

Minutes of the CVOs' Review Meeting held during February-March 2007

The Central Vigilance Commission held its annual zonal review meetings with CVOs of important organizations, to review their performance during the year 2006, in the months of February/ March 2007 at Delhi, Mumbai, Kolkata and Chennai. For better interaction with the CVOs they were invited in eight groups. During the meetings, the Chief Technical Examiners of the Commission gave presentations to the CVOs illustrating the various lapses/shortcomings noticed by them during the technical examination of works/procurements of various organizations under the jurisdiction of the Commission. The CTEs besides bringing clarity about the perception of vigilance angle, stressed on the need of proper framing of pre-qualification criteria, transparency, equity, proper publicity etc. in inviting and finalizing tenders by the organizations concerned. The CTEs illustrated the various shortcomings noticed during the technical examinations conducted by them, some of them are given below:-

- (i) Unrealistic estimate for purchases without verifying the reasonability of rates, lack of wide and proper publicity to high value tenders, failure to post tender documents on websites, besides handling/opening of tenders/bids in a non-transparent manner.
- (ii) Entertaining unauthenticated/unverified tender documents, evaluation of bids for the same work using different methodology for different firms.
- (iii) Awarding of contract to a bidder other than L1, thus violating the Commission's guidelines and keeping the terms and conditions of the contract ambiguous, allowing the contractor to gain undue financial advantage.
- (iv) Terms and conditions as mentioned in Notice Inviting Tender (NIT) having been diluted at the time of signing of agreement.
- (v) Inadequate supervision and no sample test checking of work resulting in poor quality of execution of work, allowing extra time for completion of work without invoking the liquidated damages/clause.
- (vi) Acceptance of bank guarantee of value lower than stipulated in the conditions and release of extra payment without ensuring admissibility of the contractor.
- (vii) In disregard of Commission's guidelines, details of awarded tenders not available on the organizations' website.

The main issues that came up for discussion during the meetings are as follows:

Handling of complaints

The Commission emphasized on the need for investigating complaints received by the CVOs in a time bound manner as delayed investigation tends to

loose its very purpose. The Commission while expressing its displeasure at delay in investigation observed that in some cases the delayed investigation allowed the officials complained against to go scot-free as the officials retired without any punitive action during the pendency of the investigation. The Commission stressed that the time-limit of three months' period for carrying out investigation was reasonable and has been decided taking into account all the factors involved in the process of investigation.

It was also pointed out that in many a cases the quality of investigation was not found to be up to the mark and the CVOs merely forwarded the investigating officers' reports without providing any qualitative inputs/ comments on the report. The Commission observed that in some cases, the junior level officials of vigilance wings of the organisation were fearful of investigating into complaint against senior officials because of apprehension of being victimized later. The Commission was of the view that in case, despite the Commission's guidelines providing protection to vigilance officials against their victimization, if it was felt that the vigilance officials could face harassment in future, the CVOs could take up the investigation of complaints themselves instead of directing the junior officials to carryout investigations.

It was also brought to the CVOs notice that the Commission had been entrusting only such complaints to its officers for direct inquiry, which were found to be serious in nature and where investigation was being delayed by the departments. The CVOs were advised to give due attention to the references made by the direct inquiry officers of the Commission and to provide the DIOs all the documents as called for by them, for enabling early finalisation of direct inquiries.

As regards the handling of complaints received under the PIDPI Resolution (popularly known as Whistle Blower Resolution) the Commission clarified that the Whistle Blower concerned has to provide his name and address compulsorily. While an anonymous complaint cannot be termed as a Whistle Blower complaint and normally should be dealt with as per the Commission's guidelines on anonymous/ pseudonymous complaints, where the Commission seeks a report, it is required to be complied with.

The Commission pointed out that the complaints received through the whistle blowers were scrutinized in the Commission thoroughly and only those allegations which, prima-facie, were found to be specific and serious with a perceptible vigilance angle, were forwarded to the CVOs concerned for further investigation and report to the Commission. It was emphasized that such complaints were to be given due priority and the investigation reports were to be positively forwarded to the Commission within the stipulated time frame.

The Commission pointed out that when an officer comes within the consideration zone for promotion or for posting, complaints especially anonymous/ pseudonymous ones, start pouring in against him. CVOs were advised to be extremely cautious in such cases and to scrutinize the complaints carefully to ensure that no honest officer is harassed unduly just because complaints start pouring against him.

The Commission also made it clear that anonymous/pseudonymous complaints could be investigated after obtaining Commission's specific approval as stipulated by the Commission in its guidelines issued earlier on the subject. While seeking Commission's approval, the CVOs should enlist verifiable/specific/serious allegations that needed to be investigated.

Improving vigilance administration by leveraging of technology

The Commission emphasized that information technology should be used as a tool to bring about transparency and in tackling the corrupt practices in the Govt. departments, especially those where Govt. officials have a regular interface with the public. It was observed that majority of the irregularities related to unwarranted delay and arbitrariness in the process of granting/issuing licenses, permissions or clearances etc. The Commission pointed out that in November, 2006 guidelines were issued by it for improving vigilance administration by leveraging technology through effective use of information technology. The Commission had directed all the organizations to provide complete information on their websites, regarding the rules, procedures etc. involved in the issue of licenses, clearances and other regulatory functions besides making available online all the application forms in downloadable form.

The guideline also require the organizations to make available online, the status of individual applications in a user friendly manner besides making it feasible to receive applications online. The guidelines were to be implemented in two phases and the second phase was to be implemented with effect from 1/4/07. The Commission observed that despite its directions, the implementation of Commission's guideline was being delayed.

It was also pointed out to the CVOs that the Commission had, in March 2005, directed all the govt. organizations to provide details about the awarded tenders (above a threshold value) on their websites in order to increase transparency in decision making process in the organizations. The Commission noted with concern that the guidelines were not being complied with properly and desired that the CVOs should ensure compliance of the Commission's guidelines. The Commission desired that wherever the organizations concerned were not able to comply with the Commission's direction due to some valid reasons, the same should be intimated to the Commission in a written communication along with the time frame within which Commission's guidelines would be implemented. **The Commission also cautioned that any unwarranted deliberate delay in implementation of its guidelines regarding leveraging of technology in bringing about transparency in govt. departments would be viewed adversely and as a vigilance case by it.**

The Commission expressed the opinion that wherever possible a separate cell for maintaining data-base should be formed in the organizations to keep record of tender details including the process of execution of tenders.

The Commission desired that sincere efforts needed to be made to ensure implementation of Integrity Pact in all Govt. organizations especially public sector undertakings.

The Commission also directed that in order to bring about transparency and accountability, the computerized file tracking system needed to be made operational in all Govt. organizations at the earliest possible.

Monthly Reports

The CVOs were advised to use the monthly reports being sent by them as a tool to have frank and effective interaction with the Commission. The reports should be more analytical in nature and systemic improvements/initiatives undertaken by the CVOs, should be brought out clearly in the reports. Any short-comings in achieving the required targets should also be clearly spelt out along with the reasons thereof.

Handling of departmental inquiry proceedings

The Commission impressed upon the need to finalise the inquiry proceedings within the time frame by the stipulated and to ensure that there is no unwarranted delay as such delays reduce the effectiveness of the proceedings. It was pointed out that one of the main reasons for delay in finalisation of departmental inquiry proceedings was non availability of IO/PO. The CVOs were advised to ensure availability of the officials concerned before their appointment as IO and PO and after their appointment in an inquiry proceeding, they should not be transferred from the case. The IOs should be instructed to give top priority to the inquiry proceedings and not to allow any delaying tactics by the charged officers.

It was also noticed that one of the reasons for the failure of the disciplinary proceedings was that the charge sheets were not being framed properly. The Commission pointed that it was the duty of the CVOs to ensure that the charge sheets are drafted/vetted properly, leaving no scope for ambiguity.

Consultation with the Commission

The Commission asked the CVOs to analyse the cases thoroughly before forwarding the same to the Commission for its advice. Before a case was sent to the Commission for obtaining its 1st stage advice, all requirements like Bio-data of the officials concerned, self-contained note etc., as stipulated in Commission's guidelines should be fulfilled. The investigation reports and disciplinary authorities' comments needed to be analysed properly by the CVO and his recommendations needed to be categorical without any scope for ambiguity. They were expected to provide qualitative and clear inputs for Commission's perusal. Apart from being thorough, the CVOs needed to be objective and dispassionate. Before any lapse was perceived/declared as procedural justifiable reasoning needed to be given. In case, any serious lapse was being passed off as a procedural one, it would point a doubtful finger on the competency and intent of the CVO concerned.

In cases where Commission's reconsidered advice was being sought the CVOs should clearly spell out the new/additional facts which had necessitated reconsideration proposals. After the Commission's advice had been obtained, it was the duty of the CVOs to ensure timely action on the basis of the Commission's advice. The time frame stipulated for implementation of Commission's advice needed to be adhere to strictly.

Adhering to guidelines in tendering process

It was clarified to the CVOs as per the guidelines issued by Department of Public Enterprises, a purchase preference by the Government Organizations has to be given to the Public Sector Undertakings, in case the price quoted by L-1 is within 10% of the price quoted by the PSU, for tenders amounting to between Rs. 5 Crores and 100 Crores. These conditions have to be stipulated clearly in the Notice Inviting Tenders.

The Commission advised that it should be ensured that the contractors who claim payment on account of excise duty, actually make payment to the Excise Department. The Govt. organizations should approach the Central Board of Excise & Customs alongwith the data regarding claims of payment made by the contractors to the Excise Department to enable CBEC to verify the same.

CVOs' interaction with the employees

The Commission desired that the COVs should make themselves more accessible to the employees and should interact with them on a regular basis. Apart from organizing training programmes for the personnel working in vigilance units for enhancement of their skills in handling investigation and other aspects of vigilance matters, CVOs should ensure that periodical training programmes/workshops are arranged for all the employees of the organisation concerned in order to educate them about the latest developments and amendments in rules/guidelines/procedures etc.

The CVOs were also advised that serious irregularities/financial frauds, detected in the organisation, should be circulated as case studies, to make the officials aware of the modus operandi and to make it easier to detect such instances in future.

Action against officials after they have left the organisation

It was brought to the Commission's notice that in many organizations especially PSUs, no action was possible against an employee after he had retired or left the organisation. The Commission pointed out that there was a need to amend service rules in such organizations so that action could be taken against an employee incase any serious irregularity is noticed after he had left the organization.