



केन्द्रीय सतर्कता आयोग
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023
Satarkta Bhawan, G.P.O. Complex,
Block A, INA, New Delhi-10023

सं./No..... 21-VGC-01

दिनांक / Dated...07-01-2021.....

OFFICE MEMORANDUM

Subject: Guidelines regarding grant of "Vigilance Clearance" to AIS officers- reg.

Kind attention is invited to DOPT's OM No. 104/33/2005-AVD-I dated 29.10.2007 in which it has been instructed at para 3 of the OM that in cases where complaints have been referred to the State and no substantive response has been received from the State within three months from the date on which the reference was made, the Cadre Controlling Authority may provide a copy of the complaint to the officer concerned to seek his comments. If the comments are found to be prima facie satisfactory by the Competent Authority, vigilance clearance shall be accorded.

2. However, it has come to the notice of the Commission that the guidelines in the said OM are not followed by the Competent Authority due to which long pending complaints are shown against the officers while seeking Vigilance Clearance of the officer from the Commission. In some cases, the officers are not even aware that complaint is pending against them.

3. The Commission has, therefore, desired that all the Cadre Controlling Authorities may strictly adhere to the guidelines at para 3 of the OM of DoPT dated 29.10.2007 (copy enclosed) before seeking vigilance clearance in respect of individual officer from the Commission.


(Anirban Biswas)
Under Secretary

Encl. – As above.

All Ministries/Departments

Most Immediate

34-343/SCA)
01/11/20

No.104/33/2005-AVD.I
Government of India
Ministry of Personnel & Public Grievances & Pensions
(Department of Personnel & Training)

New Delhi, Dated October 29, 2007

OFFICE MEMORANDUM

Subject:- Guidelines regarding grant of 'Vigilance Clearance' to AIS Officers.

The undersigned is directed to say that the matter regarding guidelines for giving vigilance clearance to All India Services officers has been under consideration of the Department of Personnel & Training in consultation with the Central Vigilance Commission. The Competent Authority has approved the following guidelines for the grant of vigilance clearance in respect of All India Services officers with immediate effect:

1. These orders regarding accordance of vigilance clearance to AIS officers shall be applicable with respect to (a) inclusion in the offer list (b) empanelment (c) any deputation for which Central Government clearance is necessary, including deputation under Rule 6(1) and 6(2)(ii) of the AIS (Cadre) Rules (d) appointments to sensitive posts (e) assignments to training programmes (except mandatory training) (f) premature repatriation to the cadre. In all these cases, the vigilance status may be placed before and considered by the Competent Authority before a decision is taken.

2. The circumstances under which vigilance clearance shall not be withheld shall be as under:

- a) Vigilance clearance shall not be withheld due to the filing of a complaint, unless it is established on the basis of at least a preliminary inquiry or on the basis of any information that the concerned Government may already have in its possession, that there is, prima facie, substance to verifiable allegations regarding (i) Corruption (ii) Possession of assets disproportionate to known sources of income (iii) Moral turpitude (iv) violation of AIS Conduct Rules.
- b) Vigilance clearance shall not be withheld if a preliminary inquiry mentioned in 2(a) above takes more than three months to be completed.

- c) Vigilance clearance shall not be withheld unless (i) the officer is under suspension (ii) the officer is on the Agreed List, provided that in all such cases the position shall be mandatorily revisited after a period of one year (iii) a chargesheet has been issued against the officer in a disciplinary proceeding and the proceeding is pending (iv) orders for instituting disciplinary proceeding against the officer have been issued by the Disciplinary Authority provided that the chargesheet is served within three months from the date of passing such order (v) chargesheet has been filed in a Court by the Investigating Agency in a criminal case and the case is pending (vi) orders for instituting a criminal case against the officer have been issued by the Disciplinary Authority provided that the chargesheet is served within three months from the date of initiating proceedings (vii) sanction for investigation or prosecution has been granted by the Competent Authority in a case under the PC Act or any other criminal matter (viii) an FIR has been filed or a case registered by the concerned Government against the officer provided that the charge sheet is served within three months from the date of filing/registering the FIR/case. (ix) The officer is involved in a trap/raid case on charges of corruption and investigation is pending.
- d) Vigilance clearance shall not be withheld due to an FIR filed on the basis of a private complaint unless a chargesheet has been filed by the investigating agency provided that there are no directions to the contrary by a competent court of law.
- e) Vigilance clearance shall not be withheld even after sanction for prosecution if the investigating agency has not been able to complete its investigations and file charges even after a period of two years. However, such vigilance clearance will entitle the officer to be considered only to be appointed to non-sensitive posts and premature repatriation to the cadre and not for any other dispensation listed in Para 1 above.

3. In cases where complaints have been referred to the State, and no substantive response has been received from the State within three months from the date on which the reference was made, the Cadre Controlling Authority may provide a copy of the complaint to the officer concerned to seek his comments. If the comments are found to be prima facie satisfactory by the Competent Authority, vigilance clearance shall be accorded.

4. Vigilance clearance shall be decided on a case-by-case basis by the Competent Authority keeping in view the sensitivity of the purpose, the gravity of the charges and the facts and circumstances, in the following situations:

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- Recd. today.*
- a) Where the investigating agency has found no substance in the allegation but the Court refuses to permit closure of the FIR.
 - b) Where the Investigating Agency/IO holds the charges as proved but the State Government differs on the converse.

5. While considering cases for grant of vigilance clearance for the purpose of empanelment of AIS officers of a particular batch, the vigilance clearance/status will continue to be ascertained from the respective State Government. In respect of officers serving in connection with the affairs of the Central Government, the vigilance status/clearance will be obtained from the respective Ministry. In all cases, the comments of the CVC will also be obtained. However, if no comments are received within a period of three months, it will be presumed that there is nothing adverse against the officer on the records of the body concerned.

6. Vigilance clearance will be issued in all cases with the approval of the Head of Vigilance Division for officers upto one level below their seniority in service. In the case of officers of the level of AS/Secretary, this will be issued with the approval of the Secretary. In case of doubt, order of Secretary will be obtained keeping in view the purpose for which the 'vigilance clearance' is required by the indenting authority.

7. Vigilance clearance will not normally be granted for a period of three years after the currency of the punishment, if a minor penalty has been imposed on an officer. In case of imposition of a major penalty, vigilance clearance will not normally be granted for a period of five years, after the currency of punishment. During the period, the performance of the officer should be closely watched.

(Kabindra Joshi)

Under Secretary to the Govt. of India

Prime Minister's Office (W.r.t. their I.D. No 600/68/13/07-ESII, dated 24.10.2007)

Cabinet Secretariat
Ministry of Home Affairs
Ministry of Environment & Forests
Secretary, Central Vigilance Commission

Copy to:

- (i) PS to MOS(PP)
- (ii) PPS to Secretary(P)
- (iii) PPS to AS(S&V)
- (iv) EO & AS, DOP&T

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CENTRAL VIGILANCE COMMISSION



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सं./No. 020/MSC/028

दिनांक / Dated 22.12.2020

Circular No. 19/12/20

Subject: Judgement dated 28.03.2018 in Criminal Appeal No. 1375-1376 of 2013 passed by Supreme Court of India.

Ministry of Law and Justice, vide their Office Memorandum No. N-17/10/2018-NM dated 13.06.2018 have brought to notice, the judgement dated 28.03.2018 of the Hon'ble Supreme Court in the above cited Criminal Appeal. Copy of O.M. dated 13.06.18 of Ministry of Law and Justice is enclosed.

2. As pointed out by Ministry of Law and Justice, in the judgement dated 28.03.2018, Hon'ble Supreme Court had ordered for limiting the period of stay granted by a court of law to six months, except in exceptional circumstances. The Commission has desired that the orders dated 28.03.2018 may be kept in view, while handling/examining court matters in the organisations. In respect of those court cases, where stay was granted by a trial court more than six months ago and also in cases based on CBI's investigation, which have been kept in abeyance due to court's orders, the issues may be examined in the light of the aforementioned judgement of the Hon'ble Supreme Court. Appropriate and immediate steps may also be taken, in consultation with the organization's counsels/Legal Branch to ensure that the stay, if granted by a court of law, is vacated within six months' period and court proceedings are commenced.

3. The above position may also be brought to the notice of the Chief Executive and Legal Branches of the organisations concerned for keeping the Supreme Court's orders in view, while handling Legal/ Court matters.

4. Complete judgement of the Hon'ble Supreme Court may be accessed from the Supreme Court's website through the link https://sci.gov.in/supremecourt/2011/27580/27580_Judgement_28-Mar-2018.pdf.

5. It may be noted for compliance with immediate effect.

(Rajiv Verma)
Officer on Special Duty

All Chief Vigilance Officers

Encls: As above.

File No N-17/10/2018-NM
Government of India
Ministry of Law and Justice
Department of Justice

Jaisalmer House
26, Mansingh Road, New Delhi-110011
Dated: the 13th June, 2018

OFFICE MEMORANDUM

Subject: Judgement dated 28.03.2018 in Criminal Appeal No. 1375-1376 of 2013 passed by Hon'ble Supreme Court of India.

Sir,

This Department has received a copy of Judgement dated 28.03.2018 in Criminal Appeal No. 1375-1376 of 2013 passed by Hon'ble Supreme Court of India, through the Office of Hon'ble Prime Minister for forwarding to all concerned.

✓ The implication of the aforesaid judgment is that where any action by a development agency or an enforcement agency, as the case may be, was stayed by a court of law, the same shall stand vacated automatically at the expiry of 6 months from the date of the order i.e. 28.03.2018, unless the same is extended by a speaking order. Further, the judgment casts a responsibility on the court granting stay that the speaking order must show that the case was of such exceptional nature that continuing the stay was more important than having the trial finalized. Also, in such cases where the stay is extended, the trial court has been directed to fix a date not beyond six months of the order of stay so that on expiry of period of stay, proceedings can commence.

The judgment of Hon'ble Supreme Court can be accessed at https://sci.gov.in/supremecourt/2011/27580/27580_Judgement_28-Mar-2018.pdf.


(Giridhar G Pai)
Director
Ph. 23072145

Secretary
Department of Atomic Energy
Anushakti Bhavan, Chatrapathi Shivaji
Maharaj Marg, Mumbai - 400001

Copy to: - Under Secretary (JI), Department of Justice for uploading on portal w.r.t
PMO ID No. 4827311/PMO/2018-Pol dated 24.04.2018.



सत्यमेव जयते



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सं./No.....No. 000-VGL-18-469044

दिनांक / Dated. 14.12.2020

Circular No.18/12/20

Subject: Timely finalization of Departmental Inquiry Proceedings-improving vigilance administration.

Ref: (i) Commission's Circular No. 8(1)(g)/99(2)	dated 19.02.1999
(ii) Commission's Circular No. 8(1)(g)/99(3)	dated 03.03.1999
(iii) Commission's Circular No. 3(v)/99(7)	dated 06.09.1999
(iv) Commission's Circular No. 000/VGL/18	dated 23.05.2000
(v) Commission's Office Order No. 51/08/2004	dated 10.08.2004
(vi) Commission's Circular No. 02/01/2016	dated 18.01.2016

The Central Vigilance Commission as part of its functions of exercising superintendence over the vigilance administration of the organizations covered under its advisory jurisdiction and for bringing about improvement and efficiency in the same, has been emphasizing on timely initiation and completion of the disciplinary proceedings, wherever required. The Commission is of the view that any delay in initiation or finalization of the disciplinary action is neither in the interest of the organization, nor that of the official concerned.

2. Guidelines have been issued by the Commission in this regard, defining the time limits for various stages of disciplinary proceedings, in order to ensure that there is no undue delay on the part of the concerned authorities/officials. However, it is observed that despite clear guidelines issued by the Commission and Department of Personnel & Training (DoP&T), the authorities/officials concerned are not adhering to the prescribed time-limit and the disciplinary proceedings in some cases take much longer time, which leads to unwarranted delay in finalization of disciplinary case. Any unexplained, undue delay may also be a cause of unnecessary litigation and provide undue advantage/harassment to the charged officer. Such delays on one hand help in evading penalty on guilty officials, while prolonging the agony of the officials who may have been charge-sheeted wrongly in few cases and are finally exonerated.

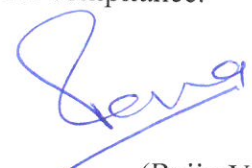
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3. The delay in completion of departmental proceedings on the part of the organization concerned has also attracted adverse comments from the Hon'ble Supreme Court of India in Civil Appeal No. 958 of 2010 Prem Nath Bali Vs. Registrar, High Court of Delhi & Anr in its judgment dated 16.12.2015.

4. In continuation of CVC's guidelines dated 23.05.2000 and DoPT OM dated 14.10.2013, the Commission therefore, to ensure prompt/timely action in disciplinary matters where major penalty proceedings have been initiated/are to be initiated, the following time limit may be adhered to: -

Sl. No.	Stage of disciplinary action	Time Limit
1.	Issue of Charge Sheet to the stage of appointment of IO and PO	All the required actions may be completed within a period of 02 months from the date of issue of First Stage Advice of the Commission.
2.	Conducting departmental inquiry and submission of report by the Inquiry officer (I.O.)	The inquiry report should be submitted within 6 months from the date of appointment of inquiry officers
3.	Overall additional time for all/any of the above stages of disciplinary proceedings, due to some unavoidable/unforeseen circumstances	In addition to the above time limit, a period of 1 more month may be taken, if required.

5. The Commission desires that the above time limit should be adhered to strictly by the authorities in the organisations concerned. Since initiation and conduct of disciplinary proceedings is within the domain of the disciplinary authority concerned, the CVOs may bring the above guidelines of the Commission to the notice of the competent authorities for compliance.


(Rajiv Varma)
Officer on Special Duty

To

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

Copy to:

Department of Personnel & Training [Shri Lok Ranjan, Additional Secretary, DoP&T], North Block, New Delhi-110 001 for information and necessary action.

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CENTRAL VIGILANCE COMMISSION



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005/CRD/19-386121
सं./No.....

दिनांक / Dated 11.07.2018

Circular No.06/07/18

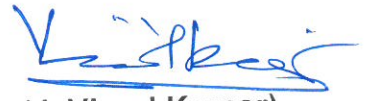
Subject: Transparency in Works/Purchases/Consultancy contracts awarded on nomination basis – reg.

**Reference: (i) Commission's Circular No.15/5/06 dated 09.05.2006
(ii) Commission's Office Order No.23/7/07 dated 05.07.2007
(iii) Commission's Office Order No.19/05/10 dated 19.05.2010**

Reference is invited to Commission's Circulars cited above wherein the need for award of contracts in a transparent and open manner has been emphasized. The Commission is still receiving representations reporting instances of award of contracts and procurements in a non-transparent manner on nomination basis by several Departments/CPSUs.

2. The award of contracts/procurements/projects on nomination basis without adequate justification amounts to a restrictive practice eliminating competition, fairness and equity. The Commission would reiterate its earlier instructions, that award of contracts on nomination basis can be resorted to only in exceptional circumstances as laid down in Commission's Office Order No.23/7/07 dated 05.07.2007.

3. All Ministries/Departments/CPSUs are therefore advised to apprise the aforementioned guidelines to the concerned officers for strict compliance.


(J. Vinod Kumar)
Director

To

- (i) The Secretaries of all Ministries/Departments of Gol.
- (ii) All Chief Executives of CPSUs.
- (iii) All CVOs of Ministries/Depts/CPSUs.

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

Satarkata Bhawan, GPO Complex,
INA, New Delhi,
Dated 19th May, 2010

OFFICE ORDER No.19/05/10

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

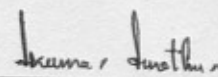
Commission vide Circular No.15/5/06 dated 09/05/2006 had prescribed certain measures to be followed on works/purchase/consultancy contracts awarded on nomination basis by PSUs. These instructions have since been reviewed in the Commission and the Commission is of the view that the Board of the PSU is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

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

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

Read as

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



(Vineet Mathur)
Director

All Chief Vigilance Officers of CPSUs.

Copy to:

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

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

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

Office Order No.23/7/07

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

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

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

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

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


"The law is well-settled that contracts by the State, its corporations, instrumentalities and agencies must be normally granted through public auction/public tender by inviting tenders from eligible persons and the notifications of the public-auction or inviting tenders should be advertised in well known dailies having wide circulation in the locality with all relevant details such as date, time and place of auction, subject matter of auction, technical specifications, estimated cost, earnest money deposit, etc. The award of Government contracts through public-auction/public tender is to ensure transparency in the public procurement, to maximize economy and efficiency in Government procurement, to promote healthy competition among the tenderers, to provide for fair and equitable treatment of all tenderers, and to eliminate irregularities, interference and corrupt practices by the authorities concerned. This is required by Article 14 of the Constitution. However, in rare and exceptional cases, for instance, during natural

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

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

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

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



(Rajiv Verma)
Under Secretary

To

All Chief Vigilance Officers

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सं. / No. 98/ORD/1(viii)

दिनांक / Dated 29th April, 2014

Circular No.01/04/14

Sub: Short-comings in bid documents

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

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

2. The Commission had vide its Office Order No.33/7/03 dated 9th July, 2003, advised that whatever pre-qualification, evaluation/exclusion criteria, etc. which the organization wants to adopt should be made explicit at the time of inviting tenders so that basic concept of transparency and interests of equity and fairness are satisfied. The acceptance/rejection of any bid should not be arbitrary but on justified grounds as per the laid down specifications, evaluation/exclusion criteria leaving no room for complaints as after all, the bidders spend a lot of time and energy besides financial cost initially in preparing the bids and, thereafter, in following up with the organizations for submitting various clarifications and presentations.

3. The above instructions are reiterated for compliance by all Ministries/Departments/ Organisations.

(J Vinod Kumar)
Officer on Special Duty

To

All Chief Vigilance Officers.



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केन्द्रीय सतर्कता आयोग CENTRAL VIGILANCE COMMISSION

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No.011/VGL/014

सं./No.....

दिनांक / Dated ^{11th} February, 2011

Circular No.01/02/11


Sub: Transparency in Tendering System

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

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

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

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



(Anil Singhal)

Chief Technical Examiner

To

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