

“Greater transparency is an unstoppable force. It is the product of growing demands from everybody with an interest in any corporation-its stake holder web-and of rapid technological change, above all the spread of the internet, that makes it far easier for firms to supply information and harder for them to keep secrets. Firms now know that their internal e-mails may one day become public knowledge, for instance, and many big companies must co-exist with independent websites where employees can meet anonymously to air their grievances. With greater transparency will come greater accountability and better corporate behaviour. Rather than engage in futile resistance to it, firms should actively embrace transparency and breathing the values and generally get in better shape.”

Don Tapscott, co-author of “The Naked Corporation”

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Prologue

It gives me immense pleasure to state that in an attempt to inculcate a spirit of Vigilance Awareness amongst the employees of NCL, a modest effort has been made by the Vigilance Deptt. of NCL to publish a magazine named “Vigilance Perspective”.

The magazine is intended to be quarterly in its periodicity.

The contents of this issue have been calibrated and fine-tuned to include topics that have direct nexus with the perceived need to promote vigilance awareness/consciousness amongst the employees of NCL. In this endeavor no attempt has been made to project the claim of originality in any manner.

CVC vide their instruction no.008/VGL/069 dt.7.10.08 had directed to use the Vigilance Awareness Week to publicise the protection informers resolution (Popularly known as Whistle Blower Resolution). Having regard to the instruction of CVC, a writeup on lodging complaint under PIDPI Resolution has been incorporated in this issue. Apart from Right to Information Act, and Prevention of Corruption Act, it contains chapters on leading vigilance case studies of NCL and system improvement circulars issued as a consequence of vigilance activities in NCL.

Handling of contracts and public procurement of goods and services are generally perceived to be corruption prone areas. Considering the requirement of making public procurement efficient, transparent & equitable important CVC guidelines on tendering procedures have been made a part of this publication.

Besides, the gist of CVC’s findings on irregularities found by them in handling of public procurement forms a chapter in this issue under the head “Checkpoints in handling contracts/supplies/purchase”. It is hoped that the checkpoints could be quite useful and handy for executives/employees in handling contracts/supplies/purchases.

The maiden attempt has been possible on account of the untiring efforts of and unceasing/relentless endeavor of the executives/non executive of Vigilance Deptt. of NCL. Especially, but for the diligence of Shri Ashok Kumar, Sr.PA, Ms Reeta Pandit, Sr.PA and Shri R.Swansi, Sr.PA, it would not have been possible on the part of the undersigned to bring this out.

(B.Pradhan)
Chief Vigilance Officer

Message by CVC regarding Vigilance Awareness Week

Vigilance Awareness Week would be observed in all Government organizations from 3rd. November to 7th. November 2008. It is the time of the year when we rededicate ourselves and renew our commitment to the cause of creating conditions to eliminate rent seeking behaviour and to ensure that public services are rendered with utmost honesty, sincerity and efficiency.

2. The Commission would like to see promotion of Preventive Vigilance Activities with emphasis on development of a foolproof system. A system that encourages strict adherence to the principles of non discretionary decision making on the basis of well defined rules would go a long way in obviating the need for disciplinary action well after the event is over. There cannot be a more apt description in this regard than the old adage: "Prevention is better than cure".
3. The role of the Secretaries to the Govt. of India and the CMDs of the PSUs and the Public Sector Banks, as heads of the vigilance administration, in this regard, hardly needs any emphasis. Vigilance is very much a management tool and, as such, should be used synergetically with the other tools to improve efficiency by promoting competitiveness, equity and transparency.
4. The fight against corruption is too serious a task to be left to the heads of vigilance in Govt. Organisations or the Commission alone. The civil society and citizens in general must play a far more effective and pro-active role in this fight. Of particular importance in this endeavour is the recourse to Public Interest Disclosure and Protection of Informers' (PIDPI) Resolution, 2004, under which the complainants can approach the Commission directly as "Whistle Blowers". The Commission remains committed to protecting the safety and identity of the Whistle Blowers and urges more such persons to come forward in order to expose corruption in public life, taking advantage of PIDPI Resolution, 2004.

(Sudhir Kumar)
Vigilance Commissioner

(Pratyush Sinha)
Central Vigilance Commission

(Ranjana Kumar)
Vigilance Commissioner

THE MALAISE OF CORRUPTION-IT'S DIAGNOSIS & PROGNOSIS

Gandhiji once remarked “*Nations are born of travails and suffering*”.The Independent India was born because of the dedication, suffering and sacrifice of our freedom fighters. Our freedom struggle is a testimony to the indomitable spirits of Indians to counter an oppressive regime and usher in anew era for us. Nehru’s “Tryst with destiny” speech set the tone for optimism for post- independence of India.

Though the nation has made giant leaps in it’s position in the comity of nations, yet crippling poverty of some, low per capita income & the standard of living of an average Indian as compared to the citizen of a developed nation remain as enduring features of Indian economy. A large chunk of Indians live under the poverty line. “Roti , kapda & makan” still remain a distant dream for toiling millions of Indians. It is a strange irony that India prides itself on having it’s presence in the Moon when quite a few Indians fail to make both ends meet. It is a story of contrasts-of successful Indians making a mark in all spheres of human activities in the international level when millions of Indians are unable to make two ends meet.

“**World Hunger Index**” of IFPRI, the “**human development index**” of UN, World Bank data on “**child malnutrition and maternal mortality rate**”, “**Corruption perception index**” of Transparency international, a survey of the center for media studies on “**petty bribes**”, “**index of economic freedom**” published annually by the heritage foundation and Wall Street Journal, the world bank annual series on “**Ease of Doing business**”, infraction of “**rule of law**” and “**difficulty in closing business**” do not show India in good light.

CORRUPTION-THE VILLIAN OF THE PIECE

Undoubtedly, Corruption is one of the predominant reasons for India’s backwardness in respect of some of the socio- economic indicators of development. The growth of economy is inversely related to the corruption index. To put it the other way, the GDP of a nation rises as the corruption index falls and vice-versa. The corrosive nature of corruption is indicated by the following negative impacts of corruption:

- It adversely affects the performance of the system as a whole and compromises the economy’s long term dynamics.
- It generates negative economy wide externalities that denigrates efficiency of the system.
- Corruption leads to the favoring of inefficient producers
- It distorts the allocation of scarce public resources and causes leakage of revenue from government coffers to private hands.

“Lives of great men all remind us,we can make our lives sublime,And, departing, leave behind us ,Footprints on the sands of time” -H.W.Longfellow

- It distorts the allocation of scarce public resources and causes leakage of revenue from government coffers to private hands.
- Large scale tax evasion erodes the tax base and in the process helps the generation of black money. Hence, it is not uncommon to find schools without students, teachers without schools, hospitals without doctors or medicines and so on ,though on paper all expenditures have been accounted for.
- Large scale tax evasion erodes the tax base and in the process helps the generation of black money.
- The result is crowding out of investment in priority sector such as education or health.
- Corruption in the economy leads to inflated government expenditures and scarce resources are squandered on uneconomic projects because of their potential to generate lucrative payoffs.

No wonder that corruption is anti-poor and anti-national. In the immortal words of Mahatma Gandhi, *“The progress of the nation will be hindered to the extent to which corruption seeps in”*

THE PERCEIVED NEED TO FIGHT CORRUPTION:

As Dr. Manmohan Singh, the PM of India has observed, *“Good governance rests on the honesty and integrity of civil servants and transparency of the administrative machinery.”* Because of the negative impact of corruption on public governance and its intrinsic nature to baulk at the developmental process, there is both real and perceived need to combat corruption.

HOW TO FIGHT AND DECIMATE CORRUPTION?

The pessimists would lament that corruption is an invincible hydra-headed monster, which Phoenix like, rises from the ashes of it’s own destruction. On the contrary, the perennial optimists harbour a contrarian viewpoint . Their self-belief to wrestle with the malady of corruption stems from their conviction that within each corrupt official inhabits an honest person with the vanity of an honest individual. Besides, they reckon with the fact that the vast majority bitterly resents corruption – they suffer in silence, sometimes in fear. Such resentments, if harnessed, would constitute a potent weapon against corruption.

Success they say is a self-fulfilling prophecy. In other words , if it is thought that corruption can be defeated, then it surely will be. However , if it is believed that corruption is intractable, then the pessimism will in all certainty fulfill itself.

“On this earth there is enough for everyone’s need , but not enough for their greed”-GANDHIJI

The fight against corruption can only be successful when public awareness is coupled with anti-corruption efforts. The primary objective of creating public awareness is to sensitize the public about the consequences of corruption and to educate the people about the improvements needed to create a corruption free society . As the current President of India, Mrs Pratibha Devsingh Patil has succinctly observed, “A corruption free society is only possible if basic tenets of righteousness are deeply ingrained in our hearts and minds.”

The CVC in their message on Vigilance awareness week have appropriately contended, “However, to fight the menace of corruption , collective and concentrated efforts are required in which the common man , who is the ultimate victim and beneficiary is an important partner. An evil like corruption can be eliminated only when the common man is empowered to become fully aware of his rights , feels the need and has the urge to stand up against corrupt public servants. The right to information Act, if used to the optimum and in a judicious manner, has the potential for such empowerment.”

When the common man becomes aware of his rights and duties, is familiar with rules, regulations ,laws,instructions etc he jettisons being the willing accomplice to corrupt practices. It needs an attitudinal change in him to non-co-operate with venal officials. Besides , a realization should dawn upon public officials that:

- They are the servants of the public and not their masters
- They should remind themselves that they should be so high that law is above them. In other words they should respect law and believe in rule of law.
- Their actions are subject to public and judicial scrutiny.
- They should be sensitive to the grievances of employees
- They should act reasonably, fairly and judiciously in exercise of discretion
- They must not do what they have been forbidden to do, nor must they do what they have not been authorized to do.
- They must act in good faith, must have regard to relevant considerations, must not be influenced by irrelevant considerations and must not seek to promote puposes alien to the letter and spirit of legislation.
- Their actions should be rational, legal and regular in nature.
- Law should not be administered with an “evil eye, unequal/oppressive mind and unequal hand”
- Hostile discrimination without intelligible differentia should be avoided at all cost.
- To avoid disproportionate administrative action.

Among a people generally corrupt, liberty cannot long exist.

Edmund Burke (1729-1797) British political writer

The vigilance awareness week provides an opportunity to rededicate ourselves to this mission and devise strategies in priority areas like system improvements and preventive vigilance. It also provides an opportunity to reach out to the stakeholders with an open mind and to invite suggestions to chalk out ways and means to deliver services in a transparent and efficient manner and to devise a methodology to eliminate corruption from public life.

The primary objective of the observance is to generate vigilance awareness amongst the stakeholders of NCL i.e., customers, employees, vendor partners etc. It was intended to sensitize the people about the need to wrestle with the dragon of corruption. It is possible to reduce corruption if only we convince ourselves that it can be done. The way out of corruption is to;

1. eliminate the corrupt practices in our official procedure.
2. combine- consider one integrated service counter instead of many
3. re-sequence which can improve efficiency and reduce corruption
4. substitute –offer the option to download routine forms from the web to finish off the nexus of the peddlers
5. modify procedures
6. We must all understand the evils of corruption and imbibe the culture of honesty, integrity, transparency and probity.

Russel said if you articulate a point of view often enough it acquires respectability. “Nothing is as powerful as an idea whose time has come- so let's open our minds to the idea that corruption can indeed be defeated.” De Tocqueville has said that the inevitable can become intolerable as soon as it is no longer perceived to be inevitable- so let's reject the inevitability of corruption and soon we may find it to be truly intolerable. Shaw –success comes to the unreasonable man who wants to change; so let's resolve to be unreasonable.

“Corruption is like a ball of snow, once it's set a rolling it must increase.” [Charles Caleb Colton](#) (1780-1832) *British clergyman, sportsman and author.*

“I have often noticed that a bribe has that effect -- it changes a relation. The man who offers a bribe gives away a little of his own importance; the bribe once accepted, he becomes the inferior, like a man who has paid for a woman.”

[Graham Greene](#) (1904-1991) *English writer.*

EVOLUTION OF THE CONCEPT OF VIGILANCE

By: B.Pradhan
Chief Vigilance Officer/NCL

Etymologically, VIGILANCE connotes watchfulness and the planned effort to uncover and punish corruption and bribery. But the concept of vigilance has undergone metamorphosis in the course of inexorable march of human history. The present concept of vigilance, however, is inextricably connected with its history. It can be understood properly only when it is read in conjunction with its history.

An man emerged stumbling and slouching from the jungles and put forward his tentative steps in the direction of a civilized existence, he has been seized of the problem of combating corruption both at the individual as well as the societal place. In other words, the problem of corruption is as old as the human race and mankind's war against corruption dates back to Adam's Original sin. Before human beings coalesced into society, the life of human beings was either "solitary, poor, nasty, brutish and short" or "one of noble savage". In either case, the yearning or search for an ordered, regulated, corruption-free and peaceful life has exercised the minds of thinkers, philosophers and social scientists. Concurrently, with the evolution human society, mankind has devised structures, systems, rules, regulations, legal framework and principles for regulating human behaviors so as to obviate the scope for corruption in socio-economic-political order. We may have a glimpse of the tectonic changes or shifts that have taken place in man's quest for justice, liberty, equality & integrity.

It is a matter of history that highly developed civilization existed in China, Egypt, Mesopotamia, Babylon and India in ancient days. It is also a fact that corruption, in its different forms, also coexisted during those days. So also, the human endeavor to curb and eliminate corruption in its different manifestations. The wide prevalence of corruption in Ancient India is evident in Kautilya's Arthashastra. Kautilya drew a parallel between a fish in water and an official of the state invested with power for discharging the functions of the state. With words, pregnant with wisdom and indicating his pragmatism/political sagacity, he observed that just as it is difficult to say whether a fish deep in water is drinking water or not, so also, it is not easy to say whether government servant is corrupt or not. He also says that just as it is impossible not to taste the drop of honey or poison that is placed at the tip of the tongue, so it is rather impossible for the government employee not to eat up at least a bit of king's revenue. In his monumental work, Kautilya lists 40 ways of embezzlement. Not only that, he prescribes different punishments for different crimes.

Besides, Indian folklore is replete with stories of kings and nobles employing the services of spies for keeping an eye on potential criminals, enemies of state and offenders of discipline. Further, the concept of policing was an integral part of and an important element in the criminal administration during the ancient age. A study of the justice system prevalent then gives an insight into the notion of vigilance in vogue then and shows that preventive as well as punitive vigilance were in practice then.

The middle ages, however, marked a new phase in the evolution of state and state craft. The spirit of republicanism, the growth of democracy and the germination of the concept of rule of law was aborted by the "concept of divine right of kingship." The absolute monarch claimed his ancestry to god and ruled by the power of his sword as the regent of the god. The acts of omission and commission of the king were given a religious colour. He was referred to as the march of god on earth. The religion of man was exploited to legitimize the rule of the monarchs of those days. The church and the kind reinforced each other in maintaining their respective positions in the social scale. The long and short of it was that the boundary wall between the political and the religious domain was smudged/blurred. Consequently, enormous powers were concentrated in the kings, princes, priests and those in their close proximity. Such concentration of power bred corruption, injustice and oppression of the downtrodden. Kings, princes and nobles governed as per their whims, fancies and caprices by giving their acts a religious colour.

The advent of renaissance and reformation in western Europe marks a watershed in man's search for shacking absolute power of monarchy. Reformation challenged the dominance of Papal church and questioned it's supremacy in the maters of faith.

"Corruption is worse than prostitution. The latter might endanger the morals of an individual, the former invariably endangers the morals of the entire country." [Karl Kraus](#) (1874-1936) *Austrian satirist*.

Renaissance, restored the primacy of man in world and gave god a human form. In other words, the “god-centric world view” was replaced by an “anthropocentric perspective” wherein the man was regarded as the centre of the universe. As a result, the interdependent relationship between the king and the church was snapped. The process of severance of the nexus between the two in England culminated in the Glorious revolution of 1688 which reduced the monarchy to the position of the titular head of the state. At the economic level, the scientific inventions and discoveries led to the growth of mass production, development of Protestant ethics and the rise of capitalism.

With the rise of capitalism, grew the concept of the right to property i.e., the right to acquire and dispose of property, liberty and equality and the ways and means to protect and preserve such rights. The concept of rights gave birth to the need to limit the powers of the government in general and clearly define/demarcate the powers of the different organs of the government. About this time a momentous development took place in the theory and practice of vigilance. To be precise, at this point Montesquieu, the celebrated French philosopher, wrote in his famous book “The Spirit of the laws,” “constant experience shows us that every man invested with power is apt to abuse it and to carry his authority until he is confronted with limits.” He contended that concentrated power is dangerous and leads to despotism. In this context, he observed that one should set a thief to catch a thief and that power can only put a brake on power. According to him, the panacea against such abuse of power is the separation of legislative, executive and judicial departments of the government so that one may operate as a balance against another. He further opined that a constitution may be such that none shall be compelled to do things to which he is not obliged by law, or not to do things which the law permits. The concept of separation of powers as propounded by Montesquieu has been adopted by all modern constitutions including India as a bulwark against the abuse of power by the different organs of the government.

Though bureaucracy is as old as Chinese civilization, the growth of popular democracies oversaw the fulcrum of power shifting to the bureaucracy. The proliferation of laws, rules and regulations precipitated the need for regulating the rights and duties of citizens and public servants. This led to the codification of law and enactment of new laws to control the hitherto unregulated areas and formation of numerous regulatory mechanisms. With the advent of the welfare state, the functions of the state increased manifold and ultimately the power of the bureaucracy was boosted to unimaginable limits. On acquisition of power, developed the age old problem of misuse of power and the public servant’s propensity to resort to corrupt practices for the sake of self-aggrandizement. Hence there was the perceived need to regulate the conduct of a government servant. India was no exception to that.

In order to curb and eliminate corruption from public life, the various conduct rules existing then were codified in the form of CCS(Conduct Rules) 1964. Besides, the procedure for departmental proceedings against a delinquent government servant was prescribed in CCS(CCA) rules 1965. In addition, the Government of India enacted The Prevention of Corruption Act 1988 which has made corruption a criminal offence punishable under the relevant provisions thereunder. Apart from the legal framework for arresting corruption, various institutional arrangements have been made to reinforce the efficacy of the system to counter corruption. The central government has set up the following mechanism in furtherance of that goal:-

- * Administrative Vigilance Division in Department of Personnel & Training.
- * Central Bureau of Investigation(CBI)
- * Domestic Vigilance Units in the Ministries/departments, PSUs/ and National Banks
- * Central Vigilance Commission (CVC)

“There is no odor so bad as that which arises from goodness tainted.”
Henry David Thoreau (1817-1862) *American naturalist, poet and philosopher*

In this connection, it is worthwhile to mention that the Central Vigilance Commission was set up in 1964 by a Government resolution in pursuance of the recommendations of the committee on Prevention of corruption better known as Santhanam Committee. The basic function of the CVC is to promote vigilance health amongst public servants and superintendence over the functioning of CBI in so far it relates to the investigation of the offences alleged to have been committed under the Prevention of Corruption Act.

Notwithstanding a plethora of Acts, rules & regulations, addressing the issue of corruption in public life, the menace of corruption is still a raging bull that threatens to take a heavy toll on the Indian economy. Resultantly, India ranks very high as one of the most corrupt nations in the world. As a result, a realization has dawned that an effort to contain corruption would come a cropper without the vigilance awareness of the masses and the problem can only be wrestled with the active participation & involvement of the people. The object of promoting vigilance awareness is to involve people to identify corrupt public servants and appropriately punish them as a deterrent measure and if required to get rid of such individuals from the body politic. This strategy goes by the name of GENE THERAPY, so painstakingly contrived and popularized by Shri N.Vittal Ex-CVC.

The aforesaid survey of the History of Vigilance leads us to conclude that the concept of vigilance has two broad dimensions i.e, preventive and punitive. Whether it is Kautilya's prescriptions, or Montesquieu's separation of powers or Vittal's brand of Gene Therapy, the notion of vigilance revolves round preventive and punitive measures to sterilize the dragon of corruption.

-“Those who corrupt the public mind are just as evil as those who steal from the public purse.”- Adlai E. Stevenson 1900-1965, American Lawyer, Politician

VIGILANCE AND LINE MANAGERS

BY- S.R.KHANEJA
Former ED(Vig), WCL

Vigilance and its objectives

Vigilance in any public sector or govt. is like any other function of management, such as Finance, Personnel, Material, Contracts, etc.. Vigilance with well planned strategy to deal effectively with the cases of unfair practice is an integral part of administration. The word “Vigilance” as defined is to be vigil, to be vigilant or to be alert, to be vigilance of company’s image and reputation and to be vigilance of company’s assets. Vigilance is required to detect the irregularities before it is carried out, analyze and find out the reasons of such irregularities or to take effective measures to curb the same so that the irregularities are prevented and to take corrective action as per laid down procedure against the defaulter and award of punishment if the guilt is established. The effectiveness of vigilance to carry out these functions successfully and in a transparent and an impartial manner requires that it should have capacity and capability to assess the adverse impact on finances, property and image of the company and capacity of taking appropriate action well in advance to avoid such threats and pilferages. The vigilance must work as a system and not as an organ of a system. Vigilance like Intelligence Bureau must be capable of and be equipped with trained manpower and expertise to collect advance intelligence information, identify the sources of such threats and subversive designs. The vigilance must formulate the policy to achieve these goals which should be simple, clear and transparent.

The role and objectives of vigilance at the national level that of CBI, CVC and Ministry primarily is aimed to control corruption and corrupt practices among the public. The vigilance on the other hand in public sectors and banks have much wider role, responsibility and objective to achieve. System study and plugging the loopholes in the system are other important functions of vigilance in addition to eradication of corruption and maintenance of integrity in PSUs. An organization in the absence of integrity loses vigor, vitality and dynamism. And in the absence of dynamism it is crippled, incapable of meeting the challenges of competition. Its image is tarnished, reputation is impaired and goodwill is eroded. Thus in order to maintain integrity, corruption has to be eliminated.

“Over vigilance” Vs. “Under Vigilance”

Vigilance is not a substitute of departmental supervision and checks. The vigilance set up on the one hand must realize importance and consequences of absence of vigilance in the organization and on the other hand effects of “over vigilance” and “under vigilance”. The “under vigilance” increases the level, causes and scope for corruption, whereas the “over vigilance” creates a sense of demoralization and insecurity among the public servants rendering them reluctant to take decision and initiative in disposal of official files. Thus arising a need to strike a reasonable balance between the two. The vigilance is not just a police function but protects the executive and assist them in taking right decision at right time in a right manner making distinction between mistakes made with the mala fide intention and that made with bona fide intention. The executives must maintain a balance between need to take quick decision and need to safeguard the company’s interest by correcting system in decision making process.

The successful discharge of role of vigilance as protective, reactive and punitive largely depends upon the positive vigilance only. The vigilance must set an example by their own conduct and integrity in all areas of transactions in the company. Transparency in their dealings, impartiality in deciding the cases and award of punishment, honesty while investigating, fair procedure while conduct of inquiry and fearlessness without succumbing to undue pressure are the important aspects of the positive vigilance which every vigilance executive must uphold for the credibility of the department. The reformative and educative vigilance are integral part of the positive vigilance.

“Power corrupts, but lack of power corrupts absolutely”- Adlai E. Stevenson 1900-1965, American Lawyer, Politician

The main objective of the vigilance must be projected properly in the organization by conduct of preventive vigilance workshops, training programs etc.. Creating awareness among the line managers of vigilance, a part of preventive vigilance, respective HRD deptts. Of subsidiaries of CIL and at the apex level Indian Institute of Coal Management(IICM), Ranchi is organizing vigilance training programs covering CDA Rules, Domestic Inquiry, Preventive steps required in the award and execution of contract, procurement of material, finance, mining etc.. The employees must be convinced of what is being preached is being practiced also by the vigilance to create confidence and faith in the vigilance. The human beings are basically law abiding and God fearing. Any deviation from this path can be set right by reformative measures like discourses and distribution of religious books and literature on moral values, ethics and religious aspect of like to impress upon such disgruntled employees to provide scope and opportunity to reform. At the same time the vigilance must create a conducive environment where innocent honest and upright employees are protected from harassment and undue hardships where the culprits are not let off without proper punishment.

Vigilance and Global Economy

Vigilance has assumed a greater importance in the global economic scenario which is changing fast towards more competitive, vibrant and free market economy. The govt. Has thrown open for privatization and private participation the core sectors like petroleum, coal, power, railways, civil aviation, road transportation etc. The resource crunch and necessity of introducing the latest technology in various fields are key motivating factors responsible for the emphasis on attraction of direct foreign investment. In such a challenging scenario, the need for vigilance as a control function has become far more important than what it used to be earlier. Free market economy and liberalization resulting into formation of joint venture have introduced new dimension in the form of payment of commission, hospitality, entertainment, excursion, gift, foreign tour and undertaking to bear market and education expenses. He differentiation between the goals of the government departments and public sector on one hand and private sector on the other is not only important, but it plays a key role to select the means and methods to deal with the cases of irregularities and corrupt practices.

Vigilance as a Management Function

An alert and effective management with serious concern for its clean image and better judicious utilization of funds and resources will rise to the occasion and take suitable, effective and result oriented measures to exercise due control to ensure the adoption of system and procedure to stop the misuse of position, power and funds.

Before the establishment of vigilance organization as a separate agency in the govt. PUSEs, vigilance used to be wholly a management function. It still continues to be primarily a management function. The manager in his own area of responsibilities has to ensure on daily basis that the key resources of the organization - men, money, material and machine are properly handled through religious pursuit of method prescribed. He is to take all reasonable or due care and attention to ensure that resources of the organization are not frittered away by unscrupulous hands for illegitimate works and purposes. It is the manager who has got closer and better knowledge of the subordinate's performance or nonperformance, the life style, the general reputation, their closeness with the vendor/contracting agencies and system implementation.

The middle managers not only receive the instructions from the top management but play a vital role in implementation of these decisions through their subordinates. They are also well acquainted with the functioning of their departments and are in a better position to check any deviation, highlighting at system gap and make suggestions to arrest the scope of malpractices. Any organization expects certain minimum norms of discipline, decent behaviour and good conduct from its employees.

The role and objective of vigilance have always been misunderstood rather than understood in a proper perspective. The vigilance and the Line managers must appreciate the role of each other in the organization. While vigilance must realize the various constraints, limitations and emergencies under which the line managers work, the latter have to take into account the objectives of vigilance and the responsibilities assigned to it in the overall interest of the corporation. In this regard, it is essential to remove the misgiving and misconception about vigilance. This can be done by creating awareness of vigilance and projecting its positive and preventive roles.

"The only way to escape the personal CORRUPTION of praise is to go on working"-Albert Einstein , 1879-1955, German-born American Physicist

This will create more confidence in line managers towards vigilance; thereby making vigilance more friendly and acceptable. Vigilance must also ensure to suggest steps so that the line managers prevent themselves from falling into the net of corruption.

Role of Line Managers in Preventive Vigilance

Coal India Limited, the largest Public Sector, operating in 30 coal fields of 8 states has been taking a leading role in the economic and industrial development of the country. The company has set a production target of 384 million tonnes of coal for the year 2007-08. The estimated demand of the coal for the year 2011-12 is of the order of 775 million tonne while estimated production is only 515 million tonne thus leaving a gap of 260 million tonne which has been revised to 95 million tonne. This gap is to be met by way of coal imports and also by allowing private participation in coal industry. The Coal India has to play a major role in achieving this production target. It is not only the target of production set to achieve, production within set cost and time, production with quality, and production with profit maintaining a good image of the company is also equally important. It is here where the role of the line managers play a vital part. Keeping in view the above requirement and to ensure a line manager is effective and thorough with not only the technical and administrative sphere of his responsibility but is equally well informed and possess enough knowledge and background to deal with various cases of malpractice and violation of systems and procedures. A line manager must take certain preventive measures in direct discharge of his responsibilities. Priority must be given to the areas where loopholes are to be plugged, theft and pilferage are to be checked, and losses are to be minimized.

Much is needed to be done in the area of award and execution of contract, finance, mining, transport etc. to prevent malpractices. Award of contract after starting of work, change of specification after receipt of offers, lack of surprise checks and pre dispatch inspection results into procurement of sub standard equipment and spare parts causing frequent break down of machinery. Lack of serious concern towards maintenance of HEMM, electrical system, weigh bridges, civil works etc. results into huge financial loss to the company. Improved availability of HEMM as per norms set by CMPDIL, must be ensured to avoid expenditure on offloading to contracting agencies. Award and transportation of coal, generation of false records of transportation, issuance of coal of higher grade than mentioned in the release order are common irregularities needing serious attention. Cases of over reporting, formation of cartel, manipulation into the lead/lift, construction of haul roads of temporary nature against the specification for permanent road are being over looked.

Finance department a custodian of public money must be alert and fair while dealing with the contracting agencies. Passing of contracting agencies' bills in absence of approval from competent authority, non-finalisation of tenders within validity period, non-observation of proper checks while passing bills of suppliers, payment of bills of extra items executed beyond permissible limit without due approval from competent authority are common wrong practice causing huge losses to the company.

Procurement of equipments, material, etc. and their storage requires generally a huge percentage of the total cost, requiring stringent measures to control and supervision by the line managers. Making available right material at right time, at right price, of right quality, of right quantity, at right place must be ensured. Irregularities like procurement of sub standard material, preparing unworkable and unrealistic estimate, award on budgetary offer, overlooking the lowest offer, acceptance of offer after due date are commonly seen. Failure to control inventory not only blocks the scare resources, the chances of materials being obsolete, outdated and unusable come closer and closer.

While according utmost attention to human safety program, mine safety, electrical safety and the safety of the equipment must be on the priority list of the management. Any accident not only causes loss of life, man days and production but creates adverse impact on the cordial industrial relations and peace. Every incident of accident disrupts the normal working for weeks together affecting production, productivity, financial and social sectors adversely.

The achievement of the above objective on the part of line manager is only possible where a complete and positive understanding exists between the line manager and vigilance. Vigilance is an integral part of a healthy and effective management. In order to achieve the corporate objectives, officers of the corporation at all levels, in every department need to strive hard.

“When men are pure, laws are useless; when men are corrupt, laws are broken”- Benjamin Disraeli, 1804-1881, British Statesman, Prime Minister

CONCLUSION

Whereas the line managers have to ensure the achievements of production targets and schedule, the vigilance executives have to ensure that the above objectives are achieved without any malpractices.

The main objective of vigilance function in any organization is to assist the management to achieve its goal by ensuring that all transactions are carried out as per systems and procedures while minimizing the scope of malpractices/misconduct and misuse of funds. Whereas the objective of any commercial/industrial establishment is to achieve the planned production target with optimum utilization of resources to ensure profitability, productivity and quality within laid down time and cost, being aware of its responsibility and accountability. Thus the role of vigilance department is complimentary and not contradictory to the corporate objectives as often made out. The misunderstanding and conflict arises only when the line managers and vigilance officers do not appreciate their respective roles properly and in true perspective. The wrong notion and the belief that curbing of corruption is the responsibility of vigilance only needs to be removed. The objective of curbing corruption is a management's function and every line manager is expected to perform the functions of vigilance particularly of preventive vigilance. Like other performance functions of line manager, vigilance is one. The importance of line manager's role as a vigilance executive cannot be underplayed who will continue to be the sole guardian of the maintenance of integrity and honesty in the organization. Any amount of vigilance cannot be effective and successful unless each and every executive of the organization involves himself and assumes the role of vigilance executive

"The accomplice to the crime of **CORRUPTION is frequently our own indifference." Bess Myerson**

WHAT IS VIGILANCE ANGLE?

“Vigilance angle is obvious in the following acts: -

- (i) Demanding and/or accepting gratification other than legal remuneration in respect of an official act or for using his influence with any other official.
- (ii) Obtaining valuable thing, without consideration or with inadequate consideration from a person with whom he has or likely to have official dealings or his subordinates have official dealings or where he can exert influence.
- (iii) Obtaining for himself or for any other person any valuable thing or pecuniary advantage by corrupt or illegal means or by abusing his position as a public servant.
- (iv) Possession of assets disproportionate to his known sources of income.
- (v) Cases of misappropriation, forgery or cheating or other similar criminal offences.
- (v)Gross or willful negligence;
- (vi)recklessness in decision making;
- (vii)blatant violations of systems and procedures;
- (viii)exercise of discretion in excess,
- (ix)where no ostensible/public interest is evident;
- (x)failure to keep the controlling authority/superiors informed in time

But lay up for yourselves treasures in heaven, where neither moth nor rust doth corrupt, and where thieves do not break through nor steal. [Matthew 6:20]- Bible, Sacred Scriptures of Christians and Judaism

INDIAN PENAL CODE 1980 (ACT NO. 45 OF 1860)

1. Section 21

PUBLIC SERVANT

The word Public Servant denotes a person falling under the following description:

In the service or pay of a local authority, a corporation established by or under a Central Provincial or State Act, or a Government company as defined in Sec.617 of the Companies Act, 1956 (1 of 1956).

2. Section 23

Wrongful gain” – Wrongful gain” is the gain by unlawful means of property to which the person gaining is not legally entitled.

“Wrongful loss” – “Wrongful loss” is the loss by unlawful means of property to which the person losing it is legally entitled

3. Section 24

“Dishonesty” – Whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that thing dishonestly.

“Fraudulently” – A person is said to do a thing fraudulently if he does that thing with intent to defraud but not otherwise.

4. Section-20.1

Causing disappearance of evidence of offences or giving false information to screen offender:

-Whoever, knowing or having reason to believe that an offence has been committed causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false;

If a capital offence – shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

If punishable with imprisonment for life – and the offence is punishable with imprisonment for life, or with imprisonment which may extend to ten years shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

If punishable with less than ten years imprisonment – and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with both.

5.Section 20.2

Intentional omission to give information of offence by person bound to inform:-

Whoever knowing or having reason to believe that an offence has been committed intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to six month or with fine or with both.

THE PREVENTION OF CORRUPTION ACT,

CONTENTS

1988

[Act No. 49 of 1988 dated 9th. September, 1988]

"The first sign of **CORRUPTION** in a society that is still alive is that the end justifies the means."- [Georges Bernanos, 1888-1948, French Novelist, Political Writer](#)

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An Act to consolidate and amend the law relating to the prevention of corruption and for matters connected therewith.

"I have often noticed that a bribe has that effect -- it changes a relation. The man who offers a bribe gives away a little of his own importance; the bribe once accepted, he becomes the inferior, like a man who has paid for a woman."-Graham Greene ,1904-1991, British Novelist

BE it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows: -

CHAPTER I:

PRELIMINARY

1. Short title and extent

(1) This Act may be called the Prevention of Corruption Act, 1988.

(2) It extends to the whole of India except the State of Jammu and Kashmir and it applies also to all citizens of India outside India.

2. Definitions

In this Act, unless the context otherwise requires,-

(a) "election" means any election, by whatever means held under any law for the purpose of selecting members of Parliament or of any Legislature, local authority or other public authority;

(b) "public duty" means a duty in the discharge of which the State, the public or the community at large has an interest;

Explanation.-In this clause "State" includes a corporation established by or under a Central, Provincial or State Act, or an authority or a body owned or controlled or aided by the Government or a Government company as defined in section 617 of the Companies Act, 1956.

(c) "public servant" means-

(i) any person in the service or pay of the Government or remunerated by the Government by fees or commission for the performance of any public duty;

(ii) any person in the service or pay of a local authority ;

(iii) any person in the service or pay of a corporation established by or under a Central, Provincial or State Act, or an authority or a body owned or controlled or aided by the Government or a Government company as defined in section 617 of the Companies Act, 1956;

(iv) any Judge, including any person empowered by law to discharge, whether by himself or as a member of any body of persons, any adjudicatory functions;

(v) any person authorised by a court of justice to perform any duty, in connection with the administration of justice, including a liquidator, receiver or commissioner appointed by such court;

(vi) any arbitrator or other person to whom any cause or matter has been referred for decision or report by a court of justice or by a competent public authority;

(vii) any person who holds an office by virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election;

viii) any person who holds an office by virtue of which he is authorised or required to perform any public duty;

(ix) any person who is the president, secretary or other office-bearer of a registered co-operative society engaged in agriculture, industry, trade or banking, receiving or having received any financial aid from the Central Government or a State Government or from any corporation established by or under a Central, Provincial or State Act, or any authority or body owned or controlled or aided by the Government or a Government company as defined in section 617 of the Companies Act, 1956;

There is no odor so bad as that which arises from goodness tainted.- Henry David Thoreau 1817-1862, American Essayist, Poet, Naturalist

(x) any person who is a chairman, member or employee of any Service Commission or Board, by whatever name called, or a member of any selection committee appointed by such Commission or Board for the conduct of any examination or making any selection on behalf of such Commission or Board;

(xi) any person who is a Vice-Chancellor or member of any governing body, professor, reader, lecturer or any other teacher or employee, by whatever designation called, of any University and any person whose services have been availed of by a University or any other public authority in connection with holding or conducting examinations;

(xii) any person who is an office-bearer or an employee of an educational, scientific, social, cultural or other institution, in whatever manner established, receiving or having received any financial assistance from the Central Government or any State Government, or local or other public authority.

Explanation 1.-Persons falling under any of the above sub-clauses are public servants, whether appointed by the Government or not.

Explanation 2.-Wherever the words "public servant" occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

3. Power to appoint special Judges

(1) The Central Government or the State Government may, by notification in the Official Gazette, appoint as many special Judges as may be necessary for such area or areas or for such case or group of cases as may be specified in the notification to try the following offences, namely: -

(a) any offence punishable under this Act; and

(b) any conspiracy to commit or any attempt to commit or any abetment of any of the offences specified in clause (a).

(2) A person shall not be qualified for appointment as a special Judge under this Act unless he is or has been a Sessions Judge or an Additional Sessions Judge or an Assistant Sessions Judge under the Code of Criminal Procedure, 1973.

4. Cases triable by special Judges

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, or in any other law for the time being in force, the offences specified in sub-section (1) of section 3 shall be tried by special Judges only.

(2) Every offence specified in sub-section (1) of section 3 shall be tried by the special Judge for the area within which it was committed, or, as the case may be, by the special Judge appointed for the case, or where there are more special Judges than one for such area, by such one of them as may be specified in this behalf by the Central Government.

(3) When trying any case, a special Judge may also try any offence, other than an offence specified in section 3, with which the accused may, under the Code of Criminal Procedure, 1973, be charged at the same trial.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a special Judge shall, as far as practicable, hold the trial of an offence on day-to-day basis.

5. Procedure and powers of special Judge

“Let the public mind become corrupt, and all efforts to secure property, liberty, or life by the force of laws written on paper will be as vain as putting up a sign in an apple orchard to exclude canker worms”- [Horace Mann 1796-1859, American Educator](#)

(1) A special Judge may take cognizance of offences without the accused being committed to him for trial and, in trying the accused persons, shall follow the procedure prescribed by the Code of Criminal Procedure, 1973. for the trial of warrant cases by Magistrates.

(2) A special Judge may, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to, an offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge. relating to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof and any pardon so tendered shall, for the purposes of sub-sections (1) to (5) of section 308 of the Code of Criminal Procedure, 1973, be deemed to have been tendered under section 307 of that Code.

(3) Save as provided in sub-sections (1) or sub-section (2), the provisions of the Code of Criminal Procedure, 1973, shall, so far as they are not inconsistent with this Act, apply to the proceedings before a special Judge; and for the purposes of the said provisions, the Court of the special Judge shall be deemed to be a Court of Session and the person conducting a prosecution before a special Judge shall be deemed to be a public prosecutor.

(4) In particular and without prejudice to the generality of the provisions contained in sub-section (3), the provisions of sections 326 and 475 of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to the proceedings before a special Judge and for the purposes of the said provisions, a special Judge shall be deemed to be a Magistrate.

(5) A special Judge may pass upon any person convicted by him any sentence authorised by law for the punishment of the offence of which such person is convicted.

(6) A special Judge, while trying an offence punishable under this Act, shall exercise all the powers and functions exercisable by a District Judge under the Criminal Law Amendment Ordinance, 1944.

6. Power to try summarily

(1) Where a special Judge tries any offence specified in sub-section (1) of section 3, alleged to have been committed by a public servant in relation to the contravention of any special order referred to in sub-section (1) of section 12A of the Essential Commodities Act, 1955 or of an order referred to in clause (a) of sub-section (2) of that section, then, notwithstanding anything contained in sub-section (1) of section 5 of this Act or section 260 of the Code of Criminal Procedure, 1973, the special Judge shall try the offence in a summary way, and the provisions of sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trial:

Provided that, in the case of any conviction in a summary trial under this section, it shall be lawful for the special Judge to pass a sentence of imprisonment for a term not exceeding one year:

Provided further that when at the commencement of, or in the course of, a summary trial under this section, it appears to the special Judge that the nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the special Judge shall, after hearing the parties, record an order to that effect and thereafter recall any witnesses who may have been examined and proceed to hear or re-hear the case in accordance with the procedure prescribed by the said Code for the trial of warrant cases by Magistrates.

There cannot be peaceful coexistence in the ideological realm. Peaceful coexistence corrupts- [Jiang Qing .1914-1991, Chinese Politician](#)

(2) Notwithstanding anything to the contrary contained in this Act or in the code of Criminal Procedure, 1973, there shall be no appeal by a convicted person in any case tried summarily under this section in which the special Judge passes a sentence of imprisonment not exceeding one month, and of fine not exceeding two thousand rupees whether or not any order under section 452 of the said Code is made in addition to such sentence, but an appeal shall lie where any sentence in excess of the aforesaid limits is passed by the special Judge.

CHAPTER III:

OFFENCES AND PENALTIES

7. Public servant taking gratification other than legal remuneration in respect of an official act

Whoever, being, or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person, with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment which shall be not less than six months but which may extend to five years and shall also be liable to fine.

Explanations.-

(a) "Expecting to be a public servant." If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

(b) "Gratification." The word "gratification" is not restricted to pecuniary gratifications or to gratifications estimable in money.

(c) "Legal remuneration." The words "legal remuneration" are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government or the organisation, which he serves, to accept.

(d) "A motive or reward for doing." A person who receives a gratification as a motive or reward for doing what he does not intend or is not in a position to do, or has not done, comes within this expression.

(e) Where a public servant induces a person erroneously to believe that his influence with the Government has obtained a title for that person and thus induces that person to give the public servant, money or any other gratification as a reward for this service, the public servant has committed an offence under this section.

8. Taking gratification, in order, by corrupt or illegal means, to influence public servant

Whoever accepts or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means, any public servant, whether named or otherwise, to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any

When power leads man towards arrogance, poetry reminds him of his limitations. When power narrows the area of man's concern, poetry reminds him of the richness and diversity of existence. When power corrupts, poetry cleanses.- John F. Kennedy 1917-1963, Thirty-fifth President of the USA

service or disservice to any person with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.

9. Taking gratification, for exercise of personal influence with public servant

Whoever accepts or obtains or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence, any public servant whether named or otherwise to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend. to five years and shall also be liable to fine.

10. Punishment for abetment by public servant of offences defined in section 8 or 9

Whoever, being a public servant, in respect of whom either of the offences defined in section 8 or section 9 is committed, abets the offence, whether or not that offence is committed in consequence of that abetment, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.

11. Public servant obtaining valuable thing, without consideration from person concerned in proceeding or business transacted by such public servant

Whoever, being a public servant, accepts or obtains or agrees to accept or attempts to obtain for himself, or for any other person, any valuable thing without consideration, or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.

12. Punishment for abetment of offences defined in section 7 or 11

Whoever abets any offence punishable under section 7 or section 11 whether or not that offence is committed in consequence of that abetment, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine,

13. Criminal misconduct by a public servant

(1) A public servant is said to commit the offence of criminal misconduct,-

(a) if he habitually accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification other than legal remuneration as a motive or reward such as is mentioned in section 7; or

Wherever you see a man who gives someone else's **CORRUPTION, someone else's prejudice as a reason for not taking action himself, you see a cog in The Machine that governs us- [John Jay Chapman](#) , 1862-1933, American Author -**

(b) if he habitually accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person, any valuable thing without consideration or for a consideration which he knows to be inadequate from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned; or

(c) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or under his control as a public servant or allows any other person so to do; or

(d) if he,-

(i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest; or

(e) if he or any person on his behalf, is in possession or has, at any time during the period of his office, been in possession for which the public servant cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income.

Explanation.-For the purposes of this section, "known sources of income" means income received from any lawful source and such receipt has been intimated in accordance with the provisions of any law, rules or orders for the time being applicable to a public servant.

(2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than one year but which may extend to seven years and shall also be liable to fine.

14. Habitual committing of offence under sections 8, 9 and 12

Whoever habitually commits-

(a) an offence punishable under section 8 or section 9; or

(b) an offence punishable under section 12,

shall be punishable with imprisonment for a term which shall be not less than two years but which may extend to seven years and shall also be liable to fine.

15. Punishment for attempt

Whoever attempts to commit an offence referred to in clause (c) or clause (d) of sub-section (1) of section 13 shall be punishable with imprisonment for a term which may extend to three years and with fine.

16. Matters to be taken into consideration for fixing fine

Where a sentence of fine is imposed. under sub-section (2) of section 13 or section 14, the court in fixing the amount of the fine shall taken into consideration the amount or the value of the property, if any, which the accused person has obtained by committing the offence or where the conviction is for an offence referred to in clause (e) of sub-section (1) of section 13, the pecuniary resources or property referred to in that clause for which the accused person is unable to account satisfactorily.

The sun shineth upon the dunghill, and is not corrupted-John Lyly, c.1554-1606, British Writer

CHAPTER IV:
INVESTIGATION INTO CASES UNDER THE ACT

17. Persons authorised to investigate

Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no police officer below the rank,-

- (a) in the case of the Delhi Special Police Establishment, of an Inspector of Police;
 - (b) in the metropolitan areas of Bombay, Calcutta, Madras and Ahmedabad and in any other metropolitan area notified as such under sub-section (1) of section 8 of the Code of Criminal Procedure, 1973, of an Assistant Commissioner of Police;
 - (c) elsewhere, of a Deputy Superintendent of Police or a police officer of equivalent rank,
- shall investigate any offence punishable under this Act without the order of a Metropolitan Magistrate or a Magistrate of the first class, as the case may be, or make any arrest therefor without a warrant:

Provided that if a police officer not below the rank of an Inspector of Police is authorised by the State Government in this behalf by general or special order, he may also investigate any such offence without the order of a Metropolitan Magistrate or a Magistrate of the first class, as the case may be, or make arrest therefor without a warrant:

Provided further that an offence referred to in clause (e) of sub-section (1) of section 13 shall not be investigated without the order of a police officer not below the rank of a Superintendent of Police.

18. Power to inspect bankers' books

If from information received or otherwise, a police officer has reason to suspect the commission of an offence which he is empowered to investigate under section 17 and considers that for the purpose of investigation or inquiry into such offence, it is necessary to inspect any bankers' books, then, notwithstanding anything contained in any law for the time being in force, he may inspect any bankers' books in so far as they relate to the accounts of the persons suspected to have committed that offence or of any other person suspected to be holding money on behalf of such person, and take or cause to be taken certified copies of the relevant entries therefrom, and the bank concerned shall be bound to assist the police officer in the exercise of his powers under this section:

Provided that no power under this section in relation to the accounts of any person shall be exercised by a police officer below the rank of a Superintendent of Police, unless he is specially authorised in this behalf by a police officer of or above the rank of a superintendent of Police.

Explanation-In this section, the expressions "bank" and "bankers' books" shall have the meanings respectively assigned to them in the Bankers' Books Evidence Act, 1891.

19. Previous sanction necessary for prosecution

(1) No court shall take cognizance of an offence punishable under section 7, 10, 11, 13 and 15 alleged to have been committed by a public servant, except with the previous sanction,-

- (a) in the case of a person who is employed in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government, of that Government;
- (b) in the case of a person who is employed in connection with the affairs of a State and is not removable from his office save by or with the sanction of the State Government, of that Government;

Power tends to corrupt, and absolute power corrupts absolutely. - Lord Acton, 1834-1902, British Historian

- (c) in the case of any other person, of the authority competent to remove him from his office.
- (2) Where for any reason whatsoever any doubt arises as to whether the previous sanction as required under sub-section (1) should be given by the Central Government or the State Government or any other authority, such sanction shall be given by that Government or authority which would have been competent to remove the public servant from his office at the time when the offence was alleged to have been committed.
- (3) Notwithstanding anything contained in the code of Criminal Procedure, 1973,-
- (a) no finding, sentence or order passed by a special Judge shall be reversed or altered by a Court in appeal, confirmation or revision on the ground of the absence of, or any error, omission or irregularity in, the sanction required under sub-section (1), unless in the opinion of that court, a failure of justice has in fact been occasioned thereby;
- (b) no court shall stay the proceedings under this Act on the ground of any error, omission or irregularity in the sanction granted by the authority, unless it is satisfied that such error, omission or irregularity has resulted in a failure of justice;
- (c) no court shall stay the proceedings under this Act on any other ground and no court shall exercise the powers of revision in relation to any interlocutory order passed in any inquiry, trial, appeal or other proceedings.
- (4) In determining under sub-section (3) whether the absence of, or any error, omission or irregularity in, such sanction has occasioned or resulted in a failure of justice the court shall have regard to the fact whether the objection could and should have been raised at any earlier stage in the proceedings.

Explanation.-For the purposes of this section,-

- (a) error includes competency of the authority to grant sanction;
- (b) a sanction required for prosecution includes reference to any requirement that the prosecution shall be at the instance of a specified authority or with the sanction of a specified person or any requirement of a similar nature.

20. Presumption where public servant accepts gratification other than legal remuneration

- (1) Where, in any trial of an offence punishable under section 7 or section 11 or clause (a) or clause (b) of sub-section (1) of section 13 it is proved that an accused person has accepted or obtained or has agreed to accept or attempted to obtain for himself, or for any other person, any gratification (other than legal remuneration) or any valuable thing from any person, it shall be presumed, unless the contrary is proved, that he accepted or obtained or agreed to accept or attempted to obtain that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in section 7 or, as the case may be, without consideration or for a consideration which he knows to be inadequate.
- (2) Where in any trial of an offence punishable under section 12 or under clause (b) of section 14, it is proved that any gratification (other than legal remuneration) or any valuable thing has been given or offered to be given or attempted to be given by an accused person, it shall be presumed, unless the contrary is proved, that he gave or offered to give or attempted to give that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in section 7, or, as the case may be, without consideration or for a consideration which he knows to be inadequate.
- (3) Notwithstanding anything contained in sub-section (1) and (2), the court may decline to

That which is won ill, will never wear well, for there is a curse attends it which will waste it. The same corrupt dispositions which incline men to sinful ways of getting, will incline them to the like sinful ways of spending-
 M. Henry

draw the presumption referred to in either of the said sub-sections, if the gratification or thing aforesaid is, in its opinion, so trivial that no inference of corruption may fairly be drawn.

21. Accused person to be a competent witness

Any person charged with an offence punishable under this Act, shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial:

Provided that-

- (a) he shall not be called as a witness except at his own request;
- (b) his failure to give evidence shall not be made the subject of any comment by the prosecution or give rise to any presumption against himself or any person charged together with him at the same trial;
- (c) he shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of any offence other than the offence with which he is charged, or is of bad character, unless-
 - (i) the proof that he has committed or been convicted of such offence is admissible evidence to that he is guilty of the offence with which he is charged, or
 - (ii) he has personally or by his pleader asked any question of any witness for the prosecution with a view to establish his own good character, or has given evidence of his good character, or the nature or conduct of the defence is such as to involve imputations on the character of the prosecutor or of any witness for the prosecution, or
 - (iii) he has given evidence against any other person charged with the same offence.

22. The Code of Criminal Procedure, 1973 to apply subject to certain modifications

The provisions of the Code of Criminal Procedure, 1973, shall in their application to any proceeding in relation to an offence punishable under this Act have effect as if,-

- (a) in sub-section (1) of section 243, for the words "The accused shall then be called upon", the words "The accused shall then be required to give in writing at once or within such time as the Court may allow, a list of the persons (if any) whom he proposes to examine as his witnesses and of the documents (if any) on which he proposes to rely and he shall then be called upon" had been substituted;
- (b) in sub-section (2) of section 309, after the 'third proviso, the following proviso had been inserted, namely:-

"Provided also that the proceeding shall not be adjourned or postponed merely on the ground that an application under section 397 has been made by a party to the proceeding.";

- (c) after sub-section (2) of section 317, the following sub-section had been inserted, namely:-

"(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Judge may, if he thinks fit and for reasons to be recorded by him, proceed with inquiry or trial in the absence of the accused or his pleader and record the evidence of any witness subject to the right of the accused to recall the witness for cross-examination.";

- (d) in sub-section (1) of section 397, before the Explanation, the following proviso had been inserted, namely:-

"Provided that where the powers under this section are exercised by a Court on an application made by a party to such proceedings, the Court shall not ordinarily call for the record of the proceedings:-

Every clique is a refuge for incompetence. It fosters **CORRUPTION and disloyalty, it begets cowardice, and consequently is a burden upon and a drawback to the progress of the country. Its instincts and actions are those of the pack.- [Madame Chiang Kai-Shek, Chinese Revolutionary Leader](#)**

(a) without giving the other party an opportunity of showing cause why the record should not be called for; or

(b) if it is satisfied that an examination of the record of the proceedings may be made from the certified copies."

23. Particulars in a charge in relation to an offence under section 13(1) (c).

Notwithstanding anything contained in the Code of Criminal Procedure, 1973, when an accused is charged with an offence under clause (c) of sub-section (1) of section 13, it shall be sufficient to describe in the charge the property in respect of which the offence is alleged to have been committed , and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 219 of the said Code: Provided that the time included between the first and last of such dates shall not exceed one year.

24. Statement by bribe giver not to subject him to prosecution

Notwithstanding anything contained in any law for the time being in force, a statement made by a person in any proceeding against a public servant for an offence under sections 7 to 11 or under section 13 or section 15, that he offered or agreed to offer any gratification (other than legal remuneration) or any valuable thing to the public servant, shall not subject such person to a prosecution under section 12.

25. Military, Naval and Air Force or other law not to be affected

(1) Nothing in this Act shall affect the jurisdiction exercisable by, or the procedure applicable to, any court or other authority under the Army Act. 1950, the Air Force Act, 1950, the Navy Act, 1957, the Border Security Force Act, 1968, the Coast Guard Act, 1978 and the National Security Guard Act, 1986.

(2) For the removal of doubts, it is hereby declared that for the purposes of any such law as is referred to in sub-section (1), the court of a special Judge shall be deemed to be a court of ordinary criminal justice.

26. Special Judges appointed under Act 46 of 1952 to be special Judges appointed under this Act

Every special Judge appointed under the Criminal Law Amendment Act, 1952,, for any area or areas and is holding office on the commencement of this Act shall be deemed to be a special Judge appointed under section 3 of this Act for that area or areas and, accordingly, on and from such commencement, every such Judge shall continue to deal with all the proceedings pending before him on such commencement in accordance with the provisions of this Act.

27. Appeal and revision

Subject to the provisions of this Act, the High Court may exercise, so far as they may be applicable, all the powers of appeal and revision conferred by the Code of Criminal Procedure, 1973 on a High Court as if the court of special Judge were a court of Session trying cases within the local limits of the High Court.

28. Act to be in addition to any other law

The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force, and nothing contained herein shall exempt any public servant from any proceeding which might, apart from this Act, be instituted against him.

"All things tend to corrupt perverted minds"- Marcus T. Cicero c. 106-43 BC, Great Roman Orator, Politician

29. Amendment of the Ordinance 38 of 1944

In the Criminal Law Amendment Ordinance, 1944,-

(a) in sub-section (1) of section 3, sub-section (1) of section 9, clause (a) of section 10, sub-section (1) of section 11 and sub-section (1) of section 13, for the words "State Government", wherever they occur, the words "State Government or, as the case may be, the Central Government" shall be substituted;

(b) in section 10, in clause (a), for the words " three months", the words "one year" shall be substituted;

(c) in the Schedule,-

(i) paragraph 1 shall be omitted;

(ii) in paragraphs 2 and 4,-

(a) after the words "a local authority", the words and figures "or a corporation established by or under a Central, Provincial or State Act, or an authority or a body owned or controlled or aided by Government or a Government company as defined in section 617 of the Companies Act, 1956 or a society aided by such corporation, authority, body or Government company" shall be inserted;

(b) after the words "or authority", the words "or corporation or body or Government company or society" shall be inserted;

(iii) for paragraph 4A, the following paragraph shall be substituted, namely: -

"4A. An offence punishable under the Prevention of Corruption Act, 1988.";

(iv) in paragraph 5, for the words and figures "items 2, 3 and 4", the words, figures and letter "items 2, 3, 4 and 4A" shall be substituted.

30. Repeal and saving

(1) The Prevention of Corruption Act, 1947 and the Criminal Law Amendment Act, 1952 are hereby repealed.

(2) Notwithstanding such repeal, but without prejudice to the application of section 6 of the General Clauses Act, 1897, anything done or any action taken or purported to 'have been done or taken under or in pursuance of the Acts so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken, under or in pursuance of the corresponding provision of this Act. 31. Omission of certain sections of Act 45 of 1860

Sections 161 to 165A (both inclusive) of the Indian Penal Code shall be omitted, and section 6 of the General Clauses Act, 1897, shall apply to such omission as if the said sections had been repealed by a Central Act.

Children also have artistic ability, and there is wisdom in there having it! The more helpless they are, the more instructive are the examples they furnish us; and they must be preserved free of CORRUPTION from an early age.- Paul Klee , 1879-1940, Swiss Artist

THE RIGHT TO INFORMATION ACT, 2005

No. 22 of 2005

[15th June, 2005]

An Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.

Whereas the Constitution of India has established democratic Republic;

And whereas democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed;

And whereas revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information;

And whereas it is necessary to harmonise these conflicting interests while preserving the paramouncy of the democratic ideal;

Now, therefore, it is expedient to provide for furnishing certain information to citizens who desire to have it.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

- 1 (1) This Act may be called the Right to Information Act, 2005.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) The provisions of sub-section (1) of section 4, sub-sections (1) and (2) of section 5, sections 12, 13, 15, 16, 24, 27 and 28 shall come into force at once, and the remaining provisions of this Act shall come into force on the one hundred and twentieth day of its enactment.
- 2 In this Act, unless the context otherwise requires,—
 - (a) "appropriate Government" means in relation to a public authority which is established, constituted, owned, controlled or substantially financed by funds provided directly or indirectly—
 - (i) by the Central Government or the Union territory administration, the Central Government;
 - (ii) by the State Government, the State Government;

- (b) "Central Information Commission" means the Central Information Commission constituted under sub-section (1) of section 12;
- (c) "Central Public Information Officer" means the Central Public Information Officer designated under sub-section (1) and includes a Central Assistant Public Information Officer designated as such under sub-section (2) of section 5;
- (d) "Chief Information Commissioner" and "Information Commissioner" mean the Chief Information Commissioner and Information Commissioner appointed under sub-section (3) of section 12;
- (e) "competent authority" means—
 - (i) the Speaker in the case of the House of the People or the Legislative Assembly of a State or a Union territory having such Assembly and the Chairman in the case of the Council of States or Legislative Council of a State;
 - (ii) the Chief Justice of India in the case of the Supreme Court;
 - (iii) the Chief Justice of the High Court in the case of a High Court;
 - (iv) the President or the Governor, as the case may be, in the case of other authorities established or constituted by or under the Constitution;
 - (v) the administrator appointed under article 239 of the Constitution;
- (f) "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;
- (g) "prescribed" means prescribed by rules made under this Act by the appropriate Government or the competent authority, as the case may be;
- (h) "public authority" means any authority or body or institution of self- government established or constituted—
 - (a) by or under the Constitution;
 - (b) by any other law made by Parliament;
 - (c) by any other law made by State Legislature;
 - (d) by notification issued or order made by the appropriate Government, and includes any—
 - (i) body owned, controlled or substantially financed;
 - (ii) non-Government organization substantially financed, directly or indirectly by funds provided by the appropriate Government;
- (i) "record" includes—
 - (a) any document, manuscript and file;
 - (b) any microfilm, microfiche and facsimile copy of a document;
 - (c) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and
 - (d) any other material produced by a computer or any other device;
- (j) "right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to—

- (i) inspection of work, documents, records;
- (ii) taking notes, extracts or certified copies of documents or records;
- (iii) taking certified samples of material;
- (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;
- (k) "State Information Commission" means the State Information Commission constituted under sub-section (1) of section 15;
- (l) "State Chief Information Commissioner" and "State Information Commissioner" mean the State Chief Information Commissioner and the State Information Commissioner appointed under sub-section (3) of section 15;
- (m) "State Public Information Officer" means the State Public Information Officer designated under sub-section (1) and includes a State Assistant Public Information Officer designated as such under sub-section (2) of section 5;
- (n) "third party" means a person other than the citizen making a request for information and includes a public authority.

CHAPTER II

Right to information and obligations of public authorities

- 3 Subject to the provisions of this Act, all citizens shall have the right to information.
- 4 (1) Every public authority shall—
- (a) maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated;
 - (b) publish within one hundred and twenty days from the enactment of this Act,—
 - (i) the particulars of its organisation, functions and duties;
 - (ii) the powers and duties of its officers and employees;
 - (iii) the procedure followed in the decision making process, including channels of supervision and accountability;
 - (iv) the norms set by it for the discharge of its functions;
 - (v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
 - (vi) a statement of the categories of documents that are held by it or under its control;
 - (vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;
 - (viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;

- (ix) a directory of its officers and employees;
 - (x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
 - (xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
 - (xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
 - (xiii) particulars of recipients of concessions, permits or authorisations granted by it;
 - (xiv) details in respect of the information, available to or held by it, reduced in an electronic form;
 - (xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;
 - (xvi) the names, designations and other particulars of the Public Information Officers;
 - (xvii) such other information as may be prescribed and thereafter update these publications every year;
- (c) publish all relevant facts while formulating important policies or announcing the decisions which affect public;
- (d) provide reasons for its administrative or quasi-judicial decisions to affected persons.
- (2) It shall be a constant endeavour of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) to provide as much information suo motu to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.
- (3) For the purposes of sub-section (1), every information shall be disseminated widely and in such form and manner which is easily accessible to the public.
- (4) All materials shall be disseminated taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area and the information should be easily accessible, to the extent possible in electronic format with the Central Public Information Officer or State Public Information Officer, as the case may be, available free or at such cost of the medium or the print cost price as may be prescribed.
- Explanation.—For the purposes of sub-sections (3) and (4), "disseminated" means making known or communicated the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet or any other means, including inspection of offices of any public authority.
- 5 (1) Every public authority shall, within one hundred days of the enactment of this Act, designate as many officers as the Central Public Information Officers or State Public Information Officers, as the case may be, in all administrative units or offices under it as may be necessary to provide information to persons requesting for the information under this Act.
- (2) Without prejudice to the provisions of sub-section (1), every public authority shall designate an officer, within one hundred days of the enactment of this Act, at each sub-divisional level or other sub-district level as a Central Assistant Public Information Officer or a State Assistant Public Information Officer, as the case may be. to receive the applications for information or appeals under this Act for

forwarding the same forthwith to the Central Public Information Officer or the State Public Information Officer or senior officer specified under sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be:

Provided that where an application for information or appeal is given to a Central Assistant Public Information Officer or a State Assistant Public Information Officer, as the case may be, a period of five days shall be added in computing the period for response specified under sub-section (1) of section 7.

- (3) Every Central Public Information Officer or State Public Information Officer, as the case may be, shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information.
 - (4) The Central Public Information Officer or State Public Information Officer, as the case may be, may seek the assistance of any other officer as he or she considers it necessary for the proper discharge of his or her duties.
 - (5) Any officer, whose assistance has been sought under sub-section (4), shall render all assistance to the Central Public Information Officer or State Public Information Officer, as the case may be, seeking his or her assistance and for the purposes of any contravention of the provisions of this Act, such other officer shall be treated as a Central Public Information Officer or State Public Information Officer, as the case may be.
- 6 (1) A person, who desires to obtain any information under this Act, shall make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to—
- (a) the Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority;
 - (b) the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be,
- specifying the particulars of the information sought by him or her:

Provided that where such request cannot be made in writing, the Central Public Information Officer or State Public Information Officer, as the case may be, shall render all reasonable assistance to the person making the request orally to reduce the same in writing.

- (2) An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.
- (3) Where an application is made to a public authority requesting for an information,—
 - (i) which is held by another public authority; or
 - (ii) the subject matter of which is more closely connected with the functions of another public authority,

the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer:

Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.

- 7 (1) Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9:

Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request.

- (2) If the Central Public Information Officer or State Public Information Officer, as the case may be, fails to give decision on the request for information within the period specified under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall be deemed to have refused the request.
- (3) Where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Central Public Information Officer or State Public Information Officer, as the case may be, shall send an intimation to the person making the request, giving—
- (a) the details of further fees representing the cost of providing the information as determined by him, together with the calculations made to arrive at the amount in accordance with fee prescribed under sub-section (1), requesting him to deposit that fees, and the period intervening between the despatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of thirty days referred to in that sub-section;
- (b) information concerning his or her right with respect to review the decision as to the amount of fees charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms.
- (4) Where access to the record or a part thereof is required to be provided under this Act and the person to whom access is to be provided is sensorily disabled, the Central Public Information Officer or State Public Information Officer, as the case may be, shall provide assistance to enable access to the information, including providing such assistance as may be appropriate for the inspection.
- (5) Where access to information is to be provided in the printed or in any electronic format, the applicant shall, subject to the provisions of sub-section (6), pay such fee as may be prescribed:

Provided that the fee prescribed under sub-section (1) of section 6 and sub-sections (1) and (5) of section 7 shall be reasonable and no such fee shall be charged from the persons who are of below poverty line as may be determined by the appropriate Government.

- (6) Notwithstanding anything contained in sub-section (5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub-section (1).
- (7) Before taking any decision under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall take into consideration the representation made by a third party under section 11.
- (8) Where a request has been rejected under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall communicate to the person making the request,—

- (i) the reasons for such rejection;
 - (ii) the period within which an appeal against such rejection may be preferred; and
 - (iii) the particulars of the appellate authority.
- (9) An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.
- 8 (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—
- (a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;
 - (b) information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;
 - (c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;
 - (d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;
 - (e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;
 - (f) information received in confidence from foreign Government;
 - (g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;
 - (h) information which would impede the process of investigation or apprehension or prosecution of offenders;
 - (i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:
 Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over:
- Provided further that those matters which come under the exemptions specified in this section shall not be disclosed;
- (j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:
 Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.
- (2) Notwithstanding anything in the Official Secrets Act, 1923 nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

- (3) Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section:

Provided that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act.

- 9 Without prejudice to the provisions of section 8, a Central Public Information Officer or a State Public Information Officer, as the case may be, may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.

- 10 (1) Where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, then, notwithstanding anything contained in this Act, access may be provided to that part of the record which does not contain any information which is exempt from disclosure under this Act and which can reasonably be severed from any part that contains exempt information.

- (2) Where access is granted to a part of the record under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall give a notice to the applicant, informing—

- (a) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;
- (b) the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;
- (c) the name and designation of the person giving the decision;
- (d) the details of the fees calculated by him or her and the amount of fee which the applicant is required to deposit; and
- (e) his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of access provided, including the particulars of the senior officer specified under sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be, time limit, process and any other form of access.

- 11 (1) Where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:

Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.

- (2) Where a notice is served by the Central Public Information Officer or State Public

Information Officer, as the case may be, under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.

- (3) Notwithstanding anything contained in section 7, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.
- (4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 19 against the decision.

CHAPTER III

The Central Information Commission

- 12 (1) The Central Government shall, by notification in the Official Gazette, constitute a body to be known as the Central Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.
- (2) The Central Information Commission shall consist of—
 - (a) the Chief Information Commissioner; and
 - (b) such number of Central Information Commissioners, not exceeding ten, as may be deemed necessary.
- (3) The Chief Information Commissioner and Information Commissioners shall be appointed by the President on the recommendation of a committee consisting of—
 - (i) the Prime Minister, who shall be the Chairperson of the committee;
 - (ii) the Leader of Opposition in the Lok Sabha; and
 - (iii) a Union Cabinet Minister to be nominated by the Prime Minister.

Explanation.—For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the House of the People has not been recognised as such, the Leader of the single largest group in opposition of the Government in the House of the People shall be deemed to be the Leader of Opposition.
- (4) The general superintendence, direction and management of the affairs of the Central Information Commission shall vest in the Chief Information Commissioner who shall be assisted by the Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the Central Information Commission autonomously without being subjected to directions by any other authority under this Act.
- (5) The Chief Information Commissioner and Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.
- (6) The Chief Information Commissioner or an Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.
- (7) The headquarters of the Central Information Commission shall be at Delhi and the

Central Information Commission may, with the previous approval of the Central Government, establish offices at other places in India.

- 13 (1) The Chief Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment:

Provided that no Chief Information Commissioner shall hold office as such after he has attained the age of sixty-five years.

- (2) Every Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such Information Commissioner:

Provided that every Information Commissioner shall, on vacating his office under this sub-section be eligible for appointment as the Chief Information Commissioner in the manner specified in sub-section (3) of section 12:

Provided further that where the Information Commissioner is appointed as the Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the Information Commissioner and the Chief Information Commissioner.

- (3) The Chief Information Commissioner or an Information Commissioner shall before he enters upon his office make and subscribe before the President or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.
- (4) The Chief Information Commissioner or an Information Commissioner may, at any time, by writing under his hand addressed to the President, resign from his office:

Provided that the Chief Information Commissioner or an Information Commissioner may be removed in the manner specified under section 14.

- (5) The salaries and allowances payable to and other terms and conditions of service of —
- (a) the Chief Information Commissioner shall be the same as that of the Chief Election Commissioner;
- (b) an Information Commissioner shall be the same as that of an Election Commissioner:

Provided that if the Chief Information Commissioner or an Information Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension, in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the Chief Information Commissioner or an Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that if the Chief Information Commissioner or an Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the Chief Information Commissioner or an Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salaries, allowances and other conditions of service of the Chief Information Commissioner and the Information Commissioners shall not be varied to their disadvantage after their appointment.

- (6) The Central Government shall provide the Chief Information Commissioner and the Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.
- 14 (1) Subject to the provisions of sub-section (3), the Chief Information Commissioner or any Information Commissioner shall be removed from his office only by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Chief Information Commissioner or any Information Commissioner, as the case may be, ought on such ground be removed.
- (2) The President may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the Chief Information Commissioner or Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.
- (3) Notwithstanding anything contained in sub-section (1), the President may by order remove from office the Chief Information Commissioner or any Information Commissioner if the Chief Information Commissioner or a Information Commissioner, as the case may be,—
- (a) is adjudged an insolvent; or
 - (b) has been convicted of an offence which, in the opinion of the President, involves moral turpitude; or
 - (c) engages during his term of office in any paid employment outside the duties of his office; or
 - (d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or
 - (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chief Information Commissioner or a Information Commissioner.
- (4) If the Chief Information Commissioner or a Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of India or participates in any way in the profit thereof or in any benefit or emolument arising there from otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehavior.

CHAPTER IV

The State Information Commission

- 15 (1) Every State Government shall, by notification in the Official Gazette, constitute a body to be known as the (name of the State) Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.
- (2) The State Information Commission shall consist of—
- (a) the State Chief Information Commissioner, and

- (b) such number of State Information Commissioners, not exceeding ten, as may be deemed necessary.
- (3) The State Chief Information Commissioner and the State Information Commissioners shall be appointed by the Governor on the recommendation of a committee consisting of—
 - (i) the Chief Minister, who shall be the Chairperson of the committee;
 - (ii) the Leader of Opposition in the Legislative Assembly; and
 - (iii) a Cabinet Minister to be nominated by the Chief Minister.

Explanation.—For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the Legislative Assembly has not been recognised as such, the Leader of the single largest group in opposition of the Government in the Legislative Assembly shall be deemed to be the Leader of Opposition.

- (4) The general superintendence, direction and management of the affairs of the State Information Commission shall vest in the State Chief Information Commissioner who shall be assisted by the State Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the State Information Commission autonomously without being subjected to directions by any other authority under this Act.
 - (5) The State Chief Information Commissioner and the State Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.
 - (6) The State Chief Information Commissioner or a State Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.
 - (7) The headquarters of the State Information Commission shall be at such place in the State as the State Government may, by notification in the Official Gazette, specify and the State Information Commission may, with the previous approval of the State Government, establish offices at other places in the State.
- 16 (1) The State Chief Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment:
- Provided that no State Chief Information Commissioner shall hold office as such after he has attained the age of sixty-five years.
- (2) Every State Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such State Information Commissioner:
- Provided that every State Information Commissioner shall, on vacating his office under this sub-section, be eligible for appointment as the State Chief Information Commissioner in the manner specified in sub-section (3) of section 15:
- Provided further that where the State Information Commissioner is appointed as the State Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the State Information Commissioner and the State Chief Information Commissioner.
- (3) The State Chief Information Commissioner or a State Information Commissioner, shall before he enters upon his office make and subscribe before the Governor or

some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.

- (4) The State Chief Information Commissioner or a State Information Commissioner may, at any time, by writing under his hand addressed to the Governor, resign from his office:

Provided that the State Chief Information Commissioner or a State Information Commissioner may be removed in the manner specified under section 17.

- (5) The salaries and allowances payable to and other terms and conditions of service of—

- (a) the State Chief Information Commissioner shall be the same as that of an Election Commissioner;

- (b) the State Information Commissioner shall be the same as that of the Chief Secretary to the State Government:

Provided that if the State Chief Information Commissioner or a State Information Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension, in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the State Chief Information Commissioner or a State Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that where the State Chief Information Commissioner or a State Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the State Chief Information Commissioner or the State Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salaries, allowances and other conditions of service of the State Chief Information Commissioner and the State Information Commissioners shall not be varied to their disadvantage after their appointment.

- (6) The State Government shall provide the State Chief Information Commissioner and the State Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.

- 17 (1) Subject to the provisions of sub-section (3), the State Chief Information Commissioner or a State Information Commissioner shall be removed from his office only by order of the Governor on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the Governor, has on inquiry, reported that the State Chief Information Commissioner or a State Information Commissioner, as the case may be, ought on such ground be removed.

- (2) The Governor may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the State Chief Information Commissioner or a State Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the Governor has passed orders on receipt of the report of the Supreme Court on such reference.

- (3) Notwithstanding anything contained in sub-section (1), the Governor may by order

remove from office the State Chief Information Commissioner or a State Information Commissioner if a State Chief Information Commissioner or a State Information Commissioner, as the case may be,—

- (a) is adjudged an insolvent; or
 - (b) has been convicted of an offence which, in the opinion of the Governor, involves moral turpitude; or
 - (c) engages during his term of office in any paid employment outside the duties of his office; or
 - (d) is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body; or
 - (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the State Chief Information Commissioner or a State Information Commissioner.
- (4) If the State Chief Information Commissioner or a State Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of the State or participates in any way in the profit thereof or in any benefit or emoluments arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

CHAPTER V

Powers and functions of the Information Commissions, appeal and penalties

- 18 (1) Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission, as the case may be, to receive and inquire into a complaint from any person,—
- (a) who has been unable to submit a request to a Central Public Information Officer or State Public Information Officer, as the case may be, either by reason that no such officer has been appointed under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Officer or State Public Information Officer or senior officer specified in sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be;
 - (b) who has been refused access to any information requested under this Act;
 - (c) who has not been given a response to a request for information or access to information within the time limit specified under this Act;
 - (d) who has been required to pay an amount of fee which he or she considers unreasonable;
 - (e) who believes that he or she has been given incomplete, misleading or false information under this Act; and
 - (f) in respect of any other matter relating to requesting or obtaining access to records under this Act.
- (2) Where the Central Information Commission or State Information Commission, as the case may be, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.
- (3) The Central Information Commission or State Information Commission, as the case may be, shall, while inquiring into any matter under this section, have the

same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;
 - (b) requiring the discovery and inspection of documents;
 - (c) receiving evidence on affidavit;
 - (d) requisitioning any public record or copies thereof from any court or office;
 - (e) issuing summons for examination of witnesses or documents; and
 - (f) any other matter which may be prescribed.
- (4) Notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature, as the case may be, the Central Information Commission or the State Information Commission, as the case may be, may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds.
- 19 (1) Any person who, does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Central Public Information Officer or State Public Information Officer, as the case may be, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer as the case may be, in each public authority:
- Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.
- (2) Where an appeal is preferred against an order made by a Central Public Information Officer or a State Public Information Officer, as the case may be, under section 11 to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.
- (3) A second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Central Information Commission or the State Information Commission:
- Provided that the Central Information Commission or the State Information Commission, as the case may be, may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.
- (4) If the decision of the Central Public Information Officer or State Public Information Officer, as the case may be, against which an appeal is preferred relates to information of a third party, the Central Information Commission or State Information Commission, as the case may be, shall give a reasonable opportunity of being heard to that third party.
- (5) In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request.
- (6) An appeal under sub-section (1) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.

- (7) The decision of the Central Information Commission or State Information Commission, as the case may be, shall be binding.
- (8) In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to—
- (a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including—
 - (i) by providing access to information, if so requested, in a particular form;
 - (ii) by appointing a Central Public Information Officer or State Public Information Officer, as the case may be;
 - (iii) by publishing certain information or categories of information;
 - (iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;
 - (v) by enhancing the provision of training on the right to information for its officials;
 - (vi) by providing it with an annual report in compliance with clause (b) of sub-section (1) of section 4;
 - (b) require the public authority to compensate the complainant for any loss or other detriment suffered;
 - (c) impose any of the penalties provided under this Act;
 - (d) reject the application.
- (9) The Central Information Commission or State Information Commission, as the case may be, shall give notice of its decision, including any right of appeal, to the complainant and the public authority.
- (10) The Central Information Commission or State Information Commission, as the case may be, shall decide the appeal in accordance with such procedure as may be prescribed.
- 20 (1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:
- Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:
- Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.
- (2) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause and persistently,

failed to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him.

CHAPTER VI

Miscellaneous

- 21 No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.
- 22 The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.
- 23 No court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act.
- 24 (1) Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule, being organisations established by the Central Government or any information furnished by such organisations to that Government:
Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:
Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the Central Information Commission, and notwithstanding anything contained in section 7, such information shall be provided within forty-five days from the date of the receipt of request.
- (2) The Central Government may, by notification in the Official Gazette, amend the Schedule by including therein any other intelligence or security organisation established by that Government or omitting therefrom any organisation already specified therein and on the publication of such notification, such organisation shall be deemed to be included in or, as the case may be, omitted from the Schedule.
- (3) Every notification issued under sub-section (2) shall be laid before each House of Parliament.
- (4) Nothing contained in this Act shall apply to such intelligence and security organisation being organisations established by the State Government, as that Government may, from time to time, by notification in the Official Gazette, specify:
Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:
Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the State Information Commission and, notwithstanding anything contained in section 7, such information shall be provided within forty-five days from the date of the receipt of request.

- (5) Every notification issued under sub-section (4) shall be laid before the State Legislature.
- 25 (1) The Central Information Commission or State Information Commission, as the case may be, shall, as soon as practicable after the end of each year, prepare a report on the implementation of the provisions of this Act during that year and forward a copy thereof to the appropriate Government.
- (2) Each Ministry or Department shall, in relation to the public authorities within their jurisdiction, collect and provide such information to the Central Information Commission or State Information Commission, as the case may be, as is required to prepare the report under this section and comply with the requirements concerning the furnishing of that information and keeping of records for the purposes of this section.
- (3) Each report shall state in respect of the year to which the report relates,—
- (a) the number of requests made to each public authority;
 - (b) the number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of this Act under which these decisions were made and the number of times such provisions were invoked;
 - (c) the number of appeals referred to the Central Information Commission or State Information Commission, as the case may be, for review, the nature of the appeals and the outcome of the appeals;
 - (d) particulars of any disciplinary action taken against any officer in respect of the administration of this Act;
 - (e) the amount of charges collected by each public authority under this Act;
 - (f) any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of this Act;
 - (g) recommendations for reform, including recommendations in respect of the particular public authorities, for the development, improvement, modernisation, reform or amendment to this Act or other legislation or common law or any other matter relevant for operationalising the right to access information.
- (4) The Central Government or the State Government, as the case may be, may, as soon as practicable after the end of each year, cause a copy of the report of the Central Information Commission or the State Information Commission, as the case may be, referred to in sub-section (1) to be laid before each House of Parliament or, as the case may be, before each House of the State Legislature, where there are two Houses, and where there is one House of the State Legislature before that House.
- (5) If it appears to the Central Information Commission or State Information Commission, as the case may be, that the practice of a public authority in relation to the exercise of its functions under this Act does not conform with the provisions or spirit of this Act, it may give to the authority a recommendation specifying the steps which ought in its opinion to be taken for promoting such conformity.
- 26 (1) The appropriate Government may, to the extent of availability of financial and other resources,—
- (a) develop and organise educational programmes to advance the understanding of the public, in particular of disadvantaged communities as to how to exercise the rights contemplated under this Act;
 - (b) encourage public authorities to participate in the development and organisation of programmes referred to in clause (a) and to undertake such programmes themselves;

- (c) promote timely and effective dissemination of accurate information by public authorities about their activities; and
 - (d) train Central Public Information Officers or State Public Information Officers, as the case may be, of public authorities and produce relevant training materials for use by the public authorities themselves.
- (2) The appropriate Government shall, within eighteen months from the commencement of this Act, compile in its official language a guide containing such information, in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right specified in this Act.
- (3) The appropriate Government shall, if necessary, update and publish the guidelines referred to in sub-section (2) at regular intervals which shall, in particular and without prejudice to the generality of sub-section (2), include—
- (a) the objects of this Act;
 - (b) the postal and street address, the phone and fax number and, if available, electronic mail address of the Central Public Information Officer or State Public Information Officer, as the case may be, of every public authority appointed under sub-section (1) of section 5;
 - (c) the manner and the form in which request for access to an information shall be made to a Central Public Information Officer or State Public Information Officer, as the case may be;
 - (d) the assistance available from and the duties of the Central Public Information Officer or State Public Information Officer, as the case may be, of a public authority under this Act;
 - (e) the assistance available from the Central Information Commission or State Information Commission, as the case may be;
 - (f) all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by this Act including the manner of filing an appeal to the Commission;
 - (g) the provisions providing for the voluntary disclosure of categories of records in accordance with section 4;
 - (h) the notices regarding fees to be paid in relation to requests for access to an information; and
 - (i) any additional regulations or circulars made or issued in relation to obtaining access to an information in accordance with this Act.
- (4) The appropriate Government must, if necessary, update and publish the guidelines at regular intervals.
- 27 (1) The appropriate Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—
- (a) the cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;
 - (b) the fee payable under sub-section (1) of section 6;
 - (c) the fee payable under sub-sections (1) and (5) of section 7;
 - (d) the salaries and allowances payable to and the terms and conditions of service of the officers and other employees under sub-section (6) of section 13 and sub-section (6) of section 16;

- (e) the procedure to be adopted by the Central Information Commission or State Information Commission, as the case may be, in deciding the appeals under sub-section (10) of section 19; and
 - (f) any other matter which is required to be, or may be, prescribed.
- 28 (1) The competent authority may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—
- (i) the cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;
 - (ii) the fee payable under sub-section (1) of section 6;
 - (iii) the fee payable under sub-section (1) of section 7; and
 - (iv) any other matter which is required to be, or may be, prescribed.
- 29 (1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.
- (2) Every rule made under this Act by a State Government shall be laid, as soon as may be after it is notified, before the State Legislature.
- 30 (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty:
- Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.
- (2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.
- 31 The Freedom of Information Act, 2002 is hereby repealed.

THE FIRST SCHEDULE

[See sections 13(3) and 16(3)]

Form of oath or affirmation to be made by the Chief Information Commissioner/the Information Commissioner/the State Chief Information Commissioner/the State Information Commissioner

"I, _____, having been appointed Chief Information Commissioner/Information Commissioner/State Chief Information Commissioner/State Information Commissioner
 swear in the name of God
 solemnly affirm
 that I will bear true faith and allegiance to the Constitution of India as by law

established, that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws."

THE SECOND SCHEDULE

(See section 24)

Intelligence and security organisation established by the Central Government

1. Intelligence Bureau.
2. Research and Analysis Wing of the Cabinet Secretariat.
3. Directorate of Revenue Intelligence.
4. Central Economic Intelligence Bureau.
5. Directorate of Enforcement.
6. Narcotics Control Bureau.
7. Aviation Research Centre.
8. Special Frontier Force.
9. Border Security Force.
10. Central Reserve Police Force.
11. Indo-Tibetan Border Police.
12. Central Industrial Security Force.
13. National Security Guards.
14. Assam Rifles.
15. Special Service Bureau.
16. Special Branch (CID), Andaman and Nicobar.
17. The Crime Branch-C.I.D.- CB, Dadra and Nagar Haveli.
18. Special Branch, Lakshadweep Police.

FAQ ON Public Interest Disclosure and Protection of Informers (PIDPI)

1. What is the background of Government of India's resolution " Public Interest Disclosure and Protection of Informers' Resolution "(PIDPI)?

Ans. In response to a PIL , the Hon'ble Supreme Court directed the Government to designate a suitable machinery to act on the complaints from " whistle blowers" till such time as a suitable legislation was enacted to that effect.

2. Which is the designated agency to act on the complaints from whistle blowers?

Ans. The Central Government, while implementing the directive of the Hon'ble Supreme Court appointed the Central Vigilance Commission as the 'Designated Authority' for the purpose. Through the Public Interest Disclosure & Protection of Informers Resolution dated 21 April 2004 the Govt. has designated the Central Vigilance Commission as the Agency to act on the complaints from "Whistle Blowers" till such time as the Parliament passes a Law on this subject.

3. What is the jurisdiction of the Commission with regard to GOI resolution on Public Interest Disclosure & Protection of Informers?

Ans. In principle, the jurisdiction of the Commission extends to all the organisations to which the executive power of the Union extends. Section 8(1)(d) of CVC Act restricts its jurisdiction with respect to the level of employees for inquiry into complaints to group "A" level officers and such level of officers as may be notified by the Central Government. In its advisory role on such matters as may be referred to the commission, there is no such restriction but for practical reasons the commission has been restricting this role to the same categories of employees as mentioned under :

- | | | |
|------|----------------------------------|---|
| i. | Central govt. ministries/ Deptts | Group 'A' officers and above. |
| ii. | Public Sector Undertakings | Two level below the Board level and above |
| iii. | Public Sector Banks | Officers of Scale V and above |
| iv. | Insurance Sector | Assistant Manager and equivalent |
| v. | Autonomous Bodies | Officers drawing basic pay of Rs.8700/= and above. |
| vi. | Port Trusts/Dock Labour Board | Officers who are in pay of Rs.10,750/= and above (Rs. 3,750/= and above pre-revised) |

The Commission has no jurisdiction over private individuals and State Governments.

4. Who has to ascertain the identity of complainant?

Ans. The Designated Agency will ascertain the identity of the complainant

"Absolute faith corrupts as absolutely as absolute power"- Eric Hoffer 1902-1983, American Author, Philosopher

5. What happens if the complaint is anonymous?

Ans. The CVC does not entertain anonymous/pseudonymous complaints.

6. Is the identity of the complainant revealed?

Ans. The identity of all complainants who desire so or those who make complaints under "Public Interests Disclosure and Protection of Informer" Resolution is kept secret by the Commission. However, in cases where the complainants send copies of their complaints to various organisations like PMO, President secretariat, Cabinet Secretariat, Ministries, PSUs etc, it is not possible for the Commission to accept any responsibility for keeping the identity secret.

7. How is the identity of the complainant kept secret?

Ans. a. The identity of the complainant is kept secret by CVC.
b. The complainant is required not to disclose his identity to public or any other office or authority.
c. While calling for further report/investigation, the Commission does not disclose the identity of the informant. On the contrary, the Commission requests the concerned Head of the Organisation to keep the identity of the informant a secret, if for any reason the identity is revealed.
d. Complaints under "Public Interest Disclosure and Protection of Informer" Resolution can be made only by post in closed/secured envelope. The envelope should be superscribed "PIDPI" or "Whistle Blower".
e. The complainant should refrain from giving his name on the body of the letter.
f. The personal details should be separately given or given at the top or end so that they can be easily blocked out.

8. Is the assistance of CBI or Police invoked to complete the investigation?

Ans. The Commission is authorised to call upon the CBI or the police authorities, as considered necessary, to render all assistance to complete the investigation pursuant to the complaint received.

9. What does the complainant do if he is aggrieved that he is being victimised on account of his complaint?

Ans. If any person is aggrieved by any action on the ground that he is being victimized due to the fact that he had filed a complaint or disclosure, he may file an application before the commission seeking redressal in the matter, where in the commission may give suitable direction to the concerned person or the authority.

10. What does the commission do if it is of the opinion that the complainant/ witness needs protection?

Ans. If the Commission is of the opinion that either the complainant or the witnesses need protection, it issues appropriate direction to the concerned govt. authorities.

"Ignorance, forgetfulness, or contempt of the rights of man are the only causes of public misfortunes and of the CORRUPTION of governments"-
[French National Assembly](#)

11. Is the Commission at liberty to take appropriate steps in case it finds the complaint motivated/vexatious?

Ans. Yes, the Commission is at liberty to take appropriate steps in case it finds the complaint to be motivated/vexatious.

12. Does the Commission entertain or enquire into any disclosure wherein a formal and public inquiry has been ordered under Public Servants Inquiries Act, 1850 or a matter has been referred for inquiry under Commissions of Inquiry Act, 1952?

Ans. No, the Commission does not go ahead with any inquiry in such cases.

13. What happens if the identity of informant is revealed?

Ans. In the event of the identity of the informant being disclosed in spite of the Commission's directions to the contrary, it is authorised to initiate appropriate action as per extant regulations against the person or agency making such disclosure.

14. What is the procedure for lodging complaints under PIDPI resolution?

Ans. As the Designated Authority, the Commission has laid a procedure for lodging complaints under the above Resolution. This has been given wide publicity and has also been put on the Commissions Web-site (www.cvc.nic.in). Only the complainants according to this procedure would be entitled for protection.

Thus, any complaint from the general public which is made under this resolution should comply with the following aspects :

- i. The complaint should be in a closed/secured envelope.
- ii. The envelope should be addressed to Secretary, Central Vigilance Commission, Satarkta Bhawan, Block "A", GPO Complex, INA, New Delhi-110023 and should be superscribed " Complaint under the Public Interest Disclosure". If the envelope is not superscribed and closed, it will not be possible for the Commission to protect the Complainant under the above resolution and the complaint is dealt as per the normal complaint policy of the commission. The complainant should give his/her name and address in the beginning or end of complaint or in an attached letter.
- iii. The Commission does not entertain anonymous/pseudonymous complaints.
- iv. The text of the complaint should be carefully drafted so as not to give any details or clue as to his/her identity. However, the details of the complaint should be specific and verifiable.
- v. In order to protect identity of the person, the Commission does not issue any acknowledgement and the whistle-blowers are supposed not to enter into any further correspondence with the Commission in their own interest. Subject to the facts of the case being verifiable, the Commission takes the necessary action, as provided under the Government of India resolution mentioned above. If any further clarification is required, the Commission gets in touch with the complainant.

"Power does not corrupt men; fools, however, if they get into a position of power, corrupt power."-George Bernard Shaw 1856-1950, Irish-born British Dramatist

CVC circulars

**Procurement of Works, Goods and Services - Guidelines on
Tenders/Use of website**

Office Order No.	File No.	Date of Issue	Subject
9/2/08	008/VGL/016	18/02/2008	Two day Work shop/ Seminar regarding IT Procurement...
07/02/08	007/CRD/008	15/02/2008	Measures to curb the menace of counterfeit and refurbished IT products
1/1/08	02-07-01-CTE-30	31/12/2007	Acceptance of Bank guarantees...
43/12/07	007/VGL/033	28/12/2007	Adoption of Integrity Pact in major Govt. Procurement Activities
41/12/07	007/VGL/033	4/12/2007	Adoption of Integrity Pact in major Govt. Procurement Activities
			Common irregularities/lapses observed instores/purchase ...
23/7/07	005/CRD/19	05/07/2007	Transparency in Works/Purchase/Consultancy contracts awarded on nomination basis (Office Order No 23-7-07)
14/4/07	98/VGL/25		Use of products with standard specifications
10/04/07	4CC-1-CTE-2	10/04/2007	Mobilization advance
04/3/07	005/CRD/12	03/03/2007	Tendering process - negotiations with L-1
37/10/06	005/crd/012	3/10/2006	Tendering process – negotiation with L1.
31/09/06	005/vgl/004	01/09/2006	Posting of details on award of tenders/contracts on websites/bulletins.
15/05/06	005/CRD/19	09/05/2006	Transparency in Contracts awarded on Nomination Basis
21/05/06	006/VGL/29	01/05/2006	Examination of Public Procurement Contracts by CVOs
71/12/05	005/VGL/66	09/12/2005	Undertaking by Members of Tender Committee
	98/VGL/25	10/11/2005	Intensive Examination of works by CTE's Organisation
68/10/05	005/CRD/12	25/10/2005	Tendering Process negotiation with L-1
57/09/05	005/VGL/4	20/09/2005	Details on award of tender
46/07/05	005/VGL/4	28/07/2005	Details on award of tenders/contracts Publishing
	2EE-1-CTE-3(Pt)	16.05.2005	Issues pertaining to negotiation with L-1
	2EE-1-CTE-3	12.04.2005	Issues pertaining to negotiation with L-1
11/03/05	005/ORD/1	10/03/2005	Delays in payments to contractors

13/3/05	005/VGL/4	16/03/05	• Details on award of tenders/contracts...
18/3/05	000/VGL/161	24/03/05	• Banning of buisness dealing with firms
15/3/05	OFF-1-CTE-1(Pt) V	24/03/05	• Notice inviting tenders
11/3/05		10/03/05	• Delays in Payments to Contractors...
	98/DSP/3	24/12/2004	• Participation of consultants in tender
72/12/04	004/ORD/9	10.12.04	• Transparency in tendering system-Guidelines regarding
69/11/04	004/ORD/8	03.11.2004	• Turnkey contracts for net-working of Computer Systems
68/10/04	98/ORD/1	20.10.2004	• Leveraging Tecnology - e-payment and e-receipt
47/7/04	98/ORD/1	13.07.2004	• Commission's Directives on use of Website in Public Tenders
-----	4CC-1-CTE-2	08.06.2004	• Mobilization Advance
-----	05-04-1-CTE-8	08.06.2004	• Receipt and Opening of Tenders
25/4/04	12-02-6-CTE-SPI(1)2	21.04.2004	• Consideration of Indian Agents
20/4/04	98/ORD/1	06.04.2004	• Cutting Delays by e-payments and e-receipt by Govt. Organisations
10/2/04	98/ORD/1	11.02.2004	• Increasing transparency(Tender process)
9/2/04	98/ORD/1	09.02.2004	• Increasing transparency(Sale)
-----	98/ORD/1	18.12.2003	• Improving Vigilance Administration:Increasing Transparency in Procurement/Sale etc.
-----	06-03-02-CTE-34	20.10.2003	• Back to back tie up by PSUs
-----	2EE-1-CTE-3	15.10.2003	• Tender sample Clause
46/9/03	98/ORD/1	11.09.2003	• E-procurement/Reverse Auction
44/9/03	98/ORD/1	04.09.2003	• Irregularities in the award of contracts
33/7/03	98/ORD/1	09.07.2003	• Short-comings in bid documents
-----	98/ORD/1	05.05.2003	• Purchase of Computers by Govt. Departments/ Organisations
-----	98/ORD/1(Pt.IV)	12.03.2003	• Use of web-site in Govt. procurement or tender process
-----	12-02-6-CTE-SPI(1)2	07.01.2003	• Consideration of Indian Agents
-----	98/ORD/1	03.08.2001	• Improving Vigilance Administration-Tenders (H1)
-----	98/ORD/1	24.08.2000	• Improving Vigilance Administration-Tenders
-----	3(v)/99/9	01.10.1999	• Applicability of CVC's instruction No.8(1)(h)/98(1) dated 18/11/98 on post-tender negotiations to Projects of the World Bank & other international funding agencies
-----	8(1)(h)/98(1)	18.11.1998	• Improving Vigilance Administration (L1) (L1)
	No.UU/POL/19	08.10.1997	• Grant of interest free mobilization advance.

	No.98/ORD/1	15.03.1999	● Improving vigilance administration-Tenders
	No.OFF1 CTE 1	25.11.2002	● Appointment of Consultants
	No.3L PRC 1	12.11.1982	● Irregularities/lapses observed in the construction works undertaken by Public sector undertakings/banks.
	<i>No. 3L – IRC 1</i>	10.01.1983	● Appointment of Consultants.
	<i>No 12-02-1-CTE-6</i>	17.12.2002	● Prequalification criteria (PQ).
	<i>No 12-02-1-CTE-6</i>	07.05.2002	● Pre-qualification Criteria (PQ).
	No. 98/VGL/25	16.05.2005	● Intensive Examination of works by CTE’s Organization-Submission of Quarterly Progress Report

1. CVC Circular No. 07/02/08 Dated the 15th February 2008
Subject: – Measures to curb the menace of counterfeit and refurbished ITproducts - regarding.

With the increasing use of IT to leverage technology, a large number of Government organizations are either upgrading or in the process of procurement of new computer hardware and software. It is often difficult to know the difference between PC made of “**Genuine Parts**” and that made of “**Counterfeit Parts**”. It may also be the case often that while various organisations order and pay for brand new equipment, they end up getting an inferior PC with counterfeit and second hand/refurbished parts disguised as new in new/ original cabinets to various customers designated as consignees by the ordering agencies at the headquarters of these organizations who are ignorant or have little or no technical knowledge in the matter.

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

This current circular is intended to help/ inform and enable due diligence as well as

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

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

1. **CPU.** Buyers are cautioned against buying IT Hardware with remarked CPUs that are freely / readily available in the market today. Entry Level processors get **Remarkd / Over clocked** and sold as high end processors. These CPUs, come disguised as higher clock speed processors (e.g. a Celeron CPU can be remarked as a P4 CPU) while their real clock speed may be lower. Since Operating System is loaded from CD bundled with Motherboard, the CD contains image of configured OS.

Hence information as seen in '**My Computer**' – '**System Properties**' shall give deceptive information. In other words, a Celeron CPU remarked as a P4 CPU, shall be seen as a P4 CPU only.

Buyers should therefore, use various tool / utilities like the '**CPU-Z**' Utility or the '**sSpecNo.**' for ascertaining the real parameters of the CPU. Utility like CPU-Z (approx. 1.3 MB size) are available free on the web.

2. **Hard Disk** IT Hardware with refurbished Hard Disks that are actually 2nd hand / repaired hard disks are readily available at low cost. In hard disk drives, the factory repaired hard disk drives, which are mainly used in the warranty replacements are substituted in the new machines. Same is the case observed with floppy drive and Optical disk drives many times.

Most of the competent hard disk makers use a sticker on such hard disks sold by them that clearly distinguishes such hard disks from the fresh ones. For example, manufacturer '**Seagate**' marks **Green Border** and label of "**Certified Repaired HDD**" to distinguish such disk drives from **New Genuine HDD**. There is **No border** or **Refurbished** label on genuine new HDD.

In addition to this, buyers may also use **HDTUNE_210** Utility. This utility shall return

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

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

Further many such cathode ray tubes (Picture Tubes) are found to need extra magnets to achieve focusing and earthing also is missing. Genuine Monitors rely on ‘Yoke Coil’ alone to focus electronic beam. Counterfeit Monitors typically require Numerous Magnetic Strips in addition to Yoke Coil to focus electronic beam. Further, ‘**Earthing**’ and ‘**Shielding**’ provide **ESD** (Electro Static Discharge) protection. **Genuine Picture Tubes** have **proper “Earthing and Shielding”**. Earthing and Shielding is compromised in counterfeit Picture Tubes to reduce cost. In ‘B’ Grade LCD Monitors, panels used are B grade in which the number of spots may be higher, response time & brightness of lower specs than what is stated. Above monitors are all available at low cost.

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

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

Microsoft provides an inbuilt tool to diagnose the “Genuineness of its Operating System”. One could go to ‘My Documents’, and ‘Help’, from where one shall get step

by step instructions to find out whether the windows installed is genuine.
<http://www.microsoft.com/resources/howtotell/ww/windows/default.mspx>

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

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

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

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

(V. Ramachandran)
Chief Technical Examiner
Central Vigilance Commission

2. CVC OFFICE MEMORANDUM Dated 31.12.2007
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.

(Smt. Padamaja Varma)
Chief Technical Examiner

3. CVC Office Order NO.43/12/07 Dated 28.12.2007
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

4. CVC Office Order NO.43/12/07 Dated 4.12.2007
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

5. CVC Office Order No.23/7/07 Dated the 5th July 2007
Subject:- Transparency in Works/Purchase/Consultancy
contracts awarded on nomination basis.

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

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

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

4. A relevant extract from the recent Supreme Court of India judgement in the case of Nagar Nigam, Meerut Vs A1 Faheem Meat Export Pvt. Ltd. [arising out of SLP(civil) No.10174 of 2006] is reproduced below to reinforce this point. "The law is well-settled that contracts by the State, its corporations, instrumentalities and agencies must be normally granted through public auction/public tender by inviting tenders from eligible persons and the notifications of the public-auction or inviting tenders should be advertised in well known dailies having wide circulation in the locality with all relevant details such as date, time and place of auction, subject matter of auction, technical specifications, estimated cost, earnest money deposit, etc. The award of Government contracts through public-auction/public tender is to ensure transparency in the public procurement, to maximize economy and efficiency in Government procurement, to promote healthy competition among the tenderers, to provide for fair and equitable treatment of all tenderers, and to eliminate irregularities, interference and corrupt practices by the authorities concerned. This is required by Article 14 of the Constitution. However, in rare and exceptional cases, or instance, during natural calamities and emergencies declared by the Government; where the procurement is possible from a single source only; where the supplier or contractor has exclusive rights in respect of the goods or services and no reasonable alternative or substitute exists; where the auction was held on several dates but there were no bidders or the bids offered were too low, etc., this normal rule may be departed from and such contracts may be awarded through 'private negotiations'."(Copy of the full judgement is available on the web-site of the Hon'ble Supreme Court of India, i.e., www.supremecourtindia.nic.in)

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

6. Further, all nomination/single tender contracts be posted on the website ex post-facto.

(Rajiv Verma)
Under Secretary

**6. CVC OFFICE MEMORANDUM / CIRCULAR NO.14/4/07 Date
26.04.2007
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-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

**7. CVC OFFICE MEMORANDUM / CIRCULAR NO.10/4/07 Date
10.04.2007
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 installments and should be equivalent to the amount of each installment. 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 installments should be released after getting satisfactory utilization certificate from the contractor for the earlier installment.

Sd/-
(P. VARMA)
Chief Technical Examiner

**8. CVC Circular No. 4/3/07 Dated the 3rd March, 2007
Sub:- Tendering process - negotiations with L-1.**

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

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

would be permitted with L-1 bidder(s) for the supply of a bare minimum quantity. The balance quantity should, however, be procured expeditiously through a re-tender, following the normal tendering process.

(iii) Negotiations should not be allowed to be misused as a tool for bargaining with L-1 with dubious intentions or lead to delays in decision-making. Convincing reasons must be recorded by the authority recommending negotiations. Competent authority should exercise due diligence while accepting a tender or ordering negotiations or calling for a re-tender and a definite timeframe should be indicated so that the time taken for according requisite approvals for the entire process of award of tenders does not exceed one month from the date of submission of recommendations. In cases where the proposal is to be approved at higher levels, a maximum of 15 days should be assigned for clearance at each level. In no case should the overall timeframe exceed the validity period of the tender and it should be ensured that tenders are invariably finalised within their validity period.

(iv) As regards the splitting of quantities, some organisations have expressed apprehension that pre-disclosing the distribution of quantities in the bid document may not be feasible, as the capacity of the L-1 firm may not be known in advance. It may be stated that if, after due processing, it is discovered that the quantity to be ordered is far more than what L-1 alone is capable of supplying and there was no prior decision to split the quantities, then the quantity being finally ordered should be distributed among the other bidders in a manner that is fair, transparent and equitable. It is essentially in cases where the organisations decide in advance to have more than one source of supply (due to critical or vital nature of the item) that the Commission insists on pre-disclosing the ratio of splitting the supply in the tender itself. This must be followed scrupulously.

(v) Counter-offers to L-1, in order to arrive at an acceptable price, shall amount to negotiations. However, any counter-offer thereafter to L-2, L-3, etc., (at the rates accepted by L-1) in case of splitting of quantities, as pre-disclosed in the tender, shall not be deemed to be a negotiation.

2. It is reiterated that in case L-1 backs-out, there should be a re-tender.

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

(Vineet Mathur)
Deputy Secretary

9. CVC Circular No. 31/9/06 dated the 1st September 2006
Subject: Posting of details on award of tenders/contracts on
websites/bulletins.

The Commission, vide its orders of even number dated 16.3.2005, 28.7.2005 and 20.9.2005, had directed all organisations to post every month a summary of all contracts/purchases made above a certain threshold value on the websites of the concerned organisations, and it was specified that the proposed threshold limits would be acceptable to the Commission as long as they covered more than 60%

of the value of the transactions every month in the first instance, to be revised subsequently after the system stabilized. The threshold values as decided by the organisations, were also to be communicated to the Commission separately for its perusal and record. CVOs were required to monitor the progress in this regard and ensure that the requisite details were posted regularly on respective websites. They were also required to incorporate the compliance reports in this regard in their monthly reports.

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

3. Please acknowledge receipt and ensure due compliance.

(V.Kannan)
Director

10. CIRCULAR No.15/5/06 Dated the 9th May 2006
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.

11. CVC circular Circular No.21/05/06 dated, the 1st May, 2006
Subject: Examination of Public Procurement (Works/Purchases/Services)
Contracts by CVOs.

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

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

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

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

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

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

7. This may please be noted for strict compliance.

(V.Kannan)
Director

Annexure-1

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

I. Pre-Award Stage

1. Financial and Technical sanction of competent authority is available.

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

B. Post-award stage

(a) General

1. Agreement is complete with all relevant papers such as pre-bid conference minutes, etc.
2. Agreement is page-numbered, signed and sealed properly.
3. Bank Guarantee is verified from issuing bank.
4. Insurance policies, labour licence, performance guarantee are taken as per contract.
5. Technical personnel are deployed as per contract.
6. Plant and equipment are deployed as per contract.
7. Action for levy of liquidated damages is taken in case of delay/default.

(b) Payments to contractors

1. Price escalation is paid only as per contract.
2. Retention Money/Security Deposit is deducted as per contract.
3. Recovery of Mobilisation & Equipment advance is made as per the provisions in the contract.
4. Recovery of I.Tax & Works Contract tax is made as per provisions in the contract.
5. Glaring deviations are supported with adequate justification and are not advantageous to the contractor.

(c) Site Records

1. Proper system of recording and compliance of the instructions issued to the contractors is maintained.
2. Proper record of hindrances is maintained for the purpose of timely removal of the hindrance and action for levy of liquidated damages.
3. Mandatory tests are carried out as per the frequency prescribed in the Agreement.

12. CVC Office Order No. 71/12/05 Dated the 9/12/2005
Subject: Undertaking by the Members of Tender
Committee/Agency.

In continuation of the Commission's directions vide Order 005/VGL/4 dated 16/3/2005 regarding transparency in the tender process, the Commission would advise that the members of the Tender Committee should give an undertaking at the appropriate time, that none of them has any personal interest in the Companies/Agencies participating in the tender process. Any Member having interest in any Company should refrain from participating in the Tender Committee.

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

Sd/
(Anjana Dube)
Deputy Secretary

13. CVC(CTE)'s letter no No.98-VGL-25 Dated the 10th Nov., 2005

To

All Chief Vigilance Officers

Sub: Intensive Examination of works by CTE's Organisation –
Submission of quarterly progress report.

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

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

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

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

Civil - Rs. 1.00 Cr. and above

Elect/Mech.Works Rs. 30 Lacs & above

Store Purchase Rs. 2 Cr. and above

Hort. Rs. 2 lacs and above

Medical equipment Rs. 1 Cr. & above

Consultancy 2 largest value contracts
Service contracts 2 largest value contracts.
Supplies of medicines 4 largest value contract.

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

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

Yours faithfully,

(P. Verma)
Chief Technical Examiner

14. CVC office order No. 68/10/05 Dated : 25/10/2005
Sub:- Tendering Process – Negotiation with L-1.

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

(i) There should not be any negotiations. Negotiations if at all shall be an exception and only in the case of proprietary items or in the case of items with limited source of supply. Negotiations shall be held with L-1 only. Counter offers tantamount to negotiations and should be treated at par with negotiation.

(ii) Negotiations can be recommended in exceptional circumstances only after due application of mind and recording valid, logical reasons justifying negotiations. In case of inability to obtain the desired results by way of reduction in rates and negotiations prove infructuous, satisfactory explanations are required to be recorded by the Committee who recommended the negotiations. The Committee shall be responsible for lack of application of mind in case its negotiations have only unnecessarily delayed the award of work/contract.

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

3. In case of L-1 backing out there should be re-tendering as per extant instructions.
4. The above instructions may be circulated to all concerned for compliance.

(Anjana Dube)
Deputy Secretary

15. CVC Office Order No.57/9/05 dated Dated the 20th September 2005
Subject: Details on award of tenders/contracts publishing on Websites/Bulletins- Reminder regarding.

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

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

Sd/-
(Mitter Sain)
Deputy Secretary

16. CVC Office Order No.46/07/05 dated the 28th July 2005
Subject: Details on award of tenders/contracts publishing on Websites/Bulletins - Reminder regarding.

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

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

(Anjana Dube)
Deputy secretary

17. CVC Office Memorandum NO.2EE-1-CTE-3(Pt.) Date 16.05.2005.
Sub :Issues pertaining to Negotiation with L1 (i.e. Lowest tenderer).

Reference is invited to this office OM of even number dated 11.4.2005. Identifying Post Tender negotiations as the main source of corruption, Organisations such as World Bank have banned Negotiations after opening of tenders. The Commission have also banned Post Tender Negotiations except in the case of Negotiations with L1 (i.e. Lowest Tenderer) vide its Orders dated 18.11.1998.

2. The Commission is considering whether Negotiations even with L1 as per above instructions are required at all. Even if it is considered that the Negotiations with L1 is inescapable, the Commission would like to have your views in identifying the Guidelines and the Time Frame for conducting such Negotiations so that Negotiations are not misused as a tool for bargaining with L1 with malicious intentions and consequential delays in decision making.

3. Views on the above may please be arranged to be sent to the Commission addressed to the undersigned immediately, latest by 30.5.2005.

4. The date, time and venue of the Workshop has been postponed to the month of June and shall be intimated to the select CVOs shortly.

Sd/
(V. Ramachandran)
Chief Technical Examiner

18. CVC OFFICE MEMORANDUM NO.2EE-1-CTE-3 Date 12.04.2005.

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

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

2.The Commission in its efforts to look at some of its own guidelines & instructions and fine tune them with the organisation's requirement to make the system cost effective and more competitive, proposes to hold a workshop in the 3rd week of May with select CVOs. The Commission would, therefore welcome the reasoned views of your organization for and against the banning of post – tender negotiations with other than L1 (lowest tenderer). Your views on the subject matter of negotiations, circulated vide letter No.8(1)(h)/98(1), dated 18.11.98 with justification of your stand and suggestion for modification, if any, may please be arranged to be sent to this organization addressed to the undersigned immediately, latest by 30.4.2005.

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

(V. Ramachandran)
Chief Technical examiner

19. CVC OFFICE ORDER NO. 11/3/05 Dated 10th March, 2005

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 organisations and PSUs, payments to contractors/suppliers are inordinately delayed. This makes the system vulnerable to corruption, in addition to increasing the cost of procurement by the Government agencies.

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

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

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

Statement on delays in Bill Payments

1. Name of Organisation :

2. Cut off limit : Rs.1 lakh/others(in respect of small orgns.)

3. Bills received during Sept.,04-Feb,05 :

(from contractors/suppliers etc.)

Total No. of Bills :

Total amount involved :

4. Out of these :

(a) Bills paid in 15 days :

No. of Bills :

Amount Involved :

(b) Bills paid in 15-30 days :

No. of Bills :

Amount Involved :

(c) Bills paid in 30-60 days :

No. of Bills :

Amount Involved :

(d) Bills paid from 60 days to 120 days :

No. of Bills :
Amount Involved :
(e) Bills paid over 120 days :
No. of Bills :
Amount Involved :

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

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

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

Sd/-
(Balwinder Singh)
Additional Secretary

20. CVC Office Order No.13/3/05 Dated the 16th March 2005
Subject: Details on award of tenders/contracts publishing on Websites/Bulletins.

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

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

3. Subsequently, the website should give the details on the following:

- a) actual date of start of work
- b) actual date of completion
- c) reasons for delays if any

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

Sd/-
(Anjana Dube)
Deputy Secretary

21. CVC Office Order No. 18/3/05 Dated, the 24th March, 2005
Sub:- Banning of business dealings with firms/contractors- clarification regarding.

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

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

sd/-
(Anjana Dube)
Deputy Secretary

22. CVC Office Order No. 15/3/05 Dated the 24th March 2005
Subject: Notice inviting tenders – regarding.

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

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

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

Sd/-
(Anjana Dube)
Deputy Secretary

23. CVC Office Order No.75/12/04 Dated the 24th December, 2004
Sub: Participation of consultants in tender – guidelines regarding.

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

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

Consultants:-A firm which has been engaged by the PSU to provide goods or works for a project and any of its affiliates will be disqualified from providing consulting services for the same project. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, and any of its affiliates, will be disqualified from subsequently providing goods or works or services related to the initial assignment for the same project. Consultants or any of their affiliates will not be hired for any assignment, which by its nature, may be in conflict with another assignment of the consultants.

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

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

Sd/-
(Anjana Dube)
Deputy Secretary

24. CVC Office Order No. 72/12/04 Dated the 10th December, 2004
Subject:- Transparency in tendering system- Guidelines
regarding.

In order to maintain transparency and fairness, it would be appropriate that organisations should evolve a practice of finalizing the acceptability of the bidding firms in respect of the qualifying criteria before or during holding technical negotiations with him. Obtaining revised price bids from the firms, which do not meet the qualification criteria, would be incorrect. Therefore the exercise of shortlisting of the qualifying firms must be completed prior to seeking the revised price bids. Moreover, the intimation of rejection to the firms whose bids have been evaluated but found not to meet the qualification criteria, along with the return of the un-opened price bid, will enhance transparency and plug the loop-holes in the tendering system.

All organisations/departments are advised to frame a policy accordingly.

Sd/-
(Anjana Dube)
Deputy Secretary

25. CVC Office Order No. 72/12/04 Office Order No. 72/12/04
Subject:- Turnkey contracts for net-working of computer systems.

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

Sd/-
(Balwinder Singh)
Additional Secretary

26. CVC Office Order No. 68/10/04 Dated the 20th October 2004
Subject: Leveraging Technology – e-payment & e-receipt.

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

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

Sd/-
(Anjana Dube)
Deputy Secretary

27. CVC Office Order No. 47/7/04 Dated the 13th July, 2004
Subject: Central Vigilance Commission's Directives on Use of Website in Public Tenders.

A copy of the guidelines on the above mentioned subject and further clarification in this regard are enclosed herewith for information and necessary action.

Sd/-
(Anjana Dube)
Deputy Secretary

To

- (i) The Secretaries of All Ministries/Departments of Government of India
 - (ii) The Chief Secretaries to All Union Territories
 - (iii) The Comptroller & Auditor General of India
 - (iv) The Chairman, Union Public Service Commission
 - (v) The 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
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28. CVC Dated the 13th July, 2004 Dated: 8.6.2004

Sub: Mobilization Advance

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

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

Sd/-
(Gyaneshwar Tyagi)
Technical Examiner

29. CVC Dated the 13th July, 2004 Dated: 8.6.2004

Sub: Receipt and Opening of Tenders

In the various booklets issued by the CTE Organisation of the Commission, the need to maintain transparency in receipt and opening of the tenders has been emphasized and it has been suggested therein that suitable arrangements for receipt of sealed tenders at the scheduled date and time through conspicuously located tender boxes need to be ensured. A case has come to the notice of the Commission, where due to the bulky size of tender documents the bid conditions envisaged submission of tenders by

hand to a designated officer. However, it seems that one of the bidders while trying to locate the exact place of submission of tenders, got delayed by few minutes and the tender was not accepted leading to a complaint.

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

Sd/-
(Gyaneshwar Tyagi)
Technical Examiner

**30. CVC Office Order No.25/04/04 Dated the 21st April 2004.
Subject : Consideration of Indian Agents.**

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

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

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

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

**31. CVC Office Order No.25/04/04 Dated the 6th April, 2004
Sub: Improving Vigilance Administration: Increasing
Transparency and cutting delays by e-payments and e-receipt
by Govt. Organisations etc.**

The Commission has been receiving complaints about inordinate delays in making payments to the vendors and other suppliers to the Govt. organisations, Public Sector Undertakings etc. Similarly complaints are received about delays in getting refunds from taxation dept. and other departments. Apart from increasing the cost of procurement, the delays lead to opportunities for corruption. A number of measures are required to cut down on delays in making payments. One such step is resorting to mechanism of e-payments and e-receipts wherever such banking facilities exist. In the last few years tremendous progress has been made by the banking sector in computerization including net-working of branches, making it possible to do e-banking by making use of facilities like electronic clearing system (ECS) and electronic fund transfer (EFT) etc. These facilities are available in most of the banks including the State Bank of India as well as in private banks. A large number of corporates including public sector undertakings are already making e-payments to vendors and employees instead of making payments by issue of cheques.

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

1. The payment to all suppliers/vendors, refunds of various nature, and other payments which the organisations routinely make shall be made through electronic payment mechanism at all centres where such facilities are available in the banks.
2. Salary and other payments to the employees of the concerned organisations at such centres shall also be made through electronic clearing system (ECS) wherever such facilities exist.

As the organisations will have to collect bank account numbers from the vendor, suppliers, employees and others who have interface of this nature with the Govt. organisations, the concerned organisations may plan to switch over to epayment system in a phased manner starting with transactions with the major suppliers in the beginning or in whatever manner is found more convenient. It is expected that in three months i.e. by 1st July, 2004, 50% of the payment transactions both in value terms as well as in terms of number of transactions shall be made through ECS/EFT mechanism instead of payment through cheques. The remaining 50% payment transactions at all centres where such facilities exist shall be made by 31st Dec., 2004. These instructions are applicable to all the metro cities and other urban centres where the banks provide ECS/EFT and similar other facilities. The departments, PSUs, Banks etc. should also provide an

enabling environment and facilities so that businessmen and other citizens can make payment of Govt. dues and payments to PSUs etc. electronically.

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

Sd/-
(ANJANA DUBE)
DEPUTY SECRETARY

32. **CVC Office Order No. 10/2/04 Dated the 11th February 2004**
To
All Chief Vigilance Officers
Subject: Improving Vigilance Administration – Increasing transparency in procurement/tender Process – use of website-regarding.

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

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

Sd/-
(Balwinder Singh)
Additional Secretary

33. **CVC Office Order No. 9/2/04 Dated the 9th February 2004**
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

34. CVC instruction no.No.98/ORD/1 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 competition.

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

(i) In addition to the existing rules and practices regarding giving publicity of tenders through newspapers, trade journals and providing tender documents manually and through post etc. the complete bid documents alongwith application form shall be published on the web site of the organization. It shall be ensured by the concerned

organization that the parties making use of this facility of web site are not asked to again obtain some other related documents from the department manually for purpose of participating in the tender process i.e. all documents upto date should remain available and shall be equally legally valid for participation in the tender process as manual documents obtained from the department through manual process.

(ii) The complete application form should be available on the web site for purposes of downloading and application made on such a form shall be considered valid for participating in the tender process.

(iii) The concerned organization must give its web site address in the advertisement/NIT published in the newspapers.

(iv) If the concerned organization wishes to charge for the application form downloaded from the computer then they may ask the bidding party to pay the amount by draft/cheques etc. at the time of submission of the application form and bid documents.

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

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

Sd/-
(P. Shankar)
Central Vigilance Commissioner

35. **CVC,CTE OFFICE MEMORANDUM no. 06-03-02-CTE-34 Dated: 20.10.2003**

Sub: Back to back tie up by PSUs- instructions regarding

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

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

a) No transparency in selection of contractor for the back to back tie up which is the main source of corruption.

b) Collusion among the contractors was observed where more than one contractors were involved at various stages.

c) Ineligible contractor obtains the contract through the PSUs.

d) Purchase preference misused by the PSUs.

e) PSUs sublet the complete work to a private contractor without obtaining permission from the client which invariably put a condition insisting such permission since the client is generally not interested in such back to back sublet of the work.

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

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

36. **CVC,CTE OFFICE MEMORANDUM No. 2EE-1-CTE-3 Dated – 1
5.10.2003**

Sub: Tender Sample Clause.

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

2. While it is recognized that samples may be required to be approved to provide a basis in respect of indeterminable parameters such as shade, feel, finish & workmanship for supplies of such items but system of approving/rejecting tender samples at the time of decision

making is too subjective and is not considered suitable, especially for items which have detailed specifications. The lack of competition in such cases is also likely to result in award of contracts at high rates.

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

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

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

37. CVC OFFICE ORDER NO. 46/9/03 Dated the 11th September 2003
To
All Chief Vigilance Officers
Subject: E-procurement/Reverse Auction.

Sir/Madam,

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

Yours faithfully,
Sd/-
(Mange Lal)
Deputy Secretary
Telefax- 24651010

38. CVC Office Order No.44/9/03 Dated 04.09.2003
Sub: Irregularities in the award of contracts.

Sir/Madam,

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

experience in undertaking handling of similar work and/or transportation works preferably of ISO containers, however, no definition of 'similar works' was, indicated in the bid documents.

2. It should be ensured that pre-qualification criteria, performance criteria and evaluation criteria are incorporated in the bid documents in clear and unambiguous

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

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

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

Yours faithfully,
Sd/-
(Anjana Dube)
Deputy Secretary

39. CVC Office Order No. 33/7/03 Dated the 9th July, 2003
Subject:- Short-comings in bid documents.

Sir/Madam,

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

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

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

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

40. CVC order/instruction no No.98/ORD/1 Dated the 5th May, 2003
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

41. CVC OFFICE MEMORANDUM NO.8(4)-E.II(A)/98 DATED the 17th
December, 1998
Subject: Purchase of Computer Systems by Government
Departments.

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

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

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

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

Sd/-

(Narain Das)

Under Secretary to the Govt. of India

42. **CVC order No.98/ORD/1(Pt.IV) Dated the 12.03.2003.**

To

All Chief Vigilance Officers

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

Sir,

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

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

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

Yours faithfully,

Sd/-

(Mange Lal)

Deputy Secretary

T.No. 24651010

43. **CVC,CTE OFFICE MEMORANDUM NO.12-02-6-**

CTE/SPI (I)-2 Dated

the 7th January 2003

Subject : Consideration of Indian Agents.

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

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

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

Sd/-
(NIRANJAN SINGH)
UNDER SECRETARY.

44. CVC order no.98/ORD/1 Dated the 3rd August 2001
Subject: Improving Vigilance Administration - Tenders.

Sir,

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

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

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

45. CVC order no.98/ORD/1Dated 24th August, 2000
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 umber dated 15.3.99 (copy enclosed).

3. Some of the organisations have sought clarification as to whether they can consider the L-2 offer or negotiate with that firm if L-1 withdraws his offer before the work order is placed, or before the supply or execution of work order takes place. In this regard, it is clarified that such a situation may be avoided if a two-bid system is followed (technocommercial) so that proper assessment of the offers is made before the award of work order., Therefore, if L-1 party backs out, there should be retendering in a transparent and fair manner. The authority may in such a situation call for limited or short notice tender if so justified in the interest of work and take a decision on the basis of lowest tender.

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

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

46. CVC instruction no. NO.3(V)/99/9 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 organisations relates to the applicability of the above said instruction of CVC to World Bank Projects. It has been decided after due consideration, that in so far as the World Bank Projects and other international funding agencies such as IMF, ADB etc. are concerned, the department/organisations have no other alternative but to go by the criteria prescribed by the World Bank/concerned agencies and the Commission's instruction would not be applicable specifically to those projects. However, the instructions of the CVC will be binding on purchases/sales made by the departments within the Country. The CVC's instruction of 18/11/98 will apply even if they are made with sources outside the Country and if they are within the budget provisions and normal operations of the Department/Organisation,

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

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

Sd/-
(N. Vittal)
Central Vigilance Commissioner

47. CVC OFFICE MEMORANDUM No.UU/POL/19 dated 8 Oct.,1997
Sub: Grant of interest free mobilization advance.

Sir,

It has come to the notice of this Commission that PSUs are stipulating payment of interest free mobilization advance in their tenders. Many times mobilization advance is allowed after acceptance of tender also. The amount of mobilization advance thus paid to the contractor is prone to be used by him for building his

own capital or for the purpose other than the one for which it is disbursed. For big projects mobilization advance of 5 to 10% stipulated in the contract works out to a huge amount and the contractor is likely to be benefited with interest free amount to a very big extent. Normally while preparing justification, elements of gain in terms of interest on capital investment by way of mobilization advance is also not considered and thus the contractor gets higher rates than that may be justified. In case there is a delay in commencement of work the contractor is likely to get undue benefit by way of retention of huge money.

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

Sd/-
(P.K.Gopinath)
Director

48. CVC instruction/order no.98/ORD/1 Dated the 15th March,1999
Subject: Improving vigilance administration-Tenders

Sir,

Please refer to CVC's instructions issued under letter No.8(1)(h)/98(I) dt. 18.11.98 banning post tender negotiations except with L-1 i.e., the lowest tenderer. Some of the organizations have sought clarifications from the Commission as they are facing problems in implementing these instructions. The following clarifications are, therefore, issued with the approval of Central Vigilance Commissioner

(i) The Government of India has a purchase preference policy so far as the public sector enterprises are concerned. It is clarified that the ban on the post tender negotiations does not mean that the policy of the Government of India for purchase preference for public sector should not be implemented.

(ii) Incidentally, some organisations have been using the public sector as a shield or a conduit for getting costly inputs or for improper purchases. This also should be avoided.

(iii) Another issue that has been raised is that many a time the quantity to be ordered is much more than L1 alone can supply. In such cases the quantity order may be istributed in such a manner that the purchase is done in a fair transparent and equitable manner.

Yours faithfully,
Sd/-
(P.S.Fatehullah)
Director

49. CVC,CTE office memorandum No..OFF 1 CTE 1 Dt. the 25th November 2002
Subject: Appointment of Consultants

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

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

These agencies tend to collude or collide with each other, and both the situations are detrimental to the smooth implementation of the project.

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

i) One organization engaged architect from a very old panel, prepared about 15 years back.

ii) An organization invited and short-listed 5 consultants but awarded the contract to the highest bidder on the plea that the bidder had done a very good job in some other project with the organization. Extra amount of account of travel expenses, boarding and lodging was also sanctioned beyond contractual terms.

iii) A bank for construction of its Head Office in Mumbai, shortlisted three firms after a thorough scrutiny of offers submitted by a large number of bidders. The price bids of these firms were opened , but in a surprising manner, the work of consultancy was awarded to an L-2 firm thus compromising all ethics of tendering.

iv) The payment terms to the contractors are often allowed quite liberally. In one case, the consultant's fee was paid on quarterly basis without linking the same with the progress of the project. Full payments had been authorized even before the completion of the project. In another work, the consultants were paid substantial amount at an early stage of the project though they had submitted only preliminary drawings. Subsequently, the consultants failed to complete the job and the department took no action against them. In yet another case, the consultant was allowed extra payment for additional documents that he had to generate due to retendering of the case. However, the reasons for re-tendering were found attributable to the consultants and instead of penalizing, they were rewarded with extra payment.

v) The consultants tend to increase the cost of the work for more fees as generally the fee of the consultants is fixed at a certain percentage of the final cost of project. In an office building work, tender was accepted for Rs.10.00 crores but during execution, specifications were changed and actual cost on completion was twice the tendered cost. Thus, the consultant was unduly benefited as there was no maximum limit fixed for the consultant's fee.

vi) In the consultancy agreement generally the nature of repetitive type of work is not defined. In one work, 4 similar blocks comprising of 100 hostel rooms each were constructed. The consultants were paid same standard fees for each block. Due to this, the organization suffered loss at the cost of the consultant.

vii) There is no check on consultant's planning, design and execution. In one work, pile foundation for a workshop building was designed with the capacity of the piles, capable of carrying twice the required load. In the same project, high capacity piles (450 mm dia, 20 m deep) were provided for a single-storeyed ordinary office building, which did not require pile foundation at all.

viii) In another case, the project was for a design and construction of a training institute on a big plot of land in a very posh and expensive area. The whole construction was two storeyed with no scope for future expansion Ironically all other buildings in the vicinity are multi-storeyed highlighting the fact that space utilization here was very poor. Further, the walls in the reception area and on the outside of the auditorium were provided with acoustic insulation with no rationale. For air-conditioning of the library instead of providing a single AHU of suitable capacity with ducting , etc. 20 plus AHUs had been provided in the room. Such fanciful ideas along with poor planning and supervision resulted in the project suffering heavy cost and time overruns.

ix) In one of the works for a bank in Mumbai, the substation equipment has been installed in the basement area, jeopardizing the safety aspect, as Mumbai gets its fair share of heavy rains and the area is also in close proximity to the sea.

x) In many cases, the consultants charge exorbitant traveling expenses. For a work in Punjab, Mumbai based Architects were appointed. The fee payable to them was Rs.6.00 lakhs, but the actual traveling expenses ultimately paid to them were to the tune of Rs.7.5 lakhs.

xi) Sometimes the consultants pass on their responsibility to the contractor . In one work, the consultant was supposed to give design ad drawing as per the consultancy agreement. While preparing the tender document for construction

work, the responsibility for the preparation of drawings and structural design was entrusted with the construction contractor by adding a condition to that effect. The contractors loaded the quoted rates for the above work and the consultant was benefited at the cost of the organization.

xii) In case of road projects, it was observed that consultants under different categories like general consultants, planning & design consultants and construction management consultants were appointed for almost all the activities of the projects without competitive bidding. The work done by the consultants is not checked by the departmental engineers who feel their job is mainly to issue cheques to the consultants/contractors.

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

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

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

Encl: As above

To

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

ANNEXURE-I

No.3L PRC 1
Government of India
Central Vigilance Commission

No.3,Dr.Rajendera Prasad Road,

New Delhi, dt. 12.11.1982

To
All Chief Vigilance Officers of all Public
Enterprises/Nationalised Banks.

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

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

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

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

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

Sd/-
(D.C. Gupta)
Director

ANNEXURE-II
No. 3L – IRC 1
Government of India
Central Vigilance Commission

No. 3, Dr. Rajendera Prasad Road,
New Delhi, dt. 10-1-1983

To,
All Chief Vigilance Officers of all Public
Enterprises/National Banks.

Sub: APPOINTMENT OF CONSULTANT.

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

A. For any new projects, expansions, modernization/modification of the existing projects involving an expenditure of Rs.5 crores and above these guidelines are applicable.

B. The pre-qualifications public notice should be issued to enlist names of suitable consultants.

C. The pre-qualification bid should be screened by a scrutinising committee.

D. The final selection and commissioning of the consultant should be done with the approval of the board of public sector enterprises.

E. Based on the above guidelines each enterprise should prepare their own instructions and procedure duly approved by the board for the appointment of consultants to ensure that the selection is made with maximum attention to the suitability, competence and proven track record.

The Chief Technical Engineer Organisation under the control of the Commission has had occasion to examine and comment upon works undertaken by public sector undertakings. Common irregularities/lapses noticed in the construction

works undertaken by the public sector undertakings/banks have already been brought to your notice vide engineering works, it was observed that consultants were appointed on ad-hoc basis without going through proper formalities as suggested by B.P.E. and/or the consultant was chosen from an old panel thereby restricting competition. In most of the cases public sector enterprises have not framed their own instructions and procedures duly approved by the Board. Even though individually such works are less than Rs.5 crores, it is necessary that the appointment of consultant should not be made arbitrary or ad-hoc.

It is, therefore, necessary that urgent action is taken to formulate a rational policy for employment of consultants based on the broad outlines given by B.P.E. This may be given priority and progress made in formulation of rules and procedure may be reported by 31-3-1983.

Sd/-
(D.C. Gupta)
Director

50. **CVC,CTE OFFICE MEMORANDUM No. 12-02-1-CTE-6 Dated the 17th December 2002.**
Subject : - Prequalification criteria (PQ).

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

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

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

i) For a work with an estimated cost of Rs.15 crores to be completed in two years, the criteria for average turnover in the last 5 years was kept as Rs.15 crores although the amount of work to be executed in one year was only Rs.7.5 crores. The above resulted in prequalification of a single firm.

ii) One organization for purchase of Computer hardware kept the criteria for financial annual turnover of Rs.100 crores although the value of purchase was less than Rs.10 crores, resulting in disqualification of reputed computer firms.

iii) In one case of purchase of Computer hardware, the prequalification criteria stipulated was that the firms should have made profit in the last two years and should possess ISO Certification. It resulted in disqualification of reputed vendors including a PSU.

iv) In a work for supply and installation of A.C. Plant, retendering was resorted to with diluted prequalification criteria without adequate justification, to favour selection of a particular firm.

v) An organization invited tenders for hiring of D.G. Sets with eligibility of having 3 years experience in supplying D.G. Sets. The cut off dates regarding work experience were not clearly indicated. The above resulted in qualification of firms which had conducted such business for 3 years, some 20 years back. On account of this vague condition, some firms that were currently not even in the business were also qualified.

vi) In many cases, "Similar works" is not clearly defined in the tender documents. In one such case, the supply and installation of A.C. ducting and the work of installation of false ceiling were combined together. Such works are normally not executed together as A.C. ducting work is normally executed as a part of A.C. work while false ceiling work is a part of civil construction or interior design works. Therefore, no firm can possibly qualify for such work with experience of similar work. The above resulted in qualification of A.C. Contractors without having any experience of false ceiling work although the major portion of the work constituted false ceiling work.

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

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

A) For Civil/Electrical Works

i) Average Annual financial turnover during the last 3 years, ending 31st March of the previous financial year, should be at least 30% of the estimated cost.

ii) Experience of having successfully completed similar works during last 7 years ending last day of month previous to the one in which applications are invited should be either of the following: -

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

or

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

or

c. One similar completed work costing not less than the amount equal to 80% of the estimated cost.

iii) Definition of "similar work" should be clearly defined.

In addition to above, the criteria regarding satisfactory performance of works, personnel, establishment, plant, equipment etc. may be incorporated according to the requirement of the Project.

B) For Store/Purchase Contracts

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

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

(M.P. Juneja)

Chief Technical Examiner

51. **CVC, CTE OFFICE MEMORANDUM No. 12-02-1-CTE-6 Dated:
7th May, 2004
Subject : - Pre-qualification Criteria (PQ).**

Guidelines were prescribed in this office OM of even number dated 17/12/2002, on the above-cited subject to ensure that the pre-qualification criteria specified in the tender document should neither be made very stringent nor very lax to restrict/facilitate the entry of bidders. It is clarified that the guidelines issued are illustrative and the organizations may suitably modify these guidelines for

specialized jobs/works, if considered necessary. However, it should be ensured that the PQ criteria are exhaustive, yet specific and there is fair competition. It should also be ensured that the PQ criteria is clearly stipulated in unambiguous terms in the bid documents.

(M.P. Juneja)
Chief Technical Examiner

52. **CVC, CTE OFFICE MEMORANDUM No. 98/VGL/25 Dated: 16th May, 2005**
Sub: Intensive Examination of works by CTE's Organization- Submission of Quarterly Progress Report.

Please refer to the Commission's OM No. 98/VGL/25 dated 20.10.98, 98/VGL/25 dated 20.07.01 and OFF-I-CTE-I(Pt) dated 23.12.03 regarding submission of quarterly progress reports(QPR's) to the CTE's Organization in the prescribed format in respect of Civil Works costing more than Rs. 1.00 crores, Electrical / Mechanical and other Allied works costing more than Rs. 30.00 Lacs , Stores / Purchase contracts costing more than Rs 2.00 crores and Horticulture works costing more than Rs 2.00 Lacs .

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

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

4. The above instructions are for strict compliance.

(Smt. Padmaja Varma)
Chief Technical Examiner

PREVENTIVE VIGILANCE CIRCULARS

1.No.NCL/VIG/PR-65/06/661

Dt.4.10.06

It has been observed during the examination of some Civil Engg. tenders that the same person is having the power of attorney representing different parties/firms, having conflicting interest in the same type tenders. This leads to formation of cartel and limits competition amongst tenderers. Moreover, the powers so delegated to a particular person having power of attorney and his relationship with the firm are also not defined clearly and updated properly.

It is, therefore, clarified that a particular person should not be allowed to represent two or more firms by way of power of attorney in the same tender. A clause to take care of this aspect should invariably be included in the NITs.

Sd/-
(P.K.Saxena)
Director(T/P&P)

2.No.NCL/VIG/CRM-112/F-171/06/1036

Dt.19.12.06

It is observed that in order to extend their business, people form a partnership with other firms with out registering under the Firms & Societies Act. The legality and propriety in dealing with such unregistered firms should be examined by the dealing officers with reference to the existing Purchase Manual, Civil Engg. Manual and Contract Manual as the case may be.

Sd/-
(B.Pradhan)
Chief Vigilance Officer

3.No.NCL/VIG/PR-57/06/929

Dt.29.11./1.12.06

It has been observed that the verification of various documents experience certificates submitted by the tenderers are not being done by the TC members/cencerned officers. As a result, some firms have got themselves qualified for the award of work and bagged the contract on the basis of false experience certificates submitted in support of their eligibility for the award of contract.

It is, therefore, necessary that the genuineness of the documents/ certificates submitted atleast by the L1 tenderer whom the work is to be awarded must be verified before the award of work. In case of exigencies, if it is not possible to verify the documents/certificates before the award of work, the verification must be done immediately after the award of the work and if the documents/certificates so submitted by the contractor are found to be false, stern action like canceling of the contract/work order including banning of business may be taken against the contractor/party.

Sd/-
(V.K.Singh)
Chairman-cum-Managing Director

“At length corruption, like a general flood
(So long by watchful ministers withstood),
shall deluge all; and avarice, creeping on,
Spread like a low-born mist, and blot the sun.” - [Alexander Pope](#), *Moral Essays*

4.No.NCL/VIG/BM/CRM-109/F-05/PV Cir/07/1195

Dt.19.1.07

While going through the files/NITs for the work of pest control operation, it is observed that the different projects including HQ and Nehru Shatabdi Chikitsalaya floated NITs with a clause "Tenderer must be member of Indian Pest Control Association (IPCA) or National Pest Management Association (NPCA or NPMA)".

2. The membership in the above associations is voluntary subject to satisfaction of the conditions prescribed in the constitution of the associations. The constitution also does not indicate that membership per-se makes anybody technically highly qualified. Nor does it train a person in the sphere of pest control. On the contrary, the inclusion of such provision would limit participation in the tender process, thereby inflating the value of the work order.

3. In view of the foregoing, it is advised that the provision regarding membership in the said Association in the NIT should be deleted in all future NITs.

1. The cases where the contracts are yet to be concluded, re-tendering should be resorted to after deleting the clause of membership in the aforesaid association.

Sd/-
(V.K.Singh)
Chairman-cum-Managing Director

5.No.NCL/PSP/CRM-170/F-185/VIG/071344

Dt.11.02.07

It is observed that NIT's are being floated inviting tenders from parties/firms/contractors with pre-qualification clause to effect that the participating parties/firms/contractors should possess experience of having worked in "Mine Area". The inclusion of a clause in NIT stipulating the requirement of experience of Mine Area for the works to be executed in mines, it is being noticed, has the effect of restricting competition, leading to an added risk of a limited number of contractors/firms creating a cartel so as to force the management indirectly to accept their offers of inflated rates.

Lack of wider participation in the tender process goes against the principle of fiscal prudence. Hence, a conscious decision has been taken to drop such restrictive pre-qualification clauses from future NITs. Moreover, it has been decided that contractors, who do not have working experience in mine areas, may also be allowed to participate in tender process provided they ensures that their workmen are

imparted initial training, at our VTC, before their employment, about the mine topography, mines rules and regulations and safety rules etc.
This may be noted for strict compliance.

Sd/-
(V.K.Singh)
Chairman-cum-Managing Director

**“For, firm within, and while at heart untouch'd,
Ne'er yet by force was freedom overcome.
But soon as independence stoops the head,
To vice-enslaved, and vice-created wants,
Then to some foul corrupting-hand, whose waste
Their craving lusts with fatal bounty feeds,
They fall a willing, undefended prize;
From man to man th' infectious softness runs,
Till the whole state unnerved in slavery sinks.”- [James Thomson \(1\)](#)**

5.No.NCL/VIG/06/Preventive/1270

Dt.7.2.06

While going through the functioning of the road weigh bridges, it is observed that the road weighbridge operates at different locations with avoidable variation further with a scope of improvement.

2. To improve the system of weighment at road weighbridge with minimum variation and for proper calibration of the meter installed in the explosive carrier, the following may be adopted.

- i. Structure of the weighbridge shall be made sufficiently strong to avoid cracking or buckling.
- ii. Free horizontal movement of the platform must be allowed.
- iii. Vertical tie bar must be installed for restricting lifting of platform in case of off-centre loading.
- iv. Load cell when defective may be replaced with new one with provision for sparecells.
- v. Load cell may be made tamper proof and it shall be kept dust and dirt free.
- vi. Platform of the weighbridge may be kept at some height above ground level and ramp profile may be designed in such a fashion that before embarking on the weighing platform there is sufficient horizontal approach to eliminate shock at the load cell and this will facilitate upkeeping of load cell dirt and dust free.
- vii. Instead of corrective maintenance as and when required, an effective and sound system of weekly/fortnightly test checking regarding the accuracy of the weighbridge may be established.
- viii. Proper formal sealing of the digitizer/console/software must be ensured.
- ix. Project authority should ensure regarding the seal of the calibrating authority.
- x. Project authority may explore with the explosive supplier for calibration of the meter installed in the explosive carrier for certification by an approved agency,
 1. Corrective improvement as suggested may be implemented for system improvement.

Sd/-
(V.K.Singh)
Chairman-cum-Managing Director

Henceforth, before placement of any proposal for competent approval, HODs concerned are requested to record compliance for eh followed aspects:

1. Administrative, financial and technical sanction of competent authority is available.
2. Adequate and wide publicity was given. Advertisement was 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. Pre-qualification criteria were properly defined/notified.

The corruption of the best is the worst.
[Lat., Corruptio optimi pessima.]
- Proverb, (Latin)

5. Short listed firms/consultants are fulfilling the eligibility criteria. There is no deviation from notified criteria during evaluation.
6. Experience certificates submitted have been duly verified.
7. Tenders/bids were opened in the presence of bidders.
8. Corrections/ommissions/additions etc. (if any) in price bid were properly numbered and attested and accounted page-wise. Tender summary note/tender opening register was scrupulously maintained.
9. Conditions having financial implications were not altered after opening of the price bids.

Sd/-
 (V.K.Singh)
 Chairman-cum-Managing Director

It has been observed that proposals involving financial implications, initiated for approval of the competent authority does not stipulate the amount in words but figures alone. This some time creates confusion and mistakes. As per standard practice, the amount should be indicated in figures followed by words in bracket.

Henceforth, proposals involving financial implications seeking approval of the CMD should indicate the amount in figures and words both otherwise such proposals shall not be entertained and returned.

All projects/units, Heads and HQs. HoDs are requested to advise all concerned accordingly.

Sd/-
 (L.M.Tiwari)
 CGM/TS to CMD

In one case, it was observed that the conditions laid down in Letter of Acceptance issued against a NIT were not being followed by the concerned section/office in letter and spirit. In that case, the contractor was directed to submit, inter-alia, registration documents/licence issued under contract Labour (R&A) Act 1979 within

10 days from the date of issue of LOA. But the directive was not complied with by the concerned firm. When the HOD of the concerned department was asked to comment on the lapse, it was contended by him that it would not be prudent to strictly enforce the time limit, stipulated in LOA. The explanations/comments of the above nature are not acceptable. More so, because of the fact that when something is stipulated/laid down in LOI, it becomes incumbent upon the issuing authority to enforce the same.

In view of the above, all concerned are advised to strictly enforce the conditions/stipulations laid down in LOA, Agreement/Contract etc.

Sd/-
(V.K.Singh)
Chairman-cum-Managing Director

“We tell lies when we are afraid... afraid of what we don't know, afraid of what others will think, afraid of what will be found out about us. But every time we tell a lie, the thing that we fear grows stronger.”~TadWilliams

9.No.NCL/VIG/PSP/07/72

Dt.14.4..07

Subject: Procedure for reimbursement of the cost of medicines to the patients which are not available with the dispensary.

It is observed that the medical officers who are prescribing the medicines are putting their initials but are not mentioning their names and designations in the medical books given to the patients. The pharmacists, who supplies the medicines also put a remark i.e. 'NA' or 'NS' against the medicines which are not available in dispensary but are not affixing/mentioning their signatures, names and designations.

To avoid any mis-utilisation of the scheme of reimbursement of the cost of medicine, you may advise all the doctors and pharmacists to mention their names, designations alongwith signatures on the prescription, bills and slips etc.

Sd/-
(V.K.Singh)
Chairman-cum-Managing Director

10.No.NCL/NSC/CMS/2007/295

Dt.17.5.07

Ours is a Central Govt. Public Sector Undertaking, a subsidiary Company of Coal India Limited (CIL). We are regularly referring our patients to your institute. It has been observed that you are asking advance payment through draft/cheque to be paid in favour of "Devki Devi Foundation" and not in favour of hospital. In all other hospitals, we are issuing cheque/drafts directly in favour of the hospital/institute. Hence, you are requested to accept cheque/draft in favour of your hospital only. An early response will be appreciated.

Sd/-
(Dr.K.Mitra)
Tech.Secy.to CMS/NCL

11.No.NCL/CMD/F-26:07:107

Dt.16.5.07

Subject: Downloadable Information/Forms/Formats to be placed on NCL Website for common public/employees/suppliers/contractors.

Your kind attention is invited on the Office Memorandum no.CIL/CH/MM/140 dt.27.04.07 of Chairman, CIL alongwith CVC Circular no. 40/11/06 dt.22.11.06, which was endorsed by CMD to all FDs, CGMs/GMs & HoDs for compliance.

You are requested to identify relevant downloadable information/forms/formats that bear interest of common public, employees, suppliers or contractors and need to be displayed on NCL website. You may provide such information in web-friendly format to Dy.Chief Engineer (E&T), NCL, HQs. Singrauli for further needful. In case no information from your project/department is to be provided, a NIL requirement may be sent within one week without fail.

This may kindly be treated as URGENT.

Sd/-
(A.Baijal)
Tech.Secy. to CMD

12.No.NCL/SGR/MMD/F-2/07/10

Dt.02.04.07

To streamline the receipt of tenders in Materials Management (Purchase) Department, the following procedures are to be followed strictly with immediate effect:

1. All tenders are to be put in the TENDER BOX kept for the purpose except the

"A half truth is a whole lie."
Yiddish Proverb

tenders come by post/courier. Tenders received through post/courier, before the scheduled closing time, shall be received by the Receipt Section and recorded in the Receipt Register and handed over the same to the Office Superintendent (OS)(Tender Cell).

2. Tenders which are voluminous and cannot be put in the tender box shall be received by the Receipt Section as above and handed over the same to the OS(Tender Cell).

3. Tender Box will be closed/sealed by OS, Tender Cell at the scheduled time of closing of tender i.e. 1.00 PM.

4. Tender box shall be under the charge/custody of Security Guard on duty in MM Deptt. He will ensure safety of the tender box so that nobody plays any mischief to damage the tender put in. Security In-charge will ensure availability of security guard throughout the working hours including lunch break.

5. Tender box will be opened at 3.00 PM by the OS(Tender Cell) in presence of the Tender Cell In-charge/any Dealing Officer, security guard on duty and authorised representatives of attending tenderers, if any. All the tenders received shall be taken out from the tender box and shall be recorded properly (in the Tender Box Opening Register) signed by above.

(a) The tenders due for opening on the same date shall be handed over to the concerned Dealing Officer/Section In-charge for opening as per procedures laid down in the CIL Purchase Manual 2004, in presence of associate finance and authorised representatives of the tenderers.

(b) The tenders due for opening on subsequent dates, shall be kept in safe custody of OS(Tender Cell) under lock and key and will be handed over to the concerned Dealing Officer/Section In-charge on the date of opening.

Sd/-
(B.K.Ghosh)
General Manager(MM/Pur)

13.No.NCL/FIN-Coord./07/1097

Dt.19.3.07

As per guidelines we shall be switching over to direct payment to suppliers Bank Account by using the various facilities provided by the Banks situated in the Singrauli area in a progressive manner.

In order to make the switch over smooth we shall be requiring application with some details and declarations from the contractors/suppliers. A proforma for this purpose has been designed in consultation with the Bank and the details are to be submitted, duly verified by officials of the Bank to whom the payment are to be made. They should also agree to bear the bank charges, if any related to such payments. These declarations are required to be submitted by the parties within 15 days time.

The proposed change in the payment system may be intimated to all suppliers/contractors by direct communication/Notice Board etc. so that it is given proper publicity and the interested parties can take the benefit immediately.

Sd/-
(A.Mitra)
General Manger(F-C)

“It is hard to believe that a man is telling the truth when you know that you would lie if you were in his place.” ~Henry Louis Mencken, *A Little Book in C Major*, 1916

14.No.NCL/FIN-Coord./07/1098

Dt.19.3.07

Considering the improvements in the banking facilities, payment to suppliers/contractors hitherto being made by cheque and handed over to them, will be made directly to suppliers bank account by making remittance to the bank using the following facilities available.

1. By transfer by NCL to the account holders having account with State Bank of India, Morwa, Allahabad Bank, Morwa, Union Bank of India, Morwa will be made based on the account details given in the work order/agreement/bill. In case old account number is given in the above documents, the same needs to be amended with a request in the prescribed proforma.
2. By transfer by NCL to the account holders, who are holding account with the CBS branches of Union Bank of India and State Bank of India.
3. By transfer by NCL to the account holders, who are holding account with the outstation branches of various Bank with the RTGS facility.

In order to switch over to the direct payment system, all suppliers contractors and customers dealing with Northern Coalfields Limited are hereby advised to submit their authorisation in the proforma enclosed duly verified by bank officials of branch through whom such remittance are required to be made.

It is also to be noted that bank charges, if any, related to such direct remittance have to be borne by the beneficiary and the remittance will be made net of bank charges.

It is in the interest of parties to have account with any of the branches having facilities to accept direct payment.

All customers/contractors/suppliers are hereby advised to submit the application in the proforma to the Head of the Department of the respective Department who have

issued orders/entered into contracts for their scrutiny, acceptance and submission to the GENERAL MANAGER (FINANCE) for taking further action in the matter.

The proposed date for implementation of the new system is 1.4.2007 in respect of NCL HQ.

All are requested to take necessary action to submit the required details within 15 days time.

Sd/-
(A.Mitra)
General Manger(F-C)

15.No.GM(C)/NCL/SGR/Cir/131/2007/527

Dt.14.3.07

In all Civil Engineering contracts, water charges @ 1% is to be deducted from the bills of the contractors except when the contractor has made specific arrangement for an independent source of water like boreholes, etc. In case the contractor has made specific arrangement for an independent source of water, verification shall be made by the site engineers from time to time and records shall be maintained.

"If you tell the truth you don't have to remember anything."~MarkTwain

This shall be followed strictly in all future contracts where there is no provision for supply of water free of cost.

Sd/-
(A.K.Mukhopadhyay)
General Manger(C)/NCL

16.No.GM(C)/NCL/SGR/A.T.Report/2007/954

Dt.7.5.07

Subject: Interim Action Report on letter no.NCL/VIG/CRM-97/06/1491 dt.9.3.07 of CMD/NCL.

Please refer to your letter no.NCL/VIG/CRM-97/06/BM/161 dt.30.4/ 2.5.07 addressed to the undersigned on the above subject. In this connection, I would like to furnish the following information.

1. A circular bearing no.GM(C)/NCL/SGR/CIR/131/2007/527 dt.14.3.07 has been issued from this office for affecting recovery @ 1% of the contract value of the Civil Engg. Contracts/works towards water charges unless specific arrangement for an independent source of water like boreholes etc. is made by the concerned contractors and in case the contractors have made specific arrangement for an independent source of water, verification shall be made by the site engineers from time to time and proper records shall be maintained. A copy of the Circular is enclosed for ready reference.

A corrigendum has also been issued to the above Circular vide no.GM(C)/NCL/SGR/RE/131/2007/599 dt.19.3.07, a copy of the same is also enclosed for ready reference.

II. Necessary action has been taken for recovering water charges @ 1% of the contract/executed value of work from the contractors' bills in respect of the following works:

(a) Day to-day maintenance of CETI at Singrauli (Work order no.GM(C)/NCL/SGR/W.O./957/TN-40-05/06/839 dt.29.3.06).

Final payment for the above work has not yet been made. However, an amount of Rs.1360.00 has been deducted from the contractor's bill upto 27.12.06. Balance amount will be recovered from the final bill.

(b) Annual repair & maintenance of higher type and lower type quarters at Singrauli (LOI no.GM(C)/SGR/LOI-52/TN-30/05/30 dt.4.1.06 (Agreement no.947 dt.7.3.06).

The work is still continuing. However, an amount of Rs.81,997.00 has been deducted from the contractor's bill upto 3.3.07.

(c) Annual repair and maintenance of CETI complex and IB, IC, LCH, A-type and Madhauri Township at Singrauli (LOI no.GM(C)/SGR/ LOI/01/45-4/05/775 dt.19.4.05 (Agreement no.906 dt.22.7.05)

The final payment of the work has been made. An amount of Rs.58,775.50 has been deducted from the contractor's bill.

(d) Annual Repair & Maintenance of non-residential buildings (W.O. no. GM(C)/SGR/WO/32-5/05/616 dt.28.3.05 (Agreement no.866 dt.28.3.05).

The final payment of the work has been made. An amount of Rs.54,808.00 has been deducted from the contractor's bill.

III A circular and corrigendum as mentioned in para I has been issued for affecting water charges @ 1% of the contract value for running as well as future contracts where there is no provision for supply of water free of cost.

Sd/-
(A.K.Mukhopadhyay)
General Manger(C)/NCL

“Who lies for you will lie against you.” ~Bosnian Proverb

17.No.NCL/VIG/07/326

Dt.26.5.07

Sub:Guidelines for transparency & wider participation in the tender enquiries in respect of repair jobs.

During the investigation of some tenders for repair/rebuilding of 24/96 dragline bucket in some projects of NCL, certain inherent flaws in tendering have been observed. They were restrictive in nature leading to participation of only two or three parties. A tender that emanated from one project resulted in participation of only two parties and order was placed on one party @ Rs.4.76 lakh per bucket for two numbers. In a tender that emanated from Nigahi, another project, the same two parties and a new party qualified for similar job for Rs.4.55 lakh per bucket for six buckets. In this connection, it is pointed out that yet another project tendered for similar job in a different way. This enabled better competition at greatly reduced prices resulting in order placement for a similar job for Rs.2.70 lakh only.

A study of the aforesaid cases revealed that unnecessary restrictive NIT condition & inadequate sources/vendor development/resigstration mechanism accounted for poor participation in the tender process.

Resultantly, in order to get competitive prices, the following measures should be undertaken for repair jobs:

(a) Wide publicity through the web-site as well as through the other traditional channels at regular intervals for registration of contractors/firms could be undertaken.

(b) Required proforma for registration, the pre-qualification criteria etc. should be always available on the website of the organisation and it should be possible to download the same and apply to the organisation by the interested parties. (c)

There should not be any entry barring or long gaps in registration of suppliers/contractors/firms. However, the intervals on which publicity is to be given through website and traditional means can be decided on the requirements and the development in the market conditions.

(d) The list of the registered vendors/contractors/firms should be updated at periodic intervals.

(e) Unnecessary restrictive NIT condition should be avoided. While deciding on inclusion of a pre-qualification clause, reasons should be assigned for it and recorded.

(f) Publicity of NIT should be given in the notice boards, NCL website, newspapers etc. apart from issuing notices to registered vendor/contractor/firms.

Sd/-

(V.K.Singh)

Chairman-cum-Managing Director

18.No.NCL/CMD/F-20/07/128

Dt.28.5.07

Subject; Transparency in tendering/procurement/issuance/consumption of materials & contractual works - compliance of various instructions issued from time to time.

Directives/instructions issued from time to time by CMD/NCL for compliance by all

“No man has a good enough memory to make a successful liar.”

~AbrahamLincoln

the projects/units/HQ heads are summarised below for ready reference and strict compliance.

1. Transparency in tendering - Placement of every tender notice on website and notice boards besides publication in newspapers as per norms.
2. Issuance of materials procured for consumption/use through store ledger and deposition of used materials including that taken out from working equipment etc. in store.
3. Logbook for each equipment should be maintained which should indicate materials fitted/replaced along with cost as well as details of materials removed for depositing in store.
4. Materials procured in emergency should be consumed within a time limit.
5. Preparing NIT in order to ensure quality jobs and increase competitiveness of bidders.
6. Compliance of various manuals/guidelines/circulars. Deviation, if required in the interest of the work/Company, must be brought to the notice of competent authority for specific approval.
7. Preparing material budget well in advance based on realistic assessment, past experience and future trend. Ensuring availability of fast consumable and consumption of stores procured on urgency within a stipulated period.
8. Proposals to be submitted to competent authority should have certification by the concerned HODs reg. availability of administrative/financial/technical sanction, adequate publicity including over website along with adequate details; defining/notification of pre-qualification criteria and compliance thereof in short listing of firms, verification documents submitted by bidders; proper numbering of all the documentation duly attested and scrupulously maintaining of tender summary note/tender opening register.
9. Instructions issued for compliance regarding movement of file with specific comments under signature of the officials with name and disposal of the file from each department well within the prescribed time limit, and in case of delay reasons to be mentioned by the concerned HODs or project/unit head.

10. Initiating proposals for annual contracts and finalisation thereof well before expiry of the existing contracts.

11. Proposals regarding any escalation in value of contract should be initiated with full justification for competent approval well in advance.

This is issued as per directives of the CMD.

Sd/-
(A.Baijal)/ TSto CMD

19.No.NCL/VIG/BM/CRM-28/07/331

Dt.29.5.07

Subject: Issue of Advisory letter.

Reference: NIT no.24 dt.29.1.07 and NIT no.27 dt.1.2.07 related to Pest Control Operation.

With reference to the NIT quoted above, it has been observed that the particulars of estimate related to NIT no.24 have been circulated in website and the documents of Part-II, i.e. price bid or bill of quantity related to NIT no.27 have not been circulated in website. The above irregularity is very serious in nature and attributable to the negligence of Shri Hira Ram Sahu, UDC.

“Those who think it is permissible to tell white lies soon grow color-blind.”~AustinO'Malley

Although the lapse was serious in nature, a lenient view has been taken and a decision has been taken to issue an advisory note to Shri H.R.Sahu, UDC, Dudhichua project to be more careful in future and to avoid repetition of such type of mistake in future.

Action taken in the matter may be intimated to us.

(B.Pradhan)

Sd/-
Chief Vigilance Officer

20. No.NCL/VIG/BM/CRM-28/07/343

Dt.30.5.07

While tendering the job "Pest Control", the following aspects should be borne in mind by all concerned.

1. Tendering should be done with the ultimate aim of highest competition and maximum participation and restrictive pre-qualification clauses should be avoided in the NITs.

2. Rates of important items should be ascertained from the nearby authorised dealers and from different related website both at the time of estimate preparation and also for justified rate preparation.

Sd/-
(V.K.Singh)
Chairman-cum-Managing Director

21.:No.GM(C)/NCL/SGR/Disc.Action/46/2007/1169

Dt.11.6.07

Sub Providing & fixing PVC door shutters in WC/Bath in lower type Qtrs. at Singrauli.

Tender for the subject work has to be cancelled due to discrepancy in eligibility criteria displayed in website and the tender documents issued from NCL HQ. The undersigned is of the opinion that such mistake would not have occurred if proper care was taken at the time of preparation of tender documents.

You are hereby warned to be more cautious while preparing the tender documents as well as materials for website display.

Sd/-
(A.K.Mukhopadhyay)
General Manger(C)/NCL

22.Minutes of the meeting
No.NCL/SGR/SYS/07/1173

Dt.20.03.07

A meeting was convened by CMD, NCL on 16.3.07 which was attended by D(P), D(F), CVO alongwith GM(F&C), GM(Fin-A/cs.), GM(System), GM(MM) and Bank Managers of State Bank of India, Morwa, Allahabad Bank, Morwa & Union Bank of India, Morwa.

CMD stressed the need for immediate switch over to e-payment in order to implement the directives of CVC.

The Bank Managers explained that facilities are available with them in respect of Core Banking and e-Banking. However, Branch Manager, Allahabad Bank, Morwa confirmed that these facilities will be implemented at Allahabad Bank within March 2007.

“The least initial deviation from the truth is multiplied later a thousandfold.” ~Aristotle

It was further emphasised by CMD that all the local branches of the Banks must equip themselves to create necessary facilities for making e-payment failing which the management of NCL may be constrained to stop operations through that branch.

CVO/NCL also expressed that e-payment should be started at the earliest. Directives/all necessary communications to the customers, contractors & suppliers are to be displayed on the Notice Boards and also in the Newspaper publications etc. so that requisite details are submitted to NCL management to switch over to the Direct Transfer Payment (e-payment). It was decided to start e-payment formally on 20.03.07. CVO, NCL once again expressed that switch over should be made in a time bound programme. It was desired that the review of the progress will be made by mid of April 2007.

Sd/-
(S.K.Sinha)
General Manager(System)

23.No.NCL/Finance/e-payment/07/44

Dt.12.4.07

Minutes of Meeting for e-payment with AFMs held in the office of GM(F-C) on 10.4.07.

A meeting was held in the office of GM(F-C) with AFMs of the Projects on 10.4.07. It was informed in the meeting that NCL management has in principle agreed for implementation of e-payment to the suppliers & contractors from 1st. April 2007.

In a meeting conveyed by CMD on 16.03.07, which was attended by Bank Managers, CMD stressed the need for immediate switch over to e-payment in order to implement the directives of CVC. A letter was also addressed to CGMs/GMs of HQ and CGMs/GMs/AFMs of the project for implementation of e-payment. In this meeting dt.10.4.07, the following modalities were also discussed.

1. The Projects, where the local banks do not have the CBS facilities may be asked to introduce or install the CBS without delay.

2. The parties having bank account in the local bank i.e. State Bank of India, Union Bank of India, Allahabad Bank - daily payments will be clubbed together and one cheque for each bank will be prepared and be sent to Banks with details of parties - Name of the parties & bank account nos. for crediting to their accounts after verification of Bank Accounts at your end.

3. Parties having bank accounts in other branches of State Bank of India, Union Bank of India & Allahabad Bank at different places having CBS, payment to them can only be made after receipts of authorisation from them duly vetted by concerned department. Forms of authorisation have already been circulated to all projects. The project will ensure the parties submitting forms of authorisation without delay.

4. Only on receipt of authorisation from them, the payment by the methodology noted in para 3 may be made by issue of cheques in favour of Bank.

5. Payment to the parties having account in banks and branches of the said banks where there is no CBS, cheques like existing system will be issued.

“The hardest tumble a man can make is to fall over his own bluff.”
~AmbroseBierce

6. Parties having Bank Accounts with other Banks having RTGS (Real Time Gross Settlement), payments can be made to them through RTGS after receipt of authorisation from them. In that case, RTGS forms need to be filled up and be sent to Bank prior to 1 PM every day and the amount of RTGS should be more than Rs.1.00 lakh.

7. Parties having bank account with other banks not having RTGS, cheques like existing system will be issued.

On introduction of corporate banking facility and after receipts of authorisation duly vetted by the concerned department, all the above cases of payment where applicable, will be covered through e-payment or e-banking methodology. However, the methodology for making payment at para 2 above in the local banks will be started from 16.4.07 without fail.

Sd/-
GM(Fin-Cordn.)

24.No.NCL/Fin/2007/Notice

Dt.4.7.07.

TO WHOM IT MAY CONCERN

In the interest of suppliers/contractors to ensure quick payments against their bills/claims NCL has introduced EFT system. Wide publicity has already been made through website/advertisement in newspapers, departmental letters to HOD/Notice Boards etc. So that maximum parties submit their authorisation forms to NCL authorising NCL to make e-payment/EFT to them. So far, the response is very less. Most of the parties have not submitted their consent letter for availing of the facility of CBS/RTGS system.

For this purpose all concerned are requested to submit their consent letter in prescribed format to respective departments till 15.8.07 failing which it will be difficult for NCL to make payment to them.

This is in compliance of CVC Directives.

Sd/-
GM(F-C)

25.No.NCL/VIG/PVR-05/07/577

Dt.6.7.07

There are oral as well as written complaints from different quarters that sometimes prospective new bidders are being prevented by well entrenched bidders/companies from participating in the bids.

Therefore, as a preventive measure, all concerned are advised to ensure that enough arrangements (including security measures) are put in place so that bidders (new participants included) are allowed to submit their bids without being intimidated by well entrenched business houses.

These arrangements may specially be ensured on the last date of submission of tenders.

Sd/-
(V.K.Singh)
Chairman-cum-Managing Director

26. Status of e-payment in NCL.

NCL has started e-payment through EFT/RTGS etc. since 20.03.07. In this direction, the following actions have been taken:

1. 100% payments to parties having account in our local banks i.e. SBI, UBI and Allahabad Bank are being made through a single cheque drawn in favour of Bank with instruction to credit the accounts of respective parties except IOC and certain CMP account holders.
2. In case of the parties having accounts in RTGS/CBS branches and submitted their consent to accept payment through RTGS/CBS, it is being made accordingly.

“A lie has speed, but truth has endurance.”~Edgar J. Mohn

3. Wide publicity has already been made through website/advertisements in newspapers, departmental letters to HODs/Notice Boards etc. So that maximum parties submit their authorisation forms to make e-payment/EFT to them. Without authorisation, it is difficult to make EFT/e-payment as it involves charges and risks.

As the response being very poor, all the departments have been requested to insert the condition into NIT that bidders will have to submit the consent letter to accept e-payment.

4. Though we have requested to all the Banks to be equipped with RTGS/CBS facility, still some of the branches are lagging. A separate letter is being given to all those lagging branches to come up with enhanced facility.

5. A separate general notice is being given to all the parties requesting them to submit their authorisation form upto 15.08.07 so that payment can be made through CBS/RTGS mode.

6.

Sd/-
GM(F-C)

27.No.NCL/VIG/07/Circular/CRM-114/648

Dt.23.7.07

Subject Guidelines for proper handling of office documents.

Reportedly official papers/documents are leaking to outside persons and the same are being misused by them. There have been incidents of forgery of signature of General Manager on bills, tampering of tender papers, loss of files/documents etc. Which have been brought to my notice by the Vigilance Deptt. It is also found that Circular no.NCL/CMD/F-20/04/405 dt.15.2.04 is not being complied with by different Projects.

In order to prevent leakage of official documents/papers to outside persons, forgery of signature, tampering of documents, loss of files/documents etc. following system for movement of documents should be adopted.

1. All papers/letters/dak/bills/indents/proposals etc. Should without fail and exception be properly docketed in receipt/despatch register as well as peon book and moved from one department to other department or concerned officials through official dak. In no case, any dak/letters/documents should be given to the hands of outsiders.
 2. No cognisance should be given to any proposal requiring approval/financial concurrence etc. without the same being properly docketed in the register being maintained by respective offices, departments etc. Including the office of the undersigned.
 3. All confidential/secret matters are to be sent in sealed envelope only. They should be marked confidential/secret as the case may be, and the same should be opened by the addressee, or the person authorised for the purpose. Proper records of such matters must be maintained.
 4. However, it should be ensured that whenever any proposal is received for approval, financial concurrence etc. The same should be first docketed in the register being maintained for the purpose and then put up to the appropriate authority for approval/concurrence.
- All CGMs/GMs of the Projects and HODs are advised to ensure strict compliance of the above. Any deviation/departure from the aforesaid system will be viewed seriously and dealt with appropriately.

Sd/-
(V.K.Singh)
Chairman-cum-Managing Director

“When you stretch the truth, watch out for the snapback.”~Bill Copeland

28.No.NCL:SGR:F-37:07:258

Dt.2.8.07

OFFICE MEMORANDUM

All concerned should strictly ensure compliance of the following directives of the CMD, NCL issued from time to time.

1. Recording/certification of compliance of instructions on proposal involving financial implications before placement for competent approval, as circulated vide no.NCL/CMD/F-20/07/675 dt.3.2.07.
2. Proposals involving financial implications should stipulate amount in figures followed by amount in words in bracket.
3. Name, designation and date below signature of the officials on the proposals/files.
4. Proposal seeking sanction of CMD for payment of overtime remuneration should be specifically for amount exceeding Rs.5000-/- (Five thousand) in each case with full justification and such proposal should be submitted within the following month.

Any proposal without compliance of the above, shall not be entertained in CMD secretariat and returned.

Sd/-
(A.Baijal)
Tech. Secy. To CMD

29.No.NCL/VIG/CRM-135A/07/800

Dt.13.8.07

Shri A.K.Ghosh
Chief General Manager
Nigahi Project

Subject: Complaint related to irregularities committed by the Officers of Nigahi Excvn.Deptt.

Ref WO no.NGH/X/1256 & 1133 dt.7.3.06 & 25.1.06.

During verification of a complaint related to the tendering for repair of excavation equipment at Nigahi Project, certain issues/irregularities have been noticed as mentioned below:

1. As per the stipulations/provisions of NIT, tenderers should have quoted vendor code or registration number. The provision was not complied by the tenderers and the tender committee also did not deliberate on the issue.
2. Grade of the new material for special nuts & bolts as specified in the NIT was EN-24 but no provision was made in the supply order for the quality check.

The tender committee members and CE(Excv.) Associated with the case in different capacities may be informed of the irregularities outlined above and advised to refrain from repeating the same mistakes in future. Besides, the following steps should be taken for preventing recurrence of similar types of irregularities in future.

- (a) Tenderers should quote their vendor code or registration number in their bids.
- (b) System of quality checks of material, as per NIT, should be introduced and followed.

Sd/-
(V.K.Singh)
Chairman-cum-Managing Director

“Honesty is never seen sitting astride the fence.” ~Lemuel K. Washburn,
Is The Bible Worth Reading And Other Essays, 1911

30. No.NCL/VIG/Coal Transp/Con-Extn/Sec.Meeting/07/913
CIRCULAR

Dt.28.8.07

During the Sectoral meeting of Central Vigilance Commission with the CEOs and CVOs of coal sector, held on 4.5.06 in Kolkata, the matter of extension of validity of contracts in regard to transportation was discussed. Based on the suggestions/recommendations made and opinion expressed in that meeting, the following guidelines are followed:

1. The extension of any transportation contract should be discouraged and if at all resorted to, it should be done in exceptional cases only.
2. The management should exercise circumspection in extending validity of contracts and special care should be taken to prevent passing on undue advantages to the contractors.
3. The extension period should be within a logical time frame.
4. The extension of contract should be limited upto the minimum time required for finalisation of the next tender.
5. Extension of quantity should be 10% of the annual contract.
6. Provisions of “fall clause” should be strictly adhered to and it should be an integral part of the terms and conditions for the extension of contract in exceptional cases.
7. At the time of approving extension, it should be recorded that there was no downward trend of the rate in the market.
8. It should be the responsibility of the management to take advance action for finalising the new tender before the expiry of the existing one.

All concerned are requested to follow the above guidelines strictly for extension of validity contracts for transportation.

Sd/-
(V,K,Singh)
Chairman-cum-Managing Director

31.No.NCL/SGR/E&M/07/1645

Dt.19.9.07

Office Order

Henceforth the eligibility criteria to be followed in various tenders floated by E&M section of all projects and units should be as under:

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

"Truth is the most valuable thing we have, so I try to conserve it."
~Mark Twain

The above mentioned eligibility criteria to be followed for tenders with estimated value above Rs.50,000/- (Rupees fifty thousand only).
This has got the approval of competent authority.

Sd/-
Chief General Manager(E&M)

32.No.NCL/VIG/PVR-21/07/1568

Dt.30.11.07

CIRCULAR

While going through the verification report of a complaint, it has come to the notice of the undersigned that Form V for acquiring contract labour licence had been issued to a particular firm 44 days after its request was received and after the commencement of the work. This is highly irregular in nature. In this regard, the following guidelines shall be followed for better compliance of the rules and regulations and statutory provisions.

- (i) The concerned department should take prompt steps for the issue of Form-V so that contractors get adequate opportunity/time to submit contract labour licences within the time frame as given in the relevant statutes in force.
- (ii) Heads of the department are advised not to allow resumption of work before the contractors submit proper contract labour licence where the works fall under the ambit of the Contract Labour (Regulation and Abolition) Act 1970.
- (iii) The Authority overseeing the execution of the contract should keep a watch on timely deposition of amounts deducted towards provident funds of contract workers with the concerned authority.

Sd/-
(V.K.Singh)
Chairman-cum-Managing Director
Dt.8.1207

33. No. NCL/CMD/F-7/07/1569

Subject Implementation of instructions regarding e-Payment..

It has been impressed upon a number of times that the system of payment through cheque should be discontinued and e-payment should be made in all the cases.

2. It has come to my notice that once the bills are submitted by the contractor/supplier, they are routed through various tables and abnormal delays take place in making the payment. In my opinion, payment of bills to the contractors/suppliers should be ensured within one week's time unless there is some valid reason, which should be properly recorded.

3. You are requested to submit a monthly report in respect of implementation of instruction regarding e-payment indicating the reasons for delay in payment beyond one week time from the date of submission of the bills, if any. A copy of the monthly report be endorsed to the Chief Vigilance Officer, NCL to whom I have requested to monitor on my behalf.

4. You are further requested to display the list of all pending bills beyond one week, on you notice board and website

sd/-
(V.K.Singh)
Chairman-cum-Managing Director

“Truth fears no questions.” ~Unknown
“Honesty is the first chapter of the book of wisdom.” ~Thomas Jefferson

34.No.NCL/VIG/PVR-31/07/1683

Dt.15.12.07

CIRCULAR

While going through the verification report of a complaint, it has come to the notice of the undersigned that one of the projects has floated tender for purchase of marking cloth without following the basic spirit of CVC guidelines as contained in their instruction no.2EE-1-CTE-3 dated 15.3.03 (copy enclosed). It is emphasised that non-compliance with the letter & spirit of aforesaid CVC instruction is highly irregular in nature.

Thus, all concerned are advised to strictly comply with the letter and spirit of CVC instructions as delineated above in future.

Sd/-
(V.K.Singh)
Chairman-cum-Managing Director

No.2EE-1-CTE-3

CVC Instruction

Subject Tender sample clause.

The commission has received complaints that some organisations, while procuring clothing and other textile items insist on submission of a tender sample by the bidder though detailed specifications for such items exist. The others 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 recognised 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, specially for items which have detailed specifications. The lack of competition in such cases is also likely to result in award of contracts at high rates.

3. It is thus advised that Government Departments/Organizations should consider procurement of such items on the basis of detailed specifications. If required, provision for

submission of an advance sample by successful bidder(s) may be stipulated for indeterminable parameters such as shade/tone size, make-up, feel, finish and workmanship, before giving clearance for bulk production of the supply. Such a system would not only avoid subjectivity at the tender decision stage but would also ensure healthy competition among bidders and thus take care of quality aspect as well as reasonableness of prices.

4. It is requested that these guidelines may be circulated amongst the concerned officials of your organisation for guidance. These are also available on the CVC's website.

(sd/-)
(A.K.Jain)
Technical Examiner
For Chief Technical Examiner.

35. No.NCL/VIG/PSP/2007/1935

Dt.07/11.01.2008

Subject Usage of departmental vehicles by employees, who are granted conveyance allowance. It is observed that many allegations are being received that the employees who are drawing conveyance allowance for the journeys within the area for which they have been granted it, are using departmental vehicles, within the said area but not paying the relevant charges to the Company as per rules after recording properly in the log books.

"The truth brings with it a great measure of absolution, always."

~R.D. Laing

The same is the case with the executives, who are allotted vehicles by the company and use them for private purposes. To avoid the scope for aforesaid allegations, it is strictly advised to all the employees, who use departmental vehicles (including those who are granted Conveyance Allowance) to invariably mention whether it is for private purpose/for performing official duties and deposit the relevant charges as per rules for private usage.

Light vehicle In-charge of the respective projects/unit after verification of log books submitted to this office, should ensure that the relevant applicable charges for using the departmental vehicles are properly deposited.

A monthly statement showing the amounts collected on the subject head should be prepared and maintained by Light Vehicle In-charge.

Sd/-
(V.K.Singh)
Chairman-cum-Managing Director

OFFICE MEMORANDUM

36.No.NCL/CMD/F-20/08/751

Dt.11.1.08

Sub: Inspection of materials/spares being used for Purchase/Repair Works and routing it through stores.

It has been reported that in case of purchase repair works requiring supplies of materials/spares by the contractors, instead of routing such materials/spares through the stores, they are consumed directly. In such circumstances, manipulations in the quality & quantity of materials/spares cannot be totally ruled out. It is, therefore, necessary to adopt the following procedure in this regard:

1. All the materials/spares which the contractors supply for purchase repair works themselves, must be routed through stores.

2. The materials/spares supplied by the contractors must be inspected by the concerned engineer looking after purchase repair works in order to ensure that the quantity and quality of the material/spares being supplied by the contractors are as per specification stipulated in the work order.

All concerned are advised to ensure compliance of the above with immediate effect.

Sd/-
(V.K.Singh)
Chairman-cum-Managing Director

37. No.NCL/VIG/PSP/2007/1936

Dt.4/11.1.08

Subject Release of EMD

During the inspection of one of the projects by vigilance team, it was observed that release of earnest money of unsuccessful tenderers is being delayed till the receipt of application from the tenderers leading to pile up of a number of EMD release deposits with management.

To avoid the piling up of EMD for release with management, action may be taken to release of EMD of unsuccessful tenderers as soon as the tender is finalised without waiting for receipt of application from the respective tenderer.

In the above context, a monthly statement showing the number of cases pending for release in the below format may be furnished to Vigilance Deptt.

“If you want to ruin the truth, stretch it.” ~Author Unknown
“The truth is more important than the facts.”~Frank Lloyd Wright

Statement showing number of cases related to EMD pending for release as on.....

Pending cases as on 1st.day of the month.	Additions during the month	Release during the month	Pending cases as on the last day of the month	Reasons for pendency.

The above information may invariably be furnished by 15th. of each month to Vigilance Deptt.

Sd/-
(V.K.Singh)
Chairman-cum-Managing Director

38.No.NCL/Fin/E-payment/2007/838

Dt.12/14.1.08

The CGMs

Jhingurda, Jayant, Kakri, Khadia, Dudhichua, Amlohri, CWS, Nigahi
CMS, NSC, Jayant

Subject Updates on e-payments.

As per decision taken in co-ordination meeting of CMD dt.3.1.08, it has been decided that every project will give a monthly report on progress of e-payment in the enclosed format A.

Further all the parties who are being paid through Bank by issuance of a single cheque in favour of Bank, needs to be informed regarding payments made to them. Thus it has been decided that information of payment to parties through Bank should be displayed on general Notice Board, in case of local parties. In case of outstation payment through RTGS etc. information should be sent through e-mail

Sd/-
CGM(F)/NCL

39.No.JNT/CGM/Vig/Spares/07/751

Dt.15.1.08

Further to this office order no. JNT/CGM/Vig/Spares/07/726 dt.8/10.1.08, the following directives issued by the Chairman-cum-MD, NCL, Singrauli vide no. CMD:F-20:08:751 dt.11.1.08 in connection with inspection of materials/spares being used for Purchase/Repair works and routing it through stores should also be complied with strictly:

"The materials/spares supplied by the contractors must be inspected by the concerned engineer looking after purchase/repair works in order to ensure that the quantity and quality of the materials/spares being supplied by the contractors are as per specifications stipulated in the work order."

All concerned are advised to ensure compliance of the above with the immediate effect.

Sd/-
Chief General Manager
Jayant Project

"If falsehood, like truth, had but one face, we would be more on equal terms. For we would consider the contrary of what the liar said to be certain. But the opposite of truth has a hundred thousand faces and an infinite field." ~Michel Eyquem de Montaigne

40. No.JNT/CGM/5287/07-08/166
Dt.16.1.08

Subject Banning of Business

NCL Management has decided to ban business dealings with M/s SANDEEP ENGINEERING & COMPANY, C/O RAJ PATHOLOGY, OLD MARKET, SINGRAULI, SIDHI, MP, for a period of three years from the date of issue of the circular due to fraudulent and criminal act committed by Proprietor of the firm. Hence NCL will have no business dealing with this firm during this banning period. It may also be ensured by all concerned that the above firm is not allowed to do business in NCL by changing name/identity.

This is issued with the approval of competent authority.

Sd/-
Chief General Manager
Jayant Project

41. No.NCL/VIG/SE(X)/CRM-115/08/2081

Dt.01.02.2008

Subject Preventive/corrective measures suggested by the Investigating Officer.

Reference Company Secretary's letter no.NCL/Board/08(126)/07/998 dt.11.1.08.

On the basis of remedial measures suggested in an investigation report submitted by the Vigilance Department, the 126th. Meeting of the Board of Directors of Northern Coalfields Limited held on 29.12.07 at Varanasi (and as intimated by Company Secretary, NCL Board vide his letter under reference above) has approved the implementation of the following Preventive/Corrective measures as brought out in the agenda item no.126/C-11:

1. (a) The quantum of outsourcing of repair jobs for 12.5 Cu.M. Shovel and procurement of idler bushes has been on the higher side. A concerted effort would have to be made by the Project to reduce the volume of outsourcing and procurement of components.

- (b) The mode of tendering should be more appropriately by open tender from proven sources by following all the laid down procedures so that it is not restrictive and the company gets a fair price.
 - (c) An effort should be made to augment the capabilities of the Base Workshop of the project and the Central Workshop to take up more and more of the jobs that have been outsourced. Facilities for making non ferrous castings should be developed at Central Workshop. The company can effect significant savings if simple components like idler bushes can be made in the workshop rather than procured from external agencies, particularly when the idlers of the shovel are made at CWS. However, till such time the facilities as suggested above are developed, procurement of bushes may continue as per the prescribed purchase procedure.
2. (a) The project may need to evolve a mechanism to evaluate the

“It is impossible to calculate the moral mischief, if I may so express it, that mental lying has produced in society. When a man has so far corrupted and prostituted the chastity of his mind as to subscribe his professional belief to things he does not believe he has prepared himself for the commission of every other crime.”- Thomas Paine, *The Age of Reason*

- credentials of an urgency before indiscriminately outsourcing jobs to them The NIT could also incorporate the minimum requirement that a repair should possess in order to be given a Work Order.
- (b) While making an estimate, concerted effort is called for to make a realistic assessment of the value of the job. It may also be imperative to give the tenders wide publicity which may garner more competition.
 - (c) The project may embark upon a vendor rating mechanism in the lines of what has been proposed in the Purchase Manual which may aid decision making at the time of award of repair jobs.
3. (a) The Central Workshop may examine whether the engines of Cummins make could be gainfully utilised in NCL.
- (b) The project should make all efforts to gainfully utilise the engines. If, it is not possible then, it would be pertinent to undertake an effort to persuade M/s Cummins to effect a repurchase of the engines.
 - (c) Stringent disabling clauses may be incorporated in the NIT in future when re-powering is proposed which can guarantee significant working hours that justify the engine price.

The above instructions may be implemented with immediate effect.

Sd/-
(V.K.Singh)
Chairman-cum-Managing Director

42. No.NCL/CMD/F-20/08/873

Dt.7.3.08

While going through one of the files related to repair of Rotor, I have observed that there is no clause regarding availability of infra structural facilities necessary for repairing the Rotor with the bidder. Henceforth, in case of outside repair, a clause must be incorporated in this NIT that only those firms, who have got necessary infra structure facilities for taking up the required job, will be considered eligible.

Before sending any equipment/accessories for outside repair, possibility of its repair in the project workshop/central workshop should be explored. Only after obtaining a certificate from

the project workshop/central workshop that the said repair is not possible in the workshop, outside repair should be considered.

Sd/-
V.K.Singh)
Chairman-cum-Managing Director

43.No.NCL/SGR/CGM(Fin)/2008/1024

Dt.19.3.08

To

The CFM/AFM of all projects/units of NCL

Subject To display the details of outstanding bills on NCL website fortnightly.

Please refer to this office letter no.NCL/SGR/CGM(F)/2008/1001 dt.12.3.08 regarding the aforesaid subject.

In this connection, it is observed that the details of outstanding payment at project level are coming to HQ in piecemeal basis, causing delay in display process on website.

“When a man lies, he murders some part of the world.” ~Rospo Pallenberg and John Boorman, *Excalibur*, based on *Le Morte d'Arthur* by ThomasMalory

Therefore, you are once again requested to send the same positively on 16th.(upto 15th. Of the month) and 31st((upto month end) of every month to Shri P.S.Raichoudhury, Sr.AO, Cash Section HQ, who will send the same in a consolidated manner to GM(System) for its display on 17th. & 1st. Of every month without fail.

These cut-off dates should be adhered to strictly so that the display on the website for the company as a whole, does not get delayed.

Sd/-
(A.Mitra)/General Manager(Fin)

44. No.NCL/VIG/BM/PVR-57/08/2506

Dt.28.3.08

The CGM(P), NCL, Singrauli

Subject: Issuance of bus pass to the executives coming from the different projects to HQ for duty.

In the course of investigation into a complaint, it was informed by the Personnel Division that a bus is plying upto Amlohri via Jayant, CWS, Nigahi from NCI HQ, Singrauli for the executives residing in these project townships to facilitate commute to NCL HQ and back. It was also informed that there is no policy/guideline/ instruction to issue Bus Pass for the persons availing of the bus facility for attending to their duty and back. Administrative Department of HQ is not aware as to whether the executives drawing conveyance allowance and residing in the townships of different projects are availing of the bus facility for attending to their duty at NCL HQ.

Hence it is decided that system of issuing bus pass by the Administrative Deptt. Should be adopted and those issued bus pass should only be allowed entry into the bus and won't be allowed conveyance allowance.

You are requested to implement the above decision and the action taken report in the said matter should be intimated to the Office of the Chief Vigilance Officer, NCL at the earliest for records.

Sd/-
V.K.Singh)
Chairman-cum-Managing Director

Subject Eligibility criteria for "Annual maintenance of guest houses/canteens".

In the course of investigation of a complaint, it is observed that in one tender relating to running and maintenance of guest house of a particular project, the eligibility criteria inter-alia stipulated that the tenderer must have "valid food licence". But, the said NIT nowhere defined the meaning of "valid food licence". Consequently, L1's offer was accepted even though the "food licence" produced by it was not valid for the place for which the NIT was advertised. Moreover, in the said tender, all the four tenderers were not having the food licence valid for that locality and all their offers were accepted by the tender committee members and the L1 tenderer was awarded the job. Thereafter, the agreement was executed without having proper valid food licence for the particular project.

The aforesaid anomaly was explained by the competent authority by advancing the logic that without award of contract, the contractor won't be in a position to obtain a place specific "valid

"Beware of the half truth. You may have gotten hold of the wrong half."-AuthorUnknown

food licence". If such a constraint existed, then there was no necessity of incorporating the eligibility criteria in the form in which it existed in the said tender. Therefore, hereafter, inter-alia, the following norms should regulate all future tenders relating to "running and maintenance of Guest Houses/Canteens/Hostels":

- 1). The L1 contractor/firm shall submit "valid food licence" for the particular place/project within 21 days of the issue of LOI
- 2). Agreement shall be executed after obtaining and submitted valid place/project specific food licence.

The above norms/guidelines shall be implemented without fail.

The aforesaid norms would not only widen competition, but also eliminate the scope for arbitrariness in evaluation of relative merits of bids received against NIT for running and maintenance of Guest Houses/Canteens/Hostels.

Sd/-
V.K.Singh)
Chairman-cum-Managing Director

All Project CGMs, All HODs, NCL Hqs. CMS, NCL

Subject:Adoption of Integrity Pact in major procurement/work orders/contracts etc Reg.

- Ref
- i). CVC office order no.41/12/07 dt.4.12.07
 - li). CVC office order no.43/12/07 dt.28.12.07
 - li)Director(Technical), CIL's letter no.CIL/C2D/Integrity Pact/2007/08/1193 dt.26.11.2007

Vide office order no.41/12/07 dt.4.12.07, the CVC recommended the adoption and implementation of integrity pact concept in respect of major procurement of the Govt. organisations.

In this context, it is genuine to emphasise that integrity pact is a vigilance tool which 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 suan an integrity pact

with the buyer will be computed to participate in the bidding. In other words, entering into this pact would be a preliminary qualification, which shall be effective from the stage of invitation of bid till the complete execution of the contract. The integrity pact envisages a panel of independent external monitors with impeccable integrity, repute and experience in the relevant field, who are supposed to review independently and objectively as to whether and to what extent parties have complied with their respective obligations under the pact.

The Board of Directors of CIL, approved the implementation of integrity pact in CIL and its subsidiary companies in their 234th Meeting held on 27.8.07. Accordingly, Shri N.C.Jha, Director (Technical), CIL vide his letter no.CIL/C-2D/Integrity Pact/2007-08/1193 dt.25.11.07 advised all subsidiaries of CIL to intimate needful action for implementation of integrity pact by observing the following steps.

1. Obtaining the suitable approval of Board of Directors of the Company for adoption and implementation of integrity pacts.
2. Signing of a Memorandum of Understanding by Transparency International India, Balwant Rai Mehta, Vidya Bhavan, Masjid Mod, Greater Kailash Pt.2 New Delhi 110 048 and CMD/NCL.

“When truth is divided, errors multiply.” ~Eli Siegel, *Damned Welcome*

3. Signing of Model Integrity Pact by the bidders.
4. Appointment of independent external monitor.

In pursuance of CVC guidelines regarding integrity pact and D(T) CIL's instructions dt.26.11.07, as contained in his letter, a Memorandum of Understanding was concluded between CMD/NCL and Chairman, Transparency International India on 14.3.08 at New Delhi. Subsequently, the matter was put up to the Board of Directors of NCL. The Board of Directors of NCL in their 128th Meeting held on 28.3.08 at Varanasi took the following decisions:

- (i) It ratified the Memorandum of Understanding already concluded between CMD/NCL and Chairman, Transparency International India.
- (ii) It approved the introduction of integrity pacts in respect of all tenders that attract the approval of CMD/NCL.

In view of the foregoing and having regard to the need for introducing integrity pacts in major procurement actions with a view to bringing about transparency and competition in the procurement/award of tenders and in pursuance of the decision of Board of Directors of NCL, the following directions are hereby issued:

1. Integrity pacts should be implemented in respect of tenders that attract the approval of CMD/NCL.
2. Integrity pact between the prospective vendors/bidders of the Company shall be the preliminary qualification/condition precedent for participation of a bidder/vendor in the tender process. All bidders who do not sign this pact should be disqualified from participation in the tender process.
3. The integrity pact between NCL and the prospective bidders/vendors should be as per the format enclosed herewith.
4. The bidder(s)/contractor(s) should undertake(s) to demand from all sub-contractors a commitment in conformity with the integrity pact and to submit it to NCL before contract signing.
5. The need for entering into integrity pacts should be made an inherent part of the NIT and clearly stipulated thereof.
6. The independent External Monitors, for overseeing the implementation of integrity pact should be selected & appointed from panel annexed hereto.

All are requested to implement the aforesaid guidelines, without fail, in respect of all tenders that attract the approval of CMD/NCL, w.e.f. 1.5.2008.

Sd/-
V.K.Singh)
Chairman-cum-Managing Director

47. No.NCL/NSC/CMS/2008/243

Dt.24/25.4.08

To,
Area Finance Managers of all the projects
NCL, Singrauli

Enclosed please find herewith copy of a letter from Manager, Accounts, Max Heart & Vascular Institute in pursuance of our letter regarding mode of advance payment to their hospital Max Heart & Vascular Institute, New Delhi.

This is for your information and further needful.

Sd/-
(D.K.Mitra)TS to CMS, NCL

“Truth is such a rare thing, it is delightful to tell it.” ~Emily Dickinson

Dr.K.Mitra
NSC,Jayant, MP

Subject Clarification about acceptance of cheque in favour of Devki Devi Foundation.

This is with reference to your letter no .NCL/NSC/CMS/2008/180 dt.25.3.08 in which you have asked clarification about acceptance of cheque in favour of Devki Devi Foundation. In this connection, we want to clarify that we accept cheques in the name of Devki Devi Foundation as well as Max Heart & Vascular Institute. You can issue cheque in favour of Max Heart & Vascular Institute also.

48. NCL/VIG/BM/PVR-43/08/203

Dt.29.4.08

The following provision shall be indicated in all future NITs related to running and maintenance of canteen in NCL for better participation, competition and transparency.

(1) Specific provision of subsidy, as may be applicable from time to time.

The above shall be implemented with immediate effect.

Sd/-
V.K.Singh)
Chairman-cum-Managing Director

49.No.NCL/VIG/PSP/2008/F-268/534

Dt.9.6.08

In one case it was observed that one project head, while proceeding on approved leave, had marked his attendance on his date of departure (which was the day preceding the date on which he was to proceed on leave) even though he left the project by 10 am and on his date of return even though reached back at 7 pm on that day.

In his reply, he contended that there was no meaning to point out his physical non-availability for a particular time as he was supposed to be on 24 hours day and 365 days presence as project head and that he has to discuss matters with Company Directors/CMD while on tour or authorised leave and on many occasions, he had to go to mines for inspection and

hold meetings with officers before leaving on tour/leave or after coming from leave/tour. He also explained that his marking of attendance should be treated as just a symbolic system in the project and his availability cannot be merely from 9.30am to 5.30pm.

Apropos of his explanation, it is worthwhile to state that it is unbecoming of an officer to mark his attendance in the attendance register on the dates he was not physically present in the project during the normal working hours. Such acts set wrong examples for subordinates and vitiate discipline in the project.

As such, all Heads of the Project/Units should desist from indulging in practice as delineated in para 1 above as it is grossly irregular and sets wrong examples for subordinates.

Sd/-
V.K.Singh)
Chairman-cum-Managing Director

“A little candor never leaves me. It is what protects me.” ~Antonio Porchia, *Voces*, 1943, translated from Spanish by W.S. Merwin

50. No.NCL/FIN/2008/97

Dt.9/10.6.2008

Functional Directors in their 365th. Meeting held on 30.4.08 has constituted a committee to frame suitable guidelines for verification of genuineness/authenticity, acceptability, encashability etc. Of the Bank Guarantee in line with the Office Memorandum no. 02-07-01-CTE-30 dt.31.12.2007 (Circular no.01.01.08) issued by Chief Technical Examiner, Central Vigilance Commission, New Delhi.

For the purpose, the following guidelines as to acceptance of Bank Guarantees as recommended by the committee and approved by competent authority are hereby issued with immediate effect.

RESPONSIBILITIES OF USER DEPARTMENT (INCLUDING EXECUTIVE DEPARTMENT):-

1. BGs submitted by the bidders alongwith tender documents as EMD are to be verified from the tender documents to ascertain whether they are as per NIT format or not, by the user department and at the same time, the user department should send by registered post a letter to the issuing bank seeking the confirmation from the issuing bank alongwith certified duplicate copy fo the bank guarantee directly to the user department who issued the letter. One executive of the user department as Nodal Officer for this purpose should be assigned the task of verification of BGs with the tender format and also to obtain confirmation with certified duplicate copy from the issuing bank. The user department will verify that the certified duplicate copy of the Bank Guarantee corresponds in totality with the original one submitted with the tender to ascertain the authenticity.
2. After confirmation the Bgs will be accepted for opening of the price part of the tender. Subsequent BGs which are submitted by the contractors/supplier in compliance of the conditions of the contract of work/supply i.e. As security deposit/performance security, are also to be verified with the requisite format by the user department and the user department will take action for getting direct confirmation from the issuing bank through registered post/speed post seeking a certifiedduplicate copy of the BG from the issuing bank. After receipt of the certified duplicate copy with confirmation the user department will verify the

same with the original one before acceptance. As indicated in Finance Manual, there is no need of legal vetting additionally.

3. The following procuring system should be devised by the user department and also by Finance(Cash) department. The BG should be recorded in the separate register serially containing therein:-

- a) The Tender Notice number
- b) Agreement/supply order no.
- c) Name of the party
- d) Bank Guarantee number
- e) The amount of BG
- f) The date of issue of BG
- g) Name of issuing bank
- h) Start of validity period
- i) Date of expiry etc.

“The truth is the only thing worth having, and, in a civilized life, like ours, where so many risks are removed, facing it is almost the only courageous thing left to do.”~E.V.Lucas

Both the department will review the register every month for timely action of the renewal/revalidation/encashment of the documents as the case may be.

4. The user department will take timely action at least 3 months in advance for renewal/revalidation/extension of the validity of the document. The user department will write to the contractor or supplier mentioning therein the requirement of the renewal/revalidation/ extension of BG as per terms of the contract/supply order. The extended BGs are also to be verified confirmed from the issuing bank in the similar way as recorded earlier. The accepted BG relating to EMD will be directly send to In-charge Cash Section, whereas the accepted BG for Security Deposit/PBG will be routed through AFM of project/HQ. The register as above by the user department should mention the reference of dispatch through which the BGs were sent to AFM/In-charge of cash section for safe custody.
5. In case the value of BGs equals or exceeds Rs.1.00 crore and whenever possible, Bgs can be confirmed physically provided the BG is pertaining to Security/performance/mobilization advance.

RESPONSIBILITY OF FINANCE(CASH) EXECUTIVE.

On receipt of the documents, the cash department will make necessary entries in the register containing all information tender notice no. Agreement/supply order no. name of the party, BG no. the amount, the date of issue, name of issuing bank and the start of validity period, date of expiry etc. and keep them in a safe place as custodian.

The documents should be reviewed with reference to the register as to the date of expiry if the validity is to expire within 3 months, the cash section (finance department) will intimate the user department for renewal/revalidation/extension and will seek the advice for its encashment.

The finance department will not take any action for encashment until and unless it is intimated by the user department. A letter of revalidation/extension of BGs are also to be kept in safe custody, duly attached with the original BG. Release of BG will be made only on specific instruction from the user department.

Sd/-
(A.Mitra)
Chief General Manager(Finance)

It has come to the notice of undersigned that statutory provisions, rules, regulations, different Govt. Circulars, NCL/CIL Circulars etc. Are not being complied with.

It is therefore, advised that all Govt. Acts, rules & regulations, circulars from government, CIL/NCL etc. Issued from time to time should be strictly complied with.

Sd/-
V.K.Singh)
Chairman-cum-Managing Director

FDs in their 367th. Meeting held on 24.5.08 has approved to award of contract for capital/revenue works in emergencies for tendering procedure in respect of urgent repair works

‘The highest compact we can make with our fellow is - "Let there be truth between us two forevermore." ~Ralph Waldo Emerson

of heavy machineries as submitted by the committee constituted for the purpose:-

For this purpose, following guidelines are hereby issued:-

1. Award of contract for capital/revenue works upto Rs.50,000/-.

As per delegation of power circulated by Company Secretary vide office order no. NCL/Board/48/93/84 dt.24.4.93, at serial no.3.5(b), CGMs/GMs of the projects have the power to award work without inviting tender on the basis of negotiation. Reasons for not inviting tenders has to be recorded.

2. For works of estimated value upto Rs.1.00 lakh:

As per Civil Engineering Manual at 4.00.5, the following provisions exists:

Quotation notice

"For smaller work of estimated value upto Rs.1.00 lakh, quotation notice may be floated.

This will be similar to open tender notice except that the BOQ/NIT and is not sold and the interested parties are asked to collect the BOQ from the office of the tender authority during the specified period of time and quote their rates duly signed with official seal. The period of circulation of such notice can vary from 5 to 10 days depending upon the value and urgency of work".

3. For works of estimated value upto Rs.5.00 lakh:

As per Civil Engineering Manual at 4.00.4, the following provision exists:

Short Tender:

"For smaller work of estimated value upto Rs.5.00 lakh, open short tenders may be invited. This type of tender notice is similar to open tender notice with the exception that the time of circulation can be reduced to a minimum of 5 days depending upon the urgency of the work. However, publicity by way of circulating notices as per CI.4.03(v) shall be ensured in such cases.

4. For works of specialised and very urgent nature with strict time frame, following provision exists at 4.00.2 of Civil Engineering Manual:

Limited Tender

"In case the work is of specialised nature/very urgent nature with strict time frame and stringent quality requirements, limited tenders amongst registered working contractors or known agencies of repute may be invited with the competent approval, depending upon the value of work as per delegation of power".

As per earlier referred DOP circulated by Company Secretary, in such cases, award for repair work of value upto Rs.10 lakh is within the DOP of CGM/GM of the project.

5. The committee further noted that there is no guideline to define urgency and deliberated on the issue:

Considering all the above and after due deliberation, the committee recommended the following:

a) In open cast coal mining, it is very difficult to define the emergency/urgent work exactly. However, the guideline should be the avoidance of loss of production, immediate coal exposure, dispatch of coal and safety. CGM/GM of the project should be the final authority to decide that the work is of emergent/urgent nature.

b) There is no approved manual for repairing work of Excavation/E&M Discipline and these departments are following the Civil Engineering Manual unless and otherwise guided by other circulars being issued from time to time. It should be formally communicated that Civil Engineering Manual shall be applicable for Excavation & E&M works also till any final policy decision approved in this regard is finalised at Coal India level.

c). The provisions of Civil Engineering Manual and the DOP of CGMs/GMs of the projects as noted above, are sufficient to deal with the emergent/urgent repairs without violating the approved procedures. The committee however recommends that for critically urgent/emergent .

“Man is least himself when he talks in his own person. Give him a mask, and he will tell you the truth.” ~Oscar Wilde

repair works where immediate action is warranted, the period of 5 to 10 days for circulation of quotation notice as provided vide 4.00.5 of Civil Engineering Manual be reduced to 24 hours/one day (ref. 2 above) and such notice be displayed on all notice boards of the project.

d) The committee also recommends that after establishing the L1 party through any of the above procedures by the Tender Committee, the HOD of Excavation or E&M Deptt. with due approval of CGM/GM/Head of Project should issue authorisation to the L1 tenderer for starting the work with the condition that final value arrived after scrutiny etc. shall be payable to them, and process the proposal for financial concurrence and approval of competent authority.

e) In case there is any need of spare parts and consumables (store item) for the repairing work, the same may be included in the estimate with proper NA certificate from the Regional Store.

f). All internal circulars/office orders on the subject matter should be suspended.
Fds also agreed that Staff Officer(Excv.) , (E&M), (Civil) and (Finance) should be made responsible so that there is no hindrance in implementing the committee's recommendation as far as the emergent/urgent works are concerned.1

Director(Tech./Opens)

REPORT OF THE COMMITTEE FOR TENDERING PROCEDURE IN RESPECT OF URGENT REPAIR WORKS OF HEAVY MACHINERIES

On 22.2.08, during CGMs co-ordination meeting, CMD, NCL referred to letter no.13026/10/2007-Vig(II) dt.8.2.08 from Shri P. Soma Shekar Reddy, Director, Ministry of Coal, Govt. of India, New Delhi (Copy enclosed) on the subject and formed a committee consisting of the following executives to deliberate on the issue and submit its report.

- | | | |
|----|------------------------|-------------|
| 1. | Shri O.P.Mishra | CGM(Excv.) |
| 2. | Shri T.Rai | CGM(E&M) |
| 3. | Shri SP Datta Majumdar | CGM, Nigahi |
| 4. | Shri Murli Ram | CGM, Jayant |
| 5. | Shri A.Mitra | CGM(Fin) |

The committee met in the office of CGM, Nigahi project on 29.2.08 at 5.00 pm and deliberated in detail regarding the existing procedure vis-a-vis requirement for dealing with the emergency

repairing work. Shri R.L.Rana, CE(Excvt.), Jayant represented Shri Murli Ram, CGM, Jayant Project. After due deliberation, the committee noted the following:

1. Award of contract for capital/revenue works upto Rs.50,000/-.

As per delegation of power circulated by Company Secretary vide office order no. NCL/Board/48/93/84 dt.24.4.93 at serial no.3.5(b), CGMs/GMs of the projects have the power to award work without inviting tender on the basis of negotiation. Reasons for not inviting tenders has to be recorded.

2. For works of estimated value upto Rs.1.0 lakh
As per Civil Engineering Manual at 4.00.5, the following provision exists:

Quote:

Quotation Notice:

" For smaller work of estimated value upto Rs.1.00 lakh, quotation notice may be floated. This will be similar to open tender notice except that the BOQ/NIT is not sold and the interested parties are asked to collect the BOQ from the office of the tendering authority during the specified period of time and quote their rates duly signed with official seal. The period of circulation of such notice can vary from 5 to 10 days depending upon the value and urgency of work".Unquote.

"The truth needs so little rehearsal." ~Barbara Kingsolver, *Animal Dreams*

3. For works of estimated value upto Rs.5.0 lakh
As per Civil Engineering Manual at 4.00.4, the following provision exists:

Short Tender:

"For smaller work of estimated value upto Rs.5.00 lakh, open short tenders may be invited. This type of tender notice is similar to open tender notice with the exception that the time of circulation can be reduced to a minimum of 5 days depending upon the urgency of the work. However, publicity by way of circulating notices as per CI.4.03(v) shall be ensured in such cases."

Unquote

4. For works of specialised and very urgent nature with strict time frame, following provision exists at 4.00.2 of Civil Engineering Manual:

Limited Tender

"In case the work is of specialised nature/very urgent nature with strict time frame and stringent quality requirements, limited tenders amongst registered working contractors or known agencies of repute may be invited with the competent approval, depending upon the value of work as per designation of power".

Unquote

As per earlier referred DOP circulated by Company Secretary, in such cases, award for repair work of value upto Rs.10 lakh is within the DOP of CGM/GM of the project.

5. The committee further noted that there is no guideline to define urgency and deliberated on the issue:
Considering all the above and after due deliberation, the committee recommends the following:

a) In open cast coal mining, it is very difficult to define the emergency/urgent work exactly. However, the guideline should be the avoidance of loss of production, immediate coal exposure, dispatch of coal and safety. CGM/GM of the project should be the final authority to decide that the work is of emergent/urgent nature.

b) There is no approved manual for repairing work of Excavation/E&M discipline and these departments are following the Civil Engineering Manual unless and otherwise guided by other circulars being issued from time to time. It should be formally communicated that Civil Engineering Manual shall be applicable for Excavation & E&M works also till any final policy decision in this regard is finalised at Coal India level.

c) The provisions of Civil Engineering Manual and the DOP of CGMs/GMs of the projects as noted above, are sufficient to deal with the emergent/urgent repairs without violating the approved procedures. The committee however recommends that for critically urgent/emergent repair works where immediate action is warranted, the period of 5 to 10 days for circulation of quotation notice as provided vide 4.00.5 of Civil

“The cruelest lies are often told in silence.” ~Adlai Stevenson

Engineering Manual be reduced to 24 hours/one day (ref. 2 above) and such notice be displayed on all notice boards of the project.

d) The committee also recommends that after establishing the L1 party through any of the above procedures by the Tender Committee, the HOD of Excavation or E&M Deptt. With due approval of CGM/GM/Head of Project should issue authorisation to the L1 tenderer for starting the work with the condition that final value arrived after scrutiny etc. Shall be payable to them, and process the proposal for financial concurrence and approval of competent authority.

e) In case there is any need of spare parts and consumables (store item) for the repairing work, the same may be included in the estimate with proper NA certificate from the Regional Store.

f). All internal circulars/office orders on the subject matter should be superceded

53. No.NCL/SGR/CGM(Fin)/2008/327

Dt.9.9.2008

With reference to office order no.NCL/FIN/2008/157 dt.9/10.6.08 and subsequent office order no.NCL/SGR/CGM(Fin)/2008/263 dt.6.8.08, certain doubts are further raised regarding verification of Bgs. It is clarified further that so far as the BG is for EMD, Security Deposits/Performance Guarantee, the concerned user department will be interpreted as the department or section which conducts or monitors the tendering and issue supply/work order. Hence Purchase Deptt. Of HQ will do the verification and confirmation of Bgs. Pertaining to EMD, Security/Performance guarantee from its end.

This will come into force with immediate effect.

Sd/-
(A.Mitra)
CGM(Finance)

“The truth needs so little rehearsal.” ~Barbara Kingsolver, *Animal Dreams*

VIGILANCE CASE STUDIES

CASE STUDIES:

It is said that an/a Administrator/Manager in order to be successful should have both hindsight as well as foresight. By hindsight is implied the ability to learn from past mistakes and get wiser based on the events of the past. The ability to learn from mistakes is in turn dependent on his sense of history. More so because, history teaches us about how and why things went haywire in the past, actions/decisions that ought to have been taken in the past and what corrective actions need to be taken to avoid recurrence of an undesirable situation. Thus, being aware of history, or the past, helps a person to have a better perspective of a given situation and handle it in an effective manner.

An attempt therefore, has been made to collect and compile the cases that were handled by Vigilance Deptt. A study of these cases would indubitably give insights into why vigilance cases were registered and what actions need to be taken to avoid the recurrence of irregularities. A reading of these case studies would definitely would equip a person to tackle similar cases in the future.

1. IRREGULARITIES IN HANDLING CIVIL CONTRACTS

Two jobs of Civil Engineering discipline were investigated and the following irregularities were detected:

- In one job, NIT was issued :
 - a) exceeding the fund sanctioned for the purpose
 - b) without prior financial concurrence and administrative approval as required by Para 10.02.2 of CEM 1995.
- The following were not deliberately reflected in the TC recommendations:
 - a) mandatory declaration of non existence of relative in NCL & that the information and documents submitted were true and correct,
 - b) non-matching of the signature of the affidavit with that of tender acceptance,
 - c) non-filling up all the points of Tender Document by the tenderer,
 - d) non-submission of sales tax registration as required in the NIT,
 - e) rates were not written in words,
 - f) partnership deed was not signed by the retiring member etc.

- correct factual data on the above aspects were neither reflected in the comparative statement by the dealing officer nor the TC members checked the same with the submitted tender documents.
- Over writing was not signed by the TC members in violation of para 4.13(ii) of CEM 1995.

Action taken:

1. All the TC members (two M-3 rank executives, two M-2 rank executives) and dealing officers of both the cases were issued major penalty memoranda.
2. All the TC members except one were dismissed from service and the two dealing officers were demoted to the lower post.

2. **OVER-REPORTING OF OB REMOVAL**

In one case, in two months, over burden removal (OBR) figure was reported higher than the actual figure in one of the projects of NCL which was not derived from the shiftwise daily production report (for shovel and dumper combination) and shift reports for production of

“Corruption Never has been Compulsory.”

 -[AnthonyEden](#)

draglines. The inflation was to the tune of about 9.52% against the permissible limit of $\pm 2\%$ for the projects having OB removal in excess of 5 million Cu.M per annum as laid down in “code of uniform system of maintenance, control and verification of OBR in Open Cast Mines of Coal India Limited”.

- Two executives of mining discipline of M2 & M3 rank were issued major penalty memoranda and one was ultimately censured and the case of other was closed due to his demise.

3. **AWARD OF SHALE-PICKING JOB WITHOUT THE APPROVAL OF COMPETENT AUTHORITY**

In one of the projects of NCL, Shale picking was approved by FDs of NCL on trial basis for three months and later on the same was extended for a certain period with the approval of CMD/NCL. The new contract for the subsequent period did not include shale picking but the same was continued in the particular project without competent approval. The project authority later on asked for approval of Board and the concerned agency/department from HQ NCL processed the file with the purpose of getting it approved by NCL Board and allowed shale picking in the particular project. At a later date, the agency from HQ also communicated the said project that NCL Board approved the proposal whereas no such approval was accorded. The party claimed for payment for shale picking which was not made to them as the shale picking was done without competent approval. Not getting payment, the aggrieved party dragged NCL to litigation and filed writ petition in the Hon’ble High Court of Jabalpur. The agency from HQ replied to the said writ petition in such a manner that it was detrimental to the interest of the Company clearly indicating connivance with the contractor.

- The head of the concerned project and the head of the agency of HQ were issued major penalty memoranda.
- The concerned project head was exonerated and the head from the HQ was dismissed from his service.

4. AWARD OF WORK WITHOUT ALLOTMENT OF FUND

In one of the projects of NCL, LOI was issued in relation to a monsoon preparation work by the Staff Officer of the dealing deptt of the concerned project without:

- approval of the competent authority,
- financial concurrence and budget certification.

As per LOI, the job was to be completed within three months but the same was completed within one and half months.

The project supervisors and engineers had also measured and certified the work in the Measurement Book.

The work was required to be taken up within approved budget in consultation with AFM. No re-appropriation was made, however, re-appropriation within item-wise budget required approval of Director (Technical).

The LTE was initially called without consulting Chief General Manager (Civil) HQ and without obtaining financial sanction which was the pre-requisite before issuance of LOI.

“Optima corrupta pessima: the best things corrupted become the worst.”
-[Owen Feltham \(Feltham\)](#), *Resolves* (XXX, Of Woman, p. 70),
(Pickering's Reprint of Fourth Edition)

In absence of fund certification, the agreement was not executed between the contractor and NCL authority and no payment was made to the contractor.

Subsequently, the contractor claimed for payment and he had filed writ petition in the Hon'ble High Court of Jabalpur for releasing payment.

The said Staff Officer did not adhere to the procedure meant for floating of tender, award of work and had over-stepped in issuing LOI and allowed the contractor to go ahead with work without proper sanction of fund.

The concerned Staff Officer was issued major penalty memorandum and was removed from his service.

5. IRREGULARITIES RELATING TO WORKABLE RATE

In one turnkey contract for construction of a bridge over a nallah, the following irregularities were found:

- a) there was wide variation between the estimate and the workable rate to the tune of 153% and adequate explanation was not recorded in the file for such variation
- c) The workable rate was prepared after the price bid was opened and TC deliberations were recorded in cognizance of the Workable rate which was not in existence during tender committee deliberation.
- d) Some technical points were not adhered to by the tenderer
- e) The bids were accepted by the TC members even if the offers of all the tenderer were not put on equal platform.

ACTION TAKEN:

2. Except one as he was dismissed in another case all the TC members were issued major penalty memoranda.
3. One TC member was demoted to the lower post and the other was issued the penalty of Censure.

6. CASE NO CRM-93/07

In procurement and installation of a conference system at one of the projects of NCL it was found that the estimate was prepared incorporating prices of models/items related to a particular make conference system of particular series with ulterior motive of buying that particular make conference system without making proper market survey particularly the prices of the same. In the said job, NIT

was issued without defining the similar nature of the work resulting in acceptance of the offer of a firm which did not have the same or similar experience. On verification of the price of that particular brand/make and series and awarded rate a loss of more than 2 lakhs was revealed. TC members also reckoned with a fake price list of another make conference system to justify the offered rate of the tenderer.

- All the three TC members including the dealing officer were issued major penalty memoranda and the case is under process.

7. NON-RECOVERY OF WATER CHARGES

In annual repair & maintenance contract of HQ unit it was found that the estimate & workable rate was prepared inclusive of 1% water charges. But during the execution, 1% water charges had not been deducted from the contractor's bill as per the agreement clause although it was a self-evident truth that the contractor concerned used to take water from the company's pipeline and buildings.

- All the executing executives and the staffs were issued memoranda.
- Officers were issued penalty of withholding of one increment for one year and the case of non-executives are under verge of decision.

“Those who corrupt the public mind are just as evil as those who steal from the public.” - [Adlai E. Stevenson](#)

8. ACCEPTANCE OF FAKE EXPERIENCE CERTIFICATE

On verification of the experience certificate submitted by a particular tenderer in civil maintenance work, of a particular project of NCL, it was found that the certificates used by the tenderer to grab the contract was fake. As per the Clause 4.17 of Civil Engineering Manual 2000, the concerned dealing department and the TC member should check the veracity of the experience certificate and the same had neither been done by the concerned department nor by the TC members.

- All the TC members were issued minor penalty memoranda and issued the penalty of Censure.
- The concerned firm's business was banned for 3 years in NCL.

9. USAGE OF FAKE EXPERIENCE CERTIFICATE

A particular firm had used NCL'S different project's experience certificates and certificates of NTPC Kahalgaon at Gevra project of SECL in the tender of Civil Department. On verification, it was found that the said experience certificates were fake:

- The businesses of the said firm were banned in NCL as well as in all subsidiary of CIL
- SECL Vigilance department was intimated for immediate action for terminating the contract of the party.
- CMD, NCL also advised DIR(Tech/Oprn) & DIR(Tech/Oprn) to ensure a system for random checking of experience certificates submitted by the different parties to verify their veracity/ genuineness.

10. STIPULATION OF RESTRICTIVE PRE-QUALIFICATION CLAUSE

In the tender for the Pest Control operation at different units and projects of NCL it had been observed that a pre-qualification clause had been incorporated in the NIT as per which membership of IPCA, NPCA and NPMA was made a prerequisite for being qualified for price bid opening. The above clause was restrictive in nature and may be the cause for inflated value of workorder. A bare reading of the membership conditions and pamphlet of the said association(s) one gets an impression that the membership in the association is voluntary subject to satisfaction of the conditions prescribed in the constitution of the association. The constitution also does not indicate that membership per-se makes anybody technically highly qualified. Nor does it ensure that membership automatically trains a person in the sphere of Pest Control. Accordingly a circular bearing no NCL/VIG/BM/CRM-109/F-05/PV Cir/07/1195 dated 19.01.2007 was issued with an advice that the provision regarding membership in the said association in the NIT should be deleted in all future NITs.

11. NON-CIRCULATION OF BOQ IN THE WEBSITE

Going through the file of another pest control operation of project of NCL. It has been observed that the details of the estimate of that particular NIT had also been circulated in the web site along with the NIT, and bill of quantity had not been circulated in the web site. It is also observed that there was no document available in the file regarding ascertaining the rates of different items estimate. Preventing circular bearing no.NCL/Vig/CRM-28/07/343, dated 30.5.07 by CMD, NCL with direction that tendering should be done with the ultimate aim of highest competition and maximum participation and restrictive pre-qualification clauses should be avoided in the NITs, and rates of important items should be ascertained from the nearby authorized dealers and from different related web sites both at the time of estimate preparation and also for justified rate preparation. The person responsible for the irregularity of circulating estimate in web site and not giving the BOQ in web site was issued an advisory note by the concerned project CGM to be more careful and not to repeat such type of mistake in future.

12. NON- BANNING OF BUSINESS

Going through a particular file of Civil engineering discipline of a particular project, it had been observed that decision of banning of business of a particular firm for three years was taken already the Chief General Manager of that project. But the same firm was debarred from doing business in NCL after lapse of one and half years. The delay as per records is attributed to the Staff Officer(Civil) of that project. Accordingly CMD/NCL issued an advisory memorandum to the concerned staff officer to be more careful in future, follow the instruction issued by his superior and act with due promptitude. He was also advised to desist from repeating the aforesaid irregularity in future.

“To sin is a human business, to justify sins is a devilish business.” Leo Tolstoy

13. CALIBRATION OF WEIGH BRIDGES

On inspection of different road weigh bridges of NCL Projects and units at different locations and explosive carriers were found running with avoidable variation further with scope of improvement. To improve the system of weightment at road weigh bridge with minimum variation and proper calibration of the meter installed in the explosive carrier the following guidelines were issued by CMD, NCL vide reference No.NCL/Vig/06/Preventive/1270, dated 7.2.2006.

- Structure of the weighbridge shall be made sufficiently strong to avoid caracking or buckling.
- Free horizontal movement of the platform must be allowed.
- Vertical tie bar must be installed for restricting lifting of platform in case of off-centre loading..
- Load cell when defective may be replaced with new one with provision for spare cells.
- Load cell may be made tamper proof and it shall be kept dust & dirt free.
- Platform of the weighbridge may be kept at some height above ground level and ramp profile may be designed in such a fashion that before embarking on the weighing platform there is sufficient horizontal approach to eliminate shock at the load cell and this will facilitate the upkeeping of load cell dirt & dust free.
- Instead of corrective maintenance as and when required, an effective & sound system of weekly / fortnightly test checking regarding the accuracy of the weighbridge may be established.
- Proper formal sealing of the digitizer/console/software must be ensured.
- Project authority should ensure regarding the seal of the calibrating authority.
- Project authority may explore with the explosive supplier for calibration of the meter installed in the explosive carrier for certification by an approved agency.

14. Variation in the definition of Similar nature of work

Going through the NIT of a Civil Tender it has been observed that the clause “ similar nature of work” has been defined in the web site of NCL is different from that of the said tender documents issued by the HQ. Unit. It is quite appreciated that the pre-qualification clauses in NIT are quite crucial in promoting

/ restricting competition and are key component in affecting the awarded value of contract. In the instant case the pre-qualification criteria in the tender documents / NIT off loaded in the web site would have considerably restricted competition. CMD, NCL advised all concerned to be more cautious in future and take all necessary steps to prevent recurrence of such type of mistake. On timely action of the Vigilance Department the said NIT was cancelled and re-tendering was done.

On being asked to fix up responsibility, the concerned HOD warned the person responsible for the irregularity as it was not done intentionally but it happened inadvertently. When the Vigilance Division was yet to take a view on the matter, the said action of the particular HOD pre-empt the possibility of disciplinary proceedings and the issue of warning without waiting for any communication from vigilance division was fundamentally wrong. So the closure of the case became a fait accompli. Accordingly, the said HOD was issued an advisory letter to be more cautious and avoid recurrence of such type of mistakes in future.

15. LIMITED TENDER ENQUIRY FOR TRANSPORTATION CONTRACT

Going through the file and functioning of coal transportation contracts, particularly in cases of limited tender inquiry, it was felt that there is need of some system improvement. Accordingly CMD, NCL issued some directions on the matter vide No.NCL/Vig/Preventive/06/1392, dated 28.2.2006 which are given below :-

1. With a view to issue LTEs, a list of eligible contractors should be maintained and updated periodically, once in a year. This system should ensure better participation in LTE.

"I have found that being honest is the best technique I can use. Right up front, tell people what you're trying to accomplish and what you're willing to sacrifice to accomplish it."

Lee Iacocca

2. Limited Tender Enquiry should be called from these enlisted contractors only and the list should be available with all the concerned officers for deletion/inclusion of names.
3. Enlisted contractors who are issued LTE and do not respond without giving proper reasons, may be debarred from the issue of future enquiries.
4. Tender Enquiry shall include parameters like adverse mining conditions/ operating conditions and other conditions, if any. The financial impact of the above conditions, if any, shall also be considered during estimate preparation.
5. Approval of competent authority as per Delegation of Power must be taken under every stage of tendering.

16. TAMPERING OF BID DOCUMENTS

In one case, the following irregularities were observed:

- a. One of the three officials, in whose custody the file remained, during the material time of tampering, decided to show the file, which was confidential during the pendency of the purchase process, to an outside party and accepted a post tender modification from the party to the effect that the NIT terms were agreeable to the party with an ulterior motive of accepting the post tender modifications from the party so as to enable it to qualify in the tender. Though he was aware of the tampering of the bids, intentionally he suppressed the same from the management.
- b. Compromised the process of technical scrutiny of offers by not ensuring that technical examination of bids had been done properly vis-a-vis the technical/commercial specification (mentioned in the NIT), particularly classes like warranty, guarantee, fitment, delivery etc. which are mandatorily done in technical scrutiny and that he turned a blind eye to the fact that the tender documents had been tampered with when they were in his custody of three officials.
- c. Officers who did technical scrutiny ought to have examined all the aspects of the techno-commercial bid and pointed out the deviations from the NIT provisions but he failed to do so.

17. NEGLIGENCE IN CHECKING THE QUALITY OF HSD

That in pursuance of letter no.NCL/SGR/IED/06/559 dt.6/12.10.06 Bina Project, vide his order dt.16/17.10.06, appointed two executives and one non-executive as members of FMS Implementation Committee no.1. The said order had as an enclosure, the letter

no.NCL/SGR/IED/06/559 dt.6/12.10.06 signed by General Manager(IE) which detailed the assignments of FMS Implementation Committee 1.

The letter no.NCL/SGR/IED/06/559 dt.6/12.10.06 signed by Shri B.S.Sinha at para 2.01 clearly enjoined upon the FMS Implementation Committee 1 members to physically supervise the distribution and put their signature on the joint statement of distribution equipment wise filled by pump as well as by mobile bouysers. As per clause 1.4.4.4 of the fuel supply agreement between Northern Coalfields Limited and M/s IOC Limited, NCL was to do necessary quality checks before taking delivery of diesel.

But the committee members failed to undertake necessary checking of the quality of HSD oil before delivery of HSD through flow meters into the equipment on 13.1.07 in violation of the agreement & negligently put his signature, as a token of acceptance of quality of Diesel received on 12.1.07 on the register maintained for this purpose even though, the HSD supplied by IOC tanker on 12.1.07 was contaminated by water resulting in loss of Rs.4.14 lac which was ultimately deducted from IOC's bills.

The committee members were issued with minor penalty Charge –sheet and two executives were imposed with minor penalty.

18. **AMBIGUITY IN PART -1 OFFER**

In this case:

a.The ambiguity in the offer of one firm had not been brought out in the minutes of the proceedings of the Tender Committee.

“Never lie, cheat or steal, always strike a fair deal.” *Wanda Hope Carter, from [To Achieve Your Dreams Remember Your ABCs](#)*

b.For the ambiguity, contradiction and lack of clarity in the techno-commercial bid, the Part-1 bid of the said firm ought to have been rejected in the instant case but the offer was accepted by the TC members notwithstanding the ambiguity in the delivery clause related response of the firm.

The TC members were imposed minor penalty for their lapses.

19. **IRREGULARITIES IN EXECUTION OF TRANSPORT CONTRACT**

In one transport contract, the following irregularities were committed:

- a. The fact of non-deployment of required no. of tipping trucks as per the agreement resulting in shortfall of coal transportation which led to penalty deduction from the running account bills of the said contractors were hidden, the provisions of the contract agreement were ignored and it was recommended to release Rs.63.68 lakh deducted as penalty amount for shortfall in transport to two transporters.
- b. The penalty amount of Rs.63.68 lakh recovered from the bills of the two contractors were treated as withheld amount and the fact that it was penalty deduction as per contract agreement because there was shortfall in the transported quantity of coal then the targeted quantity was not reckoned with .
- c. The misinterpretation led to re-payment of Rs63.68 lakhs to two transporters thereby leading to a loss of Rs.57.312 lakh sustained by NCL.

In this case two persons/executives were issued with major penalties and one executive was conveyed “Displeasure” of the Disciplinary Authority

20. **UNDERVALUATION OF INDENTED ITEMS**

1. The Materials Manager of a project, while working as TC member as also officer responsible for Purchase Deptt. which processed the purchase of 4 mechanical items as against Tender Enquiry, concealed the fact that the indented value of items were deliberately undervalued at the time of NIT from over Rs.10.0 lakh to a value between Rs.5.0 lakh to Rs.10.0 lakh so as to restrict competition and to pave the way for placement of order on a favoured bidder.

2. Notwithstanding the fact that there was a clear-cut evidence in the form of hand written applications dt..22.7.06 & 21.7.06 in the same hand writing, the Materials Manager turned a blind eye to the fact that 2 bidders were related to and were in collusion with each other. The action of Materials Manager, in this regard, resulted in vitiation of the tender process which effectively was pre-planned and ensured placement of order on one firm.

3.The Staff Officer(MM) accepted the Tender Committee recommendations in his capacity as Staff Officer(MM) inspite of the following irregularities and recommended them to the General Manager, Khadia:

- a. The estimated value of the four mechanical items to be procured were deliberately undervalued at the time of NIT from over Rs.10 lakh to a value of between Rs.5.0 lakh to Rs.10 lakh in order to restrict competition.
- b. There was clear-cut evidence in the file in the form of written applications dt.22.7.06 & 23.7.06 from two firms regarding their connivance with each other.

Minor penalties were imposed on those found responsible for the irregularities

21. **ANOMALIES IN PROCUREMENT OF HEMM SPARES**

In one case relating to procurement of lubricating spares the following irregularities were detected:

- a. The non availability certificate did not bear an endorsement by the Depot Officer relating to non-availability of spares for shovel.
- b. The non-availability certificate did not bear the signature of Section In-charge and AFM.
- c. No credible proof that the LTE had been dispatched and received to/by M/s BE(OEM) is existent.

d. The "Acknowledgement Due" card bears the stamp of Protos Engineers Limited even though the LTE was addressed to M/s Delimon Products Private Limited.

"An excuse is worse and more terrible than a lie; for an excuse is a lie guarded."

Alexander Pope

- e. LTE ought to have been issued to minimum 3 firms, whereas there is proof of jut one firm having received it. This too by M/s Protos Engineers Private Limited.
- f. Part no.16028 pertains to P&H shovels. But no tender enquiry was issued to P&H.
- g. M/s Lincoln Hellos Limited has been suppliers of the aforesaid part no. items in other projects of NCL at a very low price. But it was not issued with any tender enquiry.
- h. Barring initiation stage no urgency whatsoever is evinced from the file in as much as against the indent dated 22.4.06 supplies were not made by 9.9.07 even though more than 16 months passed by in the interim period.
- i. The indent nowhere mentioned that the part should be of imported make nor did the schedule to the tender enquiry in question bear any such stipulation.
- j. There had been repeated correspondence with the single tenderers which gives an impression that the relevant authorities were hell bent on procuring the items from M/s RVS Engineers even at the cost of compromising the interest of the Company.
- k. Efforts were made to accommodate the interest of the company M/s RVS Engineers even by placing the supply orders as per terms & conditions set by the firm.
- l. Even though indent did not talk of imported spares that too of farval make, the supply order was placed on M/s RVS Engineers for supply of Farval make items.
- m. There has not been proper assessment of rate reasonableness by the concerned officer in the light of the fact that M/s Lincoln Hellos had supplied the same parts to other projects at a lesser rate.

... executives were imposed with the Penalty of "Withholding of one increment without cumulative effect for a period of one year" for their respective roles in the irregularities as delineated above.

22. **DELAYED INFORMATION RELATING TO APPOINTMENT OF NEAR RELATIVES**

(i) One executive informed the Chairmam-cum-Managing Director, Northern Coalfields Limited (NCL), regarding appointmnt of his daughter after a lapse of more than a year since the

date of her appointment. Thus, he had contravened Rule 6.1 of the CDA Rules 1978 of Coal India Limited.

(ii) The executive did not obtain necessary prior sanction of the competent authority regarding appointment of his daughter in Delhi Public School, Nigahi though he was having official dealings with the school in question and thereby contravened Rule 6.2 of the CDA Rules 1978 of Coal India Limited,

22.. **AMENDMENT OF SUPPLY ORDER WITHOUT APPROVAL OF COMPETENT AUTHORITY**

In this case, while processing the case for amendment to the supply order, it was not mentioned that the proposed amendment order to supply order no.031203/9102/ MB 03-04/3732 i.e. to change the destination from ex-Kolkata to ex-Dudhichua was needed to be approved by CMD, NCL. only as per DOP made by Board of Directors of NCL, since the supply order was placed with the approval of the NCL Board of Directors.

23.. **IRREGULARITIES RELATING TO ADVERTISEMENT**

This case was relating to issue of advertisement in newspapers. This case suffered from the following irregularities:

- Advertisement of 19 tender notices received from a project related to procurement of HEMM spares for shovels were published separately in Economic Times (Delhi, Mumbai, Kolkata and Chennai), Hindustan Times (Lucknow) and Central Chronicle (Bhopal). The said 19 Tender Enquiries could have been combined for publication as per order no.NCL/DF/10/91/585 dt.20.9.91 as other terms and conditions were same for 19 tender notices.

"Honesty is something you can't wear out."
Waylon Jennings

- By not combining the said 19 tender notices, the said Shri Jha caused a loss of Rs.15,97,454/- (Rupees fifteen lakh, ninety seven thousand, four hundred fifty four only) to NCL.
- The delinquent executive tried to take shelter under the plea that he was instructed to do so by his superiors. But, there was no evidence on record to prove that he was instructed to do so.
- The concerned Director was informed after publication & also misguided the Director(Personnel) by stating that there was no guideline for taking approval before publishing.

The official found responsible for the loss was imposed with the penalty of reduction to lower rank.

24. **PAYMENT WITHOUT COMPLETION OF WORK BY THE CONTRACTOR**

The following anomalies were detected in this case:

1.Payment of Rs.1,95,700/- as full installation and commissioning charges, Rs.3,37,500/- as first bill to the supplier as rent and paid total rental payment of Rs.32,95,837.33 were made to a firm even though 12 nos. of terminal with key board out of 51, 24 nos. of dot matrix printer (80 columns) out of 40, 6 nos. of dot matrix printer (132 columns) out of 8 and 28 nos. of line drivers out of 40 were not installed and thereby by making payment without installation and commissioning .

2. The top management was not informed about non installation and non commissioning of some items of computer system.

Two officials were imposed with minor penalties.

25. **NON- EXECUTION OF WORK AS PER BOQ**

In one case of electrical work, the TC had rejected the offer of one firm on the ground that the length of poles offered by it was less than that reflected in the BOQ .Though the length of pole was one of the main specifications vis -a- vis which execution of work should have been examined, yet during the execution of work, the same was not kept in view .

Resultantly, poles of lengths lesser than the lengths reflected in the BOQ were accepted during execution of work. Moreover, change in length of poles as compared to the said specification was not recorded in the measurement book.

Two executives were imposed with major penalty in this case.

26. **FORGERY OF GM'S SIGNATURE**

This relates to forgery of GM's signature.

In this case, a contractor's bill was given to a non-executive after signature of the concerned Chief Engineer for onward transmission to GM for the latter's signature. But GM's signature was forged before it was put up to him. The forgery was facilitated by a system as per which a non-executive was allowed to sign on forwarding memos & interested parties were allowed to roam with bills and notesheets and move from one table to another.

-----executives were issued imposed with minor penalties

27. **Order no.NCL/VIG/CRM-126/07/745 dt.6.8.07**

In this case, the following irregularities were observed:

1. The executive entrusted with the duty to do techno-commercial scrutiny compromised the process of technical scrutiny of offers by not ensuring that techno-commercial examination of bids had been done properly vis-a-vis the technical/commercial specification (mentioned in the NIT), particularly classes like warranty, guarantee, fitment, delivery etc. which are mandatorily done in technical scrutiny and that he turned a blind eye to the fact that the tender documents had been tampered with.

“He who tempts, though in vain, at last asperses The tempted with dishonor foul, supposed Not incorruptible of faith, not proof Against temptation.”- [John Milton](#)

2. One of the three officials in whose custody the file remained during the material time of tampering, decided to show the file, which was confidential during the pendency of the purchase process, to an outside party and accepted a post tender modification from the party to the effect that the NIT terms were agreeable to the party with an ulterior motive of accepting the post tender modifications from the party so as to enable it to qualify in the tender. Though he was aware of the tampering of the bids, but intentionally, he suppressed the same from the management.

3. All the aspects of the techno-commercial bid were not examined and the deviations from the NIT provisions were not pointed out by the officials who did techno-commercial examination. They turned a blind eye to the fact that the tender documents/bids were tampered with.

29. **ISSUE OF INCORRECT WORK COMPLETION CERTIFICATE**

1. One executive had issued a certificate to a firm stating, inter-alia, that it had executed a work at Jhingurda Project for the approximate value of Rs.2.00 crore during the period 22.9.98 to 5.1.99 with regard to Coal Sector Rehabilitation Programme Infrastructure Work awarded vide SGR/Agmt/260/98/205 dt.21.11.98. Whereas, the work value executed during the aforementioned period was approximately to the tune of Rs.1.53 crore. Further, the certificate was issued before the completion of the work to favour the aforementioned firm.

2. The certificate was established to be false as it was not based on measurements recorded in the Measurement Book on the basis of which payments were made to the said firm.

30. **OVER-REPORTING OF COAL PRODUCTION, TRANSPORT AND DESPATCH**

1. That during the year 1996, executives had entered into an unholy alliance with the then General Manager, of a [project and reported despatches of 56322.70 MT coal to NTPC Rihand during 28.3.96 to 31.3.96 in place of actual despatch of 18400.00MT (approx..) coal during the said period and thus falsified records related to despatch of coal during the relevant period.

2. That during the year 1996, an executive had entered into an unholy alliance with the then General Manager, of a project and certified for the payment of transportation bill of a firm for 50,604 MT coal for March 1996 including 16971 MT non transported quantities during 28.3.96 to 31.3.96 and another firm for 75370.40 MT coal for March 1996 including 20909.80 MT non transported quantities during 28.3.96 to 31.3.96.

3. Executives had entered into an unholy alliance with Shri R.L.Rai, the then General Manager, NCL, Amlohri Project and had committed gross misconduct by reporting during the period 28.3.96 to 31.3.96 production of 14000 MT coal and despatch of 56322.70 MT coal to NTPC, Rihand in place of actual production of 82670 MT coal and despatch of 18400 MT (approx.) of coal and got prepared falsified records relating to production and despatch from the subordinates and certified the same.

31. FAVOURITISM IN THE AWARD OF CONSULTANCY CONTRACT.

2. A firm named M/S STUP was appointed as a consultant for consultancy services for assessment of pipeline conditions and suggestions on strengthening measures. This was so, in spite of a circular passed by D(Tech.)CIL to the effect that CMPDIL should be approached first and also, originally, IWSS scheme was initially prepared by CMPDIL .
3. Pre-qualification public notice for locating the consultant was not issued nor any correspondence was done to locate the expert except M/s STUP Consultants and M/s S.Chatterjee Associates Consultants Pvt. Ltd.
4. In spite of stated urgency, letters were issued to M/s S.Chatterjee Associates Consultant Pvt. Ltd and M/s STUP Consultants Ltd. after about 11 & 13 months respectively without resorting to competitive bidding. Hence, tendering for appointment of consultant was not done.

**And conscience, truth and honesty are made
To rise and fall, like other wares of trade. - [Thomas Moore](#)**

4. FDs of NCL advised to obtain offers from 3/4 experts of such work. But no effort was made to locate 3/4 experts. Instead, M/s STUP Consultants was favoured for award of consultancy work without any competition. Offer of M/s S.Chatterjee Associates which was already available with the Civil Deptt. was shown for comparing the rate. M/s STUP Consultants were favoured for award of work bypassing the decision of FDs to locate 3/4 experts of such work.

5. Letters were written to M/s S.Chatterjee Associates on 20.7.98 and M/s STUP Consultants on 15.9.98. Accordingly both the parties submitted their offer but not on equal footings because M/s STUP Consultants offered measurement on one spot at the interval between 100 meters to 250 meters depending on the site conditions and M/s S.Chatterjee Associates offered 12 spots per meter for measuring the thickness of the pipe. The concerned executives did not point out the unequal scope of work.

6. As per offer of both the parties were not on equal footings, the rates were not compared to cost of two consultants on equal footings. While comparing the rates of the two parties, the concerned executives did not point out that the quoted rates were not comparable as the scope of work had not been comparable. In view of the fact that M/s STUP Consultants Ltd. proposed to take measurement of thickness of pipe at interval of 100 meters to 250 meters and M/s S.Chatterjee Associates considered scope of work for measurement of thickness of pipe at 12 spots at an interval of 1 meter. If the scope of work of M/s S.Chatterjee was considered at par for measuring wall thickness at interval between 100 meters and 250 meters depending on site condition, M/s S.Chatterjee's offer would have been 10,01,400/- considering 100 meter span of thickness measurement and 10,00,576/- considering 250 span for measurement of thickness. In that case, M/s S.Chatterjee Consultant's offer would have been L1. Shri Rai did not point out this aspect deliberately even though the offer of M/s STUP Consultants Ltd. was more than M/s S.Chatterjee Associates after scrutiny of the offer in their entirety.

32. **SPLITTING WORK AND REDUCTION OF BOQ QUANTITY TO KEEP A WORK WITHIN THE DELEGATED POWERS OF CGM**

1. An executive had deliberately split the work of extension of retaining wall in mid mine entry at Khadia project in the year 1998 and had prepared four estimates of Rs.8.41 lakh, 8.62 lakh, Rs.9.27 lakh and Rs.8.83 lakh on 21.3.98 without assigning reasons, though the estimates were having the same items, to restrict them within Rs.10 lakh to suit the delegated power of the Project General Manager in case of Limited Tender Enquiry.

2. The said executive had deliberately split the work of providing & laying RCC Hume Pipe in the same location and with similar items and prepared two estimates amounting to Rs.8.02 lakh & Rs.3.47 lakh respectively without assigning any reason to restrict them within Rs.10 lakh to suit the delegated power of the Project General Manager in case of Limited Tender Enquiry.

3. The said executive deliberately split the work of cleaning of coal side drain and muck upto and beyond mid mine entry into two separate estimates of value of Rs.8.22 lakh & Rs.9.66 lakh without assigning any reason to restrict them within Rs.10 lakh to suit the delegated power of the Project General Manager in case of Limited Tender Enquiry.

4. The said executive alongwith other Tender Committee Members reduced the quantity of item 1 of BOQ of the work of providing and laying RCC Hume Pipe at main mine entry after receipt of tender which resulted in the award value of work within Rs.10 lakh to suit the delegated power of the Project General Manager and thus favoured the contractor.

5. The said executive as a Tender Committee member for work of silt retaining bund in mid mine entry at Khadia Project had accepted the forged price bids submitted by M/s Ashok Kumar Singh and M/s Sinha Enterprise having the quoted price in figures only.

"No legacy is so rich as honesty."
William Shakespeare

6. That the said Executive as the Sr.EE(Civil) had prepared the estimate for the work of providing and laying RCC Hume Pipe at main mine entry at Khadia project and as a Tender Committee member for the said work had changed/reduced item 1 of BOQ of the work after receipt of the tender. He had thus sacrificed the interest of the Company to favour the contractor and kept the award value of work within Rs.10 lakh to suit the delegated power of Project General Manager.

33. **IMPROPER INDENTING**

1.Improper indenting and processing of some specific indents of spare parts of Heavy Earth Moving Machinery without ensuring proper evaluation of the requirements which had resulted in significant inventory carrying cost to the company that could have been avoided.

2. The materials supplied previously (against supply order no.37049313 dt.23.1.05) by M/s Power Mining & Associates, Singrauli the authorised dealer of M/s L.G.Balakrishnan & Brothers Ltd. Indore, had failed within the warranty period. Non disclosure of the above fact led to issue of a fresh order bearing no.37059001 dt.21.4.05 on M/s Power Mining & Associates, Singrauli the authorised dealer of M/s L.G.Balakrishnan & Brothers Ltd. Indore. The materials supplied against the order no. 37059001 also failed prematurely i.e. within 1000 hrs. against the warranty period of 3000 hrs.

“Where is something in corruption which, like a jaundiced eye, transfer the color of itself to the object it looks upon, and sees everything stained and impure.”-[Thomas Paine](#)

HANDLING OF TENDERS

CHECKLIST FOR PROCESSING AUTHORITIES

Estimate :

_ The estimated rate is a vital element in establishing the reasonableness of the prices being offered and, therefore, it is very important that the same is worked out in a realistic and objective manner on the basis of purchases made by other organizations, prevailing market rates, the market trend and assessment based on intrinsic value etc.

Appointment of consultants-

- Instructions of the commission issued vide circular No. OFF1-CTE-1 DT. 25.11 to be followed.
- Appoint consultant in a fair and transparent way.
- Decision-making should rest with the executives. The consultant's role should be only advisory.
- Fix upper ceiling for fees.
- Provide safeguards against consultant's failure such as performance guarantee, professional liability insurance etc.

Preparation of detailed project report-

- Prepare DPR as per actual site requirement in consultation with the field staff; otherwise it may lead to deviations & delays.
- Prepare Estimates on the basis of detailed analysis of rates considering

- rates prevailing at the project site to arrive at realistic cost.
- Ensure conformity among nomenclature of the item, drawings and specifications to avoid ambiguities at a later stage.

Preparation of tender documents

- Adopt updated standard bidding document
- Ensure conformity among nomenclature of items, specifications, drawings, general and special conditions.
- Avoid stipulating such conditions in the contract, which are not feasible to be operated.
- Stipulate performance guarantee clause to eliminate non serious bidders
- Conduct pre-bid meeting
 - i) to bring clarity regarding spirit of various provisions & ii) to bring necessary modifications, if required.
 - Make minutes of the pre-bid meeting as part of agreement.
 - Provide clause to deal with ambiguous provisions (order of precedence) in the tender document and ambiguity in the tender submitted by the contractor.
 - Stipulate all prevailing govt. policy orders such as purchase preference policy (cvc's circular no. Dated 15.03.99 & DPE's circular dated 18.07.05), customs exemptions for material to be imported etc.

“I have been young and am now old, and have not yet known an untruthful man to come to a good end.”- [Berthold Auerbach](#)

- Provide enough safeguards against misuse of mobilisation advance (CVC's circular No.4CC-1-CTE-2 dated 10.04.07).
- Notify objective evaluation criteria in the tender document.
- Stipulate condition regarding splitting of quantities, if required, in the tender document
- Notify criteria of splitting in the tender document itself if splitting of work / supply order is envisaged (splitting is envisaged when L1's capacity is less than required or to avoid heavy reliance on one firm)

Inviting tenders

- Prefer open tendering as far as possible
- In case limited tenders are resorted to, prepare & update panel of contractors/ vendors in a transparent way.
- Ensure adequate & wide publicity. (Web publicity is necessary even in case of limited tenders)
- Ensure adequate time for submission of offers.
- Upload NIT & tender document on web site, even in case of limited tenders (cvc's circular dated 11.2.2004).
- Notify complete address of place of tender submission (cvc's circular dated 8.6.2004).

Opening of Tenders

- Open the bids in presence of bidders.
- Attest and account for corrections, omissions, insertions, overwriting

- Prepare 'on the spot summary' in tender opening register
 - 1. Opening of tenders in the presence of trade representatives should be scrupulously followed.
 - 2. While opening the tenders by the tender opening officer / committee, each tender should be numbered serially, initialed and dated on the first page.
 - 3. Each page of the tender should also be initialed with date and particularly the prices, important terms and conditions etc. should be encircled and initialed by the tender opening officer /committee.
- Alterations in tenders if any, made by the firms, should be initialed legibly to make it perfectly clear that such alteration, erasing or cutting was present on the tender at the time of tender opening and this fact be also recorded by the tender opening officer /committee

Pre-qualification

- Keep the PQ criteria neither too stringent nor too lax.
- Prepare the PQ criteria specific to the requirement of the work in clear terms.
- Notify the evaluation criteria in the PQ document.
- Verify PQ credentials.
- Evaluate the bids exactly as per the notified criteria

“Corruption is a tree, whose branches are Of an immeasurable length: they spread Ev'rywhere; and the dew that drops from thence Hath infected some chairs and stools of authority.”- [Francis Beaumont and John Fletcher](#), *Honest Man's Fortune* (act III, sc. 3)

Tender Evaluation and Award of Work

- This is the most sensitive area susceptible to corruption. Corruption is inversely proportional to transparency and fairness. To ensure that evaluation is done in most transparent and fair & open manner ,following points should be taken care of:
- Evaluation of tenders exactly as per the notified criteria.
 - Timely decision within validity period.
 - Complying with commission's circular regarding negotiation.
 - Ensuring that conditions / specifications are not relaxed in favour of contractor to whom the work is being awarded.
 - Ensuring that L1 is not ignored on flimsy grounds.
- Compliance with the purchase preference policy of the govt.
- Ensuring that work order / supply order is placed within justified rates

Execution of contract

- Match tender document with agreement
- Ensure that agreement is signed &sealed properly in time.
- Verify bank guarantees.
- Watch deviations, especially in abnormally high rated and high value items.
- Ensure recoveries as per contract.
- Reimburse taxes and duties, if applicable, only on the production of relevant document.
 - Carry out mandatory tests.
- Ensure compliance of conditions regarding licensees, insurance policies and deployment of technical staff.

- Maintain proper record of hindrance.

Check points for approving authorities:

Estimate :

Whether the estimate was worked out in a realistic and objective manner on the basis of purchases made by other organizations, prevailing market rates, the market trend and assessment based on intrinsic value etc.

Appointment of consultants-

- whether the Instructions of the commission issued vide circular No. OFF1-CTE-1DT. 25.11 were followed.
- whether the consultant was appointed in a fair and transparent way.
- whether Decision-making rested with the executives and the consultant's role was only advisory in nature.
- Whether upper ceiling for fees for consultants was fixed.
- Whether safeguards were provided against consultant's failure such as performance guarantee, professional liability insurance etc.

Preparation of detailed project report-

- Whether DPR was prepared as per actual site requirement in consultation with the field staff;
- Whether Estimates were prepared on the basis of detailed analysis of rates considering rates prevailing at the project site to arrive at realistic cost.

The first sign of corruption in a society that is still alive is that the end justifies the means- [Georges Bernanos](#)

- Whether conformity among nomenclature of the item, drawings and specifications to avoid ambiguities at a later stage has been ensured.

Preparation of tender documents

- whether updated standard bidding document was adopted
- whether conformity among nomenclature of items, specifications, drawings, general and special conditions was ensured.
- whether stipulating such conditions in the contract, which are not feasible to be operated was avoided.
 - whether performance guarantee clause to eliminate non serious bidders was stipulated
- Whether pre-bid meeting was conducted:
 - i) to bring clarity regarding spirit of various provisions &
 - ii) to bring necessary modifications, if required.
- Whether minutes of the pre-bid meeting were made a part of agreement.
- Whether clause to deal with ambiguous provisions (order of precedence) in the tender document and ambiguity in the tender submitted by the contractor was provided.
- Whether all prevailing govt. policy orders such as purchase preference policy (cvc's circular no. Dated 15.03.99 & DPE's circular dated 18.07.05), customs exemptions for material to be imported etc were stipulated.
- Whether enough safeguards against misuse of mobilisation advance (CVC's circular No.4CC-1-CTE-2 dated 10.04.07) were provided.
- Whether objective evaluation criteria in the tender document were notified.
- Whether condition regarding splitting of quantities, if required, in the tender document was stipulated.

- Whether criteria of splitting in the tender document itself if splitting of work / supply order is envisaged (splitting is envisaged when L1's capacity is less than required or to avoid heavy reliance on one firm) were stipulated

Inviting tenders

- Whether open tendering was preferred
- In case limited tenders were resorted to, whether preparation & updation of panel of contractors/ vendors in a transparent way was done
- Whether adequate & wide publicity. (Web publicity is necessary even in case of limited tenders) was ensured.
- Whether adequate time for submission of offers was ensured.
- Whether NIT & tender documents were uploaded on web site, even in case of limited tenders (cvc's circular dated 11.2.2004).
- Whether complete address of place of tender submission (cvc's circular dated 8.6.2004) was notified

Opening of Tenders

- Whether the bids were opened in presence of bidders.
- Whether corrections, omissions, insertions, overwriting were attested and accounted for
- whether 'on the spot summary' in tender opening register was prepared

Examine well his milk-white hand, the palm is hardly clean,--but here and there an ugly smutch appears. Foh! It was a bribe that left it. He has touched corruption. - [William Cowper](#)

- Whether while opening the tenders by the tender opening officer / committee, each tender was numbered serially, initialed and dated on the first page.
- Whether each page of the tender was initialed with date and particularly the prices, important terms and conditions etc. were encircled and initialed by the tender opening officer /committee.
- Whether alterations in tenders if any, made by the firms, were initialed legibly to make it perfectly clear that such alteration, erasing or cutting was present on the tender at the time of tender opening and this fact was also recorded by the tender opening officer /committee.

Pre-qualification

- Whether the PQ criteria was neither too stringent nor too lax.
- Whether the PQ criteria specific to the requirement of the work was prepared in clear terms.
- Whether the evaluation criteria was notified in the PQ document.
- Whether the PQ credentials were verified.
- Whether the bids were evaluated exactly as per the notified criteria

Tender Evaluation and Award of Work

- whether the evaluation of tenders was done exactly as per the notified criteria.
- Whether timely decision was taken within validity period.
- whether commission's circular regarding negotiation was complied with.
- Whether it was ensured that conditions / specifications were not relaxed in favour of contractor to whom the work was awarded.
- Whether it was ensured that L1 is not ignored on flimsy grounds.
- Whether the purchase preference policy of the govt was complied with.
- Whether it was ensured that work order / supply order was placed within justified rates

Execution of contract

- Whether tender document matches with agreement
- Whether agreement is signed & sealed properly in time.
- Whether bank guarantees were verified
- Whether deviations, especially in abnormally high rated and high value items were existent.
- Whether recoveries as per contract were made.
- Whether reimbursement of taxes and duties, if applicable, were made only on the production of relevant document.
- Whether mandatory tests were carried out.
- Whether there was compliance of conditions regarding licenses, insurance policies and deployment of technical staff.
- whether record of hindrance was maintained properly.

**'Tis the most certain sign, the world's accurst
That the best things corrupted, are the worst;
'Twas the corrupted Light of knowledge, hurl'd
Sin, Death, and Ignorance o'er all the world;
That Sun like this (from which our sight we have)
Gaz'd on too long, resumes the light he gave.
[Sir John Denham](#), *Progress of Learning***

Epilogue

The contents of the previous pages had been chosen to spread Vigilance Awareness amongst the employees of NCL. It is hoped that this magazine would be quite handy in acquainting the employees of NCL with various aspects of vigilance that are required to be adopted in discharge of duties by the employees.

This is just the first issue of the magazine called Vigilance Perspective which we wish to publish at periodic intervals.

“Cromwell, I charge thee, fling away ambition: By that sin fell the angels; how can man, then The image of his maker, hope to win by it? Love thyself last: cherish those hearts that hate thee; Corruption wins not more than honesty. Still in thy right hand carry gentle peace, To silence envious tongues. Be just, and fear not: Let all the ends thou aim’st at be thy country’s, Thy God’s, and truth’s ; then if thou fall’st, O Cromwell, Thou fall’st a blessed martyr! Serve the king; And, - prithee, lead me in: There take an inventory of all I have, To the last penny; a ‘tis the king’s: my robe, And my integrity to heaven, is all I dare now call mine own. O Cromwell, Cromwell! Had I but served my God with half the zeal I served my king, he would not in mine age Have left me naked to mine enemies”

William Shakespeare
(1564-1616)

“No legacy is as rich as honesty”-Shakespeare