



# INDIAN MARITIME UNIVERSITY

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## VIGILANCE DEPARTMENT

### Procurement Guideline

2013

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**M.Dandayudhapani I.O.F.S.**  
***Chief Vigilance Officer***

Dear Colleagues,

I am glad that the Vigilance Department is bringing out a handout on Procurement Guidelines at appropriate time when there are no standard manuals available for this University which has six campuses. It was felt by everybody that some guidelines may be issued so that a common approach for all the campuses is evolved and also the dealing hand who is involved in purchase can rely on some guideline which can lead him for adopting proper procedure. Based on the scrutiny of files by vigilance and on surprise inspections it was felt that on the one hand some are quoting the CVC's circulars partly in the tender committee and on the other hand taking decision which are not consistent with the CVC guidelines. Hence an attempt is made to bring out broadly some guidelines on procurement which covers from the estimation to award of tender. Also some of the important relevant CVC circulars are compiled along with the guidelines. I am sure this will be of immense help to the purchase personnel of IMU. This may also trigger in bringing out a standard manual for all the campuses of IMU. These guidelines may not be exhaustive and hence the circulars / instructions of Central Vigilance Commission in CVC website [www.cvc.nic.in](http://www.cvc.nic.in), IMU issued from time to time shall also be referred for the procedures. Further reference or clarifications may be brought to the knowledge of vigilance department.

I place on record the assistance given by the Section Officer Smt.T.Rajeswari, and Smt.M.Meenakshi, Jr.Assistant for compiling and bringing out this handout within a short span of time.

**Chief Vigilance Officer**

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## *CHAPTER-I*

### **Preamble**

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1. An organization / Department for purchase of items follows unique, systematic and cost effective methods in agreement with the relevant rules and regulations of the Government. The Central Vigilance Commission (CVC) emphasize the need for close scrutiny of the public procurement to ensure that the laid down systems and procedures are followed, there is a total transparency in the procurement and there is no misuse of power in decision making. This handbook holds procedures and guidelines for purchase of goods / items in improving the procurement systems in Indian Maritime University. Hence it is a very imperative document required to guide officials in their day to day work for improvement in the procurement system so that there is a systematic and uniform approach in decision making. This handbook also helps to bring an improvement in the system of procurement so that recurrence of drop outs/discretion has to be prevented in future procurements and to have better financial control.

#### **1.1. Filing System**

The procurement files are very important and sensitive documents and thus there is a need to have a single file system with proper page numbering. Documents should be page numbered as and when they are received and placed in the file and not afterwards. In case of urgency, if opening of part files is unavoidable, the same should thereafter be merged with the main file at the earliest. All the decisions and deliberations of the individuals dealing with the case or the Tender Committee(s) also need to be properly recorded and well documented.

#### **1.2. Transparency in tendering system- Guidelines regarding**

In order to maintain transparency and fairness, it would be appropriate that a practice should evolve for finalizing the acceptability of the bidding firms in respect of the qualifying criteria before or during holding technical negotiations with firm. 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 price bids. Moreover, the intimation of rejection to the firms whose bids have been evaluated but found not to meet the qualification criteria, along with the return of the un-opened price bid, will enhance transparency and plug the loop-holes in the tendering system.

### **1.3. Provisioning**

The provisioning of stores needs to be done with utmost care to avoid any surplus purchases. The equipment/store to be purchased should conform to the latest specifications and technology available in the market to avoid obsolescence. Generally when proposals are initiated, the need or justification for the required quantities being tendered / purchased has to be made. If the required quantity exceeds the demand of the firm then the store/ equipments may lose their guarantee / warranty even before they were put to use. In some circumstances, a provision to increase/ decrease the quantities may be included in the bidding documents for unexpected / emergent requirements. The current market rate has to be ascertained before placing a supply order.

## *CHAPTER-II*

### **Indent**

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2. The user department/university while placing indent for procurement , should place in a prescribed format duly mentioning whether the goods required are stock items which involves frequent usage or the items required are non stock items where the goods purchased do not involve frequent usage.

#### **2.1 Stock items**

For stock items the purchase department concerned should analyse the requirement of each department/university of the particular item and make a consolidated proposal for annual procurement depending on the requirement. Before arriving the annual requirement quantity, the prevailing stock at the time of making a proposal has also to be taken into consideration by the purchase department and then get approval from competent authority for procurement.

#### **2.2 Non Stock items**

Likewise the user department/university before placing an indent should analyse and mention the quantity exactly required, detailed justification for the procurement, the details of similar type of goods if any purchased earlier etc. in the non stock indent proforma and enclose the approval/sanction obtained from competent authority along with the indent and the same has to be forwarded to the purchase department concerned to process further.

## *CHAPTER –III*

### **Estimate**

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**3.** Estimate is the approximation, prediction or projection of quantity based on the information available at the time with the recognition that other pertinent facts are unclear or unknown. The estimated rate is a vital element in establishing the reasonableness of the prices being paid and, therefore, it is very important that the same is worked out in a realistic and objective manner on the basis of prevailing market rates, last purchase prices, economic indices for the raw material / labour, other input costs, assessment based on intrinsic value etc.,

#### **3.1. EOI, Technical and price bids**

In most of the procurement cases, two stage tendering process may be useful and preferred. In the 1<sup>st</sup> stage of tendering process, acceptable technical solutions can be evaluated after calling for the Expression of Interest (EOI) from the leading experienced and knowledgeable manufacturers/suppliers in the field of proposed procurement. The broad objectives, constraints etc., could be published while calling for EOI. On receipt of the EOI, technical discussions / presentations can be held with the short listed manufacturers / suppliers to execute the proposed work. Use of items with standard specification should be stipulated. If procurement of non-standard items is required, reasons for the same with reasonability of rates should be recorded before placing order. EOI is normally preferred when standard specification is not available and a specification is to be finalized. In the 2<sup>nd</sup> stage of tendering process, calling for techno commercial bids under single bid or two bid system, as per the requirements. Final selection at this stage based upon the quoted financial bids and the evaluation matrix decided. Alteration in price bid or any correction in price bid after tender opening date is not permitted. Negotiation under exceptional circumstances be done should be with the lowest tenderer only with adequate justification.

#### **3.2 Reasonability of Prices**

It is very important to establish the reasonability of price on the basis of estimated rates, prevailing market rates, last purchase prices, economic indices of the



raw material / labour, other input costs and intrinsic value etc., before issuance of supply order.

### **3.3 Evaluation of price**

The evaluation of prices should be done properly. The bids are to be evaluated by taking into account various elements / factors which were specified in the bid documents.

## *CHAPTER-IV*

### **Pre-Qualification criteria**

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4. The pre-qualification criterion is a benchmark to allow or disallow firms to participate in the bids. Pre-qualification criteria should be fixed in such a manner that all competent suppliers are brought into competition. 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. If the eligibility criterion is stringent and discriminatory, it may restrict the competition. The purpose of any selection procedure is to attract the participation of reputed and capable firms with proven track record. It should be ensured that the PQ criteria are exhaustive, yet specific and there is fair and adequate competition. It should be ensured that the PQ criteria are clearly stipulated in unambiguous terms in the bid documents. The prequalification criteria are a yardstick to allow or disallow the firms to participate in the bids. A vaguely defined PQ criteria results in the process of finalizing the purchase order in a non-transparent manner.

Prequalification/Post Qualification shall be based entirely upon the capability and resources of prospective bidders to perform satisfactorily, taking into account their (i) experience and past performance on similar contracts (ii) capabilities with respect to personnel, equipment and manufacturing facilities (iii) financial standing , 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 prequalification/post qualification for reasons unrelated to its capability and resources to successfully perform the supply. Similar work should be defined clearly.

#### **4.1. Important points to be kept in view while fixing the eligibility criteria**

4.1.1. Average annual financial turnover during the last 3 years, ending 31<sup>st</sup> March of the previous financial year, should be at least 30% of the estimated cost.

**4.1.2.** 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 estimated 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.

## *CHAPTER-V*

### **Techno-Commercial Evaluation of Tenders**

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5. The specifications are the detailed qualitative requirements of the items being procured and should indicate the material composition, physical, dimensional and performance parameters, tolerances if any, manufacturing process where applicable, test schedule, preservation and packing etc., mentioning the relevant standards wherever applicable.

The evaluation of technical bids need to be carried out properly. The recommendations indicating technical suitability or otherwise of the various offers received against this tender has to be prepared in a statement. Techno-commercial evaluation of offers should be carried out as per laid down criteria in a transparent manner. Once it has been established that the offers meet the laid down specifications, there should not be any further 'grading' or 'pick and choose'. The purchase order needs to be issued to the lowest bidder meeting the laid down specifications.

#### **5.1. Earnest Money Deposit**

5.1.1. The primary objective of submission of Earnest Money Deposit is to establish the earnestness of the bidder so that he does not withdraw, impair or modify the offer within the validity of the bid. It also helps in restricting if not eliminating 'speculative', 'frivolous', or 'wait and see' bids. Any relaxation regarding submission of Earnest Money Deposit has financial implications besides giving encouragement to the bidders to submit frivolous bids. The terms & conditions of the Tender Document should clearly stipulate that the offers without Earnest Money Deposit should be considered as unresponsive and rejected. The Earnest Money Deposit in case of Two-bid system needs to be incorporated as a fixed and reasonable amount on the basis of estimated value of the purchase.

## **5.2. Specifications**

Based on the discussions/presentations technical solutions can be decided and specifications are framed for each acceptable technical solution including quality benchmarks, warranty requirements, delivery milestones etc., consistent for the transparent procurement. At the same time care should be taken to make the specification generic in nature so as to provide equitable opportunities to the prospective bidders. Proper record of discussions/presentations and the process of decision making should be kept.

## **5.3. Delegation of Powers/Tender Committee**

Purchase Committee is mainly responsible for opening of tenders, suggesting specifications and recommendations for purchase of various items for the Institute. Two committees were formed for procurement of items / contracts in Indian Maritime University (IMU) at Headquarters to purchase items / contracts upto the value of Rs. 5 lakhs and Rs. 5 lakhs and above. Tender committee may be formed depending up on value of purchase/contracts. Tender committee member role starts once the comparative statement of tenders is put up and ends till order placement is recommended.

## *CHAPTER – VI*

### **General Conditions**

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#### **6.1. Preparation of Bid Document**

The terms and conditions in the bid document should mention the time/date for receipt and opening of tenders, the clauses relating to Earnest money, Delivery Schedule, Payment terms, Performance/Warranty, Bank Guarantee, Pre-despatch inspection, Arbitration, Liquidated Damages/Penalty for the delayed supplies and Risk-purchase etc., arbitration if any. All these clauses are important for safeguarding the interest of the purchaser and also have indirect financial implications in the evaluation of offers and execution of the supply order.

In absence of the detailed specifications/technical evaluation criteria, the evaluation of offers on equitable basis and in a transparent manner would not be possible and would rather be prone to subjectivity in the decision-making.

#### **6.2. Delivery Period**

The delivery period should be extended on bonafide request and not in a routine and casual manner. After expiry of delivery period, the consignees should be refrained from exchanging correspondence with the supplier. In case of delay in supplies by the supplier, the liquidated damages need to be recovered. Also in case of delay attributable on the part of the supplier, the L/C(Letter of Credit) extension charges should be to supplier's account. In nutshell, there is a need to discipline the suppliers so that the non-performers could be weeded out and the suppliers which can be relied upon with consistent performance in terms of quality and delivery schedule are encouraged. The specific delivery period for supply as per the terms of delivery such as station of dispatch / destination and for completion of installation with the necessary provision for Liquidated damages / Penalty clause in the event of delay in supplies / installation needs to be incorporated in the purchase order.

**Guarantee / Warranty Terms:** Detailed guarantee / warranty clause embodying all the safeguards be incorporated in the tender enquiry and the resultant contract.

### **6.3. Bank Guarantee**

In order to safeguard the Govt. interest, it would be appropriate to take reasonable amount of Performance Bank Guarantee valid upto warranty period for due performance of the contract. The validity of the Bank Guarantees needs to be carefully monitored and whenever extension in the delivery period is granted, the validity of Bank Guarantee should also be appropriately extended so as to protect the Govt. interest. The genuineness of the BGs should be checked from the issuing bank.

### **6.4 Advance Payment**

The advance payments need to be generally discouraged except in specific cases. Wherever payment of advance is considered unavoidable, the same should be interest bearing and be allowed after getting an acceptable Bank Guarantee for an equivalent amount with sufficient validity so as to fully protect the Govt. interest. Some reasonable time should be stipulated for submission of Bank Guarantee so that contractual remedies could be enforced, if required. The Bank Guarantees need to be properly examined with respect to the acceptable format and any conditions deterrent to the Govt. interest should be got withdrawn before acceptance besides verifying the genuineness of the Bank Guarantees from the Bankers. Timely action for revalidation / encashment of the Bank Guarantees also needs to be taken so as to protect the Govt. interest.

### **6.5 Payment Terms**

The payment terms should be defined unequivocally and should not be changed after issue of the purchase order. As far as possible, the payments terms should be so structured that the payments made to the contractors are linked and are commensurate with the actual progress of the supplies.

### **6.6 Tenders of proprietary purchases/single tender**

The detailed justification for purchase from a single vendor is to be placed on record as by issuing single tender, the competition is totally eliminated and the

possibility of paying higher prices cannot be ruled out. It is imperative that the purchase on Single tender basis be made with the detailed justification in its support and with the approval of Competent Authority, including associated finance.

### **6.7. Nomination contract**

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.

**6.7.1** The award of Government contracts through public-auction/public tender is to ensure transparency in the public procurement, to maximize economy and efficiency in Government procurement, to promote healthy competition among the tenderers, to provide for fair and equitable treatment of all tenderers, and to eliminate irregularities, interference and corrupt practices by the authorities concerned. This is required by Article 14 of the Constitution. For nomination of contracts Mere post facto approval of the board is not sufficient to award contract on nomination basis.

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

### **6.8 Financial Implications after opening of the price bids**

It has been noticed that some tenderers offer conditional discounts for coverage within a shorter period, for early inspection/ payment etc. and, such discounts are being considered, at the time of evaluation of tenders by the organizations. It needs to be



ensured that the evaluation of tenders should not be based on such conditional discounts and suitable clause should be included in the bidding documents. Conditions having financial implications are not altered after opening of the price bids.

**6.9. Formation of Tender Committee**

A tender committee should be formed consisting officers from user department, purchase department and finance department for evaluation of technical and price bid right from technical evaluation till award of tender.

**6.10.** Tender committee should give an undertaking at the time of deciding the case 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 Purchase Committee.

## *CHAPTER-VII*

### **Notice Inviting Tender**

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7. In order to give publicity, generate enough competition and to avoid favoritism as far as possible, issue of Advertised / Global Tender enquiries should be resorted to and published in ITJ and select National Newspapers. With a view to have wider, fair and adequate competition, it is important that sufficient time of say 4-6 weeks in case of Advertised / Global tenders and 3 – 4 weeks in case of limited tenders is allowed except in case of recorded emergencies, wherein also, a reasonable time should be permitted and tenders should be sent by faster means like speed post / fax. The tenders should preferably be kept open for sale till the date of tender opening or just one day prior to the date of tender opening.

#### **7.1 Advertisement through news papers**

The Global tender inquiries advertisement is published not only in local dailies but also in any National Newspaper and particularly in Indian Trade Journal, Calcutta, which is a Government publication and is regarded as the standard medium for advertising tender notices in India. The main purpose of issuing Advertised/Global tender inquiry is to give wide publicity. In order to give wide publicity, generate enough competition and to avoid favouritism, as far as possible, issue of Advertised/Global tender inquiries should be resorted to and published in ITJ and select National Newspapers. The copies of the tender notices should be sent to all the registered/past/likely suppliers by UPC and also to the Indian Missions / Embassies of major trading countries in case of imported stores.

#### **7.2 Tender published in website**

With the widespread use of Information Technology, the tender notices should also be put on the website and e-mail address of the organization should be indicated in the tender notice.

## *CHAPTER-VIII*

### **Opening of Tender**

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#### **8.1 Receipt of Tenders**

A proper arrangement for receipt of sealed tenders at scheduled date and time through conspicuously located tender boxes needs to be adopted. However, in cases where due to the bulky size of tender documents and the bid conditions envisaged, submission of tenders by hand to a designated officer, it may be ensured that the names and designation of at least 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.

#### **8.2 Opening of Technical bid**

The system of opening the tenders should be transparent. The tender opening officers so nominated for the purpose should ensure the rates are quoted in figures and words, cuttings / over-writings are not there in the bid documents and also attested by bidders.

**8.2.1.** The opening of tenders in presence of trade representatives needs to be scrupulously followed. While, opening the tenders by the tender opening officer / committee, each tender should be numbered serially, initialled and dated on the first page. Each page of the tender should also be initialled with date and particularly, the prices, important terms & conditions etc., should be encircled and initialled in red ink by the tender opening officer / committee. At the time of opening, alterations in tenders, if any, made by the firms, should be initialled legibly to make it perfectly clear that such alterations are done by the bidders. Wherever any erasing or cutting is observed, the substituted words should be encircled and initiated and the fact that such erasing / cutting of the original entry was present on the tender at the time of opening be also recorded. The tender opening officer / committee should also prepare 'on the spot

statement' giving details of the quotations received and other particulars like the prices, taxes, duties and EMD etc. as read out during the opening of the tenders.

**8.2.2** Further, in case of 'Two bid' system, it has been noticed that after opening of the technical bids, the price bids which are to be opened subsequently, are kept as loose envelopes. In such cases, the possibility of change of bids prior to tender opening cannot be ruled out. In order to make the system fool proof, it needs to be ensured that not only the tender opening officer / committee should sign on the envelopes but the signatures of two trade representatives should also be obtained on all the envelopes containing the price bids. Thereafter, all the envelopes should be put in a bigger envelope and the same should be properly sealed duly signed by the tender opening officer /committee and trade representatives.

**8.2.3** A detailed comparative statement firm wise analysing the tender documents submitted, whether the firms are fulfilling the prequalification criteria and the technical specification etc., should be prepared and should be attested by the officers so nominated for opening the technical bid.

**8.2.4** Likewise a detailed comparative statement firm wise has also to be prepared for comparison of rates in order to identify the lowest offerer taking into consideration the tender norms and conditions.

### **8.3 Tendering process – negotiation with L1.**

**8.3.1.(a)** If at many a time the quantity to be ordered is much more than L1 alone can supply, in such cases the quantity on order may be distributed in such a manner that the purchase is done in a fair transparent and equitable manner.

**8.3.1.(b)** Considering the L-2 offer or negotiate with that firm if L-1 withdraws his offer before the work order is placed, or before the supply or execution of work order takes place, such a situation may be avoided if a two-bid system is followed (techno/commercial) so that proper assessment of the offers is made before the award

of work order. 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.

**8.3.2** Post tender negotiations should be banned except with L-1 (i.e. the lowest tenderer), pertain to the issue of supply order where the Government or the Government company has to make payment. 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.

**8.3.3** 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 issuance of purchase order.

**8.3.4** The model time frame for according approval by competent authority 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.

#### **8.4 Postponement of Tender Opening**

Wherever extension in the tender opening is done due to reasons like change in the specifications or on the basis of request of the vendors it should be ensured that sufficient time to submit the bids as per the revised specifications and intimation of tender opening extension to be sent to all the bidders who had purchased the bidding' documents. Also such notice of extension is also be published in newspapers / ITJ.

In order to give equal opportunity to all the bidders and to maintain sanctity of tendering system, it is of paramount importance that any change in the tender terms & conditions, specifications and tender opening date etc. be notified to all the bidders, sufficiently in advance of the revised tender opening date.

*CHAPTER-IX*

**Issuance of Supply Order**

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**Important Terms and Conditions to be considered while issuing Purchase Order**

- 9.1** Purchase orders are not valid unless signed by the Purchaser. Purchaser will not recognize claims based on verbal orders.
- 9.2** Delivery is not complete until the goods have been actually received and accepted. The risk of loss or damage prior to completion of delivery shall be upon the Vendor, and any such loss or damage to goods or materials ordered shall not release Vendor from any obligation.
- 9.3** Purchaser shall have the right to inspect such goods and to reject any or all of said goods which are in Purchaser's judgment defective or nonconforming.
- 9.4** In the event Purchaser receives goods whose defects or nonconformities are not apparent on examination, Purchaser reserves the right to require replacement, as well as payment of damages.
- 9.5** All invoices, packing lists, packages, shipping notices, instruction manuals, and other written documents affecting this Order shall contain the applicable order number. Packing lists shall be enclosed in each and every box or package pursuant to the Order, indicating the content of such boxes or packages.
- 9.6** In the event of any proceeding, voluntary or involuntary, in bankruptcy or insolvency by or against the Vendor, Purchaser shall be entitled to cancel any unfilled part of this Order without any liability whatsoever.
- 9.7** Purchaser reserves the right to terminate this order or any part hereof for its sole convenience. In the event of such termination, Seller shall immediately stop all work hereunder, and shall immediately cause any of its suppliers or

subcontractors to cease such work. Seller shall be paid a reasonable termination charge if order permits. Seller shall not be paid for any work done after receipt of the notice of termination nor for any costs incurred by the Seller.

**9.8** Purchaser may also terminate this order or any part hereof for cause in the event of any default by the vendor or if the vendor fails to comply with any of the terms and conditions of this offer. In the event of termination, Purchaser shall not be liable to Seller for any amount, and Seller shall be liable to Purchaser for any and all damages sustained by reason of the default which gave rise to the termination.

**9.9** Liquidated Damages: For procurement costing up to Rs. 10 Lakh - 1% of the contract value per week and for all other purchases 0.5% of the purchase value per week of delay subject to a maximum of 10% of purchase value.



## *CHAPTER X*

### **Purchase of Proprietary Items**

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#### **10.1 The circumstances in which the proprietary procurement / services may be invited:**

- For standardization of machinery or spare parts to be compatible to the existing set of equipments (on the advise of the competent technical committee and approved by the competent authority), the required item is to be purchased from the selected firm.
- When an item or items of stores covered by an indent is available from only a single source, e.g. where the stores are spare parts, attachments, accessories etc., required for an existing equipment or the items or stores are the monopoly products of a single manufacturer. etc.,
- When an item or items of stores covered by an indent is of proprietary nature and is recommended to be purchased from a single source with sufficient technical reasons for choice of the proprietary make with the approval of the competent authority.

#### **10.2 Proprietary Article Certificate**

- Proprietary Article Certificate (PAC) may be issued to the original equipment manufacturer (OEM) or manufacturer and items procured on the PAC basis from the particular firm or its authorized dealers, stockist or distributors.
- While PAC is issued only in respect of the concerned OEM/manufacturer, the item may be bought from any dealer, stockist or distributor specified in that particular PAC on the basis of the information provided by the OEM, provided the purchase is accompanied by a proper manufacturer certification.

- This also applies for the repairs / servicing on the basis of PAC through the sole dealer / servicing agency authorized by the OEM.
- The indents seeking proprietary articles should be accompanied with PAC as per the following format.

**(a) Proprietary Article Certificate for Goods / Services to be approved by the Competent Authority of the University**

(1) Description of Goods / Services : \_\_\_\_\_

It is certified that :

The goods are manufactured / Services are provided by \_\_\_\_\_ name of the OEM

(i) No other make or model /supplier / service provider is acceptable / available to supply the above goods for the following reasons.

(a) \_\_\_\_\_

(b) \_\_\_\_\_

(c) \_\_\_\_\_

(ii) M/s \_\_\_\_\_ (name of the firm) are the authorized dealer / stockist distributor of the OEM / original service provider

(2) Concurrence of finance to grant this PAC has been obtained vide \_\_\_\_\_

(3) Grant of this PAC has been approved by \_\_\_\_\_ as the competent authority, vide \_\_\_\_\_ (Signature, date and designation of Indenting officer)

**(b) Proprietary Article Certificate for Items to be approved by the Competent Authority of the University**

(1 )Description of Items : \_\_\_\_\_

It is certified that :

(i) The items are manufactured / Services are provided by \_\_\_\_\_ name of the OEM

- (ii) No other make or model /supplier / service provider is acceptable / available to supply the above goods for the following reasons.
  - (a) \_\_\_\_\_
  - (b) \_\_\_\_\_
  - (c) \_\_\_\_\_
- (iii) M/s \_\_\_\_\_ (name of the firm) are the authorized dealer / stockiest distributor of the OEM / Original service provider

(2) Concurrence of finance to grant this PAC has been obtained vide \_\_\_\_\_

(3) Grant of this PAC has been approved by \_\_\_\_\_ as the competent authority, vide \_\_\_\_\_ (Signature, date and designation of Indenting officer)

### **10.3 While placing an indent, the following should be observed**

- i. PAC should be operated on manufacturer only. There are occasions when items normally PAC products, cannot be procured from the original manufacturer (may be the product line is discontinued) and have to be procured from another vendor as per sample in the absence of detailed specifications or drawing. For such items, the supplier prepares detailed specification as well as the drawing. The user department and the inspecting authority should acquire such specifications and drawing and retain with them to guide future production and inspection.
- ii. Efforts could be taken to indigenize some high value items as import substitute and in such cases, the specifications including the drawing and other details could be formulated by the user department.
- iii. Such specification should be available and inspection also could be done so as to ensure conformity with the required quality standard of the item being supplied.

### **10.4 Specifications**

- i. There are standard industrial specifications like the IS, BS, DIN and GOST available for sale in the market. In the case of medical stores standard

specifications are issued by WHO, FDA, CE etc., every procuring agency should enquire such specifications for reference to ensure quality standards of the product being procured.

- ii. There are items for which industrial specifications are available. In such cases, the indenter must indicate the general parameters normally the dimensional and performance parameters to enable procurement; such adhoc specifications must be enough to enable procurement. Such adhoc specifications must be broad enough to permit wider participation by the suppliers and should not be restrictive so that adequate competition is not obviated.
- iii. If the specifications for branded commercial product are not available with the purchaser, these are to be accepted on the firm's guarantee.
- iv. The PAC specifications /service manuals are available only with the proprietary firms and are protected by the intellectual property right. Hence, if PAC specifications / service manuals are normally not available with the purchaser /service provider, the firm's certificate of quality is accepted.

## *CHAPTER- XI*

### **Check List for procurement/Award of contract**

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#### **1. Pre Award Stage**

- i. Financial and Technical sanction of competent authority is available.
- ii. Adequate and wide publicity is given. Advertisement is posted on website and tender documents are available for downloading.
- iii. Convenient tender receiving/ opening time and address of the tender receiving officials /tender box are properly notified.
- iv. In the case of limited tender, panel is prepared in a transparent manner clearly publishing the eligibility criteria. The panel is updated regularly.
- v. Pre-qualification criteria are properly defined/ notified.
- vi. Short listed firms/consultants are fulfilling the eligibility criteria. There is no deviation from notified criteria during evaluation.
- vii. Experience certificates submitted have been duly verified.
- viii. Tenders/ bids are opened in the presence of bidders.
- ix. 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
- x. Conditions having financial implications are not altered after opening of the price bids.
- xi. In case of consultancy contracts (a) Upper ceiling limit is fixed for consultancy fee  
(b) Separate rates for repetitive works are fixed.

## **2. Post Award Stage**

### **a) General**

- i. Agreement is complete with all relevant papers such as pre-bid conference minutes, etc.
- ii. Agreement is page numbered, signed and sealed properly.
- iii. Bank Guarantee is verified from issuing Bank.
- iv. Insurance policies, labour licence, performance guarantee are taken as per contract.
- v. Technical personnel are deployed as per contract.
- vi. Plant and equipment are deployed as per contract.
- vii. Action for levy of liquidated damages is taken in case of delay/ default.

### **b) Payments to Contractors**

- i. Price escalation is paid only as per contract.
- ii. Retention Money/ Security Deposit is deducted as per contract.
- iii. Recovery of Mobilization & Equipment advance is made as per the provisions in the contract.
- iv. Recovery of Tax & Works Contract tax is made as per provisions in the contract.

### **c) Site Records**

- i. Proper system of recording and compliance of the instructions issued to the contractors is maintained.
- ii. Proper record of hindrances is maintained for the purpose of timely removal of the hindrance and action for levy of liquidated damages.
- iii. Mandatory tests are carried out as per the frequency prescribed in the Agreement.

## IMPORTANT CVC GUIDELINES FOR REFERENCE

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No.4CC-1-CTE-2  
Government of India Central  
Vigilance Commission (CTEs Organisation)  
Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi – 110 023  
Dated 8.6.2004

## **OFFICE MEMORANDUM**

### **Sub: Mobilization Advance.**

In order to address the problem of misuse of mobilization advance provision in the civil and other works, the Commission had issued an O.M. dtd 8.12.1997 for grant of interest bearing 'Mobilizations Advance' in selected works. In view of references from certain organizations on this issue, the commission has reviewed the issue and it has been decided to modify and add the following provisions in the existing O.M. This may be read as addendum to the Commission's O.M. dt. 8.12.997.

- i. If the advance is to be given, it should be expressly stated in the NIT/Bid Documents, indicating the amount, rate of interest and submission of BG of equivalent amount.
- ii. The advance payment may be released in stages depending upon the progress of the work and mobilization of required equipments etc.
- iii. There should be a provision in the contract for adjustment of advance progressively even as the bills are cleared for payment.

Sd/-  
(Gyaneshwar Tyagi)  
Technical Examiner

Copy to:  
All CVO:Ministries/Departments/PSUs/Banks/UTs



No.4CC-1-CTE-2  
Government of India  
Central Vigilance Commission  
Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 10th April 2007

**OFFICE MEMORANDUM**

**CIRCULAR NO. 10 /4/07**

**Sub: Mobilisation Advance**

Commission has reviewed the existing guidelines on 'Mobilisation Advance' issued vide OM No. UU/POL/18, dated 08.12. 97 and OM No. 4CC-1- CTE-2, dated 08.06.2004.

The following guidelines are issued in supersession of earlier guidelines issued by the Commission on 'Mobilisation Advance'.

1. 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.
2. 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.
3. Part 'Bank Guarantees' (BGs) against the mobilization advance should be taken in as many numbers as the proposed recovery instalments and should be equivalent to the amount of each instalment. This would ensure that at any point of time even if the

contractor's money on account of work done is not available with the organization, recovery of such advance could be ensured by encashing the BG for the work supposed to be completed within a particular period of time.

4. 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.

5. 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 documents upfront.

6. Relevant format for BG should be provided in the tender document, which should be enforced strictly and authenticity of such BGs should also be invariably verified from the issuing bank, confidentially and independently by the organization.

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

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

Sd/-

(P. VARMA)

Chief Technical Examiner

Copy to :-

All CVO' s : Ministries/ Departments/PSU's/ Banks/Uts.

No. 98/ORD/1  
GOVERNMENT OF INDIA CENTRAL  
VIGILANCE COMMISSIONER CENTRAL  
VIGILANCE COMMISSION SATARKTA BHAWAN,  
GENERAL POOL OFFICE COMPLEX,  
BLCOK-A, INA,  
NEW DELHI – 110 023

**Subject: - use of web site for tender document publication.**

As a method of improving e-government and bringing greater transparency in administration, the CVC has decided that if a government organisation which goes for procurement has website and publishes the tender documents and other details in the website, it would be deemed to have complied with the requirements for giving wide publicity through the media, especially newspapers.

In vigilance cases relating to such departments if the web site has been used for publicizing the tender documents, the CVC would consider that the rules regarding publicity in the media have been complied with. As it is necessary to give a boost to the e-governance and use of information technology in government, I shall be grateful if you could also consider amending the relevant rules regarding procurement in your organisation so that publicity through the web site becomes more a norm than an exception.

As it is necessary to give a boost to the e-governance and use of information technology in government, I shall be grateful if you could also consider amending the relevant rules regarding procurement in your organisation so that publicity through the web site becomes more a norm than an exception.

I shall be grateful to know the action taken.

With regards,  
Yours sincerely,  
Sd/-  
(N. Vittal)

Shri P.V. Bhoopathy  
Chairman & Managing Director (Actg.)  
Neyveli Lignite Corpon. Ltd.  
PO : Neyveli  
Guddalore Dist,  
Tamil Nadu - 607 801.

No.98/ORD/1(Pt.IV)  
Government of India  
Central Vigilance Commission  
Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi – 110 023  
Dated the 12.03. 2003.

To

All Chief Vigilance Officers

**Subject: Use of web- site in Government procurement or tender process.**

Sir,

Attention is invited to the instructions issued by the Commission vide communication No.98/ORD/1 dated 28.3.2002 regarding publishing of tender documents on the web-site.

2. The Commission has received a number of references from various departments/organisations expressing reservations in implementation the said instructions in toto. The matter has been reviewed in the Commission and it is observed that it is a fact that use of web-site for accessing the information has so far not picked up in the country and it would not be possible for the vendors to access the web-site of every organisation to know the tender details. There is also no centralized web-site for the tenders.

3. Therefore, it has been decided by the Commission that till such time the penetration of Information Technology is adequate and a dedicated web-site for Government tenderers is available, Departments/Organisations may continue with publishing of NIT in newspapers in concise format and put the detailed information in their respective website.

Yours faithfully,

Sd/-

(Mange Lal)

DEPUTY SECRETARY

T. No. 24651010

Telegraphic Address: No.009/VGL/002  
"SATARKTA" New Delhi GOVERNMENT OF INDIA  
E-mail Address: CENTRAL VIGILANCE COMMISSION Website  
www.cvc.nic.in Starkta Bhawan, G.P.O. Complex  
EPABX Block A, INA, New Delhi 110 023  
Fax:24616286 Dated 17th September, 2009

**Circular No . 29/9/09**

**Subject: Implementation of e - tendering solutions.**

Guidelines were prescribed in this OM of even number dated 13.01.2009, on the above cited subject, advising organizations to follow a fair, transparent and open tendering procedure, to select the application service provider for implementing their e-tendering solutions.

2. It is clarified that while ensuring fair place, transparency and open tendering procedure for e-tendering solutions, the organizations must take due care to see that effective security provisions are made in the system to prevent any misuse. In this regard, the guidelines on security related issues in e-tendering systems are enclosed for information. Organizations concerned may follow these guidelines while implementing e-tendering solutions to contain the security related loop holes.

Sd/-  
(V. Ramchandran) Chief  
Technical Examiner

To

All CVOs of Ministries/Departments /PSUs/Banks/Insurance Companies/Autonomous Organizations/Societies/UTs.

No.005/VGL/4  
Government of India  
Central Vigilance Commission  
Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi – 110 023  
Dated the 14th July, 2009

**Circular No . 17/ 7 / 09**

**Subject: Posting of details on award of tenders /contracts on websites**

The Commission vide circulars dated 16.03.2005, 28.07.2005 18.04.2007 had directed all organisations to post on their web-sites a summary, every month, containing details of all the contracts/purchases made above a threshold value (to be fixed by the organisations) covering at least 60 % of the value of the transactions every month to start with on a continuous basis. CVOs were required to monitor the progress and ensure that the requisite details were posted regularly on respective websites, and also to incorporate compliance status in their monthly report to the Commission.

2. On a review of the status of implementation by the organisations, it is observed that some organisations have not adhered to the instructions and implemented the same. Further such information being posted on the websites are not being regularly updated on a continuous basis by certain organisations and, in some cases, the information published is disjointed and not as per the prescribed format laid down by the Commission. It is also seen that a few organisations have placed such information on restricted access through passwords to registered vendors/suppliers etc. which defeats the basic purpose of increasing transparency in administration.

3. The Commission, therefore, while reiterating its aforementioned instructions would direct all organisations/departments to strictly adhere and 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.

4. All Chief Vigilance Officers should reflect the compliance status in their monthly reports to the Commission after personally verifying the same.

Sd/-  
(Shalini Darbari)  
Director

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

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 organization'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. 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 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 in the following:

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



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

Sd/-  
(Anjana Dube)  
Deputy Secretary

All Chief Vigilance Officers

<b>Sl.No.</b>	<b>Names</b>	
1.	Tender No.	
2.	Item/Nature of work	
3.	Mode of Tender Enquiry	
4.	Date of Publication of NIT	
5.	Type of Bidding (Single / Two Bid system)	
6.	Last date of receipt of tender	
7.	Nos. Of tender recd.	
8.	Nos. & Names of Parties not qualified after technical evaluation	
9.	Whether contract Awarded to lowest tenderer/ Evaluated L1	
10.	Contract No. & Date	
11.	Name of Contractor	
12.	Value of Contract	
13.	Scheduled date Of completion	

No.12-02-1-CTE-6  
Central Vigilance Commission  
(CTE'S Organisation)  
Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi – 110 023  
Dated the 17th December, 2002.

## **OFFICE MEMORANDUM**

### **Subject: Prequalification criteria (PQ)**

The commission, has received complaints regarding discriminatory prequalification criteria incorporated in the tender documents by various Deptts./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 yard stick to allow or disallow the firms to participate in the bids. A vaguely defined PQ criteria results in stalling the process of finalizing the contract or award of the contract in a non-transparent manner. It has been noticed that organizations, 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 organization 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 these 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 15 crores although the amount of work to be executed in one year was only Rs.7.5 crores. The above resulted in prequalification of a single firm.

ii) One organization for purchase of computer hardware kept in 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 AC Plant, reentering was resorted to with diluted prequalification criteria without adequate justification, to favour selection of a particular firm.

v) An organisation invited tenders for hiring DG Sets with eligibility of having 3 years experience in supplying DG 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 AC ducting and the work of installation of false ceiling were combined together. Such works are normally not executed together as AC ducting work is normally executed as a part of AC work while false ceiling 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 AC Contractors without having any experience of false ceiling work although the major portion of the work constituted false ceiling.

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 include 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 / Electric Works

i) Average Annual financial turnover during the last 3 years, 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.

Three similar completed works costing not less than the amount equal to 40% of the estimated cost.

Or

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

Or

One similar completed works costing not less than the amount equal to 80% of the estimated cost.

iii) Definition of "similar work" should be clearly 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 /Purchased 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.T.C.C., Annual report (balance sheet and Profit & Lost 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 prequalification/post qualification for reasons unrelated to its capability 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 organization for guidance in fixing prequalification criteria.

These instructions are also available on CVC's website, <http://cvc.nic.in>.

Sd/-

(MP Juneja)

Chief Technical Examiner

To

All CVOs of Ministries/ Departments /PSUs/Banks/ Insurance Companies/ Autonomous Organisation / Societies/ UTs

No.98/ORD/1  
Government of India  
Central Vigilance Commission  
Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi – 110 023  
Dated the 5th May 2003.

To

- (1) Chief Executives of all PSUs/PSBs/Insurance Sector/Organisations
- (2) All Chief Vigilance Officers

**Subject: Purchase of computer systems by Govt. departments / organisation.**

Sir/Madam,

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 (copy enclosed).

2. It is, therefore, advised that departments/organisations may follow the instructions issued by the Department of Expenditure.

Yours faithfully,

Sd/-

(Anjana Dube)

DEPUTY SECRETARY

No.98/ORD/1  
Government of India Central  
Vigilance Commission (CTE'S  
Organisation)  
Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi – 110 023  
Dated the 9th July, 2003.

**Office Order No. 33/7/03**

To  
All the Chief Vigilance Officers

**Subject: Shortcomings in bid documents.**

Sir/Madam,

The Commission has observed that in the award of contracts for goods and services, the detailed evaluation/exclusion criteria are not being stipulated in the bid documents and at times is decided after the tender opening. This system is prone to criticism and complaints as it not only leads to a non-transparent and subjective system of evaluation of tenders but also vitiates the sanctity of the tender system.

2. The commission would reiterate that whatever pre-qualification, evaluation/exclusion criteria, etc. which the organization wants to adopt should be made explicit at the time of inviting tenders so that basic concept of transparency and interests of equity and fairness are satisfied. The acceptance/rejection of any bid should not be arbitrary but on justified grounds as per the laid down specifications, evaluation/exclusion criteria leaving no room for complaints as after all, the bidders spend a lot of time and energy besides financial cost initially in preparing the bids and, thereafter, in following up; with the organisations for submitting various clarifications and presentations.

3. This is issued for strict compliance by all concerned.

Yours faithfully,  
Sd/-  
(Mange Lal) Deputy  
Secretary Telefax  
No.24651010

No.2EE-1-CTE-3  
Government of India  
Central Vigilance Commission  
(CTE's Organisation)  
Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi – 110 023  
Dated - 15.10. 2003.

## **OFFICE MEMORANDUM**

### **Subject: Tender Sample Clause.**

The commission has received complaints that some organisations, while procuring clotting and other textile items insist on submission of a tender sample by the bidders though detailed specifications for such items exist. The offers are rejected on the basis of tender samples not conforming to the requirements of feel, finish and workmanship as per the 'master sample' though the bidders confirm in their bids that supply shall be made as per the tender specifications, stipulated in the bid documents.

2. 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.

3. It is thus advised that Government Departments/Organisations 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.

4. It is requested that these guidelines may be circulated amongst the concerned officials of your organization for guidance. These are also available on the CVC's website, <http://cvc.nic.in>.

Sd/- (A.K. Jain)  
Technical Examiner  
For Chief Technical Examiner

To

All CVOs of Ministries/ Departments/ PSUs/ Banks/ Insurance Companies/ Autonomous Organisations / Societies/ UTs.

No.05-04-1-CTE-8  
Government of India Central  
Vigilance Commission (CTE's Organisation)  
Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi – 110 023  
Dated 8.6.2004

**OFFICE MEMORANDUM**

**Subject : Receipt and Opening of Tenders.**

In the various booklets issued by the CTE Organisation of the Commission, the need to maintain transparency in receipt and opening of the tenders has been emphasized and it has been suggested therein that suitable arrangements for receipt of sealed tenders at the scheduled date and time through conspicuously located tender boxes need to be ensured. A case has come to the notice of the Commission, where due to the bulky size of tender documents the bid conditions envisaged submission of tenders by hand to a designated officer. However, it seems that one of the bidders while trying to locate the exact place of submission of tenders got delayed by few minutes and the tender was not accepted leading to a complaint.

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 names and designation of at least 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.

Sd/-  
(Gyaneshwar Tyagi)  
Technical Examiner

To  
All CVOs: Ministries/ Departments/ PSUs/ Banks/ UTs.

Government of India  
Central Vigilance Commission  
Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi – 110 023  
Dated 25.10.2005

**Office Order No. 68/10/05**

**Subject: Tendering Process – Negotiation with L-1**

A workshop was organized 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 Workshop, the following issues are clarified with reference to para 2.4 of Circular No.8(1)(h)/98(1) dated 18<sup>th</sup> 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 retender. **Accordingly, the model time frame for according such**

**approval to completion of the entire process of Award of tender 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

All Chief Vigilance Officers

No.005/CRD/012  
Government of India  
Central Vigilance Commission  
Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi – 110 023  
Dated the 3rd March, 2007

**Circular No. 4/3/07**

**Subject: Tendering Process – Negotiation with L-1**

Reference is invited to the Commission's circulars of even number, dated 25.10.2005 and 3.10.2006, on the above cited subject. In supersession of the instructions contained therein, the following consolidated instructions are issued with immediate effect:-

(i) As post tender negotiations could often be 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.

(ii) 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 retender 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.

(iii) Negotiations should not be allowed to be misused as a tool for bargaining with L-1 within dubious intentions or lead to delays in decision-making. Convincing reasons must be recorded by the authority recommending negotiations. Competent authority should exercise due diligence while accepting a tender or ordering negotiations or calling for a re-tender and a definite timeframe should be indicated so that the time taken for

according requisite approvals for the entire process of award of tenders does not exceed one month from the date of submission of recommendations. In cases where the proposal is to be approved at higher levels, a maximum of 15 days should be assigned for clearance at each level. In no case should the overall timeframe exceed the validity period of the tender and it should be ensured that tenders are invariably finalized within their validity period.

(iv) As regards the splitting of quantities, some organisations have expressed apprehension that pre-disclosing the distribution of quantities in the bid document may not be feasible, as the capacity of the L-1 firm may not be known in advance. It may be stated that if, after due processing, it is discovered that the 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. 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) that the Commission insists on pre-disclosing the ratio of splitting the supply in the tender itself.

This must be followed scrupulously.

(v) 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. It is reiterated that in case L-1 backs out, there should be a re-tender.

3. These instructions issue with the approval of the Commission and may please be noted for immediate compliance.

Sd/-  
(Vineeta Mathur)  
Deputy Secretary

All Chief Vigilance Officers

No.005/VGL/66  
Government of India  
Central Vigilance Commission  
Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi – 110 023  
Dated 9.12.2005

**Office Order No. 71/12/05**

**Subject: 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 given 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.

2. CVOs should bring this to the notice of all concerned.

Sd/-  
(Anjana Dube)  
Deputy Secretary

All Chief Vigilance Officers

No.98-VGL-25  
Government of India  
Central Vigilance Commission (CTEO)  
**OFFICE MEMORANDUM**  
Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi – 110 023  
Dated the 30th April, 2007

**Circular No. 14/4/07**

**Subject : Use of Products with standards specification**

A case has come to the notice of the Commission that the user department one organisation requisitioned an item of non-standard size. Requisitioning of item with non-standard size resulted in issue of 'Non-availability certificate' by the stores keeper although the same item of standard size was already available in the stock. Citing urgency, the item was procured by the user department at 10 times the cost of the standard item by inviting limited quotations. 1. In order to avoid such occurrences, 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.

Sd/-

(Smt Padmaja Varma)  
Chief Technical Examiner

To

All Chief Vigilance Officers



No.005/CRD/19  
Government of India  
Central Vigilance Commission  
Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi – 110 023  
Dated the 5th July, 2007

**Circular No. 23/7/07**

**Subject: Transparency in Works / Purchase / Consultancy Contracts awarded on nomination basis**

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

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

3. It is needless to state that tendering process or public auction is a basic 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.

4. A relevant extract from the recent Supreme Court of India judgment in the case of Nagar Nigam, Meerut Vs A1 Faheem Meat Export Pvt Ltd [arising out of SLP (CIVIL) No.10174 of 2006] is reproduced below to reinforce this point. "The law is well-settled that contract by the State, its corporations, instrumentalities and agencies must be normally granted through public auction/public tender by inviting tenders from eligible persons and the notifications of the public-auction or inviting tenders should be advertised in well known dailies having wide circulation in the locality with all relevant

details such as date, time and place of auction, subject matter of auction, technical specifications, estimated cost, earnest money deposit, etc. The award of Government contracts through public-auction/public tender is to ensure transparency in the public procurement, to maximize economy and efficiency in Government procurement, to promote healthy competition among the tenderers, to provide for fair and equitable treatment of all tenderers, and to eliminate irregularities, interference and corrupt practices by the authorities concerned. This is required by Article 14 of the Constitution. However, in rare and exceptional cases, for instance, during natural calamities and emergencies declared by the Government; where the procurement is possible from a single source only; where the supplier or contractor has exclusive rights in respect of the goods or services and no reasonable alternative or substitute exists; where the auction was held on several dates but there were no bidders or the bids offered were too low, etc., this normal rule may be departed from and such contracts may be awarded through 'private negotiations'." (Copy of the full judgment is available on web-site of the Hon'ble Supreme Court of India, i.e. [www.supremecourtindia.nic.in](http://www.supremecourtindia.nic.in))

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

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

Sd/-  
(Rajiv Verma)  
Under Secretary

To  
All Chief Vigilance Officers

No.008/VGL/083  
Government of India  
Central Vigilance Commission  
Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi – 110 023  
Dated the 6th November, 2008

**Circular No. 31/11/08**

**Subject: Time bound processing of procurement**

The Commission has observed that at times the processing of tenders is inordinately delayed which may result in time and cost over runs and also invite criticism from the Trade Sector. It is, therefore, essential that tenders are finalized and contracts are awarded in a time bound manner within original validity of the tender without seeking further extension of validity. While a short validity period calls for prompt finalization by observing specific time-line 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.

2. The Commission would, therefore, advise the organisations concerned to fix a reasonable time for the bids to remain valid while issuing tender enquiries keeping in view the complexity of the tender, time required for processing the tender and seeking the approval of the Competent Authority, etc and to ensure the finalization of tender within the stipulated original validity. Any delay, which is not due to unforeseen circumstances, should be viewed seriously and prompt action should be initiated against those found responsible for non-performance.

3. Cases requiring extension of validity should be rare. And in the exceptional situations where the validity period is sought to be extended, it should be imperative to bring on record in real time, **valid and logical grounds**, justifying extension of the said validity.

4. These instructions may please be noted for immediate compliance.

Sd/-  
(Shalini Darbar)  
Director

All Chief Vigilance Officers

No.02-07-01-CTE-30  
Government of India  
Central Vigilance Commission  
Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 31st December, 2007

**OFFICE MEMORANDUM**

**CIRCULAR NO. 01/ 01/08**

**Subject: Acceptance of Bank Guarantees**

A number of instances have come to the notice of the Commission where forged / fake bank guarantees have been submitted by the contractors/suppliers. Organizations concerned have also not made any effective attempt to verify the genuineness/ authenticity of these bank guarantees at the time of submission.

2. In this background, all organizations are advised to streamline the system of acceptance of bank guarantees from contractors/suppliers to eliminate the possibility of acceptance of any forged/fake bank guarantees.

3. The guidelines on this subject issued by Canara Bank provides for an elaborate procedure, which may be found helpful for the organizations in eliminating the possibility of acceptance of forged/fake bank guarantees. The guidelines issued by Canara Bank provides that – “The original guarantee should be sent to the beneficiary directly under Registered Post (A.D.). However, in exceptional cases, where the guarantee is handed over to the customer for any genuine reasons, the branch should immediately send by Registered Post (A.D.) an unstamped duplicate copy of the guarantee directly to the beneficiary with a covering letter requesting them to compare with the original received from their customer and confirm that it is in order. The A.D. card should be kept with the loan papers of the relevant guarantee. At times, branches may receive letters from beneficiaries, viz., Central/State Governments, public sector undertakings, requiring bank’s confirmation for having issued the guarantee. Branches must send the confirmation letter to the concerned authorities promptly without fail”.

4. Therefore, all organizations are advised to evolve the procedure for acceptance of BGs, which is compatible with the guidelines of Banks/Reserve Bank of India. The steps to be ensured should include). Copy of proper prescribed format on which BGs are accepted from the contractors should be enclosed with the tender document and it should be verified verbatim on receipt with original document.

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

iii) 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 organization with a covering letter to compare with the original BGs and confirm that it is in order.

iv) As an additional measure of abundant precaution, all BGs should be independently verified by the organizations.

v) In the organization/unit, one officer should be specifically designated with responsibility for verification, timely renewal and timely encashment of BGs.

5. Keeping above in view, the organizations may frame their own detailed guidelines to ensure that BGs are genuine and encashable.

6. Receipt of the above guidelines should be acknowledged.

Sd/-

To,  
All Chief Vigilance Officers