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VIGILANCE MANUAL 2024

**Dedicated Freight Corridor Corporation
of India Limited**

DEDICATED FREIGHT CORRIDOR CORPORATION OF INDIA LIMITED (DFCCIL)

VIGILANCE MANUAL (UPDATED 2024)



डेडीकेटेड फ्रेट कोरीडोर कार्पोरेशन ऑफ़ इंडिया लि.
Dedicated Freight Corridor Corporation of India Limited
भारत सरकार (रेल मंत्रालय) का उपक्रम
A Govt. of India (Ministry of Railways) Enterprise

FOREWORD

DFCCIL's Vigilance Manual has been comprehensively updated to reflect the latest changes in procedures, rules, and policies related to Vigilance Administration. The initial version, published in 2012, has been enhanced to ensure its relevance and effectiveness in today's regulatory environment.

By making the new manual accessible online and hyperlinking relevant orders and circulars, we've streamlined future updates. This approach promotes transparency and efficiency within the Vigilance Organization.

The Vigilance function is a cornerstone of good governance. The government's emphasis on integrity and ethical conduct necessitates clear procedures and a comprehensive compilation of rules. This updated manual serves as a valuable resource for DFCCIL's Vigilance Administration. I am confident that it will serve as a valuable tool for all our employees, guiding them in upholding the highest standards of integrity and compliance.

I commend the Vigilance team for their dedication and hard work in producing this revised and updated DFCCIL Vigilance Manual.



(Praveen Kumar)
Managing Director



FOREWORD

DFCCIL Vigilance Manual was first published in 2012. Given the significant changes in guidelines, rules, procedures issued from Central Vigilance Commission (CVC) and Indian Railways, a comprehensive updation of DFCCIL Vigilance Manual was long overdue. The original manual, published in 2012 laid a foundation, but the evolving organization framework necessitated a more contemporary approach.

The new manual incorporates relevant provisions from the Central Vigilance Commission's (CVC) 2021 revised manual and Indian Railways Vigilance Manual (IRVM) 2018. Additionally, the availability of an online version with hyperlinks to important circulars and other resources will enhance accessibility and promote a deeper understanding of vigilance principles.

While the manual is a valuable resource, its true effectiveness lies in its consistent use. We urge all concerned, not just vigilance professionals, to regularly consult the manual while carrying out their duties. By doing so, we can ensure that the manual serves its intended purpose of promoting ethical conduct and transparency within the DFCCIL.

I would like to express my sincere gratitude to Managing Director Shri Praveen Kumar for his invaluable suggestions, which have significantly enhanced the quality of this document.

I would also like to acknowledge the outstanding contributions of Shri Rajesh Yadav, Manager (D&AR), for his instrumental role in developing the initial draft of the manual. The success of this project is a testament to the collective efforts of the entire Vigilance Unit. I am particularly grateful to Shri Rakesh Babu, Deputy Chief Vigilance Officer, Shri Anil Jha, Deputy General Manager/Vigilance, Shri Aditya Awasthi, Manager/Administration, and Shri Vineet Kumar Sinha, Junior Manager/S&T, for their invaluable contributions at various stages of the development process.

DFCCIL welcomes feedback and suggestions for improving this manual. Please do not hesitate to bring any errors, omissions, or areas for enhancement to the attention of the Chief Vigilance Officer (CVO)/DFCCIL. Your input will be invaluable in ensuring the manual's continued relevance and effectiveness.



(Parmod Kumar)
Chief Vigilance Officer

DISCLAIMER

- i) The Dedicated Freight Corridor Corporation of India Limited (DFCCIL) Vigilance Manual-2024 is intended only to be a reference book, and it cannot be a substitute for rules, orders, etc. of various authorities.
 - ii) We have taken efforts to provide accurate and updated information in DFCCIL Vigilance Manual-2024. For any inadvertent error and omission or doubt, the DFCCIL/Vigilance may be contacted for clarification.
 - iii) The DFCCIL Vigilance welcomes suggestions on content or form and inadvertent errors or omissions in this Manual for further improvement.
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CHAPTER-1

INTRODUCTION

1.1 DFCCIL- AN OVERVIEW

Dedicated Freight Corridor Corporation of India Limited (DFCCIL) is a Special Purpose Vehicle set up under the administrative control of Ministry of Railways to undertake the planning, development, mobilization of financial resources, construction, maintenance and operation of dedicated freight corridors in India. DFCCIL was incorporated in October 2006 under the Indian Companies Act 1956.

The golden quadrilateral, connecting Delhi, Mumbai, Chennai, and Kolkata, is crucial for Indian Railways. Despite comprising only 16% of the total network, this route carries a disproportionate amount of traffic, with 52% of passenger traffic and 58% of freight traffic. Due to the heavy congestion on the Eastern (Kolkata-Delhi) and Western (Mumbai-Dadri) corridors of Indian Railways (IR), Dedicated Freight Corridors were developed to alleviate the strain. The DFCs aim to reduce congestion on the existing road network, promote rail freight transportation, increase efficiency, and significantly reduce greenhouse gas emissions.

The first phase involves building two Dedicated Freight Corridors: Western DFC (Mumbai-Dadri) and Eastern DFC (Ludhiana-Sonnagar). Western DFC spans from Mumbai to Dadri (UP) and Eastern DFC covers from Ludhiana (Punjab) to Sonnagar (West Bengal). DFCCIL is headquartered in New Delhi and has field offices at Mumbai_South, Mumbai North, Vadodara, Ahmedabad, Ajmer, Jaipur, Noida, Ambala, Meerut, Tundla, Prayagraj (East and West), Deen Dayal Upadhyay Nagar and Kolkata.

As on date, the 1506 kms. long Western Dedicated Freight Corridor is 93.2% complete & operational from New Delhi to New Vaitarna, while the 1337 kms. long Eastern Dedicated Freight Corridor is 100% complete & fully operational.

The dedicated freight corridors will enable Indian Railways to better serve its customers and meet market demands. This unprecedented infrastructure development is expected to stimulate the growth of industrial corridors and logistics parks along the corridor routes.

The Eastern Dedicated Freight Corridor (EDFC) and Western Dedicated Freight Corridor (WDFC) commenced operations on December 29, 2020, and January 7, 2021, respectively. Since then, business development has accelerated significantly. The EDFC primarily handles bulk commodities like coal, steel, and foodgrains, while the WDFC focuses on transporting containerized cargo, petroleum products, cement, and fertilizers.

To facilitate terminal development, the Gati Shakti Cargo Terminals (GCT) policy of the Railway Board has been adopted by DFCCIL. Innovative services, such as Truck on Train (Milk tankers) on the New Rewari-New Palanpur section and the NMG service (High Speed service for small cargo) between New Rewari and New Sanand North, have also been introduced. All stations on the DFCs have now been opened for business activities under the GCT policy.

1.2 MISSION

The stated Mission of the DFCCIL is:

- To build a corridor with appropriate technology that enables Indian Railways to regain its market share of freight transport by creating additional capacity and guaranteeing efficient, reliable, safe and cheaper options for mobility to its customers.

- To set up Multimodal logistic parks along the DFC to provide complete transport solution to customers.
- To support the government's initiatives towards ecological sustainability by encouraging users to adopt railways as the most environment friendly mode for their freight transport requirements.

1.3 **VISION:**

To create a partnership with Indian Railways for retaining and expanding the market share of rail through efficient and reliable service with customer focus.

1.4 **VIGILANCE AS A MANAGEMENT TOOL**

Corruption has been a pervasive issue since ancient times, with Kautilya's "Arthashastra" from the 4th century BCE identifying numerous methods of embezzlement. Throughout history, corruption has plagued various aspects of society worldwide. Today, the challenge lies in fostering an environment where integrity and honesty prevail, and corruption is punished.

Effective governance requires a clean and transparent administration, making vigilance an essential component. Vigilance organizations are tasked with investigating complaints of corruption, conducting preventive checks, recommending system improvements, and ensuring that those found guilty of irregularities face appropriate consequences. Their role is both preventive and punitive.

Administrations in organizations should implement systems that foster integrity and transparency while taking a firm stance against corruption. Every officer and staff member should consider themselves as vigilance officers, ensuring probity in their own work and that of those they supervise.

DFCCIL conduct rules mandate that all employees maintain absolute integrity and devotion to duty, refraining from any behaviour unbecoming of a public servant. Supervisors are responsible for ensuring the integrity and devotion to duty of all employees under their supervision. No employee is to indulge in any activity that is construed as misconduct, including:

1. Theft, fraud or dishonesty in connection with the business or property of the company or of property of another person within the premises of the company.
2. Taking or giving bribes or any illegal gratification.
3. Possession of pecuniary resources or property disproportionate to the known source of income by the employee or on his behalf by another person, which the employee cannot satisfactorily account for.
4. Furnishing false information regarding name, age, father's name, qualification, ability or previous service or any other matter germane to the employment or during the course of employment.
5. Acting in a manner prejudicial to the interests of the Company.
6. Neglect of work or negligence in the performance of duty including malingering or slowing down of work.
7. Commission of any act, which amounts to a criminal offence involving moral turpitude.
8. Abetment of or attempt at abetment of any act which amounts to misconduct.

Senior management, including Board members, have a heightened responsibility to make decisions rationally and without personal interest. They must ensure that the company's business is conducted in compliance with all applicable laws, rules,

and regulations. Additionally, they are responsible for ensuring that the information provided is sufficient for informed decision-making. By exercising due diligence and acting conscientiously without fear or favour, they must conduct the company's affairs in the best interest of its stakeholders, adhering to the [DFCCIL model code of conduct](#) for Board members and senior management.

DFCCIL is committed to conducting its affairs with the highest standards of professionalism, honesty, and integrity. The company strives to ensure ethical behaviour from all its employees.

Vigilance plays a crucial role in enhancing an organization's efficiency and image by promoting transparency, curbing corruption, improving systems and processes, and enforcing government and management guidelines. Vigilance is not intended to hinder managerial efficiency but to enhance it. It is a valuable management tool that contributes to the long-term health of an organization.

Vigilance involves constant watchfulness and is an essential component of any organization. Effective vigilance can prevent lapses and act as a safety net. It also aims to ensure hassle-free services for the organization's clients.

1.5 APPROACH

Over the years, various guidelines and instructions have been issued by apex bodies such as the CVC, Railway Board, DPE, and DoPT. To address the specific context of DFCCIL, these guidelines have been compiled into a comprehensive resource. This compilation includes:

- CVC guidelines on corruption in identified areas of operation
- CVC Vigilance Manual-2021
- Indian Railway Vigilance Manual-2018
- D&AR policies
- Relevant provisions of the Bharatiya Nyaya Sanhita 2023, Bharatiya Nagarik Suraksha Sanhita 2023, DSPE Act, and Prevention of Corruption Act 2018
- Government orders on the subject
- Court rulings and decisions
- Case studies
- DFCCIL HR Manual-2024

While this manual strives to cover most relevant instructions, guidelines, and orders, any aspects not addressed, should be handled in accordance with guidelines from the CVC, Ministry of Railways, or other instructions of Government of India.

NOTES / MODIFICATIONS

CHAPTER-2

VIGILANCE ORGANIZATION IN DEDICATED FREIGHT CORRIDOR CORPORATION OF INDIA LTD AND ITS ROLE

2.0 INTRODUCTION

Government of India appoints Chief Vigilance Officers in Dedicated Freight Corridor Corporation of India Limited (DFCCIL) under the administrative control of Ministry of Railways to carry out the vigilance work. The primary responsibility for maintenance of efficiency, integrity and transparency in the Organisation vests with the Chief Executive i.e. Managing Director, who is assisted by the Chief Vigilance Officer (CVO) in the discharge of vigilance functions. The CVO acts as an advisor to the Managing Director and reports directly to him. He heads the Vigilance Division of the Organisation and provides a link between the Organisation and the Central Vigilance Commission as well as the Central Bureau of Investigation.

(Chapter-II of CVC Manual-2021)

A CVO should ordinarily be an outsider, appointed for a fixed tenure on deputation terms as stipulated by Department of Personnel & Training. Chief Vigilance Officers in all Departments/ Organisations are appointed after prior consultation with the Central Vigilance Commission and no person whose appointment in that capacity is objected to by the Commission, may be so appointed.

[\(DoPT O.M. NO. 372/8/99-AVD. III dated 18.01.01\)](#)

(Chapter-II of CVC Manual-2021)

APPOINTMENT OF CVO

[DoPT vide their O.M. No.40/1/2022-EO \(CVO\) dated 18.11.22 & O.M. No.372/7/ 2016-AVD-III dated 28.04.17](#), has issued a revised procedure for appointment of CVOs in Central Public Sector Undertakings and other organisations under Central Ministries / Departments.

[DoPT vide their O.M. No.40/1/2022-EO \(CVO\) dated 18.11.22 & O.M. No.372/7/ 2016-AVD-III dated 28.04.17](#), [O.M No. 40/2/2018-EO\(MM-CVO\) dated 01.07.19](#) and [01.07.21](#)

[\(relevant extract, CVC Manual-2021, page-32-39\)](#)

2.1 MODEL VIGILANCE STRUCTURE FOR PSU's

The Government having expressed its concern to tackle corruption and make the functioning of investigating and vigilance agencies more independent, effective, credible and prompt, entrusted the Department of DAR & PG to conduct a study on vigilance set up in respect of CPSUs. The study observed that the nature of functions and operations of PSUs is different, dissimilar and largely of a heterogeneous type. Nevertheless, it stated that the vigilance division in PSUs by and large deals with investigations, disciplinary proceedings, anticorruption work, preventive vigilance and in some cases technical and audit work and all vigilance units in the PSUs should have adequate personnel to carry out all these functions. The study concluded that it would be impractical to recommend a uniform vigilance set up for all PSUs but emphasised the need for a vigilance set up in each PSU to have the desired manpower requirements of skilled and trained vigilance personnel and recommended the following model of vigilance set up for the PSUs as a broad guideline to be adopted with such modifications as may be appropriate to their requirement: -

A) CORPORATE OFFICE

The following model structure for vigilance setup has been suggested as per DPE guidelines: -

- i) Chief Vigilance Officer
- ii) Dy. Chief Vigilance Officer (For schedule 'A' and 'B' PSUs)
- iii) Vigilance Wings
- a) Investigation Wing**
One Sr. Vigilance Officer, two investigators and two stenos.
- b) Anti-corruption and Vigilance Wing**
One Sr. Vigilance officer, two vigilance assistants and one steno.
- c) Disciplinary Proceedings Wing**
One Sr. Vigilance officer, two vigilance assistants and one steno.
- d) Preventive Vigilance Wing**
One Sr. Vigilance officer, one Vigilance officer and one steno.
- e) Technical Wing (This is applicable to PSUs engaged in engineering and other technical operations)**
One Sr. Vigilance officer, one Vigilance officer, one expert and one steno

B) Regional/Project/Plant Office

(This is applicable to schedule A and B PSUs) Comprising of one Sr Vigilance officer, one investigator and one steno.

The PSUs have been given the flexibility to suitably modify the structure in accordance with the need of the organization.

[\(DPE O.M. No.15\(7\)/98\(GL-009\)/GM dated 25.09.1998 & F.No.15\(2\)/2001-DPE\(GM\) dated 29.07.2024\)](#)

2.2 EXISTING VIGILANCE SET UP IN DEDICATED FREIGHT CORRIDOR CORPORATION OF INDIA LTD

The vigilance set up in the Dedicated Freight Corridor Corporation of India Ltd is as under:-

- | | |
|---|----------|
| i) Chief Vigilance Officer (Director level) | One (01) |
| ii) Dy. Chief Vigilance Officer (AGM/JGM/DGM level) | One (01) |
| iii) DGM (Civil Engg. Wing) | One (01) |
| iv) Vigilance Wings (Manager/AM/JM & PS to CVO) | Ten (10) |

[\(HR. Deptt.'s letter No.HQ/HR/73/HR Plan/ Vig. staff/ 201600482 dated 22.09.16\)](#)

2.3 STRUCTURE AND FUNCTIONS OF VIGILANCE UNIT IN DFCCIL

- i) The vigilance unit in DFCCIL shall be headed by a full time Chief Vigilance Officer (CVO) who shall be of the level of Joint Secretary to the Government of India. The process of appointment of the CVO of DFCCIL shall be initiated at least six months in advance of likely date of vacancy to ensure continuity. The post shall be filled up as per procedure laid down for filling up of post of CVOs in the PSUs of the Central Government.

[DoPT vide their O.M. No.40/1/2022-EO \(CVO\) dated 18.11.22 & O.M. No.372/7/ 2016-AVD-III dated 28.04.17 & DoPT O.M. NO. 372/8/99-AVD. III dated 18.01.01](#)

- ii) The Post of CVO in DFCCIL shall be created at the level of functional director in accordance with guidelines issued in the matter by CVC, DOPT and DPE

[\(DPE O.M. No. 15\(7\)/2002-DPE \(GM\)/ GL-50 dated 15.12.03\)](#)

- iii) The role and functions of the CVO of DFCCIL shall be same as described in Chapter-II of Vigilance Manual-2021 of Central Vigilance Commission ([CVC Manual-2021 page-40-54](#)). The CVO shall not be burdened with any other responsibility to avoid conflict of interest.
- iv) CVO of DFCCIL will report directly to the Chief Executive i.e. Managing Director.
- v) CVO in DFCCIL shall exercise such administrative and financial powers which are considered essential for efficient functioning of the vigilance machinery of the DFCCIL subject to the condition that the financial powers are exercised within the allocated budget to the vigilance unit and in accordance with the financial discipline and accountability, at par with other functional Directors.
- vi) CVO in DFCCIL shall be accorded status equivalent to that of a functional Director but it is not necessary for him to attend Board Meetings even as an invitee, on a regular basis, because in the process his neutral position may be compromised. However, he may attend Board meetings on rare occasions when an issue relating to vigilance is discussed.
- vii) No prior approval / sanction of CVO's tour programmes is required from MD for proceeding on tour for carrying out any surprise inspections.

[\(Para-2.15.2 of CVC Manual-2021 & CVC Circular No. 005/VGL/15 dated 04.05.05\)](#)

- viii) CVO in DFCCIL shall be entitled to such accommodation and staff car facility which are available to other functional Directors in the DFCCIL
- ix) CVO, being head of the Department of Vigilance in the DFCCIL, shall be treated as "Key official" and accommodation may, therefore, be arranged by the DFCCIL for the CVO on the lines admissible to key officials. [\[DPE OMs No. 2\(8\)/DPE \(WC\) dated 19.7.95 and O.M. No. 2\(49\)/98-DPE\(WC\)25.6.99 \(below Board level\) and O.M.No 2\(42\)/97-DPE \(WC\) dated 20.7.98 as applicable\]](#).
- x) Progress of vigilance work/disciplinary cases needs to be reviewed periodically and it has been decided that the Board of Directors of DFCCIL will continue to undertake such review at least once in six months.
- xi) If the CVO of Railway Ministry asks for a factual report against a Board level appointee from the CVO of the DFCCIL, the latter will send the same to the CVO of the Ministry, after endorsing a copy of the report to the MD to keep him informed of the development. However, if the MD himself is the subject matter of the investigation, the CVO of the DFCCIL need not endorse a copy of the report to him. It would thus be the responsibility of the CVO of the Railway Ministry to obtain the version of MD (qua suspect person) at the appropriate time.

The CVO of the Railway Ministry may make reference to the CVC after collecting all the relevant facts and following the prescribed procedure.

[\(Para-816.4 of IRVM & Para-3.7\(c\) of CVC Manual-2021\)](#)

- xii) In case of difference of opinion between the CVO and the MD in respect of corruption case, involving below Board level appointees, it is the responsibility of the MD to bring the case to the Board of Directors.

([Para-7.9.8 of CVC Manual-2021](#))

- xiii) It will be the responsibility of the MD to inform the Secretary of the Railway Ministry about any major irregularity brought to his notice by the Chief Vigilance Officer. Railway Ministry is requested to take note of the above consolidated instructions and advise the DFCCIL under their administrative control to comply with these instructions.

([DPE O.M. No. 15\(7\)/ 2002-DPE\(GM\)/GL-50 dated, 15.12.03](#)).

- xiv) As per directions of Central Vigilance Commission, Chief Vigilance Officer must scrutinise internal and external audit reports including audit report of the CAG to check whether any cases of misconduct or corruption are revealed in them. In all such cases, immediate action must be initiated against the public servants concerned through the standard practice of referring vigilance cases to CVC.

([CVC Circular no.001/VGL/5 dated 10.12.01](#))

([Para-3.2.3 of CVC Manual, 2021](#) & [CVC Circular No. 3\(V\)/99/14 dated 16.05.01](#))

- xv) The CVO shall carry out inspection of the Vigilance Wing in order to ensure that Systems & Procedures followed in the Vigilance Unit are in accordance with the various instructions issued in the matter from time to time. The Vigilance Unit should serve as a role model in terms of its efficiency and effectiveness. It must be ensured that proper records are maintained of cases pertaining to both preventive and punitive vigilance.
- xvi) Officials in the Vigilance Organisations need to be trained on how to prepare a charge sheet and how to conduct inquiry

2.4 TENURE OF CVO

The tenure of appointment of CVOs shall be for a period of 03 (three) years which is extendable by another 2 years subject to the overall combined limit prescribed for central deputation and/or being away from the cadre, as issued by Department of Personnel & Training (DoPT) from time to time. The initial tenure of 3 years as CVO in a CPSE / Organization is extendable for a further period of 3 years on lateral transfer to another CPSE / Organizations with prior concurrence of CVC subject to the overall combined limit prescribed for central deputation and / or being away from the cadre, as issued by DoPT from time to time.

([DoPT O.M. No.372/7/ 2016-AVD-III dated 28.04.17](#))

Once an officer has worked as CVO in a particular CPSE/Organization, he shall not be considered for the post of CVO in the same organization for another term.

([DoPT O.M. No.372/7/ 2016-AVD-III dated 28.04.17](#))

[DoPT O.M. No.40/1/2022-EO \(CVO\) dated 18.11.22](#) & [O.M. No.372/7/ 2016-AVD-III dated 28.04.17](#) & [O.M No. 40/2/2018-EO\(MM-CVO\) dated 01.07.19 and 01.07.21](#)

(PARA-2.7 of CVC Manual-2021)

2.5 ASSOCIATION OF CVO WITH OTHER ORGANISATIONAL MATTERS

Participation in decision making or close association of CVO or the vigilance staff in such matters over which they might be required, at a later stage, to sit in judgment from vigilance point of view, should be avoided. Therefore, CVO and the vigilance functionaries should not be a party to decision-making processes, which are likely to have vigilance sensitivity, as this may result in conflict of interest. However, advice can be tendered on some policy matters especially those requiring implementation of preventive vigilance measures.

The vigilance functionaries should not be a party to decision-making processes, which are likely to have vigilance sensitivity, as this may result in conflict of interest.

(Para-H of [DoPT O.M. No.372/7/ 2016-AVD-III dated 28.04.17](#))

(Para-2.9 of CVC Manual-2021)

2.6 ASSESSMENT OF CVO's WORK

Central Vigilance Commissioner assesses the work of CVOs. The Assessment is recorded in the APAR of the officer. The following procedure has been prescribed for this purpose:

- (i) The APARs of the CVOs in the Organisations, whether working on a fulltime or a part-time basis, would be initiated by the Chief Executive of the Organisation concerned, reviewed by the Secretary of the Administrative Ministry / Department concerned and sent to the Central Vigilance Commissioner for writing his remarks as the accepting authority;
- (ii) APARs of full time CVOs in the Ministries will be initiated by Secretary of the Ministry and reviewed by the Central Vigilance Commissioner.
- (iii) The assessment by the Central Vigilance Commissioner in respect of the CVOs in the Ministries / Departments of the Government of India and their attached / subordinate offices, who look after vigilance functions in addition to their normal duties, will be recorded on a separate sheet of paper to be subsequently added to the confidential rolls of the officers concerned.

([DoPT OM No. 11059/2/93-AIS \(III\) dated 13.03.93 & 14.04.93](#))

- (iv) However, after the implementation of the scheme of Smart Performance Appraisal Report Recording Online Window (SPARROW) for filing of online APAR by members of AIS and other officers / services, the CVC would be recording his assessment in the APARs of the CVO online. A column in the forms attached with SPARROW for writing the remarks by CVC in the APARs of CVO, is being introduced by DoPT.

Para substituted vide [DoPT O.M. No.372/7/ 2016-AVD-III dated 28.04.17](#)

([Para-2.11 of CVC Manual-2021](#))

2.7 DUTIES AND FUNCTIONS OF CVO

CVO heads the Vigilance Division of DFCCIL and acts as an advisor to the Chief Executive in all matters pertaining to vigilance. He is also the nodal officer of the DFCCIL for interaction with CVC and CBI. Vigilance functions to be performed by the CVO are of wide sweep and include collecting intelligence about the corrupt practices committed, or likely to be committed by the employees of his DFCCIL; investigating or causing an investigation to be made into allegations reported to him; processing investigation reports for further consideration of the disciplinary authority concerned; referring the matters to the Commission for advice wherever necessary; taking steps to prevent improper practices and commission of misconducts, etc. Thus, the CVO's functions can broadly be divided into three categories, as under:

- (i) Preventive vigilance
- (ii) Punitive vigilance
- (iii) Surveillance and detection.

While 'punitive action' for commission of misconduct and other malpractices is certainly important, 'surveillance' and 'preventive measures' to be taken by the CVO are equally more important as these are likely to reduce the occurrence of vigilance cases. Thus, the role of CVO should be predominantly preventive.

(For details may please see [Para-2.12 of CVC Manual-2021](#))

Preventive Vigilance functions by CVO

(For details may please see [Para-2.13 of CVC Manual-2021](#))

Punitive Vigilance functions by CVO

(For details may please see [Para-2.14 of CVC Manual-2021](#))

Surveillance and detection by CVO

(For details may please see [Para-2.15 of CVC Manual-2021](#))

2.8 DUTIES AND FUNCTIONS OF DEPUTY CHIEF VIGILANCE OFFICER

- a) Overall supervision of vigilance functions in the DFCCIL.
- b) To Assist CVO in discharging his duties.
- c) To ensure timely submission of monthly, quarterly, and annual Reports.
- d) To ensure timely completion of all enquiries related to complaints, CVC references, Railway Board references, Preventive checks.
- e) To ensure timely submission of reply to Parliament questions.
- f) To strengthen Knowledge Management in the Vigilance and to coordinate H.R for organizing training courses for vigilance.
- g) To ensure timely Processing of Vigilance clearances.
- h) Coordination with Railway Board vigilance on various matters.
- i) Coordination with C.B.I in connection with enquiries (at Delhi), and in Preparation of Agreed list and list of 'Officers under doubtful Integrity'
- j) To ensure Preparation, Maintenance and up keeping of employees' data base.
- k) **Any other specific work assigned by CVO.**

2.9 DUTIES AND FUNCTIONS OF DEPUTY GENERAL MANAGER /VIGILANCE

- a) Supervision of vigilance functions in the DFCCIL in absence of Dy. CVO.
- b) To Assist CVO in discharging his duties.
- c) To carry out investigation against complaints as allotted by CVO and to conduct preventive checks.
- d) To maintain and upkeep the necessary record of the investigations conducted by him/ her till the final conclusion of the case and produce the same as and when required.
- e) Study of all existing procedures relating to their discipline, identification of loopholes and make suggestions for system improvements.
- f) **Any other specific work assigned by CVO**

2.10 DUTIES AND FUNCTIONS OF MANAGERS/ASSISTANT MANAGERS/JUNIOR MANAGERS (Civil/ Electrical /S&T/ Mechanical)

- a) To Assist Dy. CVO in discharging his duties.
- b) To carry out investigation against complaints as allotted by CVO and to conduct preventive checks.
- c) To maintain and upkeep the necessary record of the investigations conducted by him/ her till the final conclusion of the case and produce the same as and when required.

- d) Study of all existing procedures relating to their discipline, identification of loopholes and make suggestions for system improvements.
- e) **Any other specific work assigned by CVO and Dy. CVO /DGM.**

2.11 DUTIES AND FUNCTIONS OF MANAGERS/ ASSISTANT MANAGERS/JUNIOR MANAGERS (Finance/Human Resources/IT/OP&BD/General Administration /Stores /Security)

- a) To Assist Dy. CVO in discharging his duties.
- b) To carry out investigation against complaints as allotted by CVO and to conduct preventive checks.
- c) To maintain and upkeep the necessary record of the investigations conducted by him/ her till the final conclusion of the case and produce the same as and when required.
- d) Study of all existing procedures relating to their discipline, identification of loopholes and make suggestions for system improvements.
- e) To strengthen Knowledge Management in the Vigilance and to coordinate with H.R for organizing training courses for vigilance.
- f) Preparation, Maintenance and up keeping of employee's data base.
- g) **Any other specific work assigned by CVO and Dy. CVO/DGM.**

2.12 DUTIES AND FUNCTIONS OF MANAGERS/ ASSISTANT MANAGERS/ JUNIOR MANAGERS (D&AR)

- a) Put up all D&AR cases to the disposal of CVO/Dy CVO.
- b) Coordination with the H.R department in processing disciplinary proceedings within strict time frame.
- c) Coordination with the enquiry officer in Major penalty cases.
- d) Study of audit report, inspection reports of DFCCIL, executive officers, newspaper articles and provide inputs for predictive & Preventive Vigilance.
- e) Preparation of topics, collection of material and articles for Participative Vigilance.
- f) Collection and registration of complaints, references from various sources and put up to CVO/Dy.CVO and handing over the same to the concerned Manager/Assistant Manager/Junior Manager.
- g) Keep tracking on File movement, receipt, dispatch, files, and digitalization of important documents.
- h) Keep close coordination with other Vigilance Managers to ensure adherence of time limits in all matters.
- i) Upkeep and update of the procedures/ orders/ instructions/Codes and Manual and system improvements issued from time to time.
- j) Timely submission of monthly, quarterly, and annual Reports.
- k) Timely submission of reply to Parliament questions/VIP/CA-iii references /RTI.
- l) Processing of Vigilance Clearances/Status
- m) Correspondence with CVC/CBI/ Railway Board vigilance on various matters.
- n) Correspondence with C.B.I in connection with enquiries (at Delhi), and in Preparation of Agreed list and list of "Officers under doubtful Integrity"

- o) **Any other specific work assigned by CVO/Dy CVO/DGM.**

2.13 SELECTION OF VIGILANCE PERSONNEL IN DFCCIL

The vacancies in the Vigilance wing may be filled by advertising the posts on deputation basis from over Indian Railways and/or employees of equivalent cadre in DFCCIL.

Only full-time officers of the corporation and/or officers on deputation from other wings of the government should be assigned vigilance functions. Consultants should not be appointed as vigilance officers. In general, officers should not be assigned part time vigilance work to avoid conflict of interest.

[\(CVC Circular No. 3\(V\)/99/12 dated 14.08.2000\)](#)

2.14 REMUNERATION OF VIGILANCE OFFICERS

Pay, allowances, status, benefits, perks and perquisites of CVO and other officials posted /on deputation to the vigilance department in DFCCIL shall be governed by DoPT/DPE/ Rly. Board/DFCCIL guidelines in vogue.

2.15 TENURE OF OTHER VIGILANCE OFFICERS:

Posting of officials in the Vigilance Organisation of the DFCCIL should be made in consultation with the CVO concerned.

The normal tenure should be four (04) years from the date of their posting in keeping with the DFCCIL Policy of tenure of officials on sensitive posts. In case it has to be extended beyond four years, which could be extended upto six (06) years in individual cases, meriting such a consideration by the MD based on the recommendation of the concerned CVO.

The four-year term (extendable up to six years) should be the overall period which an official or one taken on deputation from other department can spend in the Vigilance Organisation. As an example, if an official had worked as a Vigilance officer/official in any other organization and thereafter also in the Vigilance Department for a total period of four years in all, he should not be continued further in the Vigilance Organisation except in individual cases of special merit and that too upto a maximum of six years for one period. However, the tenure for Enquiry Officer will be independent of the period spent by them earlier in the Vigilance Organisation in other capacities.

[\(Para-818.1-3 of IRVM-2018\)](#)

2.16 MONITORING OF VIGILANCE CASES & ORGANISING STRUCTURED/ PERIODICAL MEETINGS

The CVO should invariably review all pending matters, such as investigation reports, disciplinary cases including Departmental enquiries and other vigilance complaints / cases in the first week of every month and take necessary steps for expediting action on those matters.

The CVO should arrange structured meetings on a quarterly basis to be taken by the Secretary of the Ministry / Department or the Chief Executive for reviewing the vigilance work done in the organization.

The CVO should also arrange periodical meetings with the officers of the CBI to discuss matters of mutual interests, particularly those arising from inquiries and investigations.

[\(Para-2.18 of CVC Manual-2021\)](#)

2.17 SUBMISSION OF PERIODICAL REPORTS BY CVO TO THE COMMISSION

The Commission has dispensed with the offline mode of submission of the monthly /

annual reports by the CVOs and introduced the online mode of submission of Quarterly / Annual Performance Report. CVO should ensure that quarterly reports of the work done on vigilance matters is furnished to the Commission through online quarterly / annual report module available on www.cvc.gov.in using usernames / passwords being used by CVOs in the CMS portal by the 10th day of the succeeding month after close of each quarter i.e., for quarters ending March, June, September and December by 10th April, 10th July, 10th October and 10th January respectively.

[\(Para-2.19.1 of CVC Manual-2021\)](#)

[\(CVC Circular No. 01/01/2019 dated 25.01.19\)](#)

CVOs are required to submit the online Annual Report by 15th January every year. Most of the entries in the online Annual Report format would be auto-populated from the quarter data. However, some of the entries which are descriptive in nature such as in Part 2, 5, 6, 8 and Section 9 are required to be filled up by the CVOs before finally submitting it.

[\(Para-2.19.2 of CVC Manual-2021\)](#)

[\(CVC Circular No. 01/01/2019 dated 25.01.19\)](#)

The CVO should ensure that quarterly progress reports (QPR of CTEO), on the civil, electrical, horticulture works in progress and also on procurement of stores, are furnished to the CTEO by 15th day of the month following the quarters ending March, June, September and December.

[\(Para-2.19.3 of CVC Manual-2021\)](#)

[\(CVC Circular No. 01/01/2019 dated 25.01.19\)](#)

2.18 REVIEWS BY THE BOARD OF DIRECTORS OF DFCCIL

Progress of vigilance work/disciplinary cases needs to be reviewed periodically, and it has been decided that the Board of Directors/MD of DFCCIL will continue to undertake such review at least once in six months

[\(Para-VIII of DPE O.M. No. 15\(7\)/2002-DPE\(GM\)/GL-50 dated 15th December 2003\)](#)

2.19 CHAPTER ON VIGILANCE ACTIVITIES IN ANNUAL REPORT

A separate chapter on vigilance activities of the organisation shall be invariably included in the annual report of the organisation.

2.20 ACCESS TO DOCUMENTS/INFORMATION BY THE VIGILANCE EXECUTIVES

Vigilance functionaries are required to inspect records, conduct surprise inspections and conduct on-the-spot investigations etc. in the discharge of their duties. Accordingly, they are authorized to have free access to all offices, substations, stores and other work sites. They should have free access to the relevant records in connection with any investigation/inquiry. They may also take possession of records required by them, subject to the arrangement that working of the Department should not be hampered for want of records. Authenticated copies of the records may be retained by the concerned wing if necessary.

2.21 PROTECTION AGAINST VICTIMIZATION OF VIGILANCE OFFICIALS

2.21.1 Independence of the vigilance officials is the foundation for effective vigilance administration in any Organisation. They cannot function without fear or favour if they perceive any victimization, as a consequence of their working in Vigilance Organisation. The Commission has viewed seriously certain instances of harassment and attempts of victimization of vigilance officials of certain Organizations. The need to allow the vigilance officials to work independently and freely without any fear, which is the foundation

for effective vigilance administration in any organization, has been recognized since long. In fact, the Committee on Prevention of Corruption (Santhanam Committee) had recommended that “those posted to the Vigilance Organisations should not have the fear of returning to their parent cadre with the possibility of facing the anger and displeasure of those against whom they made inquiries”.

The Committee had also recommended that “those working in Vigilance Organisations should have an assurance that good and efficient work in the Vigilance Organisation will enhance their opportunities for promotion and not become a sort of disqualification”.

2.21.2 The Commission has considered the problem of possible victimization of Vigilance officials after they finish their tenure in the Vigilance Department and revert to their normal duties. In the case of CVOs, already the Commission, as Accepting Authority, is in a position to moderate, if necessary, any biased reporting against the CVO in his APAR. Similarly, the Commission has always been extremely careful and cautious while taking cognizance of complaints against the CVOs and as a matter of principle always obtains the CVOs response before coming to any conclusion on the need to investigate such complaints.

2.21.3 In order that the required degree of protection is conferred on the Vigilance officials supporting the CVO and keeping in view the spirit of the Santhanam Committee which with commendable foresight had anticipated very clearly some of these issues, the Commission issues the following consolidated instructions in exercise of its powers under Section 8(1) (h) of the CVC Act:

- (i) All personnel in vigilance Units will be posted only in consultation with and the concurrence of the CVOs. Any premature reversion before the expiry of their tenure will only be with the concurrence of the CVO. The CVO shall bring to the notice of the Commission any deviation from the above.
- (ii) The APAR of personnel working in the Vigilance Department will be written by the CVO and reviewed by appropriate authority prescribed under the relevant conduct rules. The remarks in review shall be perused by the CVO and in case he has reservations about the comments made under the review, he shall take it up with the Chief Executive/HOD to resolve the issue. In case he is unable to do this, he shall report the matter to the Commission who will intercede in the matter suitably.

[\[PARA 822.3 \(ii\) of IRVM\]](#)

[\(CVC Circular No. 16/3/06 dated 28.03.2006\)](#)

- (iii) Since the problem of victimization occurs, if at all, after the reversion of the personnel to their normal line departments, the Commission would reiterate the following:
 - (a) On such reversion the vigilance personnel shall not be posted to work under an officer against whom, while working in the vigilance department, he had undertaken verification of complaints or detailed investigation thereafter. Needless to say his APAR shall not be written by such officer(s).
 - (b) All such Vigilance personnel will be deemed to be under the Commission's purview for purposes of consultation in disciplinary matters. This is irrespective of their grade. This cover will be extended to a period of not less than five years from the date of reversion from the vigilance department.
 - (c) All Vigilance personnel on reversion shall be entitled to represent through the CVO and Chief Executive of the Organization to the Commission if they perceive any victimization as a consequence of their working in the Vigilance department. This would include transfers, denial of promotion or any administrative action not considered routine or

normal. This protection will be extended for a period not less than five years after the reversion of such personnel from the Vigilance department.

- 2.21.4** The CVO should report promptly to the Commission, the details of any real or perceived victimization of any official who is working in the vigilance unit. Similarly, he should also report such instances pertaining to the former officials of the Vigilance Units, up to a period of five years after they had completed their tenure in the Vigilance Unit. He should also report where such deserving officials are ignored/ superseded in matters of promotion.

[\(Para-822 of IRVM-2018\)](#)

NOTES / MODIFICATIONS

CHAPTER-3

CVC AND ITS JURISDICTION

3.0 CVC AND ITS JURISDICTION

3.1 VIGILANCE AGENCIES

Anti-corruption measures of the Central Government are responsibility of

- (i) the Central Vigilance Commission [hereinafter referred to as the Commission]
- (ii) Administrative Vigilance Division [AVD] in the Department of Personnel & Training in the Ministry of Personnel, Public Grievances & Pension;
- (iii) Central Bureau of Investigation [CBI];
- (iv) Vigilance units in the Ministries / Departments of Government of India, Central Public Sector Enterprises and other autonomous organisation [hereinafter referred to as Department];
- (v) Disciplinary Authorities; and
- (vi) Supervisory Officers.

(Para-1.1 of CVC Manual-2021 & Para-202 of IRVM-2018)

3.2 CENTRAL VIGILANCE COMMISSION

- a) **Genesis:** The Central Vigilance Commission was set up by the Government of India by a Resolution, dated 11.2.1964 in pursuance of the recommendations made by the Committee on Prevention of Corruption [popularly known as Santhanam Committee]. Further, it was in pursuance of the directions of the Hon'ble Supreme Court in the case of Vineet Narain vs. Union of India [CWP 340-343 of 1993] that the Commission was accorded statutory status with effect from 25.8.1998 through "The Central Vigilance Commission Ordinance, 1998". It was followed by CVC (Amendment) Ordinance dated 27.10.1998, CVC Ordinance dated 8.01.1999, DoPT Resolution No. 371/20/99-AVD-III dated 04.04.1999 and DoPT Resolution No. 371/20/99-AVD-III dated 13.08.2002, while the CVC Bill was under the consideration of the Parliament. Subsequently, the CVC Bill was passed by both Houses of Parliament in 2003 and the President gave assent on 11th September 2003. Thus, the Central Vigilance Commission Act, 2003 (No.45 of 2003) came into effect from that date.
- b) **Set-up:** In terms of the provisions contained in Section 3 & 4 of [CVC Act, 2003](#), the Commission shall consist of a Central Vigilance Commissioner [Chairperson] and not more than two Vigilance Commissioners [Members]. The Central Vigilance Commissioner and the Vigilance Commissioners are appointed by the President by warrant under his/her hand and seal for a term of four years from the date on which they enter upon their offices or till they attain the age of sixty-five years, whichever is earlier. The Commission is assisted by a Secretary who is appointed by the Central Government.

(Para-1.1.1 of CVC Manual-2021 & Para-202 of IRVM-2018)

3.3 JURISDICTION OF CENTRAL VIGILANCE COMMISSION

3.3.1 Jurisdiction under Section 8 of [CVC Act, 2003](#):

3.3.1 (a)

- (i) For the purpose of clause (d) of Section 8(1) of [CVC Act, 2003](#), the Commission's jurisdiction extends to such category of public servants as defined under Section 8(2) of the Act and subsequent notifications issued by the Central Government from time to time.
- (ii) Clause 8(1)(g) of the [CVC Act, 2003](#) requires the Commission to tender advice to the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government on such matters as may be referred to it by that Government, such Government companies, societies and local authorities owned or controlled by the Central Government or otherwise and for this purpose the Commission's jurisdiction is co-terminus with those provided under Section 8(2) of [CVC Act, 2003](#).

(Para-1.2.1 (a) of CVC Manual-2021 & Para-203 of IRVM-2018)

The following categories of public servants [hereinafter referred to as Category 'A' officers] fall within the jurisdiction of the Commission in terms of sub-section (2) of Section 8 of [CVC Act, 2003](#): —

- (a) Members of All-India Services serving in connection with the affairs of the Union and Group 'A' officers of the Central Government;
- (b) Such level of officers of the corporations established by or under any Central Act, Government companies, societies and other local authorities, owned or controlled by the Central Government, as that Government may, by notification in the Official Gazette, specify in this behalf: Provided that till such time a notification is issued, all officers of the said corporations, companies, societies and local authorities shall be deemed to be the persons referred to in clause (d) of sub-section (1) of Section 8 of [CVC Act, 2003](#).
- (c) On a reference made by the Lokpal under proviso to sub-section (1) of section 20 of the Lokpal and Lokayuktas Act, 2013, the persons referred to in clause (d) of sub-section (1) shall also include—
- (i) members of Group B, Group C and Group D services of the Central Government;
- (ii) such level of officials or staff of the corporations established by or under any Central Act, Government companies, societies and other local authorities, owned or controlled by the Central Government, as that Government may, by notification in the Official Gazette, specify in this behalf: Provided that till such time a notification is issued under this clause, all officials or staff of the said corporations, companies, societies and local authorities shall be deemed to be the persons referred in clause (d) of sub-section (1) of Section 8 of [CVC Act, 2003](#).

(Para-1.2.1 (a) of CVC Manual-2021 & Para-203 of IRVM-2018)

3.3.1 (b)

At present, the following levels of officers have been notified by the Central Government for the purpose of clause (b) of sub-section (2) of Section 8 of [CVC Act, 2003](#) ([DoPT Notifications Vide S.O. 371 \(E\) dated 18.03.04](#) & [S.O. 1538 \(E\) dated 12.09.07](#))

- (i) Officers of Scale V and above of Public Sector Banks; (Scale V is in the range of Rs. 59,170-66,070 in most banks as on 01.01.2015)
- (ii) Chief Executives (CMD/MD) and Executives (Directors) and other officers of E-8 and above in respect of Schedule 'A' and 'B' Public Sector Undertakings; (E-8 Scale in Sch. 'A' & 'B' CPSEs is in the range of Rs. 51,300–73,000 effective from 01.01.2007 pursuant to pay revision after 6th CPC)
- (iii) Chief Executives (CMD/MD) and Executives (Directors) on the Board and other officers

of E-7 and above in respect of Schedule 'C' and 'D' Public Sector Undertakings; (E-7 Scale in Sch. 'C' & 'D' CPSEs is in the range of Rs. 43,200 – 54,000 effective from 01.01.2007 pursuant to pay revision after 6th CPC)

- (iv) Officers in Grade 'D' and above in respect of RBI, NABARD and SIDBI; (As on 01.01.2015 the Grade 'D' Scale in RBI is Rs. 39,850 – 46,150)
- (v) Managers and above in General Insurance Companies;
- (vi) Senior Divisional Managers and above in Life Insurance Corporations; and
- (vii) Officers drawing salary of Rs. 8700/- p.m. and above on Central Government D.A. pattern, as on the date of the notification (DoPT Notification dated 12.9.2007) and as may be revised from time to time in Societies and other Local Authorities.

(Para-1.2.1(b) of CVC Manual-2021 & Para-203 of IRVM-2018)

3.3.1 (c)

The Commission generally exercises control over cases of Board Level Appointees and officers two level below the Board. Cases of other officers are supervised by the CVO and the Disciplinary Authority (DA)

The CVO of DFCCIL serves as the link between CVC and DFCCIL Management. It is the duty of the CVO, as extended arm of the CVC, to ensure that various instructions and guidelines of CVC are duly communicated to all concerned working under the jurisdiction of DFCCIL for compliance.

3.3.2 Jurisdiction over other categories in special cases

- a) **Composite cases:** In composite cases, Commission's advice would be necessary in respect of all officers of the Central Government or an organization under it, irrespective of their level, if they are involved in the same matter in which Category 'A' is involved / a Government servant falls within the Commission's jurisdiction.

[May also Refer to Chapter VII (Para 7.9.5 & 7.9.6) of CVC Manual-2021]
(Para-1.2.2 (a), Chapter-1 of CVC Vigilance Manual-2021)

- b) **Difference of opinion:** The Commission's advice would also be necessary in cases of difference of opinion between the disciplinary authority and the CVO with regard to the action to be taken against officers who are not within the jurisdiction of the Commission if these differences cannot be resolved with the intervention of the Secretary of the Ministry or Head of the Departments.

(CVC Circular No.98/VGL/15 dated 16.04.04).
(Para-1.2.2 (b), Chapter-1 of CVC Vigilance Manual-2021)

In case of difference of opinion between the CVO and the MD in respect of corruption case, involving below Board level appointees in public sector undertaking, it is the responsibility of the MD to bring the case to the Board.

(Para-7.9.8, Chapter-7 of CVC Manual-2021)
(Para-1.2.2 (b), Chapter-1 of CVC Manual-2021)

- c) **Complaints under PIDPI Resolution:** For the purpose of Public Interest Disclosure and Protection of Informer Resolution 2004, the Commission's jurisdiction extends to any employee of Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government irrespective of the category or class or group of employees.

(Para-1.2.2 (c), Chapter-1 of CVC Manual-2021 & Para-204 of IRVM-2018)
(The matter has been dealt with in detail in Chapter-7.11 'PIDPI Complaint')

3.4 FUNCTIONS AND POWERS OF CENTRAL VIGILANCE COMMISSION

3.4.1 The functions and powers of the Commission, laid down in Section 8(1) of the CVC Act, 2003, are as under: -

- (a) To exercise superintendence over the functioning of the Delhi Special Police Establishment in so far as it relates to the investigation of offences alleged to have been committed under the Prevention of Corruption Act, 1988 or an offence with which a public servant specified in sub-section (2) of Section 8 of [CVC Act, 2003](#) may, under the Code of Criminal Procedure, 1973, be charged at the same trial;
- (b) To give directions to the Delhi Special Police Establishment for the purpose of discharging the responsibility entrusted to it under sub-section (1) of section 4 of the Delhi Special Police Establishment Act, 1946:

Provided that while exercising the powers of superintendence or giving directions to, the Commission shall not exercise powers in such a manner so as to require the Delhi Special Police Establishment to investigate or dispose of any case in a particular manner;
- (c) To inquire or cause an inquiry or investigation to be made on a reference made by the Central Government wherein it is alleged that a public servant being an employee of the Central Government or a corporation established by or under any Central Act, Government company, society and any local authority owned or controlled by that Government, has committed an offence under the Prevention of Corruption Act, 1988; or an offence with which a public servant may, under the Code of Criminal Procedure, 1973, be charged at the same trial;
- (d) To inquire or cause an inquiry or investigation to be made into any complaint against any official belonging to such category of officials specified in sub-section (2) wherein it is alleged that he has committed an offence under the Prevention of Corruption Act, 1988 and an offence with which a public servant specified in sub-section (2) may, under the Code of Criminal Procedure, 1973, be charged at the same trial;
- (e) To review the progress of investigations conducted by the Delhi Special Police Establishment into offences alleged to have been committed under the Prevention of Corruption Act, 1988 or the public servant may, under the Code of Criminal Procedure, 1973, be charged at the same trial;
- (f) To review the progress of applications pending with the competent authorities for sanction of prosecution under the Prevention of Corruption Act, 1988;
- (g) To tender advice to the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government on such matters as may be referred to it by that Government, said Government companies, societies and local authorities owned or controlled by the Central Government or otherwise;
- (h) To exercise superintendence over the vigilance administration of the various Ministries of the Central Government or corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government: Provided that nothing contained in this clause shall be deemed to authorise the Commission to exercise superintendence over the Vigilance administration in a manner not consistent with the directions relating to vigilance matters issued by the Government and to confer power upon the Commission to issue directions relating to any policy matters;

(Para-1.3.1, Chapter-1 of CVC Manual-2021 & Para-205.1 of IRVM-2018)

3.4.2 The functions and powers of the Commission as laid down in some other Sections of CVC Act, 2003 are as under:-

3.4.2 (a) Power relating to inquiries: Section 11 of CVC Act, 2003 provides that the Commission, while conducting any inquiry referred to in Section 8(1) (c) and (d) of CVC Act, 2003, shall have all the powers of a civil court trying a suit under the BNSS 2023 and in particular, in respect of the following matters, namely: -

- (i) summoning and enforcing the attendance of any person from any part of India and examining him/her on oath;
- (ii) requiring the discovery and production of any document;
- (iii) receiving evidence on affidavits;
- (iv) requisitioning any public record or copy thereof from any court or office;
- (v) issuing Commissions for the examination of witnesses or other documents; and
- (vi) any other matter which may be prescribed.

3.4.2 (b) Tender advice on Report of inquiry: Report of inquiry undertaken by any agency on a reference made by the Commission shall be forwarded to the Commission and on receipt of such report and after taking into consideration any other factors relevant thereto, the Commission would tender its advice to the Central Government and Corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government, as the case may be, as to the further course of action. They shall take appropriate action after taking into consideration the advice of the Commission and in the event of disagreement, the reasons shall be recorded in writing and communicated to the Commission. (Section 17, [CVC Act, 2003](#))

3.4.2 (c) Call for Reports & returns: In terms of Section 18 of [CVC Act, 2003](#), the Commission may call for reports, returns and statements from the Central Government or corporations established by or under any Central Act, Government companies, societies and other local authorities owned or controlled by that Government so as to enable it to exercise general supervision over the vigilance and anti-corruption work in that Government and in the said corporations, Government companies, societies and local authorities. Presently, Monthly Report, Annual Report and Quarterly Progress Report (QPR) are required to be submitted to the Commission in prescribed proforma. QPR is discussed in Chapter IX.

([CVC Circular No.004/RTN/3 dated 28.07.05](#); No.98/VGL/25 dated 20.10.98; [No. 018/VGL/019 dated 25.01.19](#) & [QPR Format](#))

3.4.2 (d) Mandatory consultation by Central Government:

The Central Government shall, in making any rules or regulations governing the vigilance or disciplinary matters relating to persons appointed to public services and posts in connection with the affairs of the Union or to members of the All-India Services, consult the Commission. (Section 19 of [CVC Act, 2003](#))

3.4.2 (e) Annual report of Commission:

The Commission is to present annually to the President a report as to the work done by it within six months of the close of the year under report. The report shall contain a separate part on the functioning of the Delhi Special Police Establishment in so far as it relates to Section 4(1) of the Delhi Special Police Establishment Act, 1946. On receipt of such report from the Central Vigilance Commission, the President shall cause the same to be laid before each House of Parliament. (Section 14 of [CVC Act, 2003](#))

(Para-1.3.2, Chapter-1 of CVC Manual-2021 &
(Para-205.2 of IRVM-2018)

3.4.3 Residuary functions under CVC Resolution of 1964:

In terms of Section 24 of the [CVC Act, 2003](#), the Commission continues to discharge the functions entrusted to it vide Gol Resolution dated 11.02.1964, in so far as those functions are not inconsistent with the provisions of the Act. Thus, the Commission continues to perform the following functions:

- (a) **Appointment of CVOs:** The Chief Vigilance Officer in Ministries/ Departments (whether fulltime or part-time) will be appointed in consultation with the Central Vigilance Commission and no person whose appointment as the Chief Vigilance Officer is objected to by the Central Vigilance Commission will be so appointed. (DoPT OM No. 371/32/97-AVD. III dated 28.11.1997 and para 6 of the [Gol Resolution dated 11.02.1964](#).
([DoPT O.Mo No.40/1/2022-EO\(CVO\)dated 18.11.22](#))
- (b) **Writing APARs of CVOs:** In terms of DoPT OM No. 122/2/85-AVD.I dated 28.01.1986 and para 7 of Gol Resolution dated 11.02.1964, the Central Vigilance Commissioner would assess the work of the CVO which would be recorded in the character rolls (APARs) of the officer concerned. As laid down in DoPT OM No. 11059/2/93-AIS (III) dated 13.03.1993 and 14.04.1993, the Central Vigilance Commissioner would add his remarks in the APARs of the CVO of Public Sector Undertakings / Organisations as the accepting authority. However, in respect of the CVOs of the Ministry / Departments such assessment would be recorded on a separate sheet and added to the APARs of the CVO concerned. Such CVOs belonging to AIS or other services, whose APAR is filed online in SPARROW (Smart Performance Appraisal Report Recording Online Window), CVC would be recording his assessment in the APARs of the CVO online. A column in the forms attached with SPARROW for writing the remarks by CVC in the APARS of CVO is being introduced by DoPT.
(Para substituted vide [DoPT O.M. F.No. 372/7/2016-AVD-III dated 28.04.17](#)
Inserted vide online filing of APAR scheme of Govt. (Para-2.11 of CVC Manual-2021)
- (c) **Commission's advice in Prosecution cases:** In cases in which the sanction for prosecution is required to be accorded in the name of the President under any law, the Commission will advise the Ministry / Department concerned and it would be for that Ministry / Department to consider the advice of the CVC and to take a decision as to whether or not the prosecution should be sanctioned.(para 2(vii) of Gol Resolution dated 11.02.1964) and the guidelines issued by [DoPT Vide OM No. 134/2/ 85-AVD-I dated 15/17.10.1986 & No.399/33/2006-AVD-III dated 06.11.2006](#))
- (d) **Resolving difference of opinion between the CBI and the administrative authorities:** In terms of the DoPT guidelines and Gol Resolution referred to in sub-para (c) above, in cases where an authority other than the President is competent to sanction prosecution and the authority does not propose to accord the sanction sought for by the CBI, the case will be reported to the Commission and the authority will take further action after considering the Commission's advice. In cases recommended by the CBI for Departmental action against such employees as do not come within the normal advisory jurisdiction of the Commission, the Commission will continue to resolve the difference of opinion, if any, between the CBI and the competent administrative authorities as to the course of action to be taken.

Provided that in cases falling under the categories mentioned in sub-para (c) and (d) above and where the administrative authorities do not propose to accept the advice of the Commission for grant of sanction for prosecution, it should be referred to DoPT for a final decision as laid down in the [DoPT OM dated 15/17.10.1986](#).

- (e) **Entrusting cases to CDIs:** The Commission has the power to require that the oral inquiry in any Departmental proceedings, except the petty cases, should be entrusted

to one of the Commissioners for Departmental Inquiries borne on its strength or such other officer as it may deem fit. (Para 2 (viii) of Gol Resolution dated 11.02.1964)

- (f) **Advising on procedural aspects:** If it appears that the procedure or practice in a Department or Organisation is such as it affords scope or facilities for corruption or misconduct, the Commission may advise the Department or the Organisation concerned that such procedure or practice be appropriately changed, or changed in a particular manner. (Para 2 (x) of Gol Resolution dated 11.02.1964)
- (g) **Review of Procedure and Practices:** The Commission may initiate at such intervals as it considers suitable, the review of procedures and practices of administration in a Department or Organisation in so far as they relate to maintenance of integrity in administration. (Para 2 (xi) of Gol Resolution dated 11.02.1964)

(Para-1.3.3, Chapter-1 of CVC Manual-2021 & Para-205.3 of IRVM-2018)

3.4.4 Functions under PIDPI Resolution 2004:

CVC is the designated authority under Public Interest Disclosure and Protection of Informer Resolution 2004 to receive complaint alleging corruption against any employee of the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government and to take further action thereon including recommending disciplinary and criminal proceedings. Commission is also empowered to take appropriate action for protection of informer.

Refer to Chapter 7.11 for more details on PIDPI Resolution.

(Para-1.3.4, Chapter-1 of CVC Manual-2021 & Para-205.4 of IRVM-2018)

3.4.5 Inputs on Vigilance Status of officers for appointment to key positions:

DoPT vide its OM No. 104/33/2005-AVD-I dated 29.10.2007, No. 11012/11/2007-Estt.A dated 14.12.2007 and No. 27(5) – EO/88 (ACC) dated 04.08.1988 has laid down that while considering cases for grant of vigilance clearance for the purpose of empanelment of AIS officers of any particular batch, for members of Central Civil Services/Central Civil posts, Board level positions in Public Sector Enterprises, the comments of the Central Vigilance Commission may be obtained. Further, Commission's Circular No. No. 3(v)/99/4 dated 12.07.1999 provides that vigilance clearance shall also be obtained from the Commission in respect of all candidates / officers recommended by the PESB for appointment to any Board level position in PSEs, irrespective of their holding a Board level or below Board level post at that point of time.

[\(Consolidated DoPT's guidelines issued vide F.No.104/76/2022-AVD.IA dated 28.09.2022\)](#)

(For more details on Vigilance Clearance refer to para 11.2 (Chapter XI) of CVC Manual-2021.)
(Para-1.3.6, Chapter-1 of CVC Manual-2021 & Para-205.5 of IRVM-2018)

3.4.6 Other functions and activities:

- (a) **Supervision & control of CTE Organisation:** Commission exercises supervision and administrative control of Chief Technical Examiner's Organisation.
- (b) **Appointment of Independent External Monitors:** The Commission approves persons for appointment as Independent External Monitors whose function is to ensure implementation of Integrity Pact. For more details on IEM refer to Chapter X of CVC Manual and [CVC Circular No.04.06.2023 dated 14.06.2023](#)
- (c) **Capacity Building Programmes:** Commission organises training programmes for the CVOs and for its own personnel. It conducts a monthly lecture by eminent person which

is web-cast live.

- (d) **Vigilance Awareness Week:** Commission vide its [Circular No.3\(v\)/99/11 dated 23.06.2000](#) has declared that the week in which 31st October, which is the Birth anniversary of Bharat Ratna Sardar Vallabh Bhai Patel, the first Home Minister of India falls, shall be observed as “Vigilance Awareness Week” with a view to spread awareness among citizens regarding the fight against corruption and their role. Every year in August / September, the Commission issues a Circular for observance of Vigilance Awareness Week by the Ministries / Departments / Organisations with specific theme. The Circular lays down the measures to be taken during the week which, inter alia, includes organising workshops, seminars, debate, competition, slogan / essay writing, cartoon, painting, etc. at micro level such as school, colleges, institutes, etc.
- (e) **News Letter:** Central Vigilance Commission brings out its quarterly news letter “VIGEYEVANI” to create awareness against corruption, besides sharing its activities with all the stakeholders against corruption.

Para-1.3.7, Chapter-1 of CVC Manual-2021

- 3.4.7 Assistance to Constitutional Courts:** Whenever directed to do so, the Commission has assisted the Hon’ble Supreme Court of India or the High Courts in specific cases, e.g. cases relating to allocation of 2G spectrum, allocation of coal blocks, works executed in connection with CWG 2010, etc.

(Para-1.3.8, Chapter-1 of CVC Manual-2021 & Para-205.8 of IRVM-2018)

3.5 MANAGING CONFLICT OF INTEREST

- a) The Conflict of interest flows from the principle of Natural Justice that ‘No one should be the judge in his / her own case (Nemo iudex in causa sua)’. It leads to biases. Bias means an act which leads to unfair activity whether in a conscious or unconscious stage in relation to the party or a cause or case. That is where the conflict of interest arises. The Conflict of interest issue is an emerging area of concern in public governance. A conflict of interest occurs when an individual’s personal interests – family, friendships, financial, or social– could compromise his or her judgment, decisions, or actions in the workplace. It arises when a public servant is involved in a particular matter as part of his official duties with an outside organisation with which he also has a financial interest, i.e., the employee’s (i) spouse, (ii) children & other relations, (iii) general partner, (iv) an organisation in which the employee serves as its chief, officer, director, trustee, partner, or employee, etc. or (v) a person or organisation with which the employee is negotiating for prospective or has an arrangement for prospective employment.
- b) Conduct rules, other statutes or guidelines governing the service conditions of public servants appropriately address the conflict-of-interest issue. Prompt action should be taken for violation of such rules, statutes or guidelines.

(More details on conflict of interest may be seen in Chapter IX and XI of CVC Manual-2021)
(Para-1.4A (Chapter-1) of CVC Manual-2021)

3.6 ORGANISATIONAL STRUCTURE OF COMMISSION

- 3.6.1** In terms of Section 3(4) of [CVC Act, 2003](#), the Central Government appoints a Secretary to the Commission to exercise such powers and discharge such duties as the Commission may by regulations specify in this behalf.
- 3.6.2** In terms of Section 7 of [CVC Act, 2003](#), the Central Government, in consultation with the Commission, makes rules with respect to the number of members of the staff of the Commission and their conditions of service.

3.6.3 In terms of Section 13 of [CVC Act, 2003](#), the expenses of the Commission, including salaries, allowances and pensions payable to the Central Vigilance Commissioner, the Vigilance Commissioners, Secretary and the staff of the Commission, is charged on the Consolidated Fund of India

3.6.4 The Commission is assisted in discharge of its functions by a Secretariat headed by the Secretary. At present, there are four Additional Secretaries. Besides, there are two Chief Technical Examiners who assist the Commission in technical matters. The major Branches / Units of the Commission are: -

- (a) **Vigilance:** There are nine Vigilance Branches, each of them under a Director / Deputy Secretary level officer who are in turn supervised by the respective Additional Secretaries. The Vigilance Branches process the complaints and cases pertaining to the various Ministries / Departments or Organisations falling under Commission's jurisdiction and communicate advice of the Commission.
- (b) **Confidential:** It handles complaints received under PIDPI Resolution.
- (c) **Co-ordination:** It deals with policy matters, Annual Report, research, CVO's appointment, Vigilance clearance, matters pertaining to superintendence over CBI, etc.
- (d) **CDI Unit:** To assist the disciplinary authorities in the expeditious disposal of oral inquiries, the Ministry of Home Affairs appointed Officers on Special Duty [later re-designated as Commissioners for Departmental Inquiries] on the strength of the Administrative Vigilance Division. On the recommendation of the Committee on Prevention of Corruption, the Commissioners for Departmental Inquiries were transferred to work under the control of the Central Vigilance Commission. The officers designated as CDIs undertake the function of conducting oral inquiries in individual disciplinary cases on behalf of the Disciplinary Authority.
- (e) **Inquiry Wing:** Deals with direct inquiries into complaints conducted by the Commission under Section 11 of [CVC Act, 2003](#).
- (f) **Vigilance Audit:** Deals with audit of CVO's set-ups & its functioning in various Departments / organisations by the officers of the Commission.
- (g) **Administration:** It comprises of Establishment, Cash, General matters, Library and Hindi cell.
- (h) **Legal:** It deals with matters involving legal issues.
- (i) **RTI:** Nodal division for RTI matters and processing RTI Appeal cases.
- (j) **IT:** Maintaining and implementing e-governance.
- (k) **Training:** Deals with training of CVOs and others on vigilance administration and organising knowledge workshops, etc.
- (l) **CTE Organisation:** It is the technical wing of the Commission headed by Chief Technical Examiners. It provides assistance and advice to the Commission on technical matters and issues relating to procurement. It carries out inspection of civil, electrical and horticulture works of the Central Government Departments, Central Public Sector Enterprises, CPSB and FIs, etc.

(Further details about the CTE Organisation have been given in Chapter IX of CVC Manual.)
(Para-1.5, Chapter-1 of CVC Manual-2021)

3.7 ADVISORY FUNCTIONS OF COMMISSION—A SUMMARY

3.7.1 Matters where the Commission tenders its advice to the competent authority in the following cases:-

- (a) when a request for grant of previous sanction necessary for prosecution is made by an investigating agency to the competent authority in respect of specified categories of public servants, and
- (b) for initiating Departmental proceedings and before taking a final decision in the vigilance case against the specified category of public servants.

3.7.2 Previous sanction for prosecution—Consultation with Commission:

The Commission tenders its advice:

- (a) When the CBI or the other investigating agency recommends sanction of prosecution, in cases of officers in which sanction of prosecution is required to be accorded in the name of the President.
- (b) In cases in which an authority other than the President is competent to accord sanction for prosecution, and that authority does not propose to accord sanction, the Commission tenders its advice for resolution of difference of opinion.
- (c) Proposals from the State Government seeking prosecution sanction in respect of AIS officers against cases investigated by CBI or other investigating agency on matters pertaining to the affairs of the State Government are received in Government of India, as competent authority. The Central Government may refer such matters to the CVC to tender its advice.

(Para-1.6 of CVC Manual-2021 & Para-207 of IRVM-2018)

3.7.3 Departmental proceedings:

The Commission tenders its advice at two stages:

(a) First Stage Advice (FSA):

The Commission is required to be consulted:

- (1) in all cases where vigilance angle is present and in respect of the public servants specified in Section 8(2) of [CVC Act, 2003](#) [Category-A], after conclusion of preliminary inquiry / investigation and before the issue of charge-sheet;
- (2) where an Investigation Report on a complaint forwarded by the Commission has been called for, the CVO is required to submit the Investigation Report to the Commission for advice;
- (3) in following cases for public servants other than Category-A:
 - (i) in Composite cases, wherein public servants other than Category-A [i.e. Category-B] are also involved along with those belonging to Category-A and wherein vigilance angle is present.
 - (ii) Where there is difference of opinion between the CVO and the Chief Executive of the Organisation, the matter is required to be referred to the Commission for advice (refer to Para-3.3.2 (b) above).

(Para-1.6.3 (a), Chapter-1 of CVC Manual-2021)

- (iii) If any group 'A' officer working on deputation in DFCCIL is involved, the Investigation Report is to be sent to CVC for first stage advice in the prescribed Performa (Annexure-VI) containing (i) Brief history of the case, (ii) Tabular statement Annexure-VI (a), (iii) Index Annexure-VI (b), (iv) Check list Annexure-VI (c), (v) Assurance Memo by the CVO Annexure-VI (d), (vi) Bio- Data of the Suspected Official Annexure-VI (e), (vii) Enquiry Report Annexure-VI (f), (viii) Draft Charge Sheet, through Ministry of Railways/ Administrative Ministry with appropriate recommendations for initiating disciplinary proceedings.

- (iv) Cases of permanent employees of DFCCIL of up to two level below the Board (E-8 and above) is required to be sent to CVC for first stage advice by the CVO in the prescribed Performa (Annexure-VI) and its enclosures as mentioned in para (ii) above) but these cases need not be routed through Ministry of Railways.

(b) Second Stage Advice (SSA):

- (1) In all such cases where First stage advice has been tendered, on conclusion of oral inquiry after issue of charge-sheet but before a final decision is taken by competent authority, the Commission is required to be consulted for second stage advice. (Subject to exception & exemptions mentioned below)
- (2) Further, in respect of other cases where there is difference of opinion between the CVO and the Disciplinary Authority, the Commission is also required to be consulted.

Exception: -

In respect of a Presidential appointee, if the Disciplinary Authority proposes a penalty and where UPSC is required to be consulted, the Commission's advice is not required. However, in respect of a Presidential appointee, if the Disciplinary Authority proposes exoneration, the Commission's second stage advice is required to be obtained.

[\[CVC Circular No. 17/12/12 dated 07.12.12 & Circular No.02/03/21 dated 08.03.21\]](#)
(Para-1.6.3 (b), Chapter-1 of CVC Manual-2021)

3.7.4 Reconsideration of advice:

Commission may be consulted for reconsideration of its 1st stage or 2nd stage advice. The Commission entertains the reconsideration proposal **only for one time at each stage** and strictly when there are new facts which have not been considered by the Commission earlier. Such proposals would be entertained only if submitted within one month after receipt of Commission's first stage advice.

The Commission would not entertain any proposal for reconsideration of its 2nd stage advice.

[\(CVC Circular No. 008/VGL/027 dated 09.09.2020 and 06.08.2020\)](#)
(Para-1.6.4, Chapter-1 of CVC Manual-2021)

3.7.5 Deviation from / non-implementation of Commission's advice:

- (a) When the Disciplinary Authority deviates from or does not implement Commission's advice, the CVO may bring it to the notice of the Commission. The Commission may consider it for inclusion in its Annual Report as a case of non-implementation of Commission's advice.
- (b) When the Appellate Authority's order is at variance with Commission's advice, the CVO may forward a copy of Appellate Authority's Order to the Commission. The Commission may consider it for inclusion in its Annual Report as a case of non-implementation of Commission's advice.

(Para-1.6.5, Chapter-1 of CVC Manual-2021)

3.7.5 A Consultation with DoPT where advice of Commission is not accepted:

In terms of the guidelines issued vide [DoPT's OM No. 118/ 2 /7 8- AVD\(I\) dated 28.09.1978](#) and re-iterated vide their [OM No. 1 19/2/2019-AVD-III dated 02.09.2019](#), the Department of Personnel and Training (DoPT) is required to be consulted before the Ministries / Departments finally decide to differ from or not to accept any recommendation of the

Commission in those cases which relate to Gazetted Officers for whom the appointing authority is the President

(Para-1.6.5A, Chapter-1 of CVC Manual-2021)

3.7.6 Exemption from consultation in certain circumstances:

- (a) In complaints referred by the Commission for investigation and report, if after investigation it is found that the officials involved in the case do not fall under the jurisdiction of the Commission, the case need not be referred to the Commission and may be dealt with by the CVO. However, the action taken by the CVO on the CVC referred complaint may be intimated to the Commission in order to monitor compliance. ([CVC circular No.009/VGL/056 dated 28.01.10](#))
- (b) In respect of composite cases wherein the Commission had tendered its first stage advice for all categories of officers involved, second stage advice of the Commission should be sought only in the case of officers falling within the jurisdiction of the Commission. With respect to officers not falling under the jurisdiction of the Commission, the case should be dealt at the level of the CVO, and referred to the Commission for second stage advice only if the DA's opinion is at variance with the Commission's advice. This procedure would also apply to CBI investigated cases involving officials not falling under the jurisdiction of the Commission wherein the Commission had rendered its advice (cases where there were differences between the CBI and the DA and which were referred to the Commission for advice). ([CVC circular No.009/VGL/056 dated 28.01.10](#))
- (c) In cases where the disciplinary authority (DA), on conclusion of disciplinary proceedings, proposes to impose a penalty which is in line with the Commission's first stage advice in respect of officers falling within the jurisdiction of the Commission, the second stage consultation with the Commission is not required. However, the CVO in all such cases is required to forward a copy each of the IO's findings and the final order issued by the DA in the case for Commission's record. ([Circular No. 08/12/14 dated 03.12.2014](#))
- (d) In cases involving Gazetted officers below Group 'A' of the Central Government, in which the Commission has tendered its first stage advice prior to the enactment of [CVC Act, 2003](#), the matter need not be referred to the Commission for second stage advice if the disciplinary authority, on conclusion of the disciplinary proceedings, proposes to impose a penalty which is in line with the Commission's first stage advice, provided that none of the officers involved in that matter is an officer of All-India Service or a Group 'A' officer. The case, however, may be referred to the Commission for its advice if the disciplinary authority proposes to take action, which does not conform to the Commission's first stage advice, (or it differs with the recommendation of the CVO with regard to the quantum of punishment to be imposed).

([CVC Circular No.98/VGL/15 dated 16.04.04](#))

(Para-1.6.6, Chapter-1 of CVC Manual-2021)

3.7.7 Expectations from CVO while delegating powers under para-3.7.6 above:

While delegating powers to the Ministries / Departments / Organisations vide para 3.7.6, to handle vigilance cases against certain categories of employees, the Commission expects that (i) appropriate expertise would be available to the CVOs; (ii) the CVO would be in a position to exercise proper check and supervision over such cases and would ensure that the cases are disposed of expeditiously; and (iii) the punishment awarded to the concerned employee would be commensurate with the gravity of the misconduct established on his part. In order to ensure that the Commission's expectations are fully met, the Commission may depute its officers to conduct vigilance audit through onsite visits and also review it through the monthly information system (monthly reports), etc. If the Commission comes across any matter, which in its opinion has not been handled

properly, it may recommend its review by the reviewing authority or may give such directions as it considers appropriate.

(Para-1.6.7, Chapter-1 of CVC Manual-2021)

Disclaimer

The vigilance administration under CVC has been dealt in detail in Chapter-1 of CVC Vigilance Manual-2021, which may be referred to, in case of any doubt/clarification. However, in this Manual only important aspects have been highlighted.

NOTES / MODIFICATIONS

CHAPTER-4

RAILWAY'S VIGILANCE ORGANISATION AND ITS ROLE

4.1 PRESENT STRUCTURE OF THE VIGILANCE ORGANIZATION IN INDIAN RAILWAYS

The Vigilance Organization on Indian Railways is headed by Principal Executive Director (Vigilance) [earlier known as Adviser, Vigilance], who is the Chief Vigilance Officer, Ministry of Railways, and reports to Chairman, Railway Board. He is a link between the Ministry of Railways and CVC. He is in the rank of Additional Secretary, Government of India. He is assisted by a team of Officers & staff in the Vigilance Directorate of Railway Board. At present, there are five Executive Directors belonging to the Accounts, Engineering, Electrical and S&T, Stores & Traffic disciplines – they are in turn assisted by Directors / Joint Directors/Deputy Directors. There is also a post of Director Vigilance (P), which has traditionally been manned by IPS officers.

(Para-103.1 of IRVM-2018)

The CVO of DFCCIL is expected to maintain liaison with the Principal Executive Director (Vigilance) on regular basis.

At the level of Zonal Railways, the Vigilance Organization is headed by the Senior Deputy General Manager (SDGM), who is also designated as the Chief Vigilance Officer of the Zonal Railway. In Production Units & Public Sector Undertakings attached to the Ministry of Railways, the Vigilance Organization is headed by a Chief Vigilance Officer (although the CVC refers to the CVOs as Vigilance Officers only). The CVO reports directly to the General Manager /Head of the Unit. He is generally in the rank of Joint Secretary to the Government of India. He is assisted by Vigilance officers drawn from various disciplines of Railway services – Chief Vigilance Officers (Senior Administrative Grade), Dy. Chief Vigilance Officers (Selection Grade /Junior Administrative Grade), Vigilance Officers (Senior Scale) and Assistant Vigilance Officers (Junior Scale) – and inspectors, watchers, office staff etc.

(Para-103.2 of IRVM-2018)

In the case of small units/PSUs, it may not always be possible to have a full time Chief Vigilance Officer. In that case, an officer with relatively less executive responsibilities is made in-charge of Vigilance work in that unit – in such cases, it is to be ensured that he is not given additional charge of sensitive matters, like dealing with tenders, selections, arbitrations, etc. In the case of small attached units, a contiguous unit having a full-fledged Vigilance set-up is made responsible for Vigilance functions of that unit as well.

(para-103.3 of IRVM-2018)

There is also a full-fledged enquiry organization under the administrative control of SDGM, to deal with D&A (Discipline & Appeal) enquiries arising from Vigilance cases. This organization is manned by Enquiry Officers (Sr. Scale), Assistant Enquiry Officers (Junior Scale) and Enquiry Inspectors.

(Para-103.4 of IRVM-2018)

4.2 FUNCTIONS & RESPONSIBILITIES OF VIGILANCE FUNCTIONARIES IN RAILWAY BOARD

While it is difficult to outline an exhaustive list of functions & responsibilities of Vigilance functionaries, as the sphere of Vigilance is ever evolving, an indicative list is as under:

- i) Undertake prompt investigation of authenticated complaints, with special emphasis on Presidential & PMO references, CA-iii references (Procedure for handling CA-iii references has been included as Annexure 1.6), CVC-referred complaints, complaints appearing in the media and serious complaints, involving malafide intent, sent by members of the public.
- ii) Carry out checks, with follow-up investigations, on serious cases of irregularities, based on source information.
- iii) Ensure speedy processing of Vigilance cases at all stages. Undertake regular review of these cases.
- iv) Ensure that charge sheets are prepared accurately, without any loopholes, and relevant documents are carefully sorted out and sent promptly to the Inquiry Officer.
- v) Ensure prompt appointment of the Presenting Officer (PO) and the Inquiry Officer (IO) for DAR inquiries.
- vi) Ensure that DAR inquiries are conducted expeditiously by Inquiry Officers, who are under the administrative control of SDGMs.
- ix) Process the IO's report properly and expeditiously for obtaining final orders of the Disciplinary Authority.
- viii) Ensure that the Central Vigilance Commission (CVC) is consulted at all relevant stages (detailed in chapter-II & VI), in an expeditious manner.
- ix) Ensure prompt submission of returns to CVC.
- x) Maintain close liaison with CVC, CBI and the Department of Personnel & Training.
- xi) Take appropriate and expeditious action with regard to Court cases.
- xii) Ensure that proper assistance is given to CBI for investigation of cases.
- xiii) Develop a system of collecting intelligence about malpractices being committed in the Organization.
- xiv) Scrutinize reports of Parliamentary Committees, Audit Reports, proceedings of both Houses of Parliament, news items in the media, annual property statements, etc. to obtain information about irregularities that pertain to the Organization.
- xv) Keep a close watch on the functioning & integrity of personnel in the Vigilance department itself.
- xvi) Undertake review of existing rules & procedures, with a view to plug loopholes and suggest systemic improvements to curb corruption.
- xvii) Maintain close surveillance on officials of doubtful integrity, and those who are on the 'Agreed' and 'Secret' lists
- xviii) Arrange regular and surprise inspections at sensitive work units, which are susceptible to corruption.
- xix) Monitor adherence to aspects of Conduct Rules relating to integrity.
- xx) Disseminate awareness about Vigilance, through Vigilance bulletins, seminars, workshops, lectures, etc.
- xxi) Undertake regular inspection of the Vigilance branch

(Para-104 of IRVM-2018)

The above list applies mutatis mutandis to the vigilance functionaries of DFCCIL also.

4.3 Duties of the CVOs in the Railways

- i) The duties and functions mentioned in para 4.2 for the CVO of the Ministry of Railways would also ipso facto be applicable to the CVOs of Zonal Railways to the extent they are concerned with these functions
- ii) In addition to the functions stated in (i) above, the CVOs will scrutinize all the complaints and source information received in zonal vigilance. They will further ensure that a time schedule is drawn up by the concerned Dy. CVOs/VOs with their VIs, for all the investigations to be conducted by Railway Vigilance and that all such investigations are finalized promptly and the investigation reports submitted to Railway Board in the cases involving gazetted officers within a period not exceeding three weeks in case of PIDPI complaints and two months in case of other CVC referred complaints.
- iii) The CVOs will also carry out a periodical review of all the DAR cases with the CPO / Dy.CPO/Gaz, etc.
- iv) CVO must also ensure that preventive checks are carried out and the minimum number prescribed in this regard viz. 40 preventive checks per year per Vigilance Inspector is strictly observed. Some of the preventive checks should also be carried out by the Dy.CVOs/VOs/ AVOs personally.
- v) The CVO must also carry out inspection of his Vigilance Branch at least once a year.
- vi) They must also ensure that enquiries by the EO/ EIs (Vig.) and other Enquiry Officers are conducted expeditiously and that EO (Vig./EI (Vig.) submits four enquiry reports per months
- vii) Periodical meeting should also be held with the Dy.CVOs/VOs with a view to discussing pendency and expediting disposals.
- viii) Periodical meetings should be held with SPs/SPE/CBI concerned.
- ix) To frame, review and furnish periodically the agreed list, the secret list, and the list of undesirable contact persons to Railway Board.
- x) To appoint Dy.CVOs/VOs/ AVOs and EOs after obtaining the approval of the CVO of the Ministry of Railways.
- xi) To ensure that the tenure of VOs/VIs is not normally exceeded and no extensions are granted without prior specific approval of the Authority.
- xii) To ensure that the Dy.CVOs /VOs etc., including the CVO himself do not sit on any Tender Committee or Selection Committees as per rules in force.
- xiii) Periodical Lectures and talks with officers DRMs/HODs, and Staff in Zonal Training School to spread Vigilance education.

(Para-105 of IRVM-2018)

The duties assigned to CVOs and Vig. Executives in Railways are relevant in the context of CVO & other Vigilance Officials of DFCCIL as well and can be used as reference.

The CVO of Ministry of Railways plays an important role in overall vigilance management in respect of Senior officers of DFCCIL. No proceedings can be initiated against any incumbent of the level of Director and above by CVO/DFCCIL, since these are handled by the Ministry of Railways through its own CVO. However, where the CVO of Railway Ministry asks for factual report from CVO/ DFCCIL, appropriate action shall be taken to furnish the same.

All Vigilance reports addressed to the Secretary/Railway Board are handled in the vigilance wing of Railway Ministry, which is supervised by CVO (PED/Vigilance at

present), Ministry of Railways. Further in the case of disciplinary proceedings against Railway officers, the role of CVO of Ministry of Railways becomes extremely important as such cases are routed through him. It is therefore necessary that CVO/DFCCIL maintains regular interaction with CVO/ Ministry of Railways i.e. PED/Vigilance/Rly. Board.

Most of the senior officers are on deputation in DFCCIL from the Ministry of Railways. Major penalty proceedings under DAR against these officers can only be undertaken by the competent DA in Ministry of Railways. Further, many enquiries relating to DFCCIL are routed through the Ministry of Railways. Therefore, proper liaison has to be maintained with the vigilance wing of the Ministry of Railways to ensure necessary co-ordination. A copy of monthly, quarterly and annual report should be invariably endorsed to CVO, Ministry of Railways.

It is also advisable that reconciliation of complaints with Ministry of Railways is carried out from time to time by the DFCCIL vigilance.

4.4

Vigilance Bulletin

A Vigilance bulletin is brought out periodically on Zonal Railways. It highlights major vigilance cases involving irregularities, violation of rules and procedures, malpractices, misuse of powers etc. as detected during vigilance checks and investigations. It also contains write-ups on policy matters and guides Railway personnel on extant rules & procedures, helping them to avoid possible mistakes

(Para-111 of IRVM-2018)
Chpater-1 of IRVM 2018

Annexure - 1.6

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)
Office Order No. 28 of 1997

Sub:- Level and time limit for disposal of CA - iii references received by MR/ MOS(R)

Queries are being received by Chasing Cell from various officers and Branches regarding the level of disposal of CA-iii references addressed to Minister of Railways/Minister of State for Railways.

2. At present, the following categories are being marked by MR/MOS(R) Cell on the letters received in their respective Secretariats:-

Category-A	All Communications received from VIPs viz President of India, Vice-President of India, Governors, Central Ministers, Ministers from States, MPs, MLAs and Councillors
Category-B	Letters received from other VIPs like Ex-Central Ministers, Ex-Ministers from States and Ex-MPs etc.
Category-M	All communications on which MR/ MOSR's remarks are made.
Category-C	Letters seen by PS to MOS (R) but not covered under A, B and M above
Category-O	All communications received in MR/MOS(R) Secretariat, but not covered under A, B, M and C above.

- Draft replies or position in respect of communications marked Categories "A" and "M" are to be put up to MR / MOS (R) for consideration.
- Draft replies or position in respect of communications 'B' to be put up to MR/MOS(R) secretariat in the light of Office Order No. 52 of 1996.
- Reference under Category 'C' and 'O' may be disposed of at the level of AMs/Executive Directors/Directors/Jt. Directors concerned, depending on the merits of the case.
- As laid down under Office Order No. 23 of 1997, replies to the communications should be issued within 10 days where no information is required from the Railways, and within 15 days where information is required to be obtained from Railways.
- Kindly ensure strict compliance of the above instructions.

(Prakash Gokhale)
Deputy Secretary (Parliament)
No. 88/CS/CDN/1799 - Dated 03.06.1997

NOTES / MODIFICATIONS

CHAPTER 5

CENTRAL BUREAU OF INVESTIGATION

5.1 EVOLUTION

Special Police Establishment [SPE] was set up in 1941 to investigate bribery and corruption in transactions of the War and Supply Department of India during World War II with its Headquarters in Lahore. Delhi Special Police Establishment Act was brought into force in 1946 which enlarged its scope to cover all Departments of the Government of India. Its jurisdiction extended to the Union Territories and could be further extended to the States with the consent of the State Governments involved. Central Bureau of Investigation (CBI) was set up through a Home Ministry Resolution No. 4/31/61-T dated 01.04.1963 & SPE became one of the constituents of CBI. The Central Government has been empowered under Section 5 to extend to any area (including Railway area) in a State not being a Union Territory, the powers and jurisdiction of members of the DSPE for the investigation of any offence or classes of offences specified in a notification under section 3 of the DSPE Act subject to the consent of the Government of the concerned State, under section 6 of the Act.

(Para-301 of IRVM-2018 & Para-6.1 of CVC Manual-2021)

5.2 JURISDICTION OF CBI vis-a-vis STATE POLICE

The Special Police Establishment of CBI (Anti-Corruption Division) enjoys with the respective State Police Force concurrent powers of investigation and prosecution under the Code of Criminal Procedure, 1973. However, to avoid duplication of effort, an administrative arrangement has been arrived at with the State Governments according to which: -

- a) Cases, which substantially and essentially concern Central Government employees or the affairs of the Central Government, even though involving State Government employees, are to be investigated by the SPE. The State Police is, however, kept informed of such cases and will render necessary assistance to the SPE during investigation;
- b) Cases, which substantially and essentially involve State Government employees or relate to the affairs of a State Government, even though involving certain Central Government employees, are investigated by the State Police. The SPE is informed of such cases and it extends assistance to the State Police during investigation, if necessary. When the investigation made by the State Police authorities in such cases involves a Central Government employee, the requests for sanction for prosecution of the competent authority of the Central Government will be routed through the SPE. (Refer to Chapter 17 of CBI Crime Manual).

(Para-302 of IRVM-2018 & Para-6.2 of CVC Manual-2021)

5.3 PRESENT STRUCTURE, JURISDICTION & FUNCTIONS OF CBI

5.3.1 At present, CBI has the following Divisions:-

1. Anti-Corruption Division
2. Economic Offences Division
3. Special Crimes Division
4. Directorate of Prosecution/ Legal Division
5. Administration Division

6. Policy & Coordination Division

7. Central Forensic Science Laboratory

5.3.2 CBI derives its power of investigation from the Delhi Special Police Establishment (DSPE) Act, 1946. As per section 2 of the Act, DSPE has the jurisdiction to investigate offences in Union Territories only. However, its jurisdiction can be extended by the Central Government to other areas, including Railways and States. As per section 3 of the Act, the Special Police Establishment is authorised to investigate only those cases, which are notified by the Central Government in the Official Gazette from time to time. Offences under the Bharatiya Nyaya Sanhita (BNS)-2023 have also been notified by the Central Government in this regard. Cases under the Prevention of Corruption Act, 1988 & PC Amendment Act 2018, are investigated by CBI under the superintendence of the Central Vigilance Commission.

5.3.3 Director/CBI, as Inspector General of Police, Delhi Special Police Establishment, is responsible for the administration of the organisation. He has been provided security of tenure of two years by the CVC Act, 2003. The CVC Act also lays down the mechanism for selection of Director, CBI, and other officers of the rank of SP and above in CBI.

5.3.4 CBI functions under the Department of Personnel, Ministry of Personnel, Pension & Public Grievances, Government of India. The following broad categories of criminal cases are handled by the CBI: -

1. Cases of corruption and fraud committed by public servants of all Central Government Departments, Central Public Sector Undertakings and Central Financial Institutions.
2. Economic crimes, including bank frauds, financial frauds, Import, Export & Foreign Exchange violations, large-scale smuggling of narcotics, antiques, cultural property and smuggling of other contraband items, etc.
3. Special Crimes, such as cases of terrorism, bomb blasts, sensational homicides, kidnapping for ransom and crimes committed by the mafia/ underworld.

(Para-303 of IRVM-2018)

5.4 ENQUIRY/INVESTIGATION BY CBI

5.4.1 Enquiry or investigation into Complaints alleging corruption and related malpractices is taken up by CBI either after verification of information collected from its own sources [SIR-Source Information Report] or obtained from the members of the public or from public servants or on the basis of complaints referred to them by the Commission, administrative authorities or the courts.

5.4.2 Once a decision has been taken to refer the case to Special Police Establishment [SPE/CBI], unless there are special reasons to the contrary, the complaints, which are to be investigated, should be handed over to them at the earliest stage. Apart from other considerations, it is desirable to do so to safeguard against the possibility of the suspect public servant tampering with or destroying incriminating evidence against him/her. The SPE, however, should not take up inquiries or register a case where minor procedural flaws are involved. They should also take a note of an individual officer's positive achievement so that a single procedural error does not cancel out a lifetime of good work. However, law does not bar investigation of such cases.

5.4.3 In cases, in which the information available appears to be authentic and definite so as to make out a clear cognizable offence or to have enough substance in it, the C.B.I. may register a regular case (R.C.) straightaway under Section 173 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023.

5.4.4 If the available information appears to require verification before formal investigation

is taken up, a Preliminary Enquiry (P.E.) may be made in the first instance. As soon as the Preliminary Enquiry reveals that there is substance in the allegations, a regular case may be registered.

However, detailed instructions laid down by the Constitution Bench of Hon'ble Supreme Court in 2013 in the case of Lalita Kumari Vs. Govt. of UP & Ors. (2014) 2 SCC 1, listing out certain category of cases in which Preliminary Enquiry might be carried out, may be kept in view.

[\(Please see link of operative part of the judgment\)](#)

5.4.5 In cases, in which the allegations are such as to indicate, prima facie, that a criminal offence has been committed but Special Police Establishment are not empowered to investigate that offence, the case should be handed over to the local police authorities.

5.4.6 The SPE will normally take into confidence the head of the Department or office concerned, before taking up any enquiry (PE or RC) or as soon as after starting the enquiry as may be possible according to the circumstances of each case. This will also apply in case a search is required to be made of the premises of an officer.

(Refer para 15.13-Chapter-15 of Crime Manual of CBI)
(Para-304 of IRVM-2018 & Para-6.5 of CVC Manual-2021)

5.4.7 Forwarding copies of FIR/PE Registration Report to administrative authorities:

As soon as the Preliminary enquiry (P.E.) or a Regular case (R.C.) is registered, a copy of the P.E. Registration report or the F.I.R. will be sent by the SPE confidentially to the head of the Department and/or the administrative Ministry concerned and the Chief Vigilance Officer of the organisation concerned. In the case of officers of Public Sector Enterprises or Public Sector Banks, etc., a copy of the P.E.R.R. (Preliminary Enquiry Registration Report) or the F.I.R. will be sent to the head of the Organization concerned.

(Para-304.6 of IRVM-2018 & Para-6.5.8 of CVC Manual-2021)

5.4.8 The results of investigation of the PE and/or RC would be one of the following: -

- i) The results are grave enough to launch prosecution – in such cases, sanction for prosecution will be processed. [This aspect has been dealt with in detail in forth coming Para 5.12 of the DFCCIL Vigilance Manual].
- ii) Sufficient evidence may not be available to launch prosecution but facts of the case may warrant departmental action – in that case, CBI will forward its report to CVC and the concerned Department/ Ministry (in case of gazetted officers)/ two level below Board i.e. E-8 & E-9, and to the concerned Department/Ministry only (in case of non-gazetted officials/ upto E-7 level officials). Details are spelt out in forth coming Para 5.14 of the DFCCIL Vigilance Manual.
- iii) **No irregularity is observed** - CBI decides to close such cases and advises CVC and the concerned Department/Ministry (in case of gazetted officers)/ two level below Board i.e. E-8 & E-9 and to the concerned Department/Ministry only (in case of non-gazetted officials/upto E-7 level officials of DFCCIL) about it.

(Para-304.7 of IRVM-2018)

5.4.9 The administrative authorities also receive complaints/information regarding alleged irregularities of public servants working in their jurisdiction. These authorities have to decide whether the allegations should be looked into departmentally or by the CBI. As a general rule, trap cases, allegations involving offences of bribery, corruption, forgery, cheating, criminal breach of trust, falsification of records, cases involving outsiders or other serious criminal offences or those requiring expert Police Investigation (such

as cases of possession of disproportionate assets or cases in which a number of non-official witnesses are to be examined) should be referred to the CBI for investigation. A prompt reference is necessary in such cases to safeguard against the possibility of a suspect officer tampering with or destroying incriminating evidence against him.

(Para-304.8 of IRVM-2018)

- 5.4.10** Once a case is referred to and taken up by CBI for investigation, further investigation must be left to CBI. Parallel departmental investigation should be avoided. Further action by the Department should be taken on CBI's recommendation in the matter.

(Para-304.10 of IRVM-2018)

5.5 CO-OPERATION WITH CBI

Administrative authorities are expected to cooperate fully with CBI, especially with regard to the following aspects: -

(Para-305 of IRVM-2018 & Para-6.9 of CVC Manual-2021)

5.5.1 Records

The utmost cooperation is required in the matter of supplying necessary records. In case of other than classified records, the Head of Department should ensure that the SP/CBI or his authorized representative is shown all relevant records. In case CBI asks for original documents, this should be ordinarily made available, while keeping in view that day-to-day departmental work is not hampered – if required, the departmental authority may keep an attested or photostat copy of these documents. Records should be made available promptly – within 15-30 days of receiving CBI's request in order to avoid delay in CBI's investigations. If it is not possible to hand over records within a month owing to some special reasons, the matter should be brought to the notice of CBI by the authority which has the records, specifying reasons for such delay. The authority should also inform the Chief Vigilance Officer of the concerned Ministry.

(Para-305.1 of IRVM-2018)

- 5.5.2** In case of classified/graded documents/ records, sanction of the Competent authority to release these documents should be obtained promptly by the concerned administrative authority. Then, the following guidelines should be adhered to:-

- i) Top secret documents should be handed over only to gazetted officers of CBI (it may be noted that inspectors of CBI are not gazetted officers).
- ii) Secret and confidential documents should be given to gazetted officers of CBI or an inspector of CBI, if he is specially authorized by SP/CBI for this purpose.
- iii) A temporary receipt should be obtained whenever any graded document is handed over to an officer of CBI, who will be asked to comply with provisions of Para 27 (a, b, c & e) of the pamphlet, "Classification and Handling of Classified Documents, 1958".
- iv) The originator of the graded documents/record should also be informed.
- v) Where original documents cannot be made available to the Investigating Officer, he should be given photostat/attested copies, along with a certificate by an officer that the original documents are in safe custody, out of the reach of the suspect official and that these will be produced whenever required.

(Para-305.2 of IRVM-2018 & Para-6.9 (g) of CVC Manual-2021)

5.5.3 Witness

If the CBI requests for the presence of any official for examining him during an

investigation, the administrative authority should direct him accordingly. If it is not possible for him to be present on the specified date and time, then the administrative authority should inform CBI about it and direct the official to appear before CBI at the earliest opportunity. The CBI ordinarily examines a gazetted officer at the place where he is posted, unless he has to be shown a number of documents, the movement of which is considered hazardous.

(Para-305.3 of IRVM-2018)

5.5.4 Accommodation, communication and transport facilities

The investigating officers of CBI should be provided with suitable accommodation in Rest Houses on payment, as applicable in case of officers on duty. They should also be provided with transport and communication facilities at extant rates.

(Para-305.4 of IRVM-2018)

5.6 ACTION TO BE TAKEN WHEN BRIBE IS OFFERED

5.6.1 Occasions may arise when a public servant is offered or is likely to be offered bribe. It is not enough for him to refuse the bribe and later report the matter to higher authorities. When he suspects an offer of bribe, he should tactfully postpone meeting the bribe-giver and contact SP/CBI or SP/Senior most police officer of his district, for laying a trap. The Head of the Department should also be informed about it. If it is not possible to lay a trap, the bribe-giver may be detained for some time and any person(s) who are readily available may be requested to witness the transaction and overhear the conversation between the bribe-giver and the public servant.

5.6.2 The Head of the Department should maintain an impartial position. He should not act as an agent of the CBI, either by arranging for money or by being a witness to the transaction.

(Para-306 of IRVM-2018)

5.7 TRAP CASES

5.7.1 Whenever CBI desires to lay a trap for a public servant who is expected to accept a bribe, it will give prior information to the concerned Head of the Department/Office. In case circumstances do not permit, CBI will furnish details of the case to the Head of the Department/Office immediately after the trap.

- i) During the trap, it is essential that responsible and impartial person(s) witness the transaction and/or overhear the conversation of the suspected public servant. All public servants, particularly Gazetted officers, should assist and witness a trap, whenever they are approached by the CBI to do so. Refusal to assist or witness a trap will be regarded as breach of duty, making the officer liable to disciplinary action. On the request of CBI, the Head of the Department /office will depute a suitable person(s) to be present at the scene of the trap.
- ii) The Public servants who are caught accepting a bribe in a trap case by the CBI/Police should invariably be placed under suspension. The total period of suspension will not exceed 6 months in normal circumstances.

(Para-307 of IRVM-2018)

5.8 SUSPENSION

5.8.1 CBI may recommend to the concerned Disciplinary Authority, either during the course of investigation or while suggesting prosecution/ departmental action, that the suspected officer may be suspended. A decision in this matter should be taken after careful examination of the case. Public interest should be the sole guiding factor and

the Disciplinary Authority should take into account all relevant factors before deciding whether or not to suspend the official. However, it may be appropriate to place a Public servant under suspension in the following conditions:-

- i) Where continuance in office of the Public servant will prejudice the investigation, trial or inquiry (e.g. apprehended tampering with witnesses or documents);
- ii) Where the continuance in office of the Public servant is likely to adversely affect discipline in his office;
- iii) Where the Public servant is involved in a public scandal and it is necessary to place him under suspension to demonstrate the policy of the Government to deal strictly in such matters;
- iv) Where serious allegations have been made against the Public servant, and the preliminary inquiry has revealed a prima-facie case against him, that would justify his prosecution or major penalty departmental proceedings, and where the proceedings are likely to end in his conviction and/or dismissal, removal or compulsory retirement from service.

5.8.2 Suspension may also be desirable in certain cases of misdemeanor, for example, moral turpitude, embezzlement or misappropriation of Government money, possession of disproportionate assets, misuse of official powers for personal gain, serious dereliction of duty resulting in considerable loss to the Government, desertion of duty, refusal or deliberate failure to carry out orders of superior officers, etc.

(Para-308.1 & 308.2 of IRVM-2018)

5.8.3 Revocation of Suspension in CBI/ACB cases

Such suspension cases should closely be monitored by the Suspending Authorities and can be taken up for revocation at the appropriate time, keeping in view the provisions contained in D&A Rules to this effect including the following: -

- i) CBI/ACB should be consulted before revocation of suspension;
- ii) where the proceedings (Court/ Disciplinary) lodged against the public servant is not likely to be concluded shortly, say within two to three months;
- iii) Where delay in finalization of proceedings is not attributable to the charged officials;
- iv) After the official's suspension is revoked, he should be transferred to a place which is sufficiently far-off from the place where he was trapped so that he does not hamper the proceedings;
- v) This will apply to all DFCCIL Officials including Deputationists (Gazetted/Non-Gazetted).

5.8.4 An order revoking the suspension in case of Deputationists (Gazetted/Non-Gazetted) involved in CBI/ACB trap cases also be endorsed to the Vigilance Directorate of the organization concerned/Railway Board/Zonal Railway, invariably.

(Para-308.3 & 308.4 of IRVM-2018)

5.9 TRANSFER OF AN OFFICER ON THE REQUEST OF CBI

5.9.1 CBI may request for the transfer of a public servant when it is investigating serious charges against him. This recommendation is made when it is absolutely necessary for the purpose of investigation. CBI specifies reasons for the request, which is made by an officer, not lower in rank than SP.

5.9.2 When the concerned Department has administrative difficulties in meeting this request, then the matter should be discussed and settled at the local level. However, if differences

remain, then discussion should be done at a higher level. If differences still persist, then the matter should be discussed by the Administrative Ministry with the Joint Secretary, Administrative Vigilance Division, Department of Personnel.

- 5.9.3 Such transfers should be tackled by balancing the need for discretion on the part of the concerned Ministry and facilitating smooth investigation by CBI.
(Para-309 of IRVM-2018)

5.10 ASSISTANCE TO CBI BY TECHNICAL OFFICERS

CBI may require assistance of technical officers, e.g. engineers, accountants etc., in cases which are of technical nature. The concerned Administrative Ministry/Department / Undertaking should fully cooperate with CBI in this matter, when a request is received from it. In the Vigilance Department of DFCCIL, separate Vigilance Cells exist to deal with matters pertaining to all departments – personnel of these cells should assist the CBI, when asked to do so. CBI also takes the assistance of the Chief Technical Examiners' Organization, which functions under the CVC, in cases of Civil & Electrical works and Stores purchase contracts.

(Para-310 of IRVM-2018)

5.11 PROSECUTION

Prosecution should be the general rule in cases of bribery, corruption or other criminal misconduct or cases involving substantial loss to public funds, which are found fit to be sent to Court after investigation.

(Para-311 of IRVM-2018)

5.12 PREVIOUS SANCTION FOR CRIMINAL PROSECUTION

[Subject to modification in the context of "[The Prevention of Corruption \(Amendment\) Act, 2018](#)" notified on 26.07.18]

(Para-312 of IRVM-2018)

- 5.12.1 **Requirement of sanction:** Section 19 of the [Prevention of Corruption Act, 1988](#) lays down that no Court shall take cognizance of an offence punishable under Sections 7,10,11,13 and 15 of [Prevention of Corruption Act, 1988](#) alleged to have been committed by a Public Servant, except with the previous sanction of the authority competent to remove him from his office.

(Para-312.1 of IRVM-2018 & Para-6.7.1 of CVC Manual-2021)

It may be noted that the requirement of previous sanction under section 19 of Prevention of Corruption Act, 1988 was earlier necessary only in respect of serving public servants, however, with amendment of the Prevention of Corruption Act, 1988 in 2018, sanction is also required in respect of retired public servants under the PC Act.

(Para-6.7.1 of CVC Manual-2021)

- 5.12.2 **Guidelines for the Sanctioning authorities:** On receipt of a request for grant of Previous sanction necessary for prosecution under section 19 of Prevention of Corruption Act, 1988 from the CBI or other investigating agencies and while processing such requests, all the Ministries/ Departments/Organisations shall take decisions expeditiously and in accordance with the guidelines issued by the Commission vide [CVC Circular No. 005/VGL/11 dated 12.05.05](#), [28.03.12](#) and [25.05.15](#).

(Para-312.2 of IRVM-2018 & Para-6.7.2 of CVC Manual-2021)

- 5.12.3 The Hon'ble Supreme Court has in its judgements in various cases, particularly in the

cases of Vineet Narain & Ors. Vs UOI, 1997 [1 SCC 226] and CBI Vs Ashok Kumar Agarwal, 2013, [2014] AIR SCC 827, laid down detailed guidelines to be observed while considering request for grant of sanction for prosecution. Commission vide Circular No. 005/VGL/11 dated 12.05.05, 28.03.12 and 25.05.15 has summarized the Supreme Court's guidelines which are to be observed by the administrative authorities while considering request for grant of sanction for prosecution.

As per the directions of the Apex Court, a time limit of 3 months has been fixed for grant or refusal of sanction for prosecution and 4 months where the opinion of Attorney General or of any other law officer in AG's office is sought.

The Commission in terms of its powers and functions under section 8(1)(f) of the [CVC Act, 2003](#) directs all administrative authorities to scrupulously follow the guidelines while considering and deciding requests for sanction for prosecution.

(Para-312.3 of IRVM-2018 & Para-6.7.2 of CVC Manual-2021)

5.12.4 The guidelines as summarized in the CVC [Circular No. 005/VGL/11 dated 12.05.05](#) are hereunder:-

- i) Grant of sanction is an administrative act. The purpose is to protect the public servant from harassment by frivolous or vexatious prosecution and not to shield the corrupt. The question of giving opportunity to the public servant at that stage does not arise. The sanctioning authority has only to see whether the facts would prima facie constitute the offence.
- ii) The competent authority cannot embark upon an inquiry to judge the truth of the allegations on the basis of representation which may be filed by the accused person before the Sanctioning Authority, by asking the I.O. to offer his comments or to further investigate the matter in the light of representation made by the accused person or by otherwise holding a parallel investigation / enquiry by calling for the record / report of his Department.
- iii) When an offence alleged to have been committed under the P.C. Act, has been investigated by the SPE, the report of the IO is invariably scrutinised by the DIG, IG and thereafter by Director (CBI). Then the matter is further scrutinised by the concerned Law Officers in CBI.
- iv) When the matter has been investigated by such a specialized agency and the report of the IO of such agency has been scrutinised so many times at such high levels, there will hardly be any case where the Government would find it difficult to disagree with the request for sanction.
- v) The accused person has the liberty to file representations when the matter is pending investigation. When the representations so made have already been considered and the comments of the IO are already before the Competent Authority, there can be no need for any further comments of IO on any further representation.
- vi) A representation subsequent to the completion of investigation is not known to law, as the law is well established that the material to be considered by the Competent Authority is the material which was collected during investigation and was placed before the Competent Authority.
- vii) However, if in any case, the Sanctioning Authority, after consideration of the entire material placed before it, entertains any doubt on any point, the Competent authority may specify the doubt with sufficient particulars and may request the Authority who has sought sanction to clear the doubt. But that would be only to clear the doubt in order that the authority may apply its mind properly and not for the purpose of considering the representations of the accused which may be filed while the matter is pending sanction.

(Para-312.4 of IRVM-2018 & Para-6.7.3 of CVC Manual-2021)

5.12.5 The guidelines issued vide Commission's [Circular No.005/ VGL/11 dated 25.05.15](#) are hereunder:-

- i) The prosecution must send the entire relevant record to the sanctioning authority including the FIR disclosure statements, statements of witnesses, recovery memos, draft charge-sheet and all other relevant material. The record so sent should also contain the material / document, if any, which may tilt the balance in favour of the accused and on the basis of which, the competent authority may refuse sanction.
- ii) The authority itself has to do complete and conscious scrutiny of the whole record so produced by the prosecution independently applying its mind and taking into consideration all the relevant facts before grant of sanction while discharging its duty to give or withhold the sanction.
- iii) The power to grant sanction is to be exercised strictly keeping in mind the public interest and the protection available to the accused against whom the sanction is sought.
- iv) The order of sanction should make it evident that the authority had been aware of all relevant facts / materials and had applied its mind to all the relevant material.
- v) In every individual case, the prosecution has to establish and satisfy the Hon'ble court by leading evidence that the entire relevant facts had been placed before the sanctioning authority and the authority had applied its mind on the same and that the sanction had been granted in accordance with law.

(Para-312.5 of IRVM-2018 & Para-6.7.4 of CVC Manual-2021)

5.12.6 Procedure for sanction for prosecution of DFCCIL Officials:

Prior sanction for prosecution of a public servant before a Court of Law for acts of criminal misconduct is required to be accorded by the competent authority either under Section 218 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS). When the CBI is of the view that prosecution should be launched, and if such sanction is required under the law to be issued in the name of the President, it forwards copies of its investigation report to CVC and the Railway Board/DFCCIL and requests the **Ministry of Railways/DFCCIL** to accord sanction for prosecution of a **Railway servant/DFCCIL official (as the case may be)** charged for such offences, with complete particulars and documentary evidences to enable the competent authority to comprehend the gravity of the misconduct and to take a suitable decision by independent application of mind. The competent authority to grant sanction for prosecution is the one who is competent to remove the public servant from service at the time of launching of the proceedings.

(para-312.6 of IRVM-2018)

5.12.7 It is mandatory to obtain CVC's advice in such cases involving a gazetted officer who is a Presidential appointee, namely, a Group 'A' officer. CVC's advice is also required in composite cases, involving Group 'A' officers and Group 'B' officers/non-gazetted officials. However, if the case pertains to **Group 'B' officers and/or non-gazetted officials and/or upto E-7 level officials of DFCCIL, CVC's advice would not be necessary unless the **Ministry of Railways/ DFCCIL** proposes to differ from CBI's recommendation to grant sanction.**

(para-312.7 of IRVM-2018)

5.12.8 In case of permanent employees of DFCCIL of up to two level below the Board (E-8 and above), CVC's advice is also required to grant sanction for prosecution.

In case of up to E-7 level **officials of DFCCIL**, sanction for prosecution lies within the competence of Appointing Authority in DFCCIL.

5.12.9 In case the Competent Authority for sanction of prosecution is the President, the CVC will advise the Ministry/Department and after considering the advice of CVC, that Authority will take a decision as to whether or not the prosecution should be sanctioned. In case the authority decides to sanction prosecution, then it issues a Speaking Order in this regard, the layout of which has been standardized and communicated to all Vigilance Wings of the Ministry of Railways vide letter No.97/V-1/VP/1/2 Pt.A dated 17.12.2003. This is detailed in **Annexure 5.1** to this chapter. **In case the competent authority proposes not to accept CVC's advice of either grant or decline of sanction of prosecution, then the case should be referred to the Department of Personnel & Training (DOPT) for final decision.** Where two or more Government servants belonging to different Ministries/Departments or under the control of different cadre controlling authorities are involved, the CBI will seek sanction from the respective Ministries/Departments or the respective competent authorities in accordance with the procedure laid down in the above paragraphs. **Where sanction is granted in the case of one of the Govt. servants but sanction is refused in the case of the other or others, the CBI will refer the case to DoPT for resolution of the conflict, if any, for final decision. In this regard, the [DoPT OM No.372/6/2017-AVD-III dated 01.03.2019](#) shall be referred as detailed in Annexure 5.2 to this chapter**

(para-312.10 of IRVM-2018)

([Amendment No.01 issued vide Rly. Bd's letter No.2019/V1/IRVM/1/2 dated 04.10.19](#))

5.12.10 Sanction for prosecution for a retired public servant, with respect to offences committed by him/her while he/she was in service, will be as per provisions of ["The Prevention of Corruption \(Amendment\) Act, 2018"](#) notified on 26.07.18.

(para-312.11 of IRVM-2018)

5.12.11 In cases where there are several co-accused, and sanction for prosecution for a few of them is required to be issued in the name of the President and, for others, by other authorities, the CBI sends its final report in such cases in respect of all the accused officers to CVC, and simultaneously endorses copies of the report to the concerned Ministries/Departments. In the case of Presidential sanction for prosecution, the procedure as described earlier will be followed. As regards to other officers, CVC advises the concerned competent authorities to accord sanction for their prosecution. In such cases, the CBI will not file charge sheets in a piecemeal manner. All charge sheets will be filed together by CBI in the Court(s) having competent jurisdiction against the officers involved, after sanction for prosecution has been received for all the concerned officials.

(para-312.12 of IRVM-2018)

5.12.12 In cases where the MD/DFCCIL or their subordinates are the sanctioning authority, the case along with all relevant papers, comments on CBI's report (if not agreed to, then with reasons thereof) should be forwarded to Railway Board/CVC within 15 days of receiving the report.

(para-312.13 of IRVM-2018)

5.12.13 The sanction for prosecution of Group 'A' officers and Group B officers officiating in Senior Scale is within the competence of Minister of Railways, while that of Group 'B' officers is within the competence of the concerned Board Member.

(para-312.14 of IRVM-2018)

5.12.14 The authorities competent to issue sanction for prosecution for Group C officers in the Zonal Railway are ADRMs, Branch Officers, PHODs and General Managers according to the rank and posting of the officials.

(Ref:-Rly. Bd's D.O. Letter No.97/V1/Meet/6/2 dated 14.12.1998)

(Para-312.15 of IRVM-2018)

- 5.12.15 In cases where the officers of Indian Railways are on deputation in DFCCIL, the case along with all relevant papers, comments on CBI's report (if not agreed to, then with reasons thereof) should be forwarded to Railway Board/Zonal Railways within 15 days of receiving the report.
- 5.12.16 The authorities competent to sanction for prosecution for permanent employees of DFCCIL shall not below the rank of their appointing authority or as per existing Schedule of Power of DFCCIL.
- 5.12.17 The formal sanction for prosecution order for Officers is issued by the Secretary Branch in Railway Board as per format in Annexure 5.1.

5.13 WITHDRAWAL OF PROSECUTION

- 5.13.1 Once a case has been lodged in a Court for prosecution, it should be allowed to proceed to its logical end. However, the investigating agency or the public prosecutor can initiate a proposal for withdrawal of prosecution for some legal reasons. In such cases, the Ministry of Law should be consulted and its advice accepted.
- 5.13.2 The accused can also request for withdrawal of prosecution. This request should generally not be entertained, except when certain fresh facts have arisen or attention is drawn to hitherto unnoticed facts, which might alter the contours of the case. The Ministry of Law should be consulted in such cases.
- 5.13.3 In cases in which prosecution was sanctioned on the advice of CVC, the Commission should be consulted again before the matter is referred to the Law Ministry.
- 5.13.4 Rule 7 of the [Government of India \(Transaction of Business\) Rules](#), read with item (g) of the 2nd Schedule to these Rules, provides that any proposal to withdraw prosecution (which was instituted by the Government of India) in contravention of the competent legal advice (i.e. advice of the Ministry of Law), should be brought before the Cabinet.

(Para-313 of IRVM-2018)

5.14 DEPARTMENTAL ACTION ON CBI's INVESTIGATION REPORT RECOMMENDING DEPARTMENTAL ACTION

- 5.14.1 In cases where the available evidence is insufficient for criminal prosecution and offences are less serious, the CBI forwards its investigation report to the concerned Ministry/Department, recommending Regular Departmental Action (RDA).

(Para-314.1 of IRVM-2018 & Para-6.6 of CVC Manual-2021)

- 5.14.2 In case of such official who are/were on deputation in DFCCIL, the copy of the report, along with copies of relied upon documents (or their gist/extracts), as received from CBI is/ shall be forwarded/sent to the Head of his parent organization for further necessary action at their end.
- 5.14.3 In case of E-8 & E-9 level of **DFCCIL officials**, one copy of the report, along with copies of relied upon documents (or their gist/extracts) is sent by CBI to CVC. The CBI also sends copies of the report to concern organization and to CVO.
- In case of up to E-7 level **officials of DFCCIL**, CBI forwards its report to the concerned Disciplinary Authority. No further departmental fact-finding should normally be necessary in such cases. However, should any clarification/ additional information be required, CBI may be requested to furnish it.
- 5.14.4 The CBI's report is a confidential document and should not be produced before the Inquiry Officer or a Court of Law. Privilege can be claimed in a Court of Law under Section

123/124 of the Evidence Act or Section 129 & 130 of the Bharatiya Sakshya Adhiniyam, 2023 (BSA). No direct reference should be made about the CBI's report in the statements/ affidavits filed in the Courts of Law. Reference to these statements/ affidavits may be restricted to the material which is contained in the charge sheet served on the accused public servant.

(Para-314.4 of IRVM-2018)

5.15 **SUPPLY OF DOCUMENTS BY CBI TO THE DISCIPLINARY AUTHORITY**

In order to avoid delay in initiating action on CBI's report, the concerned SP/CBI sends the Relied Upon Documents to the Chief Vigilance Officer of the concerned organization, as soon as CBI's report is dispatched to the concerned organization. Ordinarily, these are original documents, with CBI keeping Photostat copies thereof. However, in case the CBI does not wish to part with the original documents, it sends attested copies of these documents, or their extracts or a gist of their contents. In case the disciplinary authority wishes to see the original documents, CBI may be requested to make them available for inspection. In case these documents are not capable of being copied or of getting a gist prepared, the disciplinary authority may inspect these documents in consultation with CBI. In case certain documents, required for the RDA, are held up in a Court of Law, CBI will persuade the Court to part with the documents temporarily or to give photostat copies thereof. However, if this is not possible and if the accused public servant insists on seeing the original documents, then the possibility of inspecting these documents in the Court should be examined, in consultation with CBI.

(Para-315 of IRVM-2018)

5.16 **DRAFT CHARGE SHEET**

In cases where RDA is recommended by CBI, its investigation report may be accompanied by the draft Articles of Charges, statement of imputations, list of relied upon documents and witnesses. In case draft charge sheet has not been sent by the CBI, the same may be drafted by the concerned organization along with list of exhibits /witnesses, etc. However, where the departmental functionaries, owing to the technicalities or intricacies involved in a case, face a real/genuine problem or difficulty in preparing charge-sheets, the same can be taken up with the CBI appropriately. Needless to say that such instances should be few and far between i. e. exceptions only. A copy of the charge sheet, as served on the charged official, will be endorsed to CBI.

(Para-316 of IRVM-2018 & Para-6.6.1 (a) of CVC Manual-2021)

5.17 **APPOINTMENT OF PRESENTING OFFICER**

- 5.17.1 The Disciplinary Authority may appoint an officer, as the Presenting Officer (PO) simultaneously with the appointment of the Inquiry Officer (IO), in order to avoid delays. The investigating officer should not be appointed as the Presenting Officer.
- 5.17.2 PO shall be appointed from within the organization, even in cases investigated by the CBI.
- 5.17.3 The PO needs to attend every hearing, but in case he cannot be present on any occasion, the DA has to appoint a substitute PO, not below the PO's rank, to present the case. This substitute PO should not have associated him/herself with investigation of the case at any stage.

- 5.17.4** In case CBI requests that the Investigating Officer of the case should be associated with the departmental inquiry, then the IO will inform the local Head of the CBI about the date of inquiry and ask the investigating officer to meet him on a suitable date in advance, along with all relevant records, so that he can assist the IO by explaining the case and clarifying points of doubt, if any. The Investigating Officer will be shown the written statement of defence and asked to offer his remarks thereupon. His assistance may also be taken to secure relevant records and ensure the presence of witnesses. However, it is not appropriate to associate the Investigating Officer formally with the inquiry process, as this would not let the inquiry process remain purely departmental. However, if the IO considers it useful, without any prejudice to the defence, then he may ask CBI to depute any officer, other than a lawyer or the Investigating Officer, to be present at the inquiry. This officer will lead the evidence by examining witnesses and cross-examining defence witnesses.

(Para-317 of IRVM-2018)

5.18 DOCUMENTS TO BE MADE AVAILABLE TO CBI AFTER DEPARTMENTAL PROCEEDINGS

The following documents should be made available to CBI on conclusion of Departmental proceedings: -

- i) A copy of CVC's advice.
- ii) A copy of IO's report and disagreement memo, if any.
- iii) A copy of UPSC's advice and the Disciplinary Authority's view on it.
- iv) A copy of the final order passed by the Disciplinary Authority.

(Para-318 of IRVM-2018)

5.19 DIFFERENCE OF OPINION BETWEEN CBI AND ADMINISTRATIVE AUTHORITIES

- 5.19.1** In case of E-8 & E-9 level of DFCCIL officials, CBI sends a copy of its investigation report to CVC, which advises the concerned Administrative Ministry about the form of action, after obtaining its comments (1st stage advice). Also, on conclusion of the D&AR inquiry, if there is a disagreement of DA with CVC's first stage advice, the IO's report, along with disagreement memo, if any, and DA's provisional views are sent to CVC, which advises about the final action to be taken in the matter (2nd stage advice). The Disciplinary Authority normally acts in accordance with CVC's advice, in which case there would not be any difference of opinion between CBI and the Administrative Authority (i.e. if CVC has agreed with CBI's recommendation). However, in case there is a difference which persists, then ultimately the view of the Disciplinary Authority will prevail. In case his view is different from that of CVC, then it shall be the prerogative of CVC to include it as a case of non-compliance of its advice, in its Annual Report, which is tabled on the floor of both Houses of Parliament.

(Para-319.1 of IRVM-2018 & Para-6.7.7 of CVC Manual-2021)

- 5.19.2** In case of up to E-7 level of DFCCIL Officials, if there is a difference of opinion between CBI and the concerned Administrative Authority, then the case will be referred to CVC. The CVC will examine the case thoroughly, and after going through all relevant records and evidence, it will tender its advice in the matter. The Disciplinary Authority normally acts in such a manner that there is no difference of opinion between CBI and the Administrative Authority. However, in case there is a difference which persists, even after

reconsideration once by CVC, then ultimately the view of the Disciplinary Authority will prevail. In case his view is different from that of CVC, after one time reconsideration by CVC, then it shall be prerogative of CVC to include it as a case of non-compliance of its advice, in its Annual Report, which is tabled on the floor of both Houses of Parliament.

(Para-319.2 of IRVM-2018 & Para-6.7.7 of CVC Manual-2021)

5.20 GRANT OF IMMUNITY/PARDON

- 5.20.1** In case of E-8 & E-9 level of DFCCIL officials, if the CBI finds during an investigation that a public servant has made a full and true disclosure implicating him/herself and others, and that such statement is free from malice, it may recommend to CVC that the person may be granted immunity from departmental action or punishment. CVC will consider CBI's recommendation, in consultation with the concerned Administrative Authority, and will tender its advice in the matter. CBI will follow CVC's advice.

(Para-320.1 of IRVM-2018 & Para-6.8 of CVC Manual-2021)

- 5.20.2** In case of up to E-7 level of DFCCIL Officials, CBI may send a similar recommendation to the concerned Ministry/organization. If there is a difference of opinion between CBI and the Ministry/ organization, then the matter will be referred to CVC for resolution.

(Para-320.2 of IRVM-2018 & Para-6.8 of CVC Manual-2021)

5.21 LIAISON BETWEEN CBI AND THE ADMINISTRATIVE AUTHORITIES i.e. DFCCIL

It goes without saying that there is a strong need for close liaison and cooperation between CBI and Vigilance Officers of Ministries/ Departments. This is required both at the macro level (to monitor progress of cases in totality) and the micro level (i.e. on a case-to-case basis). Also, both the CBI and Vigilance officers receive information about activities of officials from various sources - such information should be cross - checked, so that officials of both wings are well informed about developments. Both agencies should move in tandem to combat the menace of corruption.

(Para-321 of IRVM-2018 & Para-6.10 of CVC Manual-2021)

5.22 ASSISTANCE IN PREPARATION & MAINTENANCE OF AGREED LIST.

The Agreed List of public servants of Gazetted status and DFCCIL officials having rank of DGM (E-5) and above against whose honesty or integrity there are complaints, doubts or suspicion, is prepared in consultation with the CBI by the Departments / Organisations to keep a secret watch on them. The guiding principles for preparation and maintenance of Agreed List is derived from paras 7 to 9 of [Ministry of Home Affairs' OM No. 130 / 1 / 66-AVD dated 05.5.1966](#). The manner of consultation with the CBI and the mode of keeping watch on the officers have been spelt out in para 5.8 and 5.11 of Chapter-5 of CBI Crime Manual.

(Para-6.11 of CVC Manual-2021)

5.23 ASSISTANCE IN PREPARATION & MAINTENANCE OF LIST OF OFFICERS OF DOUBTFUL INTEGRITY (ODI)

The list of Public Servants of Gazetted status and DFCCIL officials having rank of DGM (E-5) and above of Doubtful Integrity is maintained by the Departments / Organisations as per the scheme laid down in [Ministry of Home Affairs OM No. 105/1/66-AVD-I dated 28.10.1969](#). The CBI assists in addition or deletion of names in the ODI List as per the procedure laid down in paras 5.13 and 5.23 to 5.28 of Chapter-5 of CBI Crime Manual.

(Para-6.12 of CVC Manual-2021)

5.24 LISTS OF SUSPECTED DFCCIL Officials up to E-4 level.

The 'list of suspected DFCCIL officials up to E-4 level' is to be prepared to enable the DFCCIL for organizing preventive checks more fruitfully by concentrating on them where suspicion is aroused. The following procedure has been adopted for the preparation of these lists by the Railways.

- a) The lists should generally include DFCCIL officials up to E-4 level. Officials in lower grades employed in posts of sensitive nature and dealing with public especially in OP&BD, Stores, Engineering, S&T, Electrical, Finance/ HR/ Genl. Admin. Departments etc. are also to be covered.
- b) The lists are to be drawn personally by the Head of Departments, of the staff working under them, about whose integrity there is some suspicion or complaints and these will thereafter be passed on to the CVO/DFCCIL every year.
- c) The lists will be scrutinized by the CVO/Dy.CVO who can supplement by additional names, if required. These lists will be sent to MD/Directors for information every year.
- d) SP/SPE/CBI concerned, can also be consulted while drawing these lists to suggest any addition. These lists are meant only for preventive checks on the officials (borne on the List) activities, where they are posted.
- e) The Head of Departments will scrutinize the various transactions reported in Rule 12 and 18 of relevant Service Conduct Rules by the staff included in the lists (Chapter-IV of DFCCIL Conduct, Discipline and Appeal Rules, HR Manual).
- f) These lists will be revised every year.

(Para-323 of IRVM-2018)

5.25 LIST OF UNSCRUPULOUS CONTRACTORS, SUPPLIERS, FIRMS AND CLEARING AGENTS

The list will be prepared of unscrupulous contractors, suppliers, firms and clearing agents, who are suspected of indulging in corrupt practices. These lists are to be prepared by CVO in consultation with Director concerned. They need not be 'Agreed' Lists. Copies of these lists should be sent to the CBI for its information. The CBI on its part will pass on to the Departments, Undertakings or Administrations concerned any information regarding corrupt practices of contractors, suppliers, firms and clearing agents for their information and for considering as to whether the name of any such contractor, etc. should be brought on their lists. More details may be seen in Para-6.17 of CVC Vigilance Manual-2021.

(Para-322.17 of IRVM-2018 & Para-6.17 of CVC Manual-2021)

[\(Amendment No.05 issued vide Rly.Bd's letter No.2019/V1/IRVM/1/2 dated 03.02.22\)](#)

CHAPTER-5

DFCCIL AND THE ROLE AND FUNCTIONS OF THE CBI

ANNEXURE-5.1

Sub:- Standard layout of speaking order for grant of “sanction for prosecution” and “sanction order”.

A copy of the standard layout of the speaking order for grant of sanction for Prosecution and the sanction order is as below:-

(a) Standard lay-out of Speaking Order for Grant of sanction for Prosecution

“I have gone through the investigation report of the CBI/(Name of the CBI Zone) in case No. RC _____ against Shri/Smt. _____ (name and designation) as well as other relevant records/aspects of the case. After careful consideration of the matter in the light of full facts and records of the case, I am of the considered view that this is a fit case for launching prosecution proceedings against Shri/Smt. _____ (name and designation) in the competent Court of Law. Sanction is hereby accorded for prosecution of Shri/ Smt. _____ (name and designation).”

(Designation of Sanctioning Authority)

(b)
GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
DFCCIL

No. RC.....

SANCTION ORDER
(Facts of the case)

And whereas, the said act constitutes the commission of offences punishable under section 7 and 13(2)r/w 13(1)(d) of Prevention of Corruption Act, 1988 (Act 49 of 1988).

And whereas the President of India being the Competent Authority for removing the said (Name and Designation) from service, after fully and carefully examining the materials i.e. records relevant to the said allegations placed before him, and considering the facts and circumstances of this case, considers that the said (Name) should be prosecuted in the Court of Law for the said offence/offences.

Now, therefore, the President of India does hereby accord sanction u/s 19(1) of Prevention of Corruption Act, 1988 for the prosecution of the said (Name and Designation) for the said offences and any other offences punishable under other provisions of law in respect of the aforesaid facts and for taking cognizance for the said offences by the court of competent jurisdiction.

BY ORDER AND IN THE NAME OF THE PRESIDENT OF INDIA

Place: New Delhi
Date: (Name)
Joint Secretary (Establishment)
Railway Board

ANNEXURE-5.2

No.372/6/2017-AVD-III

Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel and Training
AVD(AVD-III)

North Block, New Delhi

Dated 01 March, 2019

OFFICE MEMORANDUM

Subject:- Guidelines for dealing with disagreement between Disciplinary Authority and Central Vigilance Commission in cases for granting sanction for prosecution

In supersession of this Department's OM No. 134/2/85-AVD-I dated 15/17-10-1986, the following guidelines are laid down for strict compliance while dealing with disagreement between the Disciplinary Authority (DA) and the Central Vigilance Commission (CVC) in cases of granting Sanction for Prosecution.

2. The work relating to according of Central Government's sanction for the prosecution of any person in a case investigated by the Central Bureau of Investigation (CBI) which was centralised in the Department of Personnel and Training, has since been decentralised and vested in the Ministry/Department concerned vide Cabinet Secretariat's Notification No. CD-826/86, dated the 30th September, 1986.
21. The CBI recommends prosecution of persons only in those cases in which they find sufficient justification for the same as a result of the investigation conducted by them. There are adequate internal controls within CBI to ensure that a recommendation to prosecute is taken only after a very careful examination of all the facts and circumstances of the case. Hence, any decision not to accord sanction for prosecution in such cases should, therefore, be for very valid reasons.
22. The following guidelines may be kept in view while dealing with cases of sanction of prosecution:
 - (i) In cases in which sanction for prosecution is required to be accorded in the name of the President, the CVC will advise the Ministry/Department concerned and it would be for that Ministry/Department to consider the advice of the CVC and to take a decision as to whether or not the prosecution should be sanctioned;
 - (ii) In cases in which an authority other than the President is competent to sanction prosecution, and that authority does not propose to accord such sanction, it is required to report the case to the CVC and take further action after considering the CVC's advice, in terms of the Section 8(1)(g) of CVC Act, 2003; (ref: Corrigendum dated 18.07.2019)

- (iii) In a case falling under (i) above, if the CVC advises grant of sanction for prosecution but the Ministry/Department concerned proposes not to accept such advice, the case should be referred to this Department for final decision;
 - (iv) In a case falling under (i) above, if the CVC declines sanction for prosecution but the Ministry/Department concerned proposes not to accept such advice and proposes to grant sanction for prosecution, the case should be referred to this Department for a final decision.
 - (v) In a case falling under (ii) above, if the CBI has sought sanction for prosecution and the CVC has recommended grant of sanction, and yet the competent authority proposes not to grant sanction, the case should be referred to the concerned administrative Department for final decision at the level of the Minister-in-charge;
 - (vi) Where two or more Government servants belonging to different Ministries /Departments, or under the control of different cadre controlling authorities are involved, the CBI will seek sanction from the respective Ministries/Departments or the respective competent authorities in accordance with the procedure laid down in the above paragraphs. Where sanction is granted in the case of one of the Govt. servants but sanction is refused in the case of the other or others, the CBI will refer the case to this Department for resolution of the conflict, if any, for final decision.
3. This issues with the approval of Competent Authority.

(Sign. of Authority)
Manmeet Kaur
Under Secretary (AVD-III)
01123094541

NOTES / MODIFICATIONS

CHAPTER-6

PREVENTIVE VIGILANCE

6.1 THE CONCEPT OF PREVENTIVE VIGILANCE

(i) Concept:

It is adoption of a package of measures to improve systems and procedures to eliminate / reduce corruption, promote transparency and ease of doing business.

(ii) Who is required to implement preventive vigilance measures?

Preventive vigilance involves systemic improvements which besides reducing corruption also lead to better operational results. It is a tool of management and good governance and therefore, it is the duty of the management as a whole, and not of the CVO alone. Indeed, it can be said that it is the duty of every employee.

(Para-401 of IRVM-2018 & Para-10.2 of CVC Manual-2021)

6.2 CAUSES OF CORRUPTION:

Preventive vigilance is aimed at identifying, tackling/addressing the root cause of corruption within the organisation.

The common causes of corruption, inter alia, could be:

- a. Excessive regulation & licensing.
- b. Complicated rules and regulations.
- c. Monopoly over delivery of goods / services.
- d. Lack of transparency.
- e. Lack of accountability.
- f. Too much discretionary power.
- g. Poor regulatory framework.
- h. Poor grievance redressal mechanism.
- i. Very low rate of detection of corruption.
- j. Lack of condemnation of corrupt practices by the public.
- k. Absence of a formal system of inculcating values, ethics & integrity.
- l. Inadequacy of regular / periodic/surprise checks
- m. Rigid bureaucratic framework / processes.
- n. Lack of awareness about rights, duties, procedure to complain, rules, laws, etc.

(Para-401.1 of IRVM-2018 & Para-10.2.1 of CVC Manual-2021)

6.3 POTENTIAL AREAS OF CORRUPTION:

Preventive vigilance is aimed at tackling the areas vulnerable to corruption within the organisation. Although potential areas of corruption are specific to organisations / sectors, there are some broad areas common to all organisations, which need special attention while putting in place a system of preventive vigilance. These relate to:

(a) Procurement:

Procurement is a vast area ranging from procurement of store materials & services to execution of infrastructure projects. It is one of the major corruption prone areas in all organisations.

(b) Sale of goods and services:

The disposal of goods (the reverse of procurement) and services is also a major area of corruption in some organisations. Similarly, allocation of scarce and / or precious natural resources is an area of corruption.

(c) Human resource management:

Human resource management is common to all organisations and the processes relating to recruitment, promotion, transfer and posting are prone to manipulation and corruption.

(d) Delivery of services to public:

Although not common to all Public Sector Organisations, major Government Departments are involved in delivery of services which are a potential area of corruption.

(e) Enforcement:

The enforcement of Acts, Rules and Regulations is also an area vulnerable to corruption mainly due to lack of awareness among citizens and ineffective grievance redressal mechanism.

(Para-402 of IRVM-2018 & Para-10.3 of CVC Manual-2021)

6.4 PREVENTIVE VIGILANCE MEASURES

Preventive vigilance measures can broadly be categorized as:

(a) Simplification and standardisation of rules

Simplification and standardisation of rules and procedures results in elimination of discretion and arbitrariness, which in turn reduces corruption. Identifying areas involving exercise of discretion which are not governed by guidelines together with a complete review of existing rules and regulations needs to be undertaken to introduce clarity and accountability. Similarly, simplification and standardisation of forms / application also reduces scope for corruption.

(b) Leveraging technology:

Technology as an enabler for fighting corruption has been effectively demonstrated. E-procurements, E-payments, use of websites for dissemination of information and creating awareness, use of CCTV in places of public dealing, use of GPS enabled devices / RFIDs, use of appropriate analytical tools, computer assisted audit techniques for detecting frauds are examples of how technology strengthens the system of preventive vigilance.

(c) Automation:

Using IT as an enabler for reducing corruption along with preventive vigilance. Automation reduces interface / interaction between public officials and common public. It also removes monopoly in delivery of services and personal discretion, reducing the opportunities for discretion thus leading to reduction in corruption. Therefore, the organisations should strive to reduce interface of officials with common public / customers by way of automation / online services. However, IT systems are not an end in themselves; they are the means to an end. It follows therefore that there is a need to develop a system of alerts as also a response mechanism.

(d) Business Process Re-engineering (BPR):

BPR is very important as it helps the organisations rethink how they do their work and, in the process, encourages a full-scale re-creation of processes in order to meet the objectives of the organisation. Existing processes may be re-engineered to even prevent leakage of revenue.

(e) Transparency:

Transparency removes the information gap between the public and public officials which in turn reduces corruption. The website of the Department / Organisation should contain rules & regulations, contact details of officials and all other information useful for common public / customers.

(f) Accountability:

There is no fear of punitive action due to lack of accountability. A system with clear accountability and assigned responsibility at each level is necessary not only for smooth functioning but increased transparency, efficiency and for ensuring effective punitive action in case of misconduct.

(g) Control & Supervision:

Regular and routine inspections, surprise inspections, audit and reviews keep a check on aberrant and corrupt behaviour. A list of points and areas prone to corruption will facilitate the purpose of organising checks and streamlining procedures. A structured interaction between vigilance and internal audit will enable better monitoring and also help identify potential problem areas.

(h) Early detection of misconducts:

Early detection of misconducts apart from bringing to light the damages to the system, will enable recouping the loss wherever possible and facilitate control of further damage.

i) Time-bound and effective punitive action:

Punitive (disciplinary or criminal) action within short period of occurrence of misconduct and finalisation of such cases in a time-bound manner resulting in award of exemplary and adequate (commensurate with gravity of misconduct) punishment deters others from committing such misconduct. Delays and inefficiencies in such proceedings encourages and emboldens others to take risk of committing misconduct under the belief that nothing would happen to them.

(j) Providing necessary infrastructural facilities:

Non-provision of adequate infrastructural facilities such as accommodation, conveyance, utilities, etc. also induce corruption.

(k) Training & Awareness:

Capacity building and sensitization at all levels and across all functional areas is important. Public officials should be made aware of their duties and responsibilities, code of conduct, rules and regulations through regular training and awareness programmes. A list of Dos & Don'ts for employees/ officials is a simple yet effective tool. Likewise, familiarization with Standard Operating Procedures relating to different spheres of activity will enhance awareness and reduce procedural violations / inadvertent errors arising out of a lack of awareness. Knowledge sharing initiatives such as publishing / circulating information relating to areas where fraud / misconduct has been detected and sharing information on best practices are other effective awareness generation methods for more effective preventive vigilance. There should also be an effort to create awareness among all stakeholders.

The training system of the organization should be made further robust by strong Induction and Mid-career training programmes. There is a need for institutionalization of a preventive vigilance module and exposure visits to bring in attitudinal change in the officers, in all the training programmes conducted by the organization for the newly inducted officers and mid-career training programme for in-service officers.

l) Conducive work environment:

Conducive work environment for preventive vigilance may include drawing up a list of sensitive posts, rotation policy for sensitive posts, identification of persons of doubtful integrity and keeping them away from sensitive posts / public dealing. It would be necessary also to create an environment that promotes ethical behaviour. Protection to Whistle Blowers must be ensured in order to bring to light cases of corruption.

(m) Awareness among public:

If public is made aware of their rights, and also of the rules and regulations, then they are able to resist unfair treatment and arbitrary behaviour by public officials. Public should be encouraged to demand the services due to them and to raise their voice when their rights are denied or powers are misused by public officers. Organisations should prominently display information relevant / useful to the common public on their office notice board / website.

n) Inculcating Moral Values:

Inculcating ethical behaviour among public, particularly the younger generation is an important tool of preventive vigilance. Vigilance Awareness Week (VAW) celebrated every year during the last week of October is aimed at creating such awareness. This opportunity should be utilized by all CVOs / Organisations to create awareness among public as well as among its own officials regarding need for imbibing right values.

(Para-403 of IRVM-2018 & Para-10.4 of CVC Manual-2021)

6.5 INTEGRITY PACT

6.5.1 Integrity Pact (IP) is an important tool of preventive vigilance which is aimed at preventing corruption and ensuring integrity in public procurement. The Central Vigilance Commission is the nodal authority for the implementation of Integrity Pact in India. It addresses not only bribery, but also other corrupt practices such as collusion and bid rigging. IP is a written agreement between the Government / Government Department / Government Company, etc. and all the bidders agreeing to refrain themselves from bribery, collusion, etc. If the written agreement is violated, the Pact describes the sanctions that shall apply. These include:

- (i) Loss or denial of contract;
- (ii) Forfeiture of the bid or performance bond;
- (iii) Liability for damages; (iv) Exclusion from bidding on future contracts (debarment); and
- (iv) Criminal or disciplinary action.

(Para-404.1 of IRVM-2018 & 10.5.1 of CVC Vigilance Manual-2021)

6.5.2 Integrity Pact has a monitoring system which provides for independent oversight. The Central Vigilance Commission nominates Independent External Monitors (IEMs) to monitor implementation of Integrity Pact. Thus, IP in its present form has three players-

- (i) The Principal or the Company / Department,
- (ii) The Vendor, and
- (iii) The Independent External Monitor (IEM).

(Para-404.2 of IRVM-2018 & 10.5.2 of CVC Vigilance Manual-2021)

- 6.5.3 (a) In order to ensure transparency, equity and competitiveness in public procurement, the Commission has been recommending adoption of Integrity Pact (IP) and implementation by Government organisations. CVC through its Office Order No. 41/12/07 dated 04.12.07 and No. 43/12/07 dated 28.12.2007 as well as Circular No. 24/08/08 dated 05.08.2008 recommended adoption of Integrity Pact to all the organisations and provided basic guidelines for its implementation in respect of major procurements in Government Organisations. A revised Standard Operating Procedure (SOP) has been issued by the Commission vide [Circular No. 04/06/23 dated 14.06.23](#).
- (b) The Commission issued clarifications regarding the appointment, tenure and eligibility criteria of IEMs. vide [Circular No. 04/06/23 dated 14.06.23](#).
- (c) Department of Expenditure vide [OM No. 14 \(12\)/2008– E-II \(A\) dated 19.07.11](#), issued guidelines to all Ministries / Departments/Organisations including their attached / subordinate offices and autonomous bodies for implementation of IP. Also, vide [OM No. 14 \(12\)/2008–E-II\(A\)dated 20.07.11](#), the Department of Expenditure requested Department of Public Enterprises for issuing directions to the Central Public Sector Enterprises for use of IP. Department of Public Enterprises vide [O.M.F.No. DPE/13\(12\)/11-Fin. Dated 09.09.11](#) issued directions for the use of Integrity Pact by Public Sector Undertakings (PSUs).

(Para-404.2 (a to c) of IRVM-2018 & Para-10.5.3 of CVC Manual-2021)

6.5.4 **Adoption of Integrity Pact-Standard Operating Procedure; Independent External Monitor:**

The Commission appointed a Committee in December, 2015 under the Chairmanship of Shri P. Shankar, the former Central Vigilance Commissioner to review the entire scheme of Integrity Pact. After considering the report of the Committee, the Commission has issued a revised Standard Operating Procedure for adoption of Integrity Pact in Government Departments / Organisations vide Circular No. 02/01/2017 dated 13.01.2017. In June, 2021, the Commission has comprehensively reviewed the Standard Operating Procedure of Jan, 2017 for adoption of Integrity Pact (IP) by all Government Organizations, Public Sector Enterprises, Public Sector Banks, Insurance Companies, other Financial Institutions and Autonomous bodies, etc. and has issued revised guidelines vide CVC Circular No.04/06/23 dated 14.06.23. It includes new SOP which would be applicable for adoption and implementation of the IP by the organizations concerned. The revised SOP is available in [CVC's Circular No. 04/06/23 dated 14.06.23](#).

[CVC Circular No. 04/06/23 dated 14.06.23](#) – SOP on Integrity pact (Annexure I)

(Para-404. of IRVM-2018 & Para-10.5.4 of CVC Manual-2021)

6.6 **PREVENTIVE VIGILANCE AREAS**

Each Vigilance officer/ official in DFCCIL is expected to conduct the sufficient number of checks every month in different sensitive areas as prescribed by CVO. The areas for Preventive checks are given under department-wise. However, these may not be treated as comprehensive and Vigilance officials should add/decide more areas based on experience and requirement.

6.7 **PREVENTIVE CHECKS- CIVIL, MECHANICAL, ELECTRICAL/S&T ENGINEERING AND STORES**

1. Surprise checks of original ground levels recorded by **DFCCIL Officials** in connection with execution of earthwork in major construction projects. These checks are to be

- taken up immediately after the levels are recorded by the **DFCCIL Officials**, but before the commencement of earthwork by the contractors.
2. Quality and quantity checks of running payments for earthwork based on lump sum measurements recorded by the **DFCCIL Officials**. These checks may be done in those unit/sub-unit where the **DFCCIL Officials** do not enjoy a good reputation. Payments done for earthwork carried out beyond design profile should also be checked.
 3. Checks on ballast supplies in regard to quality, quantity and gradation of ballast, particularly those taken along the cess. It is needless to say that such checks should be done immediately after the measurements have been recorded by the **DFCCIL Officials** in the Measurement Books and before the stacks are disturbed. It should be checked whether instructions regarding non-simultaneous collection and training out of ballast, maintenance of plot registers, stacking of ballast on level ground and height of stacks is being followed or not.
 4. In so far as ballast collections at the depots/station yards are concerned, the check should cover the quantity measured, quality and gradation of ballast, whether the ballast is being loaded fully in the hoppers/wagons and also whether the hoppers/wagons are completely emptied in the section. In case of wagon measurement, it is to be especially checked whether wagon is being loaded to predetermined level or not.
 5. Checks of hidden measurements in respect of bridge works, construction of building etc. should be carried out as far as possible, while the works are in progress and before the foundations are covered.
 6. Checks on stores of IMD & IMSD in-charges particularly on crucial items.
 7. Scrutiny of tender files, particularly those that have been dealt with by officers who do not enjoy a good reputation. Delays in finalization are to be critically examined. It should also be checked whether eligibility criteria have been correctly interpreted or not. In case of tenders for ballast supply, it should be checked whether test reports of ballast samples have been submitted or not, whether in the schedule mention of machine crushed/ hand broken ballast is there or not.
 8. Contracts should be especially checked whether all the items provided in the contract are being operated or not.
 9. Track works being executed through contractors need special checks, especially about quality of output and about misuse of DFCCIL labour by the contractor in connivance with DFCCIL officials. Released materials from the track renewals need to be checked.
 10. Quality and quantity checks on the works executed e.g. blanketing works, concreting works, brick works etc. Checks should also be conducted on raw materials being used. It should be checked whether contract conditions in regard to quality aspects are being implemented or not.
 11. Checks on materials with their drawing number (including P. Way fittings) being passed by material passing authorities.
 12. Checks on variations in quantities especially positive variation in abnormally high rated (AHR) items and negative variation in abnormally low rated (ALR) items.
 13. Checks on test checks conducted and their mention in Measurement Books /RFI.
 14. Quality check of supply of OHE materials with emphasis on size of OHE foundation, Catenary & Contact wires.
 15. Checks regarding quality and quantity of signalling /power cables utilized in new works.
 16. Checks regarding inspection of telecom materials viz telecom cables
 17. Scrutiny of contracts where variation is over and above 25%.

18. Scrutiny of tenders finalized beyond 30 days of original validity.
19. Online finalization of Tenders/Issuance of Letters of Acceptance (LoA) in IREPS.
20. Incorporation of standard Eligibility criteria (Min. Eligibility Criteria) in works and service contracts.
21. Quality of high-grade concrete i.e., M-25 & above.
22. Checking invoices of structural steels in Bridges including ROB/RUBs.
23. Checks on in house repair & AMC/ARC of S&T/Electrical/Mechanical/Civil Engg. equipment.
24. Accountal of high valued items.
25. Site inspection for items issued in large quantities.
26. Rewiring and augmentation of power supply works of service buildings to be scrutinized for quantity and quality.
27. Testing of all material supplied.
 - a. Irregularities in Inspection of Materials by consignee, RITES and RDSO.
 - b. Scrutiny of both Stock and Non-Stock Procurement.
 - c. Scrutiny of procurement of items having three or less vendors in the approved list of RDSO.
 - d. Verification of Import documents in cases of procurement through -Imports.
 - e. Checks of material lying on shop floor to ascertain whether they are accounted in UDM (User Deport Module).
 - f. Preventive check of GeM purchase > 10 Lakhs.
 - g. Observance of Guidelines/Circulars issued from Railway Board regarding procurement through GeM.
28. Checks to be carried out in the area where transformers and other machinery are getting repaired through the contractors.
29. Checks should also be exercised in mass rejection of material during execution on the shop floor.
30. Checks of estimates, particularly regarding the materials shown as to be released from the work and the quantities actually released. It is generally seen that for imported items like cables, the releases in the estimates are given on a very rough basis usually on the higher side and do not correspond to the actuals at site.
31. Misuse of DFCCIL staff/MTS and materials on the contractual work.
32. Checks on the materials inspected and received by consignees for the supplies received from trade including those from Government Undertakings.
33. Checks on purchase of stores as to proper assessment of quantity, mode of tendering, selection of firms, verification of antecedents of firms, examination of offers etc. Updating web-site with details of contracts concluded.
34. Checks on proper procedure of issue of tenders including bulletin tenders, availability of tenders on web-site, tender opening etc., maintenance of list of registered suppliers. Checks on records/ procedure in Sample section.
35. Checks on the Receipt and Inspection of Stores, for proper quantitative and qualitative inspection both in the Stores Depots and at consumer ends in respect of direct dispatch orders.
36. Checks on the local purchase both by the stores depots and the consuming departments

as to the genuineness of the sources of purchase and reasonableness of prices etc.

37. Checks on the stores held in stock both by the Stores Depots and by the imprest holders/consumers as to pilferages, misappropriation etc., pairing of issue notes, maintenance of proper accountal and checking pending stock sheets.
38. Duplicacy/Unrealistic assessment of work in Estimates and Tender schedule.
39. Monitoring coverage and usage of CCTVs and other Surveillance mechanisms.
40. Maintenance and upkeep of HABD (Hot Axel Box Detector).

6.8 Preventive check in OP&BD/Genl. Admin/Security.

- 1) All Operations and Business Development's works having financial implication and grey areas in their day-to-day working.
- 2) Checks on purchase of stores as to proper assessment of quantity Updating web-site with details of contracts concluded.
- 3) (ii) Checks on proper procedure of issue of tenders including bulletin tenders, availability of tenders on web-site, tender opening etc., maintenance of list of registered suppliers. Checks on records/ procedure in Sample section.
- 4) Checks on the Receipt and Inspection of Stores, for proper quantitative and qualitative inspection both in the Stores Depots and at consumer ends in respect of direct dispatch orders.
- 5) Checks on the local purchase both by the stores depots/Genl.Admin. and the consuming departments as to the genuineness of the sources of purchase and reasonableness of prices etc.
- 6) Checks on the stores held in stock both by the Stores Depots and by the imprest holders/consumers as to pilferages, misappropriation etc., pairing of issue notes, maintenance of proper accountal and checking pending stock sheets.
- 7) Checks on the disposal of scrap/ condemned material etc.

6.9 PREVENTIVE CHECKS-HUMAN RESOURCES DEPARTMENT

All Establishment Matters

- a. Selection and Promotion
- b. All facets of selection/promotions as laid down in codes/manuals and extant instructions.
- c. Recruitment
 - (i) Not offering employment in the order of merit from the list of duly empanelled candidates.
 - (ii) Failure to observe instructions regarding medical examination and verification of antecedents.
 - (iii) Passing over an empanelled candidate on flimsy grounds.
- d. Pay, Travelling/Medical Allowances and other admissible allowances.
 - (i) Recoveries of advances or deductions deliberately not made or postponed only for the favoured employees.
 - (ii) Drawals of house rent allowance even for employees in occupation of Railway/ Government quarters/Rest houses/inspection carriage. In such cases it will be found that there would be lack of co-ordination between the section drawing the bill and the section allotting quarters. Further, there would be a failure to obtain prescribed certificates from employees concerned.

- (iii) Excessive booking of staff for overtime without the supervisor exercising proper checks or bringing to the notice of officer in charge.
- e. Advances
 - (i) False declaration of purposes for which advances is required.
 - (ii) Deliberate failure by dealing staff to obtain certificate of proper utilisation of the advance.
 - (iii) Payment of instalments of House Building Advance against fraudulent certificates of utilisation progress.
- f. Verification of Service Record/Various Certificates of the candidates recruited through open market selection.
 - (a) Connivance of staff concerned who deliberately do not enter penalties, suspension etc. in the relevant columns of the service sheet.
 - (b) Deliberately ignoring orders of penalty withholding increments.
 - (c) Leave account of staff should be checked.
 - (d) Review of Service Records with particular reference to the manipulation of entries in the first page, missing photos.
 - g. Recording of entries of punishment in service records and its actual implementation.
 - h. Scrutiny of long absentee employee, verification of employee data in SAP
 - i. with muster roll/attendance and service records.
 - j. Crosscheck of list submitted by various units with respect to timely rotation of staff working on "Sensitive Posts".

6.10 **PREVENTIVE CHECKS - ACCOUNTS/FINANCE DEPARTMENT**

- a) Failed NEFT transactions and bankers cheques.
- b) Memorandum of Differences for salary payment.
- c) Bill passing of contracts and entries of MB.
- d) Reconciliation of payment of Deposit Works.
- e) Reconciliation of receipts through electronic mode. g) Report of pending RRs, deduction of surcharge and deposit of BG.
- f) Internal-check machinery in bill passing of contractors and suppliers claims.
- g) Check vendor/Party Master in SAP to weed out fake entities & expired/ contracts.
- h) Checking of Price variation Bills.
- i) Check of BG register.
- j) Whether there is delay in passing of bills, such as Stores Bills, Engineering Bills, S.S. Bills, OT Bills etc.
- k) Whether necessary checks are carried out on the bills received from different departments.
- l) Whether any preference is given in passing bills of any particular contractor or supplier.
- m) Whether necessary checks are carried out while passing pay sheets.
- n) Whether necessary checks are being exercised in passing TA bills, overtime bills, running allowance, night duty allowance bills etc.
- o) Whether recoveries are affected promptly, regularly and correctly in cases of advances, such as provident fund advance, cycle advance, fan advance, motor car advance, house building advance, festival advance etc (so far as accounts staff are concerned).

- p) Whether there is any delay in passing personnel bills, such as settlement dues etc.

6.11

PREVENTIVE CHECKS- TRAFFIC AND COMMERCIAL MATTERS

This is not an exhaustive list, but only indicative in nature.

1 Mis-declaration of Consignments: Contents of the consignment should be checked to find out if the consignee is misdeclaring the contents of the consignment for getting lower class rate or for booking the consignments in violation of any restriction or ban e.g salt for human consumption and salt for industrial use, bran, husk etc.

2 Placement of Wagons: The objective of this check is to ascertain whether rakes are placed on spurs at the station immediately on their arrival or otherwise. If there is any delay, it should be ascertained whether this delay is on account of reasonable operational reasons or otherwise. Line capacities for placement must be cross checked with the actual placements. Placement on open platforms, leaving covered sheds unutilized during a season other than the Monsoon season must be checked, to find out whether the practice was to save higher wharfage charges of a particular customer/ group of customers, or it was for some reasonable operational problems.

3 Electronic In-Motion Weighbridges (EIMW): The objective of this check is to ascertain whether weighbridge where rakes are weighed functional. It must be ensured that they are calibrated periodically or after any repairs and are being certified by legal metrology department. Further it may also be checked that proper data are input for wagons etc and also the speed of the train as should be maintained is being recorded. In case of failures action being taken for ensuring early rectification of faults in weigh bridge.

4 Overloading in wagons: Checks should be conducted to ascertain whether rakes are being weighed at weighbridges and result thereof is advised to the destination or otherwise. Realisation of undercharges (raised after the weighment) should be confirmed.

5 Delivery Book

(a) Checks should be conducted to ascertain whether 'short certificate' has been issued even when the consignee/authorized agent took delivery under clear signature.

(b) It should also be checked whether consignments have been delivered on Indemnity Notes even when the original Railway Receipt was lying with the Bank.

6 Adherence to contract conditions especially regards to ToT contracts and GCT terminals.

7 Receipt of Terminal charge (TAC) at GCT terminals.

CHAPTER-7

HANDLING AND PROCESSING OF COMPLAINTS

7.0 INTRODUCTION

A complaint is a piece of statement or information containing details about offences alleged to have been committed under the PC Act, 1988, or malpractice / misconducts under Conduct Rules governing specified categories of public servants.

7.1 COMPLAINTS BY PUBLIC AGAINST PUBLIC SERVANTS — ROLE OF COMPLAINANT

Combating corruption is not just a matter of making laws and creating institutions but is deeply rooted in human values and morals of individuals and the fight against corruption cannot be won without citizens' support, participation and active vigilance by all concerned. Public participation is, therefore, essential in promoting good governance, integrity and controlling corruption. The complainants can play an extremely important role in scrutinizing actions of government agencies & public servants and detection/ reporting of unethical, inappropriate conduct by them.

In order to ensure that the complaints have the desired effect and end in prompt and effective resolution of the issues involved, it is important that complaints are lodged with DFCCIL after taking care of certain aspects. For the guidance of public, the following points are highlighted which may result in prompt action on the complaints:

7.1.1 Guidelines for the Complainant

- a) The complaint should be pertaining to Dedicated Freight Corridor Corporation of India Ltd. (DFCCIL) falling within its jurisdiction.
- b) Complaints sent through written communication/letter should contain name and personal details, complete postal address (mobile/telephone number, if any) of the sender with specific details/information of the matter. Complaint should be signed by the Complainant.
- c) Complaints lodged with the DFCCIL/ Vigilance should be genuine and not malicious, vexatious or frivolous and should be based on verifiable facts.
- d) A complaint should preferably be lodged in typed or written form in English or Hindi language for facilitating early action thereon.
- e) The complaint should not be anonymous or pseudonymous.
- f) Complaint should be specific with adequate evidence.
- g) The complaint should not be biased or based on any personal grievances.
- h) Complaints sent on any e-mail ID of officers of the DFCCIL officials will not be entertained or taken cognizance of by the DFCCIL.
- i) The complainant should address the complaint directly to the CVO/DFCCIL
- j) Normally one specific issue should be raised in one complaint. However, if more than one specific issues are there, it is better to raise the same in separate complaint. Further, Complainants, while forwarding their complaints to the DFCCIL/ Vigilance, should mention details one by one in a coherent manner so that the same can be understood unambiguously.
- k) All types of complaints, even if printed or photocopied, should be clearly legible.

- l) The complainants should lodge complaints only regarding issues having vigilance angle and which are not part of any litigation in any courts, tribunals, etc., i.e. the matter should not be sub-judice.
- m) Complainants who want to keep their identity confidential should file complaint under the provisions of PIDP1 resolution. The complainants who want to make whistle blower complaint under PIDPI Resolution should familiarize themselves with the proper procedure of PIDPI Resolution. Details of PIDPI Resolution are mentioned in Chapter-VI of CVC Vigilance Manual-2021.

([Para-2.1 of CVC Circular No.25/12/21 dated 24.12.21](#))

7.1.2 Lodging of Complaints:

Complaint can be lodged with the DFCCIL/Vigilance by addressing the written communication / letter directly to the Chief Vigilance Officer, Dedicated Freight Corridor Corporation of India Limited (DFCCIL), Corporate Office, Sector-145, Uttar Pradesh-201310.

(Chapter-2.2 of [CVC Circular No.25/12/21 dated 24.12.21](#))

7.2 SOURCE OF COMPLAINTS

7.21 Information about corruption, malpractice or misconduct on the part of public servants may flow to the agencies, in the form of a complaint from any of the following or other sources:

- a) Central Vigilance Commission.
- b) CBI and other police authorities when they do not intend to investigate the complaint.
- c) Complaints received from the employee(s) of DFCCIL/Railway or any Administrative Authority or from the Public.
- d) Departmental inspection reports, stock verification reports and reports of irregularities in accounts detected during routine Audit of accounts.
- e) Scrutiny of annual property returns
- f) Scrutiny of transactions reported under the Conduct Rules applicable.
- g) Audit reports on Government accounts and on the accounts of public undertakings and other corporate bodies, etc.
- h) Reports of Parliamentary Committees like the Estimates Committee, Public Accounts Committee and the Committee on Public Undertakings.
- i) Proceedings of the Houses of Parliament.
- j) Complaints and allegations appearing in the print and electronic media.
- k) Information shared by agencies like CBI, ACB, Lokayukts etc.

7.22 Information about any corruption, malpractice & misconduct may also be gathered by CVOs by adopting appropriate methods keeping in view the nature of work of DFCCIL.

7.23 Information about corruption and malpractices on the part of Public Servants may also be received from their subordinates or from other Public Servants in the form of complaints.

7.24 The audit reports (internal, statutory or by Comptroller & Auditor General) are also authentic sources which reveal not only instances of inappropriate activities but also point out towards specific and serious violation of rules / procedures etc. involving

suspected acts of corruption. These reports should be scrutinized by the CVOs and other authorities concerned to look for any possible misconduct and further appropriate action may be initiated, if any vigilance angle is perceived.

(Para-3.2 of chapter-3, CVC Vigilance Manual 2021 read with Commission's Circular No. 3(v)/99/14 dated 16.05 2001)

[\(Chapter-III of CVC's circular No.25/12/21 dated 24.12.21\)](#)

7.3 COMPLAINT HANDLING POLICY OF COMMISSION

A detailed Complaint Handling Policy has been laid down by the Commission vide CVC Circular No. 004/VGL/020 (pt.) dated 01.07.2019 & subsequently comprehensive guidelines on complaint mechanism vide Chapter-III of [CVC's circular No.25/12/21 dated 24.12.21](#).

The Commission on receipt of a complaint against officials covered under its jurisdiction may inquire or cause an inquiry or investigation to be made into the same, wherein it is alleged that the official concerned has committed an offence under the prevention of corruption Act, 1988 (as modified in 2018) and an offence with which he may, under the Code of Criminal Procedure, 1973, be charged at the same trial. The salient features of the Complaint Handling Policy are given below: -

- a) Commission deals with complaints in the matters of corruption and irregular acts having vigilance angle. Redressal of grievances should not be the focus of complaints to the Commission.
- b) Anonymous or pseudonymous complaints are not entertained.
- c) Complaints can be lodged either through written communication or through Commission's portal and Commission's website.
- d) No fee shall be chargeable for lodging complaints with the Commission.
- e) The procedure for dealing with complaints in the Commission has been defined under Regulation 3 of CVC (Procedure for Dealing with Complaints and Procedure of Inquiry) Regulations, 2021.
- f) A mechanism has been put in place through Public Interest Disclosure and Protection of Informer (PIDPI) Resolution 2004, under which "Whistle-Blowers" can lodge complaints and their identity is not revealed to any source. This is an effective substitute for anonymous/ pseudonymous complaints. Central Vigilance Commission has been authorized as the "Designated Agency" to receive complaints from "whistle-blowers" and act on them, on merit. The CVOs of "Ministries/ Departments" of Government of India have also been authorized as the "Designated Authorities" for receiving and acting on complaints from whistle-blowers. Detailed provisions of PIDPI Resolution are given in Chapter-7.11 these guidelines.

[\(Para-3.3 of CVC Circular No.25/12/21 dated 24.12.21\)](#)

7.4 ACTION TAKEN ON COMPLAINTS IN THE COMMISSION

7.4.1 On receipt of complaints in the Commission and after initial scrutiny of the contents, the Commission may take any of the following actions: -

- i) get an investigation done through CBI or any other investigating agency into allegations levelled in the complaints. It may get the investigation done through the CVO of the organisation concerned or any other CVO or an officer of the Commission and call for investigation report (I&R); or
- ii) send the complaint to the respective CVO for necessary action (NA); or

- iii) file or close the complaint, without further action. Complaints in which the allegation are of administrative/non-vigilance in nature are also forwarded to the respective CVOs. (Amended vide CVC Circular No.24/11/22 dated 03.11.22).

In case a view is taken to call for investigation and report (I&R) on a complaint, the Commission seeks confirmation from the complainant for owning or disowning the complaint. This step is necessary because, as per policy, the Commission does not take cognizance of anonymous or pseudonymous complaints. The complainant is also required to provide a copy of his/her identity proof. A communication in this regard is sent to the complainant and he/she is required to respond within 15 days of the receipt of the communication from the Commission. However, in case of non-receipt of response within 15 days from the complainant, a reminder is also sent to him/her, giving another opportunity. In case of no response after 15 days of reminder, the complaint would be filed treating it as a pseudonymous complaint.

In case of action as stated in para 7.4.1 (ii) to (iii), a confirmation from the complainant is not required.

[\(Para-4.1 of CVC Circular No.25/12/21 dated 24.12.21\)](#)

7.4.2 Action on Complaints where Investigation & Report (I&R) is sought by the CVC/ Railway Board:

The CVO/DFCCIL is required to furnish investigation reports on such complaints within three months from the date of receipt of references from the Commission/Railway Board or within such time as specified by the Commission/Railway Board. In case, more time is required to finalize the investigation and send a report to the Commission/Railway Board in prescribed format, the CVO should seek extension of time stating the specific reasons / constraints in each case, within 15 days of receipt of reference from the Commission/Railway Board, giving specific reasons. Any such request by the CVO/DFCCIL should be sent the Commission/Railway Board alongwith the approval of MD/DFCCIL.

[\(CVC Office Order No. 08/08/2020 dated 14.08.20\)](#)

(Para-4.2 (c) of Chapter-IV of [CVC Circular No.25/12/21 dated 24.12.21](#))

After receipt of investigation report, the Commission may tender its advice or seek further information/ clarification from the CVO. Such information/ clarification from the CVO should reach the Commission within six weeks of the receipt of communication by him. In case of any delay, the CVO/DFCCIL should seek extension of time from the Commission, along with valid reasons.

(Vigilance Manual 2021, Para 3.4.2. (f)

(Para-4.2 (d) of Chapter-IV of [CVC Circular No.25/12/21 dated 24.12.21](#))

7.4.3 Complaints forwarded by CVC/Railway Board to DFCCIL for necessary action (N.A.) or closed without any action:

7.4.3 (a) Complaints forwarded to CVOs for Necessary Action:

- (i) In respect of those complaints which are forwarded to CVO/DFCCIL for Necessary Action (N.A.); the CVO is required to scrutinize the complaints thoroughly and decide action on such complaints within a period of one month from the date of receipt of complaint.
- (ii) Before initiating action on complaints forwarded for Necessary Action (N.A.), CVO/DFCCIL should seek confirmation from the complainant for owning or disowning the complaint, as the case may be, together with copy of his identity proof, as the Commission/ Railway Board does not seek confirmation from the complainant, on such complaints.
- (iii) In respect of the complaints referred by the Commission/Railway Board to CVO/DFCCIL

for necessary action, in case they have been investigated and a vigilance angle has come to notice against an officer falling under the jurisdiction of the Commission/ Railway Board, the case must be referred back to the Commission/ Railway Board for obtaining its First Stage Advice. In such complaints, the timeline of three months for completion of investigation and submission of report would apply. Otherwise, such complaints require no further reference to the Commission/Railway Board and are to be disposed off by DFCCIL themselves after taking required action.

- (iv) CVO should update the status of complaints sent for necessary action on the Commission's website at www.portal.cvc.gov.in ([Commission's Circular No. 004/VGL/020 \(Pt.\) dated 13.08.2020](#)).
- (v) In case it has been decided to send the complaint to the CVO concerned for necessary action, the complainant will also be informed about the same. In such a scenario, the responsibility of informing the complainant about the outcome of the complaint would lie with the CVO of the organisation concerned, through the portal itself ([Amended vide CVC Circular No.24/11/22 dated 03.11.22](#))

([Para-4.3.1 of CVC Circular No.25/12/21 dated 24.12.21](#))

7.4.3 (b) Complaint closed without any action:

The following categories of complaints would ordinarily be closed without taking any further action on the same:

- (i) Complaints which are anonymous/ pseudonymous or vague, frivolous, non-specific allegations;
- (ii) Complaints about sub-judice matter;
- (iii) Complaints against private persons, State Government officials, Members of Parliament or State Legislative, elected representatives of other bodies, member of Judiciary officials or private organizations etc. which are not covered within the Commission's jurisdiction;
- (iv) Complaints which are illegible.

([Para-4.3.2 of CVC Circular No.25/12/21 dated 24.12.21](#))

7.5 INITIAL ACTION ON COMPLAINTS RECEIVED BY DFCCIL/VIGILANCE :-

Complaints received by DFCCIL in respect of officials under their administrative control are to be dealt with in the following manner:-

7.5.1 The following procedure may be followed:

- (a) Vigilance Branch of DFCCIL will maintain a vigilance complaints register in Form CVO-1 in two separate parts for category 'A' and category 'B' employees. (Refer Annexure-I to this Chapter). Category 'A' includes such employees against whom Commission's advice is required whereas category 'B' includes such employees against whom Commission's advice is not required. If a complaint involves both categories of employees, it should be shown against the higher category, i.e., Category 'A'.

(Para-5.1.1 (a), Chapter-V of [CVC Circular No.25/12/21 dated 24.12.21](#))

- (b) Every complaint, irrespective of its source, would be entered in the prescribed format in the complaints register chronologically. A complaint containing allegations against several officers may be treated as one complaint for statistical purpose.

(Para-5.1.1 (b), Chapter-V of [CVC Circular No.25/12/21 dated 24.12.21](#))

- (c) Entries of only those complaints in which there is an allegation of corruption or

improper motive; or if the alleged facts prima facie indicates an element or potentiality of vigilance angle should be made in the register. Complaints of purely administrative matters or technical lapses should not be entered in the register and should be dealt with separately under “non-vigilance complaints”.

(Para-5.1.1 (c), Chapter-V of [CVC Circular No.25/12/21 dated 24.12.21](#))

7.52 Scrutiny of complaints:

Each complaint will be examined by the Chief Vigilance Officer and the following action should be taken:

- a) If allegations are vague and general and prima facie unverifiable, complaint may be dropped and filed by CVO. Wherever, considered necessary, Head of Department may also be consulted.

(Para-5.1.2 (a), Chapter-V of [CVC Circular No.25/12/21 dated 24.12.21](#))

- b) A further check, a preliminary inquiry/ investigation may be made to verify the allegations to decide whether, or not, the public servant concerned should be proceeded against departmentally or in a court of law or both, if complaints give definite information to do so. Detailed guidelines about the nature of investigation and the agency, which should be entrusted with it, are given in Chapter V of CVC Manual 2021. The information passed on by the CBI to the Ministry / Department /DFCCIL regarding the conduct of any of its officers should also be treated in the same way.

(Para-5.1.2 (b), Chapter-V of [CVC Circular No.25/12/21 dated 24.12.21](#))

7.53 Disposal of Complaints:

- (a) A complaint which is registered can be dealt with as follows:
 - (i) file it (Close it) without or after investigation; or
 - (ii) forward it to the CBI for investigation / appropriate action; or
 - (iii) forward it to the authority concerned for appropriate action if no vigilance angle is involved; or
 - (iv) to take up for detailed investigation by DFCCIL/Vigilance. An entry to that effect would be made in columns 6 and 7 of the Vigilance Complaint Register (Form CVO-1) with regard to “action taken” and “date of action” respectively. A complaint will be treated as disposed off in Quarterly Performance Report (QPR) either on issue of charge-sheet or on final decision for closing or dropping the complaint. If a complaint is taken up for investigation by the Vigilance Wing or in cases in which it is decided to initiate departmental proceedings or criminal prosecution, further progress would be monitored through other relevant registers. If there were previous cases / complaints against the same officer, it should be indicated in the remark’s column, i.e., column 8.

(Para-5.1.3 (a), Chapter-V of [CVC Circular No.25/12/21 dated 24.12.21](#))

- b) Complaints received from the Commission/Railway Board under the PIDPI Resolution are not required to be verified for genuineness by DFCCIL/ Vigilance as the process of verification / confirmation is completed in the Commission/ Railway Board prior to referring it for investigation or further necessary action. Therefore, such complaints should be taken up for investigation by DFCCIL/Vigilance immediately receipt of the same from the Commission/Railway Board. Such complaints shall, in other words, be treated as registered, immediately on receipt. The DFCCIL/Vigilance is required to send its report to the Commission/ Railway Board within three months from the date of receipt of the reference.

(Para-5.1.3 (b), Chapter-V of [CVC Circular No.25/12/21 dated 24.12.21](#))

- (c) Complaints received by the DFCCIL where the Commission/Railway Board has called for an "I & R" shall be treated as a signed complaint (not required to be verified for genuineness) and taken up for investigation. ([CVC Circular No. 01/01/2015 dated 23.01.15](#))

(Para-5.1.3 (c), Chapter-V of [CVC Circular No.25/12/21 dated 24.12.21](#))

7.6 ACTION ON COMPLAINTS IN DFCCIL

In addition to the guidelines defined in para-7.5.1 of these guidelines, the following aspects may also be taken care of by the CVO/DFCCIL:

- a) Initially, the decision about the existence of vigilance angle in a Complaint may be taken by the CVO/DFCCIL. The Disciplinary Authority (DA) may differ with the CVO within a period of 15 days, giving valid reasons. However, in case of difference of opinion between the CVO/DFCCIL and the Disciplinary Authority (D.A.) regarding the existence of vigilance angle, the matter alongwith the investigation report on complaint would continue to be referred to the BoD/ Railway Board or the Commission as the case may be for its first stage advice.

([Commission's Circular No.07/04/15 \(015-MS-016\) dated 27.04.15](#))

(Para-5.2 (a), Chapter-V of [CVC Circular No.25/12/21 dated 24.12.21](#))

- b) In exercise of its functions and powers, the Commission/Railway Board can call for a report in respect of any complaint having vigilance angle relating to DFCCIL covered under the Commission/ Railway Board's jurisdiction. Wherever the Commission/ Railway Board calls for 'investigation and report' on a complaint, the report of the investigation should normally be sent to the Commission/Railway Board. However, after investigation, if it is found that the officials involved in the case are not covered under Commission/ Railway Board's jurisdiction, the matter may be dealt with by the CVO of the organisation concerned himself. However, action taken by the CVO may be intimated to the Commission/ Railway Board in order to monitor compliance. Further, it is clarified that in so far as PIDPI complaints are concerned, the Commission/Railway Board's has jurisdiction over all officials (irrespective of their level) of the DFCCIL covered under the Commission's jurisdiction. Therefore, in respect of PIDPI Complaints, investigation report is to be sent to the Commission. for all categories of officials.

[Vigilance Manual 2021 Chapter-III, 3.6(d)]

(Para-5.2 (b), Chapter-V of [CVC Circular No.25/12/21 dated 24.12.21](#))

7.7 HANDLING OF COMPLAINTS AGAINST BOARD LEVEL OFFICERS

- a) A complaint involving a Board-level appointee, whether figuring alone or in association with others, may be forwarded by the CVO/DFCCIL to the CVO of Ministry of Railway. Under no circumstances, CVO/DFCCIL should initiate action against the Board-level appointee of DFCCIL. The CVO of Ministry of Railway would initiate action on such complaints in accordance with the instructions given in Vigilance Manual 2021, Chapter-III, para-3.5

(Para-5.3 (a), Chapter-V of [CVC Circular No.25/12/21 dated 24.12.21](#))

- (b) In cases where the Commission calls for investigation and report against a Board-level appointee, the CVO of the Ministry of Railways shall initiate inquiries and furnish report in the prescribed format.

([CVC Circular No. 06/03/11 dated 14.03.2011](#))

(Para-5.3 (b), Chapter-V of [CVC Circular No.25/12/21 dated 24.12.21](#))

- c) If the CVO of Ministry of Railway asks for a factual report against a Board-level appointee

from the CVO of the DFCCIL, the latter will send the same to the CVO of the Ministry of Railway, after endorsing a copy of the report to the MD. The CVO of the Ministry of Railway may make a reference to the Commission after collecting all the relevant facts after following the prescribed procedure.

[Vigilance Manual 2021 Chapter-III, Para-3.7 (C)]
(Para-5.3 (c), Chapter-V of [CVC Circular No.25/12/21 dated 24.12.21](#))

- d) If a complaint against a Board-level appointee is directly received by the CVO/DFCCIL, the CVO shall send the same to the CVO of the Ministry of Railway for consideration.

[Vigilance Manual 2021 Chapter-III, Para-3.7 (d)]
(Para-5.3 (d), Chapter-V of [CVC Circular No.25/12/21 dated 24.12.21](#))

- e) Sometimes, it is found that there is a spate of complaints against individuals whose names are being considered / finalized for Board level appointments. Similarly, when an official is due for promotion, sometimes old complaints are taken cognizance of and investigation is started against the official. In order to avoid unnecessary harassment to the officials, against whom frivolous complaints are received at the time of their promotion, selection or empanelment, the Commission has decided that for the purpose of giving vigilance clearance in such cases:
- (i) as a rule, complaints / cases which are more than 5 years old and against which no action has been taken till then, should not be taken into cognizance. However, the limit of 5 years will not apply to cases of fraud and other criminal offences; and
 - (ii) no cognizance should be taken of any complaint which is received up to 6 months prior to the initiation of selection process for Board level officials.

([Commission's Office Order No.57/8/04 dated 31.08.04](#))
(Para-5.3 (e), Chapter-V of [CVC Circular No.25/12/21 dated 24.12.21](#))

7.8 HANDLING OF COMPLAINTS AGAINST CVO, VO, etc.

Any complaint against the CVO should be immediately referred to the Commission and the Commission would decide the further course of action thereon. However, the complaints against the other vigilance functionaries shall be looked into by the CVO personally and further action taken as per normal procedure.

(Para-5.4, Chapter-V of [CVC Circular No.25/12/21 dated 24.12.21](#))

7.9 ACTION ON COMPLAINTS RECEIVED FROM MEMBERS OF PARLIAMENT AND DIGNITARIES

References received from Members of Parliament and Dignitaries are to be dealt as per procedure laid down in Central Secretariat Manual of Office Procedure brought out by the Department of Administrative Reforms and Public Grievances. A confirmation about lodging the complaint shall be sought from the dignity. On receipt of confirmation, the complaint shall be dealt with on priority.

(Refer to Annexure-II of [CVC Circular No.25/12/21 dated 24.12.21](#)).
(Para-5.5, Chapter-V of [CVC Circular No.25/12/21 dated 24.12.21](#))

7.10 ACTION ON ANONYMOUS / PSEUDONYMOUS COMPLAINTS

- 7.10.1 The pre-requisite for investigation of a complaint, is that the complaint should be signed and contain the name and address of the complainant.

Any complaint that does not bear the name and address of the complainant is an anonymous complaint.

A complaint which does not bear the full particulars of the complainant or is unsigned or is not subsequently acknowledged by a complainant as having been made is a pseudonymous complaint.

(Para-509.1 of IRVM-2018)

- 7.10.2** [DoPT's OM No. 104/76/2011 AVD.I dated 18.10.13](#), [DoPT's O.M. No. 1667821853200 dated 28.09.22](#) and [CVC's Circular No. 07/11/2014 dated 25.11.14](#) provides that no action is required to be taken on anonymous complaints irrespective of the nature of the allegations and such complaints need to be filed simply. (Para-5.6.1 of CVC Circular No.25/12/21 dated 24.12.21). Such complaints shall not be treated as registered complaints.

(Para-509.5 of IRVM-2018 & Para-5.6.1, Chapter-V of [CVC Circular No.25/12/21 dated 24.12.21](#))

- 7.10.3** It may be noted that the procedure for handling anonymous/ pseudonymous complaints has been modified in view of the fact that complainants who desire to protect their identity now have the protection of the Public Interest Disclosure & Protection of Informers Resolution-2004 (PIDPI). Relevant instruction on this have been issued vide [DoPT's O.M. No.104/76/2011-AVD.1 dated 18.10.2013](#).

(Chapter-5.6.3 of [CVC Circular No.25/12/21 dated 24.12.21](#))

7.11 PUBLIC INTEREST DISCLOSURE AND PROTECTION OF INFORMERS RESOLUTION (PIDPI) COMPLAINTS

7.11.1 INTRODUCTION

Department of Personnel and Training's Resolution No. 89 dated 21st April, 2004, commonly known as Public Interest Disclosure and Protection of Informers Resolution, 2004, envisages a mechanism by which a complainant can blow a whistle by lodging a complaint and also seek protection against his victimisation for doing so. The Central Vigilance Commission and the CVO of Ministry or Department is the designated agency to receive complaints from whistle blowers under the PIDPI Resolution.

([Chapter-4 of CVC Manual-2021](#))

Complaints received from the Commission under the PIDPI Resolution are not required to be verified for genuineness by the CVO as the process of verification/confirmation is completed in the Commission on receipt of the complaint under the PIDPI Resolution. Therefore, these should be taken up for investigation by CVO on their receipt from the Commission. Such complaints shall, in other words, be treated as registered, immediately on receipt. The Department is required to send its report to the Commission within one month from the date of receipt of the reference.

(Para-504.2 of IRVM-2018)

7.11.2 PIDPI RESOLUTION

'The Hon'ble Supreme Court of India, while hearing the Writ Petition (Civil) No. 539/2003 relating to the murder of Shri Satyendra Dubey, directed the Government of India to set up a suitable mechanism for receipt and enactment of complaints from "Whistle-Blowers".

Accordingly, Department of Personnel and Training issued Resolution No. 89 dated 21st April, 2004, commonly known as Public Interest Disclosure and Protection of Informers Resolution, 2004, resolving to set up a mechanism by which a complainant can lodge a complaint in the prescribed manner and also seek protection against his victimization for doing so. (Such complainants, called Whistle Blowers, are entitled to non-disclosures of

their identity publicly, unless, they themselves do so). The Central Vigilance Commission has been authorized under the PIDPI Resolution, as the Designated Agency to receive complaints from whistle blowers.

(Chapter-VI of [CVC Circular No.25/12/21 dated 24.12.21](#))

7.11.3 Provision of PIDPI Resolution

[The Government of India vide Gazette notification no. 371/12/2002-AVD-III dated 21.04.2004 r/w Corrigendum dated 29.04.2004](#) notified the Public Interest Disclosure and Protection of Informers (PIDPI) Resolution, 2004, wherein, the following provision relating to the complaints been lodged by Whistle Blower have been made:-

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

(Para-6.1 of [CVC Circular No.25/12/21 dated 24.12.21](#))

7.11.4 Amendments to PIDPI Resolution

[The DoPT vide notification No. 371/4/2013- AVD.III dated 14.08.13](#) partially amended the PIDPI Resolution 2004. The amended provisions are as under:-

- (a) The Chief Vigilance Officers of the Ministries or Departments of the Government of India are also authorised as the “Designated Authority” to receive written complaint or disclosure on any allegation of corruption or misuse of office by any employee of that Ministry or Department or of any corporation or established by or controlled by the Central Government companies, societies or local authorities owned or controlled by the Central Government and falling under the jurisdiction of that Ministry or the Department.
- (b) Either on receipt of application from the complainant or on the basis of the information gathered otherwise, if the designated authority is of the opinion that either the complainant or the witnesses need protection, the designated authority, shall take up the matter with the Central Vigilance Commission, for issuing appropriate directions to the Government authorities concerned.
- (c) The Central Vigilance Commission (CVC) shall supervise and monitor the complaints received by the designated authority.

(Para-6.2 of [CVC Circular No.25/12/21 dated 24.12.21](#))

7.11.5 Guidelines for the PIDPI Complaint

It is furtherance of the PIDPI Resolution, 2004, Central Vigilance [Commission vide office order No.33/5/ 2004 dated 17.05.04](#) issued guidelines and Public Notice regarding the procedure to be followed for filing whistle blower complaints under the PIDPI Resolution, 2004 to ensure that the identity of complainant is kept secret. The following procedure has been prescribed in the public notice.

- a) The complaint should be in a closed / secured envelope.
- b) The envelope should be addressed to Secretary, Central Vigilance Commission and should be super-scribed “Complaint under The Public Interest Disclosure”. The complainant should give his / her name and address in the beginning or end of complaint or in an attached letter.

(Para 4.2(b) of CVC Vigilance Manual-2021)

- c) Commission will not entertain anonymous / pseudonymous complaints.
- d) The text of the complaint should be carefully drafted so as not to give any details or clue as to the complainant’s identity. However, the details of the complaint should be specific and verifiable.
- e) A reference number, generated for a particular PIDPI Complaint, would be communicated to the Whistle Blower, through physical mode, in order to enable him to track the status of that particular complaint. The PIDP complainant can track the status of his complaint by entering the reference number, provided by the Commission

(Amended vide [CVC Circular No.24/11/22 dated 03.11.22](#))

(Para-4.2(b) of CVC Manual-2021)

- f) On the advice of the commission, in order to maintain confidentiality about the complainant’s identity the department of posts vide circular no. 31-01/2021-PO dated 03.03.2021 has directed all post offices not to insist on the name and address of the complainant. It is mandatory for all post offices. The directions are reproduced as below:

“Any article, addressed to the CVC as well as CVOs posted with the superscription “Complaint under The Public Interest Disclosure” or “PIDPI Complaint” on the outside of the envelope of the article, can be accepted for posting registration and speed post service, without the name and complete address including mobile number & email address of the sender.”

- g) The commission can also take action against complainants making motivated/vexatious complaints under this resolution.

(Para-6.3 of [CVC Circular No.25/12/21 dated 24.12.21](#))

7.11.6 Procedure adopted by Central Vigilance Commission on PIDPI Complaint

- a) Complaints received under PIDPI Resolution are opened in a separate section, specially created for dealing with complaints from whistle-Blowers. The section is called 'Confidential Section' and parallel files (separate file for each complaint) are created after concealing the name and address of the complainant.
- b) Pseudonymous/ Anonymous PIDPI complaints will be filed and no action will be taken. The complaints which have been addressed to other / several authorities are not treated as Complaint under PIDPI Resolution and are forwarded by the Confidential Section to the Vigilance Section concerned of the Commission for taking necessary action under Complaint Handling Policy of the Commission.
- c) In respect of those complaints which are considered fit for processing under PIDPI Resolution. a letter is sent to the complainant to obtain (a) confirmation as to whether he/she has made the complaint or not and (b) a certificate that he/she has not made similar identical allegation of corruption / misuse of office to any other authorities to qualify as a Whistle Blower Complainant. Prescribed time limit for receiving the confirmation and the certificate from the Complainant is 30 days from the date of receipt of Commission's letter by the complainant. In case of no response within the prescribed time limit, a reminder is issued, giving additional two weeks' time to the complainant for sending confirmation and the certificate, to the Commission. If there is still no response from the complainant, the complaint is sent to the Branch concerned of the Commission for necessary action under Complaint Handling Policy of the Commission.
- d) The Commission has decided to discontinue the practice of obtaining NOC from the Whistle Blower/ complainant
- e) After receiving necessary confirmation from the complainant, the complaint is placed before the Screening Committee for decision
- f) The Screening Committee is headed by the Secretary and the Additional Secretaries of the Commission are members. The Screening Committee examines all complaints and recommends complaints for Investigation and Report (I & R) / Necessary Action (NA) / Filing.
- g) When a complaint is put up to the Screening Committee, if it is found that there are certain shortcomings due to which it does not fulfil the eligibility criteria, it will be returned to the complainant, clearly enumerating the reasons for not fulfilling the eligibility criteria. The complaint will then be closed in the Commission. Thereafter, the complainant has the option of either sending a fresh regular complaint to the Central Vigilance Commission under its Complaint Handling Policy or may again lodge a fresh complaint if desired under PIDPI Resolution after removal of the deficiencies.

([Commission's public notice dated 30.07.21](#))

- h) The complaints, where necessary action has been recommended by the Screening Committee, are referred to the Vigilance Branch concerned for further action. Complaints recommended for investigation and report is sent to the Vigilance Branch concerned of the Commission for further action after approval of the Commission. The Commission has prescribed a period of 12 weeks from the date of receipt of reference from the Commission, for the organisation to Submit investigation report.

([Commission's circular No.12/09/08 dated 28.09.18](#))

- i) The complaints/ disclosures already categorized as Non-Public Interest Disclosure and Protection of Informers (Non-PIDPI) complaints/ cases where No objection Certificate was received from the complainant before issuance of Public Notice dated 30.07.2021 will continue to be processed as per Commission's Public Notice dated 24.04.2019.

(Para-6.4 of [CVC Circular No.25/12/21 dated 24.12.21](#))

7.11.7 PROTECTION TO WHISTLE BLOWERS

([Whistle Blower Act-2011 of 12.05.14](#))

- (i) The PIDPI Resolution dated 21.04.2004, provides following provisions for protection of Whistle Blowers: -
- (a) **Clause-6** - If any person is aggrieved by any action on the ground that he is being victimized due to the fact that he had filed a complaint or disclosure, he may file an application before the designated agency i.e. CVC seeking redressal in the matter, who shall take such action as deemed fit. The designated agency may give suitable directions to the concerned public servant or the public authority as the case may be.
- (b) **Clause-7** - Either on the application of the complainant, or on the basis of the information gathered, if the designated agency is of the opinion that either the complainant or the witnesses need protection, the designated agency shall issue appropriate directions to the concerned Government authorities.
- (c) **Clause-11** - In the event of the identity of the informant being disclosed in spite of the designated agency's directions to the contrary, the designated agency is authorised to initiate appropriate action as per extant regulations against the person or agency making such disclosure.
- (ii) The Commission, after receipt of representation(s) from Whistle Blowers about threat to their life, takes up the matter with the Ministry of Home Affairs, the Nodal Agency, to undertake the responsibility of providing security cover to the genuine Whistle Blowers. On the advice of the Ministry of Home Affairs, State Governments/UTs have appointed Nodal Officers and details of such officers nominated by State Governments are furnished to the Commission from time to time by the Ministry of Home Affairs.
- (iii) As regards protection against victimization or harassment within the Department, the Commission forwards such complaints of Whistle Blowers to the CVO of the concerned organisation for appropriate action.

(Para-6.5 of [CVC Circular No.25/12/21 dated 24.12.21](#))

7.11.8 SUPERVISION AND MONITORING OF DESIGNATED AUTHORITY

Keeping in view the Clause-11A of PIDPI Resolution dated 14.08.2013 (amendments) provides that the Central Vigilance Commission shall supervise and monitor the complaints received by the Designated Authorities. A report on PIDPI complaints received by Designated Authorities, including cases of alleged harassment/ victimisation received, are required to be sent to the Commission by the CVOs of the respective Ministries/ Departments.

(Para-6.6, Chapter-VI of [CVC Circular No.25/12/21 dated 24.12.21](#))

7.12 MISCELLANEOUS

7.12.1 Systemic Improvement

It should be ensured by the DFCCIL that each and every complaint and the resultant investigation report is scrutinized thoroughly to find out the possibility of systemic lacunae, that may have resulted in irregular acts being committed by the suspected officials. The outcome of such a scrutiny should be utilized to devise and implement systemic improvements to stop recurrence of such irregular acts. DFCCIL/Vigilance

should prepare case-studies giving details of modus-operandi along with corrective measures and the same should be circulated in DFCCIL for educating/alerting the officials/authorities. In case, it is felt that the systemic loopholes that have come to notice may have effect across the industry or among other organisations also, the permissible details may be shared with the administrative Ministry/ Department, the regulatory authorities concerned and also with the Commission, for issuing appropriate guidelines, as may be deemed fit.

(Para-7.1, Chapter-VII of [CVC Circular No.25/12/21 dated 24.12.21](#))

7.12.2 Reporting and Review of complaints

It is the responsibility of the CVO to review all complaints pending for investigation in the Organisations at regular intervals, preferably in the first week of every month and take necessary steps for ensuring expeditious finalization of reports and further necessary action, as may be required in individual cases.

{Detailed guidelines may be seen in Para 4. 2(c) [CVC Circular No.25/12/21 dated 24.12.21](#) and Para-7.2, Chapter-VII of [CVC Circular No.25/12/21 dated 24.12.21](#)}.

7.12.3 Various timelines related to complaints

The Commission has been laying emphasis on timely/ prompt action on complaints in order to ensure that irregularities, if committed, are surfaced at the earliest possible and all preventive/ punitive measures can be taken expeditiously. For this purpose, the Commission has issued guidelines on various occasions, specifying the time limit for dealing with complaints. The same as summaries in the following table:-

Sr. No.	Description	Timeline
1	Timeline for seeking confirmation from complainant before initiating Investigation process.	15 days
2	If confirmation not received within 15 days reminder to be sent to complainant. (If no response received/served even after reminder, complaint may be filed treating as pseudonymous complaints.)	15 days
3	Timeline for submission of Investigation Report to the Commission on Complaints referred by/to the CVOs concerned for investigation.	3 months (or as may be specified by the Commission, in individual matter)
4	In case, it is felt that it would not be possible to complete the investigation within the specified period, time limit for approaching the Commission for seeking extension of time, with the approval of the competent authority.	15 days
5	Timeline for submission of investigation report in PIDPI complaints, referred by the Commission.	12 weeks
6	Timeline for submitting response by CVOs to the Commission in respect of references made by it to CBI/ Ministries for clarifications/ comments in the matter of complaints.	6 weeks
7	Timeline for CVOs to scrutinize and decide about action to be taken on the complaints sent by the Commission for necessary action to the CVOs concerned.	2 months (*)
8	Timeline for giving opinion by the Disciplinary Authority, about existence of vigilance angle in complaint, in case of difference of opinion with CVO	15 days

(*) [Amended vide CVC Circular No.24/11/22 dated 03.11.22](#)

7.124 WITHDRAWAL OF COMPLAINTS

It is to be noted that once a complainant confirms the complaint and action has been initiated for inquiry/ investigation by the DFCCIL, it is not permissible to withdraw / stop such enquiry / investigation even if the complainant request for withdrawal or stopping the investigation. The allegations contained in the complaint have to be taken to its logical conclusion, once investigation has started.

(Para-511 of IRVM-2018 & Para-7.4 of [CVC Circular No.25/12/21 dated 24.12.21](#))

7.125 ACTION AGAINST PERSONS MAKING FALSE COMPLAINTS

There are specific provisions in law to deal with false, frivolous, and motivated complaints. The same are not evoked ordinarily for the sake of genuine complainants. However, in cases where it can be established that the complaints were lodged with a malafide/ ulterior motive to harass or harm an innocent Government servant, necessary action could be taken against such complainants as per law.

The following actions may be taken against persons making false complaints:-

- (a) Under Section 217 of The Bharatiya Nyaya Sanhita 2023, a person making false complaint can be prosecuted.
- (b) Under section 215 (1)(a) of The Bharatiya Nagarik Suraksha Sanhita 2023 a person making a false complaint can be prosecuted on the basis of a complaint lodged with a court of competent jurisdiction by the public servant to whom the false Complaint was made or by some other public servant to whom he is subordinate.
- (c) If the person making a false complaint is a public servant, departmental action may also be considered against him as an alternative to prosecution.

(Chapter-7.5 of [CVC Circular No.25/12/21 dated 24.12.21](#))

The Commission is responsible for advising Ministries/Departments in matters related to integrity in administration as also to exercise a general check and supervision for overall effective Vigilance Administration. For this purpose, the Commission has powers to call for reports, returns and statements. The Commission may, if deemed necessary, conduct an inquiry/ investigation, of its own. as per its functions and powers.

(Section 8 11(c), and Section 11 of CVC Act)

(Chapter-7.6 of [CVC Circular No.25/12/21 dated 24.12.21](#))

7.13 COMPLAINTS RECEIVED FROM CENTRAL VIGILANCE COMMISSION (OTHER THAN PIDPI)

7.13.1 Complaints received for investigation from the Central Vigilance Commission through Railway Board for investigation and report must be investigated on priority and in all cases the investigation reports should be sent to Railway Board within 8 weeks as time given for submission of Reports to CVC is 12 weeks. In case, if it is not possible to complete the investigation and refer the matter to the Commission within three months, the CVO should seek extension of time stating specific reasons/ constraints in each case, within 15 days of receipt of reference from the Commission. Such requests from the CVO should be submitted with the approval of the Managing Director/DFCCIL.

(Para-503.1 of IRVM-2018)

([Amendment No.3 issued vide Rly.Bd's letter No.2019/V1/IRVM/1/2 dated 28.09.20](#))

7.13.2 Some complaints are forwarded to the CVO/DFCCIL by CVC/Railway Board for necessary action. The CVC/Railway Board expects the CVO DFCCIL to scrutinize the complaints sent by CVC/ Railway Board for necessary action and decide action on such complaints

within a period of one month from the date of receipt of complaint from CVC/Railway Board.

(Para-503.2 of IRVM-2018)

- 7.13.3** Complaints referred to CVO/DFCCIL for necessary action must be referred back to CVC /Railway Board for advice, if they have been investigated and a vigilance angle has come to notice against an officer falling under the jurisdiction of the Commission. If any such complaints are taken up for inquiry /investigation by the CVO, the time limit of 12 weeks for completion of investigation and submission of report would apply. Otherwise, such complaints require no further reference to CVC/Railway Board and are to be disposed after taking necessary action.

(Para-503.3 of IRVM-2018)

- 7.13.4** In respect of references made by CVC to the CBI/Ministries, etc. for clarification and/or comments, the same should be sent to CVC within 6 weeks.

(Para-503.4 of IRVM-2018)

7.14 COMPLAINTS BY EMAIL

- 7.14.1** Complaints sent on email should contain postal address and mobile/ telephone number, if any, of the sender. Complaints sent on any email ID of the officers of the vigilance department will not be entertained or taken cognizance of by vigilance department (refer Para-3.3 of CVC Manual 2021 on complaint handling policy). In this regard, it is clarified that if a signed complaint containing verifiable allegations, involving prima facie vigilance angle, is conveyed via enclosures of an e-mail, such complaint shall be sent for genuineness verification by post and handled like any other written complaint. On the other hand, if allegations are plainly exchanges in the main body of an e-mail without any signed enclosures, such complaints shall not be given cognizance and simply filed as per ibid Para-514 of IRVM-2018 (received without this information will be treated as anonymous or pseudonymous and filed).

(Para 506.1 of IRVM-2018) [Railway Board's letter No. 2019/V-1/IRVM/1/2 dated 29.07.2022](#)

7.15 LOKPAL COMPLAINTS

Complaints received from Lokpal are to be dealt with in accordance with the provisions of the [Lokpal & Lokayuktas Act, 2013](#).

(Para-3.4A, Chapter-3 of CVC Manual-2021)

7.16 DEFINITION OF VIGILANCE ANGLE

7.16.1 Vigilance angle is obvious in the following acts:

- (a) Demanding and/or accepting gratification other than legal remuneration in respect of an official act or for using his influence with any other official.
- (b) Obtaining valuable thing, without consideration or with inadequate consideration from a person with whom he has or is likely to have official dealings or his subordinates have official dealings or where he can exert influence.
- (c) 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.
- (d) Possession of assets disproportionate to his known sources of income.
- (e) Cases of misappropriation, forgery or cheating or other similar criminal offences.

(Para-512.1 of IRVM-2018)

(Para-1.4.1, chapter-1 of CVC Vigilance Manual-2021)

- 7.16.2 There are, however, other irregularities where circumstances will have to be weighed carefully to take a view whether the officer's integrity is in doubt. Gross or willful negligence; recklessness in decision making; blatant violations of systems and procedures; exercise of discretion in excess, where no ostensible public interest is evident; failure to keep the controlling authority / superiors informed of required transactions and issues in time; cause of undue loss or a concomitant gain to an individual or a set of individuals / a party or parties; these are some of the irregularities where the disciplinary authority with the help of the CVO should carefully study the case and weigh the circumstances to come to a conclusion whether there is reasonable ground to doubt the integrity of the officer concerned.

(Para-512.2 of IRVM-2018)

(Para-1.4.2, chapter-1 of CVC Vigilance Manual-2021)

- 7.16.3 Any undue / unjustified delay in the disposal of a case, perceived after considering all relevant factors, would reinforce a conclusion as to the presence of vigilance angle in a case. ([CVC Office Order No. 74/12/05 dated 21.12.05](#))

(Para-512.3 of IRVM-2018)

(Para-1.4.3, chapter-1 of CVC Vigilance Manual-2021)

7.16.3A Managing Conflict of Interest -

- (a) The Conflict of interest flows from the principle of Natural Justice that 'No one should be the judge in his / her own case (Nemo judex in causa sua)'. It leads to biases. Bias means an act which leads to unfair activity whether in a conscious or unconscious stage in relation to the party or a cause or case. That is where the conflict of interest arises. The Conflict of interest issue is an emerging area of concern in public governance. A conflict of interest occurs when an individual's personal interests – family, friendships, financial, or social– could compromise his or her judgment, decisions, or actions in the workplace. It arises when a public servant is involved in a particular matter as part of his official duties with an outside organization with which he also has a financial interest, i.e., the employee's (i) spouse, (ii) children & other relations, (iii) general partner, (iv) an organization in which the employee serves as its chief, officer, director, trustee, partner, or employee, etc. or (v) a person or organization with which the employee is negotiating for prospective or has an arrangement for prospective employment.
- (b) Conduct Rules, other statutes or guidelines governing the service conditions of public servants appropriately address the conflict-of-interest issue. Prompt action should be taken for violation of such rules, statutes or guidelines under extant Discipline & Appeal Rules. (Refer Paras 1.4A & 11.7 of CVC Manual 2021).

(Para-512.3A of IRVM-2018)

(Para-1.4A, chapter-1 of CVC Vigilance Manual-2021)

([Amendment No.05 issued vide Rly.Board's letter No.2019/V1/IRVM/1/2 dated 03.02.22](#))

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

(Para-512.4 of IRVM-2018)

(Para-1.4.3, chapter-1 of CVC Vigilance Manual-2021)

- 7.16.5** It would be quite unfair to use the benefit of hindsight to question the technical merits of a managerial decision from the vigilance point of view. At the same time, it would be unfair to ignore motivated or reckless decisions, which have caused damage to the interests of the organisation. Therefore, a distinction has to be made between a business loss which has arisen as a consequence of a bona-fide commercial/ operational decision, and an extraordinary loss which has occurred due to any malafide, motivated or reckless performance of duties or any act of involving elements of mens rea (guilty intent). While the former has to be accepted as a normal part of business and ignored from the vigilance point of view, the latter has to be viewed adversely and dealt with under the extant disciplinary procedures.

(Para-512.5 of IRVM-2018)

[\(Amendment No.06 issued vide Rly.Board's letter No.2019/V1/IRVM/1/2 dated 06.04.22\)](#)

(Para-1.4.5, chapter-1 of CVC Vigilance Manual-2021)

- 7.16.6** It follows that vigilance investigation on a complaint would not be called for on the basis of a mere difference of opinion / perception or an error of judgment simpliciter or lack of efficiency or failure to attain exemplary devotion in the performance of duties. (Union of India vs. J. Ahmed AIR1979 SC 1022). Such failures may be a matter of serious concern to the organisation but not from the vigilance point of view. They have to be dealt with separately.

(Para-512.6 of IRVM-2018)

(Para-1.4.6, chapter-1 of CVC Vigilance Manual-2021)

- 7.16.6 A** The challenge before Vigilance Organisation is to protect bonafide decision from unnecessary harassment, so that a healthy environment is created in which upright officials can work fearlessly and corrupt officials are punished promptly.

Hence, Vigilance angle is not discernible in the following cases:

- a) Any bonafide commercial or operational decision aimed at promoting organizational interest/ease of doing business. The bonafide of the decision should be determined on the basis of the fact that overall organizational interest at the time of making such decision is established under the prevailing circumstances and prescribed rules, regulations & instructions had been followed in its implementation.
- b) Cases involving minor procedural flaws or operational/technical irregularities or administrative lapses without any malafide intention such as lack of supervision, negligence, lack of efficiency, failure to attain exemplary devotion to duty, insubordination, disobedience etc. Such irregularities have to be dealt with separately by administration as per its seriousness and impact on the organization.

(Para-512.6A of IRVM-2021)

[\(Amendment No.09 issued vide Rly. Board's letter No.2019/V1/IRVM/1/2 dated 12.10.23\)](#)

- 7.16.7** The Commission has decided that the CVOs, while sending the case to the Commission for advice against the lapses of officers exercising quasijudicial powers, should examine critically whether the criteria laid down by Hon'ble Supreme Court in K.K. Dhawan's Vs. UOI case (1993 AIR 1478) was attracted or not. The following criteria was laid down:

- (i) Where the officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty;
- (ii) If there is prima facie material to show recklessness or misconduct in the discharge of his duty;
- (iii) If he has acted in a manner which is unbecoming of a Government Servant;

- (v) If he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;
- (v) If he had acted in order to unduly favour a party;
- (vi) If he had actuated corrupt motive, however, small the bribe may be.

(Para-512.7 of IRVM-2018)

(Para-1.4.7, chapter-1 of CVC Vigilance Manual-2021)

[\(CVC F.No.007/MISC/Legal/04\(Pt.\) Circular No. 39/11/07 dated 01.11.2007\)](#)

Further, in the judgment dated 12th July 2016 in R.R. Parekh Vs. Gujarat High Court Case(Civil Appeal Nos. 6116-6117 of 2016 [AIR 2016 SC 3356], the Supreme Court has observed in para-15 of the judgment as under:

“The issue of whether a judicial officer has been actuated by an oblique motive or corrupt practice has to be determined upon a careful appraisal of the material on the record. Direct evidence of corruption may not always be forthcoming in every case involving a misconduct of this nature. A wanton breach of the governing principles of law or procedure may well be indicative in a given case of a motivated, if not reckless disregard of legal principle. In the absence of a cogent explanation to the contrary, it is for the disciplinary authority to determine whether a pattern has emerged on the basis of which an inference that the judicial officer was actuated by extraneous considerations can be drawn. Cases involving misdemeanours of a judicial officer have to be dealt with sensitivity and care. A robust common sense must guide the disciplinary authority. At one end of the spectrum are those cases where direct evidence of a misdemeanour is available. Evidence in regard to the existence of an incriminating trail must be carefully scrutinised to determine whether an act of misconduct is established on the basis of legally acceptable evidence. Yet in other cases, direct evidence of a decision being actuated by a corrupt motive may not be available. The issue which arises in such cases is whether there are circumstances from which an inference that extraneous considerations have actuated a judicial officer can legitimately be drawn. Such an inference cannot obviously be drawn merely from a hypothesis that a decision is erroneous. A wrong decision can yet be a bona fide error of judgment. Inadvertence is consistent with an honest error of judgment. A charge of misconduct against a judicial officer must be distinguished from a purely erroneous decision whether on law or on fact.”.

The Supreme Court in R.R. Parekh Vs. Gujarat High Court Case (Civil Appeal Nos. 6116-6117 of 2016 [AIR 2016 SC 3356] has laid down the following conditions / procedure to be followed to determine as to whether an act of a judicial officer has been actuated by an oblique motive or corrupt practice:

- (i) Since, direct evidence of corruption may not always be forthcoming in every case involving a misconduct, a wanton breach of the governing principles of law or procedure may well be indicative in a given case of a motivated, if not reckless disregard of legal principle.
- (ii) In the absence of cogent explanation, it is for the disciplinary authority to determine whether a pattern has emerged on the basis of which an inference that an officer was actuated by extraneous considerations can be drawn.
- (iii) The disciplinary authority has to determine whether there has emerged from the record one or more circumstances that indicate that the decision which form the basis of the charge of misconduct was not an honest exercise of judicial power.
- (iv) A charge of misconduct against a judicial officer must be distinguished from a purely erroneous decision whether on law or on fact.

In addition to the principles enunciated in Commission's Circular dated 1st November, 2007, the afore-mentioned criteria in the judgment may also be kept in view by CVOs while examining alleged lapses / misconducts in respect of officials exercising quasi-judicial functions / powers.

[\(CVC Circular No.12/10/16 dated 24.10.16\)](#)

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

(Para-512.8 of IRVM-2018)

(Para-1.4.8, chapter-1 of CVC Vigilance Manual-2021)

- 7.16.9** Administrative misconduct such as lack of punctuality, drunken behaviour at work, insubordination, etc. would be left to the disciplinary authority to deal with in an appropriate manner. If the lapse is without a vigilance angle, the disciplinary authority would be within its rights to initiate appropriate penalty proceedings against erring employees.

[\(CVC Office Order No.23/04/04 dated 13.04.04\)](#)

(Para-512.9 of IRVM-2018)

(Para-1.4.9, chapter-1 of CVC Vigilance Manual-2021)

- 7.16.10** Thus, the CVC gives advice only in such cases in which there is a vigilance angle. In other cases, where it concludes that the lapses do not attract vigilance angle, necessary disciplinary action will have to be taken by the concerned disciplinary authority under conduct/disciplinary rules, as deemed appropriate. These cases are not to be referred to CVC.

(Para-512.10 of IRVM-2018)

7.17 REGISTRATION AND RECORDING OF COMPLAINTS

All complaints on receipt shall chronologically be recorded in the computerized database of the recipient vigilance unit.

7.18 EXAMINATION OF COMPLAINTS

- 7.18.1** Anonymous/Pseudonymous complaints shall be filed in accordance with provisions contained in Para- 7.10

- 7.18.2** The process of determining whether or not a complaint is pseudonymous shall be governed in terms of the provision specified in Para-7.10.1

- 7.18.3** Any complaint from a person known to make frivolous complaints (unreliable complaint) may be filed with the approval of the CVO.

- 7.18.4** Complaint containing allegations devoid of any vigilance angle shall be forwarded to the administrative department concerned for necessary action with the approval of the CVO.

- 7.18.5** Complaints received under the PIDPI Resolution, the CVC Act etc. and / or where the CVC or CVO of the Ministry itself calls for a report shall be treated as a signed complaint and taken up for investigation and dealt with as indicated in paras 7.11

- 7.18.6** Complaints received from the Central Vigilance Commission where the Commission has called for an investigation and report shall be treated as signed complaint (not required to be verified for genuineness) and taken up for investigation. Such complaints shall, in other words, be treated as registered, immediately on receipt.

- 7.18.7 Verified complaints, not covered under sub paragraphs above, meriting a vigilance investigation, shall duly be registered and taken up for investigation.
- 7.18.8 Registered complaints against E-8 & E-9 level officers of DFCCIL or Group 'A' officers of Indian Railways (deputationist) shall be brought to the notice of:
- (i) Managing Director in case of E-8 & E-9 level officers of DFCCIL
 - (ii) PED/Vigilance CVO of the Ministry of Railways in case of Group 'A' officers of Indian Railways (deputationist).
- 7.18.9 Complaints alleging victimization or harassment of suppliers/contractors, who have complained against the organization, should be treated seriously and the complainants should be protected by ensuring that they do not suffer on this account in future contracts/ assignments. Similarly, complaints from employees against their superiors may be treated as source information and the names of the complainants should be concealed to protect them from victimization.
- 7.18.10 Complaints sent on any e-mail ID of officers of the vigilance department will not be entertained or taken cognizance of by the vigilance department. (Refer Para 3.3 (viii) of CVC Manual 2021 on complaint handling policy & [Amendment No.05 issued vide Rly. Board's letter No.2019/V1/IRVM/1/2 dated 03.02.22](#)).
- 7.19 **Decision making level**
- Where complaints have been received in the DFCCIL/Vigilance, the same are diarized and thereafter submitted to CVO/DFCCIL to decide on the complaints regarding further course of action.
- In the case of officers (SAG and above) on deputation to DFCCIL and E-8 & E-9 level officers CVO/DFCCIL will keep the MD/DFCCIL informed.
- 7.20 **TARGET DATES FOR PROCESSING OF INVESTIGATION REPORTS IN CASES OF COMPLAINTS OTHER THAN CVC REFERRED COMPLAINTS**
- 7.20.1 There should be no inordinate delay in submission of investigation reports arising out of complaints. The following time frame should be followed for conducting investigation and processing/sending the investigation report (other than CVC referred complaints for investigation and report).
- (a) **Four months** for conducting detailed investigation (inclusive of time consumed for obtaining clarifications from or issuing questionnaire to the suspected officials) and sending the recommendation to the Board Vigilance.
 - (b) **One month** for processing and sending the recommendation to the Board Vigilance and
 - (c) **One month** for processing the case in Railway Board (Vigilance).
- 7.20.2 The time frame for submission of investigation reports in CVC referred cases is given in paras 7.13
- (Para-517 of IRVM-2018)
- 7.21 **DEPARTMENTAL TRAP CASES - PROCEDURE & GUIDELINES**
- 7.21.1 Apart from the CBI, the DFCCIL Vigilance department also carries out decoy checks. These checks require careful planning, selection, execution and documentation for success. The need for a very good information network and regular flow of information from the field cannot be over emphasized, for it is only this that leads Vigilance to the right person at the right time

- 7.21.2** The spot for the trap should be selected very carefully after thorough ground work. If one has studied the field conditions well, then one would know which are the vulnerable locations and who are the regular extorters.
- 7.21.3** The selection of the decoy has also to be done very carefully. If he/she is a DFCCIL official, he should have a clear past and should not have any enmity against the person who is to be trapped. If the decoy is a non-DFCCIL official/person, then he should be adequately informed of the purpose of this trap. The decoy should be one who would always stand with the Vigilance agency under all circumstances and not be bought over or pressurized by the trapped person. He would have to be told beforehand that his commitment in the case would last along while, he would face cross examination in the subsequent inquiry process and, hence, should be willing to cooperate with the Vigilance till the very end. Decoy selected for departmental trap cases should not be an official of the Vigilance Department.
- 7.21.4** In addition, the Investigating Officer should immediately arrange one or more officials (gazetted or non-gazetted or a combination of gazetted & non-gazetted) to act as independent witness/ witnesses. It is imperative that all DFCCIL employees should assist and witness a trap, whenever they are approached by the Vigilance branch. Refusal to assist or witness a trap without sufficient reason can be construed as breach of duty, making the person liable to disciplinary action.
- 7.21.5** Proper execution of the trap is very important. The following important points should be kept in view:
- (i) One or more responsible and impartial witness/witnesses must hear the conversation, which should establish that the money was being passed as illegal gratification. This would squarely meet the likely defence of the accused that the money was actually received as a loan or something else.
 - (ii) The transaction should be within the sight and hearing of the independent witness/ witnesses.
 - (iii) There should be an opportunity to catch the culprit red-handed immediately after the bribe money has changed hands so that the accused may not be able to get rid of it.
 - (iv) The witnesses selected should not have appeared as witnesses in earlier cases of the department. It is safer to take as witness a DFCCIL official who belongs to some other department.
 - (v) It is preferable to take a written complaint from the decoy. The complainant must specifically give the name of the person receiving the money, motive for receipt, the actual amount, date, time and place of the transaction.
- 7.21.6** Prior to the trap, the decoy should present the money, which he will give to the target officer/employee as bribe money on demand. A memo should be prepared by the investigating officer in the presence of the independent witnesses and the decoy indicating the numbers of the Government Currency (GC) Notes for legal and illegal transactions. This memo should be signed by the decoy, independent witness/witnesses and the investigating officer. Another memo, for returning the GC notes to the decoy, should be prepared for paying the bribe to the delinquent employee on demand. This memo should also be signed by the decoy, witnesses and the investigating officer. A pre trap memorandum should be prepared narrating the sequence of events and signed by all concerned.
- 7.21.7** At the time of the check, the independent witness/ witnesses should take up position in such a place where they can see the transaction and also hear the conversation between the decoy and the delinquent employee, so as to satisfy themselves that money was demanded, given and accepted as bribe.

- 7.21.8** After money has been passed by the decoy to the delinquent employee as bribe, the investigating officer should disclose his identity and demand, in the presence of the witnesses, to produce all money including private and bribe money. Then, the total money produced should be verified from relevant records and a memo be prepared for seizure of money. The recovered notes should be kept in an envelope, sealed in the presence of the witness, decoy, the accused and to the extent possible, his immediate superior, who should be called as witness, in case the accused refuses to sign the recovery memo and sealing of notes in the envelope. It is crucial to seize supporting relevant documents immediately after the trap. A post trap memorandum should be prepared indicating the details of the events which had occurred and signed by all present.
- 7.21.9** As far as possible, a site plan should also be prepared indicating the important features of the trap, namely, where the trap was laid, the position of eyewitnesses, the delinquent official, the position of decoy and the relative distance from each other
- 7.21.10** It is essential to follow the due procedure in cases of decoy checks. Procedural lapses enable the accused to get the benefit of doubt in the inquiry proceedings.
- 7.21.11** It is essential that a successful decoy check should be followed to its logical conclusion, namely - the issue of a major penalty charge sheet which should eventually entail imposition of penalties of compulsory retirement, removal or dismissal from service. Rule 25 of DFCCIL (Conduct, Discipline & Appeal) Rules, HR Manual, specifies dismissal/removal for proven cases of bribery & corruption. The Executive and Vigilance wings need to cooperate in making the tool of decoy checks a very effective deterrent to the wrongdoer, and not take up a confrontationist approach which would ultimately benefit him.
- 7.21.12** The employees caught on successful trap check are to be suspended and transferred out of Unit as a matter of policy.
- 7.21.13** The decoy money should be retained only till serving of the Notice for Imposition of Penalty (N.I.P.) i.e., closure of the case. The decoy money should thereafter be deposited in "DFCCIL Account" A complete record of such cases, including details of the currency used as decoy money, should be retained as record for a subsequent period of ten years

(Para-518 of IRVM-2018)

7.22 PROCEDURE OF INVESTIGATION

- 7.22.1** After it has been decided that allegations contained in a complaint should be investigated or a preventive check is to be done, a preliminary investigation should be made to determine whether there is any substance in the allegations/source information. If the information can be verified from documents, files or other records, such records should be secured for scrutiny. If such scrutiny reveals evidence in support of the allegations, the documents or records should be taken over by Vigilance to secure them from being manipulated or tampered. Where such documents are required for day-to-day functioning, and it is not possible, for any reason, for the concerned department or official to function using authenticated copies, vigilance may retain authenticated copies for investigation. The originals may be returned to the department /official concerned, who should be made responsible for safe custody and production thereof as and when required.
- 7.22.2** Seizure of files/records may be done by the Vigilance officials of DFCCIL for carrying out prompt investigation of complaints and to carry out preventive checks, if required.
- 7.22.3** If the allegations are very serious and there is a possibility of tampering of records by the suspect officials they may be placed under suspension as per extant rules on suspension under D&AR Rules.

- 7.22.4 In complaints relating to works or stores, etc. involving field sites, a site inspection or surprise check should be carried out at the earliest to ensure on the spot verification of facts and to take suitable steps to ensure that any evidence in support of the allegations is not tampered with. If tampering of records is apprehended, the question of seeking transfer of the staff concerned may also be considered with the assistance of the head of the department or head of the concerned office.

(Para-519 of IRVM-2018)

7.23 SEEKING OF CLARIFICATIONS ISSUED IN COURSE OF INVESTIGATION

- 7.23.1 During the course of preliminary investigation, it may be necessary to seek clarifications from officials / witnesses in some cases. Such instances of clarifications taken from officials/witnesses shall be called **“Clarifications in connection with the investigation”**. Such officials/ witnesses shall not be required to give their complete biodata and shall be required to only give their full name, date of birth, designation, grade and date since working in the present post, below the signature at the end of the **“Clarifications in connection with the investigation”**.

- 7.23.2 Clarifications by Officials of the concerned department/ office who are concerned with, or have knowledge of the matter under investigation, should either be done orally or they can be asked to give a written statement of the facts in their knowledge. The full record of the oral questioning should be prepared and signed by the person questioned (in token of confirmation of his statement) and by the officer who conducted the questioning. Facts revealed in this process must also invariably be cross checked with documentary or other collateral evidence to ensure the proper basis of the allegation. In the event it is necessary to make inquiries from employees of any other government department or office, the Vigilance will seek the assistance of the concerned department for this purpose. **This questioning is for seeking clarification and understanding the issue. No case shall be registered against any of the officials who have been asked to give their opinion/clarification on the issues raised.**

- 7.23.3 The names of such officials/witnesses are not to be mentioned in the tabular statement provided at the end of investigation reports. Needless to say, names of such officials/ witnesses are not to be reflected in database and no closure advice is required to be sought/ given in the case of officials/witnesses.

(Para-520 of IRVM-2018)

7.24 REGISTRATION OF A CASE AGAINST DFCCIL OFFICIALS AND OFFICERS/ STAFF ON DEPUTATION IN DFCCIL

- 7.24.1 A vigilance case will be registered against an official when the approval of the CVO/ MD/Director has been taken for issuing QUESTIONNAIRE (which is different from Clarification) to the accused officials after investigations have established that prima facie a case exists against the concerned official for irregularities committed by him. In this context, the following guidelines may be observed for issuing Questionnaire to the officials while carrying out investigation of complaints or after conducting preventive checks.

- (i) for complaints/checks involving E-8 & E-9 level officers of DFCCIL as well as Group 'A' officers on deputation in DFCCIL, prior approval of the Managing Director may be obtained for issuing Questionnaire.
- (ii) for complaints forwarded by the Central Vigilance Commission or the Prime Minister's Office and in respect of CA-iii references, seeking prior approval may be dispensed with and Questionnaire may be issued straight away if required, in order to expedite investigations and the consequent disposal of the complaint received.

(Para-521.1 of IRVM-2018)

7.24.2 Before registering a case and issuing a Questionnaire, however, it is necessary for vigilance officials to establish that the matter has a Vigilance Angle. In order to have a comprehensive picture of the entire case, it is thus important that the views of the MD/Director on Vigilance Angle are also taken before the case is registered against an officer. Therefore, the following procedure may be followed:

- i) CVO may first examine the case / complaint from the standpoint of Vigilance Angle and, in case no Vigilance angle is prima-facie found, the case may be sent to Director concerned for taking appropriate action as per the disciplinary procedure under the service rules on the omission/ lapses of administrative nature which may have been identified in the Preliminary Investigation Report of Vigilance and for ensuring system improvement. However, cases referred by CVC, PMO, Railway Board etc., for investigation and submission of Report, are required to be submitted to CVC/Railway Board Vigilance after following due procedure for further necessary action/advice duly incorporating the views of the MD/Director.

(Para-521.2(i) of IRVM-2018)

- (ii) In case, CVO arrives at an opinion that the case involves Vigilance Angle, CVO should record such views and then refer the case to the MD or Director concerned for his/ their reasoned views on the existence of vigilance angle. The MD or Director concerned may, if required, consult ED/GGM/CGM etc. However, in the interest of ensuring that the vigilance investigation is not delayed and processed as expeditiously as possible, it is important that the MD/Director concerned give his/their views within the stipulate period of time. If this is not done, the case may be withdrawn from MD/Director concerned and processed further without the views of the MD/Director concerned. It is also important that the MD/Director concerned maintain the requisite confidentiality in the matter so that the reputation of the officer, identity of complainant and critical issues requiring investigation are not adversely affected or compromised. If MD/Director concerned does not agree with CVO regarding presence of vigilance angle duly bringing new facts and in case CVO agrees with MD/Director concerned, such cases should be sent to CVC/Railway Board (as the case may be) for information of CVC or PED/Vig.

(Para-521.2(ii) of IRVM-2018)

[\(Amendment No.01 issued vide Rly. Bd's letter No.2019/V1/IRVM/1/2 dated 04.10.19\)](#)

- (iii) In case of a disagreement between Director concerned and CVO, the matter should be put up to the Managing Director for their views. But in case of difference of opinion between CVO and the Managing Director, the case should be referred to BoD for taking a final view on the matter in terms of the existing provisions of DFCCIL and extant CVC guidelines.

(Para-521.2(iii) of IRVM-2018)

7.24.3 In the case of E-7 and below level officials of DFCCIL, CVO may consult Director concerned or MD before taking a final view on registration of a case.

(Para-521.3 of IRVM-2018)

7.24.4 REGISTRATION OF A CASE AGAINST OFFICERS OF INDIAN RAILWAY ON DEPUTATION IN DFCCIL

Guidelines contained in para 5.6 of Chapter-V of CVC Manual 2021, [CVC Office Order No. 18/09/22 dated 01.09.22](#) and Para-521 of IRVM-2018 will follow.

7.24.5 In the case of non-gazetted officials of Indian Railways on deputation in DFCCIL, CVO may consult Director concerned of DFCCIL before taking a final view on registration of a case. However, guidelines contained in para-521 of IRVM-2018 in para 5.6 of Chapter-V of CVC Manual 2021 and CVC Office Order No. 18/09/22 dated 01.09.2022 may also be kept in view while registering the case.

7.25 ISSUE OF QUESTIONNAIRE AFTER REGISTRATION OF CASE

- 7.25.1** There is a difference between seeking “Clarifications” as opposed to issue of “Questionnaire” as explained in Para-7.23 and 7.24 above, and a case is treated as registered against an official only when a decision has been taken to issue a “Questionnaire”
- 7.25.2** Questionnaire may be served to the suspect official(s) in consonance with the principles of natural justice, after registering a case. This affords an opportunity to the concerned official(s) to explain and counter the allegations against him. If the official refuses to respond, this fact must be clearly recorded in the final Investigation Report.
- 7.25.3** The names of all accused officials who are issued a “Questionnaire” should be part of the tabular statement that incorporates the names of all accused in the investigation report. Due procedure is required to be followed for logical closure in such cases.
- 7.25.4** The opportunity of a Questionnaire may not be given in the following circumstances:
- Where there is sufficient documentary evidence available to clinch the allegations against the suspect official which he/she is not likely to be able to controvert.
 - where the official is due to retire but is non-cooperative and it is necessary to finalise the report and issue a charge sheet before he retires, or in those cases where an official has already retired but the case being investigated is shortly becoming time barred for action under the Pension Rules (revised from time to time).

(Para-522 of IRVM-2018)

7.26 ADVICE OF CLOSURE OF VIGILANCE INVESTIGATION

- 7.26.1** As per extant instructions, a vigilance case is registered against an official once the approval of the competent authority has been taken for issuing Questionnaire after investigations have established that prima facie a case exists against the concerned official for irregularities committed by him/her. If no action is finally contemplated, a “Closure Advice” in the format below should be sent to the concerned official to whom the Questionnaire was issued. The closure advice, where applicable, shall be issued only after the course of action is finally decided by the competent authority as per prescribed procedure (including consultation with CVC or Railway Board Vigilance, as required) and it should be signed by a vigilance officer. The closure advice shall be issued after approval by the CVO.

Sample text for closure advice**Sub:.** Vigilance investigation in case.....**Ref:-** Vigilance questionnaire sent to you vide letter Nodated_____

On the basis of evidence/ information currently available with Vigilance Branch, no action is contemplated against you in the above-mentioned case. This is, however, without prejudice to taking up investigations in future, if fresh evidence/details become available.

For CVO
(Para-523 of IRVM-2018)

7.27 PREPARATION AND SUBMISSION OF THE INVESTIGATION REPORT

- 7.27.1** After the investigations are completed, a self-contained report should be prepared in the following format:

Title: Vigilance Report

(as per CVC's format vide [CVC Circular no 9/11/2017 dated 28.11.17](#))

- (i) Case Number
- (ii) Complaint Registration Number
- (iii) Source
- (iv) Gist of Allegation(s).
- (v) Facts of the case.
- (vi) Observations.
- (vii) Response of the officials concerned.
- (viii) Counter to the response
- (ix) Conclusion.
- (x) Responsibility of officials.
- (xi) Recommendation for action.
- (xii) Recommendation for system improvement.

(Para-524 of IRVM-2018)

7.28 PROCEDURE FOR SUBMISSION OF REPORT TO THE CVO AND OBTAINING THE RECOMMENDATION OF THE CONCERNED DISCIPLINARY AUTHORITY/ MD/ DIRECTOR.

7.28.1 Except in cases involving E-8 and E-9 level officers, the Vigilance Officer will submit his report in the above format duly following the guidelines mentioned by the [CVC Circular no 9/11/2017 dated 28.11.17](#), along with his recommendations in regard to responsibility of each official to the CVO who will in turn forward the report to the concerned disciplinary authority along with his recommendation on the action to be taken/system improvement to be effected in cases involving only upto E-7 level officials. The disciplinary authority will decide whether to accept the recommendations and take action. In case he disagrees with the recommendations, he can:

- (i) either reject them giving detailed reasons.
- (ii) take further action after seeking necessary clarifications from vigilance, if required.
- (iii) seek further investigations in the matter.

Final decision by the Disciplinary Authority will be taken after consulting Vigilance.

(Para-525.1 of IRVM-2018)

7.28.2 In cases where any action is proposed against E-8 & E-9 level officers and including Gazetted Officers on deputation in DFCCIL (Group 'A' & 'B'), the CVO will forward the findings of the investigation to the concerned Director for his views on the case. After obtaining the Concerned Director's views, the CVO will sum up the investigations and submit the case to the Managing Director for his recommendations. The Managing Director will give his recommendations in regard to the conclusions contained in the report, quantum of responsibility of each officer/official, the gravity of the various acts of omission or commission and whether these deserve formal disciplinary action (major penalty or minor penalty) or the ends of justice would be met by suitable administrative action.

(Para-525.2 of IRVM-2018)

7.28.3 The MD/Director is also required to give his specific comments in regard to the presence or absence of vigilance angle. It is necessary that even in those cases where the allegations are not substantiated, the investigation report should indicate views of the MD/ Director on vigilance angle since a view on the aspect of the existence or otherwise of the vigilance angle has to be jointly examined by the DA & CVO/DFCCIL.

(Para-525.3 of IRVM-2018)

7.28.4 Based on conclusions contained in the report, the MD/Director will recommend.

- (i) quantum of responsibility of each officer/official,
- (ii) the gravity of the various acts of omission or commission and whether these deserve formal disciplinary action (major penalty or minor penalty) or the ends of justice would be met by suitable administrative action or whether he proposed no action or transfer of the official out of the unit.
- (iii) The existence or otherwise of a "Vigilance Angle" in the matter.
- (iv) Handing over the case to other agencies like the CBI etc., wherever necessary with full justification
- (v) In cases where the role of firms is also involved, whether he proposes any action against the firm like delisting, suspension, banning etc.

(Para-524.4 of IRVM-2018)

7.28.5 Recommendation for action (upto E-7 level) in composite cases will be given by the CVO duly following the above guidelines.

7.28.6 **System improvement:** This should be proposed by the concerned Vigilance Officer and approved by the CVO/MD/Director. System improvement, if immediately implementable, should be implemented straightaway after the approval of the MD/ Director.

7.28.7 There may arise a situation where the Railway official is on deputation in DFCCIL and the alleged irregularity may have occurred during his tenure in the DFCCIL/Railway. In such a scenario, the CVO of the DFCCIL or concerned Railway where the case has generated, shall furnish his views whenever the same is requested by the parent Railway of the charged official. The above procedure may also apply to regular departmental proceedings.

Para-525.7 of IRVM-2018)

7.28.8 **Reports on Preventive checks:** Based on source information, Preventive checks are conducted by DFCCIL in the same manner as the investigation of complaints, except that the verification of genuineness of the complaint is not necessary. If a preventive check is conducted against upto E-7 level officials, then the finalisation of the reports is within the competence of the CVO of the DFCCIL

In case a preventive check is conducted against E-8 & E-9 level officers and including Gazetted Officers on deputation (Group 'A' & 'B') and a questionnaire has been issued to him, i.e. a case has been registered, the preventive check report has to be forwarded to CVC/Railway Board, even if no irregularity is observed in the check and no one is held responsible. The closure of any preventive check against E-8 & E-9 level officers and including Gazetted Officers on deputation (Group 'A' & 'B'), where no action is warranted, is within the competence of CVO of Ministry of Railways i.e. PED (Vigilance) in the case of Gazetted Officers on deputation (Group 'A' & 'B') and Managing Director in the case of E-8 & E-9 level officers of DFCCIL.

(Para-525.10 of IRVM-2018)

[\(Amendment No.3 issued vide Rly.Bd's letter No.2019/V1/IRVM/1/2 dated 28.09.20\)](#)

7.28.9 All the reports sent to Board irrespective of whether they require CVC reference or not should invariably be in the following format. The details of which are in the CVC Circular no 9/11/2017 dated 28-11-2017.

- Annexure A - Vigilance Report as per the format and comments/views of various authorities (refer para 524.1 of IRVM-2018)
- Annexure B - Assurance Memo
- Annexure C - Format of bio-data of the Officers against whom Commission's advice is sought
- Annexure D - Report in the prescribed tabular form
- Annexure E - Brief summary of the case
- Annexure F - Draft memoranda of charges and statement of imputations and draft memoranda for administrative action, draft suspension/banning proposal
- Annexure G - A soft copy containing the annexures listed above should be sent in the form of CD or transferred through the Vigilance portal.

7.28.10 The MD/BoD will take a final view on registering of a case against E-8 & E-9 level officers and in the case of Gazetted Officers of Indian Railways on deputation (Group 'A' & 'B'), Railway Board take final view on registering a case or not if there is disagreement at between CVO and MD.

(Para-525 of IRVM-2018)

7.29 Cases involving upto E-7 level officials (not involving E-8 & E-9 and Gazetted officers on deputation).

In these cases CVC advice is not required. These cases which are also known as non-CVC cases be dealt as under:-

7.29.1 In minor penalty cases, if DA proposes to exonerate or impose any administrative action instead of a minor penalty, consultation with vigilance would be necessary. In such cases, DA has to first record his provisional views and consult Vigilance organization once giving reasons for disagreement with Vigilance advice. Vigilance Organisation should examine and furnish their comments to DA on such references. Normally vigilance organization is expected to furnish their comments to DA within two weeks of receipt of such references. Even if after this consultation, DA is not in agreement with views of Vigilance, then DA is free to proceed and pass speaking order for exoneration/imposition of penalty. The copy of the Punishment/penalty order/ exoneration advice is required to be promptly sent by DA to Vigilance along with its speaking order and reasons of disagreement within a week of passing such orders. Vigilance organisation may seek a revision by referring the case to Revising Authority, if considered necessary. However, such a revision would not come in the way of vigilance clearance of staff.

7.29.2 For major penalty cases, the vigilance case will get closed once the DA has imposed any of the major penalties and sends copy of Penalty Order along with its speaking order to Vigilance Organisation. No consultation with Vigilance is necessary where DA intends to impose penalty in accordance with first stage advice of Vigilance Organisation. However, where punishment is not considered adequate, the vigilance organization can later seek a revision by referring the case to Revising Authority as per extant procedure. Such revision would, however, not come in the way of vigilance clearance of staff.

7.29.3 For major penalty cases, where DA proposes to exonerate or impose a minor penalty, consultation with vigilance would be necessary. In such cases, DA has to first record his provisional views and consult Vigilance Organization once giving reasons for disagreement with Vigilance advice. Vigilance Organisation should examine and furnish

their comments to DA on such references. Normally Vigilance Organization is expected to furnish their comments to DA within two weeks of receipt of such references. Even if after this consultation, DA is not in agreement with views of Vigilance Organisation, then DA is free to proceed and pass speaking order for exoneration/ imposition of penalty. Copy of the NIP/exoneration advice is required to be promptly sent by DA to Vigilance along with its speaking order and reasons of disagreement within a week of passing such orders. Vigilance organisation may seek a revision by referring the case to Revising Authority, if considered necessary. However, such a revision would not come in the way of vigilance clearance of staff.

- 7.29.4 The procedure for consultation with Vigilance Organisation once as described would also be applicable in major penalty cases when appellate/revising authority proposes to exonerate or impose a minor penalty.
- 7.29.5 Procedure as described above would also be applicable for the cases investigated by Board Vigilance and referred to DFCCIL for further action. However, in cases of disagreement of DA/Appellate Authority/Revising Authority, DFCCIL Vigilance has to send case to BoD along with their comments for consultation.
- 7.29.6 CVO may put up details of cases where penalty imposed by DA/AA/RA is either at variance with vigilance advice or considered inadequate to MD/Director, once every quarter, for his information.

(Para-526 of IRVM-2018)

7.30 COMPOSITE CASES INVOLVING UPTO E-7 LEVEL ALONGWITH E-8 & E-9 OF DFCCIL AND NON- GAZETTED OFFICIALS AS WELL AS GAZETTED OFFICER(S) ON DEPUTATION (ALSO CALLED CVC COMPOSITE CVC CASES)

- 7.30.1 In minor penalty cases, no consultation with Vigilance/CVC is necessary if punishment proposed to be imposed by DA is in line with CVC advice. However, in cases of deviation, case is required to be sent to CVC for reconsideration along with provisional views of DA and Vigilance comments thereon. Vigilance Units should promptly (say within two weeks) send the cases to CVC/Board Vigilance for seeking CVC's reconsidered advice. DA is however, free to pass speaking order and issue NIP if he is still not in agreement with CVC's reconsidered advice. Copy of this NIP along with reason of his disagreement should be promptly sent to Vigilance for onward transmission to CVC. CVC can include this case in its Annual Report that is submitted to Parliament and can be discussed by Hon'ble MPs.

(Para-527.1 of IRVM-2018)

- 7.30.2 In major penalty cases, after completion of Inquiry, cases of disagreement between DA and CVC's first stage advice are required to be referred to CVC for second stage advice along with IO's report, provisional views of DA and Vigilance comments. Vigilance case is closed once DA imposes penalty in accordance with CVC's second stage advice and furnishes a copy of NIP to Vigilance for onward submission to CVC. However, if DA differs with CVC's second stage advice **there is no scope for reconsideration**. DA can pass speaking orders and issue NIP. A copy of NIP along with reasons of disagreement is required to be sent to Board Vigilance for onward submission to CVC. CVC can include this case in its Annual report that is submitted to Parliament and can be discussed by Hon'ble MPs.

(Para-527.2 of IRVM-2018)

[\(Amendment No.3 issued vide Rly.Bd's letter No.2019/V1/IRVM/1/2 dated 28.09.20\)](#)

7.31 COMPOSITE CASES INVOLVING UPTO E-7 LEVEL OFFICIALS OF DFCCIL AND NON-GAZETTED OFFICIALS ALONGWITH GROUP 'B' OFFICER (S) ON DEPUTATION.

- 7.31.1 Same procedure as prescribed for CVC composite cases detailed above would be applicable except that the case would be decided at the level of PED(Vig)/Rly.Board and would not be referred to CVC.

(Para-528.1 of IRVM-2018)

7.32 CONSULTATION WITH CVC AT THE APPEAL/REVISION STAGE

- 7.32.1 Sometimes, after imposition of the punishment by the Disciplinary Authority, the Charged Official makes an appeal. The Appellate Authority is expected to keep the advice tendered by the Commission and decide on the appeal accordingly. In case, the Appellate Authority decides to deviate from the advice given by the Commission on appeal, the CVO/ DFCCIL will report this to the Commission, which will take an appropriate view whether the deviation is serious enough to be included in its Annual Report.

(Para-529.1 of IRVM-2018)

- 7.32.2 For non-CVC cases, same procedure may be followed and only deviation statement may be sent by CVO.

(Para-529.2 of IRVM-2018)

- 7.32.3 Vigilance comments are to be offered only when the case is processed for seeking first stage advice/second stage advice (in case DA is in disagreement with first stage advice)/reconsidered advice/when DA/AA/RA specifically desires from vigilance for appreciating the case in an objective manner

(Para-530 of IRVM-2018)

[\(Amendment No.01 issued vide Rly. Bd's letter No.2019/V1/IRVM/1/2 dated 04.10.19\)](#)

Time limit for investigation and submission of investigation reports (Annexure-5.1 Page-175 to 177 of IRVM-2018).

(Model Time Schedule-Annexure-III)

Annexure-I

PROFORMA

CVO-1

C.V.O. Register 1 of complaints to be maintained in separate columns for category A and Category B employees.

S. No.	Source of Complaint (See N.B.1)	Date of receipt	Name and designation of officers(s) complained against	Reference to file No.	Action taken (See N.B.2)	Date of action	Remarks (See N.B.3)
1	2	3	4	5	6	7	8

N.B:

1. A Complaint includes all types of information containing allegations of misconduct against public servants, including petitions from aggrieved parties, information passed on to the CVO by CVC, and CBI, press reports, findings in inspection reports, audit paras, PAC reports, etc. In the case of petitions the name and address of the complainants should be mentioned in Col, 2 and 1 and in other cases, the sources as clarified above should be mentioned.
2. Action taken will be of the following types; (a) filed without enquiry (b) Filed after enquiry (c) Passed on to other sections as having no vigilance angle (c) Taken up for investigation by Departmental vigilance agency.
3. Remarks Column should mention (a) and (b).
 - (a) If there were previous cases /complaints against the same officer, the facts should be mentioned in the "Remarks" column.
 - (b) Date of charge-sheet issued, wherever necessary.

Annexure-II

**(Extracts from Central Secretariat Manual of Office Procedure)
14th Edition, May 2015**

- 3.7 Correspondence with Members of Parliament and VIPs—
- i) Communications received from Members of Parliament and VIPs should be attached to promptly.
 - ii) Where a communication is addressed to a minister, it shall, as far as possible, be replied to by the Minister himself. In other cases, a reply should normally be signed by an officer of the rank of Secretary only.
 - iii) Where, however, a communication is addressed to the Head of an attached or to the head of an attached or subordinate office, Public Sector Undertakings, Financial Institutions Nationalized Banks, Division/Branch, In charge in a ministry / Department Organisation, shall be replied to by the addressee himself. In routine matters, he may send an appropriate reply on his own. In policy matters, however, the officer should have prior consultation with higher authorities before sending a reply. It should, however, be ensured that the minimum level at which such replies are sent to Members of Parliament and VIPs is that Under Secretary and that also in letter form only.
 - iv) Normally information sought by a Member / VIP should be supplied unless it is of such a nature that it would have been denied to him even if asked for on the floor of the Houses of Parliament.
 - v) In case, a reference from an ex-Member of Parliament is addressed to a Minister or Secretary, reply to such reference may be sent by a Joint Secretary level officer after obtaining approval of the Secretary of the Ministry/Department. In case the reference is addressed to a lower-level officer, reply to such reference could be sent by the officer on his own in non-policy cases and after obtaining approval of the higher authorities in policy cases. However, the minimum level at which reply could be sent should be that of an Under Secretary and that too in a polite letter form only.
 - vi) Each communication received from a Member of Parliament/VIP, shall be acknowledged within 15 days, followed by a reply within the next 15 days of acknowledgement sent.
 - vii) Appropriate record shall be maintained in respect of communications received from Members of Parliament and VIPs and monitored by all concerned. A similar procedure may also be followed for Judicial/ quasi-judicial matters.

CHAPTER XI

(refer to CVC Circular No.25/12/21 dated 24.12.21)

CHECKS ON DELAYS

60. Timely Disposal of receipts and monitoring of Parliamentary Assurances, Parliament Questions, Applications under RTI Act, 2005, MP/VIP References, CAT / Court Cases, etc. –

Time Limits will be fixed for disposal of as many types of cases as possible handled in the Department through Departmental instructions. As a general rule, no official shall keep a case pending for more than 7 working days unless higher limits have been prescribed for specific types of cases through Departmental instructions. In case of a case remaining with an official for more than the stipulated time limit, an explanation for keeping it pending shall be recorded on the note portion by hand. The system of exception reporting will be introduced to monitor the disposal of receipts, For timely disposal and monitoring of Parliament

Assurances, Parliament Questions, Applications under RTI Act, 2005, MP/VIP References, Judicial/quasi-judicial, etc. each Department shall maintain separate records of such cases.

E-Governance methods, suiting to the requirements, should also be adopted for monitoring and tracking of Government work.

Annexure-III

Time Limit for Investigation and Submission of Investigation Reports

	Type of complaints	Time Schedule		
i)	CVC referred complaints	Investigation Report in the prescribed format must be sent to Railway Board within 2 months from the date of receipt of complaint for further processing of the case as Railway Board is required to send Report to CVC within 3 months.		
ii)	PIDPI complaints	Investigation Report in the prescribed format must be sent to Railway Board within 3 weeks from the date of receipt of complaint for further processing of the case as Railway Board is required to send Report to CVC within one month.		
iii)	A model time table for disciplinary cases initiated as a result of vigilance investigation in consultation with the CVC is as under:	1*	Issue of chargesheet after receipt of CVC's 1st stage advice by the Railway	30 days
		2	Service of chargesheet	10 days
		3	Inspection of RUDs	30 days
		4	Submission of written statement of defence, list of defence witnesses & list of defence documents	20 days
		5	Decision to hold the inquiry after receipt of the defence	30 days
		6	Nomination of IO/PO in consultation with CVC/Railway Board	15 days
		7	Appointment of IO/PO	15 days
		8**	Completion of inquiry and submission of report	120-180 days
		9	Obtaining CVC's 2nd stage advice after receipt of inquiry report, in case of disagreement between DA and CVC's advice	45 days
		10***	Decision of DA and imposition of punishment	3-60 days
		11	Total	345-435 days
		* Add another 45 days for issue of chargesheet wherever President/Railway Board is the Disciplinary Authority		
		** Upper time limit for cases involving more than one charged official.		
*** Upper time limit is for cases to be considered by more than one DA. Add another 270 days for decision by President in consultant with UPSC.				
A major penalty D&AR case initiated on vigilance advice should normally be finalized in 12-15 months by the Railways. However, where the charge sheet is issued by the Board and final decision is to be taken by the President in consultation with the UPSC, the time taken may be 25 ½ months.				
It may be reiterated that the above "model" time schedule is not mandatory as it may not be possible to follow it in each and every case as each disciplinary case has its own characteristics.				

NOTES / MODIFICATIONS

CHAPTER-8

PROCESSING OF VIGILANCE CASES IN DFCCIL

8.1 INVESTIGATION OF CASES BY DFCCIL VIGILANCE

- 8.1.1 Certain cases are investigated by the Railway Board Vigilance. In cases where CVC calls for investigation and report against a Board level officer/appointee, the CVO of the Ministry i.e. PED/Vigilance shall initiate inquiries and may in this regard obtain factual information from the CVO of DFCCIL. Thus, CVO of DFCCIL under no circumstances should initiate action against the Board-level officers/ appointee on his own initiative.

If a complaint against a Board-level appointee is directly received by the DFCCIL, the CVO/DFCCIL shall send the same to the CVO of the Railway Ministry i.e. PED/Vigilance for consideration. If the ministry directs the CVO of the DFCCIL for investigation and factual report, the procedure indicated in Para 7.7 of chapter 7 DFCCIL Vigilance Manual may be followed.

(Para-3.5, Chapter-3 of CVC Manual-2021 &

Para-601.1, Chapter-6 of IRVM-2018)

- 8.1.2 **Seizure of records** – Investigating Officers of the DFCCIL/Vigilance are authorized to enter any of the offices of DFCCIL, record statements of the officials concerned, who are expected to render them all possible assistance in the proper discharge of their official duties. They are also empowered to seize all relevant documents, collect complete factual information against issue of proper 'Seizure Memo'. They are also authorized to take statements from such officials as may be considered necessary. No separate written authority is required for this. It is however, expected that Vigilance Officials will carry Identity Cards issued by DFCCIL and identify themselves. As regards recording statements of officers by Investigating officers of DFCCIL, this should be restricted, as far as possible, up to the **level of E-4**. For officers of higher grades, it is desirable that they are examined by the **Dy. CVO/DGM**, depending on the nature of the case and the seniority of the officer concerned. The investigations will be conducted and report prepared as laid down in **Chapter-7** of DFCCIL Vigilance Manual (handling and processing of complaints).

(Para-601.2, Chapter-6 of IRVM-2018)

8.2 PROCESSING OF CASES

The cases are dealt as under:

- 8.2.1 In cases where allegations were investigated **against E-7 and below level officials**, at the behest of CVO/DFCCIL, the final disposal of the report vis-à-vis action to be initiated or closure will be at the level DFCCIL Vigilance. However, final decision regarding existence of vigilance angle on such cases will be taken by CVO/ DFCCIL.
- 8.2.2 If any Group 'A' officers working on deputation in DFCCIL is involved, and the cases is investigated by DFCCIL Vigilance. The investigation report should be sent to CVC for obtaining first stage advice through Ministry of Railways i.e. PED/Vigilance with the comments of CVO/DFCCIL and the concerned Directors along with recommendation of the Managing Director with specific comments about involvement or absence

of vigilance angle in the case and the proposed course of action for Officers in the prescribed Performa (Annexure-VI) containing (i) Brief history of the case, (ii) Tabular statement Annexure-VI(a), (iii) Index Annexure-VI (b), (iv) Check list Annexure-VI (c), (v) Assurance Memo by the CVO Annexure- VI(d), (vi) Bio- Data of the Suspected Official Annexure-VI(e), (vii) Enquiry Report Annexure-VI(f), (viii) Draft Charge Sheet.

(Para-7.28.9 of Chapter 7 DFCCIL Vigilance Manual).

- 8.2.3** Cases of permanent employees of DFCCIL of up to two level below the Board level (E-8 and E-9) is also required to be sent to CVC for obtaining first stage advice in the same manner as stated above vide para-8.2.2 above. However, these cases need not be routed through Ministry of Railways i.e. PED/Vigilance

(Para-7.28.2 of Chapter 7 DFCCIL Vigilance Manual).

- 8.2.4** Composite or individual cases of E-7 and below, where it has been concluded that vigilance angle is present and questionnaire has been issued/ action has been recommended, shall be put up to the CVO/DFCCIL/Managing Director/ Concerned Director (as the case may be) for 1st stage/2nd stage advice.

Other cases where it has been concluded that there is no vigilance angle, shall be finalized at the level of CVO/DFCCIL in terms of extant instructions on dealing with cases which have no vigilance angle.

- 8.2.5** Composite or individual cases upto Group 'B' officers/ officials working on deputation in DFCCIL, where it has been concluded that vigilance angle is present and questionnaire has been issued/action has been recommended, shall be sent to PED/Vigilance with the comments of CVO/DFCCIL and the concerned Directors along with the recommendations of the Managing Director with the specific comments about the involvement or absence of vigilance angle for obtaining 1st stage advice of the PED/ Vigilance, Railway Board.

- 8.2.6** The level of initial examination, channel of submission and level of final disposal of reports shall be dealt with as per Schedule of Power of DFCCIL.

- 8.2.7** After the report is considered as per the above channel of submission and a course of action has been decided upon, the case is required to be referred to the Central Vigilance Commission/Railway Board (either through Ministry of Railways or directly as the case may be) for its 1st stage advice.

The following are the exceptions to the above provisions, and in these cases the case need not be referred to the CVC/ Railway Board for advice:

- i) Cases where the highest level of officer against whom action is recommended is a permanent employee of DFCCIL (E-7 and below) and upto Group 'B' officer working in DFCCIL on deputation and there is no difference of opinion between DA & CVO.
- ii) If it is concluded that the matter does not have a vigilance angle, and the views and recommendations of the CVO of DFCCIL are in line with the views of the DA.

[\(CVC Circular no 07/04/15 dated 27.4.15\).](#)

(Para-602.4, chapter-6 of IRVM-2018)

[\(Amendment No.3 issued vide Rly.Bd's letter No.2019/V1/IRVM/1/2 dated 28.09.20\)](#)

8.3 CASES REQUIRED TO BE SENT TO RAILWAY BOARD/CVC FOR ADVICE

- i) In all cases, including complaint cases and preventive check cases, involving Group 'A' Officers where findings of investigation report (including views of DA) prima facie indicate an element of vigilance angle, reference shall be made to the Commission through PED/Vigilance (CVO of Ministry of Railways).

(Para-603 (i), Chapter-6 of IRVM-2018)

- ii) In all cases referred by CVC for investigation and report, reference will be made to the Commission irrespective of whether the investigation report prima facie indicates a vigilance angle/ corruption or not.

(Para-603 (ii), Chapter-6 of IRVM-2018)

- iii) In all cases arising out of complaints and preventive checks relating to Group 'A' Officers (on deputation from Indian Railways) where there is difference of opinion between the CVO and the DA as to the presence of vigilance angle, the matter as also inquiry reports on complaints having vigilance angle, though unsubstantiated, would continue to be referred to the Commission through Railway Board i.e. PED/Vigilance for first stage advice.

(Para-603 (iii), chapter-6 of IRVM-2018)

- iv) Written complaints/disclosures (Whistle Blower Complaints) received under Public Interest Disclosure and Protection of Informers' Resolution (PIDPI), 2004 or the Whistle Blower's Protection Act, 2011 would also continue to be handled/processed by CVO/ DFCCIL in terms of the existing prescribed procedures or as amended from time to time.

(Para-603 (iv), chapter-6 of IRVM-2018)

- v) Cases of permanent employees of DFCCIL, Group 'C' officials and Group 'B' officers on deputation, shall be sent to the CVC through PED/Vigilance for their 1st stage advice in case they are involved in a composite case alongwith a Group 'A' Officer and the findings of investigation report prima facie indicate vigilance angle/ corruption.

(Para-603 (v), chapter-6 of IRVM-2018)

8.4 CASES REQUIRED TO BE SENT TO RAILWAY BOARD BUT MAY NOT BE SENT TO CVC

- i) In all cases where case is registered against an official working on deputation in DFCCIL arising out of complaints and preventive checks relating to category 'A' officers as well as composite cases wherein category 'B' officers along with DFCCIL officials upto E-7 level are also involved, which are not referred by the CVC for investigation and report and where it has been indicated in the inquiry/ investigation report that the allegations, do not indicate prima facie vigilance angle/corruption and relate to purely non-vigilance administrative lapses, the CVO's report recommending administrative/ disciplinary action/closure would be submitted to the DA and subsequently after obtaining the views of the DA, the case will be submitted to Railway Board i.e. PED/Vigilance. If it is concluded that the matter does not have a vigilance angle, such cases may be finalized by Railway Board i.e. PED/Vigilance if views and recommendations of the CVO of Ministry of Railways are in line with the views of the DA.

(Para-604 (i), Chapter-6 of IRVM-2018)

- ii) All other cases where the senior most officer is a Group 'B' officer and case has been registered or action has been recommended, shall be sent by DFCCIL to Railway Board Vigilance for obtaining the first stage advice of PED/Vigilance i.e. Chief Vigilance Officer of the Ministry of Railways.

(Para-604 (ii), chapter-6 of IRVM-2018)

- iii) All cases referred by Railway Board to DFCCIL/Vigilance where a report has been called for.

(Para-604 (iii), chapter-6 of IRVM-2018)

- iv) It may be seen from (i) and (ii) above that all cases registered against any officer must be referred by CVO to Railway Board Vigilance.

(Para-604 (iv), chapter-6 of IRVM-2018)

8.5 CASES NOT REQUIRED TO BE REFERRED TO RAILWAY BOARD/CVC

All other cases/complaints (excluding cases /complaints covered under paras above 8.3 and 8.4) can be disposed off by the Chief Vigilance Officer/DFCCIL

(Para-605, chapter-6 of IRVM-2018)

8.6 FIRST STAGE ADVICE OF CVC/ PED (VIGILANCE)/CVO (DFCCIL)

The advice of the CVC obtained after consideration of the investigation report is commonly known as the first stage advice. This is required to be taken for all Officers falling under the jurisdiction of the CVC as given in para 8.3.

(Para-606, chapter-6 of IRVM-2018)

In the cases of permanent employees of DFCCIL upto two level below the Board level officers (E-8 and E-9), 1st stage advice is tendered by CVC.

In cases where the highest officer involved is a Group 'B' Officer working on deputation in DFCCIL, first stage advice is tendered by PED/Vigilance (CVO of Ministry of Railways).

(Para-606, chapter-6 of IRVM-2018)

In the cases of permanent employees of DFCCIL of up to E-7 and below, 1st stage advice is tendered by CVO/DFCCIL

8.6.1 The advice of the CVC/PED (Vigilance), obtained after consideration of the investigation report is commonly known as the first stage advice. The first stage advice can be for any of the following courses of action:-

- i) Initiation of formal disciplinary proceedings either under minor penalty proceedings or major penalty proceedings, depending on the gravity of the charges.
- ii) Administrative action like counselling, warning, etc.
- iii) Treating the case as not having a vigilance angle and leaving it to the department for action as deemed fit.
- iv) Closure

(Para-606.1, chapter-6 of IRVM-2018)

- 8.6.2** Item (iii) of para 8.6.1 above implies that CVC leaves it to the DFCCIL /Railway Board to take further action. Such action may include formal disciplinary proceedings. Such cases need not be referred at any subsequent stage to the CVC but action will be finalized by the DFCCIL Administration in consultation with CVO/DFCCIL or PED (Vigilance) as the case may be. The same procedure is followed where PED (Vigilance)/ Railway Board or CVO/DFCCIL tenders his/ her first stage advice.

(Para-606.2, chapter-6 of IRVM-2018)

- 8.6.3** The CVC's first stage advice is conveyed to the DFCCIL Administration for further necessary action. However, there may be cases where there is a difference of opinion between the DA and the CVC. In such cases, where the CVC's advice is at variance with DA's recommendations, the following two courses of action are available:-

- i) to accept the Commission's advice by the concerned DA and get action initiated accordingly; or
- ii) refer the case back to the Commission seeking reconsideration of the first stage advice. Such a course of action also requires concerned DA/Board Member to record detailed reasons why Commission's advice cannot be accepted and needs reconsideration.

(Para-606.3, chapter-6 of IRVM-2018)

- 8.6.4** The Commission has decided that no proposal for reconsideration of the Commission's advice would be entertained unless new additional facts have come to light which would have the effect of altering the seriousness of the allegations/charges levelled against an officer. Such new facts should be substantiated by adequate evidence and should also be explained as to why the evidence was not considered earlier, while approaching the Commission for its advice. The proposals for reconsideration of the first stage advice, if warranted, should be submitted at the earliest but within two months of receipt of the Commission's advice. The proposals should be submitted by the disciplinary authority or it should clearly indicate that the proposal has the approval of the disciplinary authority.

(Para-606.4, Chapter-6 of IRVM-2018)
[\(CVC Circular No.20/11/21 dated 25.11.21\)](#)

- 8.6.5.** The Commission will tender its advice on such requests for reconsideration and may either agree and modify its advice or reiterate its earlier advice. Where the difference of opinion persists despite reconsideration, the disciplinary authority, namely, the General Manager/ concerned Board Member/MD/Director (as the case may be) will take a final decision, duly recording reasons for disagreement with the CVC's advice. Such cases of disagreement may be reflected in the Annual Report of the CVC, laid in the Parliament

(Para-606.5, chapter-6 of IRVM-2018)
[\(CVC Circular No.20/11/21 dated 25.11.21\)](#)

- 8.6.6** Information to be submitted for obtaining Commission's first stage advice:

While seeking first stage advice of the Commission, following material should be submitted:

- i) A self-contained note clearly bringing out the facts and the specific point(s) on which Commission's advice is sought. The self-contained note is meant to supplement and not to substitute the sending of files and records.
- ii) The bio-data of the officer concerned;
- iii) Other documents required to be sent for first stage advice:
 - a) A copy of the complaint/source information received and investigated by the CVOs;
 - b) A copy of the investigation report containing allegations in brief, the results of investigation on each allegation;
 - c) Version of the concerned public servant on the established allegations, the reasons why the version of the concerned public servant is not tenable/acceptable, and the conclusions of the investigating officer;
 - d) Statements of witnesses and copies of the documents seized by the investigating officer;
 - e) Comments of the Chief Vigilance Officer and the Disciplinary Authority on the investigation report {including investigation done by the CBI and their recommendation};
 - f) A copy of the draft charge sheet against the SPS along with the list of documents and witnesses through which it is intended to prove the charges;
 - g) Assurance memo.

[\(CVC Circular No. 14/3/06 dated 13.03.2006\)](#): Reference to the Commission for its advice- Documents including the draft charge sheet to be enclosed for seeking first stage advice and the documents to be enclosed for seeking second stage advice)

[\(CVC Circular No. 21/8/09 dated 06.08.2009\)](#): References to the Commission for first stage advice- procedure regarding)

(Para-606.6, chapter-6 of IRVM-2018)

8.7 PROCEDURE FOR OBTAINING SECOND STAGE ADVICE

- 8.7.1** First stage advice of the Commission/PED(Vigilance) /CVO (DFCCIL) is obtained on the investigation report and second stage advice is obtained, in case of disagreement between DA and CVC/ PED(Vigilance)/CVO (DFCCIL), before the final decision is taken in disciplinary proceedings arising out of first stage advice. The Central Vigilance Commission and PED/Vigilance (Railway Board) render first and second stage advice for officers falling within their respective jurisdictions. In all cases, including composite vigilance cases, second stage advice is to be tendered by the authority that gave first stage advice. This includes cases where the first stage advice may have been for pursuing either major penalty action or minor penalty action.

(Para-607.1, Chapter-6 of IRVM-2018)

- 8.7.2** In cases in which major penalty action is initiated on CVC/PED(Vigilance)/CVO (DFCCIL)'s first stage advice, immediate action is taken to issue the charge sheet, after which progress at various stages of disciplinary proceedings is closely monitored. On completion of the inquiry, the Inquiry Officer (IO) concludes whether or not the charges

are proven.

(Para-607.2, chapter-6 of IRVM-2018)

- 8.7.3** In cases where the DA, on conclusion of the disciplinary proceedings, proposes to take action in line with the first stage advice of the Commission/PED (Vigilance)/ CVO(DFCCIL) and the imposition of proposed penalty is within her/his competence, second stage advice is not required to be obtained. The DA should straightaway impose the penalty by issuing a reasoned speaking order. In all such cases, CVO (DFCCIL) should forward an Action Taken Report along with the copy of the IO report where relevant and the final order issued by the DA for the record of Board Vigilance and the Commission.

(Para-607.3, chapter-6 of IRVM-2018)

- 8.7.4** In cases where the DA proposes to take action in line with the first stage advice of the Commission/PED(Vigilance) /CVO (DFCCIL), but is not competent to do so, the case is to be referred to the competent disciplinary authority

(Para-607.4, chapter-6 of IRVM-2018)

- 8.7.5** In cases where the DA, proposes to take any action that is at variance with the first stage advice of the Commission or PED/ Vigilance (Railway Board)/ CVO (DFCCIL), the case along with the Disciplinary Authority's detailed note giving reasons for his/her provisional decision and vigilance comments thereon, must be sent for obtaining second stage advice of CVC or PED/Vigilance (Railway Board), as relevant.

(Para-607.5, chapter-6 of IRVM-2018)

- 8.7.6** In the case of permanent employees of DFCCIL figuring in composite vigilance cases, reference to the Commission or PED (Vigilance) is to be made for seeking second stage advice, if the DA proposes to take any action that is at variance with the first stage advice.

(Para-607.6, chapter-6 of IRVM-2018)

- 8.7.7 Materials to be furnished for second stage advice:**

Following material should be furnished to the Commission while seeking its second stage advice:

- i) A copy of the charge sheet issued to the public servant;
- ii) A copy of the Inquiry Report submitted by the Inquiring Authority (along with a spare copy for the Commission's records);
- iii) The entire case records of the inquiry, viz. copies of the depositions, daily order sheets, exhibits, written briefs of the Presenting Officer and the Charged Officer;
- iv) Comments of the CVO and the Disciplinary Authority on the assessment of evidence done by the Inquiring Authority and also on further course to be taken on the Inquiry Report.

([CVC Circular No. 14/3/06 dated 13.03.06](#)-Reference to the Commission for its advice- Documents including the draft charge sheet to be enclosed for seeking first stage advice and the documents to be enclosed for seeking second stage advice reg.)

([CVC Circular No.0001/DSP/1 dated 10.02.03](#)-Non-acceptance of the Commission's advice in the matter of appeals)

(Para-607.7, chapter-6 of IRVM-2018)

8.7.8 After the enquiry findings are put up to the DA. There are two conditions now:

i) **DA is in agreement with CVC/PED (Vigilance)/CVO (DFCCIL)'s advice**

The DA takes action to implement CVC/ PED(Vigilance)/ CVO (DFCCIL)'s advice

ii) **DA proposes action which is contrary to CVC/PED (Vigilance)/ CVO (DFCCIL)'s advice**

The entire case file is sent to CVC/Railway Board (Vigilance)/CVO (DFCCIL) by the concerned Deptt./Units of DFCCIL containing the IO's report and **DA's provisional view and Vigilance comments**. In case the DA disagrees with some findings of the IO, then he prepares a disagreement memo on aspects of such differences with the IO, mentioning reasons for it. In such cases, the disagreement memo is also a part of the documents. These are scrutinized and commented upon by Board Vigilance/DFC Vigilance. After this, the case is sent to CVC/PED/(Vigilance) for its 2nd stage advice. CVC/PED/ (Vigilance) examines the entire case and gives its 2nd stage advice in the form of action to be taken against the charged official. The following alternatives are possible:

(Para-607.8 (ii), chapter-6 of IRVM-2018)

a) **CVC/PED/(Vigilance)/CVO (DFCCIL) disagrees with DA's provisional view:**

The case is put up to DA. If the DA at this stage agrees with CVC/PED (Vigilance)/ CVO(DFCCIL), then action is taken to implement CVC/PED (Vigilance)/CVO (DFCCIL)'s advice. If the DA disagrees with CVC/ PED(Vigilance)/ CVO(DFCCIL), **there is no scope for reconsideration**. DA will take a final decision, duly recording reasons for disagreement with the CVC's advice. Such cases of disagreement may be reflected in the Annual Report of the CVC, laid in the Parliament.

(Para-607.8 (a), chapter-6 of IRVM-2018)

([Amendment No.3 issued vide Rly.Bd's letter No.2019/V1/IRVM/1/2 dated 28.09.20](#))

b) **CVC/PED(Vigilance)/CVO(DFCCIL) agrees with DA's provisional view:** In this scenario, the case is sent to concerned DA for implementation of CVC's 2nd stage advice. In this case, the IO's report, along with disagreement memo, if any and CVC /PED (Vigilance)/ CVO(DFCCIL)'s advice, is conveyed to the charged official who is given an opportunity to represent against the IO's report and disagreement memo, if any. Then, the case is put up to DA for his final orders.

(Para-607.8 (b), chapter-6 of IRVM-2018)

([Amendment No.3 issued vide Rly.Bd's letter No.2019/V1/IRVM/1/2 dated 28.09.20](#))

8.8 DEVIATION CASE TO BE REPORTED TO COMMISSION

8.8.1 When the Disciplinary Authority deviates from or does not implement Commission's advice, the CVO may bring it to the notice of the Commission. The Commission may

consider it for inclusion in its Annual Report as a case of non-implementation of Commission's advice.

(Para-608.1, Chapter-6 of IRVM-2018)

- 8.8.2** Sometimes after imposition of the punishment by the Disciplinary Authority, the charged official makes an appeal. The Appellate Authority is expected to keep in view the advice tendered by the CVC/ PED(Vigilance)/CVO (DFCCIL) and decide on the appeal. In case the Appellate Authority decides to deviate from the advice given by the CVC/PED(Vigilance) /CVO (DFCCIL) on appeal, the CVO will report this to the Commission, which will take an appropriate view whether the deviation is serious enough to be included in its Annual Report.

(Para-608.2, Chapter-6 of IRVM-2018)

- 8.8.3** When the Appellate Authority's order is at variance with Commission's advice, the CVO may forward a copy of Appellate Authority's Order to the Commission. The Commission may consider it for inclusion in its Annual Report as a case of non-implementation of Commission's advice.

([CVC Circular No.000/DSP/1 dated 10.02.03](#) regarding non-acceptance of the Commission's advice in matter of appeals)

(Para-608.3, chapter-6 of IRVM-2018)

- 8.8.4** **Exception:** In respect of a Presidential appointee,

if the Disciplinary Authority proposes a penalty and where UPSC is required to be consulted, the Commission's advice is not required. However, in respect of a Presidential appointee, if the Disciplinary Authority proposes exoneration, the Commission's second stage advice is required to be obtained.

([CVC Circular No. 17/12/12 dated 07.12.12](#))

(Para-608.4, chapter-6 of IRVM-2018)

8.9 EXEMPTION FROM CONSULTATION IN CERTAIN CIRCUMSTANCES

- 8.9.1** In complaints referred by the Commission for investigation and report, if after investigation it is found that the officials involved in the case do not fall under the jurisdiction of the Commission, the case need not be referred to the Commission and may be dealt with by the CVO. However, the action taken by the CVO on the CVC referred complaint may be intimated to the Commission in order to monitor compliance.

([Circular No. 009/VGL/056 dated 28.01.10](#)).

(Para-609.1, chapter-6 of IRVM-2018)

- 8.9.2** In respect of composite cases wherein the Commission had tendered its first stage advice for all categories of officers involved, second stage advice of the Commission should be sought only in the case of officers falling within the jurisdiction of the Commission. With respect to officers not falling under the jurisdiction of the Commission, the case should be dealt at the level of the CVO, and referred to the Commission for second stage advice only if the DA's opinion is at variance with the Commission's advice. This procedure would also apply to CBI investigated cases involving officials not falling

under the jurisdiction of the Commission wherein the Commission had rendered its advice (cases where there were differences between the CBI and the DA and which were referred to the Commission for advice).

[\(CVC Circular No. 009/VGL/056 dated 28.01.10\)](#)

(Para-609.2, chapter-6 of IRVM-2018)

- 8.9.3** In cases where the Disciplinary Authority (DA), on conclusion of disciplinary proceedings, proposes to impose a penalty which is in line with the Commission's first stage advice in respect of officers falling within the jurisdiction of the Commission, the second stage consultation with the Commission is not required. However, the CVO in all such cases is required to forward a copy each of the IO's findings and the final order issued by the DA in the case for Commission's record.

[\(Circular No. 08/12/14 dated 03.12.14\)](#)

(Para-609.3, chapter-6 of IRVM-2018)

8.10 RECONSIDERATION OF ADVICE

- 8.10.1** As already indicated in paras 8.6.3, 8.6.4 and 8.7.8, the CVC/PED (Vigilance)/ CVO (DFCCIL) may be consulted for **reconsideration of its 1st stage only**. CVC/PED/(Vigilance)/ CVO (DFCCIL) entertains the reconsideration proposal only for one time at **first stage** and strictly when there are new facts which have not been considered by the CVC/PED/ (Vigilance)/CVO (DFCCIL) earlier.

(Para-610.1, chapter-6 of IRVM-2018)

[\(Amendment No.3 issued vide Rly.Bd's letter No.2019/V1/IRVM/1/2 dated 28.09.20\)](#)

- 8.10.2** In cases in which CVC/PED(Vigilance) /CVO(DFCCIL) has advised Administrative action in its first stage advice and if there is disagreement between the CVC/PED (Vigilance)/ CVO (DFCCIL) and the DA i.e. the DA proposes to deviate and take a decision at variance with CVC/PED (Vigilance) / CVO (DFCCIL) 's advice, need not be referred to CVC/ PED(Vigilance) /CVO(DFCCIL) for reconsideration. However, such cases shall be brought to the notice of the CVC/ PED(Vigilance) /CVO(DFCCIL)

(Para-610.2, chapter-6 of IRVM-2018)

- 8.10.3 Procedure for seeking reconsideration of CVC/PED (Vigilance)/CVO(DFCCIL)'s Advice:**

CVC/PED(Vigilance)/CVO (DFCCIL) 's advice is based on inputs received from the organisation and where CVC/PED (Vigilance)/CVO(DFCCIL) has taken a view different from the one proposed by the organisation, it is on account of CVC/PED (Vigilance)/ CVO(DFCCIL)'s perception of the seriousness of the lapses or otherwise. In such cases, there is no scope for reconsideration. Therefore, proposal for reconsideration of CVC/ PED(Vigilance)/ CVO(DFCCIL)'s advice may not be submitted unless new additional facts have come to light which would have the effect of altering the seriousness of the allegations/charges levelled against an officer. (CVC Circular No. 15/4/08 dated 24.04.2008-Reference to the Commission for reconsideration of its advice- regarding)

(Para-610.3, chapter-6 of IRVM-2018)

- 8.10.4** The reconsideration of advice will be only in exceptional cases at the specific request of the DA, before a decision is taken by it to impose the punishment or otherwise. After a decision has been taken by DA, CVC/PED(Vigilance)/ CVO (DFCCIL) will not entertain any reconsideration proposal. Such cases will be treated only as “deviation” from and non-acceptance of CVC/PED(Vigilance) /CVO (DFCCIL) 's advice.

(Para-610.4, chapter-6 of IRVM-2018)

- 8.10.5** In the case of E-7 and below officials figuring in composite vigilance cases, reference to the Commission or PED (Vigilance) is to be made for seeking second stage advice, if the DA proposes to take any action that is at variance with the first stage advice.

(Para-610.5, chapter-6 of IRVM-2018)

- 8.10.6** Cases of disagreement between DA and CVC/PED(Vigilance)/ CVO(DFCCIL), where the DA is the President only required to be referred to DoP&T for resolution.

[\(Railway Board's letter No.2012/V-1/CVC/1/2 dated 12/07/2016\) RBV No.04/2016](#).

(Para-610.6, chapter-6 of IRVM-2018)

8.11 COPIES OF THE INQUIRY REPORT

There is a stipulation on the number of copies of the inquiry report to be sent to various agencies at different stages.

- i) The Inquiry officer will send 5 copies of Inquiry Report to the “Authority” who ordered the inquiry.
- ii) The “Authority” will send 4 copies to CVO for obtaining second stage advice (in case of disagreement between DA and CVC/ PED(Vigilance)/ CVO(DFCCIL). He should not send any copy to the charged official for obtaining his representation at this stage.
- iii) CVO will forward the report in 3 copies to the CVC/ Board (Vigilance) with his comments. He may retain one copy of the report with him.
- iv) CVC/ Board (Vigilance) after examination of the report will forward 2 copies of the report to CVC with its comments.
- v) CVC will scrutinize the report and return one copy of the IO's report to Board/CVO (DFCCIL) along with their second stage advice (in case of disagreement between DA and CVC).

(Para-611, chapter-6 of IRVM-2018)

8.12 CASES TO BE DEALT AT THE LEVEL OF CVO/DFCCIL ON CONCLUSION OF DISCIPLINARY PROCEEDINGS ARISING OUT OF FIRST STAGE ADVICE

As mentioned in para 8.9.2, in cases where the Disciplinary Authority, on conclusion of the disciplinary proceedings, proposes to impose a penalty which is in line with the first stage advice of the Commission or PED Vigilance/CVO (DFCCIL), such cases need not be sent to CVC/Railway Board for Second Stage Advice. Such cases, where the action proposed by the DA is in line with the first stage advice, may be dealt at the level of CVO/DFCCIL and the DA concerned. However, CVO/DFCCIL should forward an Action Taken Report along with the copy of the IO's report where relevant and the final order issued by the DA for the record of the Commission/ Railway Board Vigilance.

(Para-612, chapter-6 of IRVM-2018)

- 8.12.1** By partially dispensing with the requirement of seeking second stage advice with regard to paragraph above, it is expected that
- i) The CVO/DFCCIL would be in a position to exercise proper check and supervision over such cases and would ensure that cases are disposed of expeditiously within the time limits stipulated by the Commission;
 - ii) The punishment awarded to the concerned officer is commensurate with the gravity of the misconduct established on his/her part.

(Para-612.1, chapter-6 of IRVM-2018)

- 8.12.2** It is reiterated that instructions relating to second stage advice apply in all cases where the CVC or PED(Vigilance) /CVO (DFCCIL) has given their first stage advice. Hence this would include cases where the first stage advice may have been for pursuing either major penalty action or minor penalty action. Even in the case of non-gazetted staff (on deputation) figuring in composite vigilance cases, reference to the Commission or PED(Vigilance)/ CVO (DFCCIL) is to be made for seeking second stage advice, if the DA proposes to take any action that is at variance with the first stage advice.

(Para-612.2, Chapter-6 of IRVM-2018)

8.13 CONVEYING DA's ORDER TO CVC AND CONSULTATION WITH CVC

- 8.13.1** The final order passed by the DA/President is conveyed to the CVC in the form of an Office Memorandum.

(Para-613.1, chapter-6 of IRVM-2018)

- 8.13.2** At the appellate stage, consultation with the CVC is not necessary so long as the appellate authority, while modifying the penalty imposed by the Disciplinary Authority on the advice of the CVC, still remains within the parameters of the 'major' or 'minor' penalty earlier advised by the CVC. (Department of Personnel & Administrative Reforms Confidential O.M. No.118/2/78-AVD I dated 19.02.1979 circulated with Railway Board's Confidential letter No.76/Vig-I/CVC/2/2 dated 20.04.1979). But the decision of the appellate authority is entered in DFCCIL database.

(Para-613.2, chapter-6 of IRVM-2018)

- 8.13.3** In cases where the decision of the appellate authority is in variation from the CVC/ Railway Board's advice, then the details of the case in the form of an OM along with a copy of the speaking order of the Appellate Authority is conveyed to the CVC/Railway Board for their information.

(Para-613.3, chapter-6 of IRVM-2018)

- 8.13.4** All cases of disagreement /deviation from CVC's advice which are not being referred to DoPT by the authorities concerned shall be reported by CVO to Managing Director or PED/Vig (as the case may be). All such actions should be completed within a period of two months from the date of issue of orders by the Disciplinary Authority.

(para-613.4 of IRVM-2018)

[\(Amendment No.05 issued vide Rly.Board's letter No.2019/V1/IRVM/1/2 dated 03.02.22\)](#)

8.14 COPY OF CVC/RAILWAY BOARD ADVICE TO THE CONCERNED EMPLOYEE

- 8.14.1** When the CVC/Railway Board's second stage advice is obtained, a copy thereof may be made available to the concerned employee, along with the IO's report, to give him an opportunity to make representation against IO's findings and the CVC/Railway Board's advice, if he desires to do so. Para 7.27, CVC Manual 2017 ([CVC Circular No. 99/VGL/66 dated 28.09.2000](#) - Making available a copy of CVC/Railway Board's advice to the concerned employee)

(Para-614.1, chapter-6 of IRVM-2018)

8.15 D&AR ACTION AGAINST PERMANENT EMPLOYEES OF DFCCIL (TWO LEVEL BELOW OF BOARD i.e. E-8 & E-9) AND GAZETTED OFFICERS WORKING ON DEPUTATION IN DFCCIL ON THE VERGE OF RETIREMENT

The Central Vigilance Commission had requested to formulate a Standard Operating Procedure (SOP) in cases where the Commission's advice is for D&AR action against retiring and retired officers.

- 8.15.1** For cases involving permanent employees of DFCCIL (two level below of Board i.e. E-8 & E-9) and Gazetted Officers working on deputation in DFCCIL on the verge of retirement i.e., within next four months, the procedure to be followed will be as under-

- i) Anonymous/Pseudonymous complaints received against officers should be dealt accordingly as per procedure given in para-7.10 of Chapter-7, DFCCIL Vigilance Manual.
- ii) In cases where minor procedural lapses have been committed by the officer and Disciplinary Authority is of the view that the lapses may be condoned or that the action warranted is at best counselling or other administrative action such cases may be forwarded to Railway Board/CVC for further action with suitable remarks.
- iii) In cases where the lapses committed by the defaulting officers have been pinpointed and the extent and nature of irregularity are such that minor penalty action is warranted and the case is becoming time-barred within the next 4 months, charge-sheet for only major penalty may be issued before sending the case to Railway Board/CVC. While forwarding such cases, the MD/DFCCIL may indicate separately that major penalty charge-sheet is being issued against such officers since it would take some time before the first stage advice from CVC/Railway Board is obtained. However, if the case is not likely to be time-barred, DFCCIL may forward the case to Railway Board/CVC for further action with the recommendations of the MD/DFCCIL.
- iv) Where lapses committed by defaulting officers have been pinpointed and the extent and nature of irregularities are such that major penalty action is warranted, DFCCIL will issue major penalty charge-sheet and forward the case along with the recommendations to Railway Board/CVC for further action.

- 8.15.2** Commission expects that all retirement cases should be received by the first week of the month of superannuation of the officer(s) concerned. CVC would emphasize that all retirement cases for advice should be received in the Commission by 10th of every month by 5 PM. Further, if 10th is a holiday, by the next working day. It is thus advised that CVO should ensure submission of cases of officer/official at least two months before retirement for processing in CVC/Board Vigilance and obtaining advice of CVC.

(Para-615.2 of IRVM-2018)

([Amendment No.3 issued vide Rly.Bd's letter No.2019/V1/IRVM/1/2 dated 28.09.20](#))

NOTES / MODIFICATIONS

CHAPTER-9

VIGILANCE STATUS FOR MANAGEMENT DECISIONS IN DFCCIL

9.1 ENSURING INTEGRITY OF PUBLIC SERVANTS

There is hardly any need to emphasize the importance of ensuring the integrity of public servants for a clean administration. It is necessary for the officer-in-charge of the administration to satisfy himself/herself about the integrity of an official before clearing the proposal for his promotion, confirmation, deputation, foreign assignment, etc. For this purpose, vigilance status of an official is required to be furnished by Vigilance to Administration from time to time to enable Administration to take further action in accordance with extant rules and regulations governing the purpose for which the vigilance status has been provided by vigilance.

(Para-701 of IRVM-2018)

9.2 VIGILANCE STATUS FOR DEPUTATION, AWARD, POSTING, PROMOTION, RETIREMENT AND VARIOUS NOMINATIONS

(Para-702 of IRVM-2018)

9.2.1 Vigilance will furnish the following information, for the purposes listed in para-9.2.2:-

- i) all current vigilance cases under investigation or in which disciplinary proceedings are pending;
- ii) all substantiated vigilance case(s) finalised during the last 10 years;
- iii) all vigilance cases closed without action during last 10 years (only for E-8 & above officers of DFCCIL)

9.2.2 The above information is required to be provided as Vigilance status of the officers for various purposes as listed in the following paras: -

- i) Deputation of official including foreign assignment
- ii) Awards
- iii) Posting of E8/E9 level officers and Directors & above level
- iv) Postings/Promotions/NOC applying for outside employment/Forwarding of application for outside employment/ Confirmation.
- v) Normal retirements/Voluntary retirements /Resignations, etc.
- vi) Nomination as Examiner/Member of Selection Committee.
- vii) **Before sending proposals for extension of deputation tenure:**
DFCCIL may invariably take vigilance clearance from their Vigilance department while sending proposals for extension of tenure of Railway officials on deputation with them.
[\(Rly. Board's letter No.2006/V-1/VC/1 dated 14.09.06 \(RBV 21/06\)\)](#)
- viii) **Before permanent absorption:** The Vigilance Clearance of the Govt. Employees who are taken on permanent absorption basis in Public Sector Undertakings should invariably be obtained before such absorption.
- ix) **Posting in sensitive positions:** Where disciplinary cases are in progress or the officer is undergoing punishment, the officers will not be posted in positions carrying special pay. Officers borne on 'Agreed/ Secret List' will not be posted on sensitive posts.

- x) Posting of Dy. CVO and officers in the Vigilance Organisation:-
 - a) These are very sensitive posts and vigilance record must be given due consideration while empanelling/ posting on these positions. Officers borne on 'Agreed / Secret List' should not be posted as Dy. CVO and Vigilance Officers.
 - b) In respect of officials (upto E-7 & below level officials) vigilance organization would only furnish the current vigilance position about the employees to the executive branch for taking further action in accordance with the extant instructions.

9.3 **COMPLETE VIGILANCE HISTORY:**

9.3.1 Vigilance wing will furnish complete vigilance history of the official for following purposes:

- i) Re-employment/extension of service /commercial employment after retirement.
- ii) Premature retirement through review /Compulsory Retirement.
- iii) Posting of CVOs and other Senior Officers in the Vigilance Organisation.

(Para-703 of IRVM-2018)

9.3.2 The details of cases devoid of vigilance angle resulting in administrative action in agreement with CVC/CVOs advice should not get reflected in the vigilance position of the concerned officer furnished for management decisions.

[\(Amendment slip of DFCCIL\) Advance correction slip No.07- Para-703.2 705 of IRVM- 2018 issued vide Rly. Board's letter No.2019/V1/IRVM/1/2 dated 11.04.23\)](#)

9.4 **NO-OBJECTION CERTIFICATE FOR ISSUE OF PASSPORT/VISA/EX-INDIA LEAVE**

Vigilance wing will furnish information on all current vigilance cases under investigation or in which disciplinary proceedings / proceedings in Court of Law as a result of vigilance action are pending.

(Para-704 of IRVM-2018)

9.5 **ENGAGEMENT OF CONSULTANTS AND EMPLOYMENT/RE-EMPLOYMENT OF RETIRED OFFICERS IN THE PSUs UNDER MINISTRY OF RAILWAYS**

Engagement of consultants and employment/ re-employment of retired officers in the PSUs under Ministry of Railways cannot be done for: -

- a) Persons borne on current 'Agreed /Secret' list.
- b) Persons involved in any current vigilance/CBI cases or against whom disciplinary or prosecution proceedings are in process.
- c) Persons against whom Major penalty has been imposed during last 10 years of service as a result of vigilance/CBI action.
- d) Persons against whom Minor penalty has been imposed during last 05 years of service as a result of vigilance/CBI action.

NOTE:

If any officer appointed as Consultant is subsequently detected to be involved in a Vigilance/CBI case, action will be taken as per extant guidelines.

(Para-705 of IRVM-2018)

([Amendment slip of DFCCIL\) Advance correction slip No.07- Para-705 of IRVM-2018 issued vide Rly. Board's letter No.2019/V1/IRVM/1/2 dated 11.04.23](#))

9.6 EMPANELMENT OF SERVING/ RETIRED RAILWAY OFFICERS AS ARBITRATORS:

Empanelment of serving/retired officers as Arbitrators cannot be done for: -

- a) Persons borne on current 'Agreed /Secret' list.
- b) Persons involved in any current Vigilance /CBI cases or against whom disciplinary or prosecution proceedings are in process.
- c) Persons against whom Major penalty has been imposed during the last 20 years of service as a result of Vigilance/CBI action.
- d) Persons against whom minor penalty has been imposed during the last 10 years of service as a result of Vigilance /CBI action.

NOTE:

- i) If any officer appointed as Arbitrator is subsequently detected to be involved in a Vigilance/CBI case, action will be taken as per extant guidelines.
- ii) The officer working in the Vigilance Organisation should not be considered for appointment as Arbitrators, even if empanelled, as per extant guidelines.

(Para-706 of IRVM-2018)

([Amendment No.10- Para-706 of IRVM-2018 issued vide Rly. Board's letter No.2019/V1/IRVM/1/2 dated 19.12.23](#))

9.7 VIGILANCE CLEARANCE IN REGARD TO BOARD LEVEL/ HIGHER THAN BOARD LEVEL APPOINTEES FOR PUBLIC SECTOR ENTERPRISES UNDER MINISTRY OF RAILWAYS:

(Para-707 of IRVM-2018)

9.7.1 For appointment to Board level/ higher than Board level posts in Public Sector Enterprises under Ministry of Railways, Vigilance clearance will be required to be obtained from Central Vigilance Commission even if any of the candidate(s) is/ are holding a Board level post at the time of consideration.

(Para-707.1 of IRVM-2018)

9.7.2 The names of all the officers recommended by PSEB for appointment to any Board level/ higher than Board level position will be forwarded to CVO of the Ministry who after scrutinizing the records will forward the same to Central Vigilance Commission for obtaining the clearance of the Commission.

(Para-707.2 of IRVM-2018)

(Authority: [CVC Circular No.10/09/24 dated 06.09.24](#))

9.7.3 In case any of the proposed officer is not from Railways, the same shall be brought to the notice of the CVO of the Ministry giving details of the past experience of the candidate so that the concerned organizations can be contacted for obtaining the Vigilance history of the candidate before referring the matter to Central Vigilance Commission for clearance.

(Para-707.3 of IRVM-2018)

(Authority: [CVC's OM No. 3\(V\)/99/4 dated 12th July, 1999](#))

9.8 IMPORTANT ISSUES REGARDING POSTINGS/VIGILANCE STATUS:

- (i) Officers borne on 'Agreed/ Secret List' should not be posted as CVO/Dy. CVO and Vigilance Officer.
- (ii) Officers borne on 'Agreed/ Secret List' should not be sent on deputation.
- (iii) Officers borne on 'Agreed/ Secret List' should not be posted on sensitive posts.
- (iv) Where disciplinary cases are in progress or the officer is undergoing punishment, the officers should not be posted to positions carrying special pay.

(Para-708 of IRVM-2018)

9.9 VIGILANCE STATUS OF UP TO E-7 LEVEL OFFICIAL:

In respect of vigilance status up to E-7 level official, vigilance organization would only furnish the current vigilance position about the employees to the executive branch for taking further action in accordance with the extant instructions.

- 9.10** Vigilance clearances shall not be granted to those officials (Holding post of Junior Manager & above), who have not furnished their annual property returns up to the prescribed period.

(Para-4.1 of [DPE O.M. F.No.15\(2\)/2001-DPE \(GM\) dated 29.07.24](#)) ([DoPT OM F.No.11013/17/2023-PP-A.III dated 14.07.23](#)) ([CVC O.M.No.021-AIS-6\)7\) dated 16.03.22](#))

Vigilance clearance may not be granted to an officer under suspension for deputation, empanelment, etc. [DoPT OM No. 11012/11/2007-Estt \(A\) dated 14.12.2007](#), [21.6.2013](#) & [14.07.2023](#)

CHAPTER 10

IMPORTANT ISSUES

10.1 MONITORING OF VIGILANCE RELATED D&AR CASES-COORDINATION BETWEEN VIGILANCE AND HR DEPARTMENT OF DFCCIL

The CVO/DFCCIL is entrusted with the task of Vigilance administration. Monitoring the progress of disciplinary action cases arising out of vigilance investigations and ensuring timely, logical and complete closure of such cases constitutes an important part of this function. It has been observed that the time taken in finalizing the disciplinary process continues to be a cause for concern and requires closer monitoring especially in view of the inter-departmental nature of such proceedings.

(para-801.1 of IRVM-2018)

- 10.1.2** To enable closer monitoring of such proceedings, it is required that the CVO/ DFCCIL should hold a periodic Review Meeting with the Managing Director or Head of HR Department for monitoring of such cases. In addition, suitable similar mechanisms may be evolved for cases pending at Corporate Office/ Unit level of DFCCIL. This meeting would need to be held in a formal, organized manner with a pre-determined agenda. The agenda must include the status of all pending cases and must record the progress made since the last meeting. The objective of the meeting would be to reach a fair and logical closure to all pending cases expeditiously. The minimum periodicity of this meeting is to be once every quarter. The frequency may be increased on need basis.

(Para-801.2 of IRVM-2018)

10.2 ROLE OF HR DEPARTMENT OF CORPORATE OFFICE OF DFCCIL

- 10.2.1** In all vigilance related disciplinary cases where DFCCIL Management is the Disciplinary/ Appellate/ Revisionary Authority, HR Deptt. of Corporate office/DFCCIL is the nodal branch for processing such cases as per procedure laid down in HR Manual of DFCCIL

(Para-802.1 of IRVM-2018)

- 10.2.2** In cases where charged officer is of the level of SAG or above (excluding Director/ MD), (while on deputation in DFCCIL), Railway Board is the disciplinary authority (DA) right from the initiation of the disciplinary proceedings up to its finalization. Similarly in respect of cases involving initiation of departmental proceedings for cut in pension/ gratuity against Indian Railway officers on deputation in DFCCIL where President is the disciplinary authority, HR Deptt. of Corporate Office/DFCCIL is the nodal Branch.

(Para-802.2 of IRVM-2018)

- 10.2.3** Any correspondence made between Secretary Branch/Establishment of Railway Board and HR Department of DFCCIL pertaining to D&AR /CBI prosecution cases, arising out of vigilance investigation, a copy shall be marked to CVO/ DFCCIL for further follow up so as to reduce undue delays.

(Para-802.3 of IRVM-2018)

[\(Amendment No.01 issued vide Rly. Bd's letter No.2019/V1/IRVM/1/2 dated 04.10.19\)](#)

10.3 PROCEDURE FOR MINOR PENALTY PROCEEDINGS

- a) After the Competent disciplinary authority decides to initiate disciplinary proceedings,

HR Department of Corporate Office/DFCCIL arranges issue of chargesheet to the charged officer. In respect of minor penalty proceedings, in case the charged officer wants to scrutinize the documents mentioned in the charge memorandum, the same are made available for inspection (depending on their relevance to the disciplinary case) to the charged officer through the concerned Controlling Officer/DA or Vigilance Wing of DFCCIL.

- b) After receipt of defence statement of the charged officer, case is submitted to the disciplinary authority for deciding whether in view of charged officer's submissions he needs to be exonerated or punished. In case, it is decided to punish the officer, the nature of penalty is specified by the DA while passing the speaking order.
- c) The disciplinary authority's speaking order is conveyed to the charged officer (CO) by HR Department of DFCCIL through the concerned Controlling Officer of Corporate Office/ Unit of DFCCIL

(Para-803 of IRVM-2018)

10.4 **PROCEDURE OF MAJOR PENALTY PROCEEDINGS**

- a) After the competent disciplinary authority decides to initiate disciplinary proceedings, HR Deptt. of DFCCIL arranges issue of chargesheet to the charged officer. On receipt of defence statement by the charged officer denying the charges, HR Department puts up the case to the disciplinary authority for decision whether disciplinary proceedings should be dropped at this stage by exonerating the officer, or to hold departmental inquiry to arrive at the truth or otherwise on the articles of charges. The disciplinary authority can also decide to impose a minor penalty on the charged officer if warranted based on the facts and circumstances of the case.
- b) If it is decided by the disciplinary authority to exonerate the charged officer or to impose only a minor penalty on him, the orders are communicated to the charged officer (CO) by HR Department through the concerned Controlling Officer of Corporate Office/ Unit of DFCCIL.
- c) In cases where disciplinary authority decides to remit the case to inquiry, HR Department shall arrange issue of appointment orders of Inquiry Officer (IO) and Presenting Officer (PO) with the approval of the disciplinary authority.
- d) After receipt of IO's report, the case is put up by HR Department to the disciplinary authority for tentative acceptance or otherwise of the findings contained in the IO's report. In case for any article of charge, the disciplinary authority deems fit to disagree with the IO's findings, then a Disagreement Memo with the approval of the disciplinary authority is finalized and IO's report along with disagreement memo is communicated to the charged officer for submission of representation thereon. In case where IO's findings are not accepted as such by the disciplinary authority, the same is forwarded to the Charged officer by HR Department to enable him to submit his representation thereon. In appropriate cases, the DA may also remit the case for further inquiry and resubmission of a fresh report to him.
- e) After receipt of charged officer's representation on the IO's report and disagreement memo, if any, HR Department puts up the case to the disciplinary authority for passing a speaking order and if the case warrants any penalty, for imposing the penalty which is within its competence. The penalty orders or the orders exonerating the CO, as the case may be, as per DA's decision are communicated by HR Department through the concerned Controlling Officer of Corporate Office/Unit of DFCCIL.
- f) In case, the intended penalty does not fall within the competence of the Disciplinary Authority, it shall make recommendation to the Disciplinary Authority competent for

deciding the case by imposing penalty as considered appropriate by the Disciplinary Authority. The Disciplinary Authority takes a final decision, which is then communicated to the charged officer by HR Department again through the concerned Controlling Officer of Corporate Office/Unit of DFCCIL

(Para-804 of IRVM-2018)

10.4.1 **Disciplinary action arising out of conviction by a Court of Law:**

Disciplinary case emanating out of conviction of an employee by a Court of Law, are processed by HR Department.

After Disciplinary Authority's provisional decision, a Show Cause Notice under Rule 32(a) (i) Chapter-IV, HR Manual of DFCCIL (Conduct, Discipline & Appeal Rules) is issued to the charged officer. On receipt of the charged officer's representation against the Show Cause Notice, the case is again submitted by HR Department to Disciplinary Authority for a final decision. Finally, the orders as per the disciplinary authority are communicated by HR Department to the concerned officer through the concerned controlling officer of Corporate Office/Unit of DFCCIL.

(Para-804.2 of IRVM-2018)

10.4.2 Appeals : Wherever the authority is the prescribed Appellate Authority under the Chapter-IV, HR Manual of DFCCIL Conduct, Discipline & Appeal Rules - the appeals preferred by the charged officer against the penalties imposed by the Disciplinary Authority for which appeal lies with the Appellate Authority competent as per Schedule Chapter-IV of Disciplinary, Appellate and Reviewing Authorities Under DFCCIL (Conduct, Discipline and Appeal) Rules. HR Department processes the case. Appellate Authority's decision on the appeal is communicated by HR Department to the concerned officer through the concerned controlling officer of Corporate Office/Unit of DFCCIL.

(Para-804.3 of IRVM-2018)

10.4.3 Review Petitions: HR Department processes the review petitions in terms of provisions made in the DFCCIL (Conduct, Discipline and Appeal) Rules on the same lines applicable to processing of appeals. Petitions are dealt with by HR Department in terms of provisions made in DFCCIL's HR Manual.

(Para-804.4 of IRVM-2018)

10.5 **STANDARD OF PROOF IN DEPARTMENTAL PROCEEDING**

While taking such decision in departmental proceeding, the disciplinary authority should bear in mind that a departmental proceeding is inherently different from a criminal trial, and that the standard of proof required is based on the principle of 'preponderance of probabilities' rather than 'proof beyond reasonable doubt'

(Para-805 of IRVM-2018)

10.6 **LIST OF PENALTIES**

Rule 25 in Chapter IV, HR Manual of DFCCIL (Conduct, Discipline and Appeal) Rules is reproduced below for ready reference.

Rule 25. Penalties The following penalties may be imposed on an employee, as hereinafter provided, for misconduct committed by him or her for any other good and sufficient reasons.

Minor Penalties

- (a) Censure;
- (b) Withholding of increments of pay with or without cumulative effect;
- (c) Withholding of promotion;
- (d) Recovery from pay of the whole or part of any pecuniary loss caused to the Corporation/ Company by negligence or breach of order;
- (e) Reduction to a lower stage in the time scale of pay for a period not exceeding 3(Three) years, without cumulative effect and not adversely affecting his terminal benefits.

Major Penalties

- (f) Save as provided in clause (e), reduction to a lower stage in the time scale of pay for a specified period, with further directions as to whether or not the employee will earn increments of pay during the period of such reduction and whether on expiry of such period, the reduction will or will not have the effect of postponing the future increment of pay;
- (g) Reduction to a lower time scale of pay, grade, post or Service, which shall ordinarily be a bar to the promotion of the employee to the timescale of pay, grade, post from which he was reduced, with or without further directions regarding conditions of restoration to the grade or post from which the employee was reduced and his seniority and pay on such restoration to that grade or post;
- (h) Compulsory retirement;
- (i) Removal from service which shall not be a disqualification for future employment under the Govt. or the Corporation/Company owned or controlled by the Govt.;
- (j) Dismissal from service which shall ordinarily be a disqualification for future employment under the Govt. or the Corporation/Company owned or controlled by the Govt.;

Provided that, in every case in which the charge of possession of assets disproportionate to known sources of income or the charge of acceptance from any person of any gratification, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act is established, the penalty mentioned in clause (i) or (j) shall be imposed.

Provided, further, that in any exceptional case and for special reasons recorded in writing, any other penalty may be imposed.

10.7 ADMINISTRATIVE ACTION

- a) **Warning - Power to Administer:** Administration of 'Warning' is not a recognized penalty under the Discipline and Appeal Rules. It is an administrative action by which a superior authority expresses his criticism and disapproval of the work/conduct of the person warned and is designed to point out the defects noted with a view to enabling that person to make an effort to remedy them. The warning may be administered verbally or in writing (depending on the circumstances of each case), as the competent authority may decide.

It would follow that any superior authority has the power to administer a warning to an official subordinate to it. It is, however, desirable that the authority administering the warning is not normally one lower than that which initiates the APAR on the official so warned. Any representation received against these administrative actions may be disposed off by an authority superior to the authority serving the memorandum.

(Reason: [RBV 19/2004](#)), Para-807 (a) of IRVM-2018

Para-7.2.3 of CVC Manual 2021

(MHA OM No. 39/21/56-Ests (A) dated 13.12.1956 regarding distinction between 'Warning' and 'Censure'.)

(DoPT OM No. 22011/2/78-Estt (A) dated 16.02.1979 Regarding Effect of Warning, Censure, etc. on promotion and the "sealed cover" Procedure)

- b) **Recorded Warning – Procedure for Administration:** In a case where the competent authority decides to administer a written warning and a copy thereof is proposed to be placed on the person's APAR, it is only fair that the person concerned is given a chance to explain the reasons, if any, which led him to do the acts of omission or commission disapproved of. Further action to administer the warning may be taken only after the reply of the official concerned is considered by the competent authority but not found acceptable. The official concerned has also a right to represent against an order of recorded warning.

[\(Board's letters No. 2004/V-1/DAR/1/3 dated 16.8.04 and No. 2005/V- 1/DAR/1/3 dated 06.10.05\)](#)

Para-807 (b) of IRVM-2018

- c) **Warning after Disciplinary Proceedings:** Where disciplinary proceedings have been initiated, "Warning" should not be issued as a result of such proceedings. If it is found, as a result of the proceedings, that some blame attaches to the official, at least the penalty of "censure" should be imposed.

{Board's letter No.E (D&A) 92 RG6-149 (A) dated 21.01.93}

Para-807(c) of IRVM-2018

- d) **Other warnings:** Warnings are also administered as a result of preliminary investigation/enquiries into allegations of irregularities initiated with a view to determine whether regular disciplinary proceedings should be started against any person or persons. If the disciplinary authority is satisfied that the enquiry revealed no cause for instituting regular disciplinary proceedings, 'Warning' may be administered to the accused, in consultation with the Central Vigilance Commission whenever required (for two level below of Board i.e. E-8 & E-9) and in consultation with the CVO of the Ministry whenever required (in the case of Group 'A' Officer while on deputation) or the CVO/DFCCIL in case of Official E-7 (other than Group 'A' officer) and below.

Counselling may be done verbally or in writing. The written memo/letter of counselling should be guiding, educative and helping in nature and may not be drafted in warning tone, which would be resented. Show cause notice should not be issued in such cases. If counselling is done verbally, the officer doing so shall keep a record in the file as to when and where the counselling was and the points on which it was done. Vigilance should in all cases insist on obtaining confirmation to the effect that the counselling (verbal or in written) has actually been done.

(Reason: Board's letter No. 89/V1/VP/1/1 dt. 21.5.1990)

Para-807(d) of IRVM-2018

10.8

INSTRUCTIONS FOR PLACING OF WARNINGS/ DISPLEASURE ETC. IN THE APAR/ PERSONAL FILE

The following instructions should be borne in mind and followed while recording or placing warnings on the APAR/Personal file.

- a) **Warning** - A warning may be either oral or written; where warning is oral there is no need of mentioning it in the APAR Files etc., of the official. A written warning may be either recorded or unrecorded in the APAR File. Warning is recorded in the APAR only when the competent disciplinary authority specifically decides it to be so for good and sufficient reasons but before a recorded warning is administered, it is necessary that the

official concerned had been given an opportunity to explain the lapses for which the warning is administered. If, however, the warning is intended to be unrecorded, though written, the communication should not obviously, be mentioned by the reporting officer in the APARs unless such a mention is really necessary for a truly objective assessment of the official's work.

(Para-808(a) of IRVM-2018)

- b) Conveying displeasure** - This, like warning, is an action of a corrective nature to be resorted to when the lapse on the part of the official is such that it may be considered necessary to convey to the official the sense of displeasure over it but is not serious enough for administering a warning. Such displeasure is actually communicated in the form of a letter and a copy of it may, if so decided, be placed on the Service Record of the official. Therefore, on the question whether displeasure should be recorded or not, the criterion can be the same as that for recorded warning.

(Para-808(b) of IRVM-2018)

Displeasure of Government: On occasions, an officer may be found to have committed an irregularity or lapse of a character which though not considered serious enough to warrant action being taken for the imposition of a formal penalty or even for the administration of a warning but the irregularity or lapse is such that it may be considered necessary to convey to the officer concerned the sense of displeasure over it. However, the practice of communicating Government displeasure to a retired public servant should be avoided.

(Para-7.2.4 CVC Manual 2021)

- c) Bringing lapses and shortcomings to the notice of the official, admonishing, cautioning, counselling, etc.**

The above mentioned actions also have no penal element in that they are intended to assist the official concerned to correct his faults and deficiencies. These are, therefore, not to be recorded in the APAR of the official. There should scarcely be any occasion for the reporting officer also to refer to these in the APARs, unless the reporting officer considers it absolutely necessary for a truly objective assessment. However, if any of the above actions has to be mentioned in the Service Record of the officer, it should be done after issuance of a show cause notice; otherwise, there is no necessity to issuing show cause notice. The employee would be entitled to represent against such administrative action. The format for issuing memorandum of admonishing/counselling/ cautioning/ warning (as the case may be) is circulated to the Railways vide Board's letter No.2004/V-1/DAR/1/3 dated 16.8.2004.

{Board's letter No. E (D&A) 77RG-20 dated 10-5-77, [2004/V-1/DAR/1/3 dated 16.8.04](#) and [2005/V-1/DAR/1/3 dated 6.10.05](#)}

Note:- Regarding issuing of a warning/recorded warning after the conclusion of disciplinary proceedings, provisions contained in paras 10.7 (c) and 10.8 (b) of this Manual may be kept in view by the competent disciplinary authority. Instructions issued by the Ministry of Railways (Railway Board) vide their letters No. E (D&A) 92 RG6 - 149 (A) dated 21-01-1993 and No. E (D&A) 92 RG6 - 149 (B) dated 21-01-1993 may be referred to. None of these administrative actions, including 'Government Displeasure' can be taken against a Retired Railway Servant

{[Railway Board's letter No. E\(D&A\) 2003 RG6-35, RBE No. 56/2008](#)}

(Para-808(c) of IRVM-2018)

10.9 ROLE OF HR DEPARTMENT OF DFCCIL IN VIGILANCE RELATED D&AR CASES

(Para-810 of IRVM-2018)

- 10.9.1** DFCCIL/Vigilance puts up CVC/Railway Board's first stage advice to Managing Director or Director concerned (as the case may be) for acceptance or otherwise for cases where the first stage advice varies with that of provisional recommendations of Managing Director or Director concerned (as the case may be) (before forwarding the case for first stage advice). In other cases, DFCCIL/vigilance forwards CVC/Railway Board's 1st stage advice to GGM/GM (HR)/DFCCIL. along with draft charge sheet. Draft charge sheet for major penalty should accompany authenticated copies of Relied Upon Documents (RUDs). In the case of administrative actions, draft of show cause notice (SCN) or draft counselling memo should be sent along with 1st stage advice

(Para-810.1 of IRVM-2018)

[\(Amendment No.4 issued vide Rly. Bd's letter No.2019/V1/IRVM/1/2 dated 31.03.2021\)](#)

- 10.9.2** HR Department puts up 1st stage advice along with fair charge sheet to DA for consideration and signature of charge sheet, if acceptable. HR Department then arranges serving of charge sheet to CO and obtains his acknowledgement.

- 10.9.3** Representation of CO on the charge sheet is put up by 'HR' Department on D&AR file to DA.

- 10.9.4** DA records his speaking order on the charges, in the case of minor penalty charge sheet. In the case of major penalty charge sheet, DA remits the case for oral enquiry or if he differs with CVC/Railway Board/CVO (DFCCIL)'s 1st stage advice, he records his provisional views on Vigilance file, for second stage advice of CVC/Railway Board. Cases of second stage advice are advised to CVO/DFCCIL for sending them to CVC/Railway Board.

(Para-810.4 of IRVM-2018)

[\(Amendment No.4 issued vide Rly. Bd's letter No.2019/V1/IRVM/1/2 dated 31.03.2021\)](#)

- 10.9.5** If the case is remitted for enquiry, CVO advise names of IO and PO to GGM/GM/(HR) for their appointment by DA. HR Department arranges issue of these appointment orders.
- 10.9.6** IO after completing D&AR enquiry, submits the report in five copies to the authority issuing his appointment order. The IO report is sent by 'HR' Department to CVO for obtaining CVC's 2nd stage advice (in case of disagreement between DA and CVC). CVO examines the inquiry report on Vigilance file and puts it up to DA along with Vigilance comments for recording DA's tentative views on the Vigilance file.
- 10.9.7** CVO then sends IO's report, connected documents and Vigilance comments along with findings of DA on each article of charge and DA's tentative views to CVC/Railway Board for obtaining CVC's 2nd stage advice (in case of disagreement between DA and CVC).
- 10.9.8** CVC/Railway Board or DFC Vigilance 2nd stage advice is communicated to GGM/GM/(HR). HR Department puts up this advice to DA through CVO, who connects Vigilance file for DA's consideration. DA orders serving IO's report along with Disagreement memo, if any, to CO. Disagreement memo, if required, is prepared taking into consideration CVC/Railway Board or DFC Vigilance 2nd stage advice.
- 10.9.9** CO's representation is then called on IO's report and tentative disagreement memo of DA. CO's representation is then put up by 'HR' Department on D&AR file to DA through CVO for recording DA's findings and his decision. In case of DA's disagreement with CVC/Railway Board or DFC Vigilance 2nd stage advice, there is no scope for reconsideration.

(Para-810.9 of IRVM-2018)

[\(Amendment No.3 issued vide Rly.Bd's letter No.2019/V1/IRVM/1/2 dated 28.09.20\)](#)

- 10.9.10 If disagreement still persists between DA and CVC, DA may take a final view duly recording reasons for disagreement. This is taken as a case of disagreement between CVC and Ministry and CVC/Railway Board is advised about it. CVC may include the case in its Annual Report, which is placed on the floor of both Houses of Parliament and can be discussed by Hon'ble MPs.

(Para-810.10 of IRVM-2018)

[\(Amendment No.3 issued vide Rly.Bd's letter No.2019/V1/IRVM/1/2 dated 28.09.20\)](#)

- 10.9.11 In the cases of officials (E-7 and below) involved in Composite case, CVC/Railway Board or DFC Vigilance's 1st stage advice is sent by Vigilance to GGM/GM/(HR) for taking D&AR action clearly mentioning that it is a CVC/ Railway Board/DFC Vigilance case so that appropriate procedure, applicable to CVC/ Railway Board/DFC Vigilance cases, is followed by DA. In major penalty cases, CVC/ Railway Board/DFC Vigilance's 2nd stage advice is necessary in case of disagreement between DA and CVC/ Railway Board/DFC Vigilance even for officials (E-7 and below) involved in composite case. In the case of disagreement of DA with CVC/Railway Board/DFC Vigilance's advice, case is required to be sent to CVC/ Railway Board/DFC Vigilance for reconsideration with provisional views of DA and reasons for disagreement recorded on Vigilance file

(Para-810.11 of IRVM-2018)

- 10.9.12 Regarding Quantum of punishment: In cases where the Disciplinary Authority agrees with the advice of the Vigilance Department for imposing a major or minor penalty, there is no further need to consult the Vigilance Department regarding the quantum of the punishment. It may be noted that DA has to apply his/her own mind in each case as per common prudence.

(Para 810.12 of IRVM 2018)

10.10 SUSPENSION

- 10.10.1 An official said to be under suspension when he is debarred from exercising the powers and discharging the duties of his office for the period the order of suspension remains in force.
- 10.10.2 Suspension is not a penalty under the D&A Rules.
- 10.10.3 **Competent Authority:** The authorities who are competent to place an official under suspension are specified in Schedules appended to the DFCCIL (Conduct, Discipline and Appeal) Rules. However, in exceptional circumstances, any authority specified in any of the Schedules may place any subordinate official specified therein, under suspension, provided that where any action is taken under the foregoing proviso the authority concerned shall forthwith report to the authority competent to place such official under suspension, the circumstances in which the order was made and obtain his approval. Explanation-For the purposes of this rule, in respect of an official officiating in a higher post, the competent authority shall be determined with reference to the officiating post held by such official at the time of taking action. (Rule 22, Chapter-IV of the DFCCIL (Conduct, Discipline and Appeal) Rules, HR Manual 2024).
- 10.10.4 Circumstances under which suspension is resorted to have been indicated in Rule-22, Chapter-IV of the DFCCIL (Conduct, Discipline and Appeal) Rules, HR Manual 2024).
- 10.10.5 An official may be placed under suspension when disciplinary proceedings against him are contemplated or are pending or where, in the opinion of the competent authority, he/she has engaged himself/herself in activities prejudicial to the interest of the security of the State or when a case against him/her in respect of any criminal offence is under investigation, enquiry or trial.
- 10.10.6 The following instructions have been issued in regard to placing an official under

suspension in certain specified circumstances:

- i) An official who is caught red-handed in a case while accepting illegal gratification should invariably be placed under suspension.
- ii) In the following type of cases, there may be adequate justification for placing an official under suspension at the stage indicated against each type of case:

trap cases (please see (i) above)

in a case where on conducting a search, it is found that an official is in possession of assets disproportionate to his known sources of income and it appears prima-facie that a charge under section 13 of the Prevention of Corruption Act, 1988(Act 49 of 1988) could be laid against him immediately after the prima-facie conclusion has been reached.

in a case where a charge-sheet accusing an official of specific acts of corruption or an offence involving moral turpitude is filed in a criminal court immediately after the filing of such a charge-sheet.

in a case where, after investigation by the CBI, a prima facie case is made out and pursuant thereto, departmental action for major penalty has been initiated and a charge-sheet has been served on him alleging specific acts of corruption or gross misconduct involving moral turpitude immediately after the charge-sheet has been served on the official.

(Para-811.1 to 811.6 of IRVM-2018)

- 10.10.7** Review of orders of suspension in trap cases: The review of the orders of suspension in those cases where an official is trapped while accepting illegal gratification is detailed in Para 5.8, Chapter-5 of this Manual, which may please be referred to.

(Para-811.7 of IRVM-2018)

10.11 HANDLING OF VIGILANCE CASES IN DFCCIL

(Para-816 of IRVM-2018)

- 10.11.1** The jurisdiction of Central Vigilance Commission is co-terminus with the executive powers of the Union and it exercises superintendence over Vigilance administration of various Ministries of Central Government or Corporations established by/or under any Central Act, Government Companies, Societies and Local authorities owned or controlled by that Government.

(Para-816.1 of IRVM-2018)

10.11.2

The Vigilance cases arising out of investigation conducted in cases involving officers upto two levels below Board of Directors is required to be referred to CVC for its advice.

(Para-816.2 of IRVM-2018)

10.11.3

The cases involving Railway Officers (Gr. 'A') on deputation to DFCCIL are required to be submitted to Railway Board for obtaining CVC's advice.

(Para-816.3 of IRVM-2018)

10.11.4

The complaints against Board level appointees and above may be investigated by CVO of the Ministry of Railways. CVO of Ministry of Railways may, however, seek factual report against the Board level appointees from CVO/ DFCCIL and the latter will send the same

to the CVO of the Ministry of Railways after endorsing a copy of the report to CMD/MD to keep him informed of the development. However, if the CMD/MD himself is the subject matter of investigation, the CVO/DFCCIL need not endorse a copy of the report to him. It will then be the responsibility of the CVO of the Ministry of Railways to obtain the version of the CMD/MD (qua suspect person) at the appropriate time.

(Para-816.4 of IRVM-2018)

- 10.11.5** As the works in PSUs are being executed for Indian Railways, Railway Vigilance has the authority to investigate the matter related to complaints.

(Para-816.5 of IRVM-2018)

- 10.11.6** Considering the fact that there is a separate vigilance organization for each PSU, there appears no need for carrying out preventive checks/CTE type inspection/ investigation of routine complaints. However, in cases where complaint is of serious nature and requires immediate investigations, zonal vigilance may undertake the investigation after taking the approval of PED/Vigilance, Railway Board.

(Para-816.6 of IRVM-2018)

10.12 ROTATION OF OFFICIALS WORKING IN SENSITIVE POSTS

- 10.12.1** Posts which are classified as sensitive, warrant the rotation of officials as per extant instructions, list is at Annexure-1. This list is not exhaustive and Managing Director or Directors concerned on their own may also treat any other post not mentioned in the list as "Sensitive" and inform DFCCIL/Vigilance.

(Para-819.1 of IRVM-2018)

[\(Amendment No.3 issued vide Rly.Bd's letter No.2019/V1/IRVM/1/2 dated 28.09.20\)](#)

- 10.12.2** The official who has been transferred from a particular post under the 'policy on rotation of officials working in sensitive posts' should not be posted back on the same seat for a minimum period of two years.

(Para-819.2 of IRVM-2018)

10.13 TRAINING OF VIGILANCE OFFICIALS

- 10.13.1** Training Courses for CVOs: At least one course for training of newly inducted CVOs should be conducted every year

(Para-823.1 of IRVM-2018)

- 10.13.2** Training Courses for Vigilance Officers/Non-vigilance Officers: At least one training course for untrained Vigilance Officers of DFCCIL is conducted every year. Since some of the non-vigilance officials e.g. of HR Deptt. GGM/GM/AGM or official dealing with D&AR matters etc. are also handling vigilance cases at various stages of the laid down procedure, they are also included in the said training course for smooth functioning of the system.

(Para-823.2 of IRVM-2018)

- 10.13.3** Vigilance Education: The Chief Vigilance Officer/Deputy Chief Vigilance Officers/Vigilance Officers/Inquiry Officers etc. must deliver lectures at the HHI/Noida on the aspects concerning 'Vigilance' during the periods allotted on the subject of 'Vigilance' in each of the Induction/Refresher/Promotional training courses so as to spread Vigilance education amongst the DFCCIL officials and to make them aware about the likely pitfalls in their professional disciplines as also about the various provisions of the DFCCIL Services (Conduct) Rules and the DFCCIL Services (Discipline & Appeal) Rules. Some minimum period has also been fixed which has to be allotted in all the training

courses at HHI/Noida for coverage of the Vigilance aspects in service.

(Para-823.5 of IRVM-2018)

10.14 **ISSUE OF IDENTITY CARDS TO VIGILANCE OFFICIALS**

While going for inspection, check or investigation, Vigilance officials should carry with them a current and valid Identity Card to show to the parties concerned before proceeding with the checks.

(Para-824 of IRVM-2018)

10.15 **CVC's DIRECTIVES ON PUTTING THE TENDERS/ CONTRACTS ON WEBSITE**

In order to bring about greater transparency in the procurement and tendering processes, the CVC has stressed the need for widest possible publicity. For bringing improvement in Vigilance administration, to curb malpractices in tender related matters, the CVC in exercise of powers conferred on it under Section 8(1)(h) has issued detailed instructions for compliance by all government departments, PSUs, etc., over which the Commission has jurisdiction. These instructions are with regard to cases, where open tender system is resorted to for procurement of goods and services or for auction sale etc. of goods and services for putting them also on the website.

(Para-825 of IRVM-2018)

10.16 **WEBSITE OF CVC**

The address of the CVC's website is www.cvc.nic.in. The hard copies of the directives/ instructions and also the publications of the Commission can be downloaded from the website. Complaints on corruption can also be lodged on the website.

(Para-826 of IRVM-2018)

10.17 **PRESERVATION OF VARIOUS TYPES OF RECORDS OF VIGILANCE DEPARTMENT**

After considering the prevailing practice of Indian Railways, the following period is stipulated for preservation of various types of records in the Vigilance Department of DFCCIL:-

SN	Types of records	Period of retention
1	Policy files	Permanently
2	SPE/CBI cases	10 years after closure*
3	Cases which resulted into major penalty (GOs & NGOs)	10 years after closure*
4	Cases which resulted into minor penalty (GOs & NGOs)	5 years after closure*
5	Cases referred to other departments for action as deemed fit or administrative action such as warning, counselling, recorded warning for GOs & NGOs and for recoveries, system improvements & banning of business	3 years after closure*
6	Cases of complaints which did not result into any action	3 years after closure*
7	Preventive Checks conducted & closed without action	One year after closure*
8	Anonymous/pseudonymous complaints filed	One year after closure*
9	Vigilance clearance files/other Misc. files	One year

***Closure:** Any case may be treated as closed when all the actions such as prosecution, DAR action, administrative action, recoveries, banning of business, system improvement etc. as approved by the competent authority are concluded.

(Para-827 of IRVM-2018)

10.18 RIGHT TO INFORMATION ACT, 2005**10.18.1 Judgement/Orders providing relaxation under RTI Act 2005:-**

Some of the judgment and orders of High Court and Central Information Commission (CIC) have given relaxation from furnishing copies of file notings of Vigilance files. These may be adequately quoted for seeking relaxation, if any.

- a) CIC in Case No.CIC/AT/A/2009/0617 dated 16.09.2009 and in Case No. CIC/AT/A/ 2010/ 0757 dated 12.11.2010 held that the file-notings in vigilance files cannot be authorized to be disclosed as these amounted to information confidentially held by the public authority and thereby came within the scope of Section 11(1) read with Section 2(n) of the RTI Act. The same has also been upheld by CIC in their decision No. CIC/AT/A/2012/003366 /VS/ 06272 dated 24.02.14.
- b) CIC vide its decision in case No.CIC/SS/A/2011 /000657 dated 27.6.2011 had also opined that the file notings (Vigilance Files) are exempt from disclosure u/s 8(l)(h) of the RTI Act. Such files notings constitute inter-departmental communications concerning vigilance enquiry and information received from 3rd parties. The enquiry committee's deliberations can quite possibly be based on the matter contained in such file notings, the disclosure of which may impede or obstruct the process of inquiry as those officials who apprehend of being charged at the end of the whole inquiry may try to interfere in the process of inquiry by using iniquitous tactics, by trying to tinker with material evidence, by influencing material witnesses or by unduly influencing the members of the Inquiry Committee inter-alia. Viewed from the other perspective, in case the inquiry culminates into regular departmental proceedings, the charged official will have a right to access these documents in the impending inquiry proceedings under relevant rules. Thus, the authenticated copies of File Notings cannot be provided to the Appellant
- c) Delhi High Court's decision in LPA No.618/2012 dated 06.11.12 in the matter of disclosure of information under the provision of RTI Act, relating to disciplinary cases has observed that the disciplinary orders and the documents in the course of disciplinary proceedings are personal information within the meaning of Section 8(1)(j) and the disclosure of which normally has no relationship to carry public activities or public interest and disclosure of which would cause unwarranted invasion of the privacy of the individual. Section 8(1)(j) exempts from disclosure personal information irrespective of with whom it is possessed and from whom disclosure thereof is sought. CVC vide their Circular No. 07/04.2014 dated 04.04.2013 had circulated extracts of the above judgement to all Chief Vigilance Officers for making use of the same.

(Para-828 & 828.1 of IRVM-2018)

10.18.2 RIGHT TO INFORMATION ACT, 2005

- 1) The [Right to Information Act, 2005](#) was enacted by the Government for providing right to every citizen to secure access to information under the control of the Public Authority concerned. Every Public Authority covered under the RTI Act, 2005 receives a large number of applications from the public, seeking information on various issues and the requested information is to be given by the Central Public Information Officers (CPIOs)/Public Information Officers (PIOs) concerned of the Public Authorities. Under the provisions of RTI Act, 2005, an Applicant has the right to make an Appeal to the first Appellate Authority of the Public Authority concerned, in case, he is not satisfied with the reply/ information provided to him by the CPIO / PIO concerned
- 2) The necessity for First Appeal arises due to the fact that there are shortcomings/ ambiguities in the reply/information provided by the CPIO/PIO of the Public Authority concerned. However, it has been observed that sometimes the First Appeal is made by

- the Appellant out of ignorance of the provisions of RTI Act, 2005 or his/her lack of clarity about the scope and limitation of the provisions of RTI Act, 2005.
- 3) Central Information Commission (CIC) is authorised under the RTI Act, 2005 to receive and enquire into a complaint and/or decide on Second Appeal relating to deficiencies in supply of information to the RTI Applicants by the Public Authority concerned. If the points mentioned in para below are kept in view by the various Public Authorities, while replying to RTI Applicants, it may be useful in increasing the level of satisfaction among the RTI Applicants and increased awareness among the Applicants about the provisions, scope and limitations of RTI Act, 2005. With the increased knowledge about the provisions of RTI Act, 2005, the Applicants would be in a better position to make RTI Applications in an unambiguous manner, thus making it easier for the Public Authorities also to provide an appropriate, clear and specific reply to the Applicants, in letter and spirit of the provisions of RTI Act, 2005.
 - 4) Common shortcomings noticed in the replies given by the CPIOs/ PIOs to the RTI Applicants and corrective measures thereon to be taken by the authorities concerned are as under:
 - i) Many a time, while rejecting the Applicant's request for information sought by him, the reasons for such rejection/ denial of the information are not given by the CPIOs /PIOs concerned, which is a violation of Section 7(8)(i) of the RTI Act, 2005. The CPIOs simply quote the Section of the RTI Act, 2005, under which the information is being denied or they state that the issue raised by the Applicant does not constitute 'information' as defined under Section 2(f) and 2(i) of the RTI Act, 2005, which is not sufficient. The 'reasons', why exemption is being claimed from disclosure and/or why the issue raised does not constitute 'information' and the relevant rulings of the CIC and/or constitutional courts, etc., must be explained to the Applicants
 - ii) In cases where the information is denied and the Applicant's request is being rejected, the period during which an Appeal may be preferred and the particulars of the Appellate Authority are not mentioned in the reply to the Applicant, which is a mandatory requirement under Section 7(8)(ii) and 7(8)(iii) of the RTI Act, 2005, in such cases. The CPIOs / PIOs should provide these details to the Applicants, in case, information/a part thereof is being denied to the Applicants.
 - iii) Sometimes the reply to the Applicants is given in perfunctory manner, without verifying the records of the organisation concerned. The information as sought by the Applicants, should be given to them after checking the records thoroughly
 - iv) Adherence to the time limit is essential in handling Applications received under RTI Act, 2005. RTI Act, 2005 has specified time limits for different stages and actions to be taken on Applications received by the Public Authority concerned. Any applications/part(s) thereof, which are required to be forwarded to other Public Authorities, should normally be forwarded within 5 days of the receipt of the Application, in accordance with Section 6(3) of the RTI Act, 2005.
 - v) Under Section 11 of the RTI Act, 2005, notice to the third party is to be given only for that information pertaining to third party, which has been treated as confidential by it. Such notice is to be given within 5 days of the receipt of the request and a final decision regarding providing the information is to be taken by the CPIO concerned, within 40 days of the receipt of the request.
 - vi) In many cases the CPIOs/PIOs delay the reply to the Applicants beyond 30 days' time limit prescribed under Section 7(1) of the RTI Act, 2005, without assigning any reason either on file and/or without informing the Applicant. In case, it is not possible to give the information to the Applicant within 30 days, the CPIOs/PIOs should send an interim reply within 30 days', informing the Applicants about the delay.

- vii) Sometimes there is delay in providing information to the Applicants on the ground that the relevant files are under submission with the higher authorities. In such cases, the CPIOs/PIOs should withdraw the files 'temporarily' for providing information to the RTI Applicants.
- viii) The CPIOs/PIOs while denying the information to the Applicants must records the reasons in the file also to justify the denial / rejection of the request of the Applicant.

(Para-828.2 of IRVM-2018)

- 10.18.3 Many times, a question arises regarding disclosure of information pertaining to disciplinary action/proceedings/show-cause notices/ punishments awarded to a public servant and financial details of a public servant. The Hon'ble Supreme Court of India in its judgment in [Special Leave Petition \(Civil\) No. 27734 of 2012 in the case of Girish Ramchandra Deshpande Vs. Central Information Commission and Others](#) has ordered that—

“The petitioner herein sought for copies of all memos, show cause notices and censure/ punishment awarded to the third respondent from his employer and also details viz. movable and immovable properties and also the details of his investments, lending and borrowing from Banks and other financial institutions. Further, he has also sought for the details of gifts stated to have accepted by the third respondent, his family members and friends and relatives at the marriage of his son. The information mostly sought for finds a place in the income tax returns of the third respondent. The question that has come up for consideration is whether the above mentioned information sought for qualifies to be “personal information” as defined in clause (j) of Section 8(1) of the RTI Act, 2005.

We are in agreement with the CIC and the Courts below that the details called for by the petitioner i.e. copies of all memos issued to the third respondent, show cause notices and orders of censure/punishment, etc. are qualified to be personal information as defined in clause (j) of Section 8(1) of the RTI Act, 2005. The performance of an employee/officer in an organisation is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression “personal information”, the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer of the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right.

The details disclosed by a person in his income tax returns are “personal information” which stand exempted from disclosure under clause (j) of Section 8(1) of the RTI Act, 2005, unless involves a larger public interest and the Central Public Information Officer or the State Public Information Officer or the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information.

The petitioner in the instant case has not made a bona fide public interest in seeking information, the disclosure of such information would cause unwarranted invasion of privacy of the individual under Section 8(1)(j) of the RTI Act, 2005.

We are, therefore, of the view that the petitioner has not succeeded in establishing that the information sought for is for the larger public interest.

That being the fact, we are not inclined to entertain this special leave petition. Hence, the same is dismissed”.

(Para-828.3 of IRVM-2018)

- 10.18.4 The above decision of the Hon'ble Supreme Court of India may be kept in view while deciding about disclosure of information relating to disciplinary action/proceedings/show cause notices/punishments awarded to a public servant and financial details of a public servant.

[Circular no 03/03/2017 dated 10-3-2017](http://www.cvc.nic.in/sites/default/files/cic_cvc250614_1.pdf) by CVC on repeated information seekers http://www.cvc.nic.in/sites/default/files/cic_cvc250614_1.pdf

The Central Information Commission, vide its decision No. CIC/AD/A/2013/001326- SA dated 25.06.2014 has thus, decided that:-(i) No scope of repeating under RTI Act. (ii) Citizen has no Right to Repeat. (iii) Repetition shall be ground of refusal. (iv) Appeals can be rejected"

(Para-828.4 of IRVM-2018)

10.19 INTEGRITY PLEDGE

To foster probity and integrity in public life, the Central Vigilance Commission has launched an 'Integrity Pledge' which can be taken electronically by the citizen as well as by Organisations. It can be accessed on the Commission's website at www.pledge.cvc.in.

By taking the Integrity pledge, citizens commit to uphold highest standards of honesty & integrity by following probity and rule of law in all walks of life, to neither take nor offer bribe, to perform all tasks with honesty and transparency, act in public interest and report any incident of corruption to appropriate authority.

Similarly, by taking the integrity pledge, organisation viz., corporate/ entities/firms, etc., would affirm their commitment to eradicate corruption and to uphold highest standards of integrity & good governance by promoting a culture of honesty and integrity in the conduct of their activities. Organisations would pledge to neither offer nor accept bribe, commit to good corporate governance based on transparency, accountability and fairness, adhere to relevant laws, rules and compliance mechanisms in the conduct of business, adopt a code of ethics for all its employees, sensitise their employees of laws, regulations, etc., relevant to their work for honest discharge of their duties, provide grievance redressal and Whistle Blower mechanisms for reporting grievances and fraudulent activities and protect the rights and interests of stakeholders and the society at large.

The Commission acknowledges citizens and organisation taking the Integrity Pledge, for their commitment to the cause of anti-corruption, through a certificate of commitment.

(Para-829 of IRVM-2018)

10.20 INTEGRITY PLEDGE FOR CITIZENS

I believe that corruption has been one of the major obstacles to economic, political and social progress of our country. I believe that all stakeholders such as Government, citizens and private sector need to work together to eradicate corruption.

I realise that every citizen should be vigilant and commit to highest standards of honesty and integrity at all times and support the fight against corruption.

I, therefore, pledge:

- To follow probity and rule of law in all walks of life;
- To neither take nor offer bribe;
- To perform all tasks in an honest and transparent manner;
- To act in public interest;

- To lead by example exhibiting integrity in personal behaviour;
- To report any incident of corruption to the appropriate agency.

(Para-829.1 of IRVM-2018)

[\(Chapter-XI of CVC Manual 2021 Annexure-1 at page 368 & 369\)](#)

10.20.1 INTEGRITY PLEDGE FOR ORGANISATIONS

We believe that corruption has been one of the major obstacles to economic, political and social progress of our country. We believe that all stakeholders such as Government, citizens and private sector need to work together to eradicate corruption.

We acknowledge our responsibility to lead by example and the need to put in place safeguards, integrity frameworks and code of ethics to ensure that we are not part of any corrupt practice and we tackle instances of corruption with utmost strictness.

We realise that as an Organisation, we need to lead from the front in eradicating corruption and in maintaining highest standards of integrity, transparency and good governance in all aspects of our operations.

- We, therefore, pledge that:
- We shall promote ethical business practices and foster a culture of honesty and integrity;
- We shall not offer or accept bribes;
- We commit to good corporate governance based on transparency, accountability and fairness;
- We shall adhere to relevant laws, rules and compliance mechanisms in the conduct of business;
- We shall adopt a code of ethics for all our employees;
- We shall sensitise our employees of laws, regulations, etc. relevant to their work for honest discharge of their duties;
- We shall provide grievance redressal and Whistle Blower mechanism for reporting grievances and fraudulent activities;

(Para-829.2 of IRVM-2018)

[\(Chapter-XI of CVC Manual 2021 Annexure-1 at page 368 & 369\)](#)

10.21 FORENSIC SCIENCE AS A TOOL FOR ENQUIRY/INVESTIGATION

- 1) Forensic science deals with scientific methods of investigation and collection of evidence. Normally, several branches of Forensic Science like forensic medicine, computer forensic, forensic pathology, forensic ballistics, Forensic Finance etc., are employed for investigation of complex criminal cases. Forensic Science can also be gainfully employed in vigilance investigations too for collection of evidence, better appreciation of the cases and fixing of responsibilities. Organisations could explore improving the quality of their investigations through use of forensic tools and expertise for ascertaining facts that could be crucial for arriving at definite conclusions in cases. In case of need, certain professional organisations can also be approached to help application of forensic tools for investigation purpose.
- 2) During investigating of fraud/corruption cases, various forensic techniques are used for analysis of physical and electronic evidence. Conventional methods are mainly used to prove the authenticity of the documents available; this typically involves examination of physical documents for matching of handwriting and signatures, matching/establishing age of paper and ink to analyse the evidence by comparison and to establish erasures

or substitution of documents and restoration of obliterated writing.

- 3) Examination and analysis of documents available in physical form may require opinion of GEQD (Government Examiner of Questioned Documents). The following types of examination are carried out by the GEQD:
 - a) to determine the authorship of the questioned writings by a comparison with known standards / accepted documents;
 - b) to detect forgeries in questioned documents;
 - c) to determine the identity of questioned typescripts by comparison with standards;
 - d) to determine the identity of seal impressions;
 - e) to decipher erased (mechanically or chemically) or altered writings;
 - f) to determine whether there have been interpolations, additions or overwriting and whether there has been substitution of papers;
 - g) to determine the order or sequence of writings as shown by cross strokes and also to determine the sequence of strokes, creases or folds in the questioned documents where additions are suspected to have been made;
 - h) to detect any tampering in wax seal impressions;
 - i) to decipher secret writings;
 - j) to determine the age of documents and other allied handwriting problems.

Services of the Document Division of Central Forensic Science Laboratory (CFSL), CBI or other forensic laboratories of Central/State Government or NABL accredited laboratories may also be used for this purpose.

(Para-830 of IRVM-2018)

ANNEXURE-I

LIST OF SENSITIVE POSTS IN DFCCIL**ENGINEERING- CIVIL, ELECTRICAL, S&T, IT, ADMIN**

All the posts of Senior Executive (E-1) & above engaged in Procurements, Third Party Payment, Tendering, and contract execution.

All posts at the level of DGM and above engaged in tender finalization

OP&BD

All posts at the level of Executive/OP&BD (E-0) & above.

STORES/SECURITY

All posts at the level of DGM and above.

Finance/Accounts

All post of finance above the level of senior executive who are involved in vetting of proposals, agreements, contractor payments etc.

All post of accounts related to contractor payments. Disbursement of compensation to PAPs.

H.R

All post of HR at DGM and above level engaged in promotion, transfer and posting activities.

All post of HR at DGM and above level engaged in H.R policy formulation

Vigilance

All post in Vigilance.

ANNEXURE-II

The list of following DFCCIL Officers/Officials [Operations & Business Development (OP&BD)] concurrent to Indian Railways Officers/Staff is given below for reference:

DFCR, Business Development Circular No. 01 of 2021 & 01/2022 (DFCR/BD-1/2021)		
SN	Railway Officers with powers delegated/ exercised	DFCCIL's Officer
1	General Manager/AGM	MD
2	Principal Chief Operations & Commercial Manager	Director/OP&BD
3	Divisional Railway Manager	ED/OP&BD of concerned corridor or GGM/GM/OP&BD looking after the work of Business Development Department
4	CCM/FM & CCO	GGM/GM/BD
5	Dy. CCM/ Sr. DCM	AGM/JGM
6	SCM/ DCM	DGM/ Manager/ Sr. Area Manager
7	ACM	AM/Area Manager
8	CGS/ GS/ Commercial Inspector	JM/ Sr. Executive / Executive

(Ref: - GGM/OP&BD-I/DFCCIL's Circular No. 01/2022 dated 08.04.2022
& Circular No. 01/2021 dated 13.01.2021)

NOTES / MODIFICATIONS

CHAPTER-11

USEFUL INFORMATION

11.1 RELEVANT INSTRUCTIONS FROM MINISTRY OF FINANCE

- i) [General Financial Rules, 2017](#)
- ii) [Manual for Procurement of Goods, Second edition, 2024](#)
- iii) [Manual for Procurement of Consultancy & other Services, June, 2022](#)
- iv) [Manual for Procurement of Works, June, 2022](#)
- v) [Manual of Policies and Procedure of Employment of Consultants, 2006](#)

11.2 CHECK LIST FOR PUBLIC PROCUREMENT PROCESS

The compendium of checkpoints in public procurement for the purpose of ensuring fairness, equity and transparency is available as 'Illustrative Check Points on Various Stages of Public Procurement' issued by CTEO /CVC on the CVC website. This check list is illustrative and intended to serve as a guide to executives dealing with procurement or vigilance activities.

(Para-903 of IRVM-2018)

11.3 COMPILATION OF GUIDELINES ON PUBLIC PROCUREMENT

Guidelines issued by CTEO/CVC on public procurement, from time to time, are available at www.cvc.nic.in [Guidelines on Public procurement.pdf](#).

11.4 DoPT INSTRUCTIONS ON SERVICE RULES

The circulars issued by DoPT on Service and related issues can be found at <https://dopt.gov.in/notifications/oms-and-orders> under heading SERVICE

11.5 DPE GUIDELINES

The DPE Guidelines containing various instructions /orders issued by Department of Public Enterprises (DPE) on service and related matters can be found at Compendium of [DPE Guidelines 2019- GUIDELINES FOR ADMINISTRATIVE MINISTRIES/DEPARTMENTS AND CENTRAL PUBLIC SECTOR ENTERPRISES](#)

11.6 HANDBOOK FOR INQUIRY OFFICERS AND DISCIPLINARY AUTHORITIES

Handbook issued by DOPT for Inquiry Officers and DAs can be found at :

https://dopt.gov.in/sites/default/files/Vigilance_Handbook-2013.pdf

[Handbook for IO & DA 2013](#)

(Para-906 of IRVM-2018)

11.7 JUDGMENTS INFORMATION SYSTEM

The Judgments Information system consists of the Judgments of the Supreme Court of India and several High Courts. In the case of the Supreme Court all reported Judgments which are published in SCR Journal, since its inception i.e. 1950 till date are available. The Judgments reported in SCR till 1993 also have head-notes. The judgments reported in SCR in 1994 and later have only text of judgments without head-notes.

<http://judis.nic.in/>

(Para-907 of IRVM-2018)

11.8 INDIA CODE

It is a database of all Central enactments which are in force and their subordinate legislations made from time to time. With the help of this system, retrieving of any Central Act and its relevant subordinate legislations of one's interest in an up-to-date form has been simplified and made extremely user-friendly and accessible at push of few buttons.

It also contains Legislations enacted by the States and Union Territory Administrations along with their relevant subordinate legislations.

<https://indiacode.nic.in/>
(Para-908 of IRVM-2018)

Ref:- [CVC Circulars No. 14/07/22 dated 11.07. 2022](#)

CHAPTER-12

LAND ACQUISITION AND VIGILANCE

- 12.1** Land is a scarce resource in India, and its timely acquisition is crucial for infrastructure project completion. Vigilance cases in respect of land acquisition can arise due to intentional misconduct, negligence, or violations of laid down system & procedures.
- 12.2** DFC land acquisition is nearing completion, with over 12,000 hectares of private and government land acquired. Fairness is essential to ensure timely compensation for landowners and efficient land acquisition. A robust mechanism is needed to protect acquired land from encroachment and ensure proper land management by DFC field units.
- 12.3** EDFC and WDFC have been declared as “Special Railway Project” under section 2(37A) of the Railways Act, 1989 (as amended in 2008), enabling MoR to acquire land for DFC project under Chapter IV A of the said Act, as per following procedure:
- EDFC and WDFC have been designated as “Special Railway Projects” under [the Railways Act, 1989](#). This allows the MoR to acquire land for the DFC project under Chapter IV A as per the following procedure :
- i. Notification of intention to acquire land: section 20A
 - ii. Initiation of process for survey of land: section 20B
 - iii. Evaluation of damages during survey: section 20C
 - iv. Hearing of objections: section 20D
 - v. Declaration of acquisition: section 20E
 - vi. Determination of compensation by competent authority: section 20F
 - vii. Deposit and payment of amount by the Central Government: section 20H
 - viii. Possession of land: section 20I
- In addition to acquiring government land from relevant departments, the DFC project has also purchased private land through direct negotiations with state governments.
- 12.4** Under section 2(7A) of the Railways Act, 1989, The MoR has appointed a competent authority (CA) for each district. The CA is responsible for declaring awards, determining and disbursing compensation, and handing over land possession.
- 12.5** In 2008, the Ministry of Railways (MoR) issued guidelines outlining DFCCIL’s involvement in the DFC project’s land acquisition process. These guidelines further laid down role of DFCCIL in processing of land acquisition in liaison with designated CAs of concerned district. ([MoR letter dated 2006/W-1/Genl./DFC.Pt.II, dated 11.11.2008](#)).
- 12.6** Policy guidelines from C.O. to all Field Units in the year 2011 provided for initiation of requisite measures to ensure fairness of acquisition process and watching the interest of Central Government on expenditure incurred on land acquisition and for compensation of land, crops and trees, etc. ([HQ/SEMU/Land Acquisition Policy/Pt.II, dated 02.08.2011](#)).
- 12.7** An Entitlement Matrix based on Schedule I and II of [RFCT-LARR Act, 2013 English version /Hindi version](#) was approved by the MoR in the year 2015 for determination of land compensation and R&R. This replaced earlier Entitlement Matrix of 2011 which was based on NRRP, 2007.

- 12.8 CGMs to ensure that compensation is disbursed by concerned competent authorities to all remaining eligible persons and process of disbursement of compensation is expeditiously completed in their respective jurisdictions.
- 12.9 Reconciliation of books of accounts with bank should be carried out at periodical intervals and annually. CGMs to ensure that annual audit of expenditure incurred in land acquisition is got conducted by Unit Finance. Since all money is released with joint signature of competent authority and designated finance official, this responsibility assigned to CGMs should not be underestimated.
- 12.10 Mutation/Resumption of acquired land in favour of MoR be expeditiously got completed by all CGMs to avoid fraudulent claims/litigation in future. Completion of this activity is also essential for timely handing over of land to Railways.
- 12.11 Handing over of land to Railways is an important activity signaling completion of land acquisition process. CGMs to ensure expeditious handing over of all Land Plans to concerned Divisions alongwith requisite prescribed documents for closure of land acquisition process. ([HQ/LA-SEMU/Handing-over, dated 17.06.2021](#)).
- 12.12 All CGMs have to take necessary measures for ensuring that land under their possession remain free from all encumbrances by way of proper demarcation and display of signboards, boundary pillars, etc. Technological tools like GPS coordinates, GIS maps, etc. may be applied for management of land under possession. Soft/Scanned copies of all documents like land plans, 20A, 20E, 20F, compensation sheet, R&R disbursement, order of mutation, revenue map, roster of inspection of boundary pillars has to be maintained and adhered to by all Field Units.
- 12.13 Extant provisions of MoR on protection and management of land may be duly taken into consideration for better synergy between efforts of Railways and DFCCIL in parallel sections.
- 12.14 Instances illustrating problems in land management include lack of arrangement for vigil in vulnerable sections, theft of soil from land, failure to report construction on acquired land by field staff, failure to erect boundary pillars wherever required, failure to complete mutation, absence of DFC officials during measurements and evaluation of land/properties, failure to obtain GPS coordinates, failure to escalate the problem to higher authorities of State/Railways/DFCCIL, etc.
- 12.15 Key-areas for caution and vigilance:
- i) Staff engaged in land acquisition activities shall be well versed with applicable statutory provisions as well as prevalent land acquisition rules of concerned States.
 - ii) Land acquisition activities (assessment, measurement, etc.) at ground level shall be properly monitored by DFC staff and shall not be delegated to outsourced staff.
 - iii) Once 20A notification is issued, efforts be made to get the acquisition process expeditiously completed to save additional financial burden on interest, etc.
 - iv) Judicious view should be taken before challenging any land award in court of law. Once a case has been found fit for arbitration, it shall be properly contested and reply be timely filed and monitored.
 - v) Only authorized officials should be allowed to interact with affected persons so that no unscrupulous element could take advantage or exploit the land losers giving further cause of complaint.
 - vi) Complaints raised by affected persons should be properly looked into to check and assess that no malpractice is being done in the process at any stage.

- vii) A well oiled grievance mechanism shall be essentially put in place so that grievances of affected people are timely addressed and resolved.
- viii) Requirement of land should be so assessed to avoid initiation of piecemeal proposals for similar patches of land at later stages.
- ix) Alignment of any area should be finalised weighing pros & cons and by recording of reasons. Any subsequent change in the alignment must be taken only with due justification and after seeking approval of competent authority. Adhocism should be strictly avoided.
- x) Field staff should have clear idea about land boundaries as per land plans to ward off attempt by outsiders to lay claim over acquired areas.
- xi) Particular care is required to prevent encroachment above tunnels and below bridges.
- xii) No claim of any outsider for right of way over acquired land shall be entertained.
- xiii) Regular maintenance of boundary walls/pillars is of utmost importance since anti-social elements often try to damage boundary walls/pillars for encroachment.
- xiv) Assistance can be taken from local RPF Units for coordination/liaison with concerned police/district authorities for assistance in preventing encroachments. Coordination with concerned engineering staff of IR is also important with regard to demarcation of IR and DFCCIL areas.
- xv) Field Units should have a mechanism to check any fraudulent payment on account of compensation and R&R. Only bonafide persons (PAPs) should be entertained and all out efforts should be taken to safeguard the interest of DFCCIL/IR.
- xvi) No excess payment should be made while making structural compensation and proper joint report and valuation certificates should be ensured by having revenue officials.
- xvii) Awareness about extant Railway Codes, Manuals and instructions issued by the Ministry of Railways and DFCCIL C.O. from time to time is very important in effective protection and management of land in the possession of DFCCIL.

NOTES / MODIFICATIONS

CHAPTER-13

CHIEF TECHNICAL EXAMINER'S ORGANIZATION

13.1. CTE'S ORGANIZATION

13.1.1 Organizational Set Up of the Commission

Presently, Commission comprises of the Central Vigilance Commissioner and two Vigilance Commissioners. The Commission is assisted by a Secretariat headed by 'Secretary to the Commission' for facilitating the Commission in discharge of their functions. The Chief Technical Examiner's organization (CTEO) of the Commission advises the Commission in Technical Matters besides conducting Intensive Examination of procurement contracts of various organizations covered under the jurisdiction of the Commission.

13.1.2 Chief Technical Examiner's Organization

Chief Technical Examiner's Organization (CTEO) is the technical wing of the Commission. Initially on the recommendation of Public Accounts Committee, Chief Technical Examiner's Organisation was created In the Ministry of Works, Housing & Supply (now known as Ministry of Urban Development) in May, 1957. Later on, after the recommendations of the Santhanam Committee were accepted by the Government, this organization was placed under the administrative control of Central Vigilance Commission in the year 1964. Initially this organization was headed by one Chief Technical Examiner. In the year 1979 one more post of Chief Technical Examiner was created to cater to the increasing workload and growing complexity of the Public Procurements. Chapter IX of the Vigilance Manual (updated) 2021 issued by the Commission lays down the modalities of carrying out Intensive Examinations by CTEO. As per the Manual, Jurisdiction of CTE's Organisation is coterminous with that of the Commission.

13.1.3 Organizational Set Up of Chief Technical Examiner's Organization

Out of the two Chief Technical Examiners, one is generally responsible for examination of Contracts for Civil Works and Horticulture works and the other for Procurement Contracts, i.e. for Store Purchases, Electrical/ Electronics/ Mechanical works, Hiring of services etc.

The present set up is as under:

Chief Technical Examiner (Civil Works)

- Technical Examiner (NH)
- Technical Examiner (SH)
- Technical Examiner (WT)
- Technical Examiner (ET)

Chief Technical Examiner (Electrical/Mechanical/Store Purchases /Services Contracts)

- Technical Examiner (SP&IC-1)
- Technical Examiner (SP&IC-II)
- Technical Examiner (Elect.) ENE
- Technical Examiner (Elect.) ESW

The Technical Examiners are assisted by Assistant Technical Examiners/Junior Technical Examiners. Technical personnel are drawn from various Government Organizations on deputation/secondment basis.

13.2 QUARTERLY PROGRESS REPORT AND SELECTION OF WORKS

13.2.1 Quarterly Progress Report

CVC Act 2003 empowers the Commission to call for reports, returns and statements from all Ministries/Departments/Corporate Central Undertakings so as to enable the Commission to exercise general check and supervision over the vigilance and anti-corruption work in the Ministries/ Departments/Undertakings. Chief Vigilance Officers of various Organisations covered under the jurisdiction of the Commission are required to furnish Quarterly Progress Reports (QPRs) in respect of ongoing contracts for the quarter by 15th day of the month following the quarter. Even though, CTEs organization may examine Contracts of any magnitude, yet considering limitation of resources, it generally undertakes examination of Contracts of larger value only. The monetary limit for reporting the Procurement Contracts in QPRs are as follows:

Nature of Contract		Value
CATEGORY-I		
1.	Civil works	Rs. 5 Crore & above
2.	Turnkey works contract	
3.	Store & Purchase (any type including stationary)	
4.	Public Private Partnership (PPP) (Cost/ Revenue)	
5.	Sale of goods/Scrap/Land etc.	
CATEGORY-II		
6.	Electrical/Mechanical/Electronics Instrumentation / Telecommunication/IT works contract	Rs. 1 Crore & above
7.	Medical Equipment	Rs. 50 Lakhs & above
8.	Consultancy Service contract	Rs. 1 Crore & above
9.	Non-consultancy Service Contract (Non-consultancy Services shall be as defined in Manual for Procurement of Consultancy & Other Services issued by D/o Expenditure)	Rs. 1 Crore & above
CATEGORY-III		
10.	Horticulture work	Rs. 10 Lakhs & above
11.	Supply of medicine	Four high value contracts

The QPRs of different discipline should be submitted on separate sheets of paper. While submitting the QPR to the CTE Organization, CVOs should keep the following points in view:

- The cost of the work relates to the accepted / tendered / work order value of the work and not the estimated cost.
- If one Ministry/Department/Undertaking of the Central Government has entrusted the work to another Ministry/Department/Undertaking of the Central Government for execution, the work should be reflected in QPRs of both the Organizations.
- The location of the work must be indicated.

- d) Use of abbreviations that are not known ordinarily should be avoided.
- e) Civil works also include marine, mining, excavation and transportation works and purchase of 'ready built properties'.
- f) Electrical/Mechanical works also include air conditioning, firefighting, fire alarm and all other allied works.
- g) In case, there are no works awarded more than the threshold value mentioned under each sub-category, two contracts with highest value in each of such sub-category should be reported; except in the case of procurement of medicines, where four highest value contracts to be reported. In case no contracts are awarded, "Nil" QPR may be sent
- h) In case the orders are placed in foreign currency, the threshold limit would be determined based on conversion of foreign currency with Indian Rupee at the exchange rate defined in the tender documents. However, the currency of payments may also be indicated as per the contract.
- i) Contracts awarded on Assignment/Nomination/Single Tender/ Original Equipment Manufacturer (OEM)/ Original Equipment Supplier (OES)/ Proprietary Article Certificate (PAC) basis falling in the above categories shall also be reported.
- j) For furnishing the QPR related to Sale Contracts i.e. Sale of Goods / Scrap/ Land etc. the QPR may also to indicate the value as per reserve price besides the sale price.
- k) The organizations shall report all types of contracts irrespective of their role as Chief Owner or Engineer-in-Charge of the Contract or Project Management Supervision Consultant.
- l) All works whether in India or outside India in progress, contracts awarded, and the works completed during the quarter shall be included in the QPR. In respect of works completed during the relevant quarter, the actual date of completion shall be indicated.
- m) While submitting the QPR, CVO to certify that all the Works/Purchases/ Consultancy and other contracts required to be reported have been included in the QPR.

The 'format for submission of QPR' is at Appendix- I.

13.2.2 Selection of Contracts for Intensive Examination

CTE's Organisation conducts Intensive Examination of some of the contracts under different categories reported in QPRs. Selection of contracts for Intensive Examination is generally undertaken from the QPRs received from various Organisations, keeping in view the following factors:

- a) Complaints received from various sources.
- b) Works specifically recommended by CVOs for inspection.
- c) Works of organisations with substantial workload as compared to others.
- d) Large value contracts.
- e) Works of organisations, which do not have their own Engineering Departments for supervision and Quality Control.
- f) Works of organisations, which have not been inspected at all.
- g) Works of different nature, such as Hydro/Thermal/Nuclear Power Projects, Petro chemical Projects, Renewable Energy Projects, Procurement of IT products and IT based solutions/services, Mining, Highways, Ports, Railways, Buildings, water supply, drainage/ sewerage works etc. are given consideration. Works of unusual nature are also given due consideration for the purpose of selection for examination.

13.3 INTENSIVE EXAMINATION

13.3.1 Purpose of Intensive Examination

The purpose of Intensive examination can be categorized as given below:

- i) System Improvements based on lessons learnt from the examined contracts.
- ii) Detection/Recoveries of over-payments.
- iii) Tax compliance and follow up action.
- iv) Quality deficiencies and the remedial action; and
- v) Penal action in cases involving gross inaction/oversight and cases involving vigilance angle.

13.3.2 Requisition of Records

After approval of the Commission for intensive Examination of procurement contracts, intimation will be sent to the respective CVOs requesting for certified copies of the contract agreement, last bill paid to the contractor along with other details as per standard Proforma (**Appendix-II**). A list of records/documents to be kept ready for examination during intensive examination is also enclosed in the above proforma.

13.3.3 Intensive Examination of Contracts based on records requisitioned in the Commission

If, Commission decides that Examination of the particular Contracts be carried out without visiting the office of the Organisation concerned or work- site/stores, all original documents may be requisitioned in the Commission and after going through the documents, specific queries are sent to the Organisation through CVO for reply/ clarification. These replies should be forwarded by CVO to the Commission along with his/her comments.

13.3.4 Intensive Examination of Contracts based on records, field/site visit

Intensive Examination of Procurement Contracts is generally conducted in two parts: -

- a) The first part covers the examination of the records and documents at Headquarters or the concerned office/unit of the Organisations. Issues, arising out of examination of the records at this stage, can be discussed with the officials concerned for clarity.
- b) The second part covers the physical inspection of the works / materials/ services including checking of measurements and quality of materials, works and services, collection of samples of materials for testing, wherever possible/required, etc.

The intensive examinations are mostly undertaken with prior intimation so that the officials concerned may be present at site and well prepared to offer clarification on issues arising during intensive examination. However, in specific cases, surprise inspections can also be carried out. In cases of planned inspections, officials concerned from the departments pertaining to Planning, Design, Tender Processing, Acceptance of Tenders and Contract Management are required to be present. The representatives of the contractor/supplier/service provider, if required and the consultant may also be present to clarify any issue arising out of their activities. The presence of CVO or his/her representative is essential to act as a nodal officer. While collecting samples, officials concerned, representatives of the contractor, project management consultant, if any and CVO or his/her representative shall be associated and are required to sign the proforma containing details, such as nature of material, location of sample collection, date and time of collection etc. as token of their witness to the same. Standard Proforma in this regard is at **Appendix-III**. Sample(s) collected shall be handed over

to the representative of CVO for further sending the same to the laboratory, except for some special cases, where samples can be handed over to a responsible person of the Organisation due to unavoidable absence of the CVO or his/her representative. In some cases, samples can be sent directly by CTEs' Organisation to the laboratory for testing. Standard format for letter to be addressed to the Test House is at **Appendix-IV**.

13.3.5 Memo for seeking clarification/requisitioning additional records

During intensive Examination, Technical Examiner may issue Memo to the nodal officer for seeking clarification from the officials concerned on certain issues. The clarifications furnished should be duly signed by the officials concerned and may be considered while preparing the Intensive Examination Report. Memos can also be issued for requisitioning specific/additional records for examination. All possible efforts must be made by the officials concerned for furnishing clarification/records during intensive examination itself to avoid infructuous effort in raising these issues in the Intensive Examination Report. Such Memos may also form part of the draft Intensive Examination Report to be submitted to CTE concerned by the Technical Examiner.

13.3.6 Sample Collection

- i) Samples collected during Intensive Examination will be handed over to the CVO of the Organisation concerned or his / her representative for further sending it to the laboratory for testing. A letter addressed to the laboratory (National Test House, IITs or other reputed NABL accredited laboratories), having details of samples collected, tests to be conducted, codes to be referred, etc. along with the impression of Commission's seal used for sealing the samples shall be issued by the Technical Examiner with a copy to the CVO of the organization concerned.
- ii) CVO of the Organisation concerned will ensure timely submission of the above said samples to the laboratory for testing and also expeditious payment to the Laboratory towards testing charges.

13.4 INTENSIVE EXAMINATION REPORT

After completion of the Intensive Examination exercise, an Intensive Examination Report containing various details and the observations shall be prepared.

13.4.1 Preparation and processing of Intensive Examination Report

- i) Within one month of the completion of the Intensive Examination exercise, a draft report containing various observations/para will be prepared as per Appendix V by the Technical Examiner and shall be put up to the CTE for approval.
- ii) After approval of the Intensive Examination Report by the CTE, a synopsis will be prepared. Synopsis along with Intensive Examination Report shall be put up to the Commission through Secretary, CVC for perusal.
- iii) Based on the gravity/complexity of the issues brought out in the Intensive Examination Report, CTE may propose for a presentation on observations in the Intensive Examination Report before the Commission. However, Commission may also order for a presentation by the CTE.
- iv) During the presentation, Commission may order for another presentation to be made by the CVO after submission of the Action Taken Report.
- v) Based on the examination of the Action Taken Report submitted by the CVO, CTEO may also propose for a presentation by the CVO before the Commission.
- vi) Comments of the Secretary and/or Commission made during presentation or on perusal of the synopsis shall be incorporated in the Intensive Examination Report and

- thereafter final Intensive Examination Report shall be issued and forwarded to the CVO of the Organization by the Technical Examiner, with the approval of CTE.
- vii) Where Intensive Examination is conducted on the orders of the Commission, based on the complaint or otherwise, the Intensive Examination Report along with the synopsis shall be put up to the Commission through Secretary for perusal and orders.
 - viii) The Intensive Examination Report shall be sent by the Technical Examiner through post as well as through email from his/her post-based e-mail Id to the post-based email Id of the CVO as well as the Head of the Organisation.
 - ix) CVOs shall be required to submit the Action Taken Report in respect of observations in the Intensive Examination Report to the CTEO within two months from the date of issue of the Report. CVO shall be required to send his/her categorical and comprehensive recommendations on each observation/para so as to avoid repeated correspondence on the observations.
 - x) On examination of the action taken report/clarification from the CVO, para/observation(s) with prima facie vigilance angle shall be converted into vigilance para. CTE will put up proposal for converting the para/observation(s) in the Intensive Examination Report into a Vigilance Para for Commission's approval through Secretary, CVC. In some cases, where lapses/irregularities are of serious nature and prima-facie have vigilance angle, such para/observation(s) can also be converted into Vigilance Para, at the time of finalization of the Intensive Examination Report itself. On receipt of the approval of the Commission for converting the observation into Vigilance observation/para, the case will be sent to the Vigilance Branch in the Commission for making a reference to the CVO. For this purpose, a separate file will be opened in the Vigilance Branch. Copy of the vigilance reference sent by the Branch Officer to the CVO shall also be endorsed to CTEO for record.
 - xi) Para/observation(s) contained in the vigilance reference shall be required to be investigated by the CVO of the Organization and Investigation Report shall be submitted to the Secretary, CVC within three months of the receipt of the reference from the Commission in this regard. Comments of CTEO will be taken by the Branch Officer through Additional Secretary while dealing with the Investigation Report received from the CVO. Copy of OM conveying First Stage Advice of the Commission shall also be endorsed to CTEO by the Branch Officer for record of the CTEO.

13.4.2 Aspects to be covered in Intensive Examination Report

Intensive Examination Report broadly covers the following aspects of the Procurement-

- i) Availability of Procurement Manual(s) of the Organisation updated in line with the Manuals for Procurement of Goods, Works and Consultancy & Other Services (of June 2022 or as updated) as well as General Financial Rules 2017 (or updated version) issued by Department of Expenditure, M/o Finance, Govt. of India
- ii) Feasibility Report, Preliminary Estimate, Administrative Approval and Expenditure Sanction, Vetting of Demands etc.
- iii) Detailed project Report, Detailed Estimate, Analysis of Rates and Technical Sanction by the Competent Authority
- iv) Appointment of consultant and operation of Consultancy Contract.
- v) Tender document and adequacy of provisions therein as well as technical specifications.
- vi) Pre-bid meeting and clarifications on the issue raised by bidders
- vii) Invitation of tenders and award of work

- viii) In case of e-tenders/ e-procurement, all the records, including Audit Trail
- ix) Compliance of Contract Conditions
- x) Appropriateness/Adequacy/Genuineness of Performance Bank Guarantee or any other type of Guarantees or any other Financial Instrument to be submitted by the Contractor/ Supplier/ Service Providers
- xi) Appropriateness/Adequacy/Genuineness of the Insurance Policies
- xii) Enforcement of liabilities of contractors/suppliers/ manufacturers within 'Warranty Guarantee/ Defect Liability Period.
- xiii) Reconciliation of departmentally issued materials
- xiv) Compliances of provisions related to various type of taxes
- xv) Inspection, dispatch and acceptance of materials or works
- xvi) Compliance of conditions in the Service
- xvii) Scrutiny of bills

Scrutiny of site records

Compliance of Statutory obligations

Site Inspection

Any other issue felt necessary to be examined

The Intensive Examination Report brings out instances of lapses/irregularities in awarding contracts, defective contract conditions, non-compliance of contract conditions over-payments made to contractors, execution of sub-standard work or not matching with the specifications, time & cost overrun', infructuous and avoidable expenditure etc.

13.4.3 Intensive Examination Report not to be used as document for evidence

It has been clarified by the Commission that Intensive Examination Report should not be made document for evidence in departmental enquiry or evidence in the court of law. Since, the allegation in a charge sheet is based on the conclusion drawn by CBI or any investigating agency or competent authority after perusing documents/ evidence independently, Intensive Examination Report cannot by itself be considered to be a factor which determines the final decision.

13.4.4 Action Taken Report/ Reply to Intensive Examination Report

After receipt of the Intensive Examination report, the CVO should forward the Intensive Examination Report to the management/officials concerned in the Organisation for comments. The comments should include the followings-

- a) A statement regarding correctness of facts stated in the Intensive Examination Report. If, some of the facts are not correct, this should be clearly brought out and at the same time the correct facts, if different from the facts mentioned in the Intensive Examination Report, should also be indicated.
- b) A detailed reply for the acts of commission or omission brought out in the report.
- c) Comments on the explanations received from concerned officers.

Replies to the observations in the Intensive Examination Report should be sent promptly within two months from the date of dispatch of report. Documentary evidence in support of reply should also be enclosed with reply. A sample proforma for sending reply is enclosed as The Chief Vigilance Officers should arrange to have similar and complete

examinations done in other cases at his/her end. He/she should thereafter act upon the findings of such examination and, wherever necessary, may consult CTE Organization.

Arrangements should be made to get the defects pointed out in CTE's report rectified either by the contractor or otherwise keeping in view the contract conditions.

Minor irregularities brought out in the report should be got regularized by the competent authority after ascertaining the reasons and taking remedial measures. Appropriate preventive measures may be taken for future and the defaulters suitably warned so that such irregularities do not reoccur. In cases involving serious inaction/ oversight/ mala-fide; penal action may also be proposed by the CVO in consultation with the Disciplinary Authority, besides correction of the deficiency.

The Chief Vigilance Officers should ensure to have recoveries effected in terms of contract clauses in cases where over payments are pointed out in Intensive Examination Report and recovery statements should be submitted to the CTEO, supported by analysis of rates based on which recoveries have been effected. Such recoveries need not be postponed till the payment of final bill. In case, there is any difficulty in making recovery of the full amount, recovery of agreed amount should, at least be ensured from the next bill.

In cases, where the contractor has gone for arbitration to contest recoveries, CVO should ensure that such recoveries are implemented immediately unless there are orders from a Competent Court restraining recoveries.

In cases, where the work is treated as substandard in Intensive Examination Report, the sanction of competent technical authority for accepting such substandard work may be obtained and the rate of payment suitably reduced. Before sanctioning such reduced rate statements, the structural soundness and functional adequacy of substandard work should be established.

In cases where the consultants or contractors or suppliers have put the Organisation or the department to a loss or have done grossly substandard work for which they have claimed full payment, the CTE will point out the need to take action against such an agency. The CVO should take further steps with the concerned authorities in the organisation and keep the CTE informed about the action taken.

13.4.5 Rejoinder to the Action Taken Report/Reply

In cases, where the replies to the observations are not considered satisfactory by the CTE's Organization, clarifications from them may be called through rejoinders. The proforma for reply to the rejoinders is given in Appendix VII.

Taking into account the replies/clarifications furnished, decision regarding referring serious para for detailed investigation by the CVO may be taken with the approval of the Commission. Such para would be referred to the CVO by the concerned vigilance branch for conducting detailed vigilance investigation.

13.4.6 Final Action on the Intensive Examination Report

Each non- vigilance observation/para will be concluded/closed with the approval of CTE.

Overall time limit for conclusion of the Intensive Examination case shall be seven months from date of issue of Intensive Examination Report. However, where it is not possible to conclude the Intensive Examination case within seven months, additional time up to one month may be availed, beyond which, special permission for relaxation shall be sought from Secretary, CVC.

The Intensive Examination case files having vigilance para/reference(s) shall be

converted into NTD (Not To be Destroyed) category by the Technical Examiner on closure of the non-vigilance para and on receipt of the copy of vigilance reference issued by the Branch Officer to the CVO. Approval of the Secretary, CVC shall be obtained before converting the case file into NTD category. After issue of the OM conveying First Stage Advice of the Commission, the NTD file shall be removed from NTD category and shall be retained for five years in the record room under T5 category.

In Intensive Examination cases, where there is no vigilance para, the case file will be closed under T3 category and shall be retained for three years in the record room with the approval of the Secretary, CVC.

13.5 VIGILANCE INVESTIGATION ARISING OUT OF INTENSIVE EXAMINATION

All issues raised in the Intensive Examination Report do not automatically become vigilance cases.

13.5.1 On examination of the action taken report/clarification from the CVO, para/observation(s) with prima facie vigilance angle shall be converted into vigilance para. For the para having prima facie vigilance angle, Technical Examiner will put up proposal to CTE for converting these paras into a Vigilance Para. CTE will put up proposal for converting the para/observation(s) in the Intensive Examination Report into a Vigilance Para for Commission's approval through Secretary, CVC. In some cases, where lapses/irregularities are of serious nature and prima-facie have vigilance angle, such para/observation(s) can also be converted into Vigilance Para, at the time of finalization of the Intensive Examination Report itself. On receipt of the approval of the Commission for converting the observation into Vigilance observation/para, the case will be sent to the Vigilance Branch in the Commission for making a reference to the CVO. For this purpose, a separate file will be opened in the Vigilance Branch. Copy of the vigilance reference sent by the Branch Officer to the CVO shall also be endorsed to CTEO for record.

13.5.2 Para/observation(s) contained in the vigilance reference shall be required to be investigated by the CVO of the Organization and Investigation Report shall be submitted to the Secretary, CVC within three months of the receipt of the vigilance reference from the Commission, treating the same as complaint in **terms of para 3.4.2 of Vigilance Manual (Updated 2021)**.

Standard format for vigilance reference to be made to CVO shall be as per **Appendix VIII**.

13.5.3 The following steps are to be taken by the CVO in this regard-

- a) Appoint a reliable and independent Engineer to assist the CVO.
- b) Identify and seize the relevant records.
- c) Scrutinize the records and prepare notes.
- d) Identify the officials responsible for the lapse.
- e) Call for explanations from the officials identified.
- f) Prepare the investigation report (IR).
- g) Submit the Investigation Report to Secretary, CVC.

13.5.4 Investigation Report should be prepared by the CVO as per the procedure laid down in Commission's Circular No. 21/8/09 dated 06.08.2009, 31/12/08 dated 01.12.2008 and O.M.No.3(v)/99/12 dated 14.08.2000. Minimum particulars required under various head of the Investigation Report are explained below –

i) Source:

In this case, the source will be the reference from the Commission for conducting investigation into the matter. Reference to the O.M. of the Commission under which investigation is to be carried out should be made.

ii) Appointment of Independent Engineer:

Whenever the CVO has no competent engineer under him, he has to appoint an independent engineer to assist him during investigation.

Many CVOs get the investigation conducted by the independent engineer and forward the same to the Secretary, CVC for advice without the comments of CVO, it is not proper. The independent engineer is to assist the CVO in conducting the investigation and prepare the report. These are to be discussed under this head.

iii) Gist of Allegations:

Original paras and the lapses highlighted in the references are to be mentioned here.

iv) Facts:

- The relevant facts relating to the issue under examination should be presented in chronological or activity-wise sequence.
- Each fact should be supported by documentary evidence (other forms of evidence may also be presented) denoted as E1, E2 and E3 etc. Since, the facts occur in chronological order, the evidence E1, E2, E3, etc. should necessarily be arranged under the report in the same order, thus making it easier for reference.
- While annexing the evidence, the relevant portion of the document should be highlighted and annexed. For example, the evidence of technical/ financial credentials for meeting the qualifying requirement should consist of the Xerox copy of the relevant clause prescribing the qualifying requirement and not the copy of the complete tender document.
- There may be several issues in a report which may be conveniently arranged as different paras viz. 2.1, 2.2, etc.
- All relevant facts needed to support the observations/conclusion should be gathered and presented. Irrelevant facts, bearing no consequence on the issues under inquiry should be avoided.
- Evidence presented should be credible and adequate.

v) Observations:

- Ordinarily, observations are logical deductions arrived at through a set of facts. They are in the nature of objections or anomalies observed with reference to the gathered facts. There may be several observations arising out of the analysis of facts.
- Observations are also arrived at by evaluating the facts against certain criteria viz. rules, regulations, policies, procedures, norms, good practices or normative principles. Evidence of these criteria (extracts of rules, procedures, etc.) should also be presented as E1, E2, etc.

vi) Defence/ Response of the officials concerned:

- It is necessary to elicit the reasons and clarifications of the Management, or the officers concerned for the anomalies pointed out in the observations. Every deviation from rules or procedure cannot be attributed to a mala fide/corrupt intent. There could be situations, where sometimes decisions taken are not in full conformity with the laid

down rules and procedures in the larger interest of the work and with good intentions; as such, it may be appropriate for the Vigilance to look deeper into the context in which such decisions were taken. Therefore, obtaining the response of the officers concerned is essential in order to arrive at an objective conclusion.

- Response of the management is also necessary in order to clarify differences in interpretation or an understanding of the issues between vigilance and the management.

vii) Counter to the Defence/ Response:

In order to sustain the observations made by Vigilance, it is necessary to counter the defence given by the management/officers concerned with facts and supporting evidence. It should be clearly and convincingly brought out why the explanation given by the management is not tenable.

viii) Conclusion:

- Conclusion is the logical summation of the observations. The observations, denoting various counts of irregularity, lapses or impropriety, should finally lead to a logical conclusion on whether the case involves commission of irregularity with the mala-fide intention or otherwise.
- Undue favour given to a party or obtained for self and its adverse impact on the government or the citizens in terms of additional cost, poor quality or delayed service should be clearly highlighted.

ix) Responsibility of officials:

- Having determined the vigilance angle in the case, the next step is to fix the accountability of the individuals involved in the misconduct. Name of officers should be clearly stated in this para.
- The role of each officer should be judged with reference to his prescribed charter of duties. In case the tender Committee is responsible for the misconduct then, as far as possible, all members should be equally and collectively held responsible.
- Comments of Disciplinary Authority should invariably be included.

x) Recommendation for action:

Recommendation for closure should only be in cases where there is no discernible vigilance angle. However, in cases, where criminal misconduct is detected, appropriate recommendation should be made by the CVO. Recommendation of the CVO should be clear and unambiguous.

Biodata of the officials, reported against in the investigation report, should be included in the given format.

xi) Recommendation for systemic improvement:

Punitive action on detection of irregularities/ lapses does not by itself lead to a logical conclusion, unless suitable measures capable of preventing recurrence of the irregularities/ lapses are also suggested / implemented. Any fraud, corruption, irregularity or impropriety indicates a failure of control mechanism or gaps in systems and procedures. Therefore, each case throws up an opportunity to identify these control failures and suggest ways of plugging them to prevent recurrence of the lapse. Therefore, at the end of the report, the CVO should also try to recommend systemic improvements in order to prevent the risk of a recurrence of the lapse/misconduct.

xii) Tabular statement:

With a view to streamline the procedure and to avoid delay on account of incomplete

information, it has decided that, along with other records/documents, the following tabular statement should accompany the organisation's recommendations: -

SN	Name & Designation of the suspect officer	Allegations in brief	Findings of the investigation/ Inquiry on each allegations	Defence of the suspected officer	Comments/ Recommendations of the DA	Comments/ Recommendations of the CVO

xiii) ASSURANCE MEMO

This is to provide reasonable assurance to the Commission and content of it should be as per **Appendix-IX**.

xiv) Biodata of the officials

Complete Biodata of the officials against whom Commission's advice is sought should be furnished as per **Appendix-X**.

13.5.6 Commission's Advice

After investigation, the IR should be sent to the Secretary, CVC by the CVO for first stage advice. Even if the CVO comes to the conclusion that no vigilance angle is involved, the matter has to be referred to the Commission for advice as the complaint has emanated from the Commission. The comments of CTEO on Investigation Report would be obtained by the Branch Officer through Additional Secretary. Branch Officer will put up the case, duly incorporating the comments of CTEO, for consideration and advice of the Commission. Copy of OM conveying First Stage Advice of the Commission shall also be endorsed to CTEO by the Branch Officer for record of the CTEO.

13.6 ROLE OF CVO IN INTENSIVE EXAMINATIONS

CVO of the Organisation plays a vital role in Intensive Examination process. With the limited staff available, CTEO can only undertake intensive examination of few of the contracts of organizations covered under the jurisdiction of CVC. Therefore, it was felt necessary by the Commission that the CVOs should also undertake similar intensive examination of procurement contracts in their respective Organisations. Other important functions of CVO in respect of the Intensive Examination are listed below for timely action to enable the organization to effect immediate recovery from the contractors/suppliers as well as to ensure accountability of officials responsible for the lapses.

a) Timely submission of:

- i) QPR
- ii) Documents required for intensive examination.
- iii) Preliminary Examination of the impugned Contract and submission of report to CTEO before Intensive Examination is carried out by Technical Examiner and
- iv) Replies to Intensive Examination Reports/rejoinders.
- v) Investigation Report with the assistance of an independent engineer.

b) Ensuring:

- i) Presence of Engineers responsible for planning, design, tender scrutiny, award of work and construction during inspection.
- ii) Presence of representatives of CVO during inspection.

- iii) Rectification of Defects in the Project/Supplies.
- iv) Recoveries from the Contractors for the over-payments.
- v) Implementation of guidelines/circulars issued by the Commission/CTEO.
- c) Carrying out periodical inspection of works with the assistance of the technical staff of CVO in line with CTE's inspection.
- d) Pursuing, preparation and issue of Procurement Manual.
- e) Implementation of guidelines/circulars issued by the Commission/CTEO.

13.7 TIME SCHEDULE

Timely action on the observation raised in the intensive examination report is important, as in some cases, delay may render the action(s) to be taken as time barred. Sometimes, Vigilance Investigation Reports are also delayed considerably, which may allow officials responsible to retire without any action. Last minute references to the Commission for advice just before retirement of the concerned officials should also be avoided.

Following time schedule shall be adhered by all concerned-

SN	Activity	Schedule
1	Issue of Intensive Examination Report by CTEO including submission of synopsis/presentation before the Commission.	Two Months from the date of inspection.
2	Action Taken Report/ Reply by the CVO to the observations in the Intensive Examination Report.	Within Two Months from the date of issue of I/E report.
3	Rejoinder to CVO's reply.	One Month from the date of reply.
4	Final Action Taken Report/ Reply to CTEO's rejoinder by CVO.	One Month from the date of issue of rejoinder.
5	Final examination/scrutiny by CTEO.	Within One Month from the date of receipt of Final Action Taken Report/ Reply from the CVO.
6	Submission of Investigation Report in respect of Vigilance Para/Observation(s) by CVO.	Three Months from the date of vigilance reference from the Commission.

- Ref:- i) [CVC's circular No.19/09/22 dated 05.09.22](#)
- ii) [CVC's circular No.05/05/21 dated 06.05.21](#)
- iii) [CVC's circular No.04/04/21 dated 06.04.21](#)
- iv) [CVC's Circular No.15/07/12 dated 30.07.12](#)

Appendix-I

**Statement showing the Quarterly Progress of Original Works
for Quarters ending March/June/September/December.**

SN	Name of work and location	Estimated cost	Tendered cost	% above/below SOR	Agmt. No.	Agency	Date of start	Time of comp.	Physical progress	Name of E-in-C with address	Remarks
1											
2											

Note: CVO is required to certify that all the works purchase/consultancies and other contract required to be reported have been included in the QPR.

Appendix-II

No.
Government of India
Central Vigilance Commission
(CTE's Organisation)

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

To

Sub: Intensive Examination of Procurement of Works/Goods/Services/Ref:

Sir,

1. It has been decided to carry out Intensive Examination of the following works/goods /ser- vices of your Division/ Organisation.

SN	Name of work/good/ ser- vices contract	Location	Agreement No	Name of contrac- tor/ agency

2. To enable the inspection to be carried out properly, you are requested to please arrange to collect and make the following documents available to the undersigned/ Astt. Technical Examiner/Junior Technical Examiner as explained below.
21. PROFORMA FOR GENERAL INFORMATION IN ANNEXURE-I: Item under paras 1 to 1.3 may be filled in and the proforma returned immediately duly signed. In case the administrative set up is different from that indicated in paras 1.2 and 1.3, the information may be furnished as per the set up available in your organization.
22. PROFORMA 'TECHNICAL INFORMATION' FOR IN ANNEXURE-II: This may please be filled in, signed and forwarded immediately.
23. DOCUMENTS FOR INSPECTION AT SITE OFFICE ANNEXRUE-III: All these original documents will be examined at site/ office/ godown and may please be kept ready during inspection. However, copy of following documents (Hard copy as well as soft copy) may please be send immediately.
 - (i) Copy of last R/A bill (duly paid) with its enclosures.
 - (ii) Copy of agreement with complete specifications of work.
 - (iii) Copy of extra/substituted/ reduction items (approval/proposed) with corresponding anal- ysis of rates of each item.
 - (iv) Copy of tender scrutiny/ processing note.
 - (v) Copy of Administrative approval, technical sanction and detailed estimate i/c all con- cerned details.
3. After intimation of inspection program, arrangements may please be kept at site for the inspection of different work along with required tools, plants and workmen. You may kindly ensure that all parts of the building/ work are made available for inspection.
4. The information in proforma at Annexure I and II is to be furnished on factual basis as per records already available. As such it may please be ensured that the requisite information in these proforma including documents mentioned in Para 2.3 (i) and to (v) above is for- warded immediately. If one or two items are not readily available, submission of the entire proforma should not be delayed on that account. The remaining information may follow shortly thereafter.
5. The tour program for Intensive Examination shall be intimated separately.
6. Kindly acknowledge receipt of this communication.

Yours Sincerely,

Enclosures: 1. Annexure I, II and III

2. Proforma A, B, C, D

TECHNICAL EXAMINER

Annexure-I

	Particulars of work	
1.1	Name of the work	
	Agreement No	
	Name of Contractor	
	Estimated Cost	
	Tendered Cost	
	Due date of Start	
	Due date of Completion	
	Present Progress	
1.2	Departmental Authorities	
	Zone	
	Circle	
	Division	
1.3	Officials In charge of work	
	Chief Engineer/ ED	
	Superintending Engineer/GM	
	Executive Engineer/ DGM	
	Asst. Engineer	
	Junior Engineer	
	Divisional Accountant	
	Complete Postal Address	
	Office Telephone No.	
	Fax No.	
	Office Mobile No.	
	E-mail ID	

Annexure-II

2.0	Chronology of Events		
	2.1	Sanction and Estimation	:
		Ref. & Date of Administrative Approval	:
		Ref. & Date of Estimate Sanction	:
		(A) Ref. & Date of Technical Sanction (T.S.)	:
		(B) Basis of preparation of Estimate for T.S.	:
	2.2	Tender Process	:
		Date of Approval of PQ Criteria	:
		Mode of Tender	:
		(A) Open/ Limited/ Nomination	:
		(B) Domestic/ ICB	:
		Type of Tender	:
		One Stage/ Two Stage	:
		Details about First Stage of Tender	:
		Purpose	:
		Date of Advertisement	:
		Date of Issue of RFP	:
		Date of Receipt of Proposals	:
		Total No. of Proposals	:
		Number of Proposals Accepted	:
		Name of Accepted Proposals	:
		Mode of Tender	:
		One Envelop/ Two Envelops/ Three Envelops	:
		C) Details of Bids/ Documents in These envelops	:
		Envelop:1	:
		Envelop:2	:
		Envelop:3	:
		Date of Approval of NIT by Competent Authority	:
		Date of Issue of NIT In Press	:
		(A) Date of Appearance of NIT on website	:
		Last date of Sale of Bids	:
		Dates of Pre-Bid Meetings	:

		Corrigendum to NIT, If any		
		Date of Receipts of Bids & Extensions	:	
		Date & Time of Opening of Different Bids		
		Envelop:1		
		Envelop:2		
		Envelop:3	:	
		No. of Tenders Sold/Downloaded	:	
		Total No. of Tenders Received	:	
		Name of Bidders Who Submitted Bids	:	
		Dates of Tender Evaluation Committee (TEC) Meetings	:	
		Name & Designation of TEC Members	:	
		Tender Approving Authority & Date of Final Approval		
		Whether Work Awarded to Lowest Tenderer	:	
		Quoted Amount of Lowest Conducted (Yes/No)	:	
		Accepted Amount of Lowest Bidder	:	
		Works Manual adopted		
	2.3	Post Contract	:	
		Event	:	
		Deviation Item No	:	
		Extra Item No	:	
		Substituted Item No	:	
		Last Running Account Bill Paid	:	
		Shifting of Milestone		

Annexure-III

DOCUMENTS FOR INSPECTION AT SITE OFFICE

1. (A) Press cutting including extended dates, if any.
 - i) For Pre-qualification of Architects/ Consultants.
 - ii) For Pre-qualification of Contractors.
 - iii) Call of Tenders
- (B) Register of sale and opening of tenders.
- (C) Audit trail/ Log of e-procurement
2. Preliminary estimated, administrative approval, and expenditure sanction i/c processing notes.
3. DPR, Detailed estimate and its Technical Sanction by Competent technical authority.
4. Approved NIT (Notice inviting Tenders) in original i/c NIT processing note.
5. Rejected tenders, comparative statements, tenders processing/ scrutiny notes and acceptance of tender from competent authority for:-
 - (a) Selection of Architects/ Consultants
 - (b) Short- listing or prequalification of bidders.
 - (c) Tender for Main and other works.
6. Justification statement i/c analysis of rates and corresponding noting in support of reasonability of rates for acceptance of tender.
7. Details of negotiations if any made before acceptance of tenders.
8. Original Contract Agreement.
9. List of Technical Staff deployed by the contractor on the work i/c their credentials.
10. Performance Guarantee Bond and other Bank Guarantee etc. towards security deposit, Mobilization advance, Tools plants/ Machinery advance etc. including extension of validity.
11. Insurance policies for work materials equipment, men etc, including extension of validity.
12. Guarantee for water proofing, termite treatment etc.
13. Standard schedule of rates and specifications.
14. Proof of EPF and ESI contributions deposited by the contractor for the workers deployed on the work.
15. Drawings-Architectural and Structural.
16. All connected Measurement Book, Level Books, Field Books and Lead Charts.
17. All running Account Bills with all connected statements/ vouchers.
18. Statements showing details of check of measurements by superior officers-copies of order laying down such requirements.
19. Accounts of Materials at site, such as, cement, steel, bitumen, paints, water proofing compound, anti-termite chemical etc.
20. Site order Books/ Test Records/ Logbooks.

21. Details of extra/ substituted items deviated quantities approved by competent authority / being executed/ considered for execution in the work along with analysis of rates.
22. Hindrance Register.
23. Office, correspondence files, and inspection notes, if any, issued by inspecting officers.
24. Complaint records, if any.
25. Any other documents relevant to the works.
26. Details of payments in proforma 'A'.
27. Cement consumption statement in proforma 'B'.
28. Steel consumption statement in proforma 'C'.
29. Statement of test material in proforma 'D'.
30. Copy of approved Design Mix of Concrete/ Bituminous works and batch slips.
31. Test register/ File maintained at site.
32. Copy of EOT granted along with note for processing EOT case.
33. Detail of Rescheduling / shifting of Milestone, if any.
34. Copy of Completion certificate recorded, if any.
35. Statement of cost variation/ escalation paid to the contractor.
36. Quality assurance reports, audit reports.
37. Details of reimbursement of Taxes/ royalty etc.
38. Progress reports and photographs/video.
39. Brief History of the project containing chronological events.
40. EIA report, EMP and Environment clearance from competent authority, if any.
41. Purchase vouchers of cement, steel, and other important materials.
42. List of T&P provided by the contractor at site.

Proforma

Details of Payment

	SN	
	CR No. (CC Bill No.) and date	
	As per execution of work	Account Payable
	Payment of Mobilization Advance	
	Payment of T&P Advance	
	Price variation paid	
	Secured Advance	
	Gross Total	
	Security Deposit	Details of recoveries
	Income Tax	
	Work Contract Tax/ GST	
	Labour Cess	
	Secured Advance	
	T&P Principal	
	Interest T&P Advance	
	Mobilization Advance Principal	
	Interest on mobilization advance	
	Cheque Amount	

Name

Signature

Proforma

Cement Consumption Statement up to last bill (cumulative)

		Theoretical required in bags/ MT					
Last date of measurement	SN	Quantities of items using cement	Coefficient of cement	Quantity of cement	Actually, consumed in bags/MT	Recovered received at site	Remarks

Name

Signature

Proforma 'C'

Details of Steel Reinforcement consumption up to last (SN) Bill Paid

TMT Steel Diameter in mm	8	10	12	16	20	22	25	28	32	36	40	42
Qty issued By Deptt. / Quantity procured by the contractor (MT)												
Qty measured for payment (MT)												
Qty recovered from bill (MT)												
Balance Qty at site (MT)												

Notes

1. If any other steel reinforcement is used, information may be furnished in same proforma as for TMT steel.
2. If structural steel is used, information may be furnished in similar proforma for various sections instead of various diameters.

Name

Signature

Proforma

																			1.	Sl.No.
																			2.	Description Of material
																			3.	Qty. consumed till date
																			4.	Description of test as per BIS/agreement provision
																			5.	Frequency of test as per BIS/ agreement
																			6.	Required
																			7.	Conducted
																			8.	Lab.where test conducted
																			9.	Whether the Lab approved by Govt.
																			10.	Status of test result (Pass/ fail)
																			11.	If failed, what action taken
																			12.	Whether testing charge borne by Deptt./Agency.(Ref. to agree. Provision
																			13.	Recovery proposed for short fall in test/failed result.

Sd/ CVO

Appendix-III

**Government of India
Central Vigilance Commission
(CTE's Organisation)**

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

Name of Work:

Agreement No.

Name of organisation:

Sub: Collection of Samples.

Following samples were collected from site of work on _____ in presence of

Sl. No.	Code No.	Description of Material	Location	Details of tests to be conducted	Ref. of I.S. Code/ Specification as per contract agreement

The above samples have been sealed with the Commission's seal, the three impressions of which are as under.

1.	2.	3.	4.
Sd/-	Sd/-	Sd/-	Sd/-
Name	Name	Name	Name
(Representative of Contractor)	(Engineer-in charge)	(Representative of CVO)	(TE/CVC)

Received above sealed samples for delivery to laboratory for testing.

**Name and Signature
(Representative of CVO)**

Appendix-IV

**Government of India
Central Vigilance Commission
(CTE's Organisation)**

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

To,

(Name of Test House)

Sub: Testing of samples of material

Sir,

Enclosed please find herewith _____ packet(s) duly sealed, containing samples as per details given below for performing the tests indicated against each. The test results may kindly be sent confidentially by name to the undersigned indicating the code no. of each sample.

Code No.	Description of Material	Quantity	Details of tests to be conducted	Ref. of I.S. Code Specification as per contract agreement
1.	2.	3.	4.	5.

2. Bills for testing charges may be sent to the authority and address mentioned below. The testing charges shall be borne by them. Sealed sample(s) of above material(s) has/have been handed over to them for delivery to your Test House for testing.
3. The above samples have been sealed with the Commission's seal, the three impressions of which are as under.

--	--	--

Encl: (i) _____ No. of packets of samples.

(-----)

TECHNICAL EXAMINER

Appendix-V

INTENSIVE EXAMINATION REPORT
ON
THE WORK'
BY
(.....)
TECHNICAL EXAMINER
CHIEF TECHNICAL EXAMINER's ORGANISATION
CENTRAL VIGILANCE COMMISSION

	Period of Inspection	:	
A.1	Particulars of work	:	
	Name of work	:	
	Agreement No.	:	
	Name of the Contractor	:	
	Estimated Cost	:	
	Tendered Cost	:	
	Due Date of Completion	:	
	Present Physical Progress%	:	
A.2	Department Authorities	:	
	Zone	:	
	Circle	:	
	Division	:	
A.3	Officials in charge of work	:	
	Chief Engineer/ED	:	
	Superintending Engineer/GM	:	
	Executive Engineer/DGM	:	
	Asstt. Engineer	:	
	Junior Engineer	:	
	Divisional Accountant	:	
	Others(Specify)	:	
A.4	Details of office of Chief vigilance officer	:	
	Complete Postal Address	:	
	Office Telephone No.	:	
	Fax No.	:	
	Office Mobile No.	:	
	E-Mail ID	:	

A.5	Details of office of Chief Engineer/Director (Projects)/Project Head of this work		
	Complete Postal Address	:	
	Office Telephone No.	:	
	Fax No.	:	
	Office Mobile No.	:	
	E-Mail ID	:	
	Chronology of Events	:	
B.1	Sanction And Estimation	:	
	Ref. & Date of A/A	:	
	Ref. & Date of E/S	:	
	(A) Ref.& Date of Technical Sanction (T.S)		
	(B) Basic of Preparation of Estimate for T.S.	:	
B.2	Tender Process	:	
	Date of Approval of PQ Criteria	:	
	Mode of tender		
	(A) Open/Limited/Nomination		
	(B) Domestic/ICB	:	
	Type of Tender	:	
	One stage/Two stage	:	
	Details about first stage of tender	:	
	Purpose	:	
	Date of Advertisement	:	
	Date of issue of RFP	:	
	Date of receipt of proposal	:	
	Total no. of proposal	:	
	Number of Proposal Accepted	:	
	Name of Accepted Proposals	:	
	Mode of Tender		
	One Envelop/Two Envelops/Three Envelops		
	Details of Bids/Discounts in these Envelops		
	Envelop:1		
	Envelop:2		
	Envelop:3		
	Date of Approval of NIT By Competent Authority	:	

	Date of issue of NIT in press		
	Date of Appearance of NIT on Website	:	
	Last date of sale of Bids	:	
	Dates of Pre-Bid Meetings	:	
	Corrigendum to NIT, if any	:	
	Date of Issue	:	
	Date of receipt of Bids & Extensions	:	
	Date & Time of opening of different Bids		
	Envelop:1		
	Envelop:2		
	Envelop:3		
	No. of Tenders Sold/Downloaded	:	
	Total No.of Tenders Received	:	
	Name of Bidders who submitted Bids	:	
	Dates of Tender evaluation Committee (TEC) Meetings	:	
	Name & Designation of TEC Members	:	
	Tenders Approving Authority & Date of final approval	:	
	Quoted amount of lowest Bidder	:	
	Whether negotiations Conducted (Yes/No)	:	
	Accepted amount of lowest Bidder	:	
B.3	POST CONTRACT	:	
	Event	:	Date of Sanction
	Deviation Item No.	:	
	Deviation Item No.	:	
	Extra Item No.	:	
	Extra Item No.	:	
	Substituted Item No.	:	
	Substituted Item No.	:	
C	Factual Details	:	
D	Observations	:	
1.0		:	
2.0		:	
3.0		:	

SAMPLE COLLECTION

S.No.	Code No.	Description of Material	Location	Details of Tests to be conducted	Ref. of L.S. Code/ Specification as per contract agreement
1.	2.	3.	4.	5.	6.

E Miscellaneous Remarks (If any)

F Annexures
(Name)

Technical Examiner

Appendix-VI

First Reply to Paras of Intensive Examination Report

Sl. No.	Para No.	CTEO's Observation	Reply of Technical Authority		CVO's comments
			Reply	Cost Adjustment proposal	

Sd/-

Name and Designation of
Technical Authority

Sd/-

CVO

Appendix-VII

Reply to Rejoinders in respect of Intensive Examination Report

Para No.	CTEO's Observation	Reply of Technical Authority	CVO's comments	CTEO's comments	Reply of Technical Authority		CVO's comments
					Reply	Cost Adjustment proposal	

Sd/-

Name and Designation of
Technical Authority

Sd/-

CVO

Appendix-VIII

No.
Government of India
Central Vigilance Commission

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

To,
The Chief Vigilance Officer,

.....

.....

Sub:

Sir,

Intensive examination of above work was carried out from _____ to _____ by a team of this commission and a report was sent to the Chief Vigilance Officer, vide letter No. _____ dated _____. Para as enclosed is being referred to you for a detailed vigilance investigation. It is requested that the detailed investigation report may be submitted directly to the Secretary, Central Vigilance Commission within a period of 3 months.

For the purpose of investigation, you may please refer to the instructions contained in O.M. No. 3(v)/99/12 dt.14.08.2000. You may get an independent and reliable Engineer appointed to assist you in identifying and seizing the relevant records, preparing scrutiny notes thereon, fixing responsibilities, calling for the explanations of the indicated officials and preparing scrutiny notes on the validity of the explanation received. The report may conclude with your considered comments and recommendations in respect of each lapse referred to you for investigation. All the above notes and explanations may be included in the investigation report. In brief, the lapses are given in Appendix-I enclosed [Appendix to indicate the lapses in brief].

Kindly acknowledge receipt of this reference.

Yours faithfully,

(.....)

Director/Dy. Secretary

Appendix-IX

Assurance Memo

This is to provide reasonable assurance to the Commission:

- a) That all necessary facts and relevant evidence have been gathered.
- b) That all facts and supporting evidence have been duly verified.
- c) That contested evidence, If any, have been conclusively handled with reference to the facts at the disposal of Vigilance.

Sd-

Chief Vigilance Officer

Appendix-X

**Format of Biodata of officer(s) against whom
Commission's advice is sought****(To be incorporated in the Vigilance Report of the CVO)**

1. Name of the officer
2. Designation
 - (a) At present
 - (b) At the time of alleged misconduct
3. Service to which belongs
(Cadre and year of allotment in case of officers of the organised/All India Services)
4. Date of birth
5. Date of superannuation
6. Level /group of the present post and pay scale
7. Date of suspension [if under suspension]
8. Disciplinary Rules applicable to the officer

NOTES / MODIFICATIONS

CHAPTER-14

e-Vigilance

14.0 INTRODUCTION

What is e-Vigilance? In normal parlance 'vigilance' means careful attention that we pay to what is happening around us to find out lapses or violations. It connotes watchfulness, prevention and detection of wrongdoings in governance activities. e-Vigilance is a modern tool of watchfulness, prevention and detection by leveraging modern technology. e-Vigilance ensures compliance of laws, rules and instructions in governance activities by means of inbuilt system of machine intelligence, and thereby detecting violations, if any. It also ensures integrity, transparency and equity in the functioning of Government and public entities which are epitome of good governance.

14.1 BACKGROUND

- (a) In this era of technological revolution, it has become possible to deal with complex and diverse government activities in an efficient, transparent, and citizen-centric manner. Over the years, a large number of initiatives have been undertaken by various organizations and authorities of Central and State Governments to usher in an era of e-Governance. Sustained efforts have been made at multiple levels to improve the delivery of services and simplify the processes of accessing them. Use of ICT (Information and Communication Technology) in India has steadily evolved from computerization of Government Departments to initiatives that encapsulate the finer points of Governance, such as citizen centricity, service orientation, speed, and transparency.
- (b) Organizations undertake automation, digitization and digitalization in order to streamline their internal systems, processes to ensure effective customer interface and delivery of seamless services, such as Government to Government (G2G), Government to Citizen (G2C), Citizen to Government (C2G), Government to Business (G2B) and Business to Consumers (B2C) services, etc. The major areas where online systems have made huge impact are e-procurement, e-land records, e-office, e-exams, e-recruitment, e-payments, e-banking, scholarship, life certificate for pensioners, e-subsidies, online booking / reservation (railways, airlines, roadways, etc.), passport services, e-courts and other legal services, medical consultancy, and other IT enabled services.
- (c) While digitisation has brought in lots of merits, reducing petty corruptions, efficient delivery of services, improving the quality of life, reduction in time taken for availing services, enhanced transparency, awareness amongst citizens, it poses its own challenges of vulnerability of intentional / unintentional manipulations which need to be diagnosed and tackled on continuous basis. Instances of cyber frauds, cyber-crimes, malpractices by government officials and employees of vendors manning the IT systems and outsiders also have come to notice. Apart from the organizations concerned, the Commission is receiving /has received reports / complaints, about incidents of such malpractices.
- (d) Organizations should have robust systems and processes of IT based platforms and Vigilance needs to play a pro-active role and to adapt to such organizational changes so that the processes and information in such an environment are within their ambit for scrutiny against vigilance angle or systemic deficiencies. In order to undertake such examination, there is felt need for requisite capacity building in the form of competencies, skills and tools that would help Vigilance examine the data, the reports

and the processes.

14.2 ISSUES FACED

Few possibilities to illustrate existing IT systems' susceptibility to corruption and incidents of malpractices are cited below: -

- (i) **E-procurement / e-tender:** There may be instances wherein some bidders could get to know critical information such as bids of the competitors because of inherent infirmities / vulnerabilities of the system itself and succeed in clinching the tender in their favour. Non-encryption of technical / financial bid and its accessibility is a vulnerability area. Encryption and audit trail / log needs to be ensured. The trails / logs are required to be maintained in such a manner that they cannot be modified / altered by the system administrators.
- (ii) **E-Recruitment:** Delayed publishing of vacancies / recruitment notices on e-platform and actual reduction in e-visibility period of the said notice; additionally, the broken link to open the online form and the system becoming slow / hung in the last few days / hours of the cut off time and non-provision of objection period is an area of concern.
- (iii) **E-payment:** fraud and duping: Numerous cases are reported on a regular basis wherein citizens are duped while making online transactions with various banks and available apps. Payment gets deducted from the account of the customer, but services / goods not delivered and without auto reversal of payment or instant refund. Huge amount of money gets siphoned off in this kind of malpractice. Involvement of employees of the Banking, Financial Services and Insurance (BFSI) sector, outsiders or the employees of the vendor engaged by the BFSI sector partner connivance in incidents / malpractices cannot be ruled out. Given the extensive use of technology in BFSI sector, the risk of unauthorized access, disclosure and modification by unscrupulous employees remains high.

Many government schemes now involve Direct Benefit Transfer to the intended beneficiaries. Such kind of e-payment transfers need to be protected from any possible unscrupulous manoeuvring. Pay & allowances to employees, payment to the contractors / vendors are now made through electronic transfers and are vulnerable to manipulations and frauds.

Modification of bank details of intended beneficiaries (for contractual payments, refunds, etc.) should normally not be allowed. If it becomes absolutely necessary (for example in case of closure / merger of banks, etc.) it should be done in a controlled manner, with multi-level approvals, and audit trails.

14.3 PROACTIVE MEASURES TO ENHANCE THE ROBUSTNESS OF THE IT BASED SYSTEMS

- (a) E-Systems and processes should be aligned with provisions in the IT Act, Rules and guidelines issued by Ministry of Electronics & Information Technology (MeitY) from time to time.
- (b) Relevant SOPs should be put in place by the organizations for strict adherence.
- (c) To ensure information security in terms of Confidentiality, Integrity, Availability and Indisputable authentication of ownership of any action (Non-Repudiation), the ICT infrastructure such as E-platforms and IT enabled services comprising of websites, portals, applications, database, user accounts, cloud services, mobile applications, storage devices, Application Program Interfaces (API), encryption mechanisms, etc. are needed. Electronic service environment of the organizations requires to be updated and made robust.

- (d) **Security Audit:** All the IT systems and processes should be security audited by agencies such as STQC or CERT-In empaneled agencies. The software applications, IT system should be tested / audited on regular intervals as per the CERT-In guidelines. However, if there is a major change in software application or IT system, then impact of change should be analysed and testing / auditing for security should be done before putting the changed application / IT system in production environment.
- However, basic details of key personnel of the CERT-In empaneled agencies or any other such organization, like name, Aadhar number, PAN number, etc. need to be maintained and dynamically updated by CERT-In or any other similarly placed organization
- (e) **Information Security Management System:** Organizations should have policy which ensures data authorization, process authorization, data safety, non-repudiation, etc. depending upon the need and necessity of the organization. The hiring organization having sensitive and confidential data may exercise due diligence to ensure the integrity of the key personnel of the empaneled agency while getting the security audit done for the organisation.
- (f) Ownership and control of the data shall exclusively rest with the concerned public organization.
- (g) **Maker / Checker Concept:** The Agency which has made / supplied the IT systems should not be the Checker of the IT system. The checker should, inter-alia examines the code for the possibility of leakage of confidential data / data loss through malicious code. This should be done for each and every patch that is deployed thereafter.
- (h) IT system and its online auditing system should be in separate silos so as to maintain exclusivity of the auditing system. Control of the auditing system should not be with the administrator of the IT system.
- (i) Organizations may consider to have backup server(s) placed at a different place other than the primary server(s) where exact replica of the primary server(s) are created on run time basis or at regular intervals as may be decided by the organisation. This will help the organisation recover data in case of any disaster, crashing of primary server, etc.
- (j) System of auto generated alert in cases, such as it is becoming slow below a certain level or disruption during submission of bids, application for various services, etc. on the cut-off date and time. A window period for receiving grievances and their redressal should be there.
- (k) All transactions should be time stamped with the server clock time. The server time should be synced with a verified source like NPL clock, ISRO clock, etc. to prevent denial or service, unauthorized availing of service after due date, and unauthorized access of confidential data (e.g., viewing of bids before closing time) through tampering of server clock time. A log should be maintained for any change in server time, and such changes should also trigger SMS / E-mail alerts to designated officials.
- (l) Guidelines to be prepared by the organization concerned for comprehensive audit on the lines of e-procurement 'Guidelines for compliance to Quality requirements of e-procurement Systems' issued by MeitY (Ministry of Electronics and Information Technology), also mandated by Ministry of Finance.
- (m) **Audit trails:** All the IT systems (Hardware & Software) should maintain audit trails which can establish the digital footprints of the user login, access duration, etc. These logs must be enabled and maintained for appropriate period as per extant guidelines of the Government.
- (n) **Forensic readiness:** E-Services should have robust forensic readiness so as to maintain usefulness of incident evidence data and ability to perform forensic investigation quickly and with ease. Organisation should have policy for recording, preserving, validating the transactions & activity logs records. E-Services should be periodically tested for their forensic- readiness in case of breach or manipulation by insiders or external actors.

- (o) **Continuous monitoring and visibility:** ICT infrastructure facilitative e-services should be continuously monitored for the security status and visibility on operations. Apart from monitoring the e-services itself, organisations should maintain ongoing awareness of information security, assets, vulnerabilities, and threats to protect the systems and prevent cyber-attacks and misuse from external as well as internal actors.
- (p) **Awareness:** Operators, insiders and owners of the e-services could intentionally or unintentionally facilitate breach or manipulation of the e-services. A role-based information security awareness program including concepts of external and internal threats needs to be devised for key staff members. The awareness program may also include vendors and suppliers of the e-services. Senior management may monitor effectiveness of such programs.
- (q) **Capacity Building:** Regular training programs encapsulating the major areas of vulnerability, system and security audit, robustness of IT infrastructure, etc. should be organized for the key managerial, IT personnel and other staff members of the concerned public organizations.
- (r) In case, the deployed software and hardware are not security audited, it should be done at the earliest by STQC or CERT-In empanelled agencies. These audit certificates, if displayed on the home page of the IT system, will instill a sense of confidence in the minds of the users.
- (s) When a software system is developed through a hired agency, ample care should be taken to distinguish the software developed and testing setup from the life setup. This means that the server or machine used for development and testing must be different from the server or hardware where software is going to be operated preferably at a different place.
- (t) All the IT systems in operation must ensure periodic re-audit every two to three years or when a major functional change has been incorporated.
- (u) IT systems must use digital signature system, e-sign, OTP or biometric based user authentication rather than just relying on user ID and password. Additionally, the system of screen log out after an appropriate time lapse as may be decided by the organisation can also be introduced so as to ensure safeguard against any unauthorised person's access to the system. Besides, sensitive documents should be encrypted before transmission. For example - in an e-tender system a technical bids as well as financial bids should be encrypted so that nothing is visible to the back- end staff.
- (v) Chief Vigilance Officer needs to take up a periodic review to ensure integrity of the existing automated systems and processes. Such review shall be carried out at- least once a year by a Committee comprising an officer of Vigilance Department, HR Department and IT Department of the Organization. A report on such review shall be submitted within one month to the Head of the Organization. Any serious deficiencies identified during the review shall be examined from vigilance angle and further investigation taken up wherever required.
- (w) Government has empaneled information auditing organisations to facilitate regular audits of ICT infrastructure. Guidelines related to good information security audit practices are published for auditees, auditors, data handling and Cyber security audit baseline requirement. For further details the following weblinks may be visited: -

14.4 Internet of Things (IOT):

Increasing digitization and networking of processes and physical devices– Popularly known as Internet of Things (IOT)- generates massive amount of diverse data streams.

By subjecting accumulated data to analytic and intelligence tools which are now widely available at low cost, it is not only possible to generate entirely new insight into organizational functions and boost productivity and efficiency but also to spot hard-to-detect vulnerabilities within. On the flip side, as more and more processes, transactions and interactions continue to get driven from ICT-interfaces, different kind of threats can arise in the form of potential manipulators and fraudsters exploiting possible weaknesses & loopholes in the digital infrastructure.

Following measures should be in the knowledge of the senior management of the organization: -

- Initialisation and calibration of embedded sensors in any IOT (Internet of Things) System.
- Compatibility of multiple software's driving disparate / legacy ICT hardware.
- Real time corrective action and evidence gathering on alerts generated from any IOT device.
- Use of big data analytics enhances capacity building within organization and minimize external dependence for sensitive processes.
- Have a proper Data Storage Protocol, Quantum and Mode of Storage, Retrieval frequency.
- Study operational data through freely available open-source business intelligence software to spot hidden trends, productivity, loss, etc. to the extent possible.
- Identify sensitive / vulnerable areas prone to cybercrime / insider malpractices and sharing of such information among organisations for prevention.

([Chapter-XII of CVC Manual-2021, pages 371 to 378](#))

NOTES / MODIFICATIONS

CHAPTER-15

SPECIAL AREAS FOR ATTENTION AFTER AWARD IN TENDER

15.1 CHECK LIST FOR EXAMINATION OF PROCUREMENT (WORKS/ PURCHASES/ SERVICES) CONTRACTS BY CVO:

A. Pre-Award Stage

1. Financial and Technical sanction of competent authority is available.
2. Adequate and wide publicity is given. Advertisement is posted on website and tender documents are available for downloading.
3. Convenient tender receiving/opening time and address of the tender receiving officials/ tender box are properly notified.
4. In the case of limited tender, panel is prepared in a transparent manner clearly publishing the eligibility criteria. The panel is updated regularly.
5. Pre-qualification criteria are properly defined/ notified.
6. Short listed firms/consultants are fulfilling the eligibility criteria. There is no deviation from notified criteria during evaluation.
7. Experience certificates submitted have been duly attested/notarized.
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

- i) Proper system of recording and compliance of the instructions issued to the contractors is maintained.
- ii) Proper record of hindrances is maintained for the purpose of timely removal of the hindrances and action for levy of liquidated damages.
- iii) Mandatory tests are carried out as per the frequency prescribed in the Agreement.

15.1 A EXECUTION STAGE

- Important CHECK POINTS in the execution stage are:
- Issue of letter of Indent/Award, Work/Supply order and signing of agreement.
- Implementation of various contract provisions such as obtaining Labour Licenses, Insurance Policies, CAR Policy, Workmen Compensation Policy etc.), employing technical staff etc.
- Implementation of relevant provisions of Minimum Wages Act.
- Various advance payments like Mobilization Advance, Secured Advance etc.
- Checking quality of work, ensuring mandatory tendering and visual inspections.
- Payments for the work done/supply made/services provided by the contractor/ vendor etc.
- Watching time and cost overrun.
- Submission of various returns required to be sent for the project.

15.2 AWARD OF WORK AND SIGNING OF CONTRACT AGREEMENT

In order to avoid any potential source of corruption, it should invariably be ensured that once the offer is found techno-financially acceptable, the work is awarded without any loss of time. All the necessary documents should be kept ready before hand and a formal contract agreement containing all the requisite documents forming part of the agreement should be signed within a reasonable time for providing legal sanctity to the contract.

15.3 ADVANCE PAYMENT & BANK GUARANTEES

15.3.1 : Conditions for Advance Payments

1 Conditions:

Ordinarily, payments for services rendered or supplies made should be released only after the services have been rendered or supplies made. However, in exceptional situations where substantial funds are to be sunk by the contractor before payment becomes due, considering the lower cost of funds for the Government entity as compared to the higher cost of funds for the bidder, advance payment with safeguards (BG or Insurance Surety Bond or Letter of Credit) may be considered. So advance payments may be considered only in the following exceptional situations:

- a) Advance payment demanded by firms holding maintenance contracts for servicing of air-conditioners, computers, other costly equipment, etc.;
- b) Advance payment demanded by firms against fabrication contracts, turn-key contracts, or supply of complicated tailor-made goods and so on;

2. Quantum:

The quantum of such advance payments should not exceed the quantum of funds to be sunk by the contractor before payment becomes due in the contract. The quantum of advance payments should not generally exceed the following limits:

- a) Thirty per cent of the contract value to private firms;
- b) Forty per cent of the contract value to a state or central Government agency or PSE;
- c) In the case of the maintenance contract, the amount should not exceed the amount payable for six months under the contract.
- d) In exceptional cases, the competent authority may relax the ceilings mentioned above with prior concurrence of the Associated/Integrated Finance.

3. Interest-free:

Since the provision of advance payment leverages the difference in interest rate as argued in sub-para 1) above and considering the additional cost of Bank Guarantee for advances for the bidder, interest-free advance payments may be considered with the approval of competent authority and finance concurrence. Where an interest-free advance is permitted, a clause in the tender enquiry and the contract may be stipulated that if the contract is terminated due to default of the contractor, the advance payment would be deemed as an interest-bearing advance at the interest rate (e.g., the interest rate of the General Provident Fund – GPF) prevailing on the date of release of advance payment, plus 2% to be compounded quarterly. In appropriate cases, the competent authority may stipulate advance payments with suitable interest rates (e.g., the interest rate of the General Provident Fund – GPF) to be recovered along with the instalments of recovery of advance payment.

4. Instalments:

The advance payment should not be made in less than two instalments, as per the expected infusion of funds required in the contract, except in exceptional circumstances for the reasons to be recorded. This will keep a check on contractor misutilisation of full advance when the contract is delayed considerably.

5. Recovery:

Advance payments, especially interest-free advances, should be recovered (from either running bills or from the Performance/ Advance payment Bank Guarantees) in instalments linked to milestones or specified periods, whichever is earlier. This would ensure that even if the contractor is not executing the work or executing it at a slow pace, recovery of advance could commence, and the scope for misuse of such advance could be reduced.

6. Bank Guarantee:

While making any advance payment as above, adequate safeguards in the form of a bank guarantee (or e-Bank Guarantee of at least 110% of advance) should be obtained from the firm. In case the advances are to be paid/ recovered in instalments, an equal number of part BGs (with proportionate amount and validity) may be taken instead of lumpsum BG, with each BG released after a related recovery is made. An Indemnity Bond is not to be considered in place of a Bank Guarantee. However, no Bank Guarantee

should be insisted in case advance is being given to Central Ministry/ Department, there attached/ subordinate offices or the Autonomous Bodies attached with them. The BG may also not be taken, wherever a contract has been placed on a CPSE on nomination basis.

7. Milestone/ stage payments or part payments against proof of dispatch documents should not be considered as advance payments for the purpose of this para, as these payments are made after the sinking of funds by the contractor for achieving these milestones/ stage/ dispatches. These should be provisioned in the tender document/ contract, including Bank Guarantee to be taken, if any, in case of milestone/ stage payments. **(Rule 172(2) GFR 2017)**
8. Provision of advance payment should be anticipated at the procurement planning stage. The quantum of Advance payment and related conditions should be declared in the Tender Documents, with the approval of competent authority and concurrence of associated/ integrated finance. If not so declared, the condition of advance payment for a particular bid should not be agreed to.

15.3.2 Documents for Advance Payments

Documents needed from the supplier for advance payment release are to be clearly specified in the contract. The paying authority should also verify the documents received from the supplier with corresponding stipulations made in the contract before releasing the payment.

15.3.3 Insurance

In every case where advance payment or payment against dispatch documents is to be made, or LC is to be opened, the condition of insurance should invariably be incorporated in the terms and conditions. Wherever necessary, the goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the contract. If considered necessary, insurance may cover "all risks", including war risks and strike clauses. The amount to be covered under insurance should be sufficient to cover the overall expenditure incurred by the procuring entity for receiving the goods at the destination. Where delivery of imported goods is required by the purchaser on a CIF/CIP/ DDP basis, the supplier shall arrange and pay for marine/ air insurance, making the purchaser the beneficiary. Where delivery is on FOB/FAS basis, marine/air insurance shall be the responsibility of the purchaser.

(Rule 172 of GFR 2017)

15.4 MOBILISATION ADVANCE

- i) If considered justified in certain specialized and capital intensive works, Contract may provide for an interest-bearing mobilisation advance to be paid to the contractor exclusively for the costs of mobilisation at 10 (ten) per cent of the contract price on the provision by the contractor of an unconditional BG. Such BGs shall remain effective until the advance payment has been fully repaid, but the amount thereof shall be progressively reduced by the amount repaid by the contractor, as indicated in the interim payment certificates.
- ii) The aforesaid advance of 10 (ten) per cent may be paid in two instalments, each of five per cent. The first one may be paid on commencement of the work and provision by the contractor of the unconditional BG in respect of the advance. The second instalment may be paid on certification by the engineer of the contractor's having achieved a financial progress of 10 (ten) per cent of the contract price, as also provision of a BG by the contractor for this part of the advance. Mobilisation expenditure mentioned

herein shall not include the margin money and bank commission, and so on, paid by the contractor for procurement of BGs against performance security and mobilisation advance.

- iii) Provision of mobilization advance should essentially be need-based. Suitable delegation of authority may be done in the Organisation to take decision for grant of the mobilisation advance, whether interest free or interest bearing.
- iv) Though the Commission does not encourage interest free mobilization advance, but, if the Management feels it necessary in specific cases then it should be clearly stipulated in the tender document and its recovery should be time based 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, recovery of advance could commence and scope for misuse of such advance could be reduced.
- v) Part 'Bank Guarantees' (BGs) against the mobilization advance should be taken in as many numbers as the proposed recovery instalments and should be equivalent to the amount of each instalment. This would ensure that at any point of time even if the contractor's money on account of work done is not available with the organization, recovery of such advance could be ensured by encashing the BG for the work supposed to be completed within a particular period of time.
- vi) 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.
- vii) 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 document upfront.
- viii) 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.
- ix) In case of 'Machinery and Equipment advance', insurance and hypothecation to the employer should be ensured.
- x) Utilization certificate from the contractor for the mob advance should be obtained. Preferably, mob adv should be given in instalments and subsequent instalments should be released after getting satisfactory utilization certificate from the contractor for the earlier instalment.

15.4.1 Plant, Machinery and shuttering Material Advance

Another interest-bearing advance of five per cent of the contract price, depending on the merits of the case, may be paid against the new key construction equipment purchased for the work and brought to the site, if so provided in the Bid Documents and so requested by the contractor. The advance should normally not be more than 50 (fifty) percent of the depreciated cost of such plants and machinery should be hypothecated to the Govt., before the payment of advance is released. This advance shall be subject to the following conditions:

- (i) the contractor shall produce satisfactory proof of payment; (ii) such equipment is considered necessary by the engineer for the works; (iii) the equipment has been verified to have been brought to site; (iv) the contractor gives an undertaking on stamp paper that the equipment will work only on that job and will not be removed from the site without obtaining written approval from the engineer; and (v) the contractor furnishes a BG to cover the advance. No advance shall be admissible on equipment purchased under a hire purchase scheme/ financing arrangement or on hired equipment.

The rate of interest shall be stipulated in the bid documents (say 10 (ten) per cent per annum) or as may be notified by the Procuring Agency from time to time.

The repayment of advances shall be done through proportionate percentage deductions from running bill (periodic/ interim payment). The time of commencement of repayment, rate of deductions from interim payments, and time by which the advance should be fully repaid will be as specified in the contract.

All advances shall be used by the contractor exclusively for mobilisation expenditure, including the acquisition of construction-related plant and equipment. Should the contractor misappropriate any portion of the advance, it shall become due and payable immediately, and no further advance will be made to the contractor thereafter. In such cases, the contractor shall also be liable for appropriate action under the contract.

15.4.2 Secured Advance against Material brought to Site

Secured advance on the security of materials (which are not combustible, fragile or perishable in nature) brought to the site but not yet incorporated in the works will be made up to 75 (seventy-five) per cent of invoice value, or the 75 (seventy-five) per cent of the corresponding value of the materials determined on the basis of BOQ rates, whichever is less, subject to the condition that their quantities are not excessive and shall be used within a period of 90 (ninety) days and subject to other stipulations in the contract. The contractor will be required to sign an indenture bond, hypothecating the goods to the procuring entity, and also be responsible for their safe custody. Before the advance is released, the procuring entity may inspect the site to ensure that the Contractor has safeguarded the materials against pilferage and deterioration. It may be ensured that the contractor has not taken any loan/ limit from banks against hypothecation of the materials against which the secured advance is claimed. An undertaking in this regard may also be taken from the contractor.

Generally, as per the provisions of the contracts, the contractors are required to submit proof of cost of materials and the delivery of material at site while claiming such advances. The stock register should be maintained from the commencement of the contract and, unless otherwise prescribed in the contracts, the stock, so considered for advance, should generally be only paid stock (and not brought on credit). Where the materials are supplied from a captive source of the contractor, the reasonableness of the valuation of such materials may be ensured.

The advance will be repaid from each succeeding running bill (periodic/ interim payment) to the extent materials for which advance has been previously paid have been incorporated into the works. In all cases, the repayment of the advance will be affected after expiry of a period of 120 days since payment of advance, whether the material is consumed in the work or not.

15.4 (A) Price Variation

This will deal with rise and fall of the prices in construction materials/ labour and other key inputs. However, this shall not be applicable in the contracts where period of completion is eighteen months or less. The provision of price variation clauses enables contractors to factor this reduced risk and quote more competitive prices.

The amount payable to the contractor shall be adjusted in respect of the rise or fall in the cost of labour, Petroleum, Oils and Lubricants (POL) and materials to the work for which appropriate formulae shall be prescribed in the contract and shall form part of the tender document.

To the extent that full compensation for any rise or fall in costs to the contractor is not covered by the provisions of the contract, the unit rates and prices included in

the contract shall be deemed to include amounts to cover the contingencies of such uncovered portion of rise or fall of costs.

The formulae may be based on weightages of the material/ labour/ POL and cost indices/ base prices. Indices shall be appropriate for their purpose and shall relate to the contractor's proposed source of supply of inputs on the basis of which his contract price shall have been computed.

If any statutory regulations or bye-laws come into force after submission of the bids, which cause additional or reduced cost to the contractor in the execution of the contract, such statutory additional or reduced cost (except which are covered in cost indices) shall be added or deducted from the contract price.

Short-term contracts where the delivery period does not extend beyond 18 (eighteen) months should normally be concluded with a firm and price fixed by inviting tenders accordingly. However, even for shorter deliveries, the price adjustment [or Price Variation Clause (PVC)] may be stipulated for items with inputs (raw material, man power, etc.), prone to short-term price volatility - especially for critical or high value works – otherwise there is a possibility of the contract failing or the purchaser having to pay a higher price if prices fall.

Where it is decided to conclude the contract with a variable price, an appropriate clause incorporating, inter-alia, a suitable price variation formula should also be provided in the tender documents, to calculate the price variation between the base level and scheduled delivery date. It is best to proactively provide our own PVC in the tender document to discourage different bidders quoting different formulae and different base dates, which may lead to problems on bringing their prices on a common comparable footing.

The variations are to be calculated periodically by using indices published by Governments/ chambers of commerce/London Metal Exchange / any other neutral and fair source of indices. Suitable weights are to be assigned to the applicable elements, that is, fixed overheads and profits, material and labour in the price variation formula. If the production of goods needs more than one raw material, the input cost of material may be further sub-divided for different categories of material, for which cost indices are published.

The following are important elements of PVC:

- a) The price agreed upon should specify the base date, that is, the month and year to which the price is linked to enable variations being calculated with reference to the price indices prevailing in that month and year;
- b) The price variation formula must also stipulate a minimum percentage of variation of the contract price, only above which the price variation will be admissible (for example, where the resultant increase is lower than, say, two per cent of the contract price, no price adjustment will be made in favour of the supplier);
- c) The price variation clause should provide for a ceiling on price variations, particularly where escalations are involved. It could be a percentage per annum or an overall ceiling or both;
- d) Where advance or stage payments are made there should be a further stipulation that no price variations will be admissible on such portions of the price, after the dates of such payment;
- e) Where deliveries are accepted beyond the scheduled delivery date subject to levy of liquidated damages as provided in the contract. The LD (if a percentage of the price) will

be applicable on the price as varied by the operation of the PVC;

- f) No upward price variation will be admissible beyond the original scheduled delivery date for defaults on the part of the supplier. However, a downward price variation would be availed by the purchaser as per the denial clause in the letter of extension of the delivery period;
- g) Price variation may be allowed beyond the original scheduled delivery date, by specific alteration of that date through an amendment to the contract in cases of force majeure or defaults by Government;
- h) Where contract execution depends on imported (subject to customs duty and foreign exchange fluctuations) and/or locally sourced goods/ works/ services (subject to customs duty and foreign exchange fluctuations) and/or locally manufactured (subject to excise duty and other duties and taxes), the percentage and element of duties and taxes included in the price should be specifically stated, along with the selling rate of foreign exchange element taken into account in the calculation of the price of the imported item;
- i) The clause should also contain the mode and terms of payment of the price variation admissible; and
- j) The buyer should ensure a provision in the contract for the benefit of any reduction in the price in terms of the PVC being passed on to him.
- k) For illustrative PVC clause, Annexure 14 of "Manual of procurement of works-2022" (Ministry of Finance Department of Expenditure) may be followed.
- l) Care should be exercised in contracts providing for price variation to finalise the price before final payment is made, after obtaining data and documents in support of claims for escalation, if any. Where no such claims are submitted by the suppliers, an examination of whether there has been a downward trend in the cost, which the contractor may not bring out, is required. At any rate, an undertaking should be obtained from the contractor to the following effect in case it becomes necessary to make the final payment before he has submitted the required data/documents related to the PVC:

"It is certified that there has been no decrease in the price of price variation indices and, in the event of any decrease of such indices during the currency of this contract, we shall promptly notify this to the purchaser and offer the requisite reduction in the contract rate."

- m) Notwithstanding the above formalities, it should be appreciated that it is in the interest of the purchaser to be vigilant about downward variation and it is, therefore, the basic responsibility of the purchase officers to make sure that the benefits of downward variation, wherever it occurs, are fully availed of.

15.5 PERFORMANCE GUARANTEE

- i) To ensure due performance of the contract, performance security [or Performance Bank Guarantee (PBG)] is to be obtained from the successful bidder awarded the contract. Performance security should be for an amount of five (5) to ten (10) per cent of the value of the contract. [The value has been reduced to three (3) percent till 31.03.2023. Refer to para 15.5 (iv) below]. In works contract it is usual to take five percent of contract value Performance Security. Performance security may be furnished in the form of Insurance Surety Bond, account payee demand draft, fixed deposit receipt from a commercial bank, bank guarantee issued/ confirmed from any of the commercial bank in India or on line payment in an acceptable form, safeguarding the Procuring Entity's interest in all respects. In case of a JV, the BG towards performance security shall be provided by

all partners in proportion to their participation in the project. In case of GTE tenders, the performance security should be in the same currency as the contract and must conform to Uniform Rules for Demand Guarantees (URDG 758) – an international convention regulating international securities. Submission of Performance Security is not necessary for a contract value upto Rs. One lakh.

- ii) Performance Security is to be furnished by a specified date [generally 21 (twenty-one) days after notification of the award] and it should remain valid for a period of 60 (sixty) days beyond the date of completion of all contractual obligations of the contractor including Defect Liability Period (DLP).
- iii) The performance security will be forfeited and credited to the procuring entity's account in the event of a breach of contract by the contractor. It should be refunded to the contractor without interest, after he duly performs and completes all obligations under the contract but not later than 365 days of completion of the Defect Liability Period (DLP). Return of Bid/ Performance Securities should be monitored and delays should be avoided. If feasible, the details of these securities may be listed in the e-Procurement Portal, so as to make the process transparent and visible.
- iv) On account of the COVID-19 pandemic, that caused slowdown in economy, it is decided to reduce Performance Security from existing five to ten percent to three (3) per cent of the value of the contract for all existing contracts till 31.03.2023. However, the benefit of the reduced Performance Security will not be given in the contracts under dispute wherein arbitration/ court proceedings have been already started or are contemplated. All tenders/ contracts issued/ concluded till 31.03.2023 should also have the provision of reduced Performance Security. In all contracts, where Performance Security has been reduced to three percent, the reduced percentage shall continue for the entire duration of the contract and there should be no subsequent increase of Performance Security even beyond 31.03.2023. Similarly, in all contracts entered into with the reduced percentage of Performance Security of three percent, there will be no subsequent increase in Performance Security even beyond 31.03.2023. Where, there is compelling circumstances to ask for Performance Security in excess of three percent as stipulated above, the same should be done only with the approval of the next higher authority to the authority competent to finalise the particular tender, or the Secretary of the Ministry/ Department, whichever is lower. Specific reasons justifying the exception shall be recorded.

15.5.1 Security Deposit/ Retention Money

In addition to Performance Security (usually five percent), Contracts for works usually provide for a percentage (usually five percent) of each running bill (periodic/ interim payment) to be withheld as Security Deposit/ retention money until final acceptance. The earnest money instead of being released may form part of the security deposit. The contractor may, at his option, replace the retention amount with an unconditional BG from a bank acceptable to the

Procuring Entity at the following stages:

- i) After the amount reaches half the value of the limit of retention money; and
- ii) After the amount reaches the maximum limit of retention money. One-half of the retention money (or BG, which replaced retention money) shall be released on the issue of the taking-over certificate; if the Taking Over Certificates (TOCs) are issued in parts, then in such proportions as the engineer may determine, having regard to the value of such part or section. The other half of the retention money (or BG, which replaced the retention money) shall be released upon expiration of 365 days after the DLP of the works or final payment, whichever is earlier, on certification by the engineer. In the event of different defect liability periods being applicable to different sections or parts, the

expiration of defect liability period shall be the latest of such periods.

15.5.2 Sources and Verification of Bank Guarantees

Bank Guarantee for Bid Security (EMD) or Performance Guarantee (Security Deposit) should be irrevocable and operative Bank Guarantee (BG) as per format enclosed in the Bid Document and should be issued by a Scheduled Commercial (i.e. Indian or Foreign Banks included in the Second Schedule of Reserve Bank of India Act, 1934 excluding Co-operative banks or Regional Rural Banks). In case of foreign bidders or in case of GTE, if Bank Guarantee is from a foreign bank branch situated outside India, the Bank Guarantee must be issued through any of the Scheduled Commercial Bank. In case BG is issued directly by a bank outside India, it should be executed on Letter Head of the Bank and should be advised and made payable through their Indian Branch/Corresponding Bank in India. The Issuing Bank should also state the name and designation of the next Higher Authority of the Officials who have issued the Bank Guarantee. Bank guarantees submitted by the tenderers/ contractors as EMD/ performance securities need to be immediately verified from the issuing bank before acceptance. There may not be any need to get the Bank Guarantee vetted from legal/ finance authority if it is in the specified format. Guidelines for verification of BGs submitted by the bidders/ contractors against EMD/ performance security/ advance payments and for various other purposes are as follows:

- i) BG shall be as per the prescribed formats
- ii) The BG contains the name, designation and code number of the Bank officer(s) signing the guarantee(s);
- iii) The address and other details (including telephone no.) of the controlling officer of the bank are obtained from the branch of the bank issuing the BG (this should be included in all BGs);

The confirmation from the issuing branch of the bank is obtained in writing through registered post/ speed post/ courier. The bank should be advised to confirm the issuance of the BGs specifically quoting the letter of Procurement Entity on the printed official letterhead of the bank indicating address and other details (including telephone nos.) of the bank and the name, designation and code number of the officer(s) confirming the issuance of the BG;

Pending receipt of confirmation as above, confirmation can also be obtained with the help of responsible officer at the field office, which is close to the issuing branch of the bank, who should personally obtain the confirmation from issuing branch of the bank and forward the confirmation report to the concerned procurement entity.

As far as possible organizations should follow e-verification of bank guarantees as per the procedure prescribed by Reserve Bank of India.

Bank guarantees, either received in physical form or electronic form, should be verified for its genuineness following prescribed method for the same and the Organisations should do due diligence on genuineness of the Bank Guarantees before acceptance of the same.

15.5.3 Bid Security/ Earnest Money Deposit (EMD)

To safe guard against a bidder's with drawing or altering its bid during the bid validity period in the case of OTE and GTE tenders, bid security [also known as Earnest Money Deposit (EMD)] is to be obtained from the bidders along with their bids. Any bid not accompanied by the requisite bid security shall be rejected as non-responsive in accordance with provisions of the bidding document. The amount of bid security should generally be between two to five per cent of the estimated value of the goods to be

procured. The amount of bid security, rounded off to the nearest thousands of Rupees, as determined by the Procuring Entity, is to be indicated in the bidding documents.

The Bid Security may be obtained in the form of Insurance Surety Bonds, account payee demand draft, fixed deposit receipt, banker's cheque or Bank Guarantee from any of the Commercial Banks or payment online in an acceptable form, safeguarding the purchaser's interest in all respects. The bid security is normally to remain valid for a period of 45 (forty five) days beyond the final bid validity period.

In appropriate cases, in place of a Bid security, Procuring Entities may consider asking Bidders to sign a Bid securing declaration accepting that if they withdraw or modify their Bids during the period of validity, or if they are awarded the contract and they fail to sign the contract, or to submit a performance security before the deadline defined in the request for bids/ request for proposals document, they will be suspended for the period of time specified in the request for bids/ request for proposals document from being eligible to submit Bids/ Proposals for contracts with the procuring entity.

In appropriate cases, Submission of the bid security may be waived with the Competent Authority's (CA's) approval in the case of indigenisation/ development tenders, limited tenders and Single Tender.

Bid securities of the unsuccessful bidders should be returned at the earliest after expiry of the final bid validity period and latest by the 30th day after the award of the contract. Bid security should be refunded to the successful bidder on receipt of a performance security. However, in case of two packet or two stage bidding, Bid securities of unsuccessful bidders during first stage i.e. technical evaluation etc. should be returned within 30 days of declaration of result of first stage i.e. technical evaluation etc.

A bidder's bid security will be forfeited if the bidder

- i) withdraws or amends its/ his tender;
- ii) impairs or derogates from the tender in any respect within the period of validity of the tender;
- iii) If the bidder does not accept the correction of his bid price during evaluation; and
- iv) If the successful bidder fails to sign the contract or furnish the required performance security within the specified period.

15.5.4 Negotiations

- i) Normally, there should be no negotiation. Negotiations should be a rare exception rather than the rule and may be resorted to only in exceptional circumstances. If it is decided to hold negotiations for reduction of prices, they should be held only with the lowest acceptable bidder (L1), who is techno-commercially responsive for the supply of a bulk quantity and on whom the contract would have been placed but for the decision to negotiate. In no case, including where a cartel/ pool rates are suspected, should negotiations be extended to those who had either not tendered originally or whose tender was rejected because of unresponsiveness of bid, unsatisfactory credentials, inadequacy of capacity or unworkable rates. The circumstances where negotiations may be considered could be:
 - a) Where the procurement is done on nomination basis;
 - b) Procurement is from single or limited sources;
 - c) Procurements where there is suspicion of cartel formation which should be recorded; and
 - d) Where the requirements are urgent and the delay in re-tendering for the entire

requirement due to the unreasonableness of the quoted rates would jeopardise essential operations, maintenance and safety, negotiations with L1 bidder(s) may be done for bare minimum quantum of requirements. The balance bulk requirement should, however, be procured through a re-tender, following the normal tendering process.

- ii) The decision whether to invite fresh tenders or to negotiate and with whom, should be made by the tender accepting authority based on the recommendations of the TC. Convincing reasons must be recorded by the authority recommending negotiations. The CA should exercise due diligence while accepting a tender or ordering negotiations or calling for a re-tender and a definite timeframe should be indicated.
- iii) Normally all counter offers are considered negotiations by other means and the principles of negotiations should apply to such counter offers. For example, a counter offer to L1, in order to arrive at an acceptable rate, shall amount to a negotiation. However, any counter offer to L2, L3, and so on (at the rates accepted by L1) in case of splitting of quantities shall not be deemed to be a negotiation.
- iv) After the CA or TC has decided to call a specific bidder for negotiation, the following procedure should be adopted:
 - a) Negotiations must be carried out by the CA or TC only;
 - b) It must be understood that, if the period of validity of the original offer expires before the close of negotiations, the original offer will not be available for acceptance. The period of validity of the original offer must, therefore, be extended, wherever necessary, before negotiations;
 - c) The tenderer to be called in for negotiations should be addressed as per the format of letter laid down in Annexure 4 "Manual of procurement of works-2022" (Ministry of Finance Department of Expenditure) so that the rates originally quoted by him shall remain open for acceptance in the event of failure of the contemplated negotiation;
 - d) A negotiations meeting should be started only after obtaining a signed declaration from the negotiating contractor and
 - e) Revised bids should be obtained in writing from the selected tenderers at the end of the negotiations in the format of letter laid down in Annexure 5 "Manual of procurement of works-2022" (Ministry of Finance Department of Expenditure). The revised bids so obtained should be read out to the tenderers or their representatives present, immediately after completing the negotiations. If necessary, the negotiating party may be given some time to submit its revised offer. In case, however, the selected bidder prefers to send a revised bid instead of being present at the negotiation, the offer should be taken into account. In case a bidder does not submit the revised bid, its original bid shall be considered.

15.5.5 Independence, Impartiality, Confidentiality and 'No Conflict of Interest' at all Stages of Evaluation of Bids

All technical, commercial and Finance officials who have contributed to the techno-commercial or financial evaluation of bids, even though they may not be part of the TC should deal with the procurement in an independent, impartial manner and should have no conflict of interest in the form of any liaison or relationship with any of the bidder involved in the procurement. They should also maintain confidentiality of the information processed during the evaluation process and not allow it to reach any unauthorised person. All TC members should sign a declaration at the end of their reports/ noting stating that, "I declare that I have no conflict of interest with any of the bidder in this tender". TC members may make such a declaration at the end of their reports. GFR 2017

[Rule 173 (xxii)] mandates that In case a Tender Committee is constituted to purchase or recommend the procurement, no member of the purchase Committee should be reporting directly to any other member of such Committee, to ensure independent expression of views.

15.6 POSTING OF DETAILS ON AWARD OF TENDERS/CONTRACTS ON WEB SITE

In order to increase transparency, following details of all the contracts/purchase made above a one crore shall be posted on website every month as per format below. The web site should give the details in the following-

- Actual date of start of work
- Actual date of completion
- Reasons for delay if any

FORMAT

1	2	3	4	5	6	7	8	10	11	12	13	14
Ten der no	Item/ Nature of work	Mode of tender enquiry	Date of publica tion of NIT	Type of bidding Single/Two bid system	Last date of tender receipt	No. of tender received	No. & Name of the parties not qualified after tech. evaluation	Whether contract awarded to lowest tenderer	Contract No. And Date	Name of the contractor	Value of the contract	Schedule date of completion

15.7 FURTHER STEPS TO BE TAKEN FOR TRANSPARENCY IN TENDER AND EXECUTION OF WORKS

Following guidelines should be strictly complied with:-

- All the tender notices shall be displayed on notice board along with website publication as per norms. The notice board shall have lock and key arrangement so that information displayed may not be disturbed.
- When a work order for a work is being issued by the project, the same is to be displayed at unit/ project so that it can be shared with end users i.e. workmen.
- Satisfactory completion of the works shall have certification from end users/occupants before processing bill against the work.

15.8 DELAYS IN PAYMENTS TO CONTRACTORS & SUPPLIERS ETC. —REDUCING OPPORTUNITIES FOR CORRUPTION

15.8.1 Delay in payment to the contractors:

- Delay in eligible payments to contractors leads to delay in execution of projects, cost overruns and disputes. Hence, ad-hoc payments of not less than 75% of eligible running

account bill/ due stage payment, shall be made within 10 working days of the submission of the bill. This period of 10 days is for completion of all processes including prima facie scrutiny and certification by the engineer in-charge (as declared by procuring entities). The remaining payment is also to be made after final checking of the bill within 28 working days of submission of bill by the contractor. In case the payment has not been released within 10 working days as prescribed above, it shall be made as soon as possible, and after payment a written explanation for the delay shall be submitted to the next higher authority within three working days.

- b) Public authorities may put in place a provision for payment of interest in case of delayed payment of bills by more than 30 working days after submission of bill by the contractor. Where interest is to be paid, the rate of interest should be the rate of interest of General Provident Fund.
- c) In case of unwarranted discretionary delays in payments, including failure to authorise/ make ad hoc payment, responsibility shall be fixed on the concerned officers. Project executing authorities should have a system to monitor delays in payments and to identify such unwarranted delays.
- d) The final bill should also be paid to the contractor within three months after completion of work.
- e) All project executing authorities implementing works contracts involving aggregate payments of more than Rs.100 crore per annum shall have an online system for monitoring of the bills submitted by contractors. Such system shall have the facility for contractors to track the status of their bills. It shall be mandatory for all contractors' bills to be entered into the system with date of submission and date of payment. Such system shall be put in place within one year of issue of these instructions.)

Note: In para 15.8.1 instructions containing "shall" are mandatory; any deviation from these instructions shall require relaxation from Ministry of Finance (for Ministries/ Departments etc.) or from the Board of Directors (for Central Public Sector Enterprises).

(Para 6.5.2(v) of DPE Manual for Procurement of Works, 2022)

15.9 COMMON IRREGULARITIES IN THE AWARD OF CONTRACT

Following irregularities in the award of contract are encountered generally. Therefore, utmost care has to be taken during award of contract to avoid these.

- a) Many times it is observed that qualification criteria incorporated in bid document is vague and no evaluation criterion is incorporated therein. It should be ensured that prequalification criteria and evaluation criteria are incorporated in the bid document in clear and unambiguous terms.
- b) It is also provided as a condition in the tender bid that the tenderer should have previous experience in undertaking similar work but no definition of "Similar work" is provided in the bid document. Clear definition of similar works should be provided in bid document.
- c) Orders should not be split in so as to bring it within the powers of junior officers.
- d) Appointment of consultants is being done in arbitrary manner. At times two or three consultants are appointed for a work with no clear cut and sometimes overlapping responsibilities.
- e) There should not be overdependence on the consultants. Activities should not be left completely to the consultants. A detailed and realistic estimate must be prepared before issue of tender.
- f) Some organisations prefer limited tendering system, restricting competition to their

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

- g) The works are awarded without preparing any market rate justification. The comparison at times is made with works which were awarded few years back. This procedure cannot be considered objective and appropriate for justifying the awarded rates. The justification should be based on realistic prevailing rates.
- h) Negotiations with firms other than L-1 is a clear violation of CVC instructions. The negotiations should be an exception rather than a rule and should be conducted if required, only with the L-1 bidder.
- i) The post award amendments issued by the organisations, at times recommended by consultants, without taking into account the financial implications often favour the contractors. Such post award deviations without financial adjustment are unwarranted and against the principles of competitive tendering.
- j) The tender documents and the agreement are maintained in loose condition, are not page numbered and not signed by both the parties. This is highly objectionable. In order to ensure that the agreements are enforceable in court of law, it is imperative that the agreements are well bound, page numbered, signed by both the parties and well secured. This shall also prevent any possibility of interpolation and tampering of documents.
- k) Loose & incomplete implementation of contract clauses pertaining to insurance, Workmen's Compensation Act, ESIC, Labour Licenses etc., has been noticed, which give undue financial benefit to the contractors.
- l) Time is the essence of any contract. It has been observed that at times the work is extended and even payments released without a valid extension to the agreement. This has legal implications and in case of disputes, may jeopardize the interest of the organisation. Timely extension to the contracts and BGs of any must be ensured.

15.10 BACK-TO-BACK TIE UP BY PSUS - INSTRUCTIONS REGARDING.

Some of the common irregularities/lapses related to back to back tie up by PSUs are :-

- 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 where more than one contractors are involved at various stages.
- c) Ineligible contractor obtaining the contract through the PSUs.
- d) Purchase preference misused by the PSUs.
- e) PSUs subletting the complete work to a private contractor without obtaining permission from the client which invariably puts a condition insisting on such permission since the client is generally not interested in such back to back sublet of the work.
- f) Infertuous work (to the exchequer) due to the involvement of intermediary PSUs and escalation of cost of project.
- g) No supervision by the PSU.
- h) Poor quality due to lack of supervision by the PSUs.

In order to avoid such situations, following procedure shall be followed for award of

work by DFCCIL:

- 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) 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.
- d) Adequate staff should be deployed by the PSUs to ensure quality in construction etc.

The points mentioned above should be noted that by the concerned officials for strict compliance.

List of References:-

IRVM-2018

CVC MANUAL-2021

[GFR-2017](#)

[“Manual of procurement of works-2022”](#) (Ministry of Finance Department of Expenditure)

[“Manual of procurement of Goods-2024”](#) (Ministry of Finance Department of Expenditure)

DoPT Circulars.

[CVC Circulars No. 14/07/22 dated 11.07. 2022](#)

(wherever any CVC guideline on public procurement has been referred to, the same shall be replaced with a reference to these updated manuals of Department of Expenditure, Ministry of Finance.

Protocol for updating the DFCCIL Vigilance Manual-2024

Whenever revision or addition of any provision in IRVM is issued, the following protocol may be followed for proper linking and convenience to user

1. In the subject of the letter issued for modification reference must be given to the Para which is to be modified e.g.

Sub: _____ – Modification/ Addition/ Revision -

2. The modified/ revised para must be printed in print space of 5.5 inch by 8.5 inch (14 cm by 21.5 cm) only as that is the print size of DFCCIL Vigilance Manual-2024. This will enable users to paste the modification on the print copy easily.

SAMPLE SIZE (Height of Box should be not more than 8.5 inch or 21.5 cm)

Font: GOLDPLAY /TAHOMA- Size 11

Width of Text- 5.5 inch or 14 cm

Para	(Modified vide letter No. dated
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3. All the letters or Circulars issued should be hyperlinked at the correct location in the web version of the manual and also the text of the modification should be mentioned there clearly indicating that this is a modified para vide Circular number issued on date.
4. The Circular's list on website should carry the subject which should contain the exact subject line of the letter.
5. This Circular list should have a hyperlink on the page displaying the DFCCIL Vigilance Manual on website.
6. DFCCIL Vigilance Manual is displayed on website with the PDF of Print Version and also DOCX/HTML version alongwith PDF for Tablet/Mobile view which will be created from the DOCX version. Thus for each revision the DOCX/HTML version may be updated with hyperlink of RBV and revised text.
7. Vigilance Department of DFCCIL is the coordinating section for the DFCCIL Vigilance Manual. **Dy.CVO** will be the nodal officer. **Manager Vigilance (D&AR)** will monitor changes being made on the web version and ensure their correctness and accuracy.

No._____ date_____

ABBREVIATIONS/ ACRONYMS	
A/A	Administrative Approval
ACB	Anti-Corruption Branch/Bureau
ACC	Appointment Committee of Cabinet
AIS	All India Services
AITB	Additional Instructions to Bidders
AM	Assistant Manager
AMC	Annual Maintenance Contract
APAR	Annual Performance and Appraisal Report
ATE	Assistant Technical Examiner
AVD	Administrative Vigilance Division
AVO	Assistant Vigilance Officer
BPE	Bureau of Public Enterprises
BPR	Business Process Re-engineering
BNS	Bharatiya Nyaya Sanhita
BNSS	Bharatiya Nagarik Suraksha Sanhita
BSA	Bharatiya Sakshya Adhiniyam
CAG	Comptroller and Auditor General of India
CAT	Central Administrative Tribunal
CBDT	Central Board of Direct Taxes
CA	Competent Authority
CBI	Central Bureau of Investigation
CCS (CCA) Rules, 1965	Central Civil Services (Classification Control & Appeal) Rules, 1965
CCS (Conduct) Rules, 1964	Central Civil Services (Conduct) Rules, 1964
CCTV	Close Circuit Television
CDA Rules	Conduct Discipline & Appeal Rules
CDI	Commissioners for Departmental Inquiries
CEO	Chief Executive Officer
CFSL	Central Forensic Science Laboratory
CIC	Central Information Commission
CMD	Chief Managing Director
CO	Charged Officer
CPIO	Chief Public Information Officer
CPPP	Central Public Procurement Portal
CPSE	Central Public Sector Enterprises
CPWD	Central Public works Department

CTE	Chief Technical Examiner
CTEO	Chief Technical Examination Organizations
CVC	Central Vigilance Commission
CVO	Chief Vigilance Officer
CWG	Common Wealth Games
CWP	Civil Writ Petition
DA	Disciplinary Authority
D&AR	Disciplinary & Appeal Rules
DGM	Deputy General Manager
DFCCIL	Dedicated Freight Corridor Corporation of India Limited
DH/DC	Defence Helper/Defence Counsel
DoE	Department of Expenditure
DoIT	Department of Information Technology
DoPT	Department of Personnel Training
DPR	Detailed Project Report
DPE	Department of Public Enterprises
DSPE	Delhi Special Police Establishment
DW	Defence Witness
Dy. CVO	Deputy Chief Vigilance Officer
ED	Enforcement Directorate/Executive Director
EoI	Expression of Interest
EoW	Economic Offences Wing
EU	European Union
EWS	Early Warning System
FI	Further Information
FIR	First Information Report
FSA	First Stage Advice
G 20	Group of 20
GCC	General Conditions of Contract
GEQD	Government Examiners of questioned documents
GeM	Government e Marketplace
GFR	General Financial Rules
GOI	Government of India
HABD	Hot Axle Box Detector
HQ	Head-quarter
I & R	Investigation & Report
ICPO	International Criminal Police Organisation

IE	Intensive Examination
IEM	Independent External Monitor
IMD	Integrated Maintenance Depot
IMSD	Integrated Maintenance Sub-Depot
IO	Investigation Officer
IP	Integrity Pact
IREPS	Indian Railway Electronic Procurement System
IT	Information Technology
ITB	Instructions to Bidders
JM	Junior Manager
JTE	Junior Technical Examiner
JV	Joint Venture
LA	Land Acquisition
L1	Lowest Offer
LC	Letter of Credit
LoA	Letter of Acceptance
MD	Managing Director
MHA	Ministry of Home Affairs
MOSR	Minister of State of Railway
MR	Ministry of Railways
NA	Necessary Action
NABL	National Accreditation Board for Testing and Calibration Laboratories
NEFT	National Electronic Fund Transfer
NGO	Non Government Organisation
NOC	No Objection Certificate
NIT	Notice Inviting Tender
NPA	Non Performing Assets
ODI	Official of Doubtful Integrity
OD	Over Draft
O.M.	Office Memorandum
OHE	Over Head Electrification
PAC	Public Accounts Committee
PBG	Performance Bank Guarantee
PC Act, 1988	Prevention of Corruption Act, 1988
PC	Preventive Check
PE	Preliminary Enquiry
PED	Principal Executive Director

PERR	Preliminary Enquiry Registration Report
PESB	Public Enterprises Selection Board
PIDPI	Public Interest Disclosure & Protection of Informer
PMLA	Prevention of Money Laundering Act, 2002
PO	Presenting Officer
PS	Personal Secretary
PSU	Public Sector Undertaking
PUC	Point/Paper Under Construction
PW	Prosecution Witness
QPR	Quarterly Progress Report (of CTEO)
QPR	Quarterly Progress Report
RC	Regular Case
RDA	Regular Departmental Action
RDSO	Research Designs & Standards Organisation
RTES	Rail India Technical & Economical Services
ROB	Road Over Bridge
RTGS	Real Time Gross Settlement
RUB	Road Under Bridge
RUD	Relied upon Documents
S&T	Signal & Telecommunication
SDGM	Senior Deputy General Manager
SEMU	Social & Environment Management Unit
SHE	Social Health & Environment
SLP	Special Leave Petition
SOP	Standard Operation Procedure
SoP	Schedule of Powers
SPARROW	Smart Performance Appraisal Report Recording Online Window
SPE	Special Police Establishment
SPV	Special Purpose Vehicle
SSA	Second Stage Advice
TE	Technical Examiner
VAW	Vigilance Awareness Week
VI	Vigilance Inspector
VO	Vigilance Officer







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