



*Gist of CVC Guidelines
on
Works, Goods and Services*



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on
Works, Goods and Services
(Updated upto 28-01-2013)

**TRANSPARENCY
IN
PUBLIC PROCUREMENT
IS
NOT AN ETHICAL REQUIREMENT,
BUT AN OPERATIONAL NECESSITY**

**Shri Pradeep Kumar
CVC**

F O R E W O R D

The Theme for Vigilance Awareness Week 2012 is “Transparency in Public Procurement”. The booklet that you are now reading is an attempt to reproduce the operational part of “CVC guidelines on Procurement of Goods, Works and Services” to enhance transparency in procurement. These guidelines have been issued by the Commission over a period of time and are available to download from CVC's website, viz., http://www.cvc.nic.in/proc_works.htm.

MOD / DDP vide letter dt 29/10/2012 has directed all DPSUs to submit a quarterly report in the succeeding Board Meeting, a compliance report certifying that all procurements during the intervening period have been made as per the instructions contained in the Procurement Manuals and CVC guidelines to ensure transparency in the working of Defence PSUs and OFB.

It may, however, be noted that the operational part of CVC guidelines reproduced in the booklet do not replace or interpret the CVC guidelines / instructions, which shall remain the primary authority on the subject.

**TEAM VIGILANCE
HINDUSTAN AERONAUTICS LTD.**

Index

(I) Pre Bid Stage

- | | |
|--|------|
| 1. Pre-qualification Criteria (PQ) | - 1 |
| 2. Integrity Pact (IP) | - 3 |
| 3. Use of Brand Names in NIT | - 6 |
| 4. Counterfeit and refurbished IT Products | - 7 |
| 5. Tender Sample Clause | - 8 |
| 6. Turnkey contracts | - 9 |
| 7. Design Mix Concrete | - 10 |
| 8. Use of products with standard specification | - 11 |
| 9. Expression of Interest (EOI) | - 12 |
| 10. Transparency in tendering system | - 13 |
| 11. Time bound processing of Procurement | - 14 |

(II) Tender Stage

- | | |
|---|------|
| 12. Notice inviting tenders | - 15 |
| 13. Receipt and Opening of Tenders | - 16 |
| 14. Improving vigilance administration-Tenders | - 17 |
| 15. Agents | - 18 |
| 16. Contracts awarded on nomination basis | - 19 |
| 17. Grant of mobilization advance | - 22 |
| 18. Post Tender Negotiation | - 26 |
| 19. Use of web-site in Government procurement or tender process | - 31 |
| 20. Leveraging Technology | - 39 |
| 21. E-Tendering/E-Procurement | - 41 |

**(III) Contract Award / Order Execution
Stage / Contract Administration Stage**

- | | |
|--|------|
| 22. E-payments | - 43 |
| 23. Delays in Payments | - 44 |
| 24. Selection and employment of
Consultants | - 45 |
| 25. Acceptance of Bank Guarantee (BG) | - 47 |
| 26. If L-1 party backs out | - 48 |
| 27. Back to back tie up by PSUs | - 49 |
| 28. Out of turn allotments / discretion | - 50 |
| 29. Banning of business dealings | - 51 |
| 30. Undertaking by the Members of
Tender Committee / Agency | - 52 |
| 31. Recoveries arising out of intensive
examination conducted | - 53 |

(IV) General

- | | |
|---|------|
| 32. Check list for examination of
Procurement (Works/Purchases/
Services) Contracts by CVOs | - 54 |
| 33. Common irregularities / lapses
observed in stores / purchase contract | - 57 |
| 34. Issues arising out of Annual review
meeting of Defence sector CVOs
held by CVC in July 2012 | - 58 |
| 35. Purchase Preference Policy | - 60 |
| 36. Revised threshold values for submission-
of Quarterly Progress Report-QPR | 61 |
| 37. Referring cases of Procurement to the
Commission | - 63 |

PRE BID STAGE

1. Pre-qualification Criteria (PQ)

a. To ensure that the pre-qualification criteria specified in the tender document should neither be made very stringent nor very lax to restrict / facilitate the entry of bidders.

b. It should be ensured that the PQ criteria are exhaustive, yet specific and there is fair competition.

c. It should also be ensured that the PQ criteria is clearly stipulated in unambiguous terms in the bid documents. **(No. 98/ORD/1 Dated 04.09.2003 & No. 12-02-1-CTE-6 Dated 7th May 2004)**

d. It is 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. **(No. 12-02-1-CTE-6 Dt 17th December 2002)**

e. Whatever pre-qualification, evaluation / exclusion criteria, etc. which the organization wants to adopt should be made explicit at the time of inviting tenders so that basic concept of transparency and interests of equity and fairness are satisfied.

f. The acceptance / rejection of any bid should not be arbitrary but on justified grounds as per the laid down specifications, evaluation / exclusion criteria.

(Ref No.98/ORD/1 Dated 9th July, 2003)

g. It should be ensured that pre-qualification criteria, performance criteria and evaluation criteria are incorporated in the bid documents in clear and unambiguous terms as these criterion are very important to evaluate bids in a transparent manner. Whenever required, the departments/organisations should follow two-bid system, i.e. technical bid and price bid. The price bids should be opened only of those vendors who were technically qualified by the Deptt./ Organisation.

(Ref: No. 98/ORD/1 Dated 04.09.2003)

2. Integrity Pact (IP)

a. CVC recommends IP concept and encourage its adoption and implementation in respect of all major procurements.

b. Independent External Monitors (IEMs) to review independently and objectively whether and to what extent parties have complied with their obligations under the pact.

c. Entering into IP would be a preliminary qualification to participate in the bidding.

d. Based on the proposal of panel of eminent persons to be appointed as IEMs by the organisation, CVC would approve their appointment.

(Ref: 007/VGL/033 Dt. 04.12.2007, 28.12.2007 & 008/CRD/013 DT 11/08/2009)

e. Adoption of Integrity Pact in an organization is voluntary, but once adopted, it should cover all tenders / procurements above a specified threshold value, which should be set by the organization itself.

f. In view of limited procurement activities in the Public Sector Banks, Insurance Companies and Financial Institution, they are exempted from adopting IP.

(Ref: No. 007/VGL/033 Dated, the 05th August 2008)

g. "Standard Operating Procedure" for adoption of Integrity Pact. Format for integrity pact is enclosed to this Circular.

(Ref: No. 008/CRD/013 Dated: 18/5/09)

h. Organisation to select the names of the IEMs after due diligence and should not propose the officer serving or retired from the same organisation (**Ref: 009/VGL/016 Dt.19.04.2010**). Maximum age limit for initial appointment of three years or further extension of two years is 70.

(Ref: 011/VGL/053 dt.23.07.2012)

Organisations to undertake a general review and assessment of implementation of IP and submit progress through CVO's monthly report to the Commission.

(Ref: No. 008/CRD/013 Dated: 13/8/2010 & 008/CRD/013 DT 11/08/2009)

i The organizations, while forwarding the names of the persons for empanelment as IEMs should sent a detailed bio-data in respect of the each of the persons proposed. The bio-data should, among other things, include the postings during the last ten years before the superannuation of the persons proposed as IEMs, in case the names relate to persons having worked in the government sector.

The bio-data should also include details regarding experience older than ten years before superannuation of the persons proposed as IEMs, if they have relevant domain experience in the activities of PSUs where they are considered as IEMs.

(Ref : 008/VGL/001 Dated 19th May 2008)

3. Use of Brand Names in NIT

It has come to the notice of the Commission that some departments / organisations are issuing tenders for purchase of computers where they mention and insist on the international brands. This not only encourages the monopolistic practices but also vitiates the guidelines issued by the Ministry of Finance, D/o Expenditure vide its OM No. 8(4)- E.II(A) 98 dated 17.12.1998. It is therefore, advised that departments / organisations may follow the instructions issued by the Department of Expenditure. **No.98/ORD/1 Dated the 5th May 2003.**

(Ref: No.8(4)-E.II(A)/98 DT 17th December, 1998)

4. Measures to curb the menace of counterfeit and refurbished IT products

To insist on undertaking from OEM that all the components / parts / assembly / software used in the Desktop and Server were original / new components and that not refurbished / duplicate / second hand components / parts / assembly / software were being used or would be used.

(Ref: No.007/CRD/008 dt. 15.02.2008)

5. Tender Sample Clause

a. While it is recognized that samples may be required to be approved to provide a basis in respect of indeterminable parameters such as shade, feel, finish & workmanship for supplies of such items but system of approving / rejecting tender samples at the time of decision making is too subjective and is not considered suitable, especially for items which have detailed specifications. The lack of competition in such cases is also likely to result in award of contracts at high rates.

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

(Ref: No. 2EE-1-CTE-3 Dated - 15.10.2003)

6. Turnkey Contracts

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

(Ref: 004/ORD/8 Dated, the 3rd Nov., 2004)

7. Design Mix Concrete

Provisions of IS 456:2000 are to be complied with.

(Ref : 010/VGL/066 dt.07.10.2010)

8. Use of products with standard specifications

It is reiterated that the items with standard specifications only should be stipulated in the bid documents. In case, items with non-standard specifications are to be procured, reasoning for procuring such items may be recorded and reasonability of rates must be checked before placing order.

(Ref : 98-VGL-25 DT. 26.04.2007)

9. Expression of Interest (EOI)

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

b. It would be prudent to invite expression of interest and proceed to finalise specifications based on technical discussions / presentations with the experience manufacturers / suppliers in a transparent manner. In such cases, two stage tendering process may be useful and be preferred. During the first stage of tendering, acceptable technical solutions can be evaluated after calling for EOI from the leading experienced and knowledgeable manufacturers / suppliers in the feild of the proposed procurement.

Once the technical specifications and evaluation criteria are finalised, the second stage of tendering could consist of calling for techno-commercial bids as per the usual tendering system under single bid or two bid system as per the requirement of each case.

(Ref : 011/VGL/014 dt. 11.02.2011)

10. Transparency in Tendering System

In order to maintain transparency and fairness, it would be appropriate that organisations should evolve a practice of finalizing the acceptability of the bidding firms in respect of the qualifying criteria before or during holding technical negotiations with him. Obtaining revised price bids from the firms, which do not meet the qualification criteria, would be incorrect. Therefore, the exercise of short listing of the qualifying firms must be completed prior to seeking the revised price bids. Moreover, the intimation of rejection to the firms whose bids have been evaluated but found not meeting the qualification criteria, along with the return of the un-opened price bid, will enhance transparency and plug the loop-holes in the t e n d e r i n g s y s t e m . A l l organisations/departments are advised to frame a policy accordingly.

(Ref: 004/ORD/9 Dated the 10th December, 2004)

11. Time bound processing of procurement.

a. 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.

b. 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 period calls for prompt finalization by observing specific timeline for processing, a longer validity period has the disadvantage 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.

(Ref : 008/VGL/083 Dated the 6th November 2008)

TENDER STAGE

12. Notice Inviting Tenders

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 circumstances and to avoid any legal dispute. 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.

(Ref No. OFF-1-CTE-1(Pt) V Dated the 24th March 2005)

13. Receipt and Opening of Tenders

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

(Ref: No. 05-04-1-CTE-8 Dated : 8.6.2004)

14. Improving Vigilance Administration - Tenders

Some organisations have been using the public sector as a shield or a conduit for getting costly inputs or for improper purchases. This also should be avoided.

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

(Ref : 98/ORD/1 Dated the 15th March, 1999)

15. Agents:

a. In a tender, either the Indian agent on behalf of the Principal / OEM or Principal / OEM itself can bid but both cannot bid simultaneously for the same item/product in the same tender.

b. If an agent submits bid on behalf of the Principal / OEM, the same agent shall not submit a bid on behalf of another Principal / OEM in the same tender for the same item/product.

Tender conditions may be carefully prepared keeping in view of above guidelines.

**(Ref: 12-02-06-CTE/SPI(1)-2/161730
Dt.13.01.2012)**

16. Contracts Awarded on Nomination basis

a. In the circumstances, if sometimes award of contract on nomination basis by the PSUs become inevitable, the Commission strongly feels that the following points should be strictly observed:

- i. All works awarded on nomination basis should be brought to the notice of the Board of the respective PSUs for scrutiny and vetting post facto.
- ii. The reports relating to such awards will be submitted to the Board every quarter.
- iii. The audit committee may be required to check at least 10% of such cases.

(Ref: No.005/CRD/19 Dated the 9th May 2006)

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

c. A relevant extract from the recent Supreme Court of India judgement in the case of Nagar Nigam, Meerut Vs A1 Faheem Meat Export Pvt.

Ltd. [arising out of SLP(civil) No.10174 of 2006] is reproduced below to reinforce this point (refer circular cited below). The Commission advises all CVOs to formally apprise their respective Boards / managements of the above observations as well as the full judgement of the Hon'ble Supreme Court for necessary observance.

(Ref: No.005/CRD/19 Dated the 5th July 2007)

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

(Ref: 005/CRD/19 (Part) Dt.19.05.2010)

d. The Commission has been emphasising on the need for observing integrity, transparency, fairness and equity in all aspects of decision making including in tendering and award of contracts. In view of the complaints being received regarding award of contracts on 'nomination basis' without adequate justification, the Commission has decided to reiterate their earlier instructions for strict implementation. Further, the Commission directs that details of all tenders awarded on nomination basis shall be posted on website in public domain as per Commission's office order

of 5th July 2007 along with brief reasons for doing so.

e. The Commission has observed that there have been instances where government organisations / PSUs obtain contract from other government organisations / PSUs and further award the same to private entities on 'back to back tie up' basis without competitive tendering mechanism and without any significant value addition by the procuring government organisation / PSU. Their practice subverts the Commission's emphasis on integrity, transparency, fairness and equity in decision making.

(Ref No 005/CRD/19/196756 Dated 11th Dec 2012)

17. Grant of Mobilization Advance

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

(Ref : No. UU/POL/19 Dated 08th Oct 1997)

b. Provision of mobilization advance should essentially be need-based. Decision to provide such advance should rest at the level of Board (with concurrence of Finance) in the organization in respect of interest free advance. However, in case of interest bearing advance, organisation may delegate powers at appropriate levels such as CMD or Functional Directors.

(Ref : 4CC-1-CTE-2 Dt.05.02.2008)

c. Though the Commission does not encourage interest free mobilization advance, but, if the Management feels its necessity in specific cases, then it should be clearly stipulated in the tender document and its

recovery should be time-based and not linked with progress of work. This would ensure that even if the contractor is not executing the work or executing it at a slow pace, the recovery of advance could commence and scope for misuse of such advance could be reduced.

d. Mobilization advance should be released only against furnishing of Bank Guarantee (BG). Recovery of such advance could be ensured by encashing the BG for the work supposed to be completed within a particular period of time.

e. There should be a clear stipulation of interest to be charged on delayed recoveries either due to the late submission of bill by the contractor or any other reason besides the reason giving rise to the encashment of BG, as stated above.

f. The amount of mobilization advance; interest to be charged, if any; its recovery schedule and any other relevant detail should be explicitly stipulated in the tendered document upfront.

g. Relevant format for BG should be provided in the tender document.

h. Authenticity of such BGs should also be invariably verified from the issuing bank, confidentially and independently by the organization.

i. In case of 'Machinery and Equipment advance', insurance and hypothecation to the employer should be ensured.

j. Utilization certificate from the contractor for the mobilization advance should be obtained. Preferably, mobilization advance should be given in instalments and subsequent instalments should be released after getting satisfactory utilization certificate from the contractor for the earlier instalment.

(Ref No.4CC-1-CTE-2 Dated 10.04.07)

k. BG etc., taken towards security of advance should be at least 110% of the advance so as to enable recovery of not only principal amount but also interest portion, if required.

l. The advance should not be paid in less than two instalments except in special circumstances for the reasons to be recorded. This will keep check on contractor misusing the full utilisation advance when the work is delayed considerably.

A clause in the tender enquiry and the contract of cases providing for interest free mobilisation advances may be stipulated that if the contract is terminated due to default of the Contractor, the mobilisation advance would be deemed as interest bearing advance at the interest rate of ____% (to be stipulated depending on the prevailing rate at the time of issue of NIT) to be compounded quarterly.

(Ref: 01-11-CTE-SH-100 Dt. 17.02.2011)

18. Post Tender Negotiation

a. The Commission has banned post-tender negotiations except with L-1 vide its instruction No.8(1)(h)/98(1) dated 18/11/98. This instruction pertains to the award of work / supply orders etc., where the Government or the Government company has to make payment.

b. If the tender is for sale of material by the Government or the Government company, the post-tender negotiations are not to be held except with H-1 (i.e. the highest tenderer), if required.

(Ref: 98/ORD/1 Dated the 3rd August 2001)

c. 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.

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.

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.

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

(Ref : 005/ORD/12 Dated 25/10/2005)

d. Post tender negotiations could often be a source of corruption, it is directed that there

should be no post-tender negotiations with L-1, except in certain exceptional situations. Such exceptional situations would include procurement of proprietary items, items with limited sources of supply and items where there is suspicion of a cartel formation. The justification and details of such negotiations should be duly recorded and documented without any loss of time.

e. In cases where a decision is taken to go for re-tendering due to the unreasonableness of the quoted rates, but the requirements are urgent and a re-tender for the entire requirement would delay the availability of the item, thus jeopardizing the essential operations, maintenance and safety, negotiations would be permitted with L-1 bidder(s) for the supply of a bare minimum quantity. The balance quantity should, however, be procured expeditiously through a re-tender, following the normal tendering process.

f. Competent authority should exercise due diligence while accepting a tender or ordering negotiations or calling for a re-tender. In no case should the overall timeframe exceed the validity period of the tender and it should be ensured that tenders are invariably finalised within their validity period.

g. Quantity to be ordered is far more than what L-1 alone is capable of supplying and there was no prior decision to split the quantities, then the quantity being finally ordered should be distributed among the other bidders in a manner that is fair, transparent and equitable.

h. It is essentially in cases where the organisations decide in advance to have more than one source of supply (due to critical or vital nature of the item), the Commission insists on pre-disclosing the ratio of splitting the supply in the tender itself.

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

(Ref: No.005/CRD/012 Dated the 3rd March, 2007 & 005/CRD/012 Dt. 20.01.2010)

Commissions guideline would not be applicable in Projects funded by World Bank, ADB, etc., if found to be in conflict with the applicable procurement rules of the funding agencies.

(Ref: No.98/ORD/001 dt. 28.10.2011 & No.3(V)/99/9 dt 01.10.1999)

j. Reference is invited to Commission's instructions of even number dated 25.10.2005 on the above subject. A number of references have been received in the Commission, asking for clarification on issues pertaining to specific situations.

The Commission's guidelines were framed with a view to ensuring fair and transparent purchase procedure in the organizations. The guidelines are quite clear and it is for the organizations to take appropriate decision, keeping these guidelines in view. In case they want to take action in deviation or modification of the guidelines, to suit their requirements, it is for them to do so by recording the reasons and obtaining the approval of the competent authority for the same. However, in no case, should there be any compromise to transparency, equity or fair treatment to all the participants in a tender.

(Ref : 005/CRD/12 Dated 3rd Oct 2006)

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

a. In addition to the existing rules and practices regarding giving publicity of tenders through newspapers, trade journals and providing tender documents manually and through post etc., the complete bid documents along with application form shall be published on the web site of the organization. It shall be ensured by the concerned organization that the parties making use of this facility of web site are not asked again to obtain some other related documents from the department manually for purpose of participating in the tender process i.e. all documents upto date should remain available and shall be equally legally valid for participation in the tender process as manual documents obtained from the department through manual process.

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

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

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

(Ref: No.98/ORD/1 Dated the 18th December, 2003)

e. The Commission has issued a directive vide No. 98/ORD/1 dated 18th December 2003 wherein detailed instructions are issued regarding the use of web-site for tendering process. The objective is to improve vigilance administration by increasing transparency. The instructions were to take effect from 1st January 2004. It is noticed that many organisations whose web-sites are functional are still not putting their tenders on the web-site. The Commission has desired that CVOs should ensure compliance of the above directive. They should regularly pursue the Newspaper advertisements, the web-site of their organisation and in general keep track to ensure that the directives of the Commission on this subject are complied with. Further, the Commission has desired that the CVOs should indicate in their monthly report in the column pertaining to tender notices whether all the tenders have been put on the web-site, and if not, the reasons for non-compliance. The

explanation of the concerned officers who are not complying with these directions should be called and further necessary action taken.

(Ref : 98/ORD/1 Dated 5th Feb 2004)

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

In view of the reasons given above, the Commission has decided that instructions given in the Commission's circular **(No. 98/ORD/1 dated 18.12.2003)** for the use of web-site will

also apply to all such works awarded by the department/PSEs/other organizations over which the Commission has jurisdiction.

(Ref : 98/ORD/1 Dated 11th Feb 2004)

g. It is clarified that Commission's instructions are with regard to goods, services and works procured through open tender system, so these instructions do not apply to proprietary items and items which necessarily need to be procured through OEMs and OESs (Original Equipment Suppliers).

h. In many organizations goods, services and works which as per laid down norms are to be procured / executed through open tender system many times due to urgency are done through short term tenders without resorting to wide publicity in newspapers because of time constraint. In all such cases short term tenders (by whatever name it is called) etc. should also be put on the website of the dept. as it does not involve any additional time or cost.

i. Periodic Updating of Vendor Directory:
The Commission desires that in all such cases there should be wide publicity through the web site as well as through the other traditional channels at regular intervals for registration of contractors / suppliers. All the required

proforma for registration, the pre-qualification criteria etc. should be always available on the web-site of the organization and it should be possible to download the same and apply to the organization. There should not be any entry barriers or long gaps in the registration of suppliers / contractors. The intervals on which publicity is to be given through website and traditional means can be decided by each organization based on their own requirements and developments in the market conditions. It is expected that it should be done atleast once in a year for upgrading the list of registered vendors / contractors.

j. Opportunity to all registered Vendors in Limited Tendering: The concerned organisation should give web based publicity for limited tenders also except for items of minor value. If the organization desires to limit the access of the limited tender documents to only registered contractors / suppliers, they can limit the access by issuing passwords to all registered contractors / suppliers. But it should be ensured that password access is given to all the registered contractors / Suppliers and not denied to any of the registered suppliers. Any denial of password to a registered supplier / contractor will lead to presumption of malafide intention on the part of the tendering authority.

(Ref: No.98/ORD/1 Dated the 2nd July 2004)

k. 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 enclosed to the Circular cited below. The threshold value may be reported to the Commission for concurrence.

(Ref: No.005/VGL/4 Dated the 16th March 2005)

l. 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.

(Ref: No.005/VGL/4 Dated the 20th September 2005)

m. CVOs are, therefore, once again advised to ensure that details of the tenders awarded above the threshold value by the organizations are uploaded in time on the organisation's official website and are updated every month. CVOs should also specifically bring to the notice of the Commission, any violation of this order.

(Ref: No.005/VGL/4 Dated the 1st September 2006)

n. 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;

iv) 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;.

Any failure on the part of organization to implement the directions contained in the Commissions circulars as mentioned above would be viewed seriously by the Commission.

(Ref : No.006/VGL/117 Dated 18th April 2007)

o) To post summary of details of contracts/purchases awarded so as to cover 75% of the value of the transactions without any further delay. Any failure on the part of the organisations on this account would be viewed seriously by the Commission. All Chief Vigilance Officers should reflect the compliance status in their monthly reports to the Commission after personally verifying the same.

(Ref: No.005/VGL/4 Dated the 14th July, 2009)

20. Leveraging Technology

a. All Govt. Organisations 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. An illustrative list is given in the annexure to this Circular.

b. In case of Contracts & Procurement:

i. Applications for registration of contractors / suppliers / consultants / vendors, etc.

ii. Status of all bill payments to contractors / suppliers, etc.

c. All application forms / proformas should be made available on the websites in a downloadable form. If the organisation 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.

d. In the second stage, the status of individual applications / matters should be made available on the organisation's website and should be updated from time-to-time so that

the applicants remain duly informed about the status of their applications.

In addition to the manual receipt of applications, all organisations 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. organisations are opting for e-governance, they may consider integrating the above mentioned measures into their business processes so that duplication is avoided.

***(Ref: No.006/VGL/117 Dated the 22nd
November, 2006)***

21. E-Tendering / E-Procurement

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

(Ref: No.98/ORD/1 dated 11th September 2003)

b. Guidelines on security related issues in e-tendering systems.

(Ref: No.009/VGL/002 dt. 17.09.2009)

c. Check-list for implementation of e-tendering solutions.

(Ref: No.009/VGL/002 dt. 26.04.2010)

d. In order to ensure proper security of the e-procurement system all departments / organisations are advised to get their system certified by Department of Information Technology (DIT).

(Ref: No.010/VGL/035 dt. 23.06.2010)

DIT in turn requested its attached STQC (Standardisation, Testing and Quality Certificate) Directorate to establish necessary processes and systems to enable certifications of e-procurement systems. Accordingly, the guidelines prepared by STQC in this regard approved and notified by the DIT is available on e gov standars website (www.egovstandars.gov.in). The guidelines are also available on Commission's website. All the Ministries / Departments / Organisations are advised to use these guidelines for compliance to Quality Requirements for certifying the e-procurement systems.

(Ref: No.010/VGL/035/161731 dt. 12.01.2012)

e. All organisations should invariably follow a fair, transparent and open tendering procedure to select the application service provider for implementing their e-tendering solutions. The standard guidelines on tendering procedure should hold good for the procurement of these services as well.

(Ref : 009/VGL/002 dated 13th Jan 2009)

**CONTRACT AWARD / ORDER
EXECUTION STAGE /
CONTRACT ADMINISTRATION
STAGE**

22. E-payments

a. The payment to all suppliers / vendors, refunds of various nature, and other payments which the organisations routinely make shall be made through electronic payment mechanism at all centres where such facilities are available in the banks. Salary and other payments to the employees of the concerned organisations at such centres shall also be made through electronic clearing system (ECS) wherever such facilities exist. As the organisations will have to collect bank account numbers from the vendor, suppliers, employees and others who have interface of this nature with the Govt. organisations, the concerned organisations may plan to switch over to 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.

(Ref No.98/ORD/1 Dated the 8th April, 2004)

b. The Commission had directed that by July 2004, 50% of the payment transactions both in value terms as well as in number of transactions shall be made through ECS/EFT mechanism instead of payments through Cheques; and urged all Banks, PSUs and Departments to provide an enabling environment and facilities so that such an initiative is successful.

(Ref : No. 98/ORD/1 Dated 20th Oct 2004)

23. Delays in Payments to Contractors & Suppliers etc. Reducing opportunities for corruption reg

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

(Ref: No. 005/ORD/1 Dated 10th March, 2005)

24. Selection and employment of Consultants

a. Conflicts of Interest: A firm which has been engaged by the PSU to provide goods or works for a project and any of its affiliates will be disqualified from providing consulting services for the same project. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, and any of its affiliates, will be disqualified from subsequently providing goods or works or services related to the initial assignment for the same project.

b. Consultants or any or their affiliates will not be hired for any assignment, which by its nature, may be in conflict with another assignment of the consultants. **(No.98/DSP/3 Dated the 24th December, 2004)**

c. The Commission has declared that following guidelines be kept in view while finalising the contracts for engaging Consultants.

i. Conflicts of Interest:

I. Conflict between consulting activities and procurement of goods, works or non-consulting services

II. Conflict among consulting assignments

III. Relationship with employer's staff

IV. A consultant shall submit only

one proposal. If participates in more than one proposal, all such proposals shall be disqualified.

ii. Professional Liability: The Consultant is expected to carry out its assignments with due diligence and in accordance with prevailing standards of the profession. As the consultant's liability to the Employer will be governed by the applicable law, the contract need not deal with the matter. The client (purchaser) may, however, prescribe other liabilities depending on the requirement in each case without any restriction on the Consultant's liability as per the applicable law.

(Ref: 011/VGL/063 dt.24.06.2011)

d. Some of the common irregularities / lapses observed have been narrated in the Circular **No OFF 1 CTE 1 dated 25th November 2002.**

(<http://www.cvc.nic.in/three.pdf>)

25. Acceptance of Bank Guarantee (BG)

a. Copy of proper prescribed format on which BGs are accepted from the contracts should be enclosed with the tender document and it should be verified verbatim on receipt with original document.

b. It should be insisted upon the contractors, suppliers etc. that BGs to be submitted by them should be sent to the organisation directly by the issuing bank under Registered post (A.D.).

c. In exceptional cases, where the BGs are received through the contractors, suppliers etc., the issuing branch should be requested to immediately send by Registered Post (A.D) an unstamped duplicate copy of the guarantee directly to the organisation with a covering letter to compare with the original BGs and confirm that it is in order.

d. As an additional measure of abundant precaution, all BGs should be independently verified by the organisations.

In the organisation / unit, one officer should be specifically designated with responsibility for i) verification, ii) timely renewal and iii) timely encashment of BGs.

(Ref: No.02-07-01-CTE-30 Dt.31.12.2007)

26. If L-1 party backs out

If L-1 party backs out, there should be retendering in a transparent and fair manner. The authority may in such a situation call for limited or short notice tender if so justified in the interest of work and take a decision on the basis of lowest tender.

(Ref: No.98/ORD/1 Dated 24th August, 2000)

27. Back to back tie up by PSUs

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

(Note : Observations of the Commission are listed in the circular mentioned below)

(Ref: No. 06-03-02-CTE-34 Dated: 20.10.2003)

b. The Commission has observed that there have been instances where government organisations / PSUs obtain contract from other government organisations / PSUs and further award the same to private entities on 'back to back tie up' basis without competitive tendering mechanism and without any significant value addition by the procuring government organisation / PSU. Their practice subverts the Commission's emphasis on integrity, transparency, fairness and equity in decision making.

(Ref No 005/CRD/19/196756 Dated 11th Dec 2012)

28. Out of turn Allotments / Discretion:

To publish on the notice board and in the organisation's regular publication(s), the details of all such cases regarding tenders or out of turn allotments or discretion exercised in favour of an employee / party.

(Ref: No.005/VGL/4 Dated the 16th March 2005)

29. Banning of Business Dealings

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 CVC does not give its advice in such matters.

(F.No. 000/VGL/161 Dated, the 24th March,2005)

30. 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.

(Ref: 005/VGL/66 Dated the 9/12/2005)

31. Recoveries arising out of Intensive Examination conducted by CTEO

The observations / advice of the Commission are required to be considered by the executing agencies in terms of the Contract and recoveries are to be enforced as admissible as per the conditions of the Contract.

(Ref: TE(NH)/2011/Recoveries/144262 Dt. 12.09.2011)

GENERAL

32. Check list for Examination of Procurement (Works/ Purchases / Services) Contracts by CVOs

A. Pre-Award Stage

1. Financial and Technical sanction of competent authority is available.
2. Adequate and wide publicity is given. Advertisement is posted on website and tender documents are available for downloading.
3. Convenient tender receiving/opening time and address of the tender receiving officials/tender box are properly notified.
4. In the case of limited tender, panel is prepared in a transparent manner clearly publishing the eligibility criteria. The panel is updated regularly.
5. Pre-qualification criteria are properly defined/notified.
6. Short listed firms/consultants are fulfilling the eligibility criteria. There is no deviation from notified criteria during evaluation.
7. Experience certificates submitted have been duly verified.
8. Tenders/bids are opened in the presence of bidders.
9. Corrections/omissions/additions etc., in price bid are properly numbered and attested and accounted page wise. Tender summary note/ Tender opening register is scrupulously maintained.

10. Conditions having financial implications are not altered after opening of the price bids.

11. In case of consultancy contracts (a) Upper ceiling limit is fixed for consultancy fee and (b) Separate rates for repetitive works are fixed.

B. Post-award stage

(a) General

1. Agreement is complete with all relevant papers such as pre-bid conference minutes, etc.

2. Agreement is page-numbered, signed and sealed properly.

3. Bank Guarantee is verified from issuing bank.

4. Insurance policies, labour licence, performance guarantee are taken as per contract.

5. Technical personnel are deployed as per contract.

6. Plant and equipment are deployed as per contract.

7. Action for levy of liquidated damages is taken in case of delay/default.

(b) Payments to contractors

1. Price escalation is paid only as per contract.

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

(c) Site Records

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

(Ref: F.No.006/VGL/29 Dated, the 1st May, 2006) (<http://www.cvc.nic.in/006vgl29.pdf>)

33. A comprehensive set of guidelines issued by the CVC on common irregularities / lapses observed in stores / purchase contract. Guidelines for improvement in the procurement system.

(Ref : CVC Publication Dated 15.01.2002)
(http://www.cvc.nic.in/cte_man_2002.pdf)

34. Issues arising out of Annual review meeting of Defence sector CVOs held by CVC in July 2012

(i) Updating all Procurement/Purchase Manuals, in alignment with the spirit of DPP & DPM (if not already done).

(ii) The threshold value of contracts for signing Integrity pact needs to be reviewed to cover 90% of the transactions, in a planned manner. The progress made in %age may be intimated on a quarterly basis.

(iii) The proportion of Limited / Single Tenders should be gradually reduced through Vendor development.

(iv) On line Vendor registration process should be strictly followed so as to encourage vendor registration. The database of vendors so registered should be uploaded on the website, for use by all the Divisions of the Organisation.

(v) Efforts should be made to achieve 90% of procurements through e-procurement. The progress made may be intimated on a quarterly basis.

(vi) All the payments to vendors / contractors should be through e-payment, as far as possible.

(vii) Efforts may be made to prevent cartelisation and wide variation in rates awarded for same products, by maintaining relevant data on vendors / rates pertaining to previous procurements; and sharing these details across various units in the organisation.

(viii) Computerised File Tracking should be introduced (if not already done), in a time bound manner.

(ix) Clearance of Bills of contractors should be done in a transparent and time bound manner. The contractors should be able to track the status of their bills, on-line.

(x) CVC suggested that for transparency in procurement, especially in proprietary items in defence sector, a committee may be setup which may include one industrial member and one Academic member, for assessing innovative products for assimilation followed by vendor development programme so that new products could be brought in.

(Ref: 8(94)/2012-D(Coord/DDP) dated 29th Oct 2012)

35. Purchase Preference Policy

(i) The Department of Public Enterprises has issued guidelines vide O.M. No. DPE/13(15)/2007-Fin. Dated 21.11.2007 on the subject cited above which reiterates DPE's earlier guidelines dated 18.07.2005 to the effect that the Purchase Preference Policy would stand terminated w.e.f. 31.03.2008. Further, it also provides that Preferential Policy framed for the specific sectors by the concerned Ministry/Department within relevant Act of Parliament or otherwise don't come within the purview of these guidelines. However, the DPE OM. Dated 21/11/2007, lays down that the concerned Ministry/Department may independently evolve/review preferential policies for the sectors of their concern as per their requirement. A copy of DPE's O.M dated 21/11/2007 is enclosed for reference.

(ii) The Commission has desired that if any Ministry/Department has evolved a Purchase Preference Policy pursuant to the DPE Guidelines, the same may be brought to the notice of the Commission.

(Ref : 009/VGL/055 Dated 09th Nov 2009)

36. Revised threshold values for submission of Quarterly Progress Report-QPR

In supersession to the Commission's earlier OMs on the subject, the threshold limits for reporting of the contracts in the QPR to the Commission, are revised as under:-

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

QPRs should be submitted both in softcopy (in MS Excel format) through e-mail at qpr.te.general@nic.in as well as hardcopy separately for each sub-category mentioned above. For contracts below the threshold value, CVO may conduct CTE type of inspections and intimate the outcome to the Commission through their regular monthly/quarterly reports.

The revised limits would come into effect from July-September 2012 Quarter onwards.

Kindly refer to the explanatory notes provided in this circular for guidance.

(Ref : No.:98-VGL-25 Dated 30/07/2012)
(http://cvc.nic.in/cir_31072012.pdf)

37. Referring cases of Procurement to the Commission

The Commission has issued various circulars/guidelines /instructions in order to promote transparency, improve competition and ensure equity among participants. However, if any organization faces difficulty in the application of any of the circulars/guidelines/instructions issued by the Commission, then it may approach the Commission bringing out the difficulties along with a proposed generic solution listing out the ingredients of the special circumstances for examination and review by the Commission. References of a general nature having elements of managerial decision making and concerning a particular procurement should be avoided.

(Ref : No 008/CRD/008 Dated 24th July 2008)

Disclaimer:

The objective of publishing this booklet is to sensitize our colleagues to the prevailing CVC guidelines., For detailed information, the relevant CVC circular / instruction / directives / guidelines may please be referred to viz., http://www.cvc.nic.in/proc_works.htm.

Public Procurement is an activity vulnerable to corruption. While lack of transparency and violation of laid down procedures needs to be curbed, steps are also required to ensure fair competition and objectivity in selection assuring value for money. Therefore, the Commission's effort is to emphasize transparency, accountability and probity in public procurement.

**Message from CVC
Vigilance Awareness Week-2012**



**VIGILANCE DEPARTMENT
ISO 9001:2008 Certified
HINDUSTAN AERONAUTICS LIMITED**