Set & Follow Policies pertaining to “Conflict of Interest”. All Directors must therefore be “above Board”.
7. They would be required to diligently & keenly watch the changes in Assets & Liabilities in the Balance Sheet, to ensure quick corrective action if needed.



8. The Board Agenda should be circulated well in time. Though this may appear to be an elementary and fundamental requirement, it is very significant, the Directors of the Board must have “sufficient time” to go through the papers and to apply their mind, and come duly prepared to the Board Meeting. The various issues deliberated upon, queries raised, clarifications given must be precisely minuted in a chronological manner.
  
9. Table Agenda to be only taken up on emergent issues and not be made into a routine affair. There must be adequate time for discussion of the Table Agenda to ensure an indepth deliberation.

So also for an agenda put up for Ratification to the Board. This also needs proper understanding and also as to why the decision needed to be taken by the company.

Questions to be raised when in Doubt by the Independent Directors.

10. It is extremely important to ensure Auditor Independence. The Audit firm assigned to the company should fulfill its mission in a Competent & Independent manner. Further, Effectiveness of

Audit Committee of the Board is of Paramount Importance. It should exhibit the same in its functioning and should properly guide the Board.

11. It is vital that the Independent Directors understand the Impact and Consequences of the proposals they are clearing in the Board Meetings. They should not forget that they would be held responsible were things to go wrong and they should also remember that they have a right under the Company Law to put up a note of dissent (of course for valid reasons) as per their own judgment.

This does not mean that a ‘Confrontation’ is created between the Promoters and the Directors. Infact, both should clearly put forth their point of view backed by facts and supportive data. They need to deal with adequate Patience. After all, the Promoters have got the Independent Directors on Board to ‘add value’ and to contribute with their distinct individual expertise and experience.

The goals of the Promoters and Directors being the “Long Term Sustainable Well Being” of the Company, why should there be friction of any kind?

Of late, since January 2009, we have been hearing that some Independent Directors have chosen to resign. This is certainly not a healthy trend and should be discouraged.

12. Finally, Board Members must embrace Corporate Ethics by creating a climate of Integrity and Responsibility within the company, expressed in both the written code and by living example i.e. both Directors & Promoters need to come together to Build a strong Ethical Culture for the Company, that would ensure Correct Behaviour/ the Right Behaviour, when policies are either unwritten, unclear or are unenforced.

13. “Ethics & Corporate Governance” are not just Moral or Compliance Issues. In the long term they are Essential Behavioural Traits for the Organisation, that strengthen the Organisation’s “Brand Equity” and help ensure Stable Sustainable Growth.

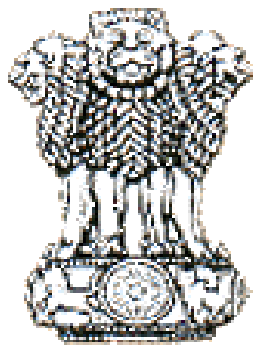
Finally, the world over people have been talking about “Self Regulation” being an Integral part of Corporate Governance stating that it has to come from within. But of late, experience has shown that this has not really worked, so people are now talking of Rule Based Regulations i.e. need to be more specific, where Dos & Don’ts are Specified.

Which of the two should we follow?

Well it is for the individual company to decide.

SD/-  
(RANJANA KUMAR)  
VIGILANCE COMMISSIONER

**SHORTCOMINGS/ LAPSES OBSERVED IN STORES /  
PURCHASE CONTRACTS PLACED BY PUBLIC SECTOR  
BANKS FOR COMPUTERS AND IT RELATED  
PRODUCTS AND GUIDELINES FOR IMPROVEMENT IN  
THE PROCUREMENT SYSTEM**



सत्यमेव जयते

**Chief Technical Examiner's  
Organization**

**Central Vigilance Commission  
Government of India  
2006**

## CONTENTS

**Shortcomings / Lapses observed in stores/purchase contracts placed by Public Sector Banks for Computers and IT related products and guidelines for improvement in the procurement system.**

<b>S. No.</b>	<b>Description</b>	<b>Page Nos.</b>
1.	Introduction	1
2.	Purchase Manual	1
3.	Filing System	2
4.	Appointment of Consultants	2
5.	Provisioning	4
6.	Estimates	5
7.	Pre-Qualification Criteria	6
8.	Notice Inviting Tender / Tender Documents	6
	• Earnest Money Deposit	9
	• Security Deposit	9
	• Evaluation Criteria	10
9.	Receipt of Tenders	12
10.	Postponement of Tender Opening	13
11.	Opening of Tenders	13
12.	Techno-Commercial Evaluation	14
13.	Price Evaluation	15
14.	Purchase Preference	16
15.	Post Tender Negotiation	16
16.	Reasonableness of Prices	17
17.	Advance Payments and Bank Guarantees	18
18.	Performance Bank Guarantees	18
19.	Payment Terms	19
20.	Post Contract Management	20
	• Pre-dispatch Inspection	21
	• Delivery Period Extension	22
21.	Miscellaneous	22

# **Shortcomings/Lapses Observed in Stores/Purchase Contracts Placed by Public Sector Banks for Computers and IT related Products and Guidelines for Improvement in The Procurement System.**

## **Introduction**

The Chief Technical Examiners Organization (CTEO) in the Central Vigilance Commission is the Technical Wing of the Commission. One of the important functions of the CTEO is to conduct an independent technical examination of various Works/Contracts, reported by the CVOs in their Quarterly Progress Report (QPR). The objective in such examinations is not limited to detection of malpractices and punishment of errant OFFICIALS. It has been our endeavor to help bring in improvement in the systems in these organizations so that recurrence of lapses/irregularities is prevented in future contracts and there is a better Technical & Financial control. Keeping this perspective in view, this booklet on shortcomings/lapses often observed in the award of contracts for Computer Hardware/Software by Public Sector Banks has been compiled, with guidance for improvement in the procurement system.

## **Purchase Manual**

The need to have well documented Policy guidelines in place in an organization to execute the procurement activity in a uniform and well coordinated manner with least time and cost overruns cannot be over-emphasized. It has been observed that some of the Banks do not have detailed Purchase Policy/Manual, which renders the system of procurement quite ad-hoc and arbitrary. This is a very important document required to guide officials in their day to day work.

- It is, therefore, essential that a codified purchase manual containing the detailed purchase procedures, guidelines and also proper delegation of powers is prepared by all the organizations so that there is a systematic and uniform approach in decision making. Such an integrated approach is not only likely to put a cap on corruption but would also ensure smoother and faster decision making.

### **Filing System**

The filing system adopted in most of the organizations is unsatisfactory. Even the files are not being paginated. Part files are opened as and when new action is initiated and these part files are not merged with the main file, which inter-alia results in a break in continuity and arbitrariness in decision making. The decisions / deliberations of the individuals or the Tender Committees are not properly documented or recorded which dilutes the accountability of various officials and may result in the 'interested' officers going scot free, even if serious lapses are established against them.

- In one of the Banks, in a recently conducted inspection, it has been noticed that despite issuing instructions for page numbering in an earlier examination, files were still not being page numbered.
- At times page numbering is done at one go just prior to the intensive examination when an intimation for Intensive examination is received from the Commission.
- The procurement files are very important and sensitive documents and thus there is a need to have a single file system with proper page numbering. Documents should be page numbered as and when they are received and placed in the file and not afterwards. In case of urgency, if opening of part files is unavoidable, the same should thereafter be merged with the main file at the earliest. All the decisions and deliberations of the individuals dealing with the case or the Tender Committee(s) also need to be properly recorded and well documented.

### **Appointment of Consultant**

Despite Commission's guidelines on appointment of Consultants, it has been noticed that Consultants continue to be appointed either without a genuine need or in an arbitrary and non-transparent manner. Once the Consultant is appointed all the responsibility is abdicated to the Consultant. Sometimes even multiple Consultants are appointed without individual well defined responsibilities. The proposals put up by the Consultant(s) are accepted without question or any scrutiny.

- In some of the Banks, Consultants have been appointed after having direct discussions with them in an ad-hoc and non-transparent manner



without going in for any competitive bidding. Reasonableness of rates allowed to the Consultant(s) was not being established. Payments are being made to the Consultant(s) without linking the same with the targets fixed vis-à-vis the progress of the work done by them. Further, the consultancy agreements are being extended repeatedly on one pretext or another.

- One of the Public Sector Banks issued advertised tenders for appointment of Consultants. In response, 75 organizations/individuals had participated and out of them, 38 organizations/individuals were found eligible. However, none of them had been considered for the award of consultancy contract. The Bank after having direct discussions with M/s IDRBT appointed them as Consultant in an ad-hoc and non-transparent manner. It was interesting to note that they had not quoted against the tender invited by the Bank. If the Bank had sufficient reasons for appointing M/s IDRBT as a Consultant on nomination basis, the in fructuous expenditure incurred on advertisement could have been avoided.
- One Bank was already having M/s IDRBT as their Technology consultant. However, another Consultant was appointed by the Bank on Nomination Basis with over-lapping functions.
- In one Bank, after issue of bid documents, Consultant brought in major changes such as, inclusion of Network Monitoring & Management Services and adoption of MPLS-VPN Technology. When the technology called for had undergone a change instead of a re-tender, the Bank issued revised tender documents to the same original vendors who had purchased the initial documents, thus keeping other vendors out of fray and restricting the competition.
- One Bank short-listed vendors for the consultancy services on a retainer basis after making necessary enquiries with other leading Banks. However, after inviting bids from these short listed vendors, they were asked to give presentation .Offer of one vendor was found to have been rejected on grounds of unsatisfactory performance in the past. The feedback reports about their unsatisfactory services from the branches were not placed on the records. If the performance of a vendor is un-satisfactory, tender should not have been issued to them at all.

- For similar nature of services, while one Bank paid Rs. One(1) lakh per month to a Consultant, another Bank paid Rs.three(3) lakhs per month to the same consultant during the same period.
- The appointment of Consultant(s) needs to be done in a transparent manner after following a due competitive bidding process. The role of the Consultant should be well defined. Reasonability of fee to be paid to Consultant(s) should be properly established. Payment to the Consultant(s) should be linked with the progress of work and there should be adequate provisions in the consultancy agreement for penalizing the consultant in case of deficiencies in their service. Further, as per Commission's guidelines circulated vide Office Order No. 75/12/04, the Consultants/Firms hired to provide consultancy services for the preparation or implementation of a project, and any of its affiliates, would be disqualified from subsequently providing goods or works or services related to the initial assignment for the same project.

### **Provisioning**

In the course of inspections by the CTEO, it has been noticed that at times, proposals are initiated and purchases are made by the banking organizations without establishing the need or justification for the quantities being tendered/purchased.

- One Bank had purchased 2 Pass Book Printers and 6 Dot Matrix Printers for each branch which was not required as many other banks had purchased only 1 Pass Book Printer and 3-4 Dot Matrix Printers for each branch. The Bank had also purchased 330 Terminals in excess of their actual requirements. Thus, the Bank had incurred in fructuous expenditure of Rs.172.46 lakh in purchase of additional Pass Book/Dot Matrix Printers and Terminals which was actually not necessary. This not only increased the Bank's inventory but also the danger of the equipments losing their guarantee/warranty even before they were put to use.
- Another bank had issued a tender enquiry for 50 ATMs but placed orders for 72 ATMs thereby increasing the quantity by 44% of the tendered quantity. Generally, a provision to increase/ decrease the quantities is kept in the bidding documents for unexpected/emergent requirements. But no such provision was made in the bidding

documents and the quantity was increased after opening of the tenders in a non-transparent manner indicating favour to the firm. Had the Bank indicated the quantity of 72 ATMs or provided a clause to increase/ decrease the quantities at the time of invitation of bid itself, they might have received lower rates.

- Surprisingly, an additional order for 38 nos. of ATMs was also placed on the firm at the same price, terms and conditions. ATM basically is mostly electronics and the prices of electronic products are decreasing day by day. It was not judicious on the part of the Bank that without ascertaining the current market rate, a repeat order had been placed by them on the firm at higher prices which can only be considered as a favour to the firm.
- One Bank while procuring Computer Hardware for its various branches had also procured web cameras. It was, however, noticed during inspection that these web cameras are not being used in any of the branches. Thus, the Bank has incurred in fructuous expenditure.
- The provisioning of stores needs to be done with utmost care to avoid any surplus purchases. The equipment to be purchased should conform to the latest specifications and technology available in the market.

### **Estimates**

It is noticed during inspections by CTEO that in many Banks estimated rates are either not prepared or the estimates are worked out in an ad-hoc and arbitrary manner without adopting any scientific basis.

- For a networking project, the estimated cost of Rs.59.09 crore for 965 branches/locations was prepared by the Consultant which was very high as the final contract value at the time of award of work for networking 458 branches/locations was Rs.13.65 crores only.
- The estimated rate is a vital element in establishing the reasonableness of the prices being paid and, therefore, it is very important that the same is worked out in a realistic and objective manner on the basis of purchases made by other organizations,

prevailing market rates, the market trend and assessment based on intrinsic value etc.

### **Pre-Qualification Criteria (PQ)**

The pre-qualification criterion is a yardstick to allow or disallow firms to participate in the bids. Pre-qualification criteria should be fixed in such a manner that all competent contractors are brought into competition. It has been observed during intensive examination of various contracts that the prequalification criteria is either not clearly specified or made very stringent / very lax to restrict/facilitate the entry of competent/incompetent bidders.

- Though the value of purchase was Rs.12 crore only in a tender issued by a Bank for purchase of computer hardware, the pre-qualification terms stipulated that the bidder should have a minimum annual sale value of Rs.100 crore and bidder should have in any one of the last 3 years designed, manufactured and supplied the equipments at least upto 300% of the tender quantity.
- In another case, the eligibility conditions stipulated an annual turnover of not less than Rs.100 crore from the sale of Computer hardware alone, in each of the last 3 financial years, though the estimated value of purchase was Rs.4 crore only. The eligibility criterion was stringent and discriminatory, thereby restricting competition.
- The purpose of any selection procedure is to attract the participation of reputed and capable firms with proven track record. It should be ensured that the PQ criteria are exhaustive, yet specific and there is fair and adequate competition. It should be ensured that the PQ criteria are clearly stipulated in unambiguous terms in the bid documents.

### **Notice Inviting Tender / Tender Documents**

In spite of a number of guidelines issued by the Commission on various aspects of tendering, many Banks continue to go in for limited tendering or advertised tenders with selective publicity and inadequate time for submission of bids. Tender documents are issued in a careless manner incorporating obsolete, vague and conflicting terms and conditions.

Evaluation of offers and short-listing of bidders is carried out in a non-transparent manner based on un-disclosed criteria.

- As against the most preferred and transparent mode of tendering i.e. Global tender enquiry / Advertised tender enquiry, a Bank issued a Limited Tender Enquiry to 3 vendors on the basis of their experience in an earlier limited tender enquiry though the estimated value of the purchase was substantially high (Rs.9.5 crore). The earlier limited tender enquiry was issued to only 4 vendors on grounds of unconvincing reasons so as to save time and cost of releasing tender notice in leading newspapers while they were aware that there were 28 vendors worldwide. By issuing a limited tender enquiry to only 3 vendors, the competition had been restricted and possibility of paying higher prices cannot be ruled out.
- One Bank issued Advertised tender enquiry inviting bids only from their empanelled vendors. Bank in such a case, could have resorted to limited mode of tendering, thereby avoiding in fructuous expenditure towards cost of advertisement etc. when only their empanelled vendors could participate. Further, in order to give wide publicity, it is desirable to send a copy of tender notice to all the registered / past / likely and known supplier in the form of advance intimation. But in this case though invitation to bid was restricted to empanelled vendors, no advance intimation by way of drawing their attention to the tender was given to the empanelled vendors.
- In one Public Sector Bank for procurement of computer hardware, while the approval was taken from Competent Authority for inviting quotations from the panel of approved vendors, the officials instead of floating a limited tender enquiry, issued an advertised tender enquiry. Moreover, as against the normal time of four to six weeks, only six day's time was given to the intending bidders to submit their bids, which was grossly insufficient. The important clause relating to earnest money deposit was not incorporated in the bidding document, which is essentially required to protect the interest of the organization to some extent in the event of withdrawal of offer by firms who are non-serious bidders or non-submission of performance security by the successful bidder. The quantity of the hardware required was also not indicated in the tender enquiry and thus, the benefit of most economic prices due to bulking of requirement could also not be availed by the Bank.

- For appointment of service provider for conducting online reverse auction, one Bank invited quotations from 4 vendors only thereby restricting the competition. Further, time of hardly one day was given for submission of quotations. One of the vendors even requested for some more time for submission of their proposal but the same was not acceded to and the Bank went ahead with the offers of the rest three.
- Normally tenders are kept open for sale till the date of opening or just one day prior to the date of tender opening. However, in one case, sale of tender documents was closed 21 days in advance of tender opening thereby, effectively giving a time period of only 14 days to the bidders for purchase of tender documents.
- Some of the Banks are not specifying tender opening date in the bid documents.
- In some of the cases, tenders are also not being published in Indian Trade Journal, Kolkata which is a Government publication and is regarded as the standard medium for advertising tender notice in India. Further, in case of global tenders, copies of tender notices are not being sent to Indian Missions/Embassies of major trading countries to generate enough competition.
- In one case for procurement of Computer Hardware, bids were invited under the Single-bid system. After opening of bids, two offers were ignored during technical evaluation. In such a case Bank should have better followed the two-bid system and opened the financial bids of only those firms whose offers were technically acceptable. The same Bank was found following two-bid system for procurement of UPS etc.. The Bank had no convincing reasons to forward as to why this was not followed in the procurement of Computer Hardware.
- In a tender enquiry floated in the year as late as 2004-05, a Bank advised vendors to certify that the hardware & software being supplied would be Y2K compliant, a confirmation that was considered necessary prior to the year 2000 clearly indicating that tender documents are being just mechanically copied from earlier tenders for similar tenders without any application of mind. Such

type of vague clauses should not form a part of the bidding documents.

- In one of the tenders, as per bid conditions, Bank had reserved its right to award contract to the next lowest evaluated bidder in the event of failure of the successful bidder to sign the contract and furnish performance security. This is against the Commission's guideline which prescribes that if L-1 party backs out, there should be a re-tendering in a fair and transparent manner.
- While as per Commission's guidelines, negotiations have been banned except with L-1 bidder, but in one of the cases, a provision was made by a Bank that the Bank reserves the right to negotiate with any or all the bidders at its discretion.

### **Earnest Money Deposit**

- In one case, though the estimated value of the subject purchase was Rs.9.5 crore, a very small amount of Rs.1 lakh only was asked for as Earnest Money Deposit (EMD) by the Bank. In yet another case, no provision of EMD was made in the bidding documents.
- In one case, approval of competent authority was obtained but the placement of purchase orders got delayed and were not placed immediately. In the meanwhile one of the bidders, who had been recommended for placement of an order, regretted to execute the order/likely order. As no bid security/earnest money deposit was asked for in the tender, Bank was not in a position to forfeit any money or take action against the firm who had withdrawn its offer within the validity. Thus in the absence of adequate provisions for safe guard in the tender, firm could get away without attracting any penalty.

### **Security Deposit**

- One Bank had asked for a maximum security deposit of Rs.5 lakhs though the value of contract in some cases was in crores of rupees. In yet another case, no provision of security deposit was made in the purchase order.

### Evaluation Criteria

- In one case, though as per Bank's purchase policy, the evaluation/loading criteria on account of acceptable range of deviations in the important terms like, payment terms, delivery period, performance B.G. etc. having financial implications were to be specified in unambiguous terms in the bid document but no such criteria was specified. One of the bidders had quoted a different payment term than specified in the bid documents but no loading was done by the Bank leading to incorrect evaluation.
- Despite Bank's policy to distribute order between L1, L2 and L3 vendors in 50:30:20 ratio, bid document stipulated that placement of order shall be on L1 vendor only. However, Bank had neither followed their own policy to distribute order in 50:30:20 ratio nor placement of order on L1 vendor only as specified in the bid document but instead awarded contracts to L1 and L2 vendors in the ratio 60:40. Moreover, the above policy to distribute order between L1, L2 and L3 vendors in 50:30:20 ratio, was to be reviewed after the 1<sup>st</sup> phase of computerization but records indicated that no such review had been carried out.
- In another case, a Bank reserved the right to split the order amongst L1, L2 & L3 vendors (or even L4 vendor or higher, if the need arose). But the ratio in which the ordered quantity was to be distributed among L1 and other higher quoting bidders was neither pre-decided nor disclosed in the bid documents. After the opening of the bids, it was initially decided to distribute the order in the ratio of 50:30:20 among L1, L2 & L3 which was subsequently changed to 40:40:20. However finally the order was placed on two firms only in the ratio of 55:45. Thus the basic concepts of transparency and objectivity were not followed and the order was distributed in a discretionary and non-transparent manner.
- In one case, bidders were asked to quote a minimum 6% of the cost of hardware and software as Annual Maintenance Charges for the post warranty period. With such a stipulation in the tender enquiry, no tenderer would quote AMC charges less than 6% per annum, even if he wanted to quote a lower value. By incorporating such a condition in the tender enquiry Bank had prompted the tenderers to



quote higher AMC charges rather than market prices which could be lower, thereby causing a loss to the Bank.

- ❑ Advertised / Global tender enquiries should be issued as far as possible and published in Indian Trade Journal, Kolkata, leading newspapers and websites. The copies of the tender notices should be sent to all the registered/past/likely suppliers and also to the Indian Missions /Embassies of major trading countries in case of imported stores.
- ❑ With a view to have wider, fair and adequate competition, it is important that sufficient time of say 4 - 6 weeks in case of Advertised / Global tenders and 3 - 4 weeks in case of limited tenders is allowed. The tenders should be kept open for sale till the date of tender opening or just till one day prior to the date of tender opening. The date and time of tender opening should be clearly specified in the bid documents.
- ❑ Unwanted, obsolete, vague provisions should not be incorporated in the bid documents. Wherever required, two bid system should be followed and financial bids of techno-commercially acceptable bidders should only be opened. Provisions which are in violation of Govt. policy / CVC guidelines should not be incorporated in the bid documents.
- ❑ Some reasonable amount of EMD should always be asked for from the bidders in a tender to ensure that the Bank's interest is protected to some extent in the event of withdrawal or modification of the offers by any firm within the validity of offers or non-submission of security deposit / performance guarantee by the firm on whom the contract is placed. A reasonable amount of security deposit should also be taken from the successful bidders for due performance of the contract.
- ❑ The Evaluation / Loading criteria with respect to the important terms. like Payment terms, Delivery period, Performance Bank Guarantee etc. having financial implications should be specified in unambiguous terms in the bid documents so that the evaluation of bids after tender opening could be made in a transparent manner without any subjectivity. The comparative assessment of offers in the true sense would be complete only if it is made on an equal

footing taking into account the financial implications for the deviations in terms and conditions, in line with unequivocal evaluation criteria specified in the bidding documents. Wherever it is intended to distribute the order between more than one bidder, the ratio and manner in which the quantity is to be distributed should be pre-decided and disclosed in the bid documents and followed without fail. Contracts should be awarded in a transparent and objective manner .

### **Receipt of Tenders**

Despite Commission's guidelines emphasizing need to maintain transparency in receipt and opening of the tenders and to make suitable arrangements for receipt of sealed tenders at the scheduled date and time through conspicuously located Tender Boxes, it is noted that tenders are not being received through Tender Boxes. This procedure is highly objectionable and against the sanctity of tendering system. The possibility of tampering and interpolation of offers cannot be ruled out in such cases.

- In one PSU Bank tender receipt register was not being maintained and hence it was not possible to check whether the bids from the empanelled vendors were received within the stipulated period, mentioned in the tender enquiry. Further, the Bank had not made any arrangements to receive the tender through conspicuously located tender boxes.
- Another Bank did not have any tender box for receipt of tenders at scheduled time and date. Tenders were received by hand from the tenderers.
- Another Bank was having a tender box for receipt of tenders but the tenders were not being received through the tender box. Such a procedure is highly objectionable and against the sanctity of tender system.
- ❑ A proper arrangement for the receipt of tenders at scheduled date and time through tender box needs to be adopted. In cases where the tenders are required to be submitted by hand due to the bulky size of the tender documents, it is to be ensured that the names and designations of at least two officers are mentioned in the bid documents for receiving the tenders by hand. The information about

these officers should also be displayed at the entrance/reception of the premises where the tenders are to be deposited so as to ensure a convenient approach for the bidders.

### **Postponement of Tender Opening**

Wherever extension to the date of tender opening is done due to reasons like change in the specifications or on the basis of request of the vendors etc., it has been noticed that firstly, sufficient time to submit the bids as per the revised specifications and secondly, the intimation of tender opening extension is not being sent to all the bidders who had purchased the bidding documents. Also such notice of extension is also not being published in newspapers / ITJ.

- ❑ In order to give equal opportunity to all the bidders and to maintain the sanctity of tendering system, it is of paramount importance that any change in the tender terms & conditions, specifications and tender opening date etc. is notified to all the bidders, sufficiently in advance of the revised tender opening date.

### **Opening of Tenders**

Some of the Banks are not opening the tenders, particularly technical bids, in public i.e. in presence of the Firms' representatives. The system of not opening the tenders in public is against the sanctity of tender system, and is a non-transparent method of handling tenders. There could be a possibility of tampering and interpolation of offers in such cases.

- In one of the Banks, the tenders were opened after a lapse of 3 days from bid submission date. Further, the tenders were also not opened in the presence of the Firms' representatives. The procedure adopted by the Bank was totally non-transparent and against the sanctity of tender system as there is every possibility of tampering with and interpolation of offers in such cases.
- ❑ Opening of tenders in the presence of trade representatives should be scrupulously followed. While opening the tenders by the tender opening officer / committee, each tender should be numbered serially, initialed and dated on the first page. Each page of the tender should also be initialed with date and particularly, the prices, important terms and conditions etc. should be encircled and initialed

by the tender opening officer /committee. Alterations in tenders, if any, made by the firms, should be initialed legibly to make it perfectly clear that such alteration, erasing or cutting was present on the tender at the time of tender opening and this fact be also recorded by the tender opening officer / committee.

### **Techno-Commercial Evaluation of Tenders**

It is noticed in some of the Banks that techno-commercial evaluation is not being done properly. Various requirements specified in the bid documents are not being checked / verified by the tender committee while making recommendations.

- In one case, the evaluation of technical bids was not carried out properly. Only a tabulated statement indicating compliance to hardware configuration / specification as indicated by firms was prepared. No recommendations indicating technical suitability or otherwise of the various offers received against this tender were made. Important requirement like ISO 9001 & 14001 certification and Microsoft, Novell, Linux and Unix/SCO certification for Servers and PCs were not checked.
- In another case for procurement of computer hardware consisting of several individual items, the offer of a firm was rejected as the 'Server' quoted was not meeting the specified requirements. Similarly, the offer of another firm was rejected as the 'Client Desktop' quoted by them was not as per specified requirement. Though only one individual item was unacceptable in both the offers, the entire offer of both the firms was rejected despite there being no such condition in the tender that disqualification in one item would result in disqualification of the tender as a whole.
- In yet another case, though all the bidders were meeting the basic eligibility criteria but the offers were further evaluated based on an Evaluation matrix, details of which/scoring pattern was not disclosed in the bid document. Further, no cut-off marks were indicated for short-listing bidders and only top three scoring bidders out of the eligible bidders were only short-listed for commercial evaluation. Short-listing only top three scoring bidders out of all the eligible bidders was neither disclosed in the bid document nor decided prior to the tender opening. It was done only after carrying out the

technical evaluation of the bids as per Evaluation matrix prepared after bid opening.

- Techno-commercial evaluation of offers should be carried out as per laid down criteria in a transparent manner. Once it has been established that the offers meet the laid down specifications, there should not be any further 'grading' or 'pick and choose'. The contract needs to be awarded to the lowest bidder meeting the laid down specifications.

### **Price Evaluation**

It is noticed that in some of the Banks, the evaluation of prices is not being done properly. The bids are evaluated by taking into account various elements / factors which were not specified in the bid documents. In cases where procurement is made for a number of items, the rates quoted by overall L1 bidder is counter-offered to higher quoting firms which at times results in counter offering a higher rate for individual item to these firms than what is quoted by them.

- In one of the banks, right was reserved to take cost of selected optional items into account during financial evaluation. The set of options so taken into account and the weight assigned to each option was decided internally by the bank prior to opening of financial offers. They also decided that it would be their discretion whether to take into account the net present value of possible future payments or merely add them to the capital expenditure to get the overall cost of ownership. All these factors were decided by the Bank after opening of technical bids but however, before opening of financial bids. Instead of incorporating the specific loading criteria in the tender enquiry, Bank had incorporated a vague criterion.
- In another case, L1 was determined on the basis of total financial implication of seven items consisting of servers, client desktops, web cameras, port switches and laser printers. The rates quoted by the overall L1 bidder for individual items were counter offered to other higher quoting firms. As overall L1 bidder was not lowest for all the seven items, an anomalous situation was created whereby some of the bidders were asked to match a higher rate for individual items. For example, for laser printer, two firm, who had quoted a price of Rs.17,390/- and Rs.18,763/- were asked to match the price of

Rs.19,500/- as quoted by the overall L1 bidder. This has resulted into extra expenditure of Rs.37,32,923/-.

- The specific loading criteria should be incorporated in the tender enquiry in unequivocal terms and evaluation of offers should be done on the basis of laid down criteria so that the sanctity and transparency in the tender system could be maintained. It should be ensured that under no circumstances, a bidder is counter offered a rate higher than what has been quoted by him.

### **Purchase Preference**

The applicable purchase preference to public sector enterprises as per the guidelines circulated by Department of Public Enterprises is also not being incorporated in the bid documents leading to a lot of complaints.

- As per Govt. policy of purchase preference to Public Sector Enterprises, where the quoted prices of public sector enterprises is within 10% of the lowest price, other things being equal, purchase preference may be granted to the Public Enterprise at the lowest valid price bid. In one case, the rates quoted by a Central PSU were within 10% of the rates quoted by L-1 but no purchase preference was allowed to the Central PSU in violation of Govt. policy.
- The Government instructions on purchase preference to PSUs need to be incorporated in bid documents.

### **Post-Tender Negotiations**

Commission has issued various guidelines on post tender negotiations. Despite this, it has been noticed that still repeated negotiations with the select / all the vendors are being carried out by some of the Banks in gross violation of these instructions.

- As per CVC guidelines negotiations are banned except with L1 bidder. In one case of a Bank that was examined, a provision was kept in the bid documents reserving the right to negotiate with any or all the bidders.
- In another case, negotiations were held with L-2 bidder also on the plea of distribution of order between L-1 and L-2. The criteria for

distribution of order were not specified in the bid documents and, therefore, the method adopted was non-transparent and subjective. Though the L2 bidders had matched the L1 price, but they were not considered for final placement of order for which no reasons have been recorded..

- Though negotiations are to be resorted to in exceptional circumstances/cases only, but in one of the cases repeated negotiations were carried out with the L1 bidders without the approval of the Competent Authority. Details of firms/representatives present during negotiation meetings and minutes of negotiation meetings were also not recorded.
- The guidelines circulated by CVC on post tender negotiations should be strictly followed. Govt. 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 Govt. of India for purchase preference for public sector should not be implemented.

### **Reasonableness of Prices**

It has been noticed that the purchases are being made by some of the Banks in an ad hoc and arbitrary manner without satisfying the prime requirement of establishing the reasonableness of rates in relation to the estimated rates, last purchase prices or the prevailing market rates.

- For its Networking project, One Bank had placed a contract on a firm allowing Network Management and maintenance charges @ Rs.24 lakhs per year for 241 Leased Lines without establishing the reasonableness of the prices being paid. It is seen that in the same tender a Public Sector Enterprise had quoted a rate of Rs.2,23,000 only per year for the same services.
- Another Bank had issued limited tender enquiry to only 3 vendors. In response, only 2 offers were received. Therefore, there was little competition. No estimated rates were worked out by the Bank in a realistic and objective manner taking the prevailing market rates. Therefore, Bank had accepted the rates without establishing the reasonableness of the prices and possibility of paying higher prices cannot be ruled out.

- It is very important to establish the reasonableness of prices on the basis of estimated rates, prevailing market rates, last purchase prices, economic indices of the raw material / labour, other input costs and intrinsic value etc., before award of the contract.

### **Advance Payments & Bank Guarantees**

As per CVC guidelines circulated vide Office Memorandum No.NU/POL/19 dated 08.12.97 and 4CC-1-CTE-2 dated 8.6.2004, it has been brought out that only mobilization advance should be allowed in cases of select works and that it should also be interest bearing so that the contractor does not draw undue benefit or misuse the funds. However, it has been noticed that some of the Banks are quite liberal in allowing the advance payments even in supply contracts where no mobilization of equipment is required and that too, totally interest free.

- It is seen that some of the Banks have been giving interest free advance up to 25% in supply contracts in contravention of the Commission's guidelines.
- The advance payments need to be generally discouraged except in specific cases where mobilization of equipment is required at site. Wherever payment of advance is considered unavoidable, the same should be interest bearing as per CVC guidelines and be allowed after getting an acceptable Bank Guarantee for an equivalent amount with sufficient validity so as to fully protect the Govt. interest. Wherever interest free advance has been granted, monitoring its recovery has to be more meticulous and at a sufficiently higher level.

### **Performance Bank Guarantees**

Most of the Banks are not stipulating the requirement of Performance Bank Guarantee while others are stipulating different amounts of Security deposit / Performance Bond. In some cases, it has been noted that the amount of PBG is too low in comparison to the contract value.

- One Bank had incorporated a provision of 5% performance security in the contract instead of 10% performance security offered by the supplier in their offer, giving an undue benefit of interest on 5% performance security for a period of more than 3 years to the firm.



- In order to safeguard the Govt. interest, it would be appropriate to take reasonable amount of Performance Bank Guarantee valid up to warranty period for due performance of the contract. The genuineness and validity of the Bank Guarantees needs to be carefully checked and monitored and whenever extension in the delivery period is granted, the validity of the Bank Guarantee should also be appropriately got extended so as to protect the Govt. interest. The genuineness of the BGs and the wordings should be checked from the issuing bank to be in order without fail.

### **Payment Terms**

It is noticed during inspections by CTEO that in some cases, the payment terms are amended favourable to the suppliers thereby giving undue benefit to the suppliers.

- In one of the Banks, as per payment terms stipulated in the tender documents, 90% payment was to be released on completion of delivery, installation, commissioning and completion of inspection and acceptance test. Balance 10% payment was to be released within 12 months from acceptance test or within 2 months on production of a performance bank guarantee for the 10% amount. However, in the purchase orders, the payment terms were relaxed as 90% on delivery and balance 10% on installation of items at the site. No justification was given for relaxing the payment terms in favour of the firms and also no performance bank guarantee was obtained from the suppliers to safeguard the purchaser's interest during the warranty period.
- In another case, the payment terms stipulated in the tender were 90% on satisfactory installation and 10% after completion of warranty or against submission of Bank Guarantee for one year from the date of installation. If the installation is not made due to the reason "Site Not Ready", 75% payment was to be released after 15 days from the date of delivery of the systems. However, in the purchase orders 75% payment has been allowed to be released after 15 days from the date of delivery, 15% payment on successful installation and 10% after completion of warranty or against submission of Bank Guarantee for one year from the date of installation. Thus the

payment terms were relaxed in favour of the firms without any request from them.

- Another Bank had released 20% balance payment against Bank Guarantee without completion of installation and final acceptance though as per contract the balance 20% payment was to be made only against final acceptance certificate issued by the purchaser.
- The payment terms should be defined unequivocally and should not be changed after award of the contract. As far as possible, the payments terms should be so structured that the payments made to the contractors are linked and are commensurate with the actual progress supplies / installation / commissioning.

### **Post Contract Management**

After award of the contract, amendments/modifications having financial implications are authorized in the contract terms/specifications giving undue benefit to the suppliers e.g. the specifications are diluted, the Pre-dispatch inspection though was incorporated in the contracts but, the same was subsequently waived without recording any reasons, log books are not being maintained for determination of downtime of equipments etc. It has also been noticed that even the materials are being accepted and payments are being released as and when the supplier makes the supplies. There is utter disregard to the contracting norms relating to delivery period, which is the essence of the contract. In some of the cases, it has been observed that Liquidated damages for delay in supplies are not being levied and recovered from the suppliers.

- In one case, one of the bidders offered to provide Computer Server with 6 hot swappable drive bays and 3 non-swappable drive bays as against the tender requirement of servers with 5 hot swappable drive bays and 3 non-swappable drive bays. However, after placement of purchase order, Bank on the request of the firm had amended the order as servers with 5 hot swappable bays instead of 6 bays on the plea that there is no change from original specification as per Bank's bidding documents and the reduction will not affect the performance in any manner. The purchase order was amended without taking financial implications into consideration and thereby giving undue benefit to the firm.

- In another case, supplies were delayed beyond the stipulated delivery schedule. Further, no time period for installation/commissioning was specified in the purchase order. The equipments were not installed/commissioned by the firm in several branches for a considerable period of time after supplying the same. In the absence of any deadline for completion of installation/commissioning, no liquidated damages was legally recoverable from the firm for the delay.
- In yet another case, as per contractual provisions, a penalty of US \$ 200 per day was leviable if the system is not rectified within 5 days of notifying the breakdown. On going through the records, it was seen that in respect of some systems, the breakdown was more than 5 days but no penalty was recovered from the firm.
- It was seen during inspections that log books were not being maintained for ATMs and other equipments for recording details such as time and date of failure, nature of failure, time of reporting failure, time of restoration, details of repair, acknowledgement by the purchaser that the failure is rectified etc. In the absence of the same, Bank may not be able to work out the downtime and claim penalty from the contractor for not maintaining the prescribed uptime.
- In another case, the supplies and installation of various equipments were completed by the firm much beyond the scheduled delivery period. No delivery period extension was granted after expiry of the original delivery period and the equipments were accepted by the Bank as and when supplied by contractor. So time was not kept as the essence of the contract.

### **Pre-dispatch Inspection**

- It is noticed during inspections that though contracts provide for pre-delivery/dispatch inspection of equipment at firm's premises, no such inspections were being carried out. This way the quality aspect of the various equipments had been totally ignored by the Bank.
- In one case, it was found that there was no inspection stamp of the Inspection Agency on the equipments such as Servers, PC Work Stations, Dot Matrix Printers & High Speed Printers as a proof of having inspected the same by them. Bank has accepted these

equipments without satisfying themselves about the receipt of the same equipments which were inspected / accepted by the Inspection Agency.

### **Delivery Period Extension**

- In one case, the delivery, installation and operationalisation of network was to be completed in 100 days from the date of purchase order. However, on the request of the firm, the delivery schedule was reckoned from the date of acceptance of order by the firm instead of date of purchase order. Bank had also not issued any formal amendment in the contract in this respect. The approval of Bank for change in delivery schedule was not in order as the date of delivery is to be counted from the date of purchase order and not from the date of acceptance of the the order. Bank should also have issued amendment extending delivery period with liquidated damages as per contractual terms.
- One Bank was accepting the equipments as and when supplied by the firm. Therefore, time as the essence of the contract has not been kept by the Bank. Though, there was delay in supply and installation by the firm but no liquidated damages were recovered from the firm.
- After conclusion of the contract, any relaxation in the contract terms / specifications should be severely discouraged. However, in exceptional cases where the modifications/amendments are considered to be absolutely essential, the same should be allowed after taking into account the financial implications for the same. The delivery period should be extended on bonafide request and not in a routine and casual manner. In case of delay in supplies by the supplier, the liquidated damages should be recovered. In a nutshell, there is a need to discipline the suppliers so that the non-performers could be weeded out and the suppliers who can be relied upon with consistent performance, in terms of quality and delivery schedule are encouraged.

### **Miscellaneous**

Some other irregularities/deficiencies in award of contracts noticed during inspections are illustrated below.

- In one of the Banks, a General Manager had exceeded his delegated financial powers in approving a proposal for the procurement of Computer Hardware though the competent authority for approving such proposal was CMD.
- In another case, Executive Committee of the Bank decided not to implement Bank's proposal to purchase LCD monitors but Bank had placed orders for PCs with LCD monitors without referring the case back to the Executive Committee for its approval.
- One of the Banks while purchasing hardware, had not specified the system serial nos./Part nos. of Servers, Supervisory Work Stations and Terminals; make, model, Part nos./serial nos. of Mother Board, Memory (RAM), Hard Disc and Floppy Drive, Display Card, DAT drive and Key Board of Servers, Workstations and Terminals; and make, model, Part Nos./Sl.Nos. of CD ROM Drive in the Server in the purchase order. Therefore, the firm had supplied the same as per their own choice and an undue benefit had been passed on to the firm.
- In yet another case, bid conditions provided for a Guaranteed Uptime of at least 99.9%. In response, three vendors represented against stringent provision of up time which was practically not possible. The Bank considered the same and uptime was amended to 99.5% calculated on a monthly basis. However in the contract awarded to another firm, 99.5% and 99% uptime were allowed for core and remaining network respectively. Thus, even the amended condition of 99.5% uptime was very stringent and the same was relaxed by the Bank while placing the contract.
- There was no provision in the contract for the firm to submit the documents like, Bill of Lading, Custom duty paid etc. in regard to hardware materials imported and supplied by them. In the absence of these documents, genuineness of the equipments imported/supplied by the firm could not be verified.
- In some cases, Banks are not promptly generating the ATM failed transaction report on a day to day basis leading to late debiting/non-debiting of cash withdrawn by account holders. Such instances leading to huge over-drawings in SB/CC/ ODCC accounts were also

reported, putting the Bank under poor image and difficulty in recovering over-dues.

- In one of the Banks, though ATM Cards had been received in many branches but the same were lying undelivered to the customers thereby defeating the very purpose of installing the ATM machines that is to facilitate increase in transactions and make ATM economically viable.
  - In one case, instead of asking 90 days bid validity as per Purchase Policy, only 60 days validity was asked for in the bid document. Bank had taken about 2½ months in technical evaluation only and opened the financial bids when the prices were no more valid. Further, validity of EMD, Bank guarantee submitted by two of the bidders had already expired before the finalization of the tender. Bank did not take any action to get the validity of bids and bid security extended. In such a situation there was possibility of the firm declining to honour the contractual obligations resulting in a void contract with no recourse to the Bank even to forfeit the bid security.
  - In another case, though the firm had clearly indicated in their offer that prices are inclusive of entry tax and in the purchase order also no entry tax was payable extra, Purchase order was later amended allowing reimbursement of entry tax on actual basis on the request made by the firm.
  - One Bank placed an order for a particular model of currency verification and processing system having 6 pockets. However, benchmark testing was conducted on a different model having 4 pockets only.
  - As per Ministry of Surface Transport (MOST) instructions, the contract for import is to be awarded on F.O.B. basis until the permission has been granted by them to conclude the contract on C&F basis. Although no permission as per provisions was obtained by a Bank to conclude the contract on CIF basis still they had concluded the contract on CIF basis.
- The aim of this booklet is to know the pit falls and serve as a ready reckoner for the concerned officials of the Banks to help them in

effective and timely procurement of various goods and services in a fair, transparent and objective manner.

\*\*\*\*\*



## **Intelligence Network – an effective instrument for preventive vigilance in PSEs.**

Intelligence as an important input for effective governance has been testified by history. In the modern dimensions of administration too it has in fact gained in importance though the nature and operation of intelligence has undergone vast changes keeping with the requirement of the times.

In the context of vigilance administration too the role of intelligence cannot be underestimated. While in an enlightened society every responsible citizen is expected to perform the role of an intelligence provider, watchfulness by the society is highly limited in respect of white-collar crimes especially in organizations where transparency has not been a practice followed in administration.

While a specialized intelligence wing is part of the organization in respect of investigation agencies like SPE (CBI) and State Vigilance and anti corruption departments, in respect of regular Government Department or a PSE by and large no such organized mechanism exists though some PSEs do have provision for cash incentives for informers. Vigilance Manual Vol. I para 11 of chapter XVIII confines itself to just a line on the subject saying, “CVO should also have a system of collecting his own intelligence about possible malpractices and misconduct among employees of his organization.” Govt. Departments generally depend on public complaints or media reports as the starting point for vigilance investigation. Some PSEs have evolved quite effective but informal intelligence channels.

Officers of various enforcement departments like police, income tax, customs etc. do have the expertise in intelligence work and when posted as CVOs of PSES have successfully established intelligence networks. However by its very nature, the details of such a network are not documented and published in literatures for effective adoption by other enterprises.

This paper hence attempts to make a case for the need for an intelligence network in a PSE with suggestions for considerations. The objective of the paper is to begin a discussion on the need for an intelligence network in a PSE as an effective instrument in preventive vigilance. The



result of the debate/discussion will bring out the final view of the group in the matter.

PSEs vary widely in their size, nature of operation. They also vary in terms of number of units like Cochin Shipyard, which is a single unit enterprise, & NTPC with large number of units all over the country. The vigilance activity too hence will be varying accordingly though essentially, the basic nature of vigilance work may be similar. While most PSEs have officers from All India and organized central services as CVOs, they are normally confined to the corporate head quarters. Vigilance activity in units away from the HQ is carried out by full time or part time VOs/AVOs who are normally employees of the organization.

### **Maintaining Continuity**

While outsiders when posted as CVOs have the advantage of looking at the system in an objective and unbiased manner, they being officers outside the system often fail to comprehend some of the existing features nexuses and past history that exist in the organization which may be known to all employees except the CVO who is rank outsider. Though the other officers in the vigilance set up are generally insiders often many such things are seldom brought to CVO's knowledge. To overcome this it is suggested that CVO may maintain a memorandum book as prescribed in the office manuals of various central government departments. This Memorandum book, which is maintained by the head of the office, will give details of various departments – reports about their defective functioning, allegations etc. Employees and executives about whose conduct and behavior there are doubts are entered and periodically reviewed. This record maintained in the personal custody is handed over to the new incumbent during change of incumbency. The important advantage of this is that it gives a comprehensive view of the organization, sensitive areas, vulnerable personnel etc. and information gathered over a period a time is available to new incumbents who would have otherwise not known these.

### **Sources of Intelligence:**

One of the very useful and cost free sources of intelligence is the central Industrial Security Force (CISF) an agency that provides security for most of the PSEs in the country. The CISF have their own crimes and intelligence wing in each PSE handed by inspectors or Dy. Commandants, they can

provide reliable intelligence especially on pilferages and officers conniving, procurements and foul plays therein. Regular meetings (preferably informal) can provide vital information, which can assist in framing procedures as part of preventive vigilance or apprehending employees indulging into unfair dealings.

Information center / reception located normally near the main gate, main building will have useful information about the various visitors coming to the PSUs along with the officers they are meeting. Such frequent meeting of suppliers with certain executives can provide vigilance with some leads to be associated with cases in hand. In such of those firms where entry passes are computerized and if the same works in an environment, details of visitors along with the executives visited.

Govt. of India has laid down guidelines for inclusion of officers in the agreed list signed with the local branch of the CBI. While both the vigilance organization and CBI could keep watch over these persons, another avenue could be to liaise with the investigation wing of Income Tax department through whom information pertaining to contractors employed by the PSE could be gathered. Unduly high expenditures on hospitality, gifts and other miscellaneous items by the contractors could point to possible undue benefits enjoyed by some of the persons having dealings with the contractor, which may possibly include some executives (as envisaged in para 9, chapter XVIII of Vigilance Manual Volume I).

Regular co-ordination meeting with CBI as prescribed in the vigilance manual is an appropriate forum for exchange of intelligence and crossing checking of information. In fact CBI, the vigilance organization and income tax department can function complimentary to each other through regular formal and informal meets.

### **Intelligence set up within the organization.**

A successful intelligence network largely depends on its silent and unnoticed functioning. An intelligence agent should not be known to any one in the organization as one, which follows that such personnel will function without any written or formal orders making them quite anonymous.

Some of the suggestions in this direction are as follows:

Normally most PSUs have large number of reemployed ex-service personnel from the armed forces. These employees by virtue of their training with the defense forces generally have good discipline and more loyalty to the organization. These employees can form an excellent network of informers or intelligence agents when properly motivated to undertake the task. To be successful, they must keep strict confidentiality of their role, should not discuss their role with colleagues and friends, generally assigned to report to one particular officer of the vigilance organization. Interaction between vigilance and intelligence personnel should be normally done after office hours preferably outside the office premises. Intelligence personnel envisaged here are not full time agents but regular agents but regular employees in various departments as charge man, rigger, electrician, drivers etc, who in addition to their regular duties keep the vigilance informed about the various happenings and doubtful activities going around their place of work.

While a performance based remuneration (or incentive) to these employees could be considered, it is felt such service rendered without any monetary remuneration may be more appropriate since the employee will be doing it purely out of loyalty to the PSU and may not bring to attention gossips and rumors for the sake of collecting remuneration only.

Quite a bit of information and intelligence could be gathered through interaction and involvement in the various community activities like officers club, employees recreation club. Vigilance personnel hence should not shy away from participation in such social activities. They need to be good listeners without showing any apparent keenness for any extra information or poke the nose in any unrelated conversations. Informal meeting among the officials of the vigilance department with the CVO should be held frequently since some information may come out more freely in such atmospheres rather than in the formal idol tower set-up.

Cash and bills paid vouchers are normally maintained in the cash payment section controlled by the accounts department. A perusal of the various bill paid over a period can throw light on the various claims like medical, TA, entertainment allowances. Suspicious ones could be taken up for verification. The constant delay in passing of the bills of few firms compared to expeditious manners bills of few firms are passed give indication of possible nexuses between vested interests and few vendors.

Detection of ineligible claims by executives is a common thing in PSUs. They seldom question any of the claims preferred by top executives. Ineligible claims especially on foreign tours could be effectively detected. The knowledge that vigilance is looking into the bills itself will act as a deterrent preventing many an executive from claiming ineligible benefits.

Based on annual property returns submitted by the employee, random physical checks could be carried out discreetly to see if the measurements of buildings value etc. quoted in the returns are approximately tallying. Local enquiries from neighbors in suspicious cases can give valuable information about undisclosed assets owned by the officer / employee.

### **External Intelligence:-**

The system of informers from outside the organization has been over the years, the main stay of external intelligence in many an organization. While this is no doubt important, professional informers who do it for monetary rewards could often evolve fictitious information with the purpose of earning his livelihood. Hence extreme care is necessary in acting upon the intelligence input received from such paid sources.

Competitors in the business like competing suppliers of various materials, contractors, transport operators, dealers of products manufactured by the PSE could provide vital intelligence about unfair dealing entered by their rivals in connivance with the personnel of the PSE. Here again extreme caution is necessary since business rivalries can indeed make people to fabricate unsubstantiated charges against rivals and some of the honest staff of the company.

Another source which probably has not been exploited and which has good intelligence is from other PSUs, which has business dealings with the PSU like for eg. Some of the unfair dealings of a shipping company in repairs could come to the notice of the vigilance organization of the shipyard where the repair is undertaken. This could be passed on to the vigilance cell of the customer's company for further necessary action.

**Likely problems: -**

Though the CVC's circular regarding special chapter on vigilance in PSU's suggest that CVOs should function as eyes and ears of the CEO in a PSU often CVO is looked upon with suspicion because of the nature of his job and his role and his accessibility to the controlling ministry or department; his frequent interaction with agencies like CBI etc. This suspicion is bolstered by the fact that the incumbent is from outside the organization whose reputation or track record is generally not known to the staff of the PSU. The functioning of CVO is further hampered by the unique structure of many PSUs where there is very little delegation of powers and any irregularity noticed directly or indirectly points the fingers at the CEO. This puts the CVO at an unenviable position.

In this scenario, will the CEOs agree for an extensive intelligence network? Or is the CVO well within his rights to go ahead and establish an intelligence system as envisaged in the vigilance manual (pl. see para 3). The CEOs especially those who have risen from the ranks in the same organization by virtue of their acquaintance with large number of employees, executives are bound to have their loyal group who will be regularly feeding the CEO with vital intelligence (this may include personnel from the vigilance department also). Often this could be on the activities of vigilance wing too which could lead to suspicious and mistrust between CVO & CEO especially when done without informing the CEO.

It hence seems that there is a need to lay down clear directives empowering CVO to have his own set up for intelligence, the confidentiality of which need not be disclosed to anyone including the CEO. This though sounds simple is incongruent when viewed from the fact that the CVO is a subordinate to the CEO and CVO is an employee of the company (though he may be an outsider) and controlled by the CEO. There hence seems to be no simple solution to the dilemma. All the agencies involved in this task of combating corruption in PSUs need to do address this and find an appropriate solution taking care of all the above listed constraints.

## **VIGILANCE – A MANAGEMENT PERSPECTIVE**

Today the Public Sector Undertakings in the country play a significant role in the economic as well as social development of the country. Further, the spectrum of public sector ranges from monopolistic nature like Internal air traffic, Life Insurance etc. to highly competitive fields like Textiles, Banking. Today these undertakings are no longer regarded as large commercial concerns judged on their commercial results but have in varying degrees wider objectives than commercial concerns in private sector. They deal with tax payers' money and are therefore accountable to Parliament. They are subject to public criticisms and criticisms in the press. Unlike the private commercial organization where individuals count more, in these public undertakings, the systems have to work more than individuals. Under such circumstances, there is a need for a strong vigilance organization in the PSUs with a set of rules to regulate the conduct of the employees of these undertakings.

2. Vigilance has to be looked upon as one of the essential components of management. It is as important a segment in an organization like Finance, Personnel, Technical and Marketing. If the vigilance set up is effective in an organization, it will certainly ensure the functioning of the other segment like Finance, Personnel, Technical and Marketing in an efficient way. It has therefore to be given a rightful place in the management.

3. Though the work 'vigilance' is liked neither by an honest officer nor a dishonest officer, yet its absence will be harmful to the organization. It is like a Bitter Pill. For the health of the organization, the Bitter Pill has to be administered. Like a Bitter Pill, the administration of vigilance will taste sour. But in the long run, it will be in the good health of an organization.

4. The objective of vigilance is to ensure that the management gets the maximum out of its various transactions. In the field of purchases, it should get the quality product at competitive rates. In the field of sales, it should get the maximum realization for its products at the minimal selling cost. In the field of personnel, it recruits the best talented people and keeps the morale of the people high. Likewise, in anyone of its transactions, it should endeavour to get the best. Unlike in private organizations (mostly individual concerns) where individuals whose interest are totally centered round on the profitable functioning of the organization, in public sector organizations it is rather difficult to inculcate **that culture** without a vigilance set up. The presence of a vigilance set up will enable the management to enable the presence of that culture.

5. Vigilance is not something external. It should be accepted as an essential part of management. Vigilance connotes watchfulness. It is not the purpose of vigilance to wait for lapses to be committed and then try to conduct post mortem. What is more important than punitive vigilance is

preventive vigilance. In short, management should be interested in preventive vigilance measures. If adequate attention is paid to preventive vigilance side, many vigilance cases will not arise.

6. Preventive vigilance calls for constant review of rules, procedures and practices which afford scope for corruption. Some of the salient features of preventive vigilance in different segments of organization are enumerated below:

I. **Purchases**

- i) Should be invariably on a public tender basis.
- ii) Whenever limited tender is resorted to, enquiries should be sent only by certificate of posting and adequate notice be given to participate in tender.
- iii) Further, tenders should be both for technical and financial bids.
- iv) Technical bids should be scrutinized and approval of samples made before financial bids are opened.
- v) Once the samples are approved, then the lowest price concept should be implemented in awarding purchase contracts.
- vi) List of suppliers should be reviewed periodically.
- vii) Adherence of purchase conditions to be monitored.
- viii) Delivery of samples should be got checked with basic samples.
- ix) Review of settlement of bills of parties.



II. **Sales**

- i) Fixation of prices as well as deliveries to be monitored.
- ii) Quality assurance,
- iii) Review of dealers performance,
- iv) Review of discounts extended,
- v) Review of sale of substandard and damaged items and
- vi) Review of presentation of bills.

III. **Transport**

- i) Should be done only on public tender basis.
- ii) Evaluation of the performance of transporters on a periodical basis.

IV **Civil and Electrical Works**

- i) Strict adherence to the procedure laid down by the CIL, BPE, CPWD etc. in the execution of works.
- ii) Surprise checks of measurements, quality of material etc.

V. **Inventory**

- i) Surprise check of stores both for quality and quantity.
- ii) Review of stores lying unused for long time.

VI **Finance**

- i) Settlement of payments by A/c payee cheques,
- ii) Dispatch of cheques by certificate of posting instead of hand delivery,
- iii) Review of debtors list,

iv) Obtaining confirmation of balances outstanding from parties.

VII. **Personnel**

- i) Periodical rotation of officers/staff in sensitive posts,
- ii) Review of the immovable properties return of the individuals.
- iii) Proper implementation of the Conduct, Discipline and Appeal Rules like weeding out corrupt officers in public interest.
- iv) Dispensation of unwanted procedures and practices,
- v) Streamlining procedures for recruitment.
- vi) Institution of an effective grievance procedure machinery.

7. The aforesaid are some of the general aspects of preventive vigilance measures that could be adopted in public sector undertakings. But they will vary depending upon the type of activity, size of the unit, the areas of operation etc. However, the point to be borne in mind is that preventive vigilance measures help the management to get optimum results from the different activities.

8. It is also necessary to have close liaison with CBI on a periodical basis so that the organization has the advantage of having information from external front also.

9. To conclude, it may be said that all these procedures could work well

only if there is a total commitment and honesty on the part of management in implementing them. Let us therefore dedicate out selves to be honest to implement the vigilant procedures effectively to make these public sector undertakings function in an effective way so that they could reach the commanding heights in the economic and social development of the country.

*(This article of Sh. ND Gour, Personnel Manager (Vig.) Western Coalfields Ltd. was published in the Journal "CONCERN" (March, 2003) of the Vigilance Department of Western Coalfields Ltd.)*

\*\*\*\*\*



## **Vigilance as a Management Function – Leveraging Technology**

- *Balwinder Singh, Addl.Secretary, CVC*

Vigilance is not a stand-alone activity. It has to be seen as part of the overall risk management strategy of an organization wherein the structures, systems and processes are built in such a manner so as to prevent leakages which adversely affect productivity and profitability. A number of organizations both in public and private sector are re-engineering their processes by leveraging information technology. It will be in the organizational interest that when they are reorganizing business processes they should identify the likely risks like fraud, corruption, other malpractices and build in the required risk management tools in the new processes. Recently a write-up has appeared in the Economic Times under the heading “Fuel for e-commerce at HPCL”. This article explains how HPCL has networked all its petrol pumps in and around Mumbai for the purposes of inventory control and supply chain management. The same process also indirectly helps in curbing adulteration and under measurement. These malpractices are in turn connected with corruption. The system automatically detects any tampering with the fuel dispensers. It enables the company to monitor every outlet. Similarly providing global positioning system on the tankers for transporting fuel, the management can detect diversion of tankers to dubious destinations. This technology while providing solution for efficient supply chain management also helps in risk management thus strengthening the internal vigilance. There is need to integrate vigilance activity as a part of overall risk management strategy which in turn has to be integrated in the main stream operations of organizations.

The Central Vigilance Commission has been wrestling with the idea of identifying areas where generic solutions to the problems of vigilance administration can be applied across wide spectrum of government organizations. A number of areas have been identified where use of information technology can bring efficiency, economy as well as transparency thus curbing corruption. Some of these ideas are as follows:-

### **E-Procurement**

It has been the experience of a large number of organizations worldwide both in public and private sectors that e-procurement can bring in economy and efficiency in the procurement of goods, works and services. Apart from these benefits, the process also brings in greater transparency, thus reducing opportunities for corruption. Some of the State Governments like Andhra Pradesh, Karnataka as well as some Public Sector Undertakings like SAIL are already making use of e-procurement systems. The Central Vigilance Commission has issued a directive that all Govt. organizations over which the Commission has jurisdiction should publish their tenders and complete bid documents along with the application forms on the website. This is the first step towards e-procurement and would help in curbing mal-practices prevailing in various Govt. organizations where competition is sought to be restricted.

### **E-Payment**

Another directive of the Central Vigilance Commission regarding leveraging technology pertains to introducing e-payment. Here again, the intention is to bring economy and efficiency, while at the same time, reducing

corruption. The banking industry in the last one decade has made rapid technological advances in India. The directive of the Central Vigilance Commission for introducing e-payment is to leverage these technological advances in banking sector for the benefit of rest of the governmental set up. This system will help in significantly reducing transaction costs involved in making payments by way of cheques and sending the payment through couriers. It will also curb corruption which accompanies handing over cheques to contractors, suppliers and others like persons receiving refunds from income tax and other departments.

Apart from the above mentioned two specific directives which the Central Vigilance Commission has already issued there are very many other areas where technology can be leveraged simultaneously for efficiency, economy and corruption control. The key idea being that risk management tools are made integral part of the main business processes. For example, there are frequent cases of frauds in availing various employee benefits like medical expenses, LTC, TA/DA etc. The accounting softwares can be built in such a manner that the computer system generates '**exception report**' and gives **alerts** wherever there are significant deviations from certain benchmarks and norms. Similarly, the same accounting software system can make inter unit/inter location comparisons of expenditure on these items. Similarly, softwares can be developed with regard to procurement with in built features for making inter unit/inter office comparisons of rates and consumption patterns.

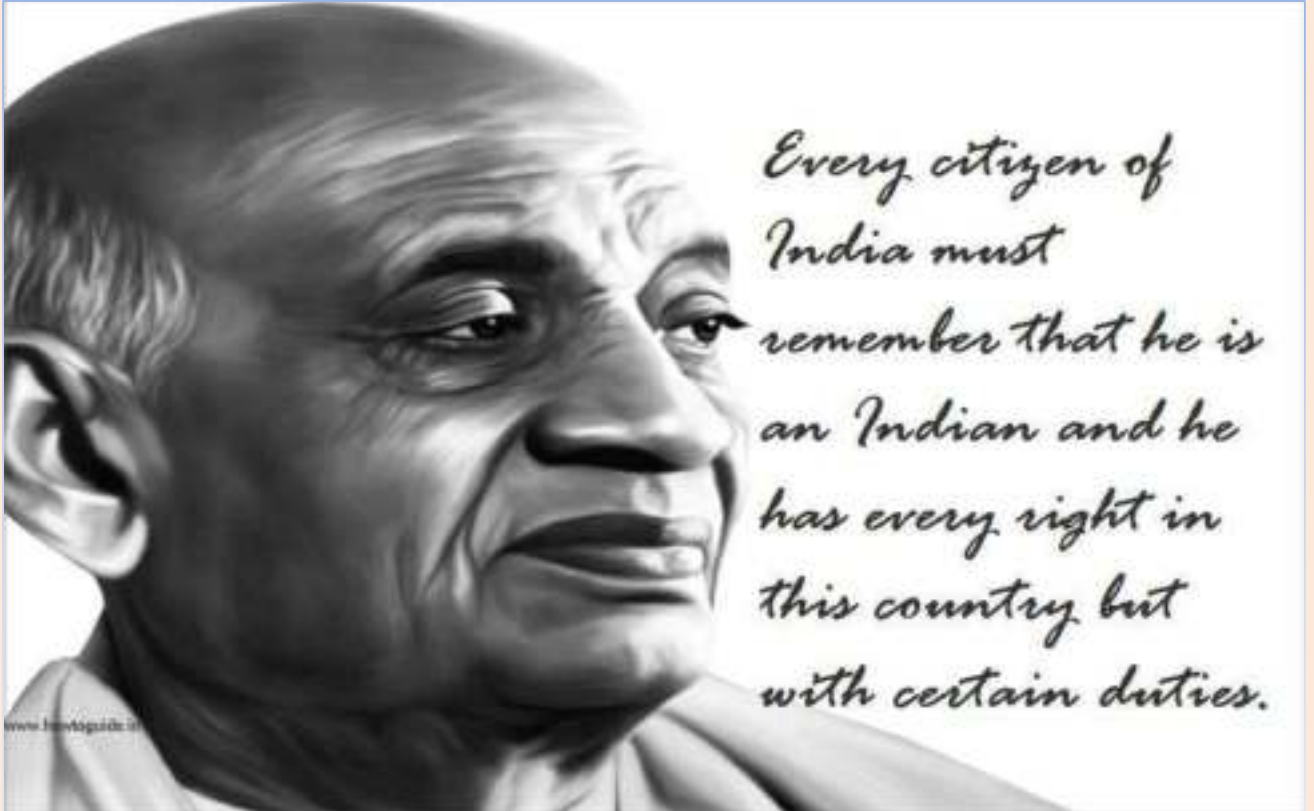
**Extensive use of website** can be made both as a tool for communication with the stake holders as well as for curbing corruption. Right to information and transparency are the biggest tools for fighting corruption and website as a

tool for such communication can have very extensive application across the entire spectrum of Govt. activity. Contractors and suppliers can know where their bills are held up, applicants for passport can know where their passport application is held up or whether police is taking abnormally long time in issuing NOC, beneficiaries of public distribution system can know whether wheat, rice and sugar is being diverted by the ration shop owner. Municipal corporations and other civic agencies can get feedback from public whether repairs to roads or drainage pipes is actually being carried out or only fake bills are being prepared without actually undertaking the works. Some Govt. organizations have already taken initiatives in this direction but the complete potential of website/portal as a tool for fighting corruption is yet to be made.

In addition to generic issues pointed out above, there can be a large number of organisation specific solutions where risk management tools can be integrated in the business processes. Customs & Central Excise, Income Tax, Employee Provident Fund Organisation and certain other organizations are learnt to have already undertaken such exercises in their computerization projects and business process re-engineering efforts. The aim is to gradually integrate preventive vigilance in the business processes and reduce our dependence on a complaint driven vigilance administration which is the present scenario.

\*\*\*





Compiled by:



VIGILANCE DEPARTMENT

**MISHRA DHATU NIGAM LIMITED**

(A Government of India Enterprise – Ministry of Defence)  
Corporate Office, Kanchanbagh, Hyderabad – 500058.