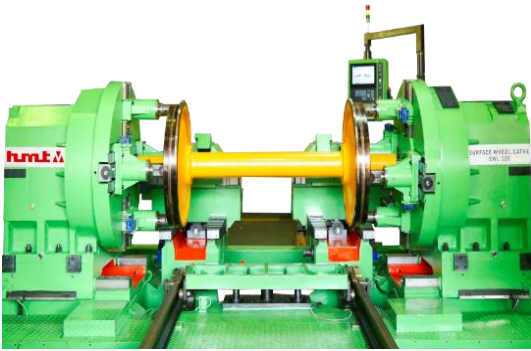


# VIGILANCE MANUAL – 2023



## ACKNOWLEDGEMENT

*A Drafting Committee constituted under the Chairmanship of **Ms. Kalyani Sethuraman, IRAS, CVO, HMT Limited** constituting Shri Manick Sarkar, Deputy General Manager (Vigilance), HMT Machine Tools Ltd. Ajmer, Shri Shriniwas Sharma, Deputy General Manager (Vigilance), Food Processing Machinery, HMT Ltd. Aurangabad, and Shri Karthik M, Assistant General Manager (Vigilance), HMT Machine Tools Ltd. Kalamassery, as Members. The Committee held wide consultations from Shri. Manish Kumar, Vigilance Officer, CHO, HMT Limited, for compilation, designing preparation and printing of the Vigilance Manual.*

**ಪಂಕಜ್ ಗುಪ್ತ**

ಅಧ್ಯಕ್ಷರು ಮತ್ತು ವ್ಯವಸ್ಥಾಪಕ ನಿರ್ದೇಶಕರು

**ಪಂಕಜ ಗುಪ್ತ**

ಅಧ್ಯಕ್ಷ एवं प्रबंध निदेशक

**PANKAJ GUPTA**

CHAIRMAN & MANAGING DIRECTOR



**एचएमटी लिमिटेड/ HMT LIMITED**

(भारत सरकार का उपक्रम) / (A Govt. of India Undertaking)

एचएमटी भवन / HMT Bhavan,

59, बेल्लारी रोड / 59, Bellary Road,

बेंगलुरु / Bengaluru - 560032

## Message

**Dear Colleagues,**

Vigilance has always been an integral part of the organization like any other function of the management. Vigilance Department plays an active and positive role in ensuring that the true spirit of vigilance, which is eternal alertness, is appreciated right through the organization. The mission and vision of Vigilance Department is to be seen as innovative, positive, efficient and effective set up in instituting ethical work practices in the organization.

Efficiency, Transparency, Accountability and Systematic improvements are some of the key features of Vigilance roles and a responsibility which not only provides a growth platform to the organization but also generate awareness among the employees between bonafide and malafide.

It gives me immense pleasure to announce that Vigilance Department, HMT Limited, is releasing the Vigilance Manual on the occasion of Vigilance Awareness Week – 2022. I hope Vigilance Manual will encourage understanding of Vigilance functions amongst all the executives of HMT Limited. I wish the release of Vigilance Manual all success.

**Best wishes**



**(Pankaj Gupta)**

**Place: Bangalore**

**Date: 31.03.2023**

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ಮುಖ್ಯ ಸರ್ತಕತಾ ಅಧಿಕಾರಿ

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बेंगलुरु / Bengaluru – 560032

## Message

**Dear Colleagues,**

It is a matter of great privilege for me to present before the HMT community, a comprehensive new Vigilance manual. I am pleased to note that with the release of this manual a long felt need has been fulfilled.

The manual covers all aspects of vigilance. To make matters clear and appropriate, proper procedures and guidelines have been fully incorporated. We have also endeavored to include the topics like vigilance organization/administration, preventive vigilance, complaints and investigations, PIDPI complaints, E-vigilance leveraging technology, etc.

It is positively believed that this first edition of the manual would provide great insight and perceptive capability to the executives of the organization.

With the release of this manual, it is expected that vigilance function will be discharged uniformly and systematically in all units of HMT and there will be greater interaction among the unit of HMT in its effective implementation. The instructions contained in this manual are mandatory and should be practiced in toto. Any ambiguity in the implementation of the instructions or guidelines contained in the manual shall be referred to CVO for clarification. However, suggestions for changes, if any may be brought to the notice of CVO for consideration and further necessary action.

Vigilance is management function and it is also integral part of any vibrant organization. On this occasion, I would like to urge the HMT functionaries to refer to the vigilance manual and contribute their best in enhancing fairness and transparency in decision making processes. I hope that this vigilance manual will meet the requirement in facing the challenges to our organization.

**Best wishes**



(Kalyani Sethuraman)

**Place: Bangalore**

**Date: 31.03.2023**

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## INTRODUCTION

Indian history is replete with examples of good governance practices which helped ensure ethics in public affairs. Righteousness is the foundation of good governance. The organizations, systems and procedures of the Government must not only be efficient but also ethical, just and fair. Integrity has to be its essential ingredient. The ill-effects of corruption are well known. It undermines our developmental efforts and weakens democratic institutions. Corruption is manifested in various forms such as bribery; nepotism; willful action or willful inaction to benefit someone or to deny benefit to someone known or unknown; favoritism; failure to follow laid down processes leading to unintended benefit to someone or denial of benefit to the deserving. The challenge before us is to create an environment in which the honest can work fearlessly and the corrupt are punished promptly. The battle against corruption is fought on many fronts. An oversight mechanism often referred to as vigilance administration is at the fore front of this battle.

Vigilance is defined as watchfulness and alertness. Vigilance administration in any organization is an integral function like any other function of management, such as finance, personnel, operation, marketing, material, and contracts, etc. If the vigilance set-up is effective in an organization, it will certainly ensure the functioning of the other segments in an efficient way. Vigilance administration comprises of preventive and punitive anti-corruption measures. It includes detecting irregularities, analyzing and finding out reasons for such irregularities and making effective systemic improvements to curb them. It also entails identifying the public servants responsible for misconduct and taking appropriate punitive actions.

### 1. PURPOSE & EVOLUTION OF VIGILANCE ADMINISTRATION

Vigilance manual is a set of all instructions, rules and regulations governing Vigilance Management. The purpose of the Vigilance Manual is to provide written guidance for all Executives / Officers and employees – whether involved in dealing with Vigilance matters or not. Manual ensures that HMT complies with the guidelines issued by the Central Vigilance Commission and Vigilance related instructions and guidelines issued by the Department of Public Enterprise and the Department of Personnel & Training. Therefore, it facilitates in effective Vigilance Management.

**1.1** 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; (iii) Central Bureau of Investigation (CBI); (iv) Vigilance units in the Ministries / Departments of Government of India, Central Public Sector Enterprises and other autonomous organizations (hereinafter referred to as Department); (v) Disciplinary authorities; and (vi) Supervisory officers.

#### **1.1.1 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 1993-1 SCC 226) 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 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.

### **1.1.2 ADMINISTRATIVE VIGILANCE DIVISION**

The Administrative Vigilance Division was set up in the Ministry of Home Affairs, in August 1955, to serve as a central agency to assume overall responsibility for anti-corruption measures. With the establishment of the Central Vigilance Commission, a good part of the functions performed by the Administrative Vigilance Division are now exercised by the Central Vigilance Commission. The Administrative Vigilance Division of the Department of Personnel and Training in the Ministry of Personnel, Public Grievances & Pension is now responsible for the formulation and implementation of policies of the Central Government in the field of vigilance, integrity in public services, anti-corruption and to provide guidance and coordination to Ministries / Departments of Government of India in matters requiring decisions of Government.

### **1.1.3 VIGILANCE UNIT OF THE ORGANIZATIONS**

The Chief Vigilance Officer (CVO) heads the Vigilance Division of the organisation concerned and acts as an advisor to the chief executive in all matters pertaining to vigilance. He also provides a link between his organisation and the Central Vigilance Commission on one hand and his organisation and the Central Bureau of Investigation on the other. 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 organisation; investigating or causing an investigation to be made into verifiable 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 or commission of misconducts; examining audit, inspection and other reports from the point of vigilance angle, etc. Thus, the CVO's functions can be broadly divided into three categories, viz.

- (i) Preventive and pro-active vigilance;
- (ii) Punitive vigilance; and
- (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.

#### **1.1.4 PREVENTIVE VIGILANCE FUNCTIONS BY CVO**

Preventive vigilance measures can broadly be categorized as: -

##### **(a) Simplification and standardization of rules:**

Simplification and standardization 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 standardization 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 business process re-engineering is recognized as an effective tool of 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 organizations 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 organizations 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 organization. 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 / Organization 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 behavior. A list of points and areas prone to corruption will facilitate the purpose of organizing 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 finalization 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 induces 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.

**(k) (i)** The Commission strongly believes that successful organizations are those whose training system is robust. Therefore, Commission has propagated the idea of a strong Induction and Mid-career training programmes across all the Government organizations including Public Sector Undertakings and Public Sector Banks. Commission has also emphasized the 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 all the Government organizations.

The Preventive Vigilance modules have been shared with various training institutions who are conducting induction training programmes for the newly inducted officers and mid-



career training programme for in-service officers in Government and PSUs / PSBs. Ministry of Railways, NTPC Ltd, Steel Authority of India Ltd., Oil and Natural Gas Corporation, National Police Academy, National Academy of Customs, Indirect Taxes and Narcotics, Department of Post, and various other organizations have commenced the training on Preventive Vigilance Module.

The Commission has observed that there is no uniform system of training to be imparted to the officers and staff at the entry level in different banks and this lack of training has led to the situation where the bank officials have often made mistakes and enter in a vigilance case. After detailed deliberation with the Indian Banks Association and with the active support of State Bank of India, a uniform one-year induction Training Programme with a strong Preventive Vigilance and attitudinal change component, for the Probationary Officers, has been developed and after adoption of the module by the Boards of all the Public Sector Banks this programme has been launched by the Hon'ble Finance Minister on 1st October, 2020.

**(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 behavior. 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 behavior 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. Organizations should prominently display information relevant / useful to the common public on their office notice board / website.

**(n) Inculcating Moral Values:**

Inculcating ethical behavior 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 / Organizations to create awareness among public as well as among its own officials regarding need for imbining right values.

**The CVO & VO is expected to take following measures on preventive vigilance side: -**

**(i)** To undertake study of existing procedures and practices prevailing in his Organisation with a view to identify those procedures or practices which provide a scope for corruption and require modification.

**(ii)** To find out the causes of delay, the points at which delay occurs and devise suitable steps to minimize delays at different stages;

**(iii)** To review the regulatory functions to see whether all of them are strictly necessary and whether the method of discharge of those functions is capable of improvement;

**(iv)** To devise adequate methods to ensure that discretionary powers are not exercised arbitrarily but in a transparent and fair manner; and in accordance with some laid down guidelines.

**(v)** To educate the citizens about the procedures of dealing with various matters and also to simplify these as far as possible;

**(vi)** To identify the areas in his Organisation which are prone to corruption and to ensure that officers of proven integrity only are posted in those areas;

**(vii)** To identify sensitive posts in the Organisation;

**(viii)** To ensure periodical rotations of staff and in particular officers holding sensitive posts;

**(CVC Circular No. 004/VGL/090 dated 11.09.2013 and No. 18/MISC/02- 392171 dated 23.08.2018)**

**(ix)** To ensure that well-defined internal processes as well as corresponding controls with clear responsibilities, for different kind of activities, are set out;

**(x)** To ensure that the Organisation has prepared manuals on important subjects such as purchases, contracts, procurement, recruitment, etc. and that these manuals are updated

from time to time and conform to the guidelines issued by the Commission and the Ministries concerned;

**(xi)** To develop and implement an effective Whistle Blower mechanism;

**(xii)** To leverage technology for making preventive vigilance function effective;

**(xiii)** To ensure prompt observance of Conduct rules relating to integrity, covering (i) statements of assets and acquisitions (ii) gifts (iii) relatives employed in private firms or doing private business (iv) to scrutinize immovable property returns of at least 20% executive employees every year and (v) keep an eye on benami transactions;

**(xiv)** To ensure observance of Vigilance Awareness Week as per directions of the Commission;

**(xv)** To scrutinise (a) Internal auditor's reports, (b) Statutory auditor's report (c) CAG audit report;

**(xvi)** To scrutinise inspection reports;

**(xvii)** In order to keep a watch on the activities of public servants who are of doubtful integrity, the Ministries / Departments / Organizations are required to maintain two lists viz.,

**(i)** "Agreed list" and

**(ii)** List of public servants of gazetted status of "doubtful integrity".

**The "Agreed list"** of suspected officers has its origin in the "Programme for vigilance and anti-corruption work during 1966", whereas the list of public servants of gazetted status of doubtful integrity was prescribed in 1969. The criteria for making such lists have been provided in the *Ministry of Home Affairs Letter No.130/1/66-AVD dated 05.05.1966 and letter No. 105/1/66-AVD dated 28.10.1969*. It has been provided in these instructions that the "Agreed list so prepared will remain in force for one year from the date of preparation and officials' work / activities / behavior during the period would be watched and the list would be reviewed after this period". The list of Officers of Doubtful Integrity will remain in

force for a period of three years. In the above perspective, the CVO has to perform the following functions:

**(1)** To prepare a list of 'Officers of Doubtful Integrity' this would include names of those officers who, after inquiry or during the course of inquiry, have been found to be lacking in integrity, such as

**(a)** officer convicted in a Court of Law on the charge of lack of integrity or for an offence involving moral turpitude but who has not been imposed a penalty of dismissal, removal or compulsory retirement in view of exceptional circumstances;

**(b)** Awarded departmentally a major penalty on charges of lack of integrity or gross dereliction of duty in protecting the interest of Government although corrupt motive may not be capable of proof;

**(c)** Against whom proceedings for a major penalty or a court trial is in progress for alleged acts involving lack of integrity or moral turpitude; and

**(d)** Who was prosecuted but acquitted on technical grounds as there remained a reasonable suspicion about his integrity;

**(2)** To prepare the 'Agreed List' in consultation with the CBI which will include the names of officers whose honesty or integrity is doubtful or suspicious. The following action would be taken by the CVO and the CBI in respect of the officers appearing on the list:

**(a)** Closer and more frequent scrutiny and inspection of their work and performance by the Departments concerned, particularly in spheres where there is scope for discretion or for showing favours;

**(b)** Quiet check about their reputation both by the Department and the CBI;

**(c)** Unobtrusive watch of their contacts, style of living, etc. by the CBI;

**(d)** Secret enquiry by the CBI about their assets and financial resources. The Departments will make available their property returns and other relevant records to the CBI; and

**(e)** Collection of information by the CBI of specific instances of bribery and corruption practices.

**(CVC Circular No. 3(v)/99(6) dated 18.08.1999; No. 3K-DSP-10 dated 07.04.2000 and 03.09.2001)**

**(xviii)** Adequate precautions should be taken in drawing up and maintaining the “Agreed list” and the “list of Officers of Doubtful Integrity” to ensure that they are correctly and objectively prepared and reviewed from time to time. CVO should ensure that the officers who are placed on the aforesaid lists should not be posted in sensitive positions. CBI would co-ordinate with the Ministries / Departments / Organizations so that the lists so prepared are periodically reviewed. Director of CBI and the CVOs of the Departments will keep the Commission posted about the developments from time to time.

***(MHA OM No.: 105/1/66-AVD-I dated 28.10.1969 and CVC Circulars No.004/VGL/090 dated 11.09.2013, 04.01.2012&01.05.2008, and Nos.98/VGL/60 dated 02.11.2001&15.04.1999)***

**(xix)** To conduct CTE type inspection in his organisation; and

**(xx)** To tender advice to the Disciplinary Authority and the Appellate Authority in vigilance cases, irrespective of level of officers involved.

### **1.1.5 PUNITIVE VIGILANCE FUNCTIONS BY CVO**

**1.1.5.1** The CVO is expected to scrutinize reports of Parliamentary Committees such as Estimates Committee, Public Accounts Committee and the Committee on Public Undertakings; audit reports; proceedings of both Houses of Parliament; Standing committee report for the Ministry, CAG audit report, Statutory auditor’s report, internal audit reports, complaints and allegations appearing in the press; and to take appropriate action thereon.

**1.1.5.2** The CVO, inter-alia, is expected to take following action on the punitive vigilance aspects:

**(i)** To receive complaints from all sources and scrutinize them as per existing instructions. When he is in doubt on the issue of existence of vigilance angle in them, the CVO may refer the matter to his administrative head;

**(i)(a)** To update the status of action taken on each complaint sent by Commission for necessary action on Commission's portal (i.e., [portal.cvc.gov.in](http://portal.cvc.gov.in));

*(CVC Circular No. 07/08/2020 dated 13.08.2020)*

**(ii)** To investigate or cause an investigation to be made into such allegations involving vigilance angle;

**(iii)** To investigate or cause an investigation to be made into the allegations forwarded to him by the Commission or the CBI, 17 within the prescribed time lines of 03 months;

*(CVC Office Order No. 08/08/2020 dated 14.08.2020)*

**(iii) a.** In case of complaints sent by Commission for investigation, if it is not possible to complete the investigations and refer the matter to Commission within three months, the CVO should seek extension of time stating the specific reasons / constraints in each case, within 15 days of receipt of reference from the Commission. Such request from the CVO should be with the approval of the Secretary / CMD / Chief Executive of the Department / Organization concerned as the case may be;

**(iv)** To process the investigation report expeditiously for obtaining orders of the competent authority about further course of action to be taken and also for obtaining Commission's advice on the investigation reports, where necessary;

**(iv)(a)** To prioritize the activities of conducting investigations and completion of disciplinary action in cases involving public servants due to retire shortly well in advance so

as to ensure that such retirement cases for advice should be received in the Commission 30 days before the date of retirement of the officer;

*(CVC Officer Order No. 13/10/20 dated 01.10.2020)*

**(v)** To ensure that charge-sheet, statement of imputations, lists of witness and documents, etc. are carefully drawn up; copies of all the documents relied upon and the statements of witnesses cited on behalf of the disciplinary authority are prudently prepared, issued expeditiously and supplied to the charged officer whenever possible;

**(vi)** To ensure that there is no delay in appointing the inquiring and presenting authorities where necessary;

**(vi)(a)** The CVOs are required to closely monitor the progress of inquiry proceedings including the quality of performance of Presenting Officers before the IO on a regular basis and keep the disciplinary authorities posted about it.

*(CVC Circular No. 018/VGL/044 dated 27.07.2018)*

**(vii)** To examine the inquiry officer's report, keeping in view the evidence adduced by the prosecution and the defense during the course of inquiry, and to obtain orders of the competent authority about further course of action to be taken and also obtain the Commission's second stage advice and UPSC's advice, where necessary;

**(viii)** To ensure that the Disciplinary Authority concerned, issued a speaking order, while imposing a punishment on the delinquent employee. The order to be issued by the Disciplinary Authority should show that he had applied his mind and exercised his independent judgment;

**(ix)** To ensure that rules and time limits with regard to disciplinary proceedings are scrupulously followed at all stages by all concerned as any violation of rules would render the entire proceedings vitiated;



**(x)** To scrutinize on a continuous basis, complaints and grievances received by other divisions / units in the Organization;

**(xi)** To see that proper assistance is given to the CBI in the investigation of cases entrusted to them or started by them on their own source information;

**(xii)** To take proper and adequate action with regard to petitions filed by delinquent officers in Courts of Law / Tribunal;

**(xiii)** To review from time to time the existing arrangements for vigilance work in the Ministry / Department, to see if the work of subordinate officers is adequate and to ensure expeditious and effective disposal of vigilance work;

**(xiv)** To ensure that the competent disciplinary authorities do not adopt a dilatory or lax attitude in processing vigilance cases, particularly in cases when officers are due for promotion or retirement. CVO shall refer such instances to the Commission;

**(xv)** To ensure that cases against the public servants on the verge of retirement do not lapse due to time-limit for reasons such as misplacement of files, etc. and that the orders passed in the cases of retiring officers are implemented in time;

**(xvi)** To review pendency of references received from Commission;

**(xvii)** To refer cases, within his jurisdiction, to CBI with the administrative approval of CEO. In case of difference of opinion with the CEO, the matter may be referred to the Commission;

**(xviii)** To ensure that the cases receive due consideration of the appropriate Disciplinary Authority before these are referred to the Commission and its tentative recommendation is indicated in the references made to the Commission. The cases requiring reconsideration of the Commission's First Stage Advice (FSA) should be sent with the approval of the concerned

Disciplinary Authority / Chief Executive, or the Head of the Department, as the case may be, within one month of receipt of Commission's FSA and that too only in those exceptional cases having additional / new material facts. The Commission would not entertain any reconsideration proposal / request of first stage advice received beyond the revised time limit of one month; *(CVC Circular No. 06/08/2020 dated 06.08.2020)*

**(xix)** Although the discretion to place a public servant under suspension, when a disciplinary proceeding is either pending or contemplated against him, is that of the disciplinary authority, the CVO is expected to assist the disciplinary authority in proper exercise of this discretion;

**(xx)** To ensure that all cases, in which the officers concerned have been under suspension, are reviewed within a period of 90 days with a view to see if the suspension order could be revoked or if there was a case for increasing or decreasing the subsistence allowance;

*(CVC Circular Nos. 006/PRC/1 dated 11.12.2014;014/VGL/061 dated 03.12.2014;015/MS/016 dated 27.04.2015; 010/VGL/095 dated 07.12.2012)*

**(xxi)** To scrutinise the matter carefully, wherever the Appellate Authority has disagreed with commission's Advice which was earlier accepted by the Disciplinary Authority. To take up such matter with the reviewing authority and also to report such cases immediately after decision / orders issued at the Appellate / Review stage to the Commission and also indicate in the relevant column in the online QPRs submitted by the CVOs to the Commission;

*(CVC Circular No. 05/07/2020 dated 20.07.2020)*

**(xxii)** To bring to the notice of the Board specific cases where the Disciplinary Authority has disagreed with the CVO's advice in respect of officials not under the jurisdiction of the Commission;

**(xxiii)** To ensure that the CVO is invited and remains present at the time of review of vigilance work by the Board;

**(xxiv)** To monitor and to take up for necessary action any case of recruitment in violation of the laid down rules and procedure and wherever necessary to report the matter to the Commission.

*(Para VII of CVC Circular No. 006/VGL/065 dated 06.07.2006)*

**(xxv)** Identify cases having vigilance angle reported in inspection reports, audit reports, media reports, reports of Parliamentary Committees, etc., carry out investigation and take misconducts, if any, to its logical conclusion.

**(xxvi)** Examine the decision of the DA and if they are not in tune with the advice of the Commission, bring it to the notice of the Commission for further consideration.

**(xxvii)** Examine the orders of DA in respect of officers not within the jurisdiction of the Commission and to ensure fairness. Recommend revision of inappropriate orders by the competent authority.

## **1.2 SURVEILLANCE AND DETECTION BY CVO**

**1.2 (i)** The CVO should conduct regular and surprise inspections in the sensitive areas in order to detect if there have been instances of corrupt or improper practices by the public servants. He should carry out at least six CTE type inspections on one of the projects / works in the organisation every year.

**(ii)** He should also undertake prompt scrutiny of annual property returns and intimations given by the public servants under the conduct rules and take further necessary action, if called for.

**(iii)** In addition, he should also gather intelligence from his own sources in whatever manner he deems appropriate about the misconducts / malpractices having been committed or likely

to be committed. He should also collect source material on misconducts and examine them for logical conclusion with necessary approval. He may also initiate suo motu enquiries based on any prima facie information regarding misconducts. He shall, however, carry out enquiries with necessary approvals.

**1.2.1** No prior approval / sanction of CVO's tour programmes is required from CMD / CEO for proceeding on tour for carrying out any surprise inspections.

*(CVC Circular No. 005/VGL/15 dated 04.05.2005)*

In the interest of transparency and accountability, whenever prior approval / intimation has not been given to the competent authority, a detailed report be submitted to the competent authority on conclusion of the tour and the outcome thereof.

### **1.3 ISSUE OF THE MANUAL**

Hard copy of the Manual will be issued by the Chief Vigilance Officer as a controlled document. The Manual will be available in PDF (Portable Document Format) format online on the Vigilance link in the HMT Website. [www.hmtmachinetools.com](http://www.hmtmachinetools.com)

The Vigilance Department will not accept responsibility for outdated versions of the Manual held by anyone. The Vigilance Department will be responsible for maintaining the updated version of the vigilance Manual on the HMT Website and distribution of the updated version to all authorized addressees.

### **1.4 SYSTEM OF AMENDMENT AND REVISION**

HMT will revise the Vigilance Manual once every two years. The Manual will be reissued in its entirety and all chapters will be given a new revision number. Previous soft copies should be deleted and the latest version is the one used for reference. For continual improvement, any suggestions for revisions, improvements and / or corrections to this Manual are welcome and should be forwarded to the Vigilance Coordinator. Amendments may be requested by emailing or in writing.

Amendments will only be issued by the Vigilance Coordinator after approval by the CVO.

## **1.5 BASIS OF THE VIGILANCE MANUAL**

This Vigilance Manual is based on the Vigilance Manual issued by the Central Vigilance Commission and Rules & office orders issued by Management.

## **1.6 SUPPORTING MANUALS**

The following official: and company publications support and supplement the information held within the Vigilance Manual

- (i) CVC issued Vigilance Manual
- (ii) CVC issued Special Chapter on Vigilance Administration in PSEs
- (iii) HMT Employees' Service Regulations
- (iv) HMT Conduct, Discipline & Appeal Rules
- (v) HMT Standing Orders
- (vi) HMT Purchase Manual.

## **1.7 OBJECTIVES**

(vii) The aim of this Manual is to outline policies, organizational structures and procedures to be used for Vigilance Management in HMT. The Manual is structured on the following broad sequence:

- (viii) Vigilance Administration - General information about the Vigilance set up in HMT.
- (ix) Operational Vigilance - Procedures and guidelines related to the functional matters relating to the Vigilance Management in HMT.
- (x) Monitoring - Measures and responsibilities for effective control of Vigilance work
- (xi) The main objective is to provide guidance of all concerned in Vigilance matters and facilitate effective vigilance management.

## **1.8 SCOPE OF THE VIGILANCE MANUAL**

The Vigilance Manual Deals with the Vigilance management and coordination of all activities necessary for the smooth handling of all Vigilance matters. The Manual shall serve as the guiding document for reference and compliance. The Vigilance Manual sets down the commitments, policies and procedures that would be used in dealing with Vigilance matters.

### **1.9 ISSUING AUTHORITY**

The Chief Vigilance Officer shall issue this Manual and be responsible for revisions and modifications. The Vigilance Coordinator shall be responsible for distribution and follow up.

### **1.10 RESPONSIBILITY OF IMPLEMENTATION**

The CVC's Vigilance Manual lays down the responsibility for implementation of Vigilance Policies squarely on the Head of the Organization through the Chief Vigilance Officer.

### **1.11 LIMITATION**

The manual requires constant updating.

Does not supersede the statutory, rules and orders unless specifically laid down.

## **CHAPTER – 2**

# **VIGILANCE IN PUBLIC SECTOR UNDERTAKINGS (PSUs) AN OVERVIEW**

### **2.1 INTRODUCTION**

Today the Public Sector Undertakings play a significant role in the economic as well as social development of the country. Current thinking stresses the importance of these Units becoming self-reliant and profitable ventures and building themselves around their strengths to face competitive challenges from the private sector.

In the changed economic scenario, the vigilance function itself has thus become complex. The Commission has, as part of its proactive role, been urging PSEs to codify their systems and procedures. It is noticed, however, that in many PSEs adhocism still continues to characterize management decision-making and the style of functioning lends itself to charges of lack of transparency and accountability. Questions are often raised with regard to consistency and credibility of decisions. In this context, it is important that all PSEs should codify their rules, procedures, norms and systems in key areas such as purchases, stores, operations, finance, award of contracts and personnel management.

Vigilance is basically and admittedly a managerial function and, therefore, it is an integral part of the duties of an executive. Vigilance departments of PSEs should work in cooperation with other Divisions/Units of the Corporation at all levels. Besides, the vigilance departments of PSEs should also work in coordination with the CVC, the administrative ministry and the CBI. The role of CVOs has been fully explained in Chapter XVIII of CVC Vigilance Manual (Vol. I). The primary responsibility for the maintenance of purity, integrity and efficiency in a PSE vests in the CMDs/MDs/Head of the PSEs. The CVO would act as his special adviser in all matters pertaining to vigilance. He would provide a link between the administrative Ministry/Department and the CVC. CVC's interface with the PSE would be through the CVO.



## **2.2 VIGILANCE IN A PUBLIC SECTOR UNDERTAKING (PSU)**

“Vigilance” has been defined as “watchfulness against danger or any action on the part of others; alertness or closeness of observation”. “Vigilance”, in brief, implies “a state of remaining watchful or alert and is relevant everywhere – all the time”. Though the concept of organized or institutionalized Vigilance is of recent origin, it has been in existence since time immemorial in some form or the other. In ancient times, Rulers used to roam around in disguise, sometimes during night, to collect intelligence about ongoing activities in the kingdom so that effective steps could be taken to avert any untoward incident and maintain law and order – so essential for peace and prosperity.

- (a) The Vigilance Administration of a PSU follows two broad approaches, namely the preventive and punitive approach. A recent approach introduced by the CVC, deviating from the conventional preventive and punitive Vigilance, is to focus on predictive Vigilance whereby the attempt is to pre-empt deviant behavior. For a PSU, it is necessary to ensure that public funds are properly used and that any sort of misuse / misappropriation is avoided. Preventive Vigilance is primarily concerned with checking any undesirable or corrupt practice among employees. Preventive Vigilance relates to a positive and prognostic approach by taking steps for checking any possible loss to the organization. It involves identification of the source of corruption and taking necessary preventive and constructive steps to plug existing loopholes in the systems, procedures, methods of working etc. Vigilance related action is not restricted to a few employees working in the Vigilance set up. Rather, it requires involvement of all employees for preventing all types of corruption, malpractice and misconduct. This in turn requires each and every employee to take due care in his own sphere of duty / activity. This, in fact, forms the fundamental tenets of Vigilance in a PSU.
- (b) While study and development of suitable systems for checking any irregular activity is important, taking appropriate deterrent action against the employees responsible for negligence in duty, causing wrongful loss is equally important. This is known as punitive Vigilance and is essential for promoting a culture of honesty and punishing the black sheep.

- (c) With a view to safeguard interest of the employees and avoid any prejudice / bias on part of the employer, certain protections have been provided to “public servants” under Article 311 of the Constitution of India – namely, the members of the Civil Services of the Union or All India Services or Civil Services of the States. These Constitutional safeguards cover two specific areas, namely:
- (i) No person shall be dismissed or removed by an authority subordinate to that by which he is appointed and
  - (ii) No such person shall be dismissed or removed or reduced in rank except after an enquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of these charges.
- (d) Employees of Public Sector Undertakings – including HMT are entitled to similar safeguards as per the decision of the Supreme Court. These Constitutional safeguards require observance of certain rules and procedures while taking any punitive/departmental action against any employee of the Public Sector Undertaking. Persons dealing with such punitive action are required to be fully acquainted with the said procedures.

### **2.3 VIGILANCE ANGLE**

In Vigilance administration, existence of Vigilance angle has a critical importance. CVC vide Office Order No. 23/04/04 (read with modification vide Office Order No. 74/12/05) has defined Vigilance angle as follows:

**“Vigilance angle is obvious in the following acts:**

- (i) Demanding and/or accepting gratification other than legal remuneration in respect of an official act or for using his influence with any other official.
- (ii) Obtaining valuable thing, without consideration or with inadequate consideration from a person with whom he has or likely to have official dealings or his subordinates have official dealings or where he can exert influence.
- (iii) Obtaining for himself or for any other person any valuable thing or pecuniary advantage by corrupt or illegal means or by abusing his position as a public servant.

- (iv) Possession of assets disproportionate to his known sources of income.
- (v) Cases of misappropriation, forgery or cheating or other similar criminal offences.

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

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.

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 financial or non financial 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 authenticity of the case. A positive response to this question may indicate the existence of authenticity. A negative reply, on the other hand, might indicate their absence.

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

The above definition becomes a part of the Vigilance Manual and existing Special Chapter on Public Sector Banks and Public Sector Enterprises brought out by the Commission, in

supersession of the existing definition.

## **2.4 MOTTO OF VIGILANCE**

- i. Integrity in Governance
- ii. Combating Corruption
- iii. Professionalism
- iv. Transparency
- v. Promptness
- vi. Impartiality

## **2.5 CORRUPTION**

Corruption is the misuse of public and morality are inhibiting factors, best expressed in the formula Corruption = office for private gain and is said to be a function of both the opportunity to request/receive bribes and the risk of detection. Monopolies and discretion are corruption facilitators, while accountability Monopoly + Discretion – Accountability - Morality. A key tool in the fight against corruption, therefore, is access to information and transparency.

### **IMPORTANT CAUSES FOR CORRUPTION:**

The important causes of corruption in India are poor regulatory framework, exclusivist process of decision making aggravated by discretion and official secrecy, rigid bureaucratic structures and processes; and absence of effective internal control mechanism. Social acceptability and tolerance for corruption and absence of a formal system of inculcating the values of ethics and integrity further propagates corruption.

### **IMPACT OF CORRUPTION:**

Corruption is a serious economic issue as it adversely affects the country's economic development and achievement of developmental goals. It promotes inefficiencies in utilisation of resources, distorts the markets, compromises quality, destroys the environment and of late has become a serious threat to national security.

## **2.6 PUBLIC SERVANT**

A public servant is a person who is appointed or elected to a public office.

## **2.7 FRAUD:**

Fraud is deliberate deception to secure unfair or unlawful gain, or to deprive a victim of a legal right. The purpose of fraud may be monetary gain or other benefits.

## **2.8 BRIBE:**

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

## **2.9 MISCONDUCT:**

Misconduct is an act of violation of Conduct rules of an organization.

### **2.10 MISAPPROPRIATION**

A public Servant who has appropriated property which does not belong to him for his own benefit or for the benefit of someone else is termed as misappropriation.

### **2.11 ILLEGAL**

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

### **2.12 WRONGFUL GAIN:**

Wrongful gain is the gain of property /orders by unlawful means to which the person or agency gaining is not legally entitled.

### **2.13 WRONGFUL LOSS**

Wrongful loss is the loss of property /orders by unlawful means to which the person or agency losing is entitled.

### **2.14 DISPROPORTIONATE ASSETS:**

The assets acquired by the executive of the organisation are said to be disproportionate if the total value of such assets is more than the difference between his income from all known sources and the expenditure incurred during the same period.

### **2.15 PRINCIPLES OF NATURAL JUSTICE:**

As per Article 311(2) of the Constitution,

“No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges Provided that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on

the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed: Provided further that this clause shall not apply :

- (a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or
- (b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or
- (c) Where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State, it is not expedient to hold such inquiry.

## **2.16 PROSECUTION vis-à-vis DEPARTMENTAL PROCEEDINGS**

### **2.16.1**

Prosecution should be the general rule in all cases which are found fit to be sent to Court after investigation and in which the offences are of bribery, corruption or other criminal misconduct involving loss of substantial public funds. In other cases, involving less serious offences or involving malpractices of a Departmental nature, Departmental action only should be taken and the question of prosecution should generally not arise.

Whenever there is a difference of opinion between the Department and the CBI whether prosecution should be resorted to in the first instance, the matter should be referred to the CVC for advice.

*(MHA O.M No. 39/8/64-Ests (A) dated 04.09.1964 regarding prosecution or Departmental action according to seriousness of the offence in the cases of bribery, corruption or other criminal misconduct)*

**2.16.2** There is no legal bar to the initiation of Departmental disciplinary action under the rules applicable to the delinquent public servant where criminal prosecution is already in progress and generally there should be no apprehension of the outcome of the one affecting the other, because the ingredients of delinquency / misconduct in criminal prosecution and Departmental proceedings, as well as the standards of proof required in both cases are not identical. In criminal cases, the proof required for conviction has to be beyond reasonable doubt, whereas in Departmental proceedings, proof based on preponderance of probability

is sufficient for holding the charges as proved. What might, however, affect the outcome of the subsequent proceedings may be the contradictions which the witnesses may make in their depositions in the said proceedings. It is, therefore, necessary that all relevant matters be considered in each individual case and a conscious view taken whether disciplinary proceedings may not be started alongside criminal prosecution. In a case where the charges are serious and the evidence strong enough, simultaneous Departmental proceedings should be instituted so that a speedy decision is obtained on the misconduct of the public servant and a final decision can be taken about his further continuance in employment.

**(CVC Circular No. 1K/DSP/3 dated 03.02.1981 regarding starting of Departmental proceedings along with prosecution)**

**2.16.3** The Supreme Court in the case of Delhi Cloth and General Mills Ltd.vs. Kushal Bhan (AIR 1960 SC 806) observed that it cannot be said that “principles of natural justice require that an employer must wait for the decision at least of the criminal trial court before taking action against an employee”. They however, added that “if the case is of a grave nature or involves questions of fact or law, which are not simple, it would be advisable for the employer to wait the decision of the trial court, so that the defence of the employee in the criminal case may not be prejudiced”.

**2.16.4** Should the decision of the Court lead to acquittal of the accused, it may be necessary to review the decision taken earlier as a result of the Departmental proceedings. A consideration to be taken into account in such review would be whether the legal proceedings and the Departmental proceedings covered precisely the same grounds. If they did not, and the legal proceedings related only to one or two charges i.e., not the entire field of Departmental proceedings, it may not be found necessary to alter the decisions already taken. Moreover, while the Court may have held that the facts of the case did not amount to an offence under the law, it may well be that the Competent Authority in the Departmental proceedings might hold that the public servant was guilty of a Departmental misdemeanor and he had not behaved in the manner in which a person of his position was expected to behave.



**2.16.5** The most opportune time for considering the question whether Departmental action should be initiated simultaneously is when the prosecution is sanctioned. At that stage, all the documents are available and taking photostat copies or producing the originals before the Inquiring Authority is not a problem. Once the originals have been admitted by the Charged Officer, the photostat copies duly attested by the Inquiring Officer and / or the Charged Officer could be utilised for further processing the Departmental proceedings, as the originals would be required in Court proceedings.

*(DoPT OM No. 11012/6/2007-EsttA dated 01.08.2007 regarding simultaneous action of prosecution in a court and initiation of Departmental proceedings)*

**2.16.6** As per the judgements of the Hon'ble Supreme Court and guidelines of DoPT issued thereon (*OM No. 11012/6/2007-Estt. (A-III) dated 01.08.2007 and 21.07.2016*), there is no bar in conducting simultaneous criminal and departmental proceedings. Disciplinary Authorities are vested with responsibility to ensure that employees under their control against whom criminal trial is pending are proceeded against forthwith for simultaneous departmental proceedings. Further, a view as to whether simultaneous disciplinary proceedings are to be initiated need to be invariably taken by the Competent Authorities at the time of considering the request for grant of sanction for prosecution itself.

However, the disciplinary Authority may withhold departmental proceedings only in exceptional cases wherein the charge in the criminal trial is of grave nature which involves questions of fact and law. In other words, in complex matters where, in case it is not possible to delineate the misconduct for the purpose of RDA. If the charge in the criminal case is of grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case. Further, even if stayed at one stage, the decision may require reconsideration, if the criminal case gets unduly delayed.

It may be noteworthy to mention that the Hon'ble Supreme Court in *State of Rajasthan vs. B.K Meena & Ors. (1996) 6 SCC 417* emphasised the need for initiating departmental proceedings and stated as below:

*"It must be remembered that interests of administration demand that the undesirable elements are thrown out and any charge of misdemeanor is enquired into promptly. The disciplinary*

*proceedings are meant not really to punish the guilty but to keep the administrative machinery unsullied by getting rid of bad elements. The interest of the delinquent officer also lies in a prompt conclusion of the disciplinary proceedings. If he is not guilty of the charges, his honour should be vindicated at the earliest possible moment and if he is guilty, he should be dealt with promptly according to law. It is not also in the interest of administration that persons accused of serious misdemeanor should be continued in office indefinitely, i.e., for long periods awaiting the result of criminal proceedings."*

Thus, in cases where it is appropriate to initiate disciplinary proceedings along with criminal prosecution, the disciplinary proceedings must be initiated simultaneously.

*(CVC Circular No. 99/VGL/087-389176 dated 31.07.2018: Simultaneous action of prosecution and initiation of departmental proceedings - guidance thereof.)*

## CHAPTER – 3

# VIGILANCE ORGANISATION

### ANTI-CORRUPTION AGENCIES IN CENTRAL GOVERNMENT – ROLE AND FUNCTION

#### 1. INTRODUCTION

Anti-corruption measures of the Central Government are a responsibility of (i) Administrative Vigilance Division [AVD] in the Department of Personnel & Training; (ii) Central Bureau of Investigation; (iii) Vigilance units in the Ministries/Departments of Government of India, Central Public Enterprises and other autonomous organizations [hereinafter referred to as Department]; (iv) the disciplinary authorities; and (v) the Central Vigilance Commission [hereinafter referred to as the Commission]. The AVD is concerned with the rules and regulations regarding vigilance in public services. The SPE wing of the CBI investigates cases involving commission of offences under the Prevention of Corruption Act, 1988 [hereinafter referred to as PC Act] against the public servants and other misconducts allegedly committed by the public servants having vigilance overtones. The disciplinary authority has the over-all responsibility of looking into the misconducts alleged against, or committed by, the public servants within its control and to take appropriate punitive action. It is also required to take appropriate preventive measures so as to prevent commission of misconducts/malpractices by the employees under its control and jurisdiction. The Chief Vigilance Officer [CVO] acts as a Special Assistant/Advisor to the Head of the concerned Department in the discharge of these functions. He also acts as a liaison officer between the Department and the CVC as also between the Department and the CBI. The Central Vigilance Commission acts as the apex organisation for exercising general superintendence and control over vigilance matters in administration and probity in public life.

#### 2. ADMINISTRATIVE VIGILANCE DIVISION

The Administrative Vigilance Division was set up in the Ministry of Home Affairs, in August 1955, to serve as a central agency to assume overall responsibility for anti-corruption measures. With the establishment of the Central Vigilance Commission, a good part of the functions performed by the Administrative Vigilance Division are now exercised by the Central Vigilance Commission. The Administrative Vigilance Division is now responsible for

the formulation and implementation of policies of the Central Government in the field of vigilance, integrity in public services, and anti-corruption and to provide guidance and coordination to Ministries/Department of Government of India in matters requiring decisions of Government.

### **3. CENTRAL VIGILANCE COMMISSION**

In pursuance of the recommendations made by the Committee on Prevention of Corruption [popularly known as Santhanam Committee], the Central Vigilance Commission was set up by the Government of India by a Resolution, dated 11.2.1964. Consequent upon the judgement of the Hon'ble Supreme Court in Vineet Narain vs. Union of India [CWP 340-343 of 1993], the Commission was accorded statutory status with effect from 25.8.1998 through "The Central Vigilance Commission Ordinance, 1998. Subsequently, the CVC Bill was passed by both Houses of Parliament in 2003 and the President gave its assent on 11th September 2003. Thus, the Central Vigilance Commission Act, 2003 (No.45 of 2003) came into effect from that date.

#### **3.1 SET-UP OF CENTRAL VIGILANCE COMMISSION**

In terms of the provisions made in the CVC's Act, the Commission shall consist of a Central Vigilance Commissioner [Chairperson] and not more than two Vigilance Commissioners [Members]. Presently, the Commission is a three-member Commission consisting of a Central Vigilance Commissioner and two Vigilance Commissioners. The Central Vigilance Commissioner and the Vigilance Commissioners are appointed by the President by warrant under his 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. However, the present Vigilance Commissioners shall have tenure of three years as they had been appointed before the CVC Act came into force.

#### **3.2 FUNCTIONS AND POWERS OF CENTRAL VIGILANCE COMMISSION:**

##### **3.2.1 The functions and powers of the Commission, as defined in the CVC Act, are as under:**

- (a) To exercise superintendence over the functioning of Delhi Special Police Establishment [DSPE] insofar as it relates to investigation of offences alleged to have been committed under the PC Act or an offence with which a public servant belonging a particular

category [i.e. a member of All India Services serving in connection with the affairs of the Union; or Group 'A' officer of the Central Government; or an officer of the Central Public Sector enterprise/autonomous organisation etc.] may be charged under the Code of Criminal Procedure at the same trial.

- (b) To give directions to the DSPE for the purpose of discharging the responsibility of superintendence. The Commission, however, shall not exercise powers in such a manner so as to require the DSPE 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 PC Act; 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 the following categories of officials, wherein it is alleged that he has committed an offence under the PC Act:
  - (i) Members of All India Services serving in connection with the affairs of the Union;
  - (ii) Group 'A' Officers of the Central Government;
  - (iii) Officers of Scale-V and above of public sector banks;
  - (iv) 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 this clause.
- (v) To review the progress of applications pending with the competent authorities for sanction of prosecution under the PC Act;
- (vi) To review the progress of investigations conducted by the DSPE into offences alleged to

have been committed under the PC Act;

- (e) 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, the said Government companies, societies and local authorities owned or controlled by the Central Government or otherwise; and
- (f) To exercise superintendence over the vigilance administration of various Ministries of the Central Government or corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government.

**3.2.2 Clause 24 of the CVC Act empowers the Commission to discharge the functions entrusted to it vide Government of India's Resolution dated 11.02.1964, insofar as those functions are not inconsistent with the provisions of the Act. Thus, the Commission will continue to perform following functions in addition to the functions enumerated in Para 3.2.1 above:**

- (a) Appointment of CVOs: The Commission would convey approval for appointment of CVOs in terms of Para 6 of the Resolution, which laid down that the Chief Vigilance Officers will be appointed in consultation with the Commission and no person whose appointment as the CVO is objected to by the Commission will be so appointed.
- (b) Writing ACRs of CVOs: The Central Vigilance Commissioner would continue to assess the work of the CVO, which would be recorded in the character rolls of the officer concerned in terms of Para 7 of the Resolution.
- (c) Commission's advice in Prosecution cases: In cases in which the CBI considers that a prosecution should be launched and the sanction for such prosecution is required under any law to be issued in the name of the President, the Commission will tender advice, after considering the comments received from the concerned Ministry/Department/Undertaking, as to whether or not prosecution should be sanctioned.

- (d)** Resolving difference of opinion between the CBI and the administrative authorities: 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.
- (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 (CDIs) borne on its strength; to examine the report of the CDI; and to forward it to the disciplinary authority with its advice as to further action.
- (f)** Advising on procedural aspects: If it appears that the procedure or practice is such as affords scope or facilities for corruption or misconduct, the Commission may advise that such procedure or practice be appropriately changed, or changed in a particular manner.
- (g)** Review of Procedure and Practices: The Commission may initiate at such intervals as it considers suitable review of procedures and practices of administration insofar as they relate to maintenance of integrity in administration.
- (h)** Collecting information: The Commission may collect such statistics and other information as may be necessary, including information about action taken on its recommendations.
- (i)** Action against persons making false complaints: The Commission may take initiative in prosecuting persons who are found to have made false complaints of corruption or lack of integrity against public servants.

### **3.3 JURISDICTION**

Clause 8(1)(g) of the CVC Act 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, said Government companies, societies and local authorities owned or controlled by the Central Government or otherwise. Thus, the types of cases to be referred to the Commission for advice, and also the status of officers against whom the cases would be referred to the Commission, may require a notification by the Government in the rules to be framed under the Act or through administrative instructions on the recommendation made by the Commission. However, till such time the instructions are notified, the Commission would continue to advice on vigilance cases against following categories of employees:

- (a) Group 'A' officers of the Central Government.
- (b) Members of All India Services if misconduct was committed while serving in connection with the Affairs of the Union; or if the State Govt. proposes to impose a penalty of dismissal, removal or compulsory retirement for the misconduct committed by him while serving in connection with the affairs of that State Government;
- (c) Executives holding top positions up to two levels below the Board-level in the public sector undertakings;
- (d) Officers in Scale-V and above in the public sector banks;
- (e) Officers of the rank of Assistant Manager and above in the insurance sector (covered by LIC and GIC); and
- (f) Officers drawing basic pay of Rs.8700 and above in autonomous bodies/local authorities/societies etc.

While delegating powers to the Ministries/Organizations to handle vigilance cases against certain categories of employees, the Commission expects that:

- a) Appropriate expertise would be available to the CVOs;
- b) The CVO would be in a position to exercise proper check and supervision over such cases and would ensure that the cases are disposed off expeditiously; and
- c) The punishment awarded to the concerned employee would commensurate with the gravity of the misconduct established on his/her part.



In order to ensure that the Commissions' expectations are fully met, the Commission may depute its officers to conduct vigilance audit through onsite visits and also through the monthly information system (monthly reports) etc. If the Commission comes across any matter, which in its opinion has not been handled properly, it may recommend its review by the reviewing authority or may give such directions as it considers appropriate.

### **3.4 CTE "CHIEF TECHNICAL EXAMINER" ORGANISATION:**

The Committee on Prevention of Corruption had recommended that the Chief Technical Examiner's Organisation [hereinafter referred as CTEO], which was created in 1957, in the Ministry of Works, Housing & Supply for the purpose of conducting a concurrent technical audit of works of the Central Public Works Department with a view to securing economy in expenditure and better technical and financial control, should be transferred to the Central Vigilance Commission so that its services may be easily available to the Central Bureau of Investigation or in inquiries made under the direction of the Central Vigilance Commission. The recommendation was accepted by the Government of India and the Chief Technical Examiner's Organisation now functions under the administrative control of the Central Vigilance Commission as its technical wing, carrying out inspection of civil, electrical and horticulture works of the Central Government departments, public sector undertakings/enterprises of the Government of India and central financial institutions/banks etc. The jurisdiction of the organisation is coextensive with that of the Commission. The works or contracts for intensive examination are selected from the details furnished by the CVO in the quarterly progress reports sent to the CTEO. The intensive examination of works carried out by the organizations helps in detecting cases related to execution of work with substandard materials, avoidable and/or ostentatious expenditure, and undue favours or overpayment to contractors etc.

At present, information in respect of civil works in progress having the tender value exceeding Rupees One crore, electrical/mechanical/electronic works exceeding Rupee fifteen lacs, horticulture works more than Rupee two lacs and store purchase contracts valuing more than Rupee two crores are required to be sent by the CVOs of all organizations. However, the Chief Vigilance Officers are free to recommend other cases also, while

submitting the returns for examination of a particular work, if they suspect any serious irregularities having been committed. Out of the returns furnished by the Chief Vigilance Officer, the Chief Technical Examiners select certain works for intensive examination and intimate these to the CVOs concerned.

The CVO is expected to make available all relevant documents and such other records as may be necessary, to the CTE's team examining the works. After intensive examination of a work is carried out by the CTE's Organisation, an inspection report is sent to the CVO. The CVO should obtain comments of various officers at the site of work or in the office at the appropriate level, and furnish these comments to the CTE with his own comments. In case the CTE recommends investigation of any matter from a vigilance angle, such a communication should be treated as a complaint and dealt with appropriately. The investigation report in such cases should be referred to the Commission for advice even if no vigilance angle emerges on investigation.

### **3.5 CDIs 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.

### **3.6 ANNUAL REPORT**

The Commission is required to present annual report to the President as to the work done by it within six months of the close of the year under report. The report would contain a separate part on the superintendence by the Commission on the functioning of Delhi Special Police Establishment. The President shall cause the same to be laid before each House of Parliament.

### **3.7 CHIEF VIGILANCE OFFICER'S ORGANISATION**

The CVO heads the Vigilance Division of the organisation concerned and acts as a special assistant/advisor to the chief executive in all matters pertaining to vigilance. He also provides a link between his organisation and the Central Vigilance Commission on one hand and his organisation and the Central Bureau of Investigation on the other. 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 organisation; investigating or causing an investigation to be made into verifiable 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 commission of improper practices/misconducts, etc. Thus, the CVOs' functions can broadly be divided into three parts, viz. (i) Preventive vigilance; (ii) Punitive vigilance; and (iii) Surveillance and detection.

### **3.8 CENTRAL BUREAU OF INVESTIGATION**

The Central Bureau of Investigation was constituted under the Government of India Resolution No. 4/31/61-T dated 01.04.1963. The investigation work is done through SPE wing of the CBI, which derives its police powers from the Delhi Special Police Establishment Act, 1946 to inquire and to investigate certain specified offences or classes of offences pertaining to corruption and other kinds of malpractices involving public servants with a view to bring them to book. Section 3 of the Act provides that Central Government may, by notification in the official gazette, specify the offences or class of offences, which are to be investigated by the CBI.

The Special Police Establishment enjoys with the respective State Police Force concurrent powers of investigation and prosecution under the Criminal Procedure Code. 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.

The Special Police Establishment, which forms a Division of the Central Bureau of Investigation, has two Divisions, viz. (i) Anticorruption Division and (ii) Special Crimes Division.

Anticorruption Division investigates all cases registered under the Prevention of Corruption Act, 1988. If an offence under any other section of IPC or any other law is committed along with offences of bribery and corruption, it will also be investigated by the Anticorruption Division. The Anti-corruption Division will also investigate cases pertaining to serious irregularities allegedly committed by public servants. It will also investigate cases against public servants belonging to State Governments, if entrusted to the CBI.

On the other hand, the Special Crime Division investigates all cases of Economic offences and all cases of conventional crimes; such as offences relating to internal security, espionage, sabotage, narcotics and psychotropic substances, antiquities, murders, dacoities/robberies, cheating, criminal breach of trust, forgeries, dowry deaths, suspicious deaths and other offences under IPC and other laws notified under Section 3 of the DSPE Act.

The superintendence of the Delhi Special Police Establishment insofar as it relates to investigation of offence alleged to have been committed under the Prevention of Corruption Act, 1988 [i.e. Anti-Corruption Division] vests in the Commission. The superintendence of DSPE in all other matters vests in the Central Government.

The administration of DSPE vests in the Director of the CBI, who is appointed on the recommendations of a committee headed by the Central Vigilance Commissioner. He holds office for a period of not less than two years from the date on which he resumed office. The Director CBI shall exercise in respect of DSPE such of the powers exercisable by an Inspector General of Police in respect of police force in a State as the Central Government may specify in that behalf.

The Delhi Special Police Establishment shall not conduct any inquiry or investigation into any offence alleged to have been committed under the Prevention of Corruption Act, 1988 except with the previous approval of the Central Government where such allegation relates to -

- a) The employees of the Central Government of the level of Joint Secretary and above: and
- b) Such officers as are appointed by the Central Government in corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government.

Notwithstanding anything contained in Para above, no such approval shall be necessary for cases involving arrest of a person on the spot on the charge of accepting or attempting to accept any gratification other than legal remuneration referred to in clause (c) of the Explanation to section 7 of the Prevention of Corruption Act, 1988.

## CHAPTER – 4

# CHIEF VIGILANCE OFFICERS APPOINTMENT, ROLES AND FUNCTIONS

### 1. BACKGROUND

Primary responsibility for maintenance of purity, integrity and efficiency in the organisation vests in the Secretary of the Ministry, or the head of the Department, or the Chief Executive of the Public Sector Enterprises. Such authority, however, is assisted by an officer called the Chief Vigilance Officer (CVO) in the discharge of vigilance functions. The CVO acts as a special assistant/advisor to the chief executive and reports directly to him in all matters relating to vigilance. He heads the Vigilance Division of the organisation concerned and provides a link between his organisation and the Central Vigilance Commissioner and his organisation and the Central Bureau of Investigation.

It has been provided that big departments/organizations should have a full-time CVO, i.e. he should not be burdened with other responsibility. If it is considered that the CVO does not have full-time vigilance work, he may be entrusted with such functions that serve as input to vigilance activity, e.g. audit and inspections.

The work relating to security and vigilance, however, should not be entrusted to the CVO as, in that case, the CVO would find very little time for effective performance of vigilance functions. Furthermore, in order to be effective, he should normally be an outsider appointed for a fixed tenure on deputation terms and should not be allowed to get absorbed in the organisation either during the currency of deputation period or on its expiry.

### 2. PROCEDURE FOR APPOINTMENT OF CVOs

The Chief Vigilance Officers in all departments/organizations 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.

### 3. APPOINTMENT OF CVOs IN THE MINISTRIES/DEPARTMENTS

The Ministries/Departments of Government of India are required to furnish a panel of names of officers of sufficiently higher level (Joint Secretary or at least a Director/ Dy. Secretary),

who may report direct to the Secretary concerned, in the order of preference, along with their bio-data and complete ACR dossiers for the Commission's consideration. The officer approved by the Commission for the post of CVO is entrusted vigilance functions on full-time or part-time basis, as the case may be.

#### **4. APPOINTMENT OF CVOs IN PUBLIC SECTOR UNDERTAKINGS**

The CVO in a public sector undertaking (PSU), as far as practicable, should not belong to the organisation to which he is appointed, and having worked as CVO in an organisation, should not go back to the same organisation as CVO. The thrust behind this policy is to ensure that the officer appointed as CVO is able to inspire confidence that he would not be hampered by past association with the organisation in deciding vigilance cases.

The following guidelines have been prescribed for filling up full-time posts of CVOs in the PSUs:

- (i) The posts shall be filled as per the procedure followed for posts in the Central Government under the Central Staffing Scheme.
- (ii) The DOPT would request the cadre controlling authorities of various organized services, as well as PSUs, to offer officers of proven integrity for these posts. The names, so received, would be forwarded, along with bio-data of the officers concerned and their ACR Dossiers, to the Central Vigilance Commission for approval.
- (iii) The DOPT would maintain a panel of names approved by the Commission and would request the cadre authorities, as well as the officers on the officer list, to indicate choice of location.
- (iv) The DOPT would offer the names to the Ministries/ Departments concerned for the posts of CVOs in the PSUs under their respective charges.
- (v) The offer list would be operative for a period of one calendar year.
- (vi) The DOPT, or the administrative Ministry/ Department concerned, would obtain specific

approval in favour of an officer in the proposal is to appoint that officer as a CVO in any of 100 select organizations.

Such PSUs, which do not have full-time posts of CVOs, would forward a panel of names of three officers of sufficiently higher level, who can report direct to the chief executive in the vigilance related matters, arranged in order of preference, along with their bio-data and complete ACR dossiers for the Commission's consideration. The officer approved by the Commission for the post of CVO would be entrusted vigilance functions on part-time basis, i.e. in addition to his normal duties.

## **5. TENURE OF CVO**

The normal tenure of a CVO is three years extendable up to a further period of two years in the same organisation, or up to a further period of three years on transfer to another organisation on completion of initial deputation tenure of three years in the previous organisation, with the approval of the Commission, But if a CVO has to shift from one PSU to another PSU without completing the approved tenure in the previous PSU, the principle of overall tenure of six years would prevail.

## **6. SHORT-TERM ARRANGEMENT IN THE POST OF CVO**

Suitable arrangements in vacancies for three months, or for any shorter period, due to leave or other reasons, may be made by the appropriate authority concerned, without prior approval of the Central Vigilance Commission. The nature and duration of vacancy and the name of the officer who is entrusted with the duties of CVO should however be reported to the Commission.

## **7. ASSOCIATION OF CVOs WITH SENSITIVE MATTERS**

It is considered that participation in decision making or close association of 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, vigilance functionaries should not be a party to processing and decision-making processes or in other similar administrative transactions of such nature, which are likely to have clear vigilance sensitivity. While it may not be difficult for full-time vigilance functionaries to comply with this requirement, the compliance of these instructions could be achieved in respect of part-time vigilance



functionaries by confining their duties, other than those connected with vigilance work, as far as possible, to such items of work that are either free from vigilance angle or preferable serve as input to vigilance activities such as inspection, audit, etc.

#### **8. PERMANENT ABSORPTION OF CVOs IN PSUs**

If an assurance is extended to a CVO, who has been appointed on deputation terms for fixed tenure in the PSU, for permanent absorption, there is a distinct possibility that it might impair this objectivity in deciding vigilance cases and might negate the very purpose of appointing outsider CVOs. It has, thus, been provided that an outsider CVO shall not be permanently absorbed in the same public sector undertaking on expiry or in continuation of his tenure as CVO in that organisation.

#### **9. ASSESSMENT OF THE CVOs' WORK**

Central Vigilance Commissioner has also been given the powers to assess the work of Chief Vigilance officers. The Assessment is recorded in the character rolls of the officer. For that purpose, the following procedure has been prescribed:

- (i) The ACRs of the CVOs in the public sector undertakings/organizations, whether working on a fulltime or a part-time basis, would be initiated by the chief executive of the concerned undertaking/organisation, 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) 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.

#### **10. ROLE AND FUNCTIONS OF CVOs**

As stated above, the CVO heads the vigilance Division of the organisation concerned and acts as a special assistant/advisor to the chief executive in all matters pertaining to vigilance. He also provides a link between his organisation and the Central Vigilance Commission and his organisation and the Central Bureau of Investigation. 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 organisation; investigating or causing an investigation to be made into verifiable 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 commission of improper practices/misconducts, etc. Thus, the CVOs' functions can broadly be divided into three parts, as under:

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

While “surveillance” and “punitive action” for commission of misconduct and other malpractices is certainly important, the ‘preventive measure’ to be taken by the CVO are comparatively more important as these are likely to reduce the number of vigilance cases considerably. Thus, the role of CVO should be predominantly preventive.

## **11. PREVENTIVE VIGILANCE**

**11.1 Santhanam Committee**, while outlining the preventive measures, that should be taken to significantly reduce corruption, had identified four major causes of corruption, viz.

- (a) Administrative delays.
- (b) Government taking upon themselves more than what they can manage by way of regulatory functions.
- (c) Scope for personal discretion in the exercise of powers vested in different categories of government servants and,
- (d) Cumbersome procedures of dealing with various matters which are of importance to citizens in their day to day affairs.

The CVO is thus expected to take following measures on preventive vigilance side:

- (a) To undertake a study of existing procedure and practices prevailing in his organisation with a view to modifying those procedures or practices which provide a scope for corruption, and also to find out the causes of delay, the points at which delay occurs

and device suitable steps to minimize delays at different stages;

- (b) To undertake a review of the regulatory functions with a view to see whether all of them are strictly necessary and whether the manner of discharge of those functions and exercise of powers of control are capable of improvement; (iii) To device adequate methods of control over exercise of discretion so as to ensure that discretionary powers are not exercised arbitrarily but in a transparent and fair manner
- (c) To educate the citizens about the procedures of dealing with various matters and also to simplify the cumbersome procedures as far as possible;
- (d) To identify the areas in his organisation which are prone to corruption and to ensure that the officers of proven integrity only are posted in those areas;
- (e) To prepare a list of “Officers of Doubtful Integrity” – The list would include names of those officers who, after inquiry or during the course of inquiry, have been found to be lacking in integrity, such as:
  - (i) Officer convicted in a Court of Law on the charge of lack of integrity or for an offence involving Moral turpitude but who has not been imposed a penalty of dismissal, removal or compulsory retirement in view of exceptional circumstances.
  - (ii) Awarded departmentally a major penalty on charges of lack of integrity or gross dereliction of duty in protecting the interest of government although corrupt motive may not be capable of proof.
  - (iii) Against whom proceedings for a major penalty or a court trial is in progress for alleged acts involving lack of integrity or moral turpitude; and (d) who was prosecuted but acquitted on technical grounds as there remained a reasonable suspicion about his integrity.
- (f) To prepare the “Agreed List” in consultation with the CBI – This list will include the names of officers against whose honesty or integrity there are complaints, doubts or suspicions.
- (g) To ensure that the officers appearing on the list of officers of doubtful integrity and the agreed list are not posted in the identified sensitive/corruption prone areas.
- (h) To ensure periodical rotations of staff; and

- (i) To ensure that the organisation has prepared manuals on important subjects such as purchases, contracts, etc. and that these manuals are updated from time to time and conform to the guidelines issued by the Commission.

**(j) INTERACTION/ COOPERATION WITH THE CBI :**

The CVOs in PSEs and the concerned officer in the CBI should interact as frequently as possible with reference to exigencies of work. However, there should be a quarterly meeting between the CBI and CVO at the level of Zonal Joint Director of CBI to monitor and to take stock of the cases and exchange information for expeditious investigation and preparation of the 'Agreed List'.

- (i) Standard tender procedure, policy guidelines and manuals may be supplied to the CBI so that transactions under investigation/inquiry could be examined to find out whether criminal or departmental misconduct is made out or not. Such standardized procedures and guidelines should also be updated periodically as compilations of extant procedures make it easier to form a view about criminal liability, misconduct or innocence of an official in a particular case.
- (ii) The CVO should screen all the complaints before sending the same to the CBI - whether the complaint should be forwarded to CBI or be dealt with departmentally, as per provisions contained in Paras 11.2 and 11.3 (a) infra.
- (iii) CBI should ordinarily be sent only cases involving transactions not less than Rs. 25 lakhs or otherwise possessing national or international ramifications. Other cases may be sent to the local police.
- (iv) Full cooperation and facilities should be extended by the Public Sector Enterprises to the CBI during the course of investigation. This would include making available to them the requisite documents with the least possible delay, directing such employees as are to be examined to appear before the investigating officer and making suitable transport/ accommodation in the PSE's guest houses, available to touring officers (subject to availability), in accordance with their entitlement and on payment of the prescribed charges. Assistance of technical experts to the Investigating Officer, if considered necessary, may also be provided to the extent possible in accordance with extant

instructions on the subject.

- (v) When PSEs make reference to the CBI for investigation, they should also make available duly certified photocopies of all relevant documents along with the complaint so that there is no delay in initiating action on the part of the CBI. The originals may be handed over to them only at the time of the actual registration of the case. Similarly, when CBI seizes documents, authenticated copies of all the documents, should within four days of the seizure, be made available to the CVO of the PSE.

(vi) INVESTIGATION REPORTS RECEIVED FROM THE CBI

- i. On completion of their investigation, the CBI forwards a copy of the SP's report to the concerned CVO for further action. A copy of the SP's report is also endorsed to the Commission in cases in which the Commission's advice is necessary.
- ii. The CBI generally recommends prosecution in cases of bribery, corruption or other criminal misconduct; it also considers making similar recommendations in cases involving a substantial loss to the Government or a public body. The Commission's advice for prosecution, however, is required only if the sanction for prosecution is necessary under any law promulgated in the name of the President. In such cases, CVOs should furnish the department's comments within a month of the receipt of the CBI report by the competent authority. In other cases, as directed by the Supreme Court, the matter should be to ensure that the required sanction is issued within a period of three months (the instructions issued by the Department of Personnel & Training vide O.M. No. 142/10/97-AVD.I dated 14.01.1998) However, in case of difference of opinion between the CBI and the competent authority in the PSE, the matter may be referred to the Commission for its advice irrespective of the level of the official involved.
- iii. Prosecution proposals should be able to meet the legal and technical requirements laid down by the Courts. Apart from adequate evidence to establish that an offence has been committed under the relevant provision of the law, there should be some facts on record from which it should be possible to infer or presume a criminal or guilty intention behind the omission or commission. In the absence of mens rea violation of rules or codal formalities could at worst be considered as transgressions of systems and procedures of the organisation and the same would, as such, be more suitable as the subject matter of

regular departmental action (RDA) rather than criminal prosecution.

- iv. In cases, where the CBI recommends RDA for major/minor penalty action or 'such action as deemed fit' against the officials and the Commission is to be consulted, the CVO should ensure that the comments of the department/PSE on the CBI report are furnished to the Commission within one month of the receipt of the CBI's investigation report, failing which the CVC will proceed to examine the case and tender advice. Further action in such cases may be taken as per the Commission's advice. In other cases, the CVO should take expeditious action to ensure that charge-sheets, if necessary, are issued within two months of the receipt of the investigation report from the CBI. It would not be necessary for the CBI to follow up the matter in such cases after the disciplinary authority has initiated action for RDA against the concerned officials in accordance with their recommendations. However, in case of difference of opinion between the CBI and administrative authorities, the matter would be referred to the Commission for advice irrespective of the level of the official involved. The organisation would take further action in accordance therewith.
- v. The law of the land permits prosecution as well as RDA to proceed simultaneously (Jang Bahadur Singh v/s Baijnath Tewari, 1969 SCR, 134).
- vi. Where the suspect officer is primarily accountable for conduct which legitimately lends itself to both criminal prosecutions in a court of law as well as RDA, as a general rule, both should be launched simultaneously after consultation with the CBI or other investigating agencies charged with conducting the prosecution. Such simultaneous conduct of RDA and criminal prosecution should be resorted to especially if the prosecution case is not likely to be adversely affected by the simultaneous conduct of RDA. Keeping RDA in abeyance should be an exception rather than rule. Copies of all the relevant documents authenticated by the competent authority may be retained, for the purpose of RDA, before the original documents are sent to the Court. If the documents have already been sent to a Court of Law for the purpose of criminal proceedings, certified copies may be procured for the purpose of RDA. Care, however, should be taken to draft the charge sheet for the purpose of RDA in such a manner that it makes the suspect official accountable for violation of various provisions of CDA Rules without reference to criminal

misconduct.

## **12. PUNITIVE VIGILANCE**

The CVO is expected to scrutinize reports of Parliamentary Committees such as Estimates Committee, Public Accounts Committee and the Committee on public undertakings; audit reports; proceedings of both Houses of Parliament; and complaints and allegations appearing in the press; and to take appropriate action thereon. Predominantly, the CVO is expected to take following action on the punitive vigilance aspects:

- (a) To receive complaints from all sources and scrutinize them with a view to finding out if the allegations involve a vigilance angle. When in doubt, the CVO may refer the matter to his administrative head;
- (b) To investigate or cause an investigation to be made into such specific and verifiable allegations as involved a vigilance angle;
- (c) To investigate or cause an investigation to be made into the allegations forwarded to him by the Commission or by the CBI;
- (d) To process the investigation reports expeditiously for obtaining orders of the competent authorities about further course of action to be taken and also obtaining Commission's advice on the investigation reports where necessary;
- (e) To ensure that the charge sheets to the concerned employees are drafted properly and issued expeditiously;
- (f) To ensure that there is no delay in appointing the inquiring authorities where necessary;
- (g) To examine the inquiry officer's report, keeping in view the evidence adduced by the prosecution and the defence during the course of inquiry, and obtaining orders of the competent authority about further course of action to be taken and also obtaining the Commission's second stage advice and UPSC's advice, where necessary;
- (h) To ensure that the disciplinary authority concerned, issued a speaking order, while imposing a punishment on the delinquent employee. The order to be issued by the disciplinary authority should show that the disciplinary authority had applied its mind and exercised its independent judgment;

- (i) To ensure that rules with regard to disciplinary proceedings are scrupulously followed at all stages by all concerned as any violation of rules would render the entire proceedings void;
- (j) To ensure that the time limits prescribed for processing the vigilance cases at various stages, as under, are strictly adhered to:

SL. NO.	STATE OF INVESTIGATION OR INQUIRY	TIME LIMIT
1	Decision as to whether the complaint involves a vigilance angle	One month from receipt of the complaint
2	Decision on complaint, whether to be filed or to be entrusted to CBI or to be taken up for investigation by departmental agency or to be sent to the concerned administrative authority for necessary action	One month from receipt of the complaint
3	Conducting investigation and submission or report.	Three months.
4	Department's comments on the CBI reports in cases requiring Commission's advice.	One month from the date of receipt of CBI's report by the CVO/Disciplinary Authority.
5	Referring departmental investigation reports to the Commission for advice.	One month from the date of receipt of investigation report.
6	Reconsideration of the Commission's advice, if required.	One month from the date of receipt of Commission's advice.
7	Issue of charge-sheet, if required.	(i) One month from the date of receipt of Commission's advice. (ii) Two months from the date of receipt of investigation report.
8	Time for submission of defence statement.	Ordinarily ten days or as specified in CDA Rules.
9	Consideration of defence statement.	15 (Fifteen) days.
10	Issue of final orders in minor penalty cases.	Two months from the receipt of defence statement.
11	Appointment of IO/PO in major penalty cases.	Immediately after receipt and consideration of defence statement.
12	Conducting departmental inquiry and submission or report.	Six months from the date of appointment of IO/PO.



13	Sending a copy of the IO's report to the Charged Officer for his representation.	Within 15 days of receipt of IO's report if any of the Articles of charge has been held as proved. 15 days if all charges held as not proved. Reasons for disagreement with IO's findings to be communicated.
14	Consideration of CO's representation and forwarding IO's report to the Commission for second stage advice.	One month from the date of receipt of representation.
15	Issuance of orders on the Inquiry report.	One month from the date of Commission's advice. Two months from the date of receipt of IO's report if Commission's advice was not required.

- (k) Vide CVC Office Order No. 4/2/09 dated 27th February 2009, the Commission has mandated that, for all complaints under Public Interest Disclosures and Protection of Informers, the maximum time limit for submission of report is ONE month from the receipt of reference of the Commission.
- (l) For Complaints against Board level appointments, CVC Vide Office Order No. 57/8/04 dated 31st August 2004, the Commission has decided as follows:
- i. As a rule, complaints/cases which are more than 5 years old and no action has been taken till then, should not be investigated, However, the time 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 6 months prior to the initiation of selection process for senior posts.

Although the discretion to place a public servant under suspension, when a disciplinary proceeding is either pending or contemplated against him, is that of the disciplinary authority, the CVO is expected to assist the disciplinary authority in proper exercise of this discretion. The CVO should also ensure that all cases in which the officers concerned have been under suspension are reviewed within a period of 90 days with a view to see if the suspension order could be revoked or if there was a case for increasing or decreasing the subsistence allowance.

The Commission's advice in respect of category 'A' officials is to be obtained at two stages; firstly on the investigation report in terms of Para 11(iv) and secondly on the inquiry report in terms of para 11(vii) supra. The CVO has to ensure that the cases receive due consideration of the appropriate disciplinary authority before these are referred to the Commission and its tentative recommendation is indicated in the references made to the Commission. The references to the Commission should be in the form of a self-contained note along with supporting documents, viz the complaint, investigation report, statement/version of the concerned employee(s) on the allegations established against them and the Comments of the administrative authorities thereon in first stage advice cases; and copy of the charge-sheet, statement of defence submitted by the concerned employee, the report of the inquiring authority along with connected records and the tentative views/findings of the disciplinary authority on each article of charge in second stage advice cases. The CVO may also ensure that the bio-data of the concerned officers is also furnished to the Commission in the prescribed format, while seeking its advice. The cases requiring reconsiderations of the Commission's advice may, however, be sent with the approval of the Chief Executive, or the Head of the Department, as the case may be.

### **13. SURVEILLANCE AND DETECTION**

The CVO should conduct regular and surprise inspections in the sensitive areas in order to detect if there have been instances of corrupt or improper practice by the public servants. He should also undertake prompt and adequate scrutiny of property returns and intimations given by the public servants under the conduct rules and proper follow up action where necessary. In addition, he should also gather intelligence from its own sources in whatever manner he deems appropriate about the misconduct/malpractices having been committed or likely to be committed.

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

### **14. ORGANISING REVIEW MEETINGS /STRUCTURED MEETING OF CVO WITH CMD**

The CVO would arrange quarterly meetings to be taken by the Secretary of the

Ministry/Department or the Chief executive for reviewing the vigilance work done in the organisation.

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

The CVO would also arrange monthly or quarterly meetings in a structured manner with CMD for review of Vigilance Work/ activities. Minutes of such review meetings held would be reported by CVO in the Monthly report to the Commission.

## **15. SUBMISSION OF REPORTS AND RETURNS**

The CVO would also ensure that monthly reports of the work done on vigilance matters are furnished to the Commission by fifth day of the following months.

The CVO would ensure that the Annual Report(AR) of the previous year ( Jan. to Dec.) of the work done on vigilance matter is furnished to the Commission by 30th Jan. of the succeeding year.

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

## CHAPTER – 5

# VIGILANCE IN HMT MACHINE TOOLS LIMITED AND Its SUBSIDIARIES

### 1. CORPORATE VIGILANCE VISION:

- Preventive over Punitive Actions
- To enforce meaningful, workable and objective Systems/Procedures to: Develop Trust and Transparency in all Transactions.
- Prevent leakage of revenue.
- Promote pride and self-esteem of the organization
- Time bound action in all spheres of activities.

### 2. CODE OF CONDUCT FOR VIGILANCE PERSONNEL

#### 2.1 Vigilance Organization

- (i) Vigilance is an important function of the management, like other functions viz., Finance, Personnel, Marketing, etc. It is now considered part and parcel of the organization. Vigilance, therefore, cannot overlook the ultimate objectives of the organization and has to function within their framework. Though the prime object of Vigilance is to eradicate corruption in the organization, it has to safeguard the interests of the organization and, therefore, has to take a balanced view.
- (ii) The Vigilance Organization should never be instrumental in ‘framing’ a case against an employee. It should never be a tool in the process of witch-hunting at the behest of any individual, however highly placed she / he may be.
- (iii) Vigilance efforts to tackle malpractices and corruption in the organization should, primarily, be objective.
- (iv) Vigilance checks should be objective. Preventive checks should be judiciously designed to give fair coverage to all sensitive departments with due Weightage to factors like:
  - Loss of revenue to the organization
  - Harassment of the common man.
- (v) Vigilance should steer clear of quarrels / personal enmity between two individuals as

attempts are often made to involve Vigilance in such matters.

- (vi) Vigilance should not interfere in administrative matters. This should be left to the department itself. Complaints having Vigilance angle only need be looked into by Vigilance.
- (vii) There should be no subversion of Vigilance cases to favour an individual on account of local / political pressures or pulls. Vigilance should give their recommendations to the Disciplinary Authority without any fear or favour.

## **2.2 VIGILANCE OFFICIALS**

- (i) While working in the Vigilance organization, an official has got a very onerous duty to perform. She / he has to simultaneously protect the interests of both the organization as well as that of the employee.
- (ii) In this context, one's Conduct could perhaps be divided into two categories – Official Conduct and Personal Conduct.

In So Far As Official Conduct Is Concerned, A Few Cardinal Principles required to be mentioned:

- (a) The first point is that speedy investigations must be ensured. It is necessary that investigation is expedited so that either the employee/officer is brought to book quickly and punished, or he/she is cleared and is able to regain his/her position in the department. The laid down schedule of investigation should therefore be strictly followed; and frequent discussions should be held by Investigating Officer with superiors and the AGM/DGM(Vig) to ensure that the investigations are being carried out on correct lines and that they are not delayed. Expeditious finalization of investigation is very important.
- (b) The second cardinal principle is to be followed is that the investigation must be fair and impartial. Enough precautions must be taken to ensure that personal prejudices do not influence the investigation. Besides this, there is another aspect which requires emphasis, i.e. a hasty and faulty conclusion must not be arrived at. The facts and merits of a case and not the reputation of the officer should be the real determinant. Again, whenever disciplinary proceedings are initiated, it must be ensured that departmental enquiries are also conducted expeditiously so that the Organization is able to decide

quickly about the role of the Charged Officer in the alleged transaction or malpractice and is able to take an early decision on penalty to be awarded or otherwise. The Vigilance Officers must keep constant track of the cases at all stages and ensure logical conclusion.

### 2.3 MODEL CODE OF CONDUCT – GENERAL

- Never disclose the source of your information to anyone.
- Never foul up human relations by divulging the identity of the complainant(s) or informant(s) to the personnel concerned.
- Never discuss the case under investigation with any outsider(s) or even colleague(s).
- Never be light hearted irresponsible in your general conduct.
- Never be swayed by pre-conceptions, prejudices or pressure.

### 2.4 PREVENTIVE CHECKS

- **Be diligent** : that is, be thorough in investigation / fact finding, dig as far deep into transactions and as far back in time as possible.
- **Be detailed** : that is, let your coverage of the area chosen be intensive and extensive.
- **Be dynamic** : that is, do not merely state static facts; make them come live and speak for you by eliciting any trends and patterns of conduct or any decision making impinging on Vigilance.
- **Be qualitative**: Vigilance Officers should not bother about initiating the number of preventive checks as a criterion for showing more output. They should concentrate on sensitive areas and on the activities of the officers borne on the Agreed and secret lists. Even if checks are fewer in number, they must be thorough and complete and be able to withstand scrutiny. In fact, few checks resulting in more people being caught / detected indulging in various malpractices and result in improvement of procedures, thus eliminating or minimizing the chances for corruption, are much better than the numerous checks conducted perfunctorily.

### 2.5 PERSONAL CONDUCT

In respect of Personal Conduct, the following important points may be borne in mind:

- (i) Each Vigilance official in a Vigilance Organization has to be a hundred percent honest. Vigilance officials have not only to be honest, but appear to be so.
- (ii) Personal prejudices and idiosyncrasies must not get the better of logic or reason. Logic / reason is the instrument to reach the final objectives of truth and justice.
- (iii) Humility does not necessarily mean weakness. One should be firm in conviction, determination and argument.
- (iv) Nothing should be done with a view to perpetrating revenge on any person to settle an old score.
- (v) The objective of the Vigilance organization is to bring about cleanliness in the different fields of organizational working. Punishing people is neither the primary nor the only objective; it is incidental to our efforts.
- (vi) Be polite and courteous, courtesy costs nothing.

### **3. ESTABLISHMENT AND VIGILANCE SET UP IN HMT:**

Ever since its inception, the Vigilance Department co-existed with Security Department and was generally identified as S&V (Security & Vigilance) Dept. Decision was taken by HMT Management for bifurcation of Security and Vigilance Department in the Company, with a view to strengthen and focus only on anti- corruption activities.

With a view to tackle corruption and making the functioning of investigating and Vigilance agencies more independent, effective, credible and prompt, the Department of Public Enterprises (Govt. of India), vide their letter No. 15(7)/98(GL-009) GM dated 25th September 1998, has recommended model vigilance set-up for the PSE's as a broad guideline to be adopted with such modifications as may be appropriate in the case of an individual undertaking. Based on the recommendations made in the above letter of DPE the vigilance setup in HMT was recognized and the present setup established.

At the Corporate level, the Vigilance work is looked after by the Chief Vigilance Officer who enjoys the status, facilities and perquisites equivalent to that of a Functional Director of the Company. She/he is assisted by an Executive Assistant in the grade of Assistant General

Manager who directly reports to CVO. At the Field Level, a Dy. General Manager leads all investigations. Officers at various levels, who are essentially Investigating Officers report to the CVO through the DGM(Vig).

Divisional Vigilance Offices have been set up in Bangalore, Kalamassery, Pinjore, Hyderabad and Ajmer. Functionally all the Vigilance Officers functionally report to CVO through the DCVO and administratively to the respective Division Chiefs.

#### **4. DUTIES AND RESPONSIBILITIES:**

##### **4.1 DGM (VIGILANCE)-CO / ASST. GENERAL MANAGER (VIGILANCE):**

- (a) He/ She will report administratively and functionally to the Chief Vigilance Officer.
- (b) He/ She will assist CVO for ensuring implementation of Corporate Policies and CVC/DPE/MoD guidelines on all vigilance related matters in the Company.
- (c) He/ She will be responsible for compilation/collation of all vigilance reports, correspondences and returns from all the division including Corporate Vigilance and further onward submission to the MoD/CVC/CBI and other Government departments.
- (d) He/ She will follow up the cases pending investigation/enquiry/disciplinary actions in all Divisions for timely disposal as per CVC guidelines.
- (e) He/ She will maintain a Vigilance Complaint Register in prescribed format at the Corporate level for keeping records of complaints received in Corporate Vigilance. He will also maintain register for keeping track of progress of investigation and disciplinary proceedings in prescribed format. He will sign entries in the complaint register. If the complaint relates to non-vigilance matters which are received in vigilance section, then it will be separately entered in the register in part II and after entering the details the complaints will be forwarded to HR or the concerned department for further action.
- (f) He/ She will ensure circulation of CVC/DPE/MoD guidelines/Circulars to all Divisions for compliance. He shall also follow-up for the compliance report.
- (g) He/ She will liaise with the CBI and vigilance set up of other Central PSUs in Bangalore, regarding vigilance matters.
- (h) He/ She shall co-ordinate with CVC for carrying out their audit on vigilance function



and take corrective actions based on audit findings of CVC.

- (i) He/ She will put up nominations of Officers for external training / seminars / meetings relating to vigilance and disciplinary proceedings and maintain record of trained Officers.
- (j) He/ She will put up for CVO agenda points of MoD/CVC and other important meetings, relating to Vigilance.
- (k) He/ She will visit Division in connection with vigilance related activities.
- (l) He/ She will put for scrutiny and put up at least 20% of APRs of Executives of Grade V and above in the Company before CVO every year in prescribed format so that APRs of all Executives are covered in 5 years.
- (m) He/ She will verify the records of non-executives before processing the vigilance clearance working in Corporate Office and Marketing Division (including Regional and District Offices) for promotion / confirmation / superannuation / resignation / VRS / issue of passports / Visa, whether any department disciplinary cases/vigilance cases are pending or under punishment period or any police case filed by HMT pending or bound by any obligations/agreements to serve the Company. In case of Executives (Grade I to V) he will give vigilance clearance after duly verifying the records as done in the case on non- executives and give vigilance clearance. For executives (Grade VI and above) after verifying the records as done in the case of others, he will put up the note sheet for approval of CVO and then give the vigilance clearance.
- (n) He/ She will look after the work of CVO in his absence with prior approval.
- (o) He/ She will put up review of vigilance work done by VOs/AVOs on half yearly basis along with his comments.
- (p) He/ She will initiate action for updating of HMT Vigilance manual yearly.
- (q) He/ She shall carry out any other duties entrusted to him by CVO/CMD

The Corporate Vigilance department in the organization has five functional wings The Vigilance functionaries will report to DGM(Vig-CO) and assist in all the Vigilance matters as enumerated in the Duties and responsibilities of DGM/AGM as also the functional wings as follows:

- Investigation Wing

- ▶ Disciplinary Wing
- ▶ Anti-corruption Wing
- ▶ Preventive Vigilance Wing
- ▶ Technical Wing

The assigned tasks of these wings are given below:

**a) Investigation Wing:**

To deal with complaints received from various sources such as individuals, CVC, CBI, Media, Audit, conduct investigations and verification of files for suspected irregularities.

**b) Disciplinary Wing:**

To deal with and follow up of cases arising out of various investigation reports, disciplinary proceedings and inspection reports. Vetting of Charge Sheets pertaining to Vigilance cases. To monitor the progress of inquiry proceedings on all vigilance cases and to put up Disciplinary Authority's recommendations to CVO's concurrence and to review long pending Disciplinary Cases periodically.

**C) Anti-corruption Wing:**

1. To deal with and follow up of cases relating to possession of disproportionate assets, illegal gratification, procedural deviations etc., Preparation of lists of ODI/Agreed list. Liaison with CBI & CVC.
2. To conduct Surprise & Regular inspections. To Update Manuals in line with CVC, MOD, MOF, DPE guidelines. Job rotation of persons posted in sensitive areas. Simplification of Rules and Procedures enumerated under various Circulars & Instructions.

**d) Preventive Vigilance Wing**

To conduct surprise checks, system improvement studies and simplification of procedures, scrutiny of POs and contracts etc., Organize vigilance related seminar/workshops and vigilance awareness training. Identifying red flags in ERP systems vis-a-vis e-procurements, e-tenders etc

**e) Technical Wing:**

To conduct CTE Type of inspection of Civil, Electrical/Mechanical Horticultural Works, Stores etc., Scrutinize the reports submitted by CTE Team & Submit the same with

technical remarks. To co-ordinate with CTE/ CVC to carry out their inspection at HMT.

#### 4.2 HOD OF VIGILANCE DEPARTMENT IN THE DIVISIONS:

- (a) He/She will be responsible for vigilance function of the Division. In discharge of his function, he will report to next immediate superior in the vigilance set up of the Organization. He/she will administratively report to the Division Chief.
- (b) As head of Vigilance of the Divisions, he/she will act as the Member Secretary of the Divisional Vigilance Committee of the Division and assist the Divisional Vigilance Committee in the vigilance matters of the Division.
- (c) He/She will be responsible for the timely submission of all periodical reports/returns/correspondences of Corporate Vigilance on vigilance activities of the Division. He will follow up with the concerned Departments for timely furnishing of information to the Corporate Vigilance pertaining to monthly and quarterly reports
- (d) He/She will review and report the status of implementation of e-tendering / e-procurement in the Division to the Corporate Vigilance every month to ensure strict compliance of CVC guidelines on e-tendering / e-procurement.

E-mode of procurement is resorted to for cases of Indigenous projects/Non- projects/capital items where the estimated value of purchase orders is more than 01 lakh mandatorily. This shall be applicable to all types of tenders i.e. open tenders, limited tenders or single / proprietary tenders.

SL. NO.			
1	Bills Receivable	Scrutiny of Bills Received. Status on realisability of Sundry Debtors.	Divisions VO(M)
2	Bills Payable	Scrutiny of Bills paid to vendors. Random check for payment period, compliance of terms and conditions of payment. (This may not be clubbed with PO Verification/ Surprise Checks).	Divisions
3	EMD, SD, BG.	Status report on reconciliation of Earnest Money Deposit, Security Deposit & Bank Guarantee (Whether lapsed / alive during the currency of the contract, etc)	Divisions Corporate Vigilance

4	Welfare Accounts	Check bills paid to Labor contractors, Civil & Electrical contractors and AMC.	Divisions Corporate Vigilance
5	Sale Orders	Check of Sale Orders vis-à-vis Contract Terms & Conditions and revenue recognition and report in matrix form.	Divisions VO(M)
6	Receiving Stores	Surprise checks at receivable stores. Check for time taken for unloading the lorries. Random check of weighment /quantity.	Divisions
7	Rejected Stores	Surprise checks of sending rejected materials to vendors. If payment is deducted against the rejected material, then the cycle has to be closed. If not the material should be sent for rework and return. The cycle has to be checked.	Divisions
8	Civil / Construction	inspection report of Civil Construction	Divisions & Corporate Vigilance
9	AMC/ House Keeping/ Mtl. Handling	Report on study of contracts like AMC, House Keeping & Material Handling (One per month)	Divisions & Corporate Vigilance
10	Tenders	Percentage of Tenders - Single, Limited, etc., Vertical wise and Product wise.	Divisions & Corporate Vigilance
11	Purchase Orders	PO Verification reports (Rs. 2 Crores & above 100%; Rs. 1 Crore & above; Rs. 50.00 Lakhs & above; Rs. 25.00 Lakhs above, less than Rs. 25.00 Lakhs. Excluding Rs. 2.00 Crores & above, the no. of Pos to be scrutinized is 10 Nos.) Trading Division, Aerospace Division to be covered by Corporate Vigilance.	Divisions & Corporate Vigilance
12	Surprise Checks	Stores Check / Inventory check	Divisions
13	E-Procurement	E-Procurement status vis-à-vis total number of Purchase Orders placed.	Divisions
14	TA/DA & Med. Claims	Scrutiny of expense and Medical claims (5 Nos. each)	Divisions
15	APRs	Scrutiny report of APRs.	Divisions & Corporate Vigilance
16	ERP System	Monitor ERP system for Red Flags	Divisions & Corporate Vigilance

17	Shipping Department	Status on load distribution for equipment transport contractor. Scrutiny of Transport/Carriers Contract. Procedures for allotment of loads, etc.	Divisions
18	Receiving Inspection	Surveillance of Inspection having contact with Vendors and outside public. FIFO followed or not. Random check of sample.	Divisions
19	Weigh Bridge	Check for calibration of weigh bridge once in a while. Check for time taken for preparing the Inbound receipts/way bills and proper storage and weightment of consignments.	Divisions
20	PDO (Part Disposal Orders)	PDOs once issued, material should be sent back to vendor within a stipulated period.	Divisions
21	Stores	Shelf life items issue to be checked for FIFO in SAP.	Divisions
22	LD Deductions	Check for LD deductions in purchase orders / contracts are proper.	Divisions Corporate Vigilance
23	Integrity Pact	Verification of all Purchase orders/contracts of value 1 crore and above and report the same in CTE format.	Divisions

- (g) He/ She will monitor the implementation of various CVC/MoD/DPE/CMD guidelines/circulars and CVOs instructions received from time to time on vigilance matters within his Division and send the status of compliance to Corporate Vigilance.
- (h) He/ She will maintain the list of Executives who are not put through any Vigilance Awareness Programme in the last 10 years as on 1st of April every year and put up the list to the Divisional Vigilance Committee. He will organize vigilance awareness training programmes at least once in six months in consultation with Corporate Vigilance to cover these executives. In addition to this he will organize vigilance awareness programme for non-executives who are posted in sensitive areas and put up list of such non-executives who are posted in sensitive areas and need to be trained as on 1st of April every year before DVC. Besides he will also organize other vigilance related seminars/workshops time to time in consultation with Corporate Vigilance.
- (i) He/ She will maintain a separate office as Vigilance Officer and earmark specific timings and days in a week to meet the Visitors/Staff/Vendors, who come with specific

complaint/information on vigilance issue relating to his Division, exclusively and confidentially.

- (j) He/ She will monitor the timely completion of Investigation/Enquiry/Disciplinary Proceedings pending in his Division and bring it to the notice of the Corporate Vigilance.
- (k) He/ She will conduct scrutiny of at least 20% APRs of Executives (Grade IV and below) in a Financial year and maintain the record of scrutiny in the prescribed format so that, all Executives (Below Grade IV) are covered in a block period of 5 years. He will report any abnormalities/adverse noticed during the scrutiny requiring further action to Corporate Vigilance/CVO.
- (l) He/ She will identify specific corruption prone/sensitive areas in his Division and put up a list of Executives and Non-Executives working for more than 3 years as on 1st April of every year in such places to the Divisional Chief/HR Chief for the job rotation in next 6 months. He will also put up this list in the vigilance committee meeting along with the status on job rotation every month.
- (m) He/ She will identify the executives/non-executives working in the Division for keeping in Agreed List and Doubtful Integrity List in consultation with the Chairman of the Vigilance Committee and send the list to the Corporate Vigilance for approval by 20th of January every year. If non-executives are to be kept in the Agreed List and Doubtful Integrity List the same will be put up to the Chairman of the Vigilance Committee for approval to keep them in internal agreed list and doubtful integrity list by 30th January every year. He will keep close watch on the persons kept in the agreed list and send quarterly reports to the Corporate Vigilance / CVO.
- (n) He/ She will maintain a Vigilance Complaint Register in the CVC's prescribed format (Format-2) and as and when complaints are received, either directly by him or from the Corporate Vigilance or from any other source, it should be entered in the register by giving Sl. Nos.
- (o) When any complaint is received directly by Division, he will maintain details of the

complaint in the register and forward the Original Complaint to Corporate Vigilance for further action.

- (p) He/She will submit the investigation/preliminary enquiry reports on the complaint taken up for investigation in the prescribed format, besides he will also submit the fact verification report on source information/report.
- (q) He/ She will also maintain the track of the progress on the Investigation Reports and the Disciplinary Actions initiated on it till their disposals. He will enter the status of the complaints in register showing the progress/the present status.
- (r) He/ She will organize/conduct surprise and regular checks/inspection in corruption prone areas/sensitive areas and make a record of such checks in the prescribed Monthly Report format. He will also initiate and monitor actions on the lapses observed. He will put up a report on outcome of surprise/regular inspections conducted every month to the Corporate Vigilance/Divisional Vigilance Committee.
- (s) He/ She will collect Intelligence/information on vigilance related matters within his Division and pass it on to the Corporate Vigilance/CVO where necessary and act properly on such information.
- (t) He/ She will expedite the comments/replies on CTE/in-house intensive examination reports on POs/Contracts and other reports. He will also monitor actions recommended in such reports and send the status for implementation to Corporate Vigilance whenever and wherever asked for. He will also put up actions pending on such reports to Divisional vigilance committee.
- (u) He/ She will keep all vigilance related documents including Complaint Register, Files Correspondences, Circulars, Returns, Reports, Periodicals/Books etc., and other documents which he is required to maintain in the capacity of Vigilance Officer in his personal custody and hand over the same to the next incumbent after the completion of his tenure as VO, along with authenticated list of such documents/files.
- (v) He/ She will verify the records of non-executives before issuing the vigilance clearance coming under his Division for promotion / confirmation / superannuation /

resignation / VRS / issue of passports / Visa, whether any department disciplinary cases / vigilance cases are pending or under punishment period or any police case filed by HMT pending or bound by any obligations / agreements to serve the Company. However, before issuing vigilance clearance to the non-executives he will verify from the Corporate Vigilance whether any vigilance case is pending against the non-executives. In case of executives he will verify the records as done in the case on non-executives, make necessary remarks in the note sheet and forward the same to corporate vigilance for vigilance clearance. (For executives in Grade I to IV he will also verify whether they have submitted property returns or not and make remarks on the note sheet).

- (w) Any other task assigned by DGM/AGM(Vigilance)/ CVO.

#### **4.3 ASST. VIGILANCE OFFICER / VIGILANCE OFFICER IN DIVISIONS:**

- (a) He will assist and report to HOD in all vigilance matters of the division.
- (b) He will investigate the cases entrusted to him by Vigilance Officer/Corporate Vigilance and submit the report in time. He will also keep documents relating to investigation in safe custody and make them available to appropriate authority.
- (c) He will assist HOD in organizing/conducting regular/surprise inspection and will also conduct independent inspections in consultation with Vigilance Officer, in corruption prone and sensitive areas of the Division.
- (d) He will develop and maintain effective vigilance information network in his Division.
- (e) He will assist HOD in keeping watch over persons kept in Agreed List/Doubtful Integrity in the Division.
- (f) In absence of HOD he will discharge the duties of Vigilance Officer of the Division with prior approval.
- (g) He will assist HOD in preparation and submission of periodical reports/returns and in maintenance of records/registers to keep track of progress of Vigilance cases.
- (h) He will carry out any other task assigned to him by the HOD / DGM (Vigilance) / CVO.

### **5. AUTHORITY FOR CARRYING OUT VIGILANCE WORK IN HMT**

The Chief Vigilance Officer and the Vigilance Officials (posted in the Complex / Division) are



the extended arms of the Central Vigilance Commission and are duty bound to implement the anti-corruption measures of the Government in HMT, completely and effectively. In order to achieve the above objectives all Vigilance Officials are duly empowered by the Chief Vigilance Officer with the following authority: -

- (a) All Vigilance Officials will have unrestricted access (including their official vehicles) to any location in the factories / departments / hangars / buildings / shops / establishments / welfare units / township / residential Quarters / sports & entertainment amenities, ancillary units / liaison offices / RM Offices / Guest Houses etc., at any time for carrying out Vigilance work.
- (b) All Vigilance Officials are empowered to seize records / documents / files / information (contained in any electronic storage device in any form) / articles, for the purpose of vigilance investigation.
- (c) All Vigilance Officials are empowered to examine employees of HMT for vigilance enquiries / investigation, record their statement, obtain their signature on such statements / obtain their signature on the samples, etc.
- (d) All Vigilance Officials are empowered to conduct surprise / random / routine checks / inspections etc., of the points / places etc., in any Department / Office / Hangar / Premises / Estate / Township including shops / establishments / residential quarters etc as part of either Preventive or Punitive Vigilance activity.
- (e) All Vigilance Officials are empowered to collect / obtain samples of materials (in any form) for the purpose of testing etc during the course of inspection of civil / mechanical / electrical works and obtain photographs if required of the articles / points / places in question.
- (f) All Vigilance Officials are empowered to draw inspection / surprise / routine check report at the points / points of check and to obtain signature of the concerned in- charge, user / operator / custodian etc., as a token of confirmation that the same was carried out in their presence and that they are party to the details recorded.

- (g) All Vigilance Officials and their vehicles are empowered for unrestricted movement (entry and exit) at their place of work at any time for the purpose of vigilance activities.
- (h) All Vigilance Officials are empowered to meet their sources, or any officials of government / non-government / private / public etc., for vigilance verification / work or for liaison.
- (i) All Vigilance Officials are empowered (under the supervision of CVO) for carrying out detective / surveillance as part of Vigilance work.

A photo identity card summarizing the above will be issued to each and every Vigilance Official. Non cooperation / obstruction to Vigilance Officials in discharge of their duties by any employee of the Company would be deemed as misconduct and liable for disciplinary action as per the Rules of the Company.

## **6. PROTECTION TO VIGILANCE OFFICIALS FOR ACTS DONE IN GOOD FAITH**

The Vigilance functionaries conduct enquiries / investigations on behalf of the CVO / Management. During the course of investigation / enquiries to unearth, the facts of the case or which is warranted to bring the case to a logical conclusion the acts of the functionary should not be treated prejudicial to good order and discipline or malafide intention. The acts of the Vigilance functionaries are to be treated as in good faith and in the best interests of the Company and no Disciplinary Action should be initiated against the Vigilance Functionary. Whenever disciplinary action against Vigilance Officer is contemplated, authority to sanction is the Chairman through CVO and in case of Vigilance Workman, CVO will be the sanctioning authority.

## **7. PROTECTION AGAINST VICTIMISATION OF OFFICIALS OF THE VIGILANCE UNITS: (CVC Circular No.16/3/06 dated 28th March 2006)**

- 7.1** The Commission has viewed seriously certain instances of harassment and attempts at victimisation 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 organisation, has been recognized since long. In fact, the Committee on Prevention of Corruption (Santhanam Committee) had recommended that “those posted to the Vigilance Organizations

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 Organizations 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”.

- 7.2** The Commission has considered the problem of possible victimisation of Vigilance officials after they finish their tenure in the Vigilance Department and revert to their normal duties. In the case of CVOs, already, the Commission, as Accepting Authority, is in a position to moderate, if necessary, any biased reporting against the CVO in his ACR. Similarly, the Commission has always been extremely careful and cautious while taking cognizance of complaints against the CVOs and as a matter of principle always obtains the CVO’S response before coming to any conclusion on the need to investigate such complaints.
- 7.3** 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:
- (a) All personnel in Vigilance Units will be posted only in consultation with and the concurrence of the CVOs. They will be for an initial tenure of three years extendable up to five years. Any premature reversion before the expiry of such tenure will only be with the concurrence of the CVO. The CVO shall bring to the notice of the Commission any deviation from the above.
  - (b) The ACR of personnel working in the Vigilance Department will be written by the CVO and reviewed by appropriate authority prescribed under the relevant conduct rules. The remarks in review shall be perused by the CVO and in case he has reservations about the comments made under the review, he shall take it up with the Chief Executive/HOD to resolve the issue. In case he is unable to do this, he shall report the matter to the Commission who will intercede in the matter suitably.

- (c) Since the problem of victimisation occurs, if at all, after the reversion of the personnel to their normal line departments, the Commission would reiterate the following:
  - (i) On such reversion the vigilance personnel shall not be posted to work under an officer against whom, while working in the vigilance department, he had undertaken verification of complaints or detailed investigation thereafter. Needless to say his ACR shall not be written by such officer/s.
  - (ii) 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.
  - (iii) All Vigilance personnel on reversion shall be entitled to represent through the CVO and chief executive of the organisation to the Commission if they perceive any victimisation as a consequence of their working in the Vigilance department. This would include transfers, denial of promotion or any administrative action not considered routine or normal. This protection will be extended for a period not less than five years after the reversion of such personnel from the vigilance department.

**7.4** The above instructions may be noted for strict compliance. The CVO should report promptly to the Commission, the details of any real or perceived victimisation of any official who is working in the Vigilance Unit. Similarly, he should also report such instances pertaining to the former officials of the Vigilance Unit, up to a period of five years after they had completed their tenure in the Vigilance Unit. He should also report where such deserving officials are ignored/ superseded in matters of promotion.

#### **8. FUNCTIONAL AND ADMINISTRATIVE CONTROL OVER VIGILANCE OFFICIALS:**

All matters pertaining to functional and administrative control over vigilance officials like, recruitment, induction, training, transfer / job rotation, promotion, movement / temporary duty / forwarding of applications / writing of Performance Appraisal Reports / Disciplinary action etc., would be exercised by the Chief Vigilance Officer.

## **9. DETAILING OF VIGILANCE STAFF IN COMMITTEES AND NON-VIGILANCE ACTIVITIES**

The role of the Vigilance staff in the Divisions / Complexes is to study systems and procedures, which include surprise and regular inspections / checks and anti-corruption work. Vigilance staff will not be engaged in activities such as gathering information on union activities, investigation on industrial relations, verification of firms and individuals in non-vigilance cases, members of any committees, routine administrative meetings etc. The Government in consultation with the Central Vigilance Commission has issued guidelines vide O.M. No.321/77/91-ADV.III dated 9 June 1992 that the Vigilance functionaries should not be a party to processing and decision making process or any other similar administrative transactions of such nature which are likely to have clear vigilance sensitivity.

## **10. APPOINTMENT OF VIGILANCE OFFICERS IN DEPARTMENTAL ENQUIRY COMMITTEE.**

Vigilance Officers will not be appointed as Enquiry Officer, Presenting Officer, and Co- Officer, in exceptional cases they may be appointed as Presenting Officer with the concurrence of the CVO

### **10.1 Duties of the Vigilance Officers' and Staff in Departmental Enquiry Committees:**

The Vigilance Officers and the Vigilance staff play a vital role in the Departmental Enquiry Committee proceedings. The onus of proving the charges is on the prosecution. The prosecution is based on the investigation report prepared by the Vigilance Department. It is imperative that the Vigilance Officers and the Vigilance Staff should collect all the evidence before an investigation report is finalized and recommended the prosecution of the defaulting employees.

The Vigilance Officers and staff must provide all assistance and evidence gathered by them to the Presenting Officer.

## **11. ADMINISTRATIVE VIGILANCE**

Administrative Vigilance encompasses conduct of Quarterly Vigilance Committee Meetings in the Divisions. Issuance of No-Objection Certificate / Vigilance Clearance for various purposes and timely submission of reports and Returns.

## **12. FUNCTIONS OF THE CHAIRMAN, DIVISIONAL VIGILANCE COMMITTEE**

(Ref. Circular No. 1257 dated 25.07.2006 issued by K(HR)) reads Circular No. 1542 dated 03.09.2013)

- (i) As Chairman of Divisional Vigilance Committee, he will Endeavour to maintain integrity and transparency in all functions of his Division.
- (ii) He will chair the monthly meeting of the Divisional Vigilance Committee every month to review the status of Vigilance related issue in the Division. The meeting to be held latest by 25th of every month, so that the minutes/monthly report/quarterly report could reach Corporate Vigilance by last day of the month.
- (iii) He along with VO will identify Executives/Non-Executives who are to be kept under Agreed List and Doubtful Integrity List and send the same to Corporate Vigilance for further action.
- (iv) Any other task assigned by CMD/CVO.

## **13. CONSTITUTION AND FUNCTIONS OF DIVISIONAL VIGILANCE COMMITTEE**

(Ref. Circular No. 1257 dated 25th July 2006 issued by K(HR))

- (i) The Divisional Vigilance Committee will be constituted as follows:
  - a. Divisional Head - Chairman
  - b. Divisional Personnel Head - Member
  - c. Divisional Finance Head - Member
  - d. Divisional Material Management - Member
  - e. Divisional Plant Maintenance - Member
  - f. Divisional Security Head - Member
  - g. Divisional Vigilance Officer - Member Secretary
- (ii) The Divisional Vigilance Committee constituted as above may co-opt any other senior Executive of the Unit as member of the Committee on need basis when there is requirement of such member in the committee to discuss the vigilance related issues pertaining to area of activity of such member.
- (iii) The meeting of Divisional Vigilance Committee will be held every month latest by 25th to deliberate on vigilance related matters pertaining to the Division. In the absence of the

Chairman, the senior most member of the committee will officiate as Chairman of the committee. The minutes of the meeting along with the monthly report of vigilance status will be sent by the Member Secretary through Chairman of the Divisional Vigilance Committee to Corporate Vigilance to reach by last day of the month.

- (iv) The Vigilance Committee will review the status of pending Disciplinary/inquiry Proceedings and Vigilance issues in the Division and will take necessary action to ensure timely disposal of such cases. The Member Secretary will put before the Committee, the details of such pending cases and other vigilance related matter requiring the attention of the Committee.
- (v) The Divisional Vigilance Committee will review the status of implementation of e-tendering/e-procurement in the Division and will ensure that, CVC Guidelines/CMD/CVOs instructions on the subject is compiled to bring transparency in procurement and contracts.
- (vi) The Divisional Vigilance Committee will review the status of implementation of instructions contained in CVC/MoD/DPE Guidelines received from time to time on vigilance matters in the Division. For this purpose, the Member Secretary will put up the list of such guidelines and circulars received, if any, every month and requiring/pending implementation.
- (vii) The Divisional Vigilance Committee will identify the corruption prone/sensitive areas of the sections in the Division and plan and implement rotation of Executives and Non-Executives working in corruption prone/sensitive areas for more than 3 years as on 1st April of every year within next 6 months. The Member Secretary will put up the list of such Executives and Non-Executives in the monthly meeting held in April every year and thereafter status of implementation of job rotation every month.
- (viii) The Divisional Vigilance Committee will review monthly, the system of surprise and regular inspection in the Division and take appropriate steps for its efficient working. The Divisional Vigilance Committee will take notice and also review the lapses observed during such surprise and regular inspection and take appropriate actions. The Member Secretary will put up before the Committee, a brief on surprise/regular inspection

conducted in the month highlighting the lapses found. He will also put up actions pending for implementation in earlier surprise/regular checks. The checklist for scrutiny is enclosed.

- (ix) The Divisional Vigilance Committee will appoint sub-committee to scrutinize high value POs/Contracts and review the status of implementation of action on lapses found by the sub-committee every month. All PO/Contracts of more than Rs.50 lakh are to be scrutinized compulsorily. The Member Secretary will put up list of such cases pending action before Committee every month.
- (x) The Divisional Vigilance Committee will review the status of comments/replies and actions pending on CTE/in-house Intensive Examination Reports and take appropriate actions on timely compliance. The Member Secretary will put up list of such pending paras and actions pending relating to such examination reports.
- (xi) The Divisional Vigilance Committee will ensure that all Executives are put through vigilance awareness programme at least once in 10 years. Besides, it will also ensure that non-executives who are functioning in sensitive areas are to be exposed to Vigilance Awareness Programme. The Member Secretary will put up list of such executives/non-executives along with status of training in the committee.
- (xii) The Divisional Vigilance Committee will facilitate study of system improvement taken by the Vigilance Officer on different areas at least once in 6 months and ensure implementation of measures recommended.
- (xiii) The Divisional Vigilance Committee will provide all logistics support and other facilities to Vigilance Officer/Investigating Officer to facilitate efficient functioning of vigilance in the Division.
- (xiv) Any other task assigned by CMD/CVO.

#### **14. ACCESS TO DOCUMENTS**

A Vigilance Officer, by virtue of powers conferred vide CVC's Circular No.3/2/07 issued vide letter No.007/VGL/013 dated 23rd February, 2007, is empowered to seize or take into custody, all documents / records / material pertaining to a particular complaint / allegation



for purpose of investigations. As per the directions of the CVC, if the allegations contain information which can be verified from any documents / records / material, the Investigating / Vigilance Officer should, without loss of time, secure such records / documents and take them into personal custody.

## **CHAPTER – 6**

### **PREVENTIVE VIGILANCE**

- 1. GUIDELINES ON THE SUBJECT OF VIGILANCE CLEARANCE AND RELATED MATTERS** These guidelines have been prepared to facilitate decision making in respect of cases concerning vigilance clearance and other related matters. These are based on the instructions on the subject as on date and are subject to change.

#### **1.1 CONFIRMATION OF AN OFFICER**

##### **1.2 Orders on the subject**

DoPT OM no. 22011/5/86-Estt.(D) dated 10th April 1989

##### **Guidelines**

As per above mentioned Office Memorandum (OM) a vigilance clearance from the Vigilance Section of the Office should be obtained before making actual promotion or confirmation of officer approved by Departmental Promotion Committee(DPC) to ensure that no Departmental Proceedings are pending against the officer concerned.

#### **1.3 PROMOTION**

##### **1. Orders on the subject**

DoPT OM no. 22011/4/91-Estt.(A) dated 14th September 1992 and DoPT O.M. no.22011/5/86-Estt.(D) dated 10th April 1989 (clause 17.1)

##### **2. Guidelines**

As per above mentioned OMs at the time of consideration of cases of Government Servant for promotion, details of Government Servant in the consideration zone for promotion falling under the following category should be specifically brought to the notice of Departmental Promotion Committee: -

- (i) Government servants under suspension.
- (ii) Government servants in respect of whom a charge sheet has been issued and disciplinary proceedings are pending.
- (iii) Government servants in respect of whom prosecution for criminal charge is pending.

In addition, a vigilance clearance from the Vigilance Section of the Office should be obtained before making actual promotion or confirmation of officer approved by DPC to ensure that

no Departmental Proceedings are pending against the officer concerned.

#### **1.4 RESIGNATION**

##### **(i) Orders on the subject**

3.1.1 DoPT O.M. No. 28034/4/94-Estt.(A) dated 31st May 1994,  
G.I. MHA (D.P. & A.R.) OM no. 24011/1/76-Estt(B) dtd 17th May 1976 and Clause 6.14.1 of  
CVC Vigilance Manual 2005.

##### **(ii) Guidelines**

As per above mentioned OM orders, in all cases of resignation, the Competent Authority, shall insist, as mandatory measure on prior vigilance clearance, before taking decision on the request for resignation.

A check list of points for consideration of cases of resignation has been prescribed which, inter alia, includes the following points:

- a) Whether any inquiry or investigation or disciplinary case is pending or contemplated.
- b) Whether under suspension.

If an officer against whom an inquiry or investigation is pending (whether he has been placed under suspension or not) submits his resignation, such resignation should not normally be accepted. Where, however, the acceptance of resignation in such a case is considered necessary in public interest because one or more of the following conditions are fulfilled, the resignation may be accepted with the prior approval of the Head of Department in case of holders of Group 'C' and Group 'D' posts and that of the Minister-in-charge in respect of holders of Group 'A' and Group 'B' posts:-

- a) Where the alleged offence do not involve moral turpitude; or
- b) Where the quantum of evidence against the accused officer is not strong enough to justify the assumption that if the departmental proceedings were continued, the officer would be removed or dismissed from service; or
- c) Where the departmental proceedings are likely to be so protracted that it would be cheaper to the public exchequer to accept the resignation.

Concurrence of the Central Vigilance Commission should also be obtained if the Central Vigilance Commission had advised initiation of departmental action against the government

servant concerned or such action has been initiated on the advice of the Central Vigilance Commission.

## **1.5 VOLUNTARY RETIREMENT**

### **1. Orders on the subject**

Dpt. of Per. & A.R., O.M. No. 25013/7/77-Estt. (A) dtd the 26th August, 1977,  
O.M. No. 25013/3/79-Ests. (A), dated the 28th July, 1979,  
O.M. No. 25013/10/85-Estt. (A), dated the 5th July, 1985 and  
Dept. of Per. & Trg., O.M. No. 25013/3/2003-Estt. (A), dtd the 17th June, 2003

### **2. Guidelines**

As per these orders, a notice of voluntary retirement given after completion of 20 years of qualifying service will require acceptance by the Appointing Authority.

The acceptance may be generally given in all cases except these:

1. In which the disciplinary proceedings are pending or contemplated against the Government Servant concerned for imposition of a major penalty and the Disciplinary Authority having regard to the circumstances of the case is of the view that the imposition of the penalty of removal or dismissal from service would be warranted in the case, or
2. In which the prosecution is contemplated or may have been launched in a Court of Law against the Government servant concerned.
3. If it is proposed to accept the notice of voluntary retirement even in above mentioned cases, approval of the Minister In-charge should be obtained in regard to Group 'A' and Group 'B' Officer and that all the Heads of the Department in the case of Group 'C' and Group 'D' Government servants.
4. The Government Servants given notice may presume acceptance of the notice of voluntary retirement and the retirement shall be effective in terms of the notice unless the Competent Authority issues an order to the contrary before the expiry of the period of notice.

## **1.6 RETIREMENT ON SUPERANNUATION**

### **1. Orders on the subject**

Sub Rule 4 of the Rule 9 of the CCS(Pension) Rules, 1972 and Sub-Rule (3) of Rule 39 of the CCS(Leave) Rules, 1972

## **Guidelines**

The information regarding the pendency of any departmental or judicial proceedings against the Government Servant is required in order to sanction pension, gratuity and encashment of leave of the retiring officer.

### **1.7 NOMINATION OF OFFICERS FOR FOREIGN DEPUTATION IN CONNECTION WITH STANDARDIZATION, CONFORMITY ASSESSMENT, TRAINING, ETC.**

#### **1. Orders on the subject**

**DoPT OMs no. 11012/11/2007-Estt (A) dated 14th December 2007 and 27th September 2011)**

#### **2. Guidelines**

The above mentioned orders are applicable in respect of:

- (i) empanelment
- (ii) Any deputation for which clearance is necessary.
- (iii) Appointment to sensitive posts and assignments to training programmes (except mandatory training)

In all these cases the vigilance status may be placed before and considered by the Competent Authority before a decision is taken.

#### **3. The circumstances under which vigilance clearance shall not be withheld shall be as under:**

- (i) Vigilance clearance shall not be withheld due to the filing of a complaint, unless it is established on the basis of at least a preliminary inquiry or on the basis of any information that the concerned Department may already have in its possession, that there is, prima facie, substance to verifiable allegations regarding
  - a) Corruption
  - b) Possession of assets disproportionate to known source of income
  - c) Moral turpitude
  - d) Violation of the Central Civil Services (Conduct) Rules, 1964.
- (ii) Vigilance clearance shall not be withheld if a preliminary inquiry mentioned above

takes more than three months to be completed.

- (iii) Vigilance clearance shall not be withheld unless
  - a) the officer is under suspension
  - b) a charge sheet has been issued against the officer in a disciplinary proceeding and the proceeding is pending
  - c) orders for instituting disciplinary proceeding against the officer have been issued by the Disciplinary Authority provided that the charge sheet is served within three months from the date of passing such order
  - d) charge sheet has been filed in a Court by the Investigating Agency in a criminal case and the case is pending
  - e) orders for instituting a criminal case against the officer have been issued by the Disciplinary Authority provided that the charge sheet is served within three months from the date of initiating proceedings
  - f) sanction for investigation or prosecution has been granted by the Competent Authority in a case under the PC Act or any other criminal matter
  - g) an FIR has been filed or a case registered by the concerned Department against the officer provided that the charge sheet is served within three months from the date of filing/registering the FIR/case and
  - h) The officer is involved in a trap/raid case on charges of corruption and investigation is pending.
- (iv) Vigilance clearance shall not be withheld due to an FIR filed on the basis of a private complaint unless a charge sheet has been filed by the investigating agency provided that there are no directions to the contrary by a competent Court of Law.
- 4. Vigilance clearance shall not be withheld even after sanction for prosecution if the investigating agency has not been able to complete its investigations and file charges within a period of two years. However, such vigilance clearance will entitle the officer to be considered only to be appointed to non-sensitive posts and premature repatriation to the parent cadre in case he is on deputation and not for any other dispensation.

5. In cases where complaints have been referred to the administrative authority concerned, and no substantive response has been received from such administrative authority concerned within three months from the date on which the reference was made, the Disciplinary Authority may provide a copy of the complaint to the officer concerned to seek his comments. If the comments are found to be prima facie satisfactory by the Competent Authority, vigilance clearance shall be accorded.
6. Vigilance clearance shall be decided on a case-by-case basis by the Competent authority keeping in view the sensitivity of the purpose, the gravity of the charges and the facts and circumstances, in the following situations:
  - (i) Where the investigating agency has found no substance in the allegation but the court refuses to permit closure of the FIR; and
  - (ii) Where the investigating agency / inquiry officer holds the charge as proved but the competent administrative authority differs or the converse.
7. Vigilance clearance will not normally be granted for a period of three years after the currency of the punishment, if a minor penalty has been imposed on an officer. In case of imposition of a major penalty, vigilance clearance will not normally be granted for a period of five years, after the currency of punishment. During the period, the performance of the officer should be closely watched.
8. Vigilance clearance shall be withheld if the officer fails to submit his annual immovable property return (AIPR) of the previous year by 31 January of the following year. In all such cases, where vigilance clearance was withheld due to non submission of AIPR by 31 January of following year, vigilance clearance shall not be withheld any further on subsequent submission of AIPR by the officer.
9. The officer shall submit the AIPR in his/her office. The date of submission of AIPR in the office will be considered as date of submission of AIPR under the orders on the subject mentioned in Para 1.1 of 14.9

## **1.8 FORWARDING OF APPLICATIONS FOR OTHER POSTS**

### **1. Orders on the subject**

DoPT OM no. AB 14017/101/91-Estt(RR) dated 14th May 1993.

## **2. Guidelines**

Application of a Government servant for appointment, whether by Direct Recruitment, transfer on deputation or transfer, to any other post should not be considered/ forwarded if:-

He is under suspension; or

- (i) Disciplinary proceedings are pending against him and a charge sheet has been issued; or
  - (ii) Sanction for prosecution, where necessary has been accorded by the competent authority; or
  - (iii) Where a prosecution sanction is not necessary, a charge sheet has been filed in a court of law against him for criminal prosecution.
3. When the conduct of a Government Servant is under investigation (by the CBI or by the controlling Department) but the investigation has not reached the stage of issue of charge sheet or prosecution sanction or filing of charge-sheet for criminal prosecution in a court, the application of such a Government servant may be forwarded together with brief comments on the nature of allegations.
4. It should also be made clear that in the event of actual selection of the Government servant, he would not be released for taking up the appointment, if by that time charge sheet for imposition of penalty under CCS (CCA) Rules, 1965 or sanction for prosecution is issued or a charge sheet is filed in a court to prosecute the Government servant, or he is placed under suspension.

## **1.9 ROTATION OF OFFICIALS WORKING IN SENSITIVE POSTS.**

### **1. Orders on the subject**

DoPT OM no. 11012/11/2007-Estt (A) dated 14th December 2007 and 27th September 2011 ,

CVC letter no. 98/VGL/60 dated 15th April 1999 and 2nd November 2001 Para 2.13 (v) of CVC Vigilance manual, 2005



## **2. Guidelines**

1. A list of sensitive posts in various Departments/Organizations should be identified.
2. Ensure that officials posted on sensitive posts are rotated every three/five years to avoid developing vested interests.
3. Postings in the Vigilance Wings/departments are classified as sensitive.
4. Sensitive posts in an organization are those posts that are prone to corruption.
5. Vigilance clearance for appointments to sensitive posts is regulated by orders.

### **1.9 ANNUAL IMMOVABLE PROPERTY RETURN**

#### **1. Orders on the subject**

Rule 18 (1) (ii) of CCS(Conduct) Rules 1964 and DoPT O.M. no. 11012/11/2007-Estt A dated 27th September 2011.

#### **2. Guidelines**

- i. Rule 18(1)(ii) provides that every Group 'A' & Group 'B' Government Servant shall submit an Annual Return in such a form as prescribed by the Government giving full particulars regarding the immovable property inherited by him on lease or mortgage either in his own name or in the name of any member of his family or in the name of any other person.
- ii. DoPT vide OM dated 27th September 2011 has added a sub para (f) in para 2 of DoPT OM No. 11012/11/2007-Estt A dated 14th December 2007 on the subject of grant of vigilance clearance.
- iii. As per the above mentioned O.M., Group 'A' and Group 'B' Officers are required to submit their annual immovable property return by 31st January of the following year.
- iv. Submission of AIPR by 31st January of the following year by the officers in the Office where they are working should be considered as compliance to these instructions.

### **1.10. ISSUE OF IDENTITY CERTIFICATE (IC) OR NO OBJECTION CERTIFICATE (NOC) FOR ISSUE OF ORDINARY PASSPORT.**

#### **1. Orders on the subject**

MEA, CPV Division OM no. VI/401/01/05/2008 dated 05th October 2009, Section 6(2) of the Passport Act 1967.

## **2. Guidelines**

- a. A Government Servant would have an option to submit either Identity Certificate (IC) or No Objection Certificate (NOC). If IC is submitted, passport will be issued without police verification and if NOC is submitted passport will be issued on post police verification basis.
- b. The Government organization would issue IC certifying the identity of the Government Servant stating, inter alia, that the provisions of Section 6(2) of the Passports Act 1967 are not attracted in the case of the applicant.
- c. The Government organization would issue an NOC stating that they have no objection to the Government servant to his obtaining a passport.
- d. Section 6(2) of the Passport Act 1967 states that Passport Authority shall refuse to issue a passport for visiting any foreign country on any of the following grounds:
  - (i) that the applicant is not a citizen of India;
  - (ii) that the applicant may, or is likely to, engage outside India in activities prejudicial to the sovereignty and integrity of India;
  - (iii) that the departure of the applicant from India may, or is likely to, be detrimental to the security of India;
  - (iv) that the presence of the applicant outside India may, or is likely to, prejudice the friendly relations of India with any foreign country;
  - (v) that the applicant has, at any time during the period of five years immediately preceding the date of his application, been convicted by a Court in India for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years;
  - (vi) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India;
  - (vii) that a warrant or summons for the appearance, or a warrant for the arrest, of the

applicant has been issued by a court under any law for the time being in force or that an order prohibiting the departure from India of the applicant has been made by any such court;

(viii) that the applicant has been repatriated and has not reimbursed the expenditure incurred in connection with such repatriation;

(ix) that in the opinion of the Central Government the issue of a passport or travel document to the applicant will not be in the public interest.

### **1.11. PRIOR PERMISSION TO VISIT ABROAD**

#### **1. Orders on the subject**

DoPT O.M. no. 11013/7/94-Estt (A) dated 18th May 1994

DoPT O.M. no. 11013/8/2000-Estt (A) dated 7th November 2000

DoPT O.M. no. 11013/7/2004-Estt (A) dated 5th October 2004

#### **2. Guidelines**

- a. Prior permission of leave sanctioning authority is essential before a govt. servant leaves his station or headquarters and more so when he proposes to go abroad during such absence, as such visit may have wider implications.
- b. In case the leave applied for the purpose of visiting foreign country is sanctioned, it would imply that permission for going abroad is also granted.
- c. Separate permission may not be necessary where a government servant has indicated his intention of leaving Headquarters/station along with leave address while applying for leave.
- d. Leave sanctioning authority while granting leave shall take prior approval, if required, for permitting the officer to go abroad as per the existing instructions.
- e. Leave sanctioning authority shall take prior approval of the Competent Authority, if any, prescribed by the Cadre Authority or the administrative Ministries/Departments themselves, in terms of these instructions.
- f. Department of Personnel and Training has not issued any instructions in this regard. In the absence of any such instructions, the approval of the leave sanctioning authority would imply approval to the visit abroad also.
- g. The government servant is required to furnish information relating to the proposed and

previous private visits as per the prescribed proforma.

- h. Leave sanctioning authority shall keep a record of all such permission granted in the prescribed proforma.
- i. Permission to visit abroad may be given or denied by the Leave Sanctioning Authority after going through all aspects including pending Vigilance/Disciplinary proceedings.

#### **1.12. MORAL TURPITUDE**

##### **1. Orders on the subject**

Allahabad High Court's definition in the case of Baleshwar Singh V. District Magistrate, AIR 1963, All 71 and observations thereon of Supreme Court in the case of Allahabad Bank and Another V. Deepak Kumar Bhola 1997 (4) SCC 1.

##### **1. Guidelines**

- a. Moral turpitude means anything done contrary to justice, honesty, modesty or good morals.
- b. An act of abuse of official position or acts done with a dishonest intention or where the motive is a base one or where it shocks the moral conscience of the society or where the person committing the act may be looked down upon by the society as a depraved person will involve moral turpitude.
- c. Every violation of law would not necessarily involve moral turpitude.
- d. The intention behind the act will decide whether it involves moral turpitude or not.

#### **1.13. PENDENCY OF DEPARTMENTAL/DISCIPLINARY PROCEEDINGS**

##### **1. Orders on the subject**

16.1.1 Rule 9 (6) (a) of CCS (Pension) Rules and Observations of Allahabad High Court in State of U.P. v. Jai Singh Dixit (1976) 2 LLJ(ALL)246

##### **Guidelines**

- 1. Departmental proceedings shall be deemed to be instituted from the date on which the statement of charges is issued to the government servant.
- 2. The pendency of a disciplinary proceeding starts with the issue of the charge sheet and continues till final order is made by the disciplinary authority.

3. A departmental proceeding is deemed to be instituted, if the government servant has been placed under suspension from an earlier date, on such date.

#### **1.14. CONTEMPLATION OF DISCIPLINARY CASE**

##### **1. Orders on the subject**

Observations of Allahabad High Court in State of U.P. v. Jai Singh Dixit (1976) 2 LLJ(ALL)246

##### **2. Guidelines**

A departmental enquiry is contemplated when on objective consideration of the material, the appointing authority considers the case, as one which would lead to a departmental enquiry.

A Disciplinary case against a government servant is considered contemplated from the date the Disciplinary Authority takes a view to proceed, under Rule 14 or Rule 16 of CCS (CCA) Rules, against the officer in a case to the date of issue of charge sheet.

#### **1.15. INSTITUTION OF JUDICIAL PROCEEDINGS**

##### **1. Orders on the subject**

Rule 9 (6) (b) of CCS (Pension) Rules

##### **2. Guidelines**

- a) In the case of criminal proceedings, judicial proceedings shall be deemed to be instituted on the date on which the complaint or report of a police officer, of which the Magistrate takes cognizance, is made.
- b) In the case of civil proceedings, judicial proceedings, shall be deemed to be instituted on the date the complaint is presented in the Court.

#### **1.16. VIGILANCE CLEARANCE IN HMT**

##### **1. CASES WHERE VIGILANCE CLEARANCE IS REQUIRED**

- (a) Vigilance Clearance should be obtained in respect of following cases before Management's approval is accorded:-
  - (i) Confirmation on appointment / promotion
  - (ii) NOC for issue of Passport
  - (iii) Deputation within the Country and Foreign assignments, including business / official trips abroad
  - (iv) Personal visits abroad

- (v) Training abroad, including Seminars and Conference abroad
  - (vi) Forwarding of application through proper channel to other PSUs, Government department (Both Central & State Governments)
  - (vii) To attend interviews for selection for employment to other PSUs / Government Departments (Both Central & State Departments)
  - (viii) Awards, including National / International
  - (ix) Posting to the sensitive areas, including Transfer to / from Sensitive areas / Departments, such as Bills payable, Payrolls, Purchase & Stores, Recruitment & Promotions, Security, Vigilance, Construction & Plant Maintenance, Canteen, Sub-Contract Cell, etc
  - (x) Compulsory / Normal / Voluntary Retirement / Resignation
  - (xi) Pre-mature retirement
  - (xii) Extension / re-employment / commercial employment, after retirement
  - (xiii) Recruitment (regular / deputation / contract / assignment basis) to posts in all disciplines of the Company, joining from other PSUs/ Government Departments (Central/State Govt).
  - (xiv) Re-employment after retirement from defence services, PSUs and Government Departments (Both Central / State Government)
- (b) Further to the above, the following formats should be utilized by the respective HR Departments while seeking Vigilance Clearance from the concerned Vigilance Departments in respect of matters indicated against each below : -
- (i) For the PESB interview / selection : Format as available in respective units
  - (ii) For other purposes like confirmation / promotion / outside employment, etc: Format as available in respective units
  - (iii) For the purpose of obtaining Passport / Visa / Travel to be made by the individual : Format as available in respective units Employee / Executive

2. The HR Departments concerned are requested to adhere to the formats, without which Vigilance Department will not entertain such requests.

Further, it is indicated that Vigilance Clearance is given by the Vigilance Department based upon vigilance cases initiated / pending / contemplated at the time of seeking Vigilance Clearance and such clearance is valid for a period of 30 days. The accordal of Vigilance Clearance would be preceded by the following procedures: -

- (a) Cases investigated and charges proved against the employee / officer and report sent to disciplinary authority, along with gist of charges / punishment awarded, if any, for last 3 years are to be furnished by respective HR Department.
  - (b) If the information in respect of 2 (II) (a) is 'nil', then the Vigilance Department should give Clearance, stating that there is no Vigilance Case against the Employee / Officer for the last 3 years.
  - (c) Vigilance Clearance will not be accorded in case of the following : -
    - (i) Contemplation / pending of vigilance cases on the date of vigilance clearance requirement.
    - (ii) Cases pending in terms of CDA Rules / Standing Orders / Service Rules.
    - (iii) Officer / Employee who is under suspension.
    - (iv) Officer / Employee in respect of whom a charge sheet has been issued and disciplinary proceedings are pending.
    - (v) Officer / Employee in respect of whom prosecution for a criminal charge is pending.
    - (vi) Officer / Employee undergoing a penalty imposed by the Disciplinary Authority or sentence ordered by a Court of Law.
    - (vii) Non-submission of up to date Annual Property Returns (applicable for Officers only)
  - (d) While seeking Vigilance Clearance relevant points as mentioned in the above paras may be provided by the respective HR Department.
  - (e) A photo-copy of note-sheet, alongwith Vigilance Clearance given shall be kept with Vigilance Department for records and reference.
3. Vigilance Clearance in respect of cases covered under Sl No: 1-a (xiii) & (xiv) shall be obtained from the Vigilance Department of PSUs / Government Departments (Both Central/ State Government) through their HR department, from where the Executive / Employee is being recruited OR re-employed after retirement.

4. Further, at the time of Issuance of Offer of Appointment, the prospective Executive / Employee may be requested to furnish a copy of the Vigilance Clearance given by the Vigilance Department of his / her previous employer. In case the applicant is not in position to furnish copy of Vigilance Clearance as above, same may be referred to his / her previous employer for clearance and if the same is not received within 45 days of joining the Company, the matter may be referred to CVO, HMT for getting the clearance from their end. Probation will get closed only after obtaining the Vigilance Clearance either from the previous employer or from the Vigilance Department of HMT.
5. The existing practice of level of executives viz-a-viz authority according the Vigilance Clearance remains unaltered i.e for employees Division Vigilance heads will issue VC, for Executives in the grade I to VII will be issued by DGM(Vig-CO) and for Executives in the grade VII to X CVO will issue the VC , whenever some officer is given additional charge of another post for a short duration i.e. upto 3 months, clearance from the CVC will not be required. In such cases, CVO of the organization would give the vigilance clearance (No. 005-VGC-101 Dated: 11th August, 2005). For Board level executives, CVO of the Ministry will issue the VC.

In terms of letter ref. D O No. 5/4/2010/Secy./PESB/2010/97-A dated 15th September, 2010, In case of PESB selection, CVO of the Ministry may be asked to send the VC of Board level functionaries in CPSEs and CVO of the CPSE may be asked to send the VC of below Board functionaries of CPSEs to the PESB.

DoPT vide OM dated 22.10.2014 on the subject “Guidelines for processing proposals for appointment to Board level posts in Central Public Sector Enterprises(CPSEs)” has issued guidelines as follows:

- (i) The instructions contained in DoPT's O.M. No.104/76/2011-AVD.I dated 18.10.2013 regarding handling of pseudonymous / anonymous complaints should be strictly adhered to at all levels. Further as per CVC's instructions issued vide Office Order No.57/8/04 dated 31.08.2004; no cognizance should be taken of any complaint received within six months prior to the initiation of the selection process. For this purpose, the date of interview held by the PESB would be the crucial date, six months prior to which no cognizance would be taken of complaints received



against the selected candidates. Such complaints therefore should not have any bearing on the ACC process and would not prejudice the same. Such complaints should however be dealt separately and necessary action be taken in the event of any adverse conclusion even after the appointment is made.

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

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

DoPT vide OM dated 30.10.2014 on the subject "Policy guidelines for Extension of tenure of Board level incumbents where vigilance clearance is not available' has issued the following procedure:

- (a) As in the case of fresh appointments, in line with CVC's instructions dated 31.08.2004, no cognizance should be taken of any complaint which is received within 06 months prior to the terminal date of the approved tenure of Board-level appointees. This is imperative as it has been frequently observed that there is a spate of allegations and complaints against Board-level officials whose cases become due for extension of tenure.

- (b) The Department should take a conscious decision on whether to extend the term of a Board-level appointee at least one year in advance of the completion of his initial term so that adequate time is available for the Department to obtain CVC clearance.
- (c) Taking into account the vigilance status as on the date six months before the terminal date of initial appointment, the CVC may give its clearance within two months of receiving the reference in this regard from the Administrative Ministry. This limit of two months will include time taken for back references, CBI references / inquiries, etc.
- (d) Even though complaints received after the cut-off date shall have no bearing upon the process of extension of tenure and would not prejudice the same, such complaints shall be dealt with as per the normal procedure. Disregarding such complaints received after the cut-off date at the time of deciding upon extension of tenure may not be of any serious consequences as the appointment can always be terminated at a later date if the charges are substantiated on the basis of an inquiry.
- (e) (1) In respect of the cases where CVC clearance has been delayed beyond the prescribed timelines, merely on account of procedural reasons, and where there is no denial of vigilance clearance, the case of extension could be processed without waiting any further.  
  
(2) In respect of the cases where CVC clearance is awaited, and there are cases / complaints pending against the officer, the Ministry shall submit to ACC, a proposal for extension of tenure, at least two months prior to the officer's approved tenure with:
  - (i) All available information in respect of the complaint,
  - (ii) Material received from / sent to CVC, including enquiry report, if any, of the CVO of the Ministry.
  - (iii) The comments of the Ministry thereon.

**6. Online Vigilance Clearance for appointment of Board Level Executives of Central Public Sector Enterprises(CPSEs)**

DoPT vide D.O No 372/4/2016-AVD.III dated 19th January 2017 on the subject "Technology based

mechanism for Vigilance Clearance of CPSEs officers “had taken decision to introduce a technology based mechanism that enables efficient Vigilance Clearance of Officers who apply for the Senior level Posts.

The implementation of Online Vigilance Status of Board Level Executives of CPSEs would require feeding/updating of data pertaining to the details of employee’s vigilance profile, i.e., pending disciplinary proceedings, status of complaints received, details of prosecution sanction, Agreed list, ODI etc, at regular intervals. While Central Vigilance Officers(CVOs) would be responsible for maintaining and updating data of Board level Executives, the CVOs of the CPSEs will be responsible in respect of below Board level employees of its organisation.

Responsibility of CVOs: CVOs will undertake updation of Vigilance Profile regularly as follows:

- i. For Board Level Officials and officials who are one level below Board, this updation will have to be carried out every month. The updation will have to be done even if there are no changes in the Vigilance Profile. Even a nil/Clear report will have to be updated every month.
- ii. For officers who are second level or below, the updation will have to be done every three months in the same way above.
- iii. As and when the selection process for any vacancy is initiated, the ACC/PESB, as the case may be, will communicate through online system, the details of officers who have applied against the notified vacancies. Such requests will be reflected in the module of the following stakeholders.
  - a) Central Vigilance Commission
  - b) CVOs of the concerned Ministries/Departments of the CPSEs/Organizations where the officials are working depending upon whether the officials are board level or below.
  - c) Central Bureau of Investigation

- d) The administrative Ministry/Department under which the vacancy exists.
- iv. The request sent will be flagged online as priority list and communicated through the registered email. The CVO will ensure the Vigilance Profile of such officers is updated in a week time based on the available records. The same will be reflected on the portal with the last date of updation being displayed.

## **2. INTEGRITY PACT:**

### **2.1 INTRODUCTION**

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

Public procurement being vulnerable area has been a priority concern of the Commission. In order to ensure transparency, equity and competitiveness in public procurement, the Commission has recommended adoption and implementation of Integrity Pact (IP) by Ministries / Departments / Public Sector Enterprises, Public Sector Banks, Insurance Companies, Financial Institutions and Autonomous Bodies, etc. The Integrity Pact involves signing of a Pact (Agreement) between the procuring organisation and the bidders that they will not indulge in corrupt practices in the tendering, award and execution of the contract. An Independent External Monitor (IEM) is nominated by the Commission to monitor the adherence to the Pact by the two sides. At the instance of Commission, the *Ministry of Finance, Department of Expenditure vide OM No. 14(12)/2008-E-II(A) dated 19.07.2011* has also directed all the Ministries / Departments, attached / subordinate offices and Autonomous organizations for implementation of Integrity Pact in respect of Request for Proposal / Procurement Transactions / Contracts. The DPE has also vide its *OM No. DPE/13(12)/11-Fin dated 09.09.2011* issued similar instructions for CPSEs. Further, in view of the increasing

procurement activities of Public Sector Banks (PSBs), Insurance Companies (ICs) and Financial Institutions (FIs), the Commission vide *Circular No. 02/02/2015 dated 25.02.2015* has advised them to adopt and implement the Integrity Pact. The Commission issues guidelines on Standard Operating Procedure (SOP) for implementation of Integrity Pact from time to time and also prepares the panel of IEMs.

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

Vide Circular No. 10/5/09 Subject CVC has delineated the Standard Operating Procedure for Adoption of Integrity Pact as follows:-

## **2.2 BACKGROUND**

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

### **2.3 INTEGRITY PACT AND ITS ESSENCE**

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

The essential ingredients of the Pact include:

- (a) Promise on the part of the principal
  - (i) Not to seek or accept any benefit, which is not legally available;
  - (ii) To treat all bidders with equity and reason.
- (b) Promise on the part of bidders not to offer any benefit to the employees of the Principal not available legally.
- (c) Bidders not to enter into any undisclosed agreement or understanding with other bidders with respect to prices, specifications, certifications, subsidiary contracts, etc.
- (d) Bidders not to pass any information provided by Principal as part of business relationship to others and not to commit any offence under PC/ IPC Act;
- (e) Foreign bidders to disclose the name and address of agents and representatives in India and Indian Bidders to disclose their foreign principals or associates.
- (f) Bidders to disclose the payments to be made by them to agents / brokers or any other intermediary.
- (g) Bidders to disclose any transgressions with any other company that may impinge on the anti corruption principle.

Integrity Pact, in respect of a particular contract, shall be operative from the date IP is signed by the parties till the final completion of the contract. Any violation of the same would entail disqualification of the bidders and exclusion from future business dealings.

### **2.4 IMPLEMENTATION PROCEDURE:**

- (a) As stated in Department of Expenditure's O.M. dated 20.07.2011, Ministries / Departments may, in consultation with the respective Financial Advisor and with the approval of the Minister-in-charge, decide on and lay down the nature of procurement / contracts and the threshold value above which the Integrity Pact would be used in respect of procurement transactions / contracts concluded by them or their attached / sub-ordinate offices.
- (b) The above provision is also applied for procurements made by autonomous bodies for which also the concerned administrative ministry / department may lay down the nature of procurement / contracts and the threshold value above which the Integrity Pact would be used.

- (c) The provision for the Integrity Pact is to be included in all Requests for Proposal / Tender documents issued in future in respect of the procurement / contracts that meet the criteria decided in terms of para (a) and (b) above.
- (d) Tenders should specify that IEMs have been appointed by the Commission. In all tenders, particulars of all IEMs should be mentioned instead of nominating a single IEM in the tender as far as possible.
- (e) The Purchase / procurement wing of the organization would be the focal point for the implementation of IP.
- (f) The Vigilance Department would be responsible for review, enforcement, and reporting on all related vigilance issues.
- (g) It has to be ensured, through an appropriate provision in the contract, that IP is deemed as part of the contract so that the parties concerned are bound by its provisions.
- (h) IP would be implemented through a panel of Independent External Monitors (IEMs), appointed by the organization. The IEM would review independently and objectively, whether and to what extent parties have complied with their obligations under the Pact.
- (i) Periodical Vendors' meets, as a familiarization and confidence building measure, would be desirable for a wider and realistic compliance of the principles of IP.
- (j) A clause should be included in the IP that a person signing IP shall not approach the Courts while representing the matters to IEMs and he / she will await their decision in the matter.
- (k) In case of sub – contracting, the Principal contractor shall take the responsibility of the adoption of IP by the sub-contractor.
- (l) Information relating to procurement/contracts covered under IP and its progress / status would need to be shared with the IEMs on monthly basis.
- (m) The final responsibility for implementation of IP vests with the CMD / CEO of the organization.

## **2.5 ROLE /FUNCTIONS OF IEMS (Independent External Monitors):**

- (a) The IEMs would have access to all contract documents, whenever required.
- (b) It would be desirable to have structured meetings of the IEMs with the Chief Executive of the Organization on a quarterly basis including an annual meeting to discuss / review the information on tenders awarded during the previous quarter. Additional sittings, however, can be held as per requirement.
- (c) The IEMs would examine all complaints received by them and give their

recommendations / views of the Chief Executive of the organization, at the earliest. They may also send their report directly to the CVO and the Commission, in case of suspicion of serious irregularities requiring legal / administrative action. IEMs are expected to tender their advice on the complaints within 10 days as far as possible.

- (d) For ensuring the desired transparency and objectivity in dealing with the complaints arising out of any tendering process, the matter should be examined by the full panel of IEMs jointly as far as possible, who would look into the records, conduct an investigation, and submit their joint recommendations to the Management.
- (e) IEM should examine the process integrity, they are not expected to concern themselves with fixing of responsibility of officers. Complaints alleging malafide on the part of any officer of the organization should be looked into by the CVO of the concerned organization.
- (f) The role of IEMs is advisory, would not be legally binding and it is restricted to resolving issues raised by an intending bidder regarding any aspect of the tender which allegedly restricts competition or bias towards some bidders. At the same time, it must be understood that IEMs are not consultants to the Management. Their role is independent in nature and the advice once tendered would not be subject to review at the request of the organization.
- (g) Issues like warranty / guarantee etc. should be outside the purview of IEMs.
- (h) All IEMs should sign non-disclosure agreements with the organization in which they are appointed. They would also be required to sign a declaration of absence of conflict of interest.
- (i) A person acting as an IEM shall not be debarred from taking up other assignments such as consultancy with other organizations or agencies subject to his declaring that his / here additional assignment does not involve any conflict of interest with existing assignment. In case of any conflict of interest arising at a later date from an entity wherein he is or has been a consultant, the IEM should inform the CEO and rescue himself / herself from that case.



- (j) All organizations may provide secretarial assistance to IEM for rendering his/her job as IEM.
- (k) In case of any misconduct by an IEM, the CMD/CEO should bring it to the notice of the Commission detailing the specific misconduct for appropriate action at the Commission's end.
- (l) The role of the CVO of the organization shall remain unaffected by the presence of IEMs. A matter being examined by the IEMs can be separately investigated by the CVO in terms of the provisions of the CVC Act or Vigilance Manual, if a complaint is received by him / her or directed to him / her by the Commission.

## **2.6 APPOINTMENT OF IEMS**

- (a) The IEMs appointed should be eminent personalities of high integrity and reputation. The Commission would invite applications from willing interested persons and maintain a panel of persons eligible to be appointed as IEM. The Commission may make independent & discreet background check before including a name in the panel.
- (b) The choice of IEM should be restricted to officials from the government and public sector undertakings who have retired from positions of the level of Additional Secretary to the Government of India and above or equivalent pay scale, and for Public Sector Undertakings, Board level officers in Schedule A Companies, Public Sector Banks, Insurance Companies and Financial Institutions. Officers of the Armed Forces who have retired from the rank equivalent of Lt. General and above may also be considered for appointment.
- (c) For appointment as IEM the Organization has to forward a panel of suitable persons to the Commission. This panel may include those who are in the panel maintained by the Commission or they may propose names of other suitable persons for appointment as IEM.
- (d) The Commission would not consider the name of an officer / executive who is either serving or who has retired from the same organization to be an IEM in that organization, although they may have served in the top management.

- (e) A maximum of three IEMs may be appointed in Navratna PSUs and a maximum of two IEMs in other Public Sector Undertakings, Public Sector Banks, Insurance Companies and Financial Institutions.
- (f) A person may be appointed as an IEM in a maximum of three organizations at a time.
- (g) The appointment of IEM would be for an initial tenure of three years and could be extended for another term of two years on a request received by the Commission from the organization appointing the IEM. An IEM can have a maximum tenure of 5 years in an organization with an initial term of three years and another term of two years.
- (h) Age should not be more than 70 years at the time of appointment / extension of tenure.
- (i) Remuneration payable to the IEMs by the organization concerned would be equivalent to that admissible to an Independent Director in the organization and in any case should not exceed Rs. 20,000/- per sitting. Remuneration being paid to existing IEMs may not be changed to their detriment for the duration of their tenure.
- (j) The terms and conditions of appointment, including the remuneration payable to the IEMs, should not be included in the Integrity Pact or the NIT. This may be communicated individually to the IEMs concerned.

## 2.7 REVIEW SYSTEM

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

**For all procurement transactions/Contracts above Rs. 1 Crore HMT Ltd. enters into a Pre-Contract Integrity Pact Agreement which is monitored by Independent External Monitors (IEMs).**

### **3. OFFICERS OF DOUBTFUL INTEGRITY LIST**

Scheme for preparation, maintenance and custody of lists of officers of doubtful integrity:

#### **3.1 INTRODUCTION**

In accordance with the recommendation made in the statement laid on the Table of the Lok Sabha on the 10th August, 1961, and the Rajya Sabha on the 24th August, 1961 measures are to be taken to locate officials against whom suspicions exist regarding their integrity amount to moral conviction. It has already been decided that Secretaries to the Ministries and the Heads of the Departments have the duty of locating and suitably dealing with corrupt officials. As a further step in this direction, it has been decided to prepare lists of officers of doubtful integrity. This scheme gives in detail the purpose of these lists and procedure for their preparation and maintenance.

#### **3.2 NOMENCLATURE & CRITERIA FOR ENTRY IN THE LISTS**

The lists will be termed as the 'list of Officers of Doubtful Integrity'. It will include names of those officers only, who, after enquiry or during the course of enquiry, have been found to be lacking in integrity. It will thus include the names of the officers, with certain exceptions mentioned below, falling under one of the following categories:

- (a) Convicted in a court of law on a charge of lack of integrity or for an offence involving moral turpitude but on whom, in view of exceptional circumstances, a penalty other than dismissal, removal or compulsory retirement is imposed.
- (b) Awarded departmentally a major penalty. i) on charges of lack of integrity ii) on charges of gross dereliction of duty in protecting the interests of Government although the corrupt motive may not be capable of proof.
- (c) Against whom proceedings for a major penalty or a court trial are in progress for alleged acts involving lack of integrity or moral turpitude.
- (d) Who were prosecuted but acquitted on technical grounds, and in whose case on the basis of evidence during the trial there remained a reasonable suspicion against their integrity.

The names of the officers of the following categories should not be included in this list.

- (a) Officers who have been cleared or honourably acquitted as a result of disciplinary proceedings or court trial.
- (b) Officers against whom an enquiry or investigation has not brought forth sufficient evidence for recommending even a disciplinary case.
- (c) Officers who have been convicted of offences not involving lack of integrity or moral turpitude.
- (d) Officers against whom disciplinary proceedings have been completed or are in progress in respect of administrative lapses, minor violation of Conduct Rules and the like.

### **3.3 PURPOSE OF THE LISTS**

These lists are intended to keep the Ministries/Departments/ Undertakings concerned informed about such officers of doubtful integrity to ensure that they are not posted to 'sensitive' assignments and that this fact is given due consideration when deciding administrative matters affecting the service of these officers. These lists would also help the Ministries to know about the officers whose work and conduct need both special attention and closer supervisory scrutiny.

### **3.4 PROCEDURE FOR PREPARATION OF THE LISTS**

- (a) Vigilance Organisation of Ministries/Departments/ Undertakings will prepare a list of public servants of Gazetted status against whom any disciplinary proceedings for a major penalty are in progress or who have been punished in disciplinary proceedings on a charge involving lack of integrity. A copy of these lists will be sent by the vigilance Organisation to the Central Bureau of Investigation every year in the last week of February.
- (b) As soon as an adverse report against an officer of the nature mentioned in the scheme is received, the Vigilance Officer should bring it to the notice of the Secretary/Head of the Ministry/Department concerned immediately. A decision in regard to the inclusion of the name of such officer in the list should be taken as soon as possible.
- (c) The Central Bureau of Investigation will suggest addition or deletion of names on the basis of information available with them and return the lists to Secretaries/Heads of

Departments concerned.

- (d) If the Ministry/Department/Public Undertakings concerned does not agree to the inclusion or deletion of any particular name or names, it will be settled by mutual discussion. The decision of the Secretary/Head of the Ministry/Department would be final.

### **3.5 ACTION ON THE LISTS**

The purpose of maintenance of these lists is to also enable the Ministries/Departments to take such administrative action as is necessary and feasible. The following courses of administrative action are open:-

- (a) Withholding Certificate of integrity;
- (b) Transfer from a 'sensitive' posts;
- (c) Non-promotion, after consideration of his case, to a service, grade or post to which he is eligible for promotion.
- (d) Compulsory retirement in the public interest (otherwise than as penalty) in accordance with the orders issued by the Government. This is now permissible on completion of the age of 50 with certain exceptions.
- (e) Refusal of extension of service or re-employment either under Government or in a Public Sector Undertakings.
- (f) Non-sponsoring of names for foreign assignment/deputation.
- (g) Refusal of permission for commercial re-employment after retirement.

### **3.6 RETENTION PERIOD:**

When the name of an officer has been entered in the list for good and adequate reasons, it will not be removed until a period of three years has elapsed. The period of three years for which the name will be current on the list will count from the date of punishment in disciplinary proceedings or from the date of conviction in a court trial. On the conclusion of this period the cases of such officers may be reviewed by the Ministry/Department concerned in consultation with the Central Bureau of Investigation and if during the intervening period there has been no further complaint or information against the officer

touching on his integrity, the name may be removed from the list. If at the time of review, it is proposed to continue the name of an officer on the list, cogent reason for doing so should exist.

### **3.7 TRANSFER OF SUCH OFFICERS**

In the event of the officers being transferred to another Ministry/Department/Undertakings, the Vigilance Officer concerned should intimate to his opposite number in the Ministry/Department/ Undertaking the fact of the officer's name being on the list, endorsing a copy to the Central Bureau of Investigation.

### **3.8 PERIODICITY OF CIRCULATION BY THE C.B.I:**

Lists of such officers consolidated by the Central Bureau of Investigation will be circulated to Ministries once every year i.e. in June. While communicating the name of the officer the material against him should be briefly indicated by the Central Bureau of Investigation. Five copies of the list covering all Ministries/ Departments/Undertakings will be sent to the Ministry of Home Affairs(AVD), four copies for the use of E.O., J.S(E), J.S.(P), J.S.(AIS) and one for record on the AVD communication and references should be directly between the Central Bureau of Investigation and the Ministry concerned.

### **3.9 MAINTENANCE & CUSTODY OF THE LISTS:**

It will be the duty of the Chief Vigilance Officer/Vigilance Officer of the Ministry / Department / Undertaking to maintain these lists up-to-date, The list will be treated as 'SECRET' and the Head of the Ministry/Department/Undertaking will be responsible for its safe custody. The lists cannot be and are not meant to be fully exhaustive and these will not fetter the discretion of the Government in any way.

## **4. AGREED LIST OF SUSPECTED OFFICERS**

### **4.1 Preparation, Maintenance and Custody of Agreed List.**

#### **(Scheme for preparation, maintenance and custody of AGREED LIST OF SUSPECTED OFFICERS)**

Agreed Lists will be prepared of officers of gazetted status against whose honesty or integrity there are complaints, doubts or suspicious after consultations between the officers of the Departments concerned and of CBI. Except in regard to Port Trusts, Public sector

Undertakings and Union Territories these lists will be settled by discussion at Delhi between the Head of the Departments concerned and the additional I.G.P. and the D.I.G(Spl) of the CBI. The agreed lists relating to Port Trusts, Public Sector Undertakings and Union Territories will be settled by mutual discussion between the Head of the Port Trust or the Public Sector Undertakings or the Chief Secretary of the Union Territory concerned and the D.I.G. of Police C.B.I and the S.P. of the local Branch of the C.B.I to achieve the best result it is important that there should be free and frank exchange of information during these discussions.

The following action will be taken in respect of officers on these agreed lists by the Departments or the Undertakings and by the C.B.I. :-

- (a) Closer and more frequent scrutiny and inspection of their work and performance by the Departments concerned, particularly in spheres there is scope for discretion or for showing favours.
- (b) Quite check about their reputation both by the Department and the C.B.I.
- (c) Unobtrusive watch of their contracts style of living etc. by the C.B.I
- (d) Secret enquiry by the C.B.I. about their assets and financial resources. The Departments will make available their property returns and other relevant records to the C.B.I.
- (e) Collection of information by the C.B.I. of specific instances of bribery and corruption practices.

If these secrets checks and enquiries revel positive material, open enquiries will be started by the C.B.I. and further action taken in the light of the results of that enquiry. It may be emphasized that no adverse or punitive action is contemplated against any officer on these lists unless these checks, verifications or enquiries bring for the adequate material to reasonably conclude that he is lacking in integrity. These agreed lists will remain in force for one year from the date of preparation. At the end of this period, the list will be reviewed and the name of those officers against whom there is not sufficient evidence to proceed against will be deleted from the list.

The CBI branches may prepare their own lists of officers of non-gazetted status about whose integrity or honesty, there are complaints, doubts or suspicions, but these need not be 'Agreed list'. The Superintendents of police of the CBI branches, should however, consult the Heads of the Departments, Public Undertakings and Administration about any names of

these lists as and when this is considered necessary. As and when requested by the CBI, the Departments etc. should arrange for closure and more frequent scrutiny and inspection of the work of those employees and also for affording assistance to the CBI in making in checks and verification about them.

## **5. JOB ROTATION:**

### **5.1 SENSITIVE AREAS**

Identification of corruption prone areas in an organization is an important part of Preventive Vigilance. In a big organization like HMT, it is not possible for Vigilance to keep a watch in every nook and corner of its operations. It is, therefore, necessary that such areas / departments where officials mostly come in contact with contractors, outside parties etc. are identified and watch is kept over them. The Santhanam Committee on Prevention of Corruption has rightly remarked, "Corruption can exist if there is someone willing to corrupt and capable of corrupting. Both this willingness and capacity to corrupt is found in a large measure in the industrial and commercial classes".

As per the directive of the CVC, each PSU has to identify sensitive areas / sensitive posts in the organization and ensure rotation of Staff in such posts every three years. Orders issued in this regard – along with a list of the sensitive posts identified – is to be intimated to the CVC for record.

Corruption prone areas are known as 'sensitive areas' in Vigilance parlance. The responsibility of the Vigilance Officer on assuming office should be to acquaint himself fully with the sensitive spots in the organization, with the procedures which appear to afford scope for corruption or delay; whether preventive measures have already been planned and if so, whether they are being properly implemented.

Sensitive Posts are identified by the CVO with the help of the Vigilance Officers and the HODs of the various departments and got notified by the CMD. The list must be reviewed every 3 years.

### **5.2 SURPRISE CHECKS IN SENSITIVE AREAS**

Vigilance teams should be formed to keep a watch and conduct surprise checks in sensitive



areas. The team should be held responsible for Vigilance work in particular areas.

Surprise checks are one of the important activities of the Vigilance Department. The Vigilance team should make regular surprise checks, mostly in sensitive areas. The Vigilance team may associate one or two officers of the concerned department during such surprise checks. Similarly, joint inspections in the form of surprise checks are also conducted with the officials of other department. On getting information regarding some irregularity being committed, surprise check should be arranged on immediate basis. The advantages of these checks are:

- (a) The presence of Vigilance is felt and this itself discourages persons in indulging in malpractices.
- (b) It will be known if the existing / rules / procedures are being followed. If there are any loopholes in the procedures / systems, these will be known and can be plugged.
- (c) The checks should be qualitative and fruitful otherwise they lose their importance.

Such checks should be conducted in absolute secrecy so that the element of surprise is not lost. The concerned department should not be informed about the visit of Vigilance team until the latter reach the spot of inspection.

### **5.3 JOB ROTATION IN SENSITIVE AREAS**

As per CVC's instructions, as a preventive measure it would be useful to locate such focal points in each organization and to take steps to ensure that the staff employed at such points are not allowed to continue there indefinitely. Rotational transfers – especially in Sections which have to deal directly with the public – should be effected as a rule. The retention of a person in the same seat in such Sections, beyond a term of three years, should not be allowed except with the approval of higher authority. (Ref. Commission's letter no.2/9/66-coord. Dated 20th May, 1966).

IN HMT the list of sensitive departments and sensitive sections are as follows: -

SL. NO.	SENSITIVE DEPARTMENT	SENSITIVE SECTION
1	Purchase	All
2	Sub-contract	All
3	Vendor Development	All
4	Stores	Receiving, Bills section and salvage
5	Finance	Bills Payable, PF Section, Cash/Cheque section, Marketing Finance
6	Quality Assurance	Receiving Inspection
7	HR	Recruitment, Welfare, PR, Disciplinary, Training, Management Services
8	Civil Construction	Construction, Maintenance, Estate Office
9	Shipping Department	All
10	Trading	All
11	Medical	Pharmacy
12	Vigilance	All except PS/CVO & EA/CVO
13	International Business Division	All

## 6. CTE TYPE INSPECTION

### 6.1 CHIEF TECHNICAL EXAMINER'S ORGANISATION

Chief Technical Examiner's Organisation (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 Organisation was placed under the administrative control of Central Vigilance Commission in the year 1964. Initially this Organisation 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. Para 1.3.5 of the Vigilance Manual 2005 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 coextensive with that of the Commission.

## 6.2 QUARTERLY PROGRESS REPORT:

CVC Act 2003 empowers the Commission to call for reports, returns and statements from all Ministries/Departments/Corporations/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 organizations 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, CTE's Organisation may examine Contracts of any magnitude, yet considering limitation of resources, it generally undertakes examination of Contracts of larger value only. As per Circular No. 15/07/12 (issued vide Letter No.98-VGL-25/18 dated 30.07.2012), the monetary limit for reporting the Procurement Contracts in QPRs are as follows:

WORKS / CONTRACTS	
Category-I:	Rs. 5 Crores & above.
(a) Civil Works	
(b) Turnkey Works Contracts	
(c) Stores & Purchase	
(d) PPP-Public Private Partnership[Cost/Revenue values]	
(e) Sale of Goods / Scrap / Land	
Category-II:	
a) Electrical/Mechanical works/ Maintenance/ Service Contracts including Electronics/ Instrumentation/Telecommunication/ Manpower Supply, etc.	Rs.1 Crore & above
(b) Medical Equipment	Rs.50 lakhs & above
(c) Consultancy contracts	Rs.1 Crore & above
Category-III:	
(a) Horticulture Works	Rs.10 lakhs & above
(b) Supply of Medicines Contract	4 Largest Value

### **6.3 Selection of Works**

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 organizations, keeping in view the following factors:

- a) Complaints received from various sources.
- b) Works specifically recommended by CVOs for inspection.
- c) Works of organizations with substantial work load as compared to others.
- d) Large value contracts.
- e) Works of organizations, which do not have their own Engineering Departments for supervision and Quality Control.
- f) Works of organizations, which have not been inspected at all.

Works of different nature, such as Hydro/Thermal/Nuclear Power Projects, Highways, 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.

### **6.4 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 overpayments;
- 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.

## **6.5 Requisition of Records:**

After approval of the Commission for Intensive Examination of Project/Contract, intimation is 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. A list of records/documents to be kept ready for examination during site inspection is also enclosed in the above proforma.

6.5.1 Preliminary Examination of Contract by the CVO Before Intensive Examination is carried out by the Technical Examiner, CVO (Vigilance Unit) of the Organisation concerned may be asked to carry out a Preliminary Examination of the selected contract and submit the report to the CTE's Organization aging important issues.

## **6.6 ROLE OF CVO IN INTENSIVE EXAMINATION**

CVO plays a vital role in Intensive Examination of works. With the limited staff available, CTEO cannot inspect all the works of various Organizations under the jurisdiction of CVC. Hence, CVO should arrange vigilance inspection of works under his jurisdiction on the pattern of inspection carried out by the team of CTEO. In order to enable the organisation to effect immediate recovery from the contractors/suppliers as well as to ensure accountability of officials responsible for various lapses, other important functions of CVO in respect of the Intensive Examination by CTEO are listed below:

- a) **Timely submission of**
  - i) Quarterly Progress Reports
  - 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
  - iv) Replies to IE 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 interim examines

- ii) Presence of representatives of CVO during interim examination
  - iii) Rectification of Defects in the Project/Supplies
  - iv) Recoveries from the Contractors for the over-payments
  - v) Implementation of necessary directions 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 Works Manual
  - e) Implementation of guidelines/circulars issued by the Commission/CTEO

## **7. WHISTLE BLOWER POLICY**

### **Important Features of the "Whistle-Blowers" Resolution**

- ▶ The CVC shall, as the Designated Agency, receive written complaints or disclosure on any allegation of corruption or of mis-use of office by any employee of the Central Government or of any corporation established under any Central Act, government companies, societies or local authorities owned or controlled by the Central Government.
- ▶ The designated agency will ascertain the identity of the complainant; if the complainant is anonymous, it shall not take any action in the matter.
- ▶ The identity of the complainant will not be revealed unless the complainant himself has made either the details of the complaint public or disclosed his identity to any other office or authority.
- ▶ While calling for further report/investigation, the Commission shall not disclose the identity of the informant and also shall request the concerned head of the organisation to keep the identity of the informant a secret, if for any reason the head comes to know the identity.
- ▶ The Commission shall be authorised to call upon the CBI or the police authorities, as considered necessary, to render all assistance to complete the investigation pursuant to the complaint received.

- ▶ If any person is aggrieved by any action on the ground that he is being victimised due to the fact that he had filed a complaint or disclosure, he may file an application before the Commission seeking redress in the matter, wherein the Commission may give suitable directions to the concerned person or the authority.
- ▶ If the Commission is of the opinion that either the complainant or the witnesses need protection, it shall issue appropriate directions to the concerned government authorities.
- ▶ In case the Commission finds the complaint to be motivated or vexatious, it shall be at liberty to take appropriate steps.
- ▶ The Commission shall not entertain or inquire into any disclosure in respect of which a formal and public inquiry has been ordered under the Public Servants Inquiries Act, 1850, or a matter that has been referred for inquiry under the Commissions of Inquiry Act, 1952.
- ▶ In the event of the identity of the informant being disclosed in spite of the Commission's directions to the contrary, it is authorised to initiate appropriate action as per extant regulations against the person or agency making such disclosure.

## **8. VIGILANCE STUDY CIRCLE (VSC)**

### **8.1 AIMS AND OBJECTIVES OF VIGILANCE STUDY CIRCLE:**

- 1) To bring all Vigilance Functionaries in the Country together and promote the growth of Anti Corruption Movement by establishing Vigilance Study Circles all over the Country.
- 2) To Co-operate and Coordinate with Institutions connected with elimination of Corruption in the Society.
- 3) To establish Training institutions to impart knowledge and Skills to Vigilance Functionaries in anti-corruption and Vigilance work.
- 4) To establish Distance Education Centres for the propagation of Vigilance.
- 5) To assist organizations by undertaking 'Turn Key' projects to enhance the utility and efficacy of Vigilance Personnel and Organizations;

- 6) To assist, co-operate and collaborate with like-minded persons and organizations for the promotion of vigilance and elimination of Corruption.
- 7) To organize Workshops, Symposia, Seminars and Consultations, to enable sharing of experiences of Vigilance / Anti-Corruption work;
- 8) To Publish Journals, Professional literature etc., to assist Vigilance Professionals;
- 9) To assist 'Whistle Blowers' in exposing Corruption.
- 10) To establish a Public Website to enable Citizens to report about the prevalence of corruption to the authorities.
- 11) To educate the Students in Colleges and Schools about ethics and the evil effects of Corruption and prepare them to fight corruption.
- 12) To undertake all other activities for the furtherance of the basic aim of promoting the growth of Vigilance and elimination of Corruption.

## **9. OBSERVANCE OF VIGILANCE AWARENESS WEEK**

Vide CVC circular No.3(v)/99/11, the Commission proposes to launch a systematic campaign against corruption by involving all members of the civil society in fighting this social evil. The first step in this campaign is to educate the people about the dangers of corruption and sensitize them about the evil consequences of corruption.

The Central Vigilance Commission, which has a special responsibility under para 3(v) of Government of India Resolution no 371/20/99/AVD-III dated 4.4.1999, declares that the week beginning from 31st October every year would be observed as the Vigilance Awareness Week. The significance of 31st October is that it is the birthday of the Bismarck of India, Sardar Vallabhai Patel. He represents the best values in the Indian tradition so far as governance is concerned. He integrated the country and also was a shining example of probity in public life.

The Vigilance Awareness Week is observed keeping in view the spirit of the eminent leaders like Sardar Patel and the need for fighting the social evil of corruption. The measures that could be considered for celebrating the Week will include the following:

- a) It should be a five-day programme beginning from 31st October to 4 th November.



- b) The Central Vigilance Commissioner would request the President and the Prime Minister for their messages to the Nation on this occasion. Such messages received would be given wide publicity through the media and also through the CVC web-site
- c) The messages from the President, Prime Minister, the Central Vigilance Commissioner and the Vigilance Commissioner would also be sent in advance to all Chief Executives and Chief Vigilance Officers.
- d) The Vigilance Awareness Programme would begin in all the offices of the Central Government, its subordinate and attached offices, public sector undertakings and banks, autonomous bodies and institutions under the Central Government at 11 00 hrs with a pledge which would be sent separately. The pledge would be taken by all public servants irrespective of their status and would be administered by the head of the department or the senior most officer available on the occasion.
- e) After the pledge, the message from the President, Prime Minister, CVC and VC would be read out to the audience.
- f) The Chief Vigilance Officer will consider taking following steps depending upon the financial resources –
  - i) To display banners, posters etc. at prime locations in their office at the corporate centre, regional centre, zonal offices, factories/works etc.
  - ii) To organise seminars at different location on the occasion and to invite prominent faculty from the area to address the participants. The CVC/VC will also address the participants in some of the seminar
  - iii) To organise competitive debates/lectures on anti corruption topics amongst the employees and to distribute prizes
  - iv) To organise competitive lectures/debate on anti corruption methods at the student levels in the colleges/schools in the city and to award prizes to the best participation.
  - v) to issue special journals during the week; and
  - vi) to request the non government organizations, institutions and service associations in the local area to also participate in the vigilance awareness campaign.

The participants in the programme can also select specific procedures or offices and study

them and make suggestions about how corruption can be checked by simplification or improvement of procedure by bringing in greater transparency and speed in the disposal of work.

#### **10. Vendor Development:**

Vendor development is a continuous process to identify and develop new vendors to bring the competition among the vendors and to reduce cost.

- ▶ HMT has separate Vendor Development and Quality departments.
- ▶ Vendor meet is organized as per the business needs of the company. In addition to open tendering HMT also participates in various exhibitions, seminars organized by MSME/NSIC/PIA/CODISIA etc for outsourcing requirements.
- ▶ The annual procurement from MSMEs is reported and the annual requirements have been uploaded on HMT website.
- ▶ HMT follows the procedure of temporary vendor codes for potential vendors after assessment without any charges for development activity.
- ▶ Alternate sources developments for both critical and non-critical items are being done on continuous basis.
- ▶ HMT follows Long Term Agreement (LTA) to retain developed vendors/encourage active participation of the vendors.

#### **11.E-procurement:**

E-Procurement is the business-to-business purchase of supplies and services over the internet. E-Procurement makes use of a system utilizing internet technology to streamline the purchase of goods, works and services in order to reduce costs. E-Procurement can also be extended to cover various functions of the purchase department like supplier sourcing, purchase data analysis, online buyer driven commodity exchanges etc.

Implementing an e Procurement system benefits all levels of an organisation. E Procurement systems offer improved spend visibility and control and help finance officers match purchases with purchase orders, receipts and job tickets.[7] An e-procurement

system also manages tenders through a web site. This can be accessed anywhere globally and has greatly improved the accessibility of tenders

The two main processes of E-Procurement are – E-Bidding and E-Auction.

### **E-Bidding:**

E-Bidding is the electronic equivalent of traditional manual tendering process. In E- Bidding, the Bid Invitations are received from the buying organization by the bidders online and the bidders can submit bids online till the submission deadline. The bids submitted by the bidders will be available for display to the authorized persons only after the opening date and time are reached for further processing.

### **E-Auction (Also called Reverse Auction):**

E-Auction is an electronic auction where suppliers bid and compete against each other online in real time for purchase orders/contracts for products/services against a published specification and pre-established criteria. E-Auction enables online, realtime dynamic price negotiation between a buying organization and a group of prequalified suppliers.

### **Objective of E-Procurement:**

To put in place a simplified alternative to traditional tendering / procurement /negotiation process aimed at

- a) increasing operational efficiency
- b) enhanced transparency in purchase process
- c) cost rationalization
- d) digitization of purchase documentation

As per HMT, e- procurement is mandatory for all procurements (Indigenous project/Non-project/Capital items) where the estimated value of Purchase order is more than Rs 1 Lakh.

## **12. Updating of Manuals/Procurement manuals:**

Manuals are the most valuable reference source in a business environment. They are used to instruct and guide officers/employees on technical procedures, Company Policies and

guidelines as a ready reckoner of various kinds of information. It removes the ambiguity and interpretation.

Since Policies and Procedures keep changing with time it is imperative that manuals are constantly updated and circulated at least once in a year, so that the officers/employees are abreast with latest trends, making them competitive.

## CHAPTER – 7

# COMPLAINTS AND INVESTIGATIONS

### INTRODUCTION

In the changed and liberalized scenario, HMT is functioning as a vibrant commercial organization with emphasis on self reliance, profitability and competitive strengths to meet challenges from other Indian as well as Foreign companies (Career). In achievement of these objectives, there has to be greater transparency and accountability in the functioning of Managers while handling operations, expenditures and sales. The organization has to get the best possible results with effective Vigilance against unethical acts, corruption and malpractices. These unethical acts come to notice through complaints, supervisory controls, surprise checks, source information etc.

Complaints form an important source of information about corruption, various irregularities in the Company, malpractices and misconduct on the part of officials.

Complaints are received from a number of sources, namely

- (a) General Public
- (b) People's representatives like MPs, MLAs, etc.
- (c) Company employees
- (d) Press & Electronic Media
- (e) Contractors & Suppliers
- (f) Surprise Checks
- (g) Scrutiny of Annual Property Return Statements
- (h) Scrutiny of Purchase / Contract Files
- (i) Internal Audit Reports
- (j) Government Audit Reports
- (k) Reports of Parliamentary Committee such as the Committee on Public Undertaking / Public Accounts Committee / Estimates Committee / Parliament Questions etc.

All information gathered from reports, returns, newspapers etc. can be included Information received verbally should be reduced to writing as a Source Information and dealt with similarly.

Information about corruption and malpractices on the part of officials may also be received from their subordinates or public servants. While normally an employee is required to address communications through proper official channel, there is no objection to entertaining direct complaints or communications giving information about corruption or other kinds of malpractices.

As per CVC's instructions, while genuine complaints should be afforded protection against harassment or victimization, serious notice should be taken if a complaint is, after verification, found to be false and malicious. There should be no hesitation in taking severe departmental action or launching criminal prosecution against such complainants.

Information gathered from different means should also be reduced to writing and registered in the Vigilance Complaints Register at a suitable stage.

### **1. ANONYMOUS / PSEUDONYMOUS COMPLAINTS**

As per CVC & DoPT directives issued vide Circular No. 01/01/2015(98/DSP/09) dated 23rd January 2015 and No.104/76/2011-AVD.I dated 18th October, 2013 no action is to be taken by the departments / organizations, on anonymous / pseudonymous complaints received by them. The following has been delineated:

“All CVOs are informed that henceforth the Commission would be seeking confirmation from the complainant for owning / disowning the complaint, as the case may be. Therefore, any further confirmation would not be required to be sought by the CVOs from the complainant in respect of the complaints sent to CVO's for inquiry and report by the Commission. However, clarifications /any additional information, if required, could be obtained from the complainant (s) as part of inquiry in the matter undertaken by the CVOs.

As regards complaints received directly by the CVOs of Ministries / Departments / Organizations, if a complaint contains specific and verifiable allegations of corruption / vigilance angle and it is proposed to take cognizance of such complaints, the complaint will

be first sent to be complainant for owning / disowning as the case may be. If no response is received from the complainant within 15 days of sending the complaint, a reminder will be sent 15 days after sending the reminder, if still nothing is heard, the said complaint may be filed as pseudonymous by the CVO of the Ministry / Department / Organization concerned. CVOs are advised that in no case, any inquiry / investigation be initiated on complaints without receipt of confirmation from complainant on any complaint.

In so far as complaints sent by the Commission for 'necessary action' to CVOs of Ministries/ Departments / Organizations, no such confirmation would be made from the complainant by the Commission. In case the CVO on scrutiny of such complaints propose to inquire into the allegations confirmation as stated in para 2 above should be made by the CVO".

## **2. REGISTRATION OF COMPLAINTS**

Every complaint, from whatever source received, should be entered in the Register of Complaints chronologically as it is received or taken notice of. A PE/RC number is to be obtained from Vigilance Administration which will be used as the unique serial number for all correspondence in the matter till its logical conclusion or till the case is registered for preliminary or regular investigations. A complaint containing allegations against several officials may be treated as one complaint for the purpose of registration and should be shown against the highest ranking official.

Whenever a preliminary open enquiry needs to be conducted into an irregularity / case, the concerned Investigation Officer will obtain proper approval of the CVO on the Note Sheet and request Vigilance Administration for a PE number. This number will be used as the unique serial number for all correspondence in the matter till its logical conclusion or till the case is registered for regular investigations. A PE is to be registered only to ascertain whether a prima facie case exists.

When it is established that a prima facie case exists and it is necessary to conduct detailed investigations involving recording of statements by various officials / employees associated with the case, analyzing the outcome and finally making recommendations in the case (Punitive or Preventive), the concerned IO should obtain approval of the CVO on the Note Sheet for registering an RC. As in earlier types of cases, the RC number will thereafter be the

unique serial number for all correspondence till the logical conclusion of the case. All cases registered as RC must be reported to the CVC in the Monthly Reports and IOs must ensure that the schedule of time limits for investigations to be completed within three months is strictly adhered to. All cases referred for investigations and report by the CVC / MOD need to be registered as RC upfront before commencing investigations. All cases involving officers at two levels below Board level and above, which fall under the jurisdiction of the CVC, need to be registered in a separate Register and need to be categorized as Category – A cases.

### **3. COMPLAINT HANDLING POLICY**

In HMT Complaint Handling Policy will be released soon.

#### **COMPLAINT HANDLING POLICY OF HMT LIMITED**

##### **3.1 PREAMBLE:**

- (a) Complaints containing information about corruption, malpractice or misconduct by public servants are received in a decentralized manner. CVOs receive complaints, also from many a decentralized location. According to the prevailing practice what is sent to the CVO from different decentralized locations entirely depends on the appreciation of ‘vigilance angle’ or otherwise by the officers controlling these decentralized locations.
- (b) In such a system there is every chance that a complaint with a vigilance overtone may not be forwarded to the CVO, due to a lack of appreciation or for other bonafide reasons. This has also been revealed through the vigilance audit by the CVC in some organizations.
- (c) In order to have uniform practices and procedures in the handling and processing of complaints in an organisation, it is imperative that a ‘Complaint Handling Policy’ is laid down for receipt, handling and processing of all types of complaints / grievances from the public, contractors, vendors, suppliers, etc.

##### **3.2 OBJECTIVE:**

Any complaint / grievance received in the organisation by any functionary containing any element of alleged corruption, malpractices or misconduct etc., should necessarily be sent to the CVO of the organisation for scrutiny and action.



#### **4. DEFINITION of COMPLAINT:**

Receipt of information about alleged corruption, malpractice or misconduct on the part of public servants, from whatever source, would be termed as COMPLAINT.

#### **5. TYPES OF COMPLAINTS:**

##### **(a) IDENTIFIABLE or SIGNED COMPLAINTS: -**

These are complaints wherein the identity of the complainant is mentioned by virtue of name, contact details, etc. Further, the complainant owns / confirms the details mentioned in the complaint, when the complainant is contacted at the address / contact no. mentioned in the complaint.

##### **(b) PSEUDONYMOUS COMPLAINTS (Bearing a false or fictitious name; writing or written under a fictitious name) : -** These are complaints wherein the identity of the complainant is mentioned by virtue of name, contact details, etc. However, when the signatory of the complaint is contacted at the address / contact no. mentioned in the complaint, the complaint is either disowned or there is no response within a reasonable time.

##### **(c) ANONYMOUS COMPLAINTS: -**

These are complaints where the complainant where the complainant has not revealed, verifiable or traceable or contactable identity while making the complaint.

##### **(d) SOURCE INFORMATION: -**

Source information received by the Vigilance Department shall be reduced in writing and shall be treated as signed complaint.

#### **6. ACTION ON COMPLAINTS RECEIVED BY VIGILANCE DEPARTMENT:**

The complaints received directly by Vigilance Department have to be marked or forwarded to CVO (in original) for deciding the further course of action.

#### **7. ACTION ON COMPLAINTS RECEIVED BY SECTIONS / DEPARTMENTS OF DIVISIONS, COMPLEXES, ROs / Dos: -**

##### **(a) Nodal Agency:** Under the Complaint Handling Policy of HMT Ltd. the CGM (HR) – ('KH') is notified as the Nodal Agency. He will receive the complaints from the

respective HR chief of the Complex / Division / ROs / DOs in original and send the same to CVO as and when received to decide upon the existence of a vigilance angle in the format.

- (b) Any Complaint, as defined, received by the Heads of Sections / Departments of Complex should invariably be forwarded to the respective Complex HR Heads. Similarly, for Marketing & Defence HQ / ROs / DOs and Corporate Office, the same will be forwarded to MK and KP(E&M) respectively. Every complaint, irrespective of source, should be entered in the Complaint Register in the prescribed format. Respective HR department shall then forward the complaints as and when received, to the CGM (HR) – ('KH') in the format as prescribed. No other action on the complaint should be initiated by the respective HR department at this stage.

#### **8. SCRUTINY OF COMPLAINTS:**

- (a) All complaints including Anonymous / Pseudonymous received by / forwarded to the Nodal Agency will be sent to CVO as and when received.
- (b) No action is required to be taken on the anonymous complaints irrespective of the nature of allegations and such complaints need to be simply filed.
- (c) Complaints containing vague allegations could also be filed without verification of identity of the complainant.
- (d) If a complaint contains verifiable allegations, CVO will take cognizance of such complaint.
- (e) In such cases, the complaint will be first sent to the complainant for owning / disowning, as the case may be. If no response is received from the complainant within 15 days of sending the complaint, a reminder will be sent. After waiting for 15 days after sending the reminder, if still nothing is heard, the said complaint may be filed as pseudonymous.
- (f) The decision with regard to the existence of a vigilance angle in such complaint case will be taken by the CVO. The CMD or his nominee, may, if there are valid reasons, within a period of 15 days, differ from the CVO. In case of difference between CVO and CMD, the matter will be referred to the CVC for advice. Else, the Complaint will

be registered in the Vigilance Complaint Register, the CVO will then process the matter further to decide as to whether the allegations or the matter requires further investigation or should be entrusted to the CBI or local police or taken up departmentally.

- (g) A case may be entrusted to the CBI with the approval of the CMD, if the allegations:
  - (i) Are criminal in nature (e.g. bribery, corruption, forgery, criminal breach of trust, possession of assets disproportionate to known sources of income, cheating, etc.); or
  - (ii) Require inquiries to be made from non-official persons; or
  - (iii) Involve examination of private records; or
  - (iv) Need expert police investigation for arriving at a conclusion; or need investigation abroad.

A decision in this regard shall be taken by the CMD within 15 days from the date on which papers are received by him for consideration and decision.

- (h) A complaint involving a Board-level appointee, alone or with others, shall be forwarded to the CVO of the Administrative Ministry.

## **9. METHODS OF RECEIVING COMPLAINTS IN HMT:**

- (a) Through Vigilance Portal of HMT Web site [www.hmtindia.com](http://www.hmtindia.com)
- (b) Through the Drop Boxes placed at various locations.
- (c) Directly/By Post/source.

## **10. METHODS OF RECEIVING COMPLAINTS BY CVC:**

- (a) Through complaint handling portal of CVC web site <http://www.cvc.nic.in>
- (b) PROJECT VIGEYE. Please refer VigEYE website ([www.vigeye.com](http://www.vigeye.com)) for any clarification/ details.
- (c) Public Interest Disclosure and Protection of Informers Resolution (PIDPIR) – popularly known as Whistle Blower Complaint. A copy of detailed notification is available on the web-site of the Commission

## **11. PRELIMINARY ENQUIRY (P.E.)**

The purpose of preliminary investigation is to ascertain existence of Vigilance angle in the complaint, and this should be done within ONE MONTH from the date of receipt of the complaint CVC Circular No.000/VGL/18, dated 23rd May, 2000).

Each complaint will be examined by the CVO to see whether there is any substance in the allegations made in it which merit being looked into. Where allegations are vague and general and prima facie unverifiable, the Investigating Officer may decide, with the approval of the CVO, that no action is necessary and the complaint should be dropped and lodged. However, in respect of such complaints pertaining to the officers in whose case CVC's advice is necessary, as well as complaints received from the CVC, or CBI, the P.E. Report will be forwarded to the CVC (together with the views of the CMD), CVO, CBI as the case may be. The CVO who will take a decision – based on the recommendations of the IO – regarding 'lodging' / filing of a complaint, but under information to the CVC / CBI, as the case may be.

Whenever P.E. Report is required to be sent to the CVC, the Investigating Officer should conclude his investigation within a period of two weeks and forward the Report to the CVO so that the decision on existence of Vigilance angle is taken within the stipulated period of one month.

A Preliminary Enquiry may result in one of the following decisions:

- (a) The complaint is lodged (having no Vigilance angle); or
- (b) The complaint with no Vigilance angle is forwarded to the concerned department for administrative action; or
- (c) Prima facie Vigilance angle is found and the case is taken up for detailed investigation and registered as an RC.

## **12. PRELIMINARY ENQUIRY GUIDELINES**

The Preliminary Enquiry may be done keeping in view the matters having Vigilance angle as indicated in the CVC Vigilance Manual. The investigation process is a comprehensive activity involving :

- (a) Information collection;

- (b) Application of logic; and
- (c) Exercise of sound reasoning.

On receipt of complaint, the following checklist may be prepared by the Investigation Officer within three days in consultation with the Dy. CVO :

- (a) Veracity of the complainant.
- (b) List out allegations made; departments and persons involved against each allegation.
- (c) Inspect the site / office / premises for possible evidence.
- (d) Collect the files and documents with reference to the allegation for examination. Seizure of files / documents to be taken possession of by I.O. should be done at the earliest.
- (e) Study the system / rules / guidelines on the subject.
- (f) Study the past practices.
- (g) Study delegation of powers. Whether any discretionary power has been used?
- (h) Gather information from persons around (selection of persons is important). Recording of statement at this stage may not be necessary.
- (i) Analyze the facts and conclude about existence of the Vigilance angle in the complaint.
- (j) Prepare and submit P.E. Report within two weeks.

### **13. REGISTRATION OF REGULAR CASE (RC)**

After it has been decided, with the approval of the CVO, that the allegations contained in a complaint should be looked into departmentally, the IO should proceed to make a detailed investigation. The DGM (Vig.) may conduct the detailed investigation himself or entrust it to one of the Vigilance Officials as an Investigating Officer.

The detailed investigation may be made in several ways depending upon the nature of the allegations and the judgement of the Investigating Officer, For example,

- (a) If the allegations contain information which can be verified from documents, files or other departmental records, the I.O. should, without loss of time, secure such records etc. for personal inspection. If any paper is found to contain evidence supporting the allegations, it should be taken over by him for retention in his personal custody to guard against the possibility of the available evidence being tampered with later on. If the papers in question are required for any current action, it may be considered whether the purpose would be served by substituting authenticated copies of the relevant portions of the record, the originals being retained by the Investigating Officer in his custody. If that is not feasible, the officer requiring the documents or papers in question for current action should be made responsible for their safe custody after retaining authenticated copies for the purpose of enquiry.
- (b) In cases where the alleged facts are likely to be known to any other employee of the department, the Investigating Officer should interrogate them orally or ask for their written Statement. In case of oral interrogation, a full record of the interrogation may be kept and the person interrogated may be asked to sign as a token of his confirmation of his Statement.
- (c) Whether necessary, important facts disclosed during oral interrogation or in the written Statement should be sought to be corroborated.

#### **14. HOW INVESTIGATION SHOULD PROCEED (QUESTIONNAIRE)**

- (a) The first and foremost requirement is to understand the task properly. It should be clear to the I.O. as to what exactly is the scope and purpose of the investigation.
- (b) The I.O. should adopt an objective and analytical approach must make the suspected employee confident that he is not biased against him. If the suspected employee volunteers “administration”, it should be recorded and his signatures obtained thereon.
- (c) The I.O. must plan his work carefully before beginning to record the evidence. He must know what are the documents required and who the persons are whose evidence may be recorded.
- (d) In departmental proceedings, the documentary evidence is of paramount

importance. A witness may lie but a document will not. In departmental proceedings, a case built on documentary evidence is always on a stronger ground than the one based on oral depositions. A careful study of the documents will help in planning the future steps.

- (e) After a thorough scrutiny of the documents, the I.O. should be in a position to reconstruct the situation and find out the various persons involved in the matter. This I.O. should be able to spot whom to examine and about what.
- (f) Before examining the witnesses, the I.O. should acquaint himself fully with the relevant rules and procedures governing the situation. Keeping in view these factors and the role analysis of the witnesses done earlier, the I.O. may plan his investigation. The I.O. should be courteous and gentle to the witnesses. Intimidating or browbeating a witness must be avoided. The witness should be asked to offer the facts in her / his possession.
- (g) The suspected employee should be taken into confidence before his evidence is recorded. He may be examined as the last witness after collecting all other evidence. The examination of the suspected employee is a very important process & is extremely useful in processing the case further.
- (h) The objective of the I.O. is to find out the truth. He should, after collecting all documentary and oral evidence, analyze and draw up his conclusions. He must avoid presenting a motivated and coloured Report and thus should not do injustice to the suspected employee. In a reasonable manner, the Report should contain an analysis of the various pieces of evidence recorded and the conclusions drawn there from. In his Report, the I.O. should not say that the allegations stand proved against the employee concerned; at best he can say that, on the basis of the evidence on record, the allegations prima facie appear to be correct.

## **15. INVESTIGATION TECHNIQUE**

### **15.1 Introduction:**

Investigation of complaints is not always a straightforward matter. Investigation techniques are acquired by experience & a strong will to investigate. A good investigation is essential to

unearth the hidden truth behind a complaint. In order to achieve this goal, the investigators should be properly trained and they should develop basic investigation skills and capacities. A skilled investigator can pick up valuable clues which a normal investigator may not be able to see even if such clues are lying clear on the surface.

## **15.2 Investigation module**

### **(a) Examination and recording of allegation**

- (i) Examine the complaint for the allegations made. Identify / bring out the allegations, which may be one or more.
- (ii) Record the allegations in clear, well directed and specific terms.
- (iii) Record names of persons (s), department etc. against whom the allegations have been made.

### **(b) Based upon the allegation**

- (i) List out Files to be examined and immediately seize them from their location.
- (ii) List out any documents / records to be scrutinized and take them into possession without delay.
- (iii) List out persons directly involved in the allegations for interrogation in future, but make no immediate communication with them till the Files / documents / records are examined in totality.
- (iv) If any File / record could not be seized due to non-availability at their location, send a written demand for the same to be custodian / HOD etc.

### **(c) Examination of Files / records**

- (i) Keep the specific allegation (s) in mind and tag pages wherever related matter appear in Files / records.
- (ii) Carefully go through the Files / records page by page and note down the events / notings etc. date wise; i.e., prepare a short history of the events separately.
- (iii) There may be points arising out of the scrutiny having some Vigilance angle which can form an allegation other than / separate from those in the complaint.



- (iv) Flag those pages and record all such points separately. Bring out the allegation in clear cut terms from all such points and enlist it in the list of allegations with a note mentioning its source.
- (d) Examination done at (c) above will result in either of the following :
  - (i) No evidence substantiating the allegation are found.
  - (ii) \*Evidence substantiating the allegations are found.

### **15.3 ACTION TAKEN AFTER INVESTIGATION:**

Based on above result, the following actions may be taken:

- (a) Depending on the merit of the complaint / allegations made, the case can be either closed or further pursued. If the allegations are such that they could only be established through evidences in Files / records etc. and the basis of the complaints rests on these alone, then the investigation can be concluded with the approval of the Dy. CVO.
- (b) \*If the basis of the complaint does not rest on Files / records scrutinized alone, then the persons /agencies who can contribute to substantiating the allegations or from whom further clues can be obtained will have to be identified.
- (c) Both the situations marked \* above, will lead to obtaining statements from persons or interrogation of persons involved.

### **15.4 Interrogation**

- (a) Call the person to be interrogated, giving her / him the date, time, venue etc. through written intimation to her / his superior / Sectional Head / HOD. In the case of exigency, the same can be done over telephone. No disclosure is to be made about the nature of the complaint / allegations in this intimation. Only in cases where personal documents like Birth Certificate, School Leaving Certificate etc. are required to be seen / examined, she / he shall be asked to bring them with her / him.
- (b) The Statements / replies obtained during the interrogation are extremely valuable. Therefore, these have to be recorded at the time of interrogation and, as per the norm, one copy of the same has to be handed over to the person

interrogated.

- (c) Keeping the allegation fully in focus, prepare a list of queries which must be raised and the clarifications that need to be obtained well in advance of the interrogation, so that no point is missed. Though the necessity of calling the same person more than once cannot be ruled out, try to cover all aspects of the allegations in the very first interrogation, to avoid giving her / him a feeling of harassment.
- (d) When the person to be interrogated arrives:
  - (i) Welcome her / him heartily.
  - (ii) Do not let her / him feel that you are prejudiced about her / his guilt / misconduct.
  - (iii) Give no indication about the allegation to begin with, till the same becomes essential for further questioning.
  - (iv) Keep cool while putting questions even when the answers given are irrelevant and go on recording them. Repeat your queries in specific terms till satisfactory replied.
  - (v) If documents etc. are shown to her / him for verification / authentication, the same must be recorded in the proceedings. Such documents should also be signed by her / him as "SEEN".
  - (vi) If the person under interrogation names some other person, get the same recorded with full details. If she / he refers to Files etc. not in hand, record these and take her / his commitment to submit the same within a fixed date.
  - (vii) Ensure all points are covered. Most of the time, the reply given leads to the next question to be asked. Even, in some situations, queries may get directed to a completely new dimension, issue or area of concern.
  - (viii) During the course of interrogation even a fresh case may crop up; be prepared for that.
- (e) At the end of the interrogation:
  - (i) Ensure correctness of recording of all Statements.
  - (ii) Read out the replies / Statements given by the person interrogated.

- (iii) Get each page signed and also at the end with date.
- (iv) Hand over the copy after obtaining a receipt for the same.
- (f) The result of the interrogation shall now be analyzed in totality along with the result of scrutiny of Files / records wherever applicable. This may lead to the following:
  - (i) The allegations are not established.
  - (ii) The allegations are established in full or partly established.
  - (iii) New cases with separate charges may evolve.
- (g) In all the situations, a comprehensive report with recommendations has to be submitted to the CVO, enclosing all the documents and Statements.
  - (i) For case at f (i) recommendation shall be to close the complaint.
  - (ii) For case f(ii), depending upon the severity of misconduct, the recommendation can be either initiation of RDA for Minor Penalty including 'censure', Minor Penalty other than 'censure' or Major Penalty proceedings.
  - (iii) For f(iii), begin with another investigation afresh with the allegations evolved.

## **16. REGULAR CASE (RC) REPORT**

The objective of the Investigating Officer is to find out the truth. After the detailed investigation has been completed, the I.O. should prepare a self-contained Report, containing inter alia the material to controvert the defence and his own recommendations.

The structure of the Report may be formulated as under:

- (a) Specific allegations on each of the issues contained in the complaint.
- (b) Facts on each allegation along with documentary and oral evidence relied upon.
- (c) Analysis with respect to relevant Rules, procedures, guidelines and the explanation of the suspected employee.
- (d) Findings, clearly bringing out the wrongful omissions / commissions on the part of each of the suspected officials and the wrongful loss caused to the Company.
- (e) Need for system improvements, if any, with recommendations.

The Report of the Investigating Officer should be comprehensive and completely documented so as to enable the Disciplinary Authority to form an opinion as to whether to take disciplinary or any other action. Seized documents and the Statements of the witnesses and the suspected employee (s) recorded during the investigation should be enclosed with the Investigation Report.

The CVC have provided detailed guidelines – vide their Circular No.21/8/09 communicated vide letter N.006/PRC/1 dated 6th August, 2009 - on the documents to be submitted for seeking their First Stage Advice in cases involving officers under their jurisdiction (Two levels below Board level : In the case of HMT, officials at the level of General Manager and above). These guidelines detail the parameters according to which a Vigilance Report needs to be submitted. For ease of application and understanding, all Vigilance Reports (whether or not relating to the cases to be referred to CVC for advice) will conform to these parameters which are reproduced below:

## **17. VIGILANCE REPORT**

### **CONSTITUENTS OF VIGILANCE REPORT:**

- a) Source
- b) Gist of allegations
- c) Facts
- d) Observations
- e) Response of the officials concerned
- f) Counter to the response
- g) Conclusion
- h) Responsibility of officials
- i) Recommendation for action
- j) Recommendation for systemic improvement

### **17.1 Source**

Background of the Report – whether based on source information, complaint referred to by the CVC, CTE / CTE type inspection or direct enquiry.

### **17.2 List of allegations**

- a) Specific and verifiable allegations are extracted from the complaint.
- b) One Allegation shall correspond with one alleged act of commission / willful Omission.
- c) The allegations will drive the points to be probed.

### **17.3 Facts**

- ▶ The relevant facts relating to the issue under examination should be presented in chronological or activity-wise sequence.
- ▶ Each fact should be supported by documentary evidence (other forms of evidence may also be presented) denoted as E1, E2, E3, etc. Since the facts occur in chronological order, the evidence E1, E2, E3, etc. should necessarily be arranged below the Report in the same order, thus making it easier for reference.
- ▶ While annexing the evidence, the relevant portion of the said document should be highlighted for ready access. For example, the evidence for educational qualifications for promotion should consist of the Xerox copy of only the clause prescribing the qualifications and not the whole 20 pages of the Promotion Policy.
- ▶ There may be several issues in a report which may be conveniently arranged as different para 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.

### **17.4 Observations**

- ▶ Ordinarily, observations are logical deductions arrived at through a set of facts. They are in the nature of discrepancies 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.

### **17.5 Response of the officials concerned**

- ▶ It is necessary to elicit the reasons and clarifications of the management or the officers concerned for the anomalies pointed out in the observations. Every deviation from rules or procedure cannot be attributed to a malafide / corrupt intent. There may be situations where it may be difficult to achieve the objective of a task by strictly abiding by the rules. Rules may be circumvented, while expediting the work or in the larger interest of the work, with good intentions. It is, therefore, essential for Vigilance to distinguish between acts of omission and acts of commission. Therefore, obtaining the response of the officers concerned is essential in order to arrive at an objective conclusion.
- ▶ Response of the management is also necessary in order to clarify differences in interpretation / understanding of the issues between Vigilance and the management.

### **17.6 Counter to the response**

In order to sustain the observations made by Vigilance, it is necessary to counter the defense 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.

### **17.7 Conclusion**

- ▶ Conclusion is the logical summation of the observations. The observations denoting various counts of irregularity, lapses or impropriety should finally lead to a logical conclusion on whether the case involves commission of irregularity / impropriety with the intention of corruption.
- ▶ Undue favor 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.

### **17.8 Responsibility of Officials**

- ▶ Having determined the Vigilance angle in the case, the next step is to fix the accountability of the individuals involved in the misconduct. Name of the 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 held responsible equally and collectively.
- ▶ Comments of Disciplinary Authority should invariably be included.

### **17.9 Recommendation for action**

- ▶ Recommendation for closure of the case – if it is found that there is no discernable Vigilance angle or criminal misconduct – should be clearly spelt out.
- ▶ Bio data of the officials reported against in the investigation report should be included in the given format.

### **17.10 Recommendation for systemic improvement**

Punitive action on detection of corruption does not by itself lead to a logical conclusion unless it is able to prevent recurrence of the lapse. Any fraud, corruption, irregularity or impropriety indicates a failure of control mechanism or gaps in systems and procedures. Therefore, each case throws up an opportunity to identify these control failures and suggest ways of plugging them to prevent recurrence of the lapse. Therefore, at the end of the report, the CVO should also try to recommend systemic improvements in order to prevent the risk of a recurrence of the lapse / misconduct.

## **18. ACTION ON INVESTIGATION REPORT**

- ▶ The Dy. CVO will process the detailed Investigation Report with recommendations for further action and submit it to the CVO who, after perusal of the Report, will take appropriate decision for closure or processing further to recommend RDA and also to make preventive recommendations.
- ▶ As per the provision under Article 311 of the Constitution of India which applies to the

employees of PSUs, action against employees is to be taken only by the authority who has appointed them and who is called the Disciplinary Authority (DA).

- ▶ For the various categories of Air India employees, the details of the Disciplinary Authorities, Appellate and Reviewing Authorities are listed in the HMT Employees' Service Regulations.
- ▶ For cases falling within the CVC's jurisdiction (officers who are two levels below Board level), a reference to the CVC needs to be made for their First Stage Advice, after obtaining the comments of the DA. The Bio data of the suspected officials, an Assurance Memo signed by the CVO and draft Charge-Sheet to be issued to the delinquent (s) should also be sent along with the Report, along with Tabular Statement – as prescribed vide CVC's Circular dated 1st December, 2008 – which contains the names of the delinquents, the allegations levelled against them, the findings of the Vigilance Investigation, with the recommendations of the CVO and the DA.
- ▶ Other cases may not ordinarily be referred to the CVC unless, due to special reasons, the Commission calls for a Report or in cases the PSE would like to seek the advice of the Commission. (Ref. CVC letter No.98/VGL/51 dated 11th August, 1999).
- ▶ As per CVC's instructions, in a composite case which includes officers / Staff who are not within the commission's jurisdiction along with other officers who come within the Commission's jurisdiction, reference would be required to be made to the CVC in respect of these 'other' officers and Staff too.
- ▶ On receipt of a Report in an RC, the CVO will submit the case to the CMD with recommendations for action who in turn forwards to the DA. The Disciplinary Authority is required to carry out their duties. She / he is also required to assess the gap between what the managers at different levels of the decision making hierarchy actually did and what they were required to do in accordance with the Manuals / guidelines / orders. They may follow the following criteria for the purpose and highlight in their Reports if the answer to any of the questions is in the affirmative.

(a) Can malafide be inferred or presumed from the actions of any of the



concerned officials?

- (b) Could any of the officials be said to have engaged in a misconduct or misdemeanour?
- (c) Was the conduct of any of the officials reflective of lack of integrity?
- (d) Did the official(s) act in excess of their delegated powers / jurisdiction and fail to report the same to the competent authority?
- (e) Did they or any of them show any gross neglect of their official functions?
- (f) Is there any material to indicate that any of them acted recklessly?
- (g) Has the impugned decision caused any undue loss to the organization?
- (h) Has any person / party or set of persons / parties, either within the organization or outside it, been caused any undue benefit?
- (i) Have the norms or systems and procedures of the organization been flagrantly violated?

In case the DA does not agree with the recommendations made by the CVO, or there is a difference of opinion between the CVO and DA on any issue pertaining to Vigilance / disciplinary matters in regard to cases which are not to be referred to the CVC, the CMD will resolve the issue in consultation with the CVO. If the difference of opinion still persists, the CMD would bring the matter to the notice of the Board. In case the CMD himself is the DA in a particular case and there is disagreement between the CVO and CMD, the matter will be forwarded to the CVC for a resolution.

The Disciplinary Authority would consider the detailed Investigation Report and the First Stage Advice of the CVC and decide on :

- (a) Punitive action – Regular departmental action for Minor / Major Penalty.
- (b) Preventive action – Improvement of system, procedure; and / or
- (c) Issue of Advisory letter / warning / caution.
- (d) Action against private parties.

- (e) Closure of the Vigilance case.

## **19. PRIOR CONSULTATION OF CVO IN DISCIPLINARY PROCEEDINGS**

- ▶ There are various stages in Disciplinary Proceedings consequent to a Vigilance recommendation where the Competent Authority is required to consult the CVO before proceeding further.
- ▶ Once the Competent Authority takes a decision to implement the Vigilance recommendations for award of Penalties, a draft Show Cause Notice is to be referred to the CVO for vetting. No Show Cause Notice will be issued without it being vetted by CVO.
- ▶ If the Competent Authority feels that the explanation received is not satisfactory and decides to proceed with the issuance of charge-sheet, the draft charge-sheet will also be similarly forwarded to the CVO for vetting. If it is felt that, despite the delinquent accepting all the charges, it is necessary to proceed with a departmental enquiry, the issuance of such charge-sheet will also be guided by the above Rule.
- ▶ If, however, the Competent Authority feels that the explanation offered by the delinquent is satisfactory and that departmental action is not required, the same has to be referred to the CVO for consultation within the time limits stipulated by the CVC. In case the CVO does not agree with the views of the Competent Authority in the matter, it will be referred by the CVO to the CMD for a decision.
- ▶ Once the Competent Authority receives the Enquiry Report from the Enquiry Officer / Committee in a disciplinary proceeding based on Vigilance recommendations, she / he is expected to go through the Report and apply her / his mind before arriving at a decision to impose a penalty on the delinquent.
- ▶ After application of mind and after going through the Personal File and history of performance of the delinquent, the Competent Authority will arrive at the appropriate penalty to be imposed on the delinquent in keeping with the laws of Natural Justice.

- ▶ It is necessary that all cases with Vigilance angle be regulated by the Vigilance Department in order to maintain consistency in the penalties imposed and ensure that penalties imposed are appropriate w.r.t. to the gravity of the misconduct. Prior Vigilance consultation is, therefore, necessary before the award of the penalty and hence the Competent Authority should seek the concurrence of the CVO by forwarding the proposed Penalty detailing the justifications for her / his decision.
- ▶ The final Show Cause Notice to be issued to the delinquent shall be issued only after the CVO has been consulted with respect to the quantum of punishment.
- ▶ In cases where the Vigilance recommendations are for RDA for Minor Penalty or RDA for Minor Penalty other than Censure, the Competent Authority may proceed with the issue of the penalty without any reference to / consultation with the CVO as long as the penalty being awarded is in consonance with the CVO's recommendations.
- ▶ So far as action against private parties is concerned, it shall be done by the concerned authority as an administrative action.

## **20. HMT PORTAL - COMPLAINT REGISTRATION**

All complaints relating to corruption, lack of integrity / fairness / transparency in dealing with HMT Limited (which necessarily have vigilance angle) have to be made in writing to

▶ **Chief Vigilance Officer**

**HMT Limited, 59, Bellary Road, Bangalore - 560 032, Karnataka, India. Phone : +91-80-23338949. Fax : +91-80-23430928 Email: [cvo@hmtlimited.com](mailto:cvo@hmtlimited.com)**

Complaints can also be lodged online on this portal through the Vigilance Complaint Form on HMT Website. The complaints will be acknowledged with a duly assigned number. Based on the merit of the complaints, further course of action will be taken as per the Company Policy. Nevertheless, the status of the complaints can be viewed at this portal through Complaint status.

## CHAPTER – 7

# PIDPI COMPLAINTS

### 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 victimization for doing so. The Central Vigilance Commission is the designated agency to receive complaints from whistle blowers under the PIDPI Resolution.

### WHISTLE BLOWERS ACT

The Whistle Blowers Protection Act, 2011 (originally introduced as PUBLIC INTEREST DISCLOSURE AND PROTECTION OF PERSONS MAKING THE DISCLOSURE BILL 2010) is yet to come into force.

### PIDPI RESOLUTION

#### 7.1.1

In 2004, in response to a Writ Petition (Civil) No. 539/2003 filed after the murder of **Shri Satyendra Dubey**, the Supreme Court directed that a machinery be put in place for acting on complaints from whistleblowers till a law is enacted. Pursuant to that, 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 Resolution (PIDPI), 2004 which gave the powers to the Commission to act on complaints from whistle-blowers. The PIDPI Resolution has the following main provisions: -

**a)** The 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, if it deems fit, call for further information or particulars from the persons making the disclosure. If the complaint is anonymous, the designated agency shall not take any action in the matter;

**(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 / organization 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 Organization;

**(j)** If the informant feels he is being victimized, he may make an application before the designated agency seeking redress in the matter. The designated agency may give suitable directions to the concerned public servant or the public authority;

**(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 needs protection, it shall issue appropriate directions to the concerned Government authorities; 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.

#### **7.1.2**

Pursuant to the PIDPI Resolution, 2004, the Commission vide Office Order No. 33/5/2004 dated 17.05.2004 issued guidelines and Public Notice on the procedure to be followed for filing whistle-blower complaints under the PIDPI Resolution, 2004.

#### **7.1.3**

Subsequent to the Resolution of 2004, the DoPT vide Notification No.371/4/2013-AVD.III dated 14.08.2013 partially amended the PIDPI Resolution. The amendment, inter alia, authorised the Chief Vigilance Officer of the Ministries or Departments of Government of India to act 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 established by or under any Central Act, Government companies, societies or local authorities owned or controlled by the Central Government and falling under the jurisdiction of that Ministry or Department. The amendment also authorized the Central Vigilance Commission to supervise and monitor the complaints received by the designated authority. The amendments have the following provisions: -

**(a)** Para 1A- The Chief Vigilance Officers of the Ministries or Departments of the Government of India are also authorized 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 established by or under any Central Act, 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)** Para 7A- Either on the application of the complainant, or on the basis of the information gathered, if the designated authority is of the opinion that either the complainant or the witnesses need protection, the designated authority, shall take up the matter with the Central Vigilance Commission, for issuing appropriate directions to the Government authorities concerned.

(c) Para 11A- The Central Vigilance Commission (CVC) shall supervise and monitor the complaints received by the designated authority.

## **7.2 HANDLING OF COMPLAINTS RECEIVED UNDER PIDPI RESOLUTION.**

### **7.2.1**

The Commission has the responsibility of keeping the identity of the complainant secret. Hence the Public Notice was issued by the Commission, informing the general public that any complaint, which is to be made under this Resolution should comply with the following conditions: -

(a) The complaint should be in a closed / secured envelope.

(b) (i) The envelope should be addressed to Secretary, Central Vigilance Commission and should be super-scribed **“Complaint under The Public Interest Disclosure”**. If the envelope is not super-scribed and closed, it will not be possible for the Commission to protect the complainant under the above Resolution and the complaint will be dealt with as per the normal complaint handling policy of the Commission. The complainant should give his / her name and address in the beginning or end of complaint or in an attached letter.

(ii) 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.”

(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) In order to protect identity of the person, the Commission will not issue any acknowledgement and the whistle-blowers are advised not to enter into any further

correspondence with the Commission in their own interest. The Commission assures that, subject to the facts of the case being verifiable it will take the necessary action, as provided under the Government of India Resolution mentioned above. 4The designated agency may, if it deems fit, call for further information or particulars from the persons making the disclosure. If the complaint is anonymous, the designated agency shall not take any action in the matter.

**(f)** The Commission can also take action against complainants making motivated / vexatious complaints under this Resolution.

#### **7.2.1A**

Certain categories of complaints received under PIDPI Resolution where it is not possible to maintain confidentiality about the identity of the complainants, are considered as Non-Public Interest Disclosure and Protection of Informers (Non PIDPI) Complaints, but before processing such complaints, the identity of the complainant is masked, thus taking adequate safeguard in an attempt to maintain confidentiality about the complainant's identity. Some categories of complaints, which one similarly dealt with, are as under: -

**(i)** The complaint has been received in an open condition

**(ii)** The complaint has been addressed / endorsed to several authorities.

**(iii)** The issues raised in the complaint had earlier been taken up with other authorities.

**(iv)** The information has been sought / obtained under the provisions of RTI Act, by the complainant himself.

**(v)** The complainant had earlier taken up the issue with this Commission in the form of an ordinary complaint, under the Commission's Complaint Handling Policy.

**(vi)** The complainant makes a complaint through email or seeks status / information regarding his earlier PIDPI Complaint by sending an email, thus making his identity public,



which is violation of the guidelines issued by the Commission for making complaints under the provisions of PIDPI Resolution.

**(vii)** The complaint has been addressed / endorsed to many authorities of the Central Vigilance Commission, thus, disclosing his identity.

### **7.2.2**

At present the procedure being followed in the Commission for handling complaints received from whistle blowers under PIDPI Resolution is as follows: -

**(a)** Complaints received under PIDPI Resolution are opened in the Confidential Section and parallel files (separate file for each complaint) are created after concealing the name, address and the identity of the complainant disclosed in the body of complaint.

**(b)** 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 Branch concerned of the Commission for taking necessary action. Anonymous and Pseudonymous complaints received under PIDPI Resolution are also sent directly to the Branch 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)** In case the matters are personal in nature or it is very difficult to hide the name / identity of the complainant, the complaint is filed in the Confidential Branch without any further action.

**(e)** After receiving necessary confirmation along with the certificate 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 (closure).

**(g)** The complaints, where necessary action has been recommended by the Screening Committee, are referred to the concerned Branch for further action. Complaints recommended for investigation and reports are sent to the concerned Branch for further action after approval of the Commission. The Commission vide *Office Order No. 12/09/18 dated 28.09.2018*, has prescribed a period of twelve weeks from the date of receipt of reference of the Commission for submitting report to it.

### **7.3 PROTECTION TO WHISTLE BLOWERS**

According to the PIDPI Resolution, following provisions have been made for protection of Whistle Blowers: -

**(a)** If any person is aggrieved by any action on the ground that he is being victimized due to the fact that he had filed a complaint or disclosure, he may file an application before the designated agency (CVC) seeking redress in the matter, who shall take such action as deemed fit. The designated agency may give suitable directions to the concerned public servant or the public authority as the case may be.

**(b)** 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)** 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.

### **7.3.2**

If any person is aggrieved by any action on the ground that he is being victimized due to the fact that he had filed a complaint or disclosure, he may file an application before the designated agency seeking redress in the matter, who shall take such action, as deemed fit. The designated agency may give suitable directions to the concerned public servant or the public authority as the case may be.

### **7.3.3**

As regards protection against victimisation or harassment within the Department, the Commission forwards such complaints of Whistle Blowers to the CVO of the concerned organisation for appropriate action.

## **7.4 SUPERVISION AND MONITORING OF DESIGNATED AUTHORITY**

Keeping in view the Paragraph 11A of Resolution dated 14.08.2013(amendments to its earlier PIDPI Resolution) which says that the Commission shall supervise and monitor the complaints received by the designated authority, a report on PIDPI complaints including cases of alleged harassment / victimisation received by the Chief Vigilance Officers of the Ministries or Departments of the Government of India are required to be sent to the Commission by the CVOs of the Ministries / Departments.

## CHAPTER – 8

# E - VIGILANCE

### 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 of 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.

### 8.1 BACKGROUND OF E-VIGILANCE

(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 in India has steadily evolved from computerisation 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 digitization 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.

## **8.2 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 unauthorised 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 maneuverings. 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.

### **8.3 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 be updating and making robust.

**(d) Security Audit:**

All the IT systems and processes should be security audited by agencies such as STQC or CERT-In empanelled agencies. The software applications, IT system should be tested / audited on regular interval 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 empanelled 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 empanelled 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 examine 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 of service, unauthorised availing of service after due date, and unauthorised 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, 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, organizations 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 (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.

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ICT infrastructure facilitative e-services should be continuously monitored for the security status and visibility on operations. Apart from monitoring the e-services itself, organizations 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 instil 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 empanelled information auditing organizations 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: -

[https://www.meity.gov.in/writereaddata/files/CISCO Roles Responsibilities.pdf](https://www.meity.gov.in/writereaddata/files/CISCO_Roles_Responsibilities.pdf)

[https://www.cert-in.org.in/PDF/guideline auditee.pdf](https://www.cert-in.org.in/PDF/guideline_auditee.pdf)

[https://www.cert-in.org.in/PDF/Auditor Guidelines.pdf](https://www.cert-in.org.in/PDF/Auditor_Guidelines.pdf)

<https://www.cert-in.org.in/PDF/CyberSecurityAuditbaseline.pdf>

## CHAPTER – 9

# LEVERAGING TECHNOLOGY

### INTRODUCTION

**Vigilance as a Management Function – Leveraging Technology - Balwinder Singh, Addl.Secretary, CVC**

Vigilance is not a stand-alone activity. It has to be seen as part of the overall risk management strategy of an organization wherein the structures, systems and processes are built in such a manner so as to prevent leakages which adversely affect productivity and profitability. A number of organizations both in public and private sector are re-engineering their processes by leveraging information technology. It will be in the organizational interest that when they are reorganizing business processes they should identify the likely risks like fraud, corruption, other malpractices and build in the required risk management tools in the new processes. Recently a write-up has appeared in the Economic Times under the heading “Fuel for e-commerce at HPCL”. This article explains how HPCL has networked all its petrol pumps in and around Mumbai for the purposes of inventory control and supply chain management. The same process also indirectly helps in curbing adulteration and under measurement. These malpractices are in turn connected with corruption. The system automatically detects any tampering with the fuel dispensers. It enables the company to monitor every outlet. Similarly providing global positioning system on the tankers for transporting fuel, the management can detect diversion of tankers to dubious destinations. This technology while providing solution for efficient supply chain management also helps in risk management thus strengthening the internal vigilance. There is need to integrate vigilance activity as a part of overall risk management strategy which in turn has to be integrated in the main stream operations of organizations.

The Central Vigilance Commission has been wrestling with the idea of identifying areas where generic solutions to the problems of vigilance administration can be applied across wide spectrum of government organizations. A number of areas have been identified where

use of information technology can bring efficiency, economy as well as transparency thus curbing corruption. Some of these ideas are as follows: -

### **E-Procurement**

It has been the experience of a large number of organizations worldwide both in public and private sectors that e-procurement can bring in economy and efficiency in the procurement of goods, works and services. Apart from these benefits, the process also brings in greater transparency, thus reducing opportunities for corruption. Some of the State Governments like Andhra Pradesh, Karnataka as well as some Public Sector Undertakings like SAIL are already making use of e-procurement systems. The Central Vigilance Commission has issued a directive that all Govt. organizations over which the Commission has jurisdiction should publish their tenders and complete bid documents along with the application forms on the website. This is the first step towards e-procurement and would help in curbing mal-practices prevailing in various Govt. organizations where competition is sought to be restricted.

### **E-Payment**

Another directive of the Central Vigilance Commission regarding leveraging technology pertains to introducing e-payment. Here again, the intention is to bring economy and efficiency, while at the same time, reducing corruption. The banking industry in the last one decade has made rapid technological advances in India.

The directive of the Central Vigilance Commission for introducing e-payment is to leverage these technological advances in banking sector for the benefit of rest of the governmental set up. This system will help in significantly reducing transaction costs involved in making payments by way of cheques and sending the payment through couriers. It will also curb corruption which accompanies handing over cheques to contractors, suppliers and others like persons receiving refunds from income tax and other departments.

Apart from the above mentioned two specific directives which the Central Vigilance Commission has already issued there are very many other areas where technology can be

leveraged simultaneously for efficiency, economy and corruption control. The key idea being that risk management tools are made integral part of the main business processes. For example, there are frequent cases of frauds in availing various employee benefits like medical expenses, LTC, TA/DA etc. The accounting softwares can be built in such a manner that the computer system generates 'exception report' and gives alerts wherever there are significant deviations from certain benchmarks and norms.

Similarly, the same accounting software system can make inter unit/inter location comparisons of expenditure on these items. Similarly, softwares can be developed with regard to procurement with in built features for making inter unit/inter office comparisons of rates and consumption patterns.

**Extensive use of website** can be made both as a tool for communication with the stake holders as well as for curbing corruption. Right to information and transparency are the biggest tools for fighting corruption and website as a tool for such communication can have very extensive application across the entire spectrum of Govt. activity. Contractors and suppliers can know where their bills are held up, applicants for passport can know where their passport application is held up or whether police is taking abnormally long time in issuing NOC, beneficiaries of public distribution system can know whether wheat, rice and sugar is being diverted by the ration shop owner. Municipal corporations and other civic agencies can get feedback from public whether repairs to roads or drainage pipes is actually being carried out or only fake bills are being prepared without actually undertaking the works. Some Govt. organizations have already taken initiatives in this direction but the complete potential of website/portal as a tool for fighting corruption is yet to be made.

In addition to generic issues pointed out above, there can be a large number of organisation specific solutions where risk management tools can be integrated in the business processes. Customs & Central Excise, Income Tax, Employee Provident Fund Organisation and certain other organizations are learnt to have already undertaken such exercises in their computerization projects and business process re-engineering efforts. The aim is to

gradually integrate preventive vigilance in the business processes and reduce our dependence on a complaint driven vigilance administration which is the present scenario.

## **9.1 LEVERAGING TECHNOLOGY**

### **(a) e-Procurement**

e-Procurement means use of information and communication technology by the procuring entity, to carry out the procurement process with the prospective bidders / bidders, for procurement of goods, works, services or any combination thereof. The very basic aim of e-Procurement is to leverage technology for ensuring transparency, fairness and efficiency in the procurement process, ruling out any undue human intervention. In terms of *OM No.26/12/2014-PPC dated 21.01.2015*, issued by *Department of Expenditure (DoE), Ministry of Finance (MoF)*, all Ministries /Departments of Central Government, their attached and subordinate offices, Central Public Sector Enterprises (CPSEs), Autonomous /Statutory bodies are required to commence e-Procurement in respect of all procurements having estimated tender value of Rs. 2,00,000/ - or more, in a phased manner.

Procurement covers complete tendering process, starting from online publishing of tender enquiries, online bid submission by the bidders, online bid evaluation and publication of award of contract. All authorised users in the procuring entity are required to have valid digital signature certificate along with user ID and password to carry out e-procurement process. It also requires all prospective bidders to register / enroll on *Central Public Procurement Portal (CPPP)* or any other e-procurement portal under use by a procuring entity, use of valid digital signature and valid e-mail address.

All the public procurement agencies are required to e-publish information regarding tender enquiries, on Central Public Procurement Portal, accessible at the URL (<http://eprocure.gov.in>) or e-procurement sites under use by them, duly providing a link or mirroring information between the two sites.

All Ministries / Departments which are already carrying out e-Procurement through other service providers or have developed e-procurement solutions in-house, need to ensure that their e-procurement solution meets all the requirements notified by *D/o Information*



Technology (DoIT) under the title “Guidelines for compliance to quality requirements of e-procurement systems”, published on e-governance portal: <http://egovstandards.gov.in> including STQC (Standardisation Testing and Quality Certification); also they need to ensure that the procurement procedure adopted conforms to the general principles envisaged under GFR 2017, and CVC guidelines.

In certain procurement cases where national security and strategic considerations demand confidentiality, the Ministry / Department may exempt such cases from e-procurement, after seeking approval of the Secretary of the Ministry / Department, with the concurrence of their internal Financial Advisor. Statistical information on the number of cases in which exemption was granted and the value of Concerned contracts may be intimated on quarterly basis to DoE. All other procuring entities, not within the ambit of the instructions of Ministry of Finance, may suitably frame instructions to deal with e-procurement, with the approval of competent authority.

#### **(b) e-Sale / e-Auction**

e-Sale / e-Auction refers to sales activities carried out with the help of information and Communication technology, especially internet. The main objective is to sell goods, natural resources, scrap, land, etc., making use of technology in a transparent, fair and efficient manner. Any public entity having decided to resort to e-Sale / e-Auction, needs to start with wide publicity of sale schedule for information of prospective buyers; the object(s) under sale, its / their complete description, general terms & conditions of e-Sale / e-Auction along with object specific sale terms & conditions are required to be duly publicized in transparent and fair manner.

On the scheduled date and time, buyers may bid online after depositing the security money / earnest money, as per the terms & conditions of e-Sale / e-Auction. Most of the monetary transactions may also take place online only, through a suitable mechanism.

The bid of highest and acceptable responsive bidder is accepted. The accepted bid should normally be higher than the reserved price, fixed for the sale by competent person or a committee. Reserved price is fixed based upon price database preferably for the same /

similar object, similar conditions and location of the object under sale, price analysis based upon standard price indices, rates of constituents / ingredients, potential for commercial exploitation or with the help of costing experts, etc., as per the merit of each case. Any selling entity needs to have appropriate framework of instructions in place, with the approval of competent authority.

### **(c) Reverse Auction**

Reverse Auction is a process of online, real-time purchase, adopted by procuring entities to select the successful bid; the process involves presentation of successively more favourable bids by the bidders, over a pre-defined time schedule; the process also allows compilation and evaluation of bids.

At present, not much instructions / guidelines on the subject of reverse auction are available. However, it has to be carried out within the broad framework of GFR and CVC guidelines on public procurement ensuring transparency, fairness and efficiency, so as to achieve best value for the money spent.

### **9.2 Risk-based approach to managing conflict of interest:**

The Central Government has issued several laws / guidelines on financial /procurement related matters which are applicable to Government and have also largely been implemented by individual Public-Sector Organizations. These are: -

**(i) General Financial Rules, 2017**

**(ii) Manual for Procurement of Goods, 2022**

**(iii) Manual for Procurement of Consultancy & other Services, 2022**

**(iv) Manual for Procurement of Works, 2022**

**(v) Manual on Policies and Procedures for Purchase of Goods, 2006**

**(vi) Manual on Policies and Procedures for Procurement of Works, 2006**

**(vii) Manual of Policies and Procedure of Employment of Consultants, 2006**

**(viii) Guidelines issued by Central Vigilance Commission relating to procurement.**

Further, all Central Government authorities and Public Undertakings are required to adopt the Integrity Pact as advised by the Commission and endorsed by the Ministry of Finance; this, among other matters, requires that the owner must exclude from the bidding process

any known prejudiced person. The *GFR 2017 [Rule 175(1)]* states that no official of a procuring entity or bidder shall act in contravention of the Code of Integrity, which includes disclosure of conflict of interest.

### **9.3 Improving vigilance administration by leveraging technology: Increasing transparency through effective use of websites in discharge of regulatory, enforcement and other functions of Govt. Authorized.**

**(a)** The Commission has been receiving a large number of complaints about inordinate delays and arbitrariness in the processing and issue of licenses, permissions, recognitions, various types of clearances, no objection certificates, etc., by various Govt. authorized Majority of these complaints pertain to delays and non-adherence to the „first-come-first-served“ principle. In a number of cases, there are complaints of ambiguities regarding the documents and information sought for the grant of such licenses, permissions, clearances, etc. There is also a tendency in some authorized to raise piece-meal/questionable queries on applications, often leading to the allegations of corruption. In order to reduce the scope for corruption, there is a need to bring about greater transparency and accountability in the discharge of regulatory, enforcement and other public dealings of the Govt. authorized

**(b)** Improvement in vigilance administration can be possible only when systems improvements are made to prevent the possibilities of corruption. In order to achieve the desired transparency and curb the malpractices mentioned above, the Central Vigilance Commission, in exercise of the powers conferred on it under Section 8(1)(h) of the CVC Act, 2003, issues the following instructions for compliance by all Govt. departments authorized / agencies over which the Commission has jurisdiction:-

**(i)** All Govt. authorized discharging regulatory/enforcement functions or service delivery of any kind, which cause interface with the general public/private businesses, etc., shall provide complete information on their websites regarding the laws, rules and procedures governing the issue of licenses, permissions, clearances, etc. Each Ministry should prepare an exhaustive list of such applications/matters and submit a copy of same to the Commission for record and web-monitoring.

**(ii)** All application forms/proformas should be made available on the websites in a downloadable form. If the authorized concerned wishes to charge for the application form

downloaded from the computer, the same may be done at the time of the submission of the application forms.

**(iii)** All documents to be enclosed or information to be provided by the applicant should be clearly explained on the websites and should also form part of the application forms.

**(iv)** As far as possible, arrangements should be put in place so that immediately after the receipt of the application, the applicant is informed about the deficiencies, if any, in the documents/information submitted.

**(v)** Repeated queries in a piece-meal manner should be viewed as a misconduct having vigilance angle.

**(vi)** All authorized concerned should give adequate publicity about these facilities in the newspapers and such advertisements must give the website addresses of the authorized concerned.

**(c).** In the second stage, the status of individual applications/matters should be made available on the authorized website and should be updated from time-to-time so that the applicants remain duly informed about the status of their applications.

**(d).** In addition to the manual receipt of applications, all authorized should examine the feasibility of online receipt of applications and, wherever feasible, a timeframe for introducing the facility should be worked out. As a large number of Govt. authorized are opting for e-governance, they may consider integrating the above mentioned measures into their business processes so that duplication is avoided.

**(d).** All Heads of Organizations/ Deptts. Are advised to get personally involved in the implementation of these important preventive vigilance measures. They should arrange close monitoring of the progress in order to ensure that the required information is placed

on the website in a user-friendly manner before the expiry of the abovementioned deadlines. They should later ensure that the information is updated regularly.

#### **9.4 Improving Vigilance Administration by Leveraging Technology: Increasing Transparency Through Effective Use of Website**

Refer to Commission's Circular no. 40/11/06 dated 22/11/2006 on the aforementioned subject & also Circular No. 13/3/05 dated 16/03/2005 & Circular No. 46/7/05 dated 28/7/2005 regarding details of award of tenders/contracts publishing on Websites/Bulletin.

**(a).** The Commission vide circulars dated 16/3/05 & 28/7/05 had directed all organizations to post on their web-sites a summary, every month, of all the contracts/purchases made above the threshold value covering at least 60% of the transactions every month. A compliance report in this regard was to be submitted to the Commission by the CVOs through their monthly report to the Commission. However, it is seen that some of the departments have neither intimated the Commission about the threshold value decided for posting the details of tenders awarded on the web-sites, nor a compliance report is being sent through the monthly reports.

**(b)** Further, vide circular dated 22/11/06, the Commission while emphasizing the need to leverage technology, as an effective tool in vigilance administration, in discharge of regulatory, enforcement and other functions had directed the organizations to upload on their websites, information in respect of the rules and procedures governing the issue of licenses/permissions etc. and to make available all the application forms on the websites in a downloadable form besides, making available the status of individual application on the organization's website. The Commission had directed the organizations to implement its guidelines in two phases. The first phase relating to the posting of all application forms on the website was to be implemented by 1/1/2007 and the second phase, by 1/4/2007. Although, the date for implementation of second phase has passed by, the departments are yet to intimate the Commission about the status of implementation of the two phases.

**(c)** The Commission, therefore, while reiterating its aforementioned instructions directs the CVOs to convey to the Commission the following information latest by 30/4/07:-

- i) The threshold value decided by the organization for publishing on their web-site, details of award of tenders/contracts;
- ii) The extent to which the details of awarded tenders are being posted on the web-site and whether the web-sites are being updated regularly or not;
- iii) Whether first/second phase of the Commission"s circular dated 22/11/06 has been implemented **or not**;
- iii) **If not**, the reasons thereof: steps being taken by the organization to ensure implementation of the Commission"s circular and the exact date by which both the phases as mentioned in the Commission"s circular would be fully implemented.

#### **9.5 Leveraging of Technology for improving vigilance administration in the National E- Governance Plan.**

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

#### **(a) Improving Vigilance Administration: Increasing Transparency and cutting delays by E-payments and E-receipt by Govt. Organizations etc.**

The Commission has been receiving complaints about inordinate delays in making payments to the vendors and other suppliers to the Govt. organizations, Public Sector Undertakings etc. Similarly, complaints are received about delays in getting refunds from taxation dept. and other departments. Apart from increasing the cost of procurement, the delays lead to opportunities for corruption. A number of measures are required to cut down on delays in

making payments. One such step is resorting to mechanism of e-payments and e-receipts wherever such banking facilities exist.

In the last few years' tremendous progress has been made by the banking sector in computerization including net-working of branches, making it possible to do e-banking by making use of facilities like electronic clearing system (ECS) and electronic fund transfer (EFT) etc. These facilities are available in most of the banks including the State Bank of India as well as in private banks. A large number of corporate including public sector undertakings are already making e-payments to vendors and employees instead of making payments by issue of cheques.

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

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

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

It is expected that in three months i.e. by 15<sup>th</sup> July, 50% of the payment transactions both in value terms as well as in terms of number of transactions shall be made through ECS/NEFT mechanism instead of payment through cheques. The remaining 50% payment transactions at all centres where such facilities exist shall be made by 31<sup>st</sup> Dec.

These instructions are applicable to all the metro cities and other urban centres where the banks provide ECS/NEFT and similar other facilities. The departments, PSUs, Banks etc. should also provide an enabling environment and facilities so that businessmen and other citizens can make payment of Govt. dues and payments to PSUs etc. electronically.

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

### **(b) The Contracting Systems In Public Sector Undertakings**

During the CVO's Conference convened by the Central Vigilance Commission on the 11th and 12th September, 1997, the Central Vigilance Commissioner had constituted a Committee to go into the system of contracts prevalent in our Public Sector Undertakings and to suggest, wherever required, methods of streamlining the contracting provisions. The Commission is pleased to enclose a copy of the "Report of the Committee of CVOs on the Contracting Systems in Public Sector Undertakings". The Commission feels that the suggestions made in the report are very practical and could constitute a strong framework for preventive vigilance in the area of contracting which today seems to be vulnerable to the manipulations of interested parties. The suggestions, if followed, could make Contracting of Works: I more transparent process and this in itself should be a step in the right direction. We are sure that your organization would keep in view the suggestions in the report for future award of contracts. With this end in view, you may ensure that all the relevant departments in your organisation are aware of the contents of the report.

### **(c) Undertaking by the Members of Tender Committee/Agency**

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



#### **(d) Time bound processing of procurement**

**(i)** The Commission has observed that at times the processing of tenders is inordinately delayed which may result in time and cost overruns and also invite criticism from the Trade Sector. It is, therefore, essential that tenders are finalized and contracts are awarded in a time bound manner within original validity of the tender, without seeking further extension of validity. While a short validity periodicals for prompt finalization by observing specific time-line for processing, a longer validity period has the advantage of vendors loading their offers in anticipation of likely increase in costs during the period. Hence, it is important to fix the period of validity with utmost care.

**(ii)** The Commission would, therefore, advise the organizations concerned to fix a reasonable time for the bids to remain valid while issuing tender enquiries, keeping in view the complexity of the tender, time required for processing the tender and seeking the approval of the Competent Authority, etc., and to ensure the finalization of tender within the stipulated original validity. Any delay, which is not due to unforeseen circumstances, should be viewed seriously and prompt action should be initiated against those found responsible for non-performance.

**(iii)** Cases requiring extension of validity should be rare. And in the exceptional situations where the validity period is sought to be extended, it should be imperative to bring on record in real time, valid and logical grounds, justifying extension of the said validity.

#### **(e) Common Irregularities in the award of contracts**

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

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

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

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

**(1)** 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.

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

**(3)** The organizations generally make provisions for a very small amount of say Rs.50,000/- or R.1 lakh as earnest money. This amount is grossly insufficient to safeguard the

organization's interest in high rate tenders running into several crores of rupees. This needs to be revised to a sufficient amount.

**(4)** The post award amendments issued by the organizations, at times recommended by consultants, without taking into account the financial implications favour the contractors. Such post award deviations without financial adjustments are unwarranted and against the principles of competitive tendering.

**(5)** The tender documents and the agreement are maintained in loose condition, are not page numbered and not signed by both parties. This is highly objectionable. In order to ensure that 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 the documents.

**(6)** 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.

**(7)** 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 interests of the organization. Timely extensions to the contracts and BGs if any must be ensured.

## CHAPTER – 10

### SOME RELEVANT ISSUES

#### 10.1 PROCEDURE FOR OBTAINING AND GRANT OF VIGILANCE CLEARANCE

**(1)** In terms of *para 5 of CVC Resolution dated 11.02.1964* (which is not inconsistent with the provisions of *CVC Act, 2003* for the purpose of *section 24 of the Act*), the Commission advises the Ministries / Departments / Undertakings in respect of all matters pertaining to maintenance of integrity in administration which also includes vigilance inputs on the antecedents of public servants. This in common parlance is often referred to as 'Vigilance Clearance'. Under its powers of superintendence of vigilance administration, the Commission has issued guidelines in this regard for obtaining vigilance clearance by the Ministry / Departments / Organizations in respect of certain categories of public servants. However, in all such matters the Commission generally follows the various guidelines issued by DoPT which are described hereinunder.

**(2)** Para 5 of *DoPT* guidelines issued vide *OM No. 104/33/2005 – AVD.I dated 29.10.2007* pertaining to grant of "Vigilance Clearance" to AIS officers, inter-alia, provides that "While considering cases for grant of vigilance clearance for the purpose of empanelment of AIS officers of a particular batch, the vigilance clearance / status will continue to be ascertained from the respective State Government. In respect of officers serving in connection with the affairs of the Central Government, the vigilance status / clearance will be obtained from the respective Ministry. In all cases, the comments of the CVC will also be obtained."

**(3)** Similarly, *para 5 of DoPT* guidelines vide *OM No. 11012/ 11/2007-Estt.(A) dated 14.12.2007* pertaining to grant of "Vigilance Clearance" to members of the Central Civil Services / Central Civil posts inter-alia provides that "While considering cases for grant of vigilance clearance for the purpose of empanelment of members of the Central Civil Services / Central Civil posts of a particular batch, the vigilance clearance / status will continue to be ascertained from the respective Cadre Authority. In all such cases, the comments of the Central Vigilance Commission will be obtained." 1Para 2(c) of this OM amended on 21.6.2013

(vide DoPT OM No. 11012/11/2007-Estt. A) on the lines of guidelines pertaining to AIS officers, provides in addition to existing conditions that “Vigilance clearance shall not be withheld unless the officer is on the Agreed List, provided that in all such cases the position shall be mandatorily revisited after a period of one year”

**(4)** DoPT’s DO No. 27(8)-EO/87(ACC) dated 25.01.1988 and DoPT OM No. 27(5)-EO/88 (ACC) dated 04.08.1988 pertaining to scrutiny of antecedents of persons recommended for Board level posts in Public Sector Enterprises, inter-alia, provides that “it would be the primary responsibility of the administrative Ministry / Department concerned to ensure that the candidates, whose appointment as Functional Director / CMDs in Public Sector Enterprises is recommended for being considered by the ACC should be cleared from vigilance angle and that the Ministry /Department concerned should bring this fact specifically to the notice of the Minister-in-charge. In respect of those persons, who are already holding Board level positions and who have been recommended for higher Board level positions, the vigilance clearance may be ascertained, besides other sources, from the Central Vigilance Commission.” The Commission, vide its *Circular No. 3(v)/99/4 dated 12.07.1999*, issued instructions that “vigilance clearance should be obtained from the Commission in respect of all candidates / officers recommended by the PESB for appointment to any Board level position in PSEs, irrespective of their holding a Board level or below Board level post at that point of time”.

**(5)** As per the above instructions, the need for reference to the Commission arises in cases of empanelment of any particular batch in respect of AIS officers and members of Central Civil Services / Central Civil posts, for appointment to Board level positions in Public Sector Enterprises and sensitive top posts viz., Chairperson / Members of CAT, National Green Tribunal, PESB, various autonomous and quasi-judicial bodies, etc.

**(6)** It is clear that vigilance clearance as such is to be granted only by the concerned cadre authorities and therefore maintenance of career profile and vigilance history of the officers falls within their domain. The Commission considers the vigilance profile furnished by the cadre authorities, duly signed by the CVO. Inputs are also obtained from CBI and the

concerned branches in the Commission. Based on the said information, the Commission offers its comments as to whether anything adverse is available on its records against the officer under consideration for empanelment / selection.

**(7)** The instructions pertaining to AIS officers and members of Central Civil Services / Central Civil posts envisage that vigilance clearance is to be ascertained from the cadre controlling authorities and comments to be obtained from the Commission. Accordingly, adverse inputs, if any, may be conveyed to the authorities with the advice to place the facts of the case before the competent authority while considering the suitability of the officer for empanelment.

**(8)** However, in respect of appointments to Board level positions, Department of Personnel & Training have issued instructions vide *OM No. No.27(4) EO/2014(ACC) dated 22.10.2014* pertaining to guidelines for processing proposals for appointment to Board level posts in Central Public Sector Enterprises (CPSEs). Policy guidelines for extension of tenure of Board level incumbents where vigilance clearance is not available have also been issued by Department of Personnel & Training vide *OM No.17(9) EO/2014ACC dated 30.10.2014*. These are being followed while processing matters of vigilance clearance.

**(9)** The following three options are generally exercised by the Commission while conveying its inputs on the vigilance status of officers:

**(a)** In respect of cases where there is no adverse input available in the database of the Commission, feedback of CBI and vigilance profile furnished by the concerned Department, it is conveyed that there is nothing adverse on the records of the Commission;

**(b)** In respect of cases where there is any adverse input from CBI (viz., prosecution launched against the officer, regular case under investigation); or, vigilance profile furnished by the Department indicates any disciplinary proceeding in progress or currency of penalty imposed is still in force; or, the data-base of the Commission indicates any advice tendered

by the Commission for initiation of disciplinary proceedings against the officer is pending, denial of clearance is conveyed by the Commission;

**(c)** In respect of cases where there are complaints / cases pending at the end of the concerned Department, (i.e., where the officer is not clear from vigilance angle as per records of the Department), the Commission advises that the complaints / cases pending at the end of the Department may be taken to their logical conclusion and thereafter the Commission may be approached for vigilance clearance with updated vigilance profile of the officer. Department is, therefore, intimated that clearance in respect of the officer cannot be considered by the Commission at this stage.

***(DoPT's Compendium of Guidelines Regarding Board Level Appointments in CPSEs may also be referred.)***

## **10.2 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 11.3.4 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*. The Act 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 record the reasons in the file also to justify the denial / rejection of the request of the Applicant.

**(5)** 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 Ors. [(2013) 1 SCC212, (2012) 8 SCR 1097]* 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 abovementioned 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”.

**(6)** 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.

### **10.3 PUBLIC PARTICIPATION IN PROMOTING INTEGRITY AND ERADICATING CORRUPTION**

“In the long run, the fight against corruption will succeed only to the extent of which a favourable social climate is created. When such a climate is created and corruption becomes abhorrent to the minds of the public and the public servants and social controls become effective, other administrative, disciplinary and punitive measures may become unimportant and may be relaxed and reduced to a minimum”.

The Santhanam Committee set up in the year 1962 to study important aspects on the evils of corruption in Indian society made the above observations about the role of society at large in the fight against corruption, which holds true to the day.

Promoting integrity and eradication of corruption cannot be achieved only by the efforts of anti-corruption agencies, without the active support and participation of the citizen and social institutions. Public participation plays a vital role in the fight against corruption in:

- (a)** Encouraging Ethical Conduct of the individual and the organisation;
- (b)** Educating and Creating awareness about the - Rights and duties of the Citizen; Rules, regulations, Duties and responsibilities of the public officials and Public institutions; Various Government Welfare Schemes;
- (c)** Acting as a Watchdog through Public Scrutiny of the actions of public servants by Exposing the wrongdoers and Standing by the upright and honest officials;
- (d)** Acting as a Feedback channel to the Public authority for Grievance redressal of the common man;
- (e)** Institutional and moral support to those fighting the corrupt public servant;
- (f)** Exhorting the Citizens and the Organizations to perform their lawful duties.

#### **10.4 ENCOURAGING ETHICAL CONDUCT:**

Corruption mainly includes abuse of authority and selfish exercise of power by those who hold special position in public life. Hence, corruption can be linked to lack of ethical values. Combating corruption is, therefore, not just a matter of making laws and creating institutions, but is deeply rooted in human values, ethics and morality of the individuals, organizations and the society at large. Inculcating ethical and moral values in the citizen -. Truthfulness, Honesty, Integrity, Probity, Courage, Uprightness, Respect for and obedience to law, etc. - is the foundation stone of any society's fight against corruption. Stigmatizing the culture of Corruption, favoritism, nepotism and promoting meritocracy create a conducive social climate. Similarly, the spirit of 'consumerism' leads to avarice and craving for easy money. If the Citizen is taught to say 'No to Bribe', the 'Supply side of Corruption' automatically gets stifled.

Parents, family, peer group, teachers, educational institutions, social intellectual and spiritual leaders, civil society, press, mass media including social media, Governmental and Non-Governmental Organizations (NGOs), etc. have a major role to play in the inculcation and dissemination of high ethical and moral values in individuals, organizations and the society at large.

### **10.5 INTEGRITY PLEDGE:**

To foster probity and integrity in public life, the Commission has launched an 'Integrity Pledge' which can be taken electronically by the citizen as well as by organizations. It can be accessed on the Commission's website at [www.pledge.cvc.in](http://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. Organizations 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.

## **10.6 PARTICIPATION OF INSTITUTIONS:**

### **(a) Media:**

The press and electronic media can do a lot to educate and create awareness among the public about their constitutional and legal rights, various Government schemes for the benefit of common citizen, etc. They can do their bit to expose corrupt / inappropriate activities by public servants, systemic failures. Media can do so by highlighting such instances prominently, after conducting an appropriate and thorough enquiry and draw the attention of the public and Government agencies to such activities. They can at the same time also highlight the special efforts of honest and upright public official.

### **(b) Social media:**

The use of electronic social media like Facebook, twitter, WhatsApp, etc. has become very popular. The citizens can liberally resort to its use for spreading awareness against corruption, highlighting the Wrong doings of public servants and documenting evidence of corruption. Similarly, they can also highlight cases of exceptional honesty, probity and uprightness.

### **(c) Educational institutions:**

The schools, colleges, universities, etc. may inculcate ethical values among their students, educate them about areas of corruption and how to bring the culprits to book, apprise them about the anti-corruption authorities, rules and laws and transform them into responsible citizens.

### **(d) Leaders:**

The intellectual, social and spiritual leaders can also play their part in eradicating corruption. By their teachings and work, they can instil virtuosity, noble values, high moral and ethical standards among their followers.

### **(e) Civil society:**

Civil society can contribute to a nation's fight against corruption in various ways viz. raising awareness, educational programmes, etc. Civil society can advocate reforms that are

perceived to be most crucially needed. The Government may be thus persuaded to remove the infirmities in the system and create new laws to fight corruption. The *Right to Information Act, 2005* and the *Lokpal and Lokayuktas Act, 2013* have been legislated, to a large extent, due to the persistent advocacy and the efforts of civil society.

#### **10.7 OUTREACH PROGRAMMES FOR PROMOTING PUBLIC PARTICIPATION:**

To foster public participation in promoting integrity and eradicating corruption, some of the initiatives of the Commission are as under:

##### **(a) Observance of Vigilance Awareness Week:**

All the Ministries, Departments and Governmental Organizations observe the vigilance awareness week under the direction and guidance of the Commission every year with a specific theme to create awareness among public servants as well as citizens about the menace of corruption and need for its eradication.

##### **(b) Integrity pledge:**

Commission launched an online Integrity Pledge.

##### **(c) Public outreach programmes:**

Extensive exercise undertaken by the Commission through field offices of Public Sector Banks, Public Sector Enterprises, Educational institutions especially schools and colleges, Govt. Departments, Vigilance Study Circles, NGOs, etc. under a plan of action prepared by the Commission to spread awareness amongst the common citizens particularly the youth and students through various activities.

##### **(d) Vigilance Gram Sabha and other Grievance redressal programmes:**

Various activities like meetings for creation of awareness on corruption and its ill effects, educating citizens on grievance redressal options available and also organising competitions / melas / night choupals / cultural programmes are part of the “Awareness Gram Sabhas at village panchayat levels.

**(e) Activities in School / Colleges:**

Such as competitions through debates, slogan writing, essay writing elocution, etc. organised in schools / colleges across the country to exhort young minds to inculcate in them moral values of honesty, integrity and probity.

**(f) Seminars / Workshops / Presentations:**

These are also organized during the week on anti-corruption theme in various institutions and organizations.

**(g) Use of Press / Electronic media:**

Through articles, talks, panel discussions, etc. in Hindi, English and Regional language.

**(h) Use of Social Media:**

The Commission has started a twitter account on which public can share information about corrupt activities against a public servant / organisation.



## 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

## INTEGRITY PLEDGE FOR ORGANIZATIONS

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 sensitize 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;
- We shall protect the rights and interests of stakeholders and the society at large.

## NOTES



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