

CONTENTS

<u>Sl.no.</u>	<u>Contents</u>	<u>Page no.</u>
A.	CVC Circulars/guidelines	
(i)	E-procurement / Reverse auction/E-payment/E-receipt/Payment/Mobilization advance	1-15
01.	Office order no. 46/9/03, dt. 11.09.2003(E-Procurement/Reverse Auction)	1
02.	Office order no. 20/4/04, dt. 08.04.2004 (Improving Vigilance administration)	2-3
03.	No. 4CC-1-CTE-2 dt. 8.6.2004 (Mobilization Advance).	4
04.	Office order no. 68/10/04 dt.20.10.04(Leveraging Technology – e-payment & e-receipt)	5-6
05.	Office order no. 11/03/05 dt. 10.03.2005 (Delays in Payments to Contractors & Suppliers etc. – Reducing opportunities for corruption reg.)	7-8
06.	Circular no. 29/9/09 dt. 17. 09.09 (Implementation of e-tendering solutions.	9-13
07.	Circular no. No.10/4/07 Date 10.04.2007(Mobilsation advance)	14-15
(ii)	NIT/Tendering/Negotiations/Purchase Contracts/Banning of business/Miscellaneous	17-83
01.	17 th December 1998(Purchase of Computer Systems by Government Departments)	17
02.	No.98/ORD/1 Dt. 15.03.99 (Improving Vigilance administration-Tenders)	18
03.	3(V)/99/9 DT. 01.10.99 (Applicability of CVC's Instruction on post-tender negotiations to projects of the world bank and other international funding agency)	19-20
04.	98/ORD/1 Dt. 24.08.2000 (Improving Vigilance administration-Tenders)	21-22
05.	98/ORD/1 Dt. 03.08.2001(Improving Vigilance administration-Tenders)	23
06.	001/VGL/21 dt.28.03.02 (Missing files)	24
07.	98/ORD/1 Dt. 28.03.2002 (Applicability of CVC's Instruction on post-tender negotiations)	25
08.	98/ORD/1 Dt. 05.04.2002 (Use of Web site for tender document publication)	26
09.	98/ORD/1 Dt. 29.04.2002 (Applicability of CVC's Instruction on post-tender negotiations)	27
10.	12-02-1-CTE-6 Dt. 17.12.02 (Prequalification criteria)	28-30
11.	12-02-1-CTE/-6 Dt. 07.01.03 (Consideration of India agents.)	31
12.	98/ORD/1 (Pt. IV) Dt. 12.03.03 (Use of Web site in Govt Procurement or tender process)	32

13.	98/ORD/1 Dt. 05.05.03 (Purchase of computer system by Govt. Deptt/organization)	33
14.	Office order no. 33/7/03 Dt. 09.07.03 (Shortcoming in bid documents)	34
15.	71/03/VIG VI Dt. 29.07.03(Procurement of critical items through more than one sources-PTE)	35
16.	Office order no.44/9/03 Dt. 04.09.03 (Irregularities in award of contracts)	36
17.	2EE-1-CTE-3 Dt. 15.10.03 (Tender sample clause)	37
18.	06-03-02-CTE-34 Dt. 20.10.03 (Back to Back tie up by PSUs)	38-39
19.	98/ORD/1 Dt. 18.12.03 (Increasing transparency in procurement /Sale)	40-41
20.	OM no. 8/2/04 Dt. 05.02.04 (Common irregularities in award of Contracts)	42-43
21.	Office order no. 9/2/04 Dt. 09.02.04 (Common irregularities in award of Contracts)	44
22.	Office order no.10/2/04 Dt. 11.02.04 (Increasing transparency in procurement/tender process-use of web site)	45
23.	Office order no. 25/04/04 Dt. 21.04.04 (Consideration of India agents.)	46
24.	05-04-1-CTE-3 Dt. 08.06.04 (Receipt and opening of tender)	47
25.	Office order no. 43/7/04 Dt. 02.07.04 (Increasing transparency in procurement/Sale - use of web site)	48-51
26.	Office order no.72/12/04 Dt. 10.12.04(Transparency in tendering system)	52
27.	Office order no.75/12/04 Dt. 24.12.04 (Participation of consultants' in tender)	53-54
28.	Office order no.13/3/05 Dt. 16.03.05(Details on award of Tender/Contract publishing on Website/bulletins)	55-56
29.	Office order no. 18/3/05 Dt. 24.03.05 (Banning of Business with firms/Contractors)	57
30.	Office order no.15/3/05 Dt. 24.03.05 (Notice inviting tenders)	58
31.	Office order no.46/7/05 Dt. 28.07.05(Details on award of Tender/Contract publishing on Website/Bulletin)	59
32.	Office order no.67/10/05 dt.13.10.05 (Festival gifts)	60
33.	Office order no.68/10/05 Dt. 25.10.05 (Negotiation with L-1)	61
34.	Office order no.71/12/05 Dt. 09.12.05 (Undertaking by the members of tender committee/agencies)	62
35.	Circular no.4/3/07 Dt.03.03.07 (Tendering process-negotiations with L-1)	63-64
36.	Circular no.14/4/07 Dt. 30.04.07 (Use of products with	65

	standard specifications)	
37.	Circular no.23/7/07 Dt. 05.07.07 (Transparency in works/ Purchase)	66-67
38.	Circular no.17/4/08 dt.01.05.08 (Rotation of officials)	68
39.	Circular no.31/11/08 Dt. 06.11.08(Time bound processing of procurement)	69
40.	Circular no.17/7/09 Dt. 14.07.09 (Posting of details on award of tenders/ contracts on websites)	70-71
41.	Circular no.01/01/10 Dt. 20.01.10 (Tendering process- Negotiations with L-1)	72
42.	Circular no.21/05/06 Dt. 01.05.06 (Examination of Public Procurement contracts by CVO)	73-75
43.	Circular no. 15/5/06 Dt. 09.05.06 (Transparency in works/purchase/consultancy contracts awarded on nomination basis)	76
44.	Circular no. 31/9/06 Dt. 01.09.06 (Posting of details on award of tenders/contracts on websites/bulletins.)	77
45.	Circular no. 01/01/08 Dated 31.12.2007(Acceptance of Bank Guarantees)	78-79
46	Office order no .43/12/07 Dated 4.12.2007(Adoption of Integrity Pact in major Government Procurement Activities – regarding.)	80-81
47.	Office order no. 43/12/07 Dated 28.12.2007 (Adoption of Integrity Pact in major Government Procurement Activities – regarding.)	82
48.	Circular no . 14/4/07 Date26.04.2007 (Use of Products with standard specification)	83
B.	Internal Circulars	
(i)	Internal circulars-Civil Department	85-89
(ii)	Internal circulars-CMC Department	91-98
(iii)	Internal circulars-E&M Department	99-114
(iv)	Internal circulars-Finance Department	115
(v)	Internal circulars-Personnel Department	117-118
(vi)	Internal circulars- Purchase Department	119-124
(vii)	Internal circulars-Sales Department	125-136
(viii)	Internal circulars- Miscellaneous	137-139
C.	Case Studies	141-155

CVC CIRCULARS/
GUIDELINES

e-Procurement / Reverse
auction
e-Payment /
e-receipt/Payment/
Mobilization advance

"When plunder becomes a way of life for a group of men living together in society, they create for themselves in the course of time a legal system that authorizes it and a moral code that glorifies it."

- Frederic Bastiat

No.98/ORD/1
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 11th 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/organizations asking for a uniform policy in this matter. The departments/organizations 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

Satarkta Bhawan , Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 8th 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. Organizations 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 put down on delays in making payments. One such step is restoring 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 corporate 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. Organizations. As the e-payment facility is already available in the metros as well as practically in all the main urban centers 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 an 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 organizations routinely make shall be made through electronic payment mechanism at all centers where such facilities are available in the banks.
2. Salary and other payments to the employees of the concerned organizations at such centers shall also be made through electronic clearing system (ECS whether such facilities exist).

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

It is expected that in three months i.e. by 1st July 2004, 50% of the payment transactions 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 centers where such facilities exist shall be made by 31st Dec 2004.

These instructions are applicable to all the metro cities and other urban centres where links 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 reconciliation of accounts.

Sd/-
(ANJANA DUBE)
DEPUTY SECRETARY

The Secretaries of All Ministries / Departments of Government of India.

The Chief Secretaries to all Union Territories,

The comptroller & Auditor General of India.

The Chairman, Union Public Service Commission.

The Chief Executives of all PSEs/Public Sector Banks/Insurance Companies/Autonomous Organizations'/Societies.

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, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
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. dtd 8.12.1997 for grant of interest bearing 'Mobilizations 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. 8.12.997.

- 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 CVO:Ministries/Departments/PSUs/Banks/UTs

No.98/ORD/1
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 20th October 2004

OFFICE ORDER NO.68/10/04

Sub: Leveraging Technology – e-payment & e-receipt.

Reference is invited to the Commission's Office Order No.20/4/004 dated 6.4.2004 regarding the above mentioned subject.

1. 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 organizations are yet to initiate the process in this regard. The organizations 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

Format

Leveraging Technology – e-payments & e-receipts

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

- 1) Total No. of employees –
- 2) No. of employees whose Bank A/c details including MICR have ben received-
- 3) % in terms of numbers of employees to whom salary & other dues are being paid through e-payments –
- 4) **Details regarding payments of dues to contractors/suppliers etc.**
 - (1) Number of contractors/suppliers/agents/assesses etc. dealt with regularly during the period July 2004 – September 2004.
 - (2) Number of contractors/suppliers/agents/assesses etc. whose bank account details including MICR have been received.
 - (3) Total payments made to all contractors/suppliers/assesses/CHAs 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.

(B) E-receipts

Separate details as per (1) – (7) above may also be provided in respect of e-receipts by organizations getting regular payments in terms of license fee/income tax receipts/custom duty/sales tax/property tax/freight charges/consultancy fees etc. (The organizations can give the type of payments received).

No.005/ORD/1
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 10th March 2005.

OFFICE ORDER NO.11/03/05

To

All the Chief Vigilance Officers

Sub: Delays in Payments to Contractors & Suppliers etc. – Reducing opportunities for corruption reg.

The Commission has observed that in a large number of Government organizations 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 computerized there may be practical difficulties in conducting such a review for all the bills. The organisation may fix a cut off limit for review. It is suggested that 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 organizations 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 Organization :
2. Cut off limit : Rs.1 lakh/others (in respect of small organs.)
3. Bills received during Sept; 04-Feb, 05:
(from contactors/suppliers etc.) :
Total no. of Bills :

- | | |
|---|---|
| Total amount involved | : |
| 4. Out of these | : |
| a) Bills paid in 15 days | : |
| No. of bills | : |
| Amount involved | : |
| b) Bills paid in 15-30 days | : |
| No. of bills | : |
| Amount involved | : |
| c) Bills paid in 30-60 days | : |
| No. of bills | : |
| Amount involved | : |
| d) Bills paid from 60 days to 120 days: | |
| No. of bills | : |
| Amount involved | : |
| e) Bills paid over 120 days | : |
| No. of bills | : |
| Amount involved | : |
5. There are also complaints that most of the organizations take inordinately long time in releasing 5% bills amount which is normally retained as performance guarantee after it becomes due. CVO may do a similar exercise with regard to release of this payment.
5. 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

Telegraphic Address:
"SATARKTA" New Delhi
E-mail Address:
Website

www.cvc.nic.in

EPABX

Fax:24616286

No.009/VGL/002
GOVERNMENT OF INDIA
CENTRAL VIGILANCE COMMISSION

Starkta Bhawan, G.P.O. Complex
Block A, INA, New Delhi 110 023
Dated 17th September, 2009

Circular No.29/9/09

Subject: Implementation of e-tendering solutions.

Guidelines were prescribed in this OM of even number dated 13.01.2009, on the above cited subject, advising organizations to follow a fair, transparent and open tendering procedure, to select the application service provider for implementing their e-tendering solutions.

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

Sd/-
(V. Ramchandran) Chief
Technical Examiner

To

All CVOs of Ministries/Departments /PSUs/Banks/Insurance Companies/Autonomous Organizations/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:**

<u>Issues</u>	<u>Best Practices to achieve security considerations</u>
Perimeter Defence	Deployment of routers, Firewalls, IPS/IDS, Remote Access and network segmentation.
Authentication	Network authentication through deployment of password policy for accessing the network resources. To minimize unauthorized access to the e-procurement system at system level.
Monitoring	Deployment of logging at OS/network level and monitoring the same.
Secure configuration of 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.

<u>Issues</u>	<u>Best Practices to achieve security considerations</u>
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 as 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 users supplied fields should be validated at the serve site.</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 resource.</p> <p>When writing log data, the application should avoid writing sensitive data to log files.</p>

2.3.2 Security during application deployment and use.

<u>Issues</u>	<u>Best Practices to achieve security considerations</u>
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 backup 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 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.

<u>Issues</u>	<u>Best Practices to achieve security considerations</u>
Encryption for data storage	<p>Sensitive data should be encrypted or hashed in the database and file system. The application should differentiate between data that is sensitive to disclosure and must be encrypted, data that is sensitive only to tampering and for which a keyed hash value (HMAC) must be generated, and data that can be irreversibly transformed (hashed) without loss of functionality (such as passwords). The application should store keys used for decryption separately from the encrypted data.</p> <p>Examples of widely accepted strong ciphers are 3DES, AES, RSA, RC4 and Blowfish. Use 128-bit keys (1024 bits for RSA) at a minimum.</p>
Data transfer security	<p>Sensitive data should be encrypted prior to transmission to other components. Verify that intermediate components that handle the data in clear-text form, prior to transmission or subsequent to receipt, do not present an undue threat to the data. The application should take advantage of authentication features available within the transport security mechanism.</p> <p>Specially, encryption methodology like SSL must be deployed while communicating with the payment gateway over public network.</p>
Access control.	<p>Applications should enforce an authorization mechanism that provides access to sensitive data and functionality only to suitably permitted users or clients.</p> <p>Role-based access controls should be enforced at the database level as well as at the application interface. This will protect the database in the event that the client application is exploited.</p> <p>Authorization checks should require prior successful authentication to have occurred.</p> <p>All attempts to obtain access, without proper authorization should be logged.</p> <p>Conduct regular testing of key applications that process sensitive data and of the interfaces available to users from the Internet Include both “black box” informed” testing against the application. Determine if users can gain access to data from other accounts.</p>

3.0 Some of the other good practices for implementers of e-procurements 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/ Organizations reduces the threat to security of data. With a centralized implementation, where in the procurement data is preferably hosted and maintained by the State /

Department / Organizations itself; concerns of security and ownership of data are well addressed. A common platform further facilitates demand aggregation of common items across State / Department / Organizations, and result in economies of scale.

3.2 Public key Infrastructure (PK) Implementation

This is 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.4CC-1-CTE-2
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 10th April 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 mobilization advance; interest to be charged, if any; its recovery schedule and any other relevant detail should be explicitly stipulated in the tendered documents 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 installments and subsequent instalments should be released after getting satisfactory utilization certificate from the contractor for the earlier instalment.

Sd/-
(P. VARMA)
Chief Technical Examiner

Copy to :-

All CVO' s : Ministries/ Departments/PSU's/ Banks/Uts.

NIT / Tendering /
Negotiations / Purchase /
Contracts / Banning of
Business/Miscellaneous

"A nation can survive its fools, and even the ambitious. But it cannot survive treason from within. An enemy at the gates is less formidable, for he is known and he carries his banners openly. But the traitor moves among those within the gate freely, his sly whispers rustling through all the alleys, heard in the very halls of government itself. For the traitor appears not traitor, he speaks in the accents familiar to his victims, and he wears their face and their garments, and he appeals to the baseness that lies deep in the hearts of all men. He rots the soul of a nation, he works secretly and unknown in the night to undermine the pillars of a city, he infects the body politic so that it can no longer resist. A murderer is less to be feared."

- Cicero, 42 B.C.

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/Depts 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 generalized specifications for personal computers have been finalized 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

No.98/ORD/1
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 15th March, 1999.

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 PSUs/Banks/ Organizations
- 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

Subject: Improving vigilance administration - Tenders.

Sir,

Please refer to CVC's instructions issued under letter No.8(1)(h)/98(1) dated 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 organizations 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.3(V)/99/9
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 1st 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 organizations 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/organizations 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 instructing of the CVC will be binding on purchases/sales made by the departments within the Country. The CVC's instruction of 18/11/98 will apply even if they are made with sources outside the Country and if they are within the budget provisions and normal operations of the Department/Organisation.
3. All CVOs may ensure strict compliance of this instruction.
4. This instruction is also available on CVC's Website at <http://cvc.nic.in>

Sd/-
(N. VITTAL)
CENTRAL VIGILANCE COMMISSIONER

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

IMMEDIATE

No.98/ORD/1
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 24th 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 from 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 involved itself in the decision making process of individual organisations. It, however, would expects the organizations 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

No.98/ORD/1
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 3rd 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 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. 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

No.001/VGL/21
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 28th March, 2002.

To

All Chief Vigilance Officers

Subject: Missing files in vigilance cases - regarding.

Dear Sir,

It has come to the notice of the Commission that many a time, sensitive files or basic files needed for conducting disciplinary inquiry are found to be missing. This is more likely to be a problem in PSEs some departments have a regular system of the maintaining and tracing files. This could be used as an excuse to deny access to files required for investigation and enquiry, leading to distortions. Despite this, the focus being on the proceedings itself, ability for the cause of their distortions is never pinpointed.

2. It has therefore been decided that officer responsible for custody of files needs to be held accountable for missing files. Therefore, all CVOs are advised to take up for consideration initiation of disciplinary proceedings against the custodians who report that files required in vigilance enquiries are missing.

This issues with the approval of the Commission.

Yours faithfully,

Sd/-
(C.J. Mathew)
Deputy Secretary

No.98/ORD/1
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 28th March, 2002.

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: Applicability of CVCs instruction No.8(1)(h)/98 (1) dated 18.11.98 on post order negotiations.

During the review meeting of the CVOs in Mumbai on 18.01.2002 one of the issue raised the applicability of the CVC guidelines banning post tender negotiation except with L-1 to such projects as are funded by sources other than the consolidated Fund of Government of India.

2. It has been decided after due consideration that in so far as funding from sources other than consolidated Fund of Government of India, the Commission's instruction dated 18.11.1998 is not applicable.

All concerned may ensure strict compliance of this instruction.

Yours faithfully,

Sd/-
(C.J. Mathew)
Deputy Secretary

N. Vittal

98/ORD/1

**GOVERNMENT OF INDIA CENTRAL
VIGILANCE COMMISSIONER CENTRAL
VIGILANCE COMMISSION SATARKTA
BHAWAN,
GENERAL POOL OFFICE COMPLEX,
BLCOK-A, INA,
NEW DELHI – 110 023**

Dated 5th April, 2002.

Dear Shri Bhoopathy,

Subject: - use of web site for tender document publication.

As a method of improving e-government and bringing greater transparency in administration, the CVC has decided that if a government organisation which goes for procurement has website and publishes the tender documents and other details in the website, it would be deemed to have complied with the requirements for giving wide publicity through the media, especially newspapers.

In vigilance cases relating to such departments if the web site has been used for publicizing the tender documents, the CVC would consider that the rules regarding publicity in the media have been complied with.

As it is necessary to give a boost to the e-governance and use of information technology in government, I shall be grateful if you could also consider amending the relevant rules regarding procurement in your organisation so that publicity through the web site becomes more a norm than an exception.

As it is necessary to give a boost to the e-governance and use of information technology in government, I shall be grateful if you could also consider amending the relevant rules regarding procurement in your organisation so that publicity through the web site becomes more a norm than an exception.

I shall be grateful to know the action taken.

With regards,

Yours sincerely,

Sd/-
(N. Vittal)

Shri P.V. Bhoopathy
Chairman & Managing Director (Actg.)
Neyveli Lignite Corpon. Ltd.
PO : Neyveli
Guddalore Dist,
Tamil Nadu - 607 801.

No.98/ORD/1
Central Vigilance Commission

Satarkta Bhawan, Block- 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 29th April, 2002

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
- viii) President's Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO

Subject: Applicability of CVCs instruction No.8(1)(h)/98(1) dated 18.11.98 on post tender negotiation.

Sir,

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.

Yours faithfully,

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

No.12-02-1-CTE-6
Central Vigilance Commission
(CTE'S Organisation)

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 17th December, 2002.

OFFICE MEMORANDUM

Subject: Prequalification criteria (PQ).

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

2. The prequalification criteria is a yard stick 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 these 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 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 in criteria for financial annual turnover of Rs.100 crores, although the value of purchase was less than Rs.10 crores, resulting in disqualification of reputed computer firms.
 - iii) In one case of purchase of Computer hardware, the prequalification criteria stipulated was that the firms should have made profit in the last two years and should possess ISO Certification. It resulted in disqualification of reputed vendors including a PSU.

- iv) In a work for supply and installation of AC Plant, reentering was resorted to with diluted prequalification criteria without adequate justification, to favour selection of a particular firm.
 - v) An organisation invited tenders for hiring DG Sets with eligibility of having 3 years experience in supplying DG 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 AC ducting and the work of installation of false ceiling were combined together. Such works are normally not executed together as AC ducting work is normally executed as a part of AC 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 AC Contractors without having any experience of false ceiling work although the major portion of the work constituted false ceiling.
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 include the scope and nature of work, experience of firms in the same field and financial soundness of firms.
5. The following points must be kept in view while fixing the eligibility criteria:-

A) For Civil/Electrical Works

- i) Average Annual financial turnover during the last 3 years, ending 31st March of the previous financial year should be at least 30% of the estimated cost.
- ii) Experience of having successfully completed similar works during last 7 years ending last day of month previous to the one in which applications are invited should be either of the following.

Three similar completed works costing not less than the amount equal to 40% of the estimated cost.

Or

Two similar completed works costing not less than the amount equal to 50% of the estimated cost.

Or

One similar completed works 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/Purchased 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 & Lost 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 unrelated to its capability and resources to successfully perform the contract.

6. It is suggested that these instructions may be circulated amongst the concerned officials of your organization for guidance in fixing prequalification criteria.

These instructions are also available on CVC's website,
<http://cvc.nic.in>.

Sd/- (MP
Juneja)
Chief Technical Examiner

To

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

No.12-02-6-CTE/SPI (I)-2
Government of India Central
Vigilance Commission (CTE'S
Organisation)

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 7th January, 2003.

OFFICE MEMORANDUM

Subject: Consideration of Indian Agents.

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

2. The issue has been deliberated in the commission. In order to maintain sanctity of the tender system, it is advised that one Agent cannot represent two suppliers or quote on their behalf in a particular tender.
3. It is suggested that these instructions may be circulated amongst the concerned officials of your organisation for guidance.

Sd/- (NIRANJAN
SINGH) UNDER
SECRETARY

To

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

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 28.3.2002 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 centralized 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-site.

Yours faithfully,

Sd/-
(Mange Lal)
DEPUTY SECRETARY
T. 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 5th 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.98/ORD/1
Government of India Central
Vigilance Commission (CTE'S
Organisation)

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 9th 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 documents 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 organisations 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

Confidential

No.71/03-Vig.VI
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 29th July, 2003.

OFFICE MEMORANDUM

Subject: Procurement of Critical Items through more than one source - PTE - reg.

NLC may please refer to their letter No.CGM/MM/I&C/0111/2003 dated 26.06.03 on the above cited subject.

2. In this connection, kind attention is invited to Commission's letter No.98/ORD/1 dated 23.06.03 addressed to ONGC (copy enclosed).

Encl : as the above

Yours faithfully,

Sd/- (PN Pillai)
Deputy Secretary

Neyveli Lignite Corporation Ltd.,
(Shri R. Srinivasan-DGM Vig)
J-26, J.N. Salai, IBlock-8,
Neyveli - 607 801.
TAMIL NADU.

No.98/ORD/1
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated 4.9. 2003.

Office Order No.44/9/03

To

All Chief Vigilance Officers

Subject: 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 follow two bid system, i.e. technical bid and price bid. The price bid should be opened only of those vendors who were technically qualified by the departments/organisations. The commission would therefore advice that the department/organisation may issue necessary guideline in this regard for future tenders.
3. It has also observed 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.2EE-1-CTE-3
Government of India
Central Vigilance Commission
(CTE's Organisation)

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated - 15.10. 2003.

OFFICE MEMORANDUM

Subject: Tender Sample Clause.

The commission has received complaints that some organisations, while procuring clotting 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/Organisations 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 Organisations / Societies/ UTs.

No.06-03-02-CTE-34
Government of India Central
Vigilance Commission (CTE's
Organisation)

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated - 20.10. 2003.

OFFICE MEMORANDUM

Subject: 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 finalized 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 finalized 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.98/ORD/1
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 18th 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 completion.

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 along with application form shall be published on the web site of the organisation. It shall be ensured by the concerned organisation that the parties making use of this facility of web site are not asked to again obtain some other related documents from the department manually for purpose of participating in the tender process i.e. all documents upto date should remain available and shall be equally legally valid for participation in the tender process as manual documents obtained from the department through manual, process.
 - ii) The complete application form should be available on the web site for purposes of downloading and application made on such a form shall be considered valid for participating in the tender process.
 - iii) The concerned organisation must give its web site address in the advertisement/NIT published in the newspapers.
 - iv) If the concerned organisation 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 organisations 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 1st January, 2004 for all such organisations whose web-site are already functional. All other organisations must ensure that this facility is provided before 1st 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.OFF-1-CTE-1
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated 5.02. 2004.

OFFICE MEMORANDUM-8/2/04

Subject: Common irregularities in the award of contracts.

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

Appointments of consultants continue to be done in an arbitrary manner. At times two or even three consultants are appointed for a work with no clear cut and some times overlapping responsibilities. A PSU, in a recent case, in addition to the engineering and project management consultants appointed an inspection and expediting consultant with no well defined role for them.

The tendency of over dependence on the consultants continues. All activities are left completely to the consultants. In a recent inspection of an Oil PSU, the tenders for a big work of about Rs.20 cores were issued on the basis of a single page estimate submitted by the consultants and the same was revised by the latter upwards by 20% after opening of price bids, in order justify the quoted rates. A detailed and realistic estimate must be prepared before issue of tender.

Some organisations prefer limited tendering system, restricting competition to their approved contractors. The selection of these contractors at times is arbitrary and due of lack of competition or cartel formation amongst such group of contractors, the contracts are awarded at high rates. These needs to be discouraged and the organizations must ensure that contracts are awarded on the basis of competitive bidding at reasonable rates.

The works are awarded without preparing any market rate justification. The comparison at times is made with works which were awarded few years back. This procedure cannot be considered objective and appropriate for justifying the awarded rates. The justification should be based on realistic prevailing rates.

In a recent inspection of oil PSU, it was noticed that revised price bids were asked from all the bidders, as rates were high vis-à-vis the estimate. This tantamounts to negotiations with firms other than L-1 and is a clear violation of CVC instruction in this regard. The negotiations should be an exception rather than a rule and should be conducted if required, only with the L-1 bidder.

The organisations generally make provisions for a very small amount of say Rs.50000/- or Rs.1 lacs earnest money. This amount is grossly insufficient to safeguard the organization's interest in high rate tenders running into several crores of rupees. This needs to be revised to a sufficient amount.

The post award amendments issued by the organisations, at times recommended by consultants, without into account the financial implications favour the contractors. Such post award deviations without financial adjustment are unwarranted and against the principles of competitive tendering.

The tender documents and the agreement are maintained in loose condition, are not page numbered and not signed by both the parties. This is highly objectionable. In order to ensure that the agreements are enforceable in court of law, it is imperative that the agreements are well bound, page numbered, signed by both the parties and well secured. This shall also prevent any possibility of interpolation and tampering of documents.

Loose & incomplete implementation of contract clauses pertaining to insurance, Workmen's Compensation Act, ESIC, Labour Licenses etc., has been noticed, which give undue financial benefit to the contractors.

Time is the essence of any contract. It has been observed that at times the work is extended and even payments released without a valid extension to the agreement. This has legal implications and in case of disputes, may jeopardize the interest of the organisation. Timely extension to the contracts and BGs of any must be ensured.

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

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

To
All CVOs of Ministries/ Departments/ PSUs/ Banks/ Insurance Cos./ 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 9th 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 18th December 2003 wherein detailed instructions are issued regarding the use of website for tendering process. The objective is to improve vigilance administration by increasing transparency. The instructions were to take effect from 1st January 2004. It is noticed that many organisations whose web-sites are functional are still not putting their tenders on the web-site. The Commission has desired that CVOs should ensure compliance of the above directive. They should regularly pursue the Newspaper advertisements, the web-site of their organisation and in general keep track to ensure that the directives of the Commission on this subject are complied with. Further, the Commission has desired that the CVOs should indicate in their monthly report in the column pertaining to tender notices whether all the tenders have been put on the web-site, and if not, the reasons for non-compliance. The explanation of the concerned officers who are not complying with these directions should be called and further necessary action taken.

Sd/- (Balwinder
Singh) Additional
Secretary

No.98/ORD/1
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 11th February, 2004.

OFFICE ORDER NO. - 10/2/04

To

All Chief Vigilance Officers

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

In CPWD, MCD, Civil Construction Division of Post & Telecom departments and in many other departments/organisations, there is system of short term tenders (by whatever name it is called in different organisations), 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 departments 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 organisations 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 organisations over which the Commission has jurisdiction.

Sd/- (Balwinder
Singh) Additional
Secretary

No.12-02-6-CTE-SPI(I)-2
Government of India Central
Vigilance Commission (CTE's
Organisation)

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 21st 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 represent another foreign company. There is a possibility of cartelization in such cases and thus award of contract at higher prices.

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

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.05-04-1-CTE-8
Government of India Central
Vigilance Commission (CTE's
Organisation)

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated 8.6.2004

OFFICE MEMORANDUM

Subject: 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 at least 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

To

All CVOs: Ministries/ Departments/ PSUs/ Banks/ UTs.

No.98/ORD/1
CENTRAL VIGILANCE COMMISSION

Satarkta Bhavan, Block 'A'
G.P.O. Complex, INA,
New Delhi – 110 023
Dated the 2nd 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 18th December 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 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 manual typewriters. There is no significantly 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 instructions do not apply to proprietary items and items which necessarily need to be procured through OEMs and OESs.

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

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

Regarding applicability of these instructions to limited tenders where the number of suppliers/contractors is known to be small and as per the laid down norms limited tender system is to be resorted to through a system of approved/registered vendors/contractors, the clarifications are 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 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 at least once in a year for upgrading the list of registered vendors/contractors.

The concerned organization 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. But it should be ensured that password access is given to all the registered contractors/suppliers and not denied to any of the registered suppliers. Any denial of password to a registered

supplier/contractor will lead to presumption of malafide intention on the part of the tendering authority.

**Sd/- (Balwinder
Singh) Addl.
Secretary**

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 Organizations/Societies.
- (vii) The Chief Vigilance Officers in the Ministries/Departments/PSEs/Public Sector Banks/Insurance Companies/Autonomous Organizations/Societies.
- (viii) President's Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO

CENTRAL VIGILANCE COMMISSION

Technical note from National Informatics Center

Solution for Hosting of Signed Documents

1. Integrity of Document:

The documents should be digitally signed by the person submitting them. The web server to which the documents are submitted for hosting, should verify the signature before hosting each.

2. Secure Hosting:

‘HTTPS’ should be used for both uploading and downloading of documents to avoid alteration of documents over the network.

3. Digital Signing and submission:

The documents submitted for hosting may be in PDF or MS-WORD FORMAT

The document is digitally signed at the document submission end by a digital signing tool and by using a private key stored in a smart card. The detached (PKCS#7) signature file is generated.

The document and the signature are uploaded to the server. The uploading procedure may be automated through a program. This involves development effort.

The web server can verify the digital signatures programmatically when the files are uploaded.

The files and their verified signatures are hosted for downloading by end users.

This procedure will ensure that the signer is confident of what he/she is signing.

The person involved in web hosting is sure that the documents are properly signed.

The end users benefit that the document they are downloading is authentic and that the integrity of the documents is maintained.

4. Download procedure:

- a. The user verifies the digital signature of the document on the web site.
- b. User downloads both the documents and the signature.
- c. User can verify the signature of the documents by using any standards Compliant Document Signing Tool which can verify a PKCS#7 detached signature.

5. Certificate for Digital Signature:

- a. The signature should be generated using a certificate issued by a Certification Authority (CA) trusted under Controller of Certifying Authorities (CCA). This is mandatory for legal validity of the digital signature.
- b. The end user should ensure that the certificate used for signing the document is issued by a trusted CA.

No.004/ORD/9
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 10th 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 short listing of the qualifying firms must be completed prior to seeking the revised price bids. Moreover, the intimation of rejection to the firms whose bids have been evaluated but found not to meet the qualification criteria, along with the return of the unopened 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

No.98/DSP/3
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 24th December, 2004.

Office Order No.75/12/04

Subject: Participation of consultants in tender - Guidelines regarding.

Consultants are appointed by the organisation for preparation of project report. These appointments are made for any new projects, expansions, modernization/modification of the existing projects etc. The election 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, where 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 estimates 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 thereof 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

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 16th March, 2005.

Office Order No.13/3/05

Subject: Details on award of tenders/contracts publishing on Websites/Bulletins.

The Commissions 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 organization'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 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 n the following:
 - a) actual date of start of work
 - b) actual date of completion
 - c) reasons for delay if any

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

Sd/-
(Anjana Dube)
Deputy Secretary

All Chief Vigilance Officers

[illegible]

No.000/VGL/161
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 24th March, 2005.

Office Order No.18/3/05

Subject: 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 whenever 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.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 24th 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 circumstances 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

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

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 28th July, 2005.

Office Order No.46/7/05

**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.

Sd/-
(Anjana Dube)
Deputy Secretary

To

All Chief Vigilance Officers

No.005/MSC/25
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 13th October, 2005

OFFICE ORDER NO.67/10/05

Subject: Festival gifts to Government servants by PSU's etc.

Please refer to the Commission's letter No.002/MSC/70 (Office Order No.40/8/2003) dated 27th August, 2003 and 004/MSC/32 (Office Order No.60/9/04) dated 22nd September, 2004 on the subject cited above.

2. The Commission once again reiterates its instructions issued vide the aforesaid office orders and emphasizes that the practice by PSUs etc. of sending gifts to Government servants on the occasion of festival and new year be discouraged. All CVOs are requested to bring this to the notice of all concerned. They should furnish report on the expenditure incurred by them on festival gifts during this year in their Monthly and Annual reports to the Commission.

Sd/- (Anjana

Dube)
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 25.10.2005

Office Order No.68/10/05

Subject: Tendering process - Negotiation with L-1.

A workshop was organized on 27th July 2005 at SCOPE New Delhi, by the Central Vigilance Commission, to discuss issues relating to tendering process including negotiation with L-1. Following the deliberations in the above mentioned Workshop, 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 tender should not exceed one month from the date of submission of recommendations. In case the file has to be approved at the next higher level a maximum of 15 days may be added for clearance at each level. The overall-time frame should be within the validity period of the tender/contract.**
 3. In case of L-1 backing out there should be re-tendering as per extant instructions.
 4. The above instructions may be circulated to all concerned for compliance.

Sd/-
(Anjana Dube)
Deputy Secretary

All Chief Vigilance Officers

No.005/VGL/66
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated 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 given 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.005/CRD/012
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 3rd March, 2007

Circular No.4/3/07

Subject: 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 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 within 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 finalized within their validity period.

- (iv) As regards the splitting of quantities, some organisations have expressed apprehension that pre-disclosing the distribution of quantities in the bid document may not be feasible, as the capacity of the L-1 firm may not be known in advance. It may be stated that if, after due processing, it is discovered that the quantity to be ordered is far more than what L-1 alone is capable of supplying and there was no prior decision to split the quantities, then the quantity being finally ordered should be distributed among the other bidders in a manner that is fair, transparent and equitable. It is essentially in cases where the organisations decide in advance to have more than one source of supply (due to critical or vital nature of the item) that the Commission insists on pre-disclosing the ratio of splitting the supply in the tender itself. This must be followed scrupulously.
 - (v) Counter-offers to L-1, in order to arrive at an acceptable price, shall amount to negotiations. However, any counter-offer thereafter to L-2, L-3, etc., (at the rates accepted by L-1) in case of splitting of quantities, as pre-disclosed in the tender, shall not be deemed to be a negotiation.
- 2. It is reiterated that in case L-1 backs out, there should be a re-tender.
 - 3. These instructions issue with the approval of the Commission and may please be noted for immediate compliance.

Sd/-
(Vineeta Mathur)
Deputy Secretary

All Chief Vigilance Officers

No.98-VGL-25
Government of India
Central Vigilance Commission
(CTEO)

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 30th April, 2007

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 organisation 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.

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

Sd/-
(Smt Padmaja Varma)
Chief Technical Examiner

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

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

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 5th July, 2007

Circular No23/7/07

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 organisations, indicates that several of them believe that mere post-facto approval of the Board is sufficient to award 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 requirement 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 judgment 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 contract 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 judgment is available on web-site of the Hon'ble Supreme Court of India, i.e. www.supremecourtindia.nic.in)

5. The Commission advises all CVOs to formally apprise their respective Boards/managements of the above observations as well as the full judgment 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.

Sd/- (Rajiv
Verma)
Under Secretary

To
All Chief Vigilance Officers

No.004/VGL/90
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 1st 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/Organizations 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 30th June 2008.

Sd/- (Rajiv

Verma)
Deputy Secretary

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 6th 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 over runs 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 organisations concerned to fix a reasonable time for the bids to remain valid while issuing tender enquiries keeping in view the complexity of the tender, time required for processing the tender and seeking the approval of the Competent Authority, etc and to ensure the finalization of tender within the stipulated original validity. Any delay, which is not due to unforeseen circumstances, should be viewed seriously and prompt action should be initiated against those found responsible for non-performance.
3. Cases requiring extension of validity should be rare. And in the exceptional situations where the validity period is sought to be extended, it should be imperative to bring on record in real time, **valid and logical grounds**, justifying extension of the said validity.
4. These instructions may please be noted for immediate compliance.

Sd/- (Shalini
Darbar)
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 14th 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 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 at least 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.

Sd/- (Shalini
Darbari) Director

To

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

No.005/CRD/012
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi – 110 023
Dated the 20th 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 situation”. 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 materials by the Government or the Govt. company, the post tender negotiations are not to be held except with H1 (i.e. Highest tenderer) if required.

2. All other instructions as contained in the circular of 3.3.2007 remain unchanged.
3. These instructions issue with the approval of the Commission and may please be noted for immediate compliance.

Sd/-
(V. Ramchandran) Chief
Technical Examiner

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.

All Chief Vigilance Officers

Sd/-
(V.Kannan)
Director

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

A. 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.

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

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 9th 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 omission has been insisting upon transparency in the preparation of panel.

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

- (i) All works awarded on nomination basis should be brought to the notice of the Board of the respective PSUs for scrutiny and vetting post facto.
- (ii) The reports relating to such awards will be submitted to the Board every quarter.
- (iii) The audit committee may be required to check at least 10% of such cases.

3. This may be noted for strict compliance.

Sd/-
(V. Kannan)
Director

All Chief Vigilance Officers

Copy to:

- (i) All Secretaries of Govt. of India
- (ii) All CEOs/Head of the organisation

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

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 1st September, 2006

CVC 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.

Sd/-
(V.Kannan)
Director

- (i) All Secretaries / CEO's/ Head of organizations
- (ii) All Chief Vigilance Officers

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

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 31st December, 2007

OFFICE MEMORANDUM
CIRCULAR NO. 01/01/08

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 organization with a covering letter to compare with the original BGs and confirm that it is in order.
 - iv) As an additional measure of abundant precaution, all BGs should be independently verified by the organizations.
 - v) In the organization/unit, one officer should be specifically designated with responsibility for verification, timely renewal and timely encashment of BGs.
5. Keeping above in view, the organizations may frame their own detailed guidelines to ensure that BGs are genuine and encashable.
6. Receipt of the above guidelines should be acknowledged.

Sd/-

(Smt. 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- 110 023
Dated the 28th 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.007/VGL/033
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 4th December, 2007

Office Order No.43/12/07

**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 for the tender are some of the steps recently taken at the instance of the Commission in order to bring about greater transparency and competition in the procurement/award of tender.

2. In this context, Integrity Pact, a vigilance tool first promoted by the Transparency International, has been found to be useful. The Pact essentially envisages an agreement between the prospective vendors/bidders and the buyer committing the persons/officials of both the parties, not to exercise any corrupt influence on any aspect of the contract. Only those vendors/bidders who have entered into such an Integrity Pact with the buyer would be competent to participate in the bidding. In other words, entering into this Pact would be a preliminary qualification. The Integrity Pact in respect of a particular contract would be effective from the stage of invitation of bids till the complete execution of the contract.
3. The Integrity Pact envisages a panel of Independent External Monitors (IEMs) approved for the organization. The IEM is to review independently and objectively, whether and to what extent parties have complied with their obligations under the Pact. He has right of access to all project documentation. The Monitor may examine any complaint received by him and submit a report to the Chief Executive of the organization, at the earliest. He may also submit a report directly to the CVO and the Commission, in case of suspicion of serious irregularities attracting the provisions of the PC Act. However, even though a contract may be covered by an Integrity Pact, the Central Vigilance Commission may at its discretion, have any complaint received by it relating to such a contract, investigated.
4. The Commission would recommend the Integrity Pact concept and encourage its adoption and implementation in respect of all major procurements of the Govt. organizations. As it is necessary that the Monitors appointed should be of high integrity and reputation, it has been decided that the commission would approve the names of the persons to be included in the panel. The Government Organizations are, therefore, required to submit a panel of names of eminent persons of high integrity and repute and experience in the relevant field, through their administrative ministry, for consideration

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

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

Sd/-
(Vineet Mathur)
Deputy Secretary

All Secretaries to the Govt. Of India
All CMD'S of PSU's
All CMD's of PSB's
All CVO's

No.98-VGL-25
Government of India Central
Vigilance Commission
(CTEO)

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Date- 26.04.07

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.

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

To,

All CVO's of Ministries / Departments/ PSU's/ Banks/ insurance / Companies/ Autonomous Organisations/ Societies/ Uts.