

PREFACE

The Vigilance section of RITES Ltd. has compiled Vigilance related circulars/guidelines/ instructions issued in the year 2005. This kind of compilation would be done every year for the purpose of providing information to all concerned, in order to make them aware about recent instructions on Vigilance.

This compilation will keep employees updated on the vigilance aspect of their work.

(V. K. Aggarwal)
Managing Director

RITES Ltd.
(A Govt. of India Enterprise)



**Compendium of Important Letters / Circulars issued by
CVC and RITES / Vigilance in the year 2005**

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CVC circulars are also available at CVC web site www.cvc.nic.in

2. Circulars issued by RITES / Vigilance.

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2.13	System Improvement in tendering through preparation of Standard Document (SD) for Notice Inviting Tender (NIT) and Expression of Interest (EOI)	V/R/CO/Policy/G-10 dated 31.01.2006

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

Satarkta Bhawan, Block 'A'
GPO Complex, INA,
New Delhi-110023
Dated 10th March,
2005

OFFICE ORDER NO. 11/3/05

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

The Commission has observed that in a large number of Government organisations and PSUs, payments to contractors/suppliers are inordinately delayed. This makes the system vulnerable to corruption, in addition to increasing the cost of procurement by the Government agencies.

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

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

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

Statement on delays in Bill Payments

- | | | | |
|----|--|---|--|
| 1. | Name of Organisation | : | |
| 2. | Cut off limit | : | Rs.1 lakh/others(in respect of small orgns.) |
| 3. | Bills received during Sept.,04-Feb,05
(from contractors/suppliers etc.) | : | |
| | Total No. of Bills | : | |
| | Total amount involved | : | |

4. Out of these	:	
(a) Bills paid in 15 days	:	
No. of Bills	:	
Amount Involved	:	
(b) Bills paid in 15-30 days	:	
No. of Bills	:	
Amount Involved	:	
(c) Bills paid in 30-60 days	:	
No. of Bills	:	
Amount Involved	:	
(d) Bills paid from 60 days to 120 days	:	
No. of Bills	:	
Amount Involved	:	
(e) Bills paid over 120 days	:	
No. of Bills	:	
Amount Involved	:	

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

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

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

Sd/-
(Balwinder Singh)
Additional Secretary

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

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 16th March 2005

Office Order No.13/3/05

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

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

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

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

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

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

Sd/-
(Anjana Dube)
Deputy Secretary

No.002/VGL/61
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi-110 023
Dated the 16th March
2005

Office Order No.12/3/05

Subject: Action taken on Advices tendered/Complaints referred by the Commission.

The Commission has observed that some of the Govt. Departments were not following the prescribed guidelines as regards action taken on Commission's 1st/1nd stage advices. **It is also seen that some of the departments are closing the complaints on their own which were forwarded by the Commission for investigation and report.**

2. Para 22 of Chapter X of Vigilance Manual provides that all cases pertaining to Gazetted Officers (may be read as Group A Officers after passing of CVC Act-2003), in respect of whom the Central Vigilance Commission is required to be consulted, will be referred to the Commission for advice (first/second stage advice). The major penalty cases pertaining to such officers envisage consultation with the Commission at two stages. The first stage of consultation arises while initiating disciplinary proceedings, while second stage consultation is required before a final decision is taken at the conclusion of the proceedings. It follows that the **CVC should also be consulted** in cases where the disciplinary authority have initiated action for major/minor penalty proceedings and **propose to close the case** on receipt of Statement of defence.

3. As regards the complaints, para 4.1 of Chapter II of CVC Manual envisages that the complaints forwarded for inquiry to the administrative Ministries/ Departments, the CVO concerned will make an inquiry or have an inquiry made into the complaints to verify the allegations and will submit his report together with the relevant records to the Central Vigilance commission. **The reports of investigation should normally be sent to the Commission within three months from the date of receipt of the reference from the Commission. In cases where the CVO need more time, an interim reply should be sent to the Commission. It is reiterated that no complaint is to be closed by the department on its own without consulting the Commission, in case the same has been forwarded by the Commission for a report.**

The above may be noted for strict compliance by the Ministries/ Departments.

Sd/-
(Anjana Dube)
Deputy Secretary

No. OFF-1-CTE-1(Pt) V
Government of India
Central Vigilance Commission

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

Office Order No. 15/3/05

Subject: Notice inviting tenders – regarding.

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

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

Sd/-
(Anjana Dube)
Deputy Secretary

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

Satarkta Bhawan, GPO Complex,
Block-'A', I.N.A,
New Delhi-110023.
Dated, the 24th March,2005

Office Order No. 18/3/05

Sub:- Banning of business dealings with firms/contractors-clarification regarding.

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

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

Sd/-
(Anjana Dube)
Deputy Secretary

No. 005/VGL/11
Central Vigilance Commission
Coordination I

Satarkta Bhawan, Block 'A'
INA, New Delhi-110023
The, 12th May, 2005.

OFFICE ORDER NO. 31/5/05

Sub:- Guidelines to be followed by the authorities competent to accord sanction for prosecution u/s. 19 of the PC Act.

The Commission has been concerned that there have been serious delays in according sanction for prosecution under section 19 of the PC Act and u/s 197 of CrPC by the competent authorities. The time limit prescribed by the Hon'ble Supreme Court for this is 3 months generally speaking. The Commission feels this delay could be partly due to the lack of appreciation of what the competent authority is expected to do while processing such requests.

There have been a number of decisions of the Supreme Court in which the law has been clearly laid down on this issue:-

1. Jagjit Singh Vs. State of Punjab, 1996 Cr. L. J. 2962.
2. State of Bihar Vs. P.P. Sharma, AIR 1991 SC 1260.
3. Superintendent of Police (CBI) Vs. Deepak Chowdhary, AIR 1996 SC 186.
4. Vineet Narain Vs. Union of India, AIR 1998 SC 889.

2. The guidelines to be followed by the sanctioning authority, as declared by the Supreme Court are summarized hereunder:-

i) Grant of sanction is an administrative act. The purpose is to protect the public servant from harassment by frivolous or vexatious prosecution and not to shield the corrupt. The question of giving opportunity to the public servant at that stage does not arise. The sanctioning authority has only to see whether the facts would prima-facie constitute the offence.

ii) The competent authority cannot embark upon an inquiry to judge the truth of the allegations on the basis of representation which may be filed by the accused person before the Sanctioning Authority, by asking the I.O. to offer his comments or to further investigate the matter in the light of representation made by the accused person or by otherwise holding a parallel investigation/enquiry by calling for the record/report of his department.

iii) When an offence alleged to have been committed under the P.C. Act has been investigated by the SPE, the report of the IO is invariably scrutinized by the DIG, IG and thereafter by DG (CBI). Then the matter is further scrutinized by the concerned Law Officers in CBI.

iv) When the matter has been investigated by such a specialized agency and the report of the IO of such agency has been scrutinized so many times at such high levels, there will hardly be any case where the Government would find it difficult to disagree with the request for sanction.

v) The accused person has the liberty to file representations when the matter is pending investigation. When the representations so made have already been considered and the comments of the IO are already before the Competent Authority, there can be no need for any further comments of IO on any further representation.

vi) A representation subsequent to the completion of investigation is not known to law, as the law is well established that the material to be considered by the Competent Authority is the material which was collected during investigation and was placed before the Competent Authority.

vii) However, if in any case, the Sanctioning Authority after consideration of the entire material placed before it, entertains any doubt on any point the competent authority may specify the doubt with sufficient particulars and may request the Authority who has sought sanction to clear the doubt. But that would be only to clear the doubt in order that the authority may apply its mind proper, and not for the purpose of considering the representations of the accused which may be filed while the matter is pending sanction.

viii) If the Sanctioning Authority seeks the comments of the IO while the matter is pending before it for sanction, it will almost be impossible for the Sanctioning Authority to adhere to the time limit allowed by the Supreme Court in Vineet Narain's case.

The Commission has directed that these guidelines as at para 2(i)- (vii) should be noted by all concerned authorities for their guidance and strict compliance.

Sd/-
(Sujit Banerjee)
Secretary

No.004/VGL/18
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 2nd June, 2005

Office Order No.32/6/05

Sub:Commission's advice in LTC, TA, etc. fraud cases- reference to the Commission- regarding.

In certain cases of the nature of LTC fraud, TA fraud etc., the Commission has been advising the organizations to take such action as deemed fit. This did not mean that no action is to be taken. A need has been felt to clarify the Commission's intention. The Commission has already clarified "vigilance angle" in its Office Order No. 23/4/04 dated 13.4.04 and any lapse including the lapses of the above nature which reflect adversely on the integrity of the officer would be a matter of vigilance case. The Commission's intention was only that while such lapses are definitely to be considered as serious mis-conduct and the CVO/DA need to take action in these cases, only they need not be referred to the Commission for second stage advice.

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

Sd/-
(Anjana Dube)
Deputy Secretary

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

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

Office Order No. 46/07/05

**Sub: Details on award of tenders/contracts publishing on Websites/
Bulletins - Reminder regarding.**

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

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

Sd/-
(Anjana Dube)
Deputy secretary

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

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 20th September 2005

Office Order No.57/9/05

**Sub: Details on award of tenders/contracts publishing on Websites/
Bulletins- Reminder regarding.**

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

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

Sd/-
(Mitter Sain)
Deputy Secretary

No.005/CRD/12
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block-A,
GPO Complex, I.N.A,
New Delhi-110 023.
Dated : 25/10/2005

Office order No.68/10/05

Sub:- Tendering Process – Negotiation with L-1.

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

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

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

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

3. In case of L-1 backing out there should be re-tendering as per extant instructions.

4. The above instructions may be circulated to all concerned for compliance.

Sd/-
(Anjana Dube)
Deputy Secretary

RITES Ltd.
Vigilance Cell,
Corporate Office, Gurgaon

No.V/R/CO/Policy/G-10
Dated 9th February, 2005

Subject: Project Management

Instances have come to notice during intensive examination of works executed by RITES by CTE's Organisation of Central Vigilance Commission that while granting extension of time to contractors many hindrances, which were not recorded in the hindrance register maintained at site, were considered based on records maintained at HQ. Number mismatches and inconsistencies between the proposals initiated by the project staff and recommendations made by the respective controlling officers at Head Quarters have also been observed.

To avoid such situations it is instructed that all the hindrances that occur during the currency of the contract should invariably be recorded in the 'Hindrance Register' maintained at the project site and processing/recommending/ granting extension of time to contractor should only be based on the 'Hindrance Register'. It should also be ensured that there shall be no mismatches/inconsistencies in the records being maintained at the project site and the respective controlling head quarters.

The above instructions may please be circulated widely for strict compliance by all the concerned.

Sd/-
(P. Kapur)
Chief Vigilance Officer

RITES Ltd.,
Vigilance Cell,
Corporate Office, Gurgaon

No. V/R/CO/Policy/G-10
Dated 23rd February, 2005

Subject: Project Management

As per the stipulations of works contracts being executed by RITES, the contractors are required to obtain insurance policies for the work such as Contractor's All Risk Policy, Workmen Compensation Policy, Plant & Equipment Policy etc. It is, however, observed that in many cases these policies are either not taken by the contractors as per the stipulations or not taken for the full contract period. It is not advisable to start at site without the insurance coverage. By avoiding taking the policies, contractors save substantial amount, which otherwise is included in their quoted rates.

Though, the above lapse on part of contractors has been pointed out during CTE's inspections in number of instances and recoveries were made from contractors, the practice of non-obtaining insurance policies by contractors is still persisting.

To check the above infirmity it is instructed that the executive who passes and forward the bills to Accounts for release of payment should ensure that the contractor obtained all the insurance policies as per the stipulations of the contract and also these policies are renewed in time. It is also instructed that the associate finance should release the first payment to the contractor only after verifying that the contractor has taken valid insurance policies as per the contract. While releasing the final payment to contractors, the finance should verify that the contractor has renewed/ maintained the policy till completion of the contract as per agreement.

The above instructions may please be circulated widely for strict compliance by all the concerned.

Sd/-
(P. Kapur)
Chief Vigilance Officer

No. : V/R/CO/03-04/12/277

Dated : 21.06.2005

Sub: Tender Opening Procedure

During investigation in one of RITES' construction projects by CTE's organisation of CVC, it has come to the notice of Management that the bid document was manipulated in such a manner that it resulted in rendering undue financial benefit to L1 contractor.

The tender procedure as laid down in Para 1249 of Indian Railway code for Engineering Department was not followed by tender opening members at the time of opening of the tender, giving scope for above manipulation in the tender documents. The officials found guilty have been punished for manipulation and resulting undue benefit to the L1 contractor.

In view of this it is being reiterated that tender procedure as laid down in Para 1249 of Indian Railway code for Engineering Department circulated vide JGM (P&A), PO, Nehru Place letter No. RITES:P:10-01:Admn. dated 08-12-1994 shall be followed in letter and spirit in order to eliminate recurrence of such manipulations.

Also, the tender committee must carefully examine the case of L1 contractor so that no official involved in the process of tender procedure could provide undue benefit to the L 1 contractor through manipulating the figures. Therefore, in addition to the procedure followed, as per Para 1249 of Indian Railway code, the members of the Tender Committee shall sign all amendments in the tender documents.

Sd/-
(Snehlata Shrivastava)
Chief Vigilance Officer

RITES Ltd.,
VIGILANCE CELL
CORPORATE OFFICE/GURGAON

No: V/R/CO/QR/CTE/Vol. VI/G-27

Dated: 11.07.2005

Sub: Submission for Quarterly Progress Report (QPR) in respect of Civil, Electrical, Horticulture and Stores purchase contracts.

Ref: This office letter even No Dated 25.4.05 (Copy enclosed)

The QPR's are being submitted to CVC. CVC has pointed out that all the work are not being reported.

CVC has directed that while submitting the QPR's it should be certified by you that details of all the works of above prescribed limits have been included in the QPR. Therefore, you are requested that with reference to above mentioned letter a certificate to this effect also be given.

Sd/-
(Snehlata Shrivastava)
Chief Vigilance Officer

RITES Ltd.,
VIGILANCE CELL
CORPORATE OFFICE/GURGAON

No: V/R/CO/QR/CTE/Vol. VI/G-27

Dated: 25.04.2005

Sub: Submission for Quarterly Progress Report (QPR) in respect of Civil, Electrical, Horticulture and Stores purchase contracts.

There is prevailing practice in RITES of sending QPR of works under taken in progress by various division to vigilance section for onward submission to CTE's Organisation of CVC. These works include the works directly awarded by client to the contractor and RITES has a role of consultant for construction supervision only.

It has come to notice that even after repeated requested most of the unit are not submitting the reports within the stipulated time i.e. an or before 10th of January, April, July, October of each year. Therefore, information to CVC is not only getting delayed but incomplete also at every quarter.

Therefore, it is suggested that the QPR in future should be submitted in comprehensive form through ED's / Group heads, duly signed by the project head within stipulated time in the Performa, in case no activity a nil statement should be sent for individual. The Performa is once again is attached for ready reference.

Sd/-
(Snehlata Shrivastava)
Chief Vigilance Officer

Statement showing the Quarterly Progress of Original Works for Quarters ending
March /June/September / December

1. Civil works costing Rs. 1 crore & above
2. Electrical works costing Rs. 30 lakhs & above
3. Horticulture works costing Rs. 2 lakhs & above
4. Stores / Purchases contract entered into value Rs. 2 crore & above.

S. No	Name of works and location	Estt cost	Tendered cost	% above/- below SOR	Agmt. No.	Agency	Date of start	Time of completion	Physical progress	Name of E I C with address	Remarks

In case of no activity nil statement should be sent for individual items 1 to 4 as above.

RITES Ltd.,
Vigilance Cell,
Corporate Office, Gurgaon

No. V/R/CO/Policy/G-10
Dt. 07.07.2005

Sub: Publishing details of contracts/ award of tenders on web site.

The Central Vigilance Commission vide its letter No 005/VGL/4(OO No 13/3/2005) dated the 16th March, 2005 on the subject cited above has stated that as follow-up of its directive on use of "Website in public tender", all organizations must post a summary every month of all the contracts/purchases made above a certain threshold value.

Accordingly, it has been decided that the details of all the tender/works contract of value more than Rs. Two crore of Rail Infrastructures/ Urban Infrastructures/ Transport Infrastructures/ Technical Services divisions and over Rs 50 lakhs by other divisions should be put on web site as per Annexure-1. The following detail should also be given.

- a. Actual date of start of work
- b. Actual date of completion
- c. Reasons for delays if any

The same may be followed with immediate effect.

Sd/-
(M. D. Joshi)
Joint General Manager (Vigilance)

Annexure – I

Details of contractors concluded during the Month

1	2	3	4	5	6	7	8	9	10	11	12	13	14
Tender No.	Item/Nature of work	Mode of Tender Enquiry	Date of Publication of NIT	Type of Bidding (Single/Two Bid system)	Last date of receipt of Tender	Nos. of tenders recd.	Nos. and names of parties qualified after technical evaluation	Nos. and names of parties not qualified after technical evaluation	Whether contract awarded to lowest tenderer/evaluated L1	Letter of Award No. & Date	Name of contractor	Value of contract	Scheduled date of completion of supplies/work

RITES LTD
VIGILANCE SECTION
CORPORATE OFFICE / GURGAON

No.: V/R/CO/2005/09/C-319

Dated: 25.10.2005

Sub:- System Improvement in Tendering

An instance has come to notice during preventive check in tendering of a work where in an open tender nineteen tenders sold and five had submitted their offers. Due to stringent PQ criteria none of them qualified, so the Tender Committee recommended for fresh tender after relaxation of PQ criteria. Retendering was resorted to but the procedure of open tender was not followed and instead bids were invited from new firms through market survey without taking those bidders into consideration who already bid in the open tender. Also, relaxation was given only to a particular bidder while retendering.

To avoid such situations it is instructed that while changing the PQ criteria, similar procedure of tendering should be followed and similar opportunity to be given to all the bidders. It should be ensured that PQ criteria are exhaustive, specific in order to provide enough and fair competition. It should also be ensured that the PQ criteria are clearly stipulated in unambiguous terms in the bid document.

The above instruction may please be circulated widely for strict compliance by all the concern.

This issues with the approval of CVO.

Sd/-
(M. D. Joshi)
Joint General Manager (Vigilance)

RITES Ltd.
VIGILANCE CELL
CORPORATE OFFICE / GURGAON

No. V/R/CO/CVC/G-1
Dated : 27.10. 2005

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

Please find here under CVC office order No. 67/10/05 dated 13.10.2005, for information and necessary action please.

Jt. G M (Vigilance)

005/MSC/25
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A'
GPO Complex, INA,
New Delhi-110023
Dated 13th October,
2005

Office Order No. 67/10/05

Subject: Festival gifts to Government servants by PSUs etc.

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

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

Sd/-
(Anjana Dube)
Deputy Secretary

RITES LTD
VIGILANCE SECTION
Corporate Office/ GURGAON

No. V/R/CO/QR/CTE/Vol VI/ G- 27
Dated: 20.12.2005

Sub:Submission for Quarterly Progress Report (QPR)

There is prevailing practice in RITES of sending QPR of works under taken in progress by various division to vigilance section for onward submission to CTE's Organisation of CVC. These works include the works directly awarded by client to the contractor and RITES has a role of consultant for construction supervision only. Till date the QPR is being sent in respect of **Civil, Electrical, Horticulture and Stores purchase contracts.**

Now CVC has also added the work of **Medical equipment, Consultancy, service contract, Supplies of medicines** copy of CVC letter also enclosed.

It has come to notice that even after repeated requests most of the units are not submitting the reports within the stipulated time i.e. on or before 10th of January, April, July, October of each year. Therefore, information to CVC is not only getting delayed but incomplete also at every quarter.

Due to the above reason CVC has directed that while submitting the QPR's it should be **certified that details of all the works of above prescribed limits have been included in the QPR.**

Therefore, it was suggested that the QPR in future should be submitted in comprehensive form through ED's / Group heads, duly signed by the project head within stipulated time in the Performa, in case no activity a nil statement should be sent for each activity.

Sd/-
(Snehlata Shrivastava)
Chief Vigilance Officer

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

satarkta Bhawan, Block 'A'
GPO Complex, 4 th Floor,
INA, New Delhi-110023
Dated the 11.11. 2005

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

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

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

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

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

Civil	:	Rs. 100Cr. and above
Elec/Mech. Works	:	Rs. 30 lacs & above
Store Purchase	:	Rs. 2 Cr. and above
Hort.	:	Rs. 2 lacs and above
Medical equipment	:	Rs. 1 Cr & above
Consultancy	:	2 largest value contracts
Service contracts	:	2 largest value contracts
Supplies of medicines:	:	4 largest value contract.

Requisite certificate by CVO, should also be enclosed along with the QPR.

5. In case organisation, which are undertaking such works in the areas mentioned above where the monetary value of all such works is less than the limits prescribed above, they may report 2 largest works in progress in each discipline. If the organisation is not undertaking any work under any particular discipline, a 'Nil' report should be furnished.

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

Yours faithfully,

Sd/-
(P. Varma)
Chief Technical Examiner

RITES Ltd
Vigilance Cell
Corporate Office, Gurgaon

No. V/R/CO/2004-2005/11/CTE-48
Dt. December 15, 2005

Sub: System Improvement in Project Management

During the course of examination of a work by CTE's organisation of Central Vigilance Commission, certain shortcoming / deficiency have come to notice. To avoid such situations system improvement are required as follows:

1. It is a normal practice in RITES to take the last accepted rates as the estimated rates for non - conventional items or items for which rates are not available in any of the SOR (Schedule of rates).

These rates are generally not the lowest prevailing rates in the market.

Therefore it is suggested to conduct proper market survey, in addition to taking last accepted rates in other works to arrive at the lowest rates for estimation.

2. The press notice for the work was published in the newspapers, which were not national newspaper and had limited readership.

This restricted the no. of contractors bidding for the work.

Therefore it is suggested that for wide publicity, the press notices for works of large magnitude should generally be published in two editions of national daily (one edition published/circulated in the work/site area, another published/circulated in the Headquarter area) and at least one regional newspaper published/circulated in the work/site area along with its uploading on website.

3. Specific approval for important criteria such as – “the applicant should be profit making firm and shall not have made losses in any of the last three years” was not taken before incorporating in the tender document.

This criterion restricted the entry of many prospected bidders.

Therefore it is suggested that specific approval from Competent Authority must be taken before incorporating important criteria such as profit making criteria etc. in the tender document.

4. In the work of construction of a building, the SCC clause mentions that the cost of construction of building includes the cost of construction & satisfactory maintenance of approach road.

This clause could change the very nature / type of work

Therefore it is suggested that the clauses which changes the very nature / type of work, should be modified in Conditions of contract. If at all, these clauses are to be there, they should be properly defined before incorporating in the tender documents.

The above instructions may please be circulated widely for strict compliance by all the concerned.

This issues with the approval of CVO.

Sd/-
Jt. GM (Vigilance)

No: V/R/CO/2004-2005/10/CTE-47

Dated: December 20, 2005

Sub: System Improvement in Pre-qualification (PQ) criteria

During the course of examination of a work by CTE's organisation of Central Vigilance Commission, certain shortcoming / deficiency have come to notice during tendering stage. To avoid such situations system improvement are required as follows:

- 1) The conditions of successfully completion of single contract of given amount in technical requirement was found stringent. The agencies who have completed more than one work of amount slightly less than the given amount will not be able to complete.

This condition restricted the no. of contractors bidding for the work.

The Pre-qualification criteria should be clearly specified and should not be made very stringent/very lax to restrict/facilitate the entry of bidders. In this regard, a copy of Office memorandum no. 12-02-1-CTE-6 dated 17th Dec. 2002 from CTE's organisation of CVC which has already been circulated vide this office letter no. V/R/CO/G-10 dated 21st January 2003 is enclosed herewith for reference.

- 2) As per eligibility criteria, the bidder should have successfully completed at least one contract of nature, quantum, and complexity comparable to the proposed work during the last five years. However, no definition of nature and complexity was described in the tender document.

This facilitated the entry of a bidder who was not having an experience in execution of work of nature and complexity similar to that of the proposed work.

The nature and complexity of work comparable to the proposed work, executed by bidders earlier, must be clearly specified in tender documents.

- 3) As per tender committee recommendations, the firm had to submit JV Agreement duly registered at New Delhi before issue of Letter of Award. Duly registered JV Agreement was neither submitted before issue of letter of award nor made part of agreement.

In case of Joint venture of firms, JV agreement duly registered at specified place (as mentioned in tender condition) shall be submitted before issue of letter of award. Also, the action to be taken against the bidder for not submitting the same must also be specified.

It is, therefore, of paramount importance that utmost care is undertaken by all concerned while fixing the PQ criteria. Thereafter, the same must be scrutinized thoroughly and approved by tender committee.

The above instructions may please be circulated widely for strict compliance by all the concerned.

This issues with the approval of CVO.

Sd/-
Jt. GM (Vigilance)

RITES Ltd.
CORPORATE OFFICE/NEW DELHI
VIGILANCE CELL

No. V/R/CO/G-10
Dated : 21-01-2003

Sub : **Office Memorandum for Pre-qualification criteria PQ**

A copy of OM No 12-02-1-CTE –6 Dated 17th December 2002 from CTE's organization of CVC on above subject is sent 3herewith for information guidance and necessary action.

Encl :- as above

Sd/-
(M.D.Joshi)
Dy.G.M. (Vig.)

No. 12-02-1-CTE-6
Government of India
Central Vigilance Commission
(CTE's Organisation)

Satarkata Bhavan,
Block A, GPO Complex,
INA, New Delhi – 110023.
Dated the 17th December 2002

OFFICE MEMORANDUM

Subject: Pre-qualification criteria (PQ)

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

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

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

- i) For a work with an estimated cost of Rs. 15 crores to be completed in two years, the criteria for average turnover in the last 5 years was kept as Rs. 15 crores although the amount of work to be executed in one year was only Rs. 7.5 crores. The above, resulted in prequalifications of a single firm.
- ii) One organisation for purchase of Computer hardware kept the criteria for financial annual turnover of Rs. 100 crores although the value of purchase was less than Rs. 10 crores, resulting in disqualification of reputed computer firms.
- iii) In one case of purchase of Computer hardware, the prequalification criteria stipulated was that the firms should have made profit in the

last two years and should possess ISO Certification. It resulted in disqualification of reputed vendors including a PSU.

- iv) In a work for supply and installation of A. C. Plant, retendering was resorted to with diluted prequalification criteria without adequate justification, to favour selection of a particular firm.
- v) An organisation invited tender for hiring of D. G. Sets with eligibility of having 3 years experience in supplying D. G. Sets. The cut off dates regarding work experience were not clearly indicated. The above resulted in qualification of firms which had conducted such business for 3 years, some 20 years back. On account of this vague condition, some firms that were currently not even in the business were also qualified.
- vi) In many cases, " Similar works" is not clearly defined in the tender documents. In one such case, the supply and installation of A. C. ducting and the work of installation of false ceiling were combined together. Such works are normally not executed together as A. C. ducting work is a part of civil construction or interior design works. Therefore, no firm can possibly qualify for such work with experience of similar work. The above resulted in qualification of A. C. Contractors without having any experience of false ceiling work although the major portion of the work constituted false ceiling work.

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

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

A) For Civil/ Electrical works.

- i) Average Annual financial turnover during the last 3 year, ending 31st March of the previous financial year, should be at least 30 % of the estimated cost.
- ii) Experience of having successfully completed similar works during last 7 years ending last day of month previous to the one in which applications are invited should be either of the following"-
 - a. Three similar completed works costing not less than the amount equal to 40% of the estimate cost.

or

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

or

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

iii) Definition of 'similar work" should defined.

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

B) For Store/Purchase Contracts.

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

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

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

RITES Ltd.
Vigilance Cell
Corporate Office, Gurgaon

No: V/R/CO/2004-2005/10/CTE-47

Dated: December 20, 2005

Sub: System Improvement in justification of Cost Estimates

During the course of examination of a work by CTE's organisation of Central Vigilance Commission, it was noticed that the estimate framed for non-scheduled items such as getting site cleared of encroachment on the land, to justify the cost of work, were on higher side for the purpose.

It is, therefore, of paramount importance that utmost care is undertaken by all concerned while justifying the estimates. Thereafter, the same must be scrutinized thoroughly and approved by RITES Engineers.

The above instructions may please be circulated widely for strict compliance by all the concerned.

This issues with the approval of CVO.

Sd/-
Jt. GM (Vigilance)

No: V/R/CO/2004-2005/10/CTE-47

Dated: December 21, 2005

Sub: System Improvement in Project Management

During the course of examination of a work by CTE's organisation of Central Vigilance Commission, certain shortcoming / deficiency have come to notice. To avoid such situations system improvement are required as follows:

- 1) The contractor had to furnish performance guarantee within 21 days of issue of Letter of Acceptance. However, this was not followed and the submission of the same got delayed for want of clarification and giving clarification to the contractor.

Also, as per contract condition contractor was to submit 50% of Security Deposit within 30 days of issue of Letter of Award. However, the submission of the same got delayed.

It should, therefore, be ensured that the contract condition should be strictly followed and there should be no justification for delay in submitting any documents, if deadline has already been specified in the conditions.

- 2) The contractor had to construct stores as required for the work and to handover the same to RITES. Also, the contractor had to provide site office to officers of RITES at various locations for supervision of work. However, these were not followed. The store was not taken in the custody of RITES and no separate office was provided by the contractor.

The contract condition should be strictly followed and no justification should be given at later stage, for not following the same.

- 3) Measurements were not recorded in the MBs by the Engineers. However, payment was made to contractor against the work done after approval of Competent Authority. The bill was recorded in MB later on.

However, there was no provision of payments in such a manner in the contract agreement.

It is, therefore, further stressed that the contract condition should be strictly followed and no payment should be released before recording the measurement in the MBs.

The above instructions are issued with the approval of CVO for strict compliance by all concerned.

Sd/-
Jt. GM (Vigilance)

RITES LTD
Vigilance Section
CO, Gurgaon

No. V/R/CO/Policy/G-10
Dated: January 31, 2006

Sub: System Improvement in tendering through preparation of Standard Document (SD) for Notice of Inviting Tender (NIT) and Expression of Interest (EOI)

It is a usual practice that approval for contract conditions for various tenders are being taken from competent authority on case by case basis. These contract conditions vary, like pre-qualification criteria special condition etc., even for the similar type of contract.

In order to provide standardization and transparency, it would be appropriate to prepare standard document for various similar NITs / EOIs. While preparing this standard document the instruction and guidelines of CVC/RITES/Govt. must be taken into account.

The following items (the list is indicative and not exhaustive) and similar other items should be kept in mind:

- 1) All kinds of financial limits in the NITs / EOIs, certain percentage should be fixed in the SD, on the basis of the estimated cost of work / project and accordingly actual value can be put at the time of issuing a particular NIT / EIO.
- 2) Requirement should be in form of specific items and not vague words like financial soundness and work expertise. Basically what items are considered to prove the financial soundness and work expertise should be declared in the NITs / EOIs itself.
- 3) Requirements should be similar in similar kind of work / projects. For example, if requirement is audited balance sheet in an earlier tender, then requirement should not be diluted to CA certified copy in a subsequent NIT / EIO.
- 4) Indicators for comparison and its weightage during assessment be declared
- 5) Specification / conditions for best quality work / services be declared while inviting NITs / EOIs.

Therefore, it has been considered to prepare SD in the following manner:

- A. Standard Document for each area of activity be prepared with the approval of concerned EDs, taking into account the experience in earlier tendering.
- B. The variations in Standard Document, if required, can only be done with the approval of the Director, on the basis of justification given, depending upon the specific demand of the project /Work.

The Standard Document for each area of activity can be prepared by 30th April, 2006. A copy of every SD should be sent to Vigilance section of RITES for information.

Sd/-
(Snehlata Shrivastava)
Chief Vigilance Officer