

General Manager (Stores,)   
All Indian Railways &   
Production Units.   
Metro Railway, Calcutta.   
Rly. Electrification, Allahabad.   
OSDs, New zones.

**Sub:- Award of contract - procedure for conducting negotiations.**

**Ref:- Railway Board's letters -**

- (i) No.64/W5/DL/SE/6 dated 21.7.64.
- (ii) No.61/WII/CT/24 dated 31.10.65.
- (iii) No.67/WI CT/32 dated 25.5.68.
- (iv) No.76/RS(G)/779/36 dated 6.22.97.

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Railway Board vide the above referred orders, have laid down that selection of contractors by negotiations is an exception rather than the rule and whenever negotiations are conducted the number of tenderers to be called for negotiations shall not be less than two, except in cases where only a single quotation has been received. The procedure for conducting negotiations has been reviewed in the Board's office in view of the directives issued by CVC under their letter no. (1)8(1)(H)/98(1) dt. 18-11-99 (ii) 98/ORD/1 dt. 18-3-99 and (iii) 98/ORD/1(Pt.1) dt. 16-3-99, copies of which are enclosed for ready reference.

Keeping in view the CVC's directives, Board have decided that -


- a) Selection of contractors by negotiations would continue to be an exception rather than the rule and may be resorted to only in the exceptional circumstances laid down in the Board's earlier letters.
- b) In case it is decided to call for negotiations, the negotiations will be held only with the lowest acceptable tenderer (L-1), who is technically cleared/approved for supply of bulk quantity and on whom the contract would have been placed but for the decision to negotiate.

In cases where small scale units, registered with NSIC quote in competition with others and fall within the price preference range as per extant Government orders, negotiations will be held with the lowest acceptable tenderer in each category viz. the lowest tenderer of SSI Unit, which falls within the purchase preference, as well as the lowest tenderer of the competitive basis as defined in (b) above.

Similarly, in cases where Central Public Sector Units, which are in competition with other tenderers and fall within the zone of purchase preference, negotiations will be held also with the lowest acceptable tenderer from among Central Public Sector Units, which falls within the limit of purchase preference.

Similarly, in cases, where SSI units registered with NSIC for the concerned item and Central Public Sector Units quote in competition with others, the same principle will be observed for negotiations.

This issues with the concurrence of the Finance directorate of the Ministry of Railways.

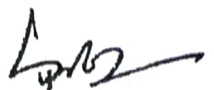
  
( P.S. Meena )  
Dy. Director, Rly. Stores(G),  
Railway Board.

No.99/RS(G)/779/2.

New Delhi, dt.01.03.2000.

Copy to:

1. FA&CAOs, all Indian Railways & Production Units, Metro Railway, Calcutta & Railway Electrification, Allahabad.
2. DG/RDSO, Lucknow.
3. The Principal -
  - i) Railway Staff College, Vadodara.
  - ii) Indian Railway Institute of Sig. Engg. & Telecom, Secunderabad
  - iii) Indian Railway Institute of Mech. & Elec. Engg., Jamalpur.
  - iv) Indian Railway Institute of Elect. Engg., Nasik.
  - v) Prof. (Inv. Mgt.), Railway Staff College, Vadodara.
4. Chairman, Railway Rates Tribunal, Chennai.
5. Executive Director, Iron & Steel, 3, Koila Ghat Street, Calcutta.
6. The ADAI(Rlys.), New Delhi (with 10 spare copies).
7. The Director of Audit, All Indian Railways.
8. The General Manager (Cons.), N.F. Railway, Guwahati.

  
( P.S. Meena )  
Dy. Director, Rly. Stores (G)  
Railway Board.

Copy to;

EDI(S), EDRE(S), EDTK(M), EDTK(MC), EDTK(P), EDV(S), BDF.  
F(S)-I, F(S)-II, F(S)-III, FS(POL), Dev.Cell, MTP Cell, RE(S), Track-I,  
Track-II, Track-III and all officers and Branches of Stores Dte.

## CENTRAL VIGILANCE COMMISSION

Jaisalmer House, Man Singh Road,  
New Delhi - 110011

Dated the 18<sup>th</sup> November, 1998

**SUB: Improving vigilance administration**

The Central Vigilance Commission Ordinance 1998 under Section 8(1)(h) directs that the power and function of the CVC will be the following:

"exercise superintendence over the vigilance administration of the various Ministries of the Central Government or corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government".

2. Improving vigilance administration is possible only if system improvements are made to prevent the possibilities of corruption and also encourage a culture of honesty. In exercise of the powers conferred on the CVC by Section 8(1)(h), the following instructions are issued for compliance:

### 2.1 Creating a culture of honesty

Many organisations have a reputation for corruption. The junior employees and officers who join the organisations hopefully may not be so corruption minded as those who have already been part of the corrupt system. In order to ensure that a culture of honesty is encouraged and the junior officers do not have the excuse that because their seniors are corrupt, that they have to also adopt the corrupt practices, it is decided with immediate effect that junior employees who initiate any proposal relating to vigilance matters which is likely to result in a reference to the CVC can send a copy directly to the CVC by name. This copy will be kept in the office of the CVC and data fed into the computer. If within a reasonable time of say three to six months, the reference does not come to the CVC, the CVC then can verify with the concerned



authorities in the department as to what happened to the vigilance case initiated by the junior employee. If there is an attempt to protect the corrupt or dilute the charges, this will also become visible. Above all the junior officers will not have the excuse that they have to fall in line with the corrupt seniors. Incidentally, the seniors also cannot treat the references made directly to the CVC as an act of indiscipline because the junior officers will be complying with the instructions issued under Section 8(1)(h) of the CVC Ordinance 1993. However, if a junior officer makes a false or frivolous complaint it will be viewed adversely.

## **2.2 Greater transparency in administration**

2.2.1 One major source of corruption arises because of lack of transparency. There is a scope for patronage and corruption especially in matters relating to tenders, cases where exercise of discretion relating to out of turn conferment of facilities/ privileges and so on. Each Organisation may identify such items which provide scope for corruption and where greater transparency would be useful. There is a necessity to maintain secrecy even in matters where discretion has to be exercised. But once the discretion has been exercised or as in matters of tenders, once the tender has been finalised, there is no need for the secrecy. A practice, therefore, 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 organisation's regular publication the details of all such cases regarding tenders or out of turn allotments or discretion exercised in favour of an employee/party. The very process of publication of this information will provide an automatic check for corruption induced decisions or undue favours which go against the principles of healthy vigilance administration.

2.2.2 The CVC will in course of time take up each organisation and review to see whether any additions and alterations have to be made to the list of items which the organisation identified in the first instance for the monthly communications for publicity in the interests of greater transparency. This may be implemented with immediate effect.

## **2.3 Speedy departmental inquiries**

2.3.1 One major source of corruption is that the guilty are not punished adequately and more important they are not punished promptly. This is because of the prolonged delays in the departmental inquiry procedures. One of the reasons for the departmental inquiry being delayed is that the inquiry officers

have already got their regular burden of work and this inquiry is to be done in addition to their normal work. The same is true for the Presenting Officers also.

2.3.2 Each organisation, therefore, may immediately review all the pending cases and the Disciplinary Authority may appoint Inquiry Officers from among retired honest employees for conducting the inquiries. The names of these officers may be got cleared by the CVC. The CVC will also separately issue an advertisement and start building a panel of names all over India who can supplement the inquiry officers work in the department. In fact, it will be a healthy practice to have all the inquiries to be done only through such retired employees because it can then be ensured that the departmental inquiries can be completed in time. If any service/departmental rules are in conflict with the above instructions they must be modified with immediate effect.

2.3.3 In order to ensure that the departmental inquiries are completed in time, the following time limits are prescribed:

(i) In all cases which are presently pending for appointment of Inquiry Officer and Presenting Officer, such appointment should be made within one month. In all other cases, the Inquiry Officer and the Presenting Officer should be appointed, wherever necessary, immediately after the receipt of the public servant's written statement of defence denying the charges.

(ii) The Oral inquiry, including the submission of the Inquiry Officer's report, should be completed within a period of 6 months from the date of appointment of the Inquiry Officer. In the preliminary inquiry in the beginning requiring the first appearance of the charged officers and the Presenting Officer, the Inquiry Officer should lay down a definite time-bound programme for inspection of the listed documents, submission of the lists of defence documents and defence witnesses and inspection of defence documents before the regular hearing is taken up. The regular hearing, once started, should be conducted on day-to-day basis until completed and adjournment should not be granted on frivolous grounds.

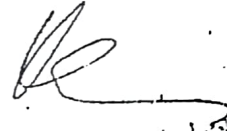
2.3.4 One of the causes for delay is repeated adjournments. Not more than two adjournments should be given in any case so that the time limit of six months for departmental inquiry can be observed.

2.3.5 The IO/PO, DA and the CVO will be accountable for the strict compliance of the above instructions in every case.

## Tenders

Tenders are generally a major source of corruption. In order to avoid corruption, a more transparent and effective system must be introduced. As post tender negotiations are the main source of corruption, post tender negotiations are banned with immediate effect except in the case of negotiations with L1 (i.e. Lowest tenderer).

3. Hindi version will follow.



(N. VITTAL)

13.11.98

**CENTRAL VIGILANCE COMMISSIONER**

To

- (i) The Secretaries of All Ministries/Departments of Government of India
- (ii) The Chief Secretaries to All Union Territories
- (iii) The Comptroller & Auditor General of India
- (iv) The Chairman, Union Public Service Commission
- (v) All Chief Vigilance Officers in the Ministries/Departments/PSEs/Public Sector Banks/Insurance Companies/ Autonomous Organisations/Societies
- (vi) President's Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO



No. 98/ORD/1  
Government of India  
Central Vigilance Commission

Satarkta Bhavan, Block "A"  
G.P.O. Complex, I.N.A.  
New Delhi - 110023  
Dated the 15th March, 1999

To,

- (i) The Secretaries of All Ministries/Departments of Government of India
- (ii) The Chief Secretaries All Union Territories
- (iii) The Comptroller & Auditor General of India
- (iv) The Chairman, Union Public Service Commission
- (v) The Executive of all PSU's/Banks/Organisations
- (vi) The Chief Vigilance Officers in the Ministries/Departments/PSE's Public Sector Banks/Insurance Companies/Autonomous Organisations/Societies.
- (vii) President's Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO.

**Subject : Improving Vigilance Administration - Tenders**

Sir,

Please refer to CVC's instructions issued under letter No. 8(1)(h)/98(1) dated 18-11-98 banning post tender negotiations except with L-1 i.e., the lowest tenderer. some of the organisations have sought clarifications from the Commission as they are facing problems in implementing these instructions. The following clarifications are, therefore, issued with the approval of Central Vigilance Commissioner.

- (i) The Government of India has a purchase preference policy so far as the public sector enterprises are concerned. It is clarified that the ban on the post tender negotiations does not mean that the policy of the Government of India for purchase preference for public sector should not be implemented. Incidentally, some organisations have been using the public sector as a shield or a conduct for getting costly inputs or for improver purchases. This also should be avoided.
- (iii) 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.

Yours faithfully

Sd/-

(P.S. FATEHULLAH)

Director



N. VITTAL

D.O. No.

भारत सरकार

केन्द्रीय सतर्कता आयुक्त

Government of India

Central, Vigilance Commissioner

Jaisalmer House, Man Singh Road,

New Delhi - 110011

DO. No. 98/Ord/1/(Pt.1)

Dated .....

Dear Shri Bandopadhyay,

Kindly refer to your D.O. letter No. 2.1(25)/98-Pol dated 20th January, 1999 and subsequent meeting held on 8.3.99 regarding clarifications on instructions benning post tender negotiations.

2. The decisions taken during our discussion on 8.3.99, are given below :-

- a) So far as the advance procurement system is concerned, there is no difficulty in implementing the Commission's instruction of 18-11-98. With regard to the rate contract system it was found that in about 25% of the cases the rates which are quoted may not be reasonable. They may not be reasonable either from the point of view of their being either lower or higher than the expected rate. The problem of lower rate is difficult but so far, the DGS&D has been following a pragmatic policy of looking into the capacity of the vendor and then either ignoring people who are first timers or who are trying break into the market with ulterior motives. this practice will have to continue because this has stood the test of time. On the other hand, where the rates are high, the current practice is final all the vendors are called and given a counter offer based on the study made by the Department of Supply/DGS&D.
- b) In the light of the instructions dated 18-11-98, this counter offer under the new system on given only to L.1. It was pointed out that there cannot be a L.1 in the operations which the Department of Supply does because the source of production as well as consuming parties are totally different. But never the less, except in the case of cement for which there are certain regional and movement restrictions for calculating prices, in all other cases, they go by the actual price in the absolute number. same practice can be adopted and the L.1 as per this practice may be given the offer. Once the L.1 accepts negotiations that price with the reasonable range as may be decided by the DGS&D/Department. Supply may be circulated to all parties. In other words the net result of the instructions dated 18-11-98 that instead of the Department of Supply/DGS&D dealing with all the bidders they will deal only with L.1.
- e) As regards those who quote lower prices, the current practice of DGS&D, appears to be reasonable. However, the Commission would examine the issue further in the light of operation of the new system if the need arises.

With regards,

Yours sincerely

Sd/-

(N. VITTAL)

Shri S. Bandopadhyay,  
Secretary,  
Department of Supply,  
Nirman Bhawan,  
New Delhi - 110 011.