

# **VIGILANCE AWARENESS WEEK**

30<sup>th</sup> October 2017 - 4<sup>th</sup> November 2017

**Theme : MY VISION - CORRUPTION FREE INDIA.**

## **INTRODUCTION**

Indian history is replete with examples of good governance practices which helped ensure ethics in public affairs. Righteousness is the foundation of good governance. The organisations, systems and procedures of the Government must not only be efficient but also ethical, just and fair. Integrity has to be its essential ingredient. The ill-effects of corruption are well known. It undermines our developmental efforts and weakens democratic institutions. Corruption is manifested in various forms such as bribery; nepotism; wilful action or wilful inaction to benefit someone or to deny benefit to someone known or unknown; favouritism; failure to follow laid down processes leading to unintended benefit to someone or denial of benefit to the deserving. The challenge before us is to create an environment in which the honest can work fearlessly and the corrupt are punished promptly. The battle against corruption is fought on many fronts. An oversight mechanism often referred to as vigilance administration is at the fore front of this battle. Vigilance is defined as watchfulness and alertness. Vigilance administration in any organisation is an integral function like any other function of management, such as finance, personnel, operation, marketing, material, and contracts, etc. If the vigilance set-up is effective in an organisation, it will certainly ensure the functioning of the other segments in an efficient way. Vigilance administration comprises of preventive and punitive anti-corruption measures. It includes detecting irregularities, analysing and finding out reasons for such irregularities and making effective systemic improvements to curb them. It also entails identifying the public servants responsible for misconduct and taking appropriate punitive actions.

## **EVOLUTION OF VIGILANCE ADMINISTRATION**

Anti-corruption measures of the Central Government are responsibility of (i) the Central Vigilance Commission [hereinafter referred to as the Commission] (ii) Administrative Vigilance Division [AVD] in the Department of Personnel & Training; (iii) Central Bureau of Investigation [CBI]; (iv) Vigilance units in the Ministries / Departments of Government of India, Central Public Sector Enterprises and other autonomous organisations [hereinafter referred to as Department]; (v) Disciplinary authorities; and (vi) Supervisory officers.

## **VIGILANCE UNIT OF THE ORGANISATIONS**

The Chief Vigilance Officer (CVO) heads the Vigilance Division of the organisation concerned and acts as an advisor to the chief executive in all matters pertaining to vigilance. He also provides a link between his organisation and the Central Vigilance Commission on one hand and his organisation and the Central Bureau of Investigation on the other. Vigilance functions to be performed by the CVO are of wide sweep and include collecting intelligence about the corrupt practices committed, or likely to be committed by the employees of his organisation; investigating or causing an investigation to be made into verifiable allegations reported to him; processing investigation reports for further consideration of the disciplinary

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Compiled by

**Dr. S.K.SRIVASTAVA Vigilance Officer**

ICAR-Central Institute for Women in Agriculture, Bhubaneswar

Page 1

## **VIGILANCE AWARENESS WEEK**

30<sup>th</sup> October 2017 - 4<sup>th</sup> November 2017

**Theme : MY VISION - CORRUPTION FREE INDIA.**

authority concerned; referring the matters to the Commission for advice wherever necessary; taking steps to prevent improper practices or commission of misconducts; examining audit, inspection and other reports from the point of vigilance angle, etc. Thus, the CVO's functions can be broadly divided into three categories, viz. (i) Preventive vigilance; (ii) Punitive vigilance; and (iii) Surveillance and detection.

### **DISCIPLINARY AUTHORITY**

In any organisation, the Disciplinary Authority (DA) means the authority who has been entrusted with powers to impose any penalty on its officers under its Discipline & Appeal Rules. In respect of employees governed by CCS (CCA) Rules, 1965, the term disciplinary authority is defined as the authority competent to impose on Government servant any of the penalties specified in Rule 11. It is the responsibility of the Disciplinary Vigilance Manual 2017 5 Chapter - I Vigilance Administration Authority to ensure discipline in the organisation and to deal with the misconduct by way of awarding suitable punishment. Role and functions of DA are dealt in Discipline & Appeal Rules of respective organisations as applicable to them.

### **DEFINITION OF VIGILANCE ANGLE**

- Vigilance angle is obvious in the following acts: (a) Demanding and / or accepting gratification other than legal remuneration in respect of an official act or for using his influence with any other official. (b) Obtaining valuable thing, without consideration or with inadequate consideration from a person with whom he has or is likely to have official dealings or his subordinates have official dealings or where he can exert influence. 18 Vigilance Manual 2017 Chapter - I Vigilance Administration (c) Obtaining for himself or for any other person any valuable thing or pecuniary advantage by corrupt or illegal means or by abusing his position as a public servant. (d) Possession of assets disproportionate to his known sources of income. (e) Cases of misappropriation, forgery or cheating or other similar criminal offences.
- There are, however, other irregularities where circumstances will have to be weighed carefully to take a view whether the officer's integrity is in doubt. Gross or wilful negligence; recklessness in decision making; blatant violations of systems and procedures; exercise of discretion in excess, where no ostensible public interest is evident; failure to keep the controlling authority / superiors informed of required transactions and issues in time; cause of undue loss or a concomitant gain to an individual or a set of individuals / a party or parties; these are some of the irregularities where the disciplinary authority with the help of the CVO should carefully study the case and weigh the circumstances to come to a conclusion whether there is reasonable ground to doubt the integrity of the officer concerned.

## VIGILANCE AWARENESS WEEK

30<sup>th</sup> October 2017 - 4<sup>th</sup> November 2017

**Theme : MY VISION - CORRUPTION FREE INDIA.**

- Any undue / unjustified delay in the disposal of a case, perceived after considering all relevant factors, would reinforce a conclusion as to the presence of vigilance angle in a case. (CVC Office Order No. 74/12/05 dated 21.12.2005)
- The purpose of vigilance activity is not to reduce but to enhance the level of managerial efficiency and effectiveness in the organisation. Commercial risk-taking forms part of business. Therefore, every loss caused to the organisation, either in pecuniary or non-pecuniary terms, need not necessarily become the subject matter of a vigilance inquiry. Thus, whether a person of common prudence, working within the ambit of the prescribed rules, regulations and instructions, would have taken the decision in the prevailing circumstances in the commercial / operational interests of the organisation is one possible criterion for determining the bona fides of the case. A positive response to this question may indicate the existence of bona-fides. A negative reply, on the other hand, might indicate their absence.
- It would be quite unfair to use the benefit of hind-sight to question the technical merits of a managerial decision from the vigilance point of view. At the same time, it would be unfair to ignore motivated or reckless decisions, which have caused damage to the interests of the organisation. Therefore, a distinction has to be made between a business loss which has arisen as a consequence of a bona-fide commercial / operational decision, and an extraordinary loss which has occurred due to any malafide, motivated or reckless performance of duties. While the former has to be accepted as a normal part of business and ignored from the vigilance point of view, the latter has to be viewed adversely and dealt with under the extant disciplinary procedures.
- It follows that vigilance investigation on a complaint would not be called for on the basis of a mere difference of opinion / perception or an error of judgment simpliciter or lack of efficiency or failure to attain exemplary devotion in the performance of duties. (Union of India vs. J. Ahmed AIR 1979 SC 1022). Such failures may be a matter of serious concern to the organisation but not from the vigilance point of view. They have to be dealt with separately.
- The Commission has decided that the CVOs, while sending the case to the Commission for advice against the lapses of officers exercising quasijudicial powers, should examine critically whether the criteria laid down by Hon'ble Supreme Court in K.K. Dhawan's case was attracted or not. The following criteria was laid down: -
  - (i) Where the officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty;
  - (ii) If there is prima facie material to show recklessness or misconduct in the discharge of his duty;
  - (iii) If he has acted in a manner which is unbecoming of a Government Servant;
  - (iv) If he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;
  - (v) If he had acted in order to unduly favour a party;

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Compiled by

**Dr. S.K.SRIVASTAVA Vigilance Officer**

ICAR-Central Institute for Women in Agriculture, Bhubaneswar

Page 3

## **VIGILANCE AWARENESS WEEK**

30<sup>th</sup> October 2017 - 4<sup>th</sup> November 2017

**Theme : MY VISION - CORRUPTION FREE INDIA.**

- (vi) If he had actuated corrupt motive, however, small the bribe may be. (CVC F.No.007/MISC/Legal/04(Pt.) Circular No. 39/11/07 dated 01.11.2007)
- Absence of vigilance angle in various acts of omission and Commission does not mean that the concerned official is not liable to face the consequences of his actions. All such lapses not attracting vigilance angle would, indeed, have to be dealt with appropriately as per the disciplinary procedure under the service rules.
  - Administrative misconduct such as lack of punctuality, drunken behaviour at work, insubordination, etc. would be left to the disciplinary authority to deal with in an appropriate manner. If the lapse is without a vigilance angle, the disciplinary authority would be within its rights to initiate appropriate penalty proceedings against erring employees. (CVC Office Order No.23/04/04 dated 13.04.2004)

### **PREVENTIVE VIGILANCE FUNCTIONS BY CVO**

The CVO is expected to take following measures on preventive vigilance side: - (i) To undertake study of existing procedures and practices prevailing in his Organisation with a view to identify those procedures or practices which provide a scope for corruption and require modification. (ii) To find out the causes of delay, the points at which delay occurs and devise suitable steps to minimize delays at different stages; (iii) To review the regulatory functions to see whether all of them are strictly necessary and whether the method of discharge of those functions is capable of improvement; (iv) To devise adequate methods to ensure that discretionary powers are not exercised arbitrarily but in a transparent and fair manner; and in accordance with some laid down guidelines. (v) To educate the citizens about the procedures of dealing with various matters and also to simplify these as far as possible; (vi) To identify the areas in his Organisation which are prone to corruption and to ensure that officers of proven integrity only are posted in those areas; (vii) To identify sensitive posts in the Organisation; (viii) To ensure periodical rotations of staff and in particular officers holding sensitive posts; (CVC Circular No. 004/VGL/090 dated 11.09.2013) (ix) To ensure that well-defined internal processes as well as corresponding controls with clear responsibilities, for different kind of activities, are set out; (x) To ensure that the Organisation has prepared manuals on important subjects such as purchases, contracts, procurement, recruitment, etc. and that these manuals are updated from time to time and conform to the guidelines issued by the Commission and the Ministries concerned; (xi) To develop and implement an effective Whistle Blower mechanism; (xii) To leverage technology for making preventive vigilance function effective; (xiii) To ensure prompt observance of Conduct rules relating to integrity, covering (i) statements of assets and acquisitions (ii) gifts (iii) relatives employed in private firms or doing private business (iv) to scrutinise immovable property returns of at least 20% executive employees every year and (v) keep an eye on benami transactions; (xiv) To ensure observance of Vigilance Awareness Week as per directions of the Commission; (xv) To scrutinise (a) Internal auditor's reports, (b) Statutory auditor's report (c) CAG audit report; (xvi) To scrutinise inspection reports; (xvii) In order to keep a watch on the activities of public servants who are of doubtful integrity, the Ministries /

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**Dr. S.K.SRIVASTAVA Vigilance Officer**

ICAR-Central Institute for Women in Agriculture, Bhubaneswar

Page 4

## **VIGILANCE AWARENESS WEEK**

30<sup>th</sup> October 2017 - 4<sup>th</sup> November 2017

**Theme : MY VISION - CORRUPTION FREE INDIA.**

Departments / Organisations are required to maintain two lists viz. (i) "Agreed list" and (ii) list of public servants of gazetted status of "doubtful integrity". The "Agreed list" of suspected officers has its origin in the "Programme for vigilance and anti-corruption work during 1966", whereas the list of public servants of gazetted status of doubtful integrity was prescribed in 1969. The criteria for making such lists have been provided in the Ministry of Home Affairs Letter No.130/1/66-AVD dated 05.05.1966 and letter No. 105/1/66-AVD dated 28.10.1969. It has been provided in these instructions that the "Agreed list so prepared will remain in force for one year from the date of preparation and officials' work / activities / behaviour during the period would be watched and the list would be reviewed after this period". The list of Officers of Doubtful Integrity will remain in force for a period of three years. In the above perspective, the CVO has to perform the following functions: - (1) To prepare a list of 'Officers of Doubtful Integrity' which would include names of those officers who, after inquiry or during the course of inquiry, have been found to be lacking in integrity, such as (a) officer convicted in a Court of Law on the charge of lack of integrity or for an offence involving Moral turpitude but who has not been imposed a penalty of dismissal, removal or compulsory retirement in view of exceptional circumstances; (b) awarded Departmentally a major penalty on charges of lack of integrity or gross dereliction of duty in protecting the interest of Government although corrupt motive may not be capable of proof; (c) against whom proceedings for a major penalty or a court trial is in progress for alleged acts involving lack of integrity or moral turpitude; and (d) who was prosecuted but acquitted on technical grounds as there remained a reasonable suspicion about his integrity; (2) To prepare the 'Agreed List' in consultation with the CBI which will include the names of officers whose honesty or integrity is doubtful or suspicious. The following action would be taken by the CVO and the CBI in respect of the officers appearing on the list: (a) Closer and more frequent scrutiny and inspection of their work and performance by the Departments concerned, particularly in spheres where there is scope for discretion or for showing favours; (b) Quiet check about their reputation both by the Department and the CBI; (c) Unobtrusive watch of their contacts, style of living, etc. by the CBI; (d) Secret enquiry by the CBI about their assets and financial resources. The Departments will make available their property returns and other relevant records to the CBI; and (e) Collection of information by the CBI of specific instances of bribery and corruption practices. (CVC Circular No. 3(v)/99(6) dated 18.08.1999; No. 3K-DSP-10 dated 07.04.2000 and 03.09.2001) (xviii) Adequate precautions should be taken in drawing up and maintaining the "Agreed list" and the "list of Officers of Doubtful Integrity" to ensure that they are correctly and objectively prepared and reviewed from time to time. CVO should ensure that the officers who are placed on the aforesaid lists should not be posted in sensitive positions. CBI would co-ordinate with the Ministries / Departments / Organisations so that the lists so prepared are periodically reviewed. Director of CBI and the CVOs of the Departments will keep the Commission posted about developments from time to time. (MHA OM No.: 105/1/66-AVD-I dated 28.10.1969 and CVC Circulars No.004/VGL/090 dated 11.09.2013, 04.01.2012&01.05.2008, and Nos. 98/VGL/60 dated 02.11.2001&15.04.1999) (xix) To conduct CTE type inspection in his

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Compiled by

**Dr. S.K.SRIVASTAVA Vigilance Officer**

ICAR-Central Institute for Women in Agriculture, Bhubaneswar

Page 5

## **VIGILANCE AWARENESS WEEK**

30<sup>th</sup> October 2017 - 4<sup>th</sup> November 2017

**Theme : MY VISION - CORRUPTION FREE INDIA.**

organisation; and (xx) To tender advice to the Disciplinary Authority and the Appellate Authority in vigilance cases, irrespective of level of officers involved.

### **PUNITIVE VIGILANCE FUNCTIONS BY CVO**

The CVO is expected to scrutinise reports of Parliamentary Committees such as Estimates Committee, Public Accounts Committee and the Committee on Public Undertakings; audit reports; proceedings of both Houses of Parliament; Standing committee report for the Ministry, CAG audit report, Statutory auditor's report, internal audit reports, complaints and allegations appearing in the press; and to take appropriate action thereon.

The CVO, inter-alia, is expected to take following action on the punitive vigilance aspects: (i) To receive complaints from all sources and scrutinise them as per existing instructions. When he is in doubt on the issue of existence of vigilance angle in them, the CVO may refer the matter to his administrative head; (ii) To investigate or cause an investigation to be made into such allegations involving vigilance angle; (iii) To investigate or cause an investigation to be made into the allegations forwarded to him by the Commission or by the CBI; (iv) To process the investigation report expeditiously for obtaining orders of the competent authority about further course of action to be taken and also for obtaining Commission's advice on the investigation reports, where necessary; (v) To ensure that charge-sheet, statement of imputations, lists of witness and documents, etc. are carefully drawn up; copies of all the documents relied upon and the statements of witnesses cited on behalf of the disciplinary authority are prudently prepared, issued expeditiously and supplied to the charged officer whenever possible. (vi) To ensure that there is no delay in appointing the inquiring authorities where necessary; (vii) To examine the inquiry officer's report, keeping in view the evidence adduced by the prosecution and the defence during the course of inquiry, and to obtain orders of the competent authority about further course of action to be taken and also obtain the Commission's second stage advice and UPSC's advice, where necessary; (viii) To ensure that the Disciplinary Authority concerned, issued a speaking, while imposing a punishment on the delinquent employee. The order to be issued by the Disciplinary Authority should show that he had applied his mind and exercised his independent judgment; (ix) To ensure that rules and time limits with regard to disciplinary proceedings are scrupulously followed at all stages by all concerned as any violation of rules would render the entire proceedings vitiated; (x) To scrutinise on a continuous basis, complaints and grievances received by other divisions / units in the Organisation. (xi) To see that proper assistance is given to the CBI in the investigation of cases entrusted to them or started by them on their own source information; (xii) To take proper and adequate action with regard to petitions filed by delinquent officers in Courts of Law / Tribunal; (xiii) To review from time to time the existing arrangements for vigilance work in the Ministry / Department, to see if the work of subordinate officers is adequate and to ensure expeditious and effective disposal of vigilance work; (xiv) To ensure that the competent disciplinary authorities do not adopt a dilatory or lax attitude in processing vigilance cases, particularly in cases when officers are due for promotion or retirement. CVO

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**Dr. S.K.SRIVASTAVA Vigilance Officer**

ICAR-Central Institute for Women in Agriculture, Bhubaneswar

Page 6

## **VIGILANCE AWARENESS WEEK**

30<sup>th</sup> October 2017 - 4<sup>th</sup> November 2017

**Theme : MY VISION - CORRUPTION FREE INDIA.**

shall refer such instances to the Commission; (xv) To ensure that cases against the public servants on the verge of retirement do not lapse due to time-limit for reasons such as misplacement of files, etc. and that the orders passed in the cases of retiring officers are implemented in time; (xvi) To review pendency of references received from Commission. (xvii) To refer cases, within his jurisdiction, to CBI with the administrative approval of CEO. In case of difference of opinion with the CEO, the matter may be referred to the Commission. (xviii) To ensure that the cases receive due consideration of the appropriate Disciplinary Authority before these are referred to the Commission and its tentative recommendation is indicated in the references made to the Commission. The cases requiring reconsideration of the Commission's advice may, however, be sent with the approval of the Chief Executive, or the Head of the Department, as the case may be. Ordinarily, the Commission does not entertain more than one request for reconsideration and that too, if new facts not within its knowledge earlier are brought to light; (xix) Although the discretion to place a public servant under suspension, when a disciplinary proceeding is either pending or contemplated against him, is that of the disciplinary authority, the CVO is expected to assist the disciplinary authority in proper exercise of this discretion; (xx) To ensure that all cases, in which the officers concerned have been under suspension, are reviewed within a period of 90 days with a view to see if the suspension order could be revoked or if there was a case for increasing or decreasing the subsistence allowance; (CVC Circular Nos. 006/PRC/1 dated 11.12.2014;014/VGL/ 061 dated 03.12.2014;015/MS/016 dated 27.04.2015;010/ VGL/095 dated 07.12.2012) (xxi) To scrutinise the matter carefully, wherever the Appellate Authority has disagreed with Commission's Advice which was earlier accepted by the Disciplinary Authority. To take up such matter with the reviewing authority and also to report such cases to the Commission; (xxii) To bring to the notice of the Board specific cases where the Disciplinary Authority has disagreed with the CVO's advice in respect of officials not under the jurisdiction of the Commission; (xxiii) To ensure that the CVO is invited and remains present at the time of review of vigilance work by the Board; (xxiv) To monitor and to take up for necessary action any case of recruitment in violation of the laid down rules and procedure and wherever necessary to report the matter to the Commission. (Para VII of CVC Circular No. 006/VGL/065 dated 6th July 2006) (xxv) Identify cases having vigilance angle reported in inspection reports, audit reports, media reports, reports of Parliamentary Committees, etc., carry out investigation and take misconducts, if any, to its logical conclusion. (xxvi) Examine the decision of the DA and if they are not in tune with the advice of the Commission, bring it to the notice of the Commission for further consideration. (xxvii) Examine the orders of DA in respect of officers not within the jurisdiction of the Commission and to ensure even handedness, fairness, etc. Recommend revision of inappropriate orders by the competent authority.

### **SOURCE OF COMPLAINTS**

Information about corruption, malpractice or misconduct on the part of public servants may flow to the administrative authority, the Commission, the CBI or the police authorities from

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**Dr. S.K.SRIVASTAVA Vigilance Officer**

ICAR-Central Institute for Women in Agriculture, Bhubaneswar

Page 7

## **VIGILANCE AWARENESS WEEK**

30<sup>th</sup> October 2017 - 4<sup>th</sup> November 2017

**Theme : MY VISION - CORRUPTION FREE INDIA.**

any of the following or other sources: (a) Complaints received from employees of the organisation or from the public; (b) Departmental inspection reports and stock verification surveys; (c) Scrutiny of annual property statements; (d) Scrutiny of transactions reported under the Conduct Rules; (e) Reports of irregularities in accounts detected in the routine audit of accounts; e.g. tampering with records, over-payments, misappropriation of money or materials, etc.; (f) Audit reports on Government accounts and on the accounts of public undertakings and other corporate bodies, etc.; (g) Reports of Parliamentary Committees like the Estimates Committee, Public Accounts Committee and the Committee on Public Undertakings; (h) Proceedings of the Houses of Parliament; (i) Complaints and allegations appearing in the press, etc.; (j) Source information, if received verbally from an identifiable source, to be reduced in writing; and (k) Intelligence gathered by agencies like CBI, ACB, Lokayuktas, etc.

In addition, the Chief Vigilance Officer concerned may also devise and adopt such methods, as considered appropriate and fruitful in the context of nature of work handled in the organisation, for collecting information about any malpractice and misconduct among the employees. Similarly, CVOs in all the organisations must also scrutinise the news items relevant to their organisation on a continuous basis to check whether any cases of corruption are revealed in them. Information gathered from reports, returns, news-papers, etc. will be included under the term “complaint” and will be dealt with in the same way as letters of complaints. Information received verbally will be reduced to writing and dealt with similarly. Information gathered in such a manner should be reduced to writing and registered in the Vigilance Complaints Register at a suitable stage.

Information about corruption and malpractices on the part of Public Servants may also be received from their subordinates or other Public Servants. While normally a Public Servant is required to address communications through the proper official channel, there is no objection to entertaining direct complaints or communications giving information about corruption or other kinds of malpractices. While genuine complainants should be afforded protection against harassment or victimisation, serious notice should be taken if a complaint is, after verification, found to be false and malicious. There should be no hesitation in taking severe Departmental action or launching criminal prosecution against such complainants.

### **MODES OF TENDERING**

Procuring entity can adopt any of the following methods of tendering for procurement of goods, works or services on the basis of their approved policy / procedure, in line with GFR provisions and guidelines issued by the Central Vigilance Commission, from time to time—

(a) Open tender

(b) Limited tender

(c) Single tender / Nomination

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Compiled by

**Dr. S.K.SRIVASTAVA Vigilance Officer**

ICAR-Central Institute for Women in Agriculture, Bhubaneswar

Page 8

## **VIGILANCE AWARENESS WEEK**

30<sup>th</sup> October 2017 - 4<sup>th</sup> November 2017

**Theme : MY VISION - CORRUPTION FREE INDIA.**

(d) Spot purchase / tender

(a) Open Tender: Open / Advertised tendering is the most preferred competitive public procurement method, used for acquiring goods, services and works or any combination thereof. It is open to all bidders for participation and also known as competitive tender or public tender. Organisations / Departments should resort to open tendering, under normal circumstances, for all procurements whose estimated value exceeds the prescribed threshold value for open tenders in the respective Organisation / Department. As per General Financial Rules, 2005(now revised as General Financial Rules, 2017), in case of procurement of goods, having estimated tender value Rs. 25 lakh or above, invitation to tenderers should normally be through advertisement [Rule 150 of GFR 2005 (161 of GFR 2017)]; in case of works tenders, open tenders will be called for works having estimated value more than Rs. 5 lakh and above (Para 4.2.5.1 of Manual on Policies and Procedure for Procurement of Works, 2006 issued by Department of Expenditure, Ministry of Finance). All other organisations, not with in the ambit of these instructions, may follow their respective Purchase Manuals for threshold values to float open tender. It is imperative that all such organisations have Purchase Manuals, duly approved by the competent authorities, dealing with all necessary instructions on complete procurement process. Open tender is an arrangement where an advertisement, in local newspapers, at least one national newspaper, having wide circulation, and Indian Trade Journal, etc., along with ICT (Information & Communications Technology) based notification, invites prospective bidders to apply for tender documents.e-Publishing of open tenders on the CPPP and the website of the respective organisation is mandatory, subject to certain exemptions. Whenever public procuring entity decides to involve suitable and competitive offers from abroad, Global Tender Enquiry may be floated, sending copies of the tender notice to the Indian Embassies abroad and Foreign Embassies in India, as per extant instructions, for wider publicity. The time allowed for submission of bids will be suitably fixed in such cases and should be minimum of four weeks. The qualifying / eligibility conditions in open tenders are finalised based on the required specifications and need to assess the technical, financial and manufacturing capacity-cum-capability of the prospective bidders and, at the same time, keeping in view the adequacy of competition. The qualifying requirements should neither be too stringent nor too relaxed.

Open Tender is a transparent method which ensures that only the contractor with the best price and meeting all the technical requirements wins the tender.

### **LIMITED TENDER**

Limited Tenders are also known as short term, closed or selective tenders where press publicity is not utilized and the pre-qualified or known/ proven vendors are intimated and allowed to participate in the tender. As per CVC Office Order No. 10/2/04 dated 11.02.2004 of the Commission, the notice inviting tender for short term / limited tenders can be put on the official website, as this brings transparency and reduces chances of abuse of power.

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Compiled by

**Dr. S.K.SRIVASTAVA Vigilance Officer**

ICAR-Central Institute for Women in Agriculture, Bhubaneswar

Page 9

## **VIGILANCE AWARENESS WEEK**

30<sup>th</sup> October 2017 - 4<sup>th</sup> November 2017

**Theme : MY VISION - CORRUPTION FREE INDIA.**

Limited tenders amongst enlisted vendors, for the procurements of the items having regular and repetitive use and within a laid down tender value, are generally economical. Also, limited tendering can be adopted in case of limited sources of supply / contractors who can perform the work, emergency or to meet the specific safety or technical requirements, with the approval of the competent authority as per the laid down instructions. For the purpose of registration / enlistment of the vendors, registration/ empanelment process should be undertaken on regular basis in a transparent manner.

### **SINGLE TENDER**

Single tendering means sending the tender enquiry to one particular party only. Normally, procurement from a single source may be resorted to in the following circumstances: (i) Proprietary items (ii) In case of emergencies (iii) For standardization of machinery or spare parts to be compatible to the existing sets of equipment, the required item is to be purchased only from a selected firm (iv) No response even after several rounds of tendering Single tenders should be avoided, as far as possible, because it is most restrictive mode of tendering and there is no competition; the bidder may quote unreasonable rates. Single tender process is to be followed only in exceptional and unavoidable conditions with proper reasoned justification. The urgency of procurement and OEM (Original Equipment Manufacturer) status of the item needs to be scrutinised to control manipulations and irregularities in procurement through this route.

### **SPOT TENDER**

In this tender, spot enquiries are issued, by visiting market, to the vendors who are dealing with the desired item. According to Rule No. 145 & 146 of GFR 2005 [Rule 154 & 155 of GFR 2017] (General Financial Rules), goods up to the value of Rs. 15,000 [Rs. 25,000 as per GFR 2017] can be purchased without quotation and goods up to the value of Rs. 1 lakh [Rs. 2,50,000 as per GFR 2017] can be purchased through Purchase Committee. This type of tendering may also be resorted to in case of immediate requirement or where it is difficult to determine exact specifications due to inadequate market information. As tendering process is not adopted for spot purchase, special attention is required for ascertaining rate reasonability.

### **LEVERAGING TECHNOLOGY**

#### **e-Procurement**

e-Procurement means use of information and communication technology by the procuring entity, to carry out the procurement process with the prospective bidders/bidders, for procurement of goods, works, services or any combination thereof. The very basic aim of e-Procurement is to leverage technology for ensuring transparency, fairness and efficiency in the procurement process, ruling out any undue human intervention. In terms of OM No.26/12/2014-PPC dated 21.01.2015, issued by Department of Expenditure (DoE), Ministry of Finance (MoF), all Ministries/Departments of Central Government, their attached and

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**Dr. S.K.SRIVASTAVA Vigilance Officer**

ICAR-Central Institute for Women in Agriculture, Bhubaneswar

Page 10

## **VIGILANCE AWARENESS WEEK**

30<sup>th</sup> October 2017 - 4<sup>th</sup> November 2017

**Theme : MY VISION - CORRUPTION FREE INDIA.**

subordinate offices, Central Public Sector Enterprises (CPSEs), Autonomous/Statutory bodies are required to commence e-Procurement in respect of all procurements having estimated tender value of Rs.2,00,000/- or more, in a phased manner.

Procurement covers complete tendering process, starting from online publishing of tender enquiries, online bid submission by the bidders, online bid evaluation and publication of award of contract. All authorised users in the procuring entity are required to have valid digital signature certificate along with user ID and password to carry out e-procurement process. It also requires all prospective bidders to register / enrol on Central Public Procurement Portal (CPPP) or any other e-procurement portal under use by a procuring entity, use of valid digital signature and valid e-mail address. All the public procurement agencies are required to e-publish information regarding tender enquiries, on Central Public Procurement Portal, accessible at the URL (<http://eprocure.gov.in>) or e-procurement sites under use by them, duly providing a link or mirroring information between the two sites. All Ministries / Departments which are already carrying out eProcurement through other service providers or have developed e-procurement solutions in-house, need to ensure that their e-procurement solution meets all the requirements notified by D/o Information Technology (DoIT) under the title “Guidelines for compliance to quality requirements of e-procurement systems”, published on e-governance portal: <http://egovstandards.gov.in>; also they need to ensure that the procurement procedure adopted conforms to the general principles envisaged under GFR 2005 (now GFR 2017) and CVC guidelines. In certain procurement cases where national security and strategic considerations demand confidentiality, the Ministry / Department may exempt such cases from e-procurement, after seeking approval of the Secretary of the Ministry / Department, with the concurrence of their internal Financial Advisor. Statistical information on the number of cases in which exemption was granted and the value of concerned contracts may be intimated on quarterly basis to DoE. All other procuring entities, not within the ambit of the instructions of Ministry of Finance, may suitably frame instructions to deal with e-procurement, with the approval of competent authority.

### **e-Sale**

e-Sale refers to sales activities carried out with the help of information and communication technology, especially internet. The main objective is to sell goods, natural resources, scrap, land, etc., making use of technology in a transparent, fair and efficient manner. Any public entity, having decided to resort to e-Sale, needs to start with wide publicity of sale schedule for information of prospective buyers; the object(s) under sale, its / their complete description, general terms & conditions of e-Sale along with object specific sale terms & conditions are required to be duly publicized in transparent and fair manner. On the scheduled date and time, buyers may bid online after depositing the security money / earnest money, as per the terms & conditions of e-Sale. Most of the monetary transactions may also take place online only, through a suitable mechanism. The bid of highest and acceptable

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Compiled by

**Dr. S.K.SRIVASTAVA Vigilance Officer**

ICAR-Central Institute for Women in Agriculture, Bhubaneswar

Page 11

## **VIGILANCE AWARENESS WEEK**

30<sup>th</sup> October 2017 - 4<sup>th</sup> November 2017

**Theme : MY VISION - CORRUPTION FREE INDIA.**

responsive bidder is accepted. The accepted bid should normally be higher than the reserved price, fixed for the sale by competent person or a committee. Reserved price is fixed based upon price database preferably for the same / similar object, similar conditions and location of the object under sale, price analysis based upon standard price indices, rates of constituents / ingredients, potential for commercial exploitation or with the help of costing experts, etc., as per the merit of each case. Any selling entity needs to have appropriate framework of instructions in place, with the approval of competent authority. (c) Reverse Auction Reverse Auction is a process of online, real-time purchase, adopted by procuring entities to select the successful bid; the process involves presentation of successively more favourable bids by the bidders, over a pre-defined time schedule; the process also allows compilation and evaluation of bids. At present, not much instructions / guidelines on the subject of reverse auction are available. However, it has to be carried out within the broad framework of GFR and CVC guidelines on public procurement ensuring transparency, fairness and efficiency, so as to achieve best value for the money spent.

### **PREVENTIVE VIGILANCE**

#### **RECOMMENDATIONS OF SANTHANAM COMMITTEE**

(a) “Corruption cannot be eliminated or even significantly reduced unless preventive measures are planned and implemented in a sustained and effective manner. Preventive action must include administrative, legal, social, economic and educative measures” (Santhanam Committee Report, 1964).

(b) During a debate in Parliament in June, 1962 Members of Parliament expressed concern over corruption in public administration and sought remedial measures. In response, a Committee was set up under Shri K. Santhanam, Member of Parliament which identified four major causes of corruption, namely:

(i) administrative delays, (ii) Government taking upon itself more than what it could manage by way of regulatory functions, (iii) scope for personal discretion in the exercise of powers vested in different categories of Govt. servants and (iv) Cumbersome procedures in dealing with various matters which were of importance to citizens in their day to day affairs.

(c) The Santhanam Committee in its Report observed that the main effort for checking corruption must come from within the Ministry / Department and that it is important to be continuously on the watch for sensitive spots rather than merely taking action when some case comes to notice.

It was suggested that Ministries undertake a systematic and thorough review of the laws, rules, procedures and practices for the purpose of listing discretionary powers, levels at which these are exercised, manner in which they are exercised, control over the exercise of such powers and the points at which citizens come into contact with the Departments and why. It

## **VIGILANCE AWARENESS WEEK**

30<sup>th</sup> October 2017 - 4<sup>th</sup> November 2017

**Theme : MY VISION - CORRUPTION FREE INDIA.**

was also recommended that a study should be made by Ministries of the extent, possible scope and modes of corruption, remedial measures prescribed and their effectiveness.

The Report deals in detail with the major causes of corruption and steps to deal with each. The Committee observed that: (i) Administrative delays must be reduced to the extent possible and firm action should be taken to eliminate causes of delay. (ii) Each Ministry should undertake a review of existing procedures and practices to find out causes of delay, points at which delay occurs and devise steps to minimize the same. (iii) Time limits should be prescribed and these should be strictly adhered to; those responsible for delays should be called to account. (iv) Levels at which files are to be processed and manner of decision making have also been prescribed.

### **The Committee recommended that:**

(i) Ministries review their regulatory functions and whether the manner of discharge of those functions can be improved.

(ii) while recognising that it may not be possible to completely eliminate discretion, it should be possible to devise a system of administration which would reduce the need for personal discretion, to a minimum.

(iii) that a serious attempt be made to educate citizens about their rights and responsibilities and make arrangements to enable citizens' access to the administration without having to go through intermediaries.

## **THE CONCEPT OF PREVENTIVE VIGILANCE**

It is adoption of a package of measures to improve systems and procedures to eliminate / reduce corruption, promote transparency and ease of doing business.

### **WHO IS REQUIRED TO IMPLEMENT PREVENTIVE VIGILANCE MEASURES?**

Preventive vigilance involves systemic improvements which besides reducing corruption also lead to better operational results. It is a tool of management and good governance and therefore, it is the duty of the management as a whole, and not of the CVO alone. Indeed, it can be said that it is the duty of every employee.

## **CAUSES OF CORRUPTION**

Preventive vigilance is aimed at identifying, tackling / addressing the root cause of corruption within the organisation. The common causes of corruption, inter alia, could be:

(a) Excessive regulation & licensing. (b) Complicated rules and regulations. (c) Monopoly over delivery of goods / services. (d) Lack of transparency. (e) Lack of accountability. (f) Too much discretionary power. (g) Poor regulatory framework. (h) Poor grievance redressal

## **VIGILANCE AWARENESS WEEK**

30<sup>th</sup> October 2017 - 4<sup>th</sup> November 2017

**Theme : MY VISION - CORRUPTION FREE INDIA.**

mechanism. (i) Very low rate of detection of corruption. (j) Lack of condemnation of corrupt practices by the public. (k) Absence of a formal system of inculcating values, ethics & integrity. (l) Inadequacy of regular / periodic / surprise checks. (m) Rigid bureaucratic framework / processes. (n) Lack of awareness about rights, duties, procedure to complain, rules, laws, etc.

### **POTENTIAL AREAS OF CORRUPTION**

Preventive vigilance is aimed at tackling the areas vulnerable to corruption within the organisation. Although potential areas of corruption are specific to organisations / sectors, there are some broad areas common to all organisations, which need special attention while putting in place a system of preventive vigilance. These relate to: -

#### **(a) PROCUREMENT:**

Procurement is a vast area ranging from procurement of store materials & services to execution of infrastructure projects. It is one of the major corruption prone areas in all organisations.

#### **(b) SALE OF GOODS AND SERVICES:**

The disposal of goods (the reverse of procurement) and services is also a major area of corruption in some organisations. Similarly, allocation of scarce and / or precious natural resources is an area of corruption.

#### **(c) HUMAN RESOURCE MANAGEMENT:**

Human resource management is common to all organisations and the processes relating to recruitment, promotion, transfer and posting are prone to manipulation and corruption.

#### **(d) DELIVERY OF SERVICES TO PUBLIC:**

Although not common to all Public Sector Organisations, major Government Departments are involved in delivery of services which are a potential area of corruption.

#### **(e) ENFORCEMENT:**

The enforcement of Acts, Rules and Regulations is also an area vulnerable to corruption mainly due to lack of awareness among citizens and ineffective grievance redressal mechanism.

### **PREVENTIVE VIGILANCE MEASURES**

## **VIGILANCE AWARENESS WEEK**

30<sup>th</sup> October 2017 - 4<sup>th</sup> November 2017

**Theme : MY VISION - CORRUPTION FREE INDIA.**

(a) **SIMPLIFICATION AND STANDARDISATION OF RULES:** Simplification and standardisation of rules and procedures results in elimination of discretion and arbitrariness, which in turn reduces corruption. Identifying areas involving exercise of discretion which are not governed by guidelines together with a complete review of existing rules and regulations needs to be undertaken to introduce clarity and accountability. Similarly, simplification and standardisation of forms / application also reduces scope for corruption.

(b) **LEVERAGING TECHNOLOGY:** Technology as an enabler for fighting corruption has been effectively demonstrated. E-procurements, E-payments, use of websites for dissemination of information and creating awareness, use of CCTV in places of public dealing, use of GPS enabled devices / RFIDs, use of appropriate analytical tools, computer assisted audit techniques for detecting frauds are examples of how technology strengthens the system of preventive vigilance.

(c) **AUTOMATION:** Using IT as an enabler for reducing corruption along with business process re-engineering is recognized as an effective tool of preventive vigilance. Automation reduces interface / interaction between public officials and common public. It also removes monopoly in delivery of services and personal discretion, reducing the opportunities for discretion thus leading to reduction in corruption. Therefore, the organisations should strive to reduce interface of officials with common public / customers by way of automation / online services. However, IT systems are not an end in themselves; they are the means to an end. It follows therefore that there is a need to develop a system of alerts as also a response mechanism.

(d) **BUSINESS PROCESS RE-ENGINEERING (BPR):** BPR is very important as it helps the organisations rethink how they do their work and in the process, encourages a full-scale re-creation of processes in order to meet the objectives of the organisation. Existing processes may be re-engineered to even prevent leakage of revenue.

(e) **TRANSPARENCY:** Transparency removes the information gap between the public and public officials which in turn reduces corruption. The website of the Department / Organisation should contain rules & regulations, contact details of officials and all other information useful for common public / customers.

(f) **ACCOUNTABILITY:** There is no fear of punitive action due to lack of accountability. A system with clear accountability and assigned responsibility at each level is necessary not only for smooth functioning but increased transparency, efficiency and for ensuring effective punitive action in case of misconduct.

(g) **CONTROL & SUPERVISION:** Regular and routine inspections, surprise inspections, audit and reviews keep a check on aberrant and corrupt behaviour. A list of points and areas prone to corruption will facilitate the purpose of organising checks and streamlining

## **VIGILANCE AWARENESS WEEK**

30<sup>th</sup> October 2017 - 4<sup>th</sup> November 2017

**Theme : MY VISION - CORRUPTION FREE INDIA.**

procedures. A structured interaction between vigilance and internal audit will enable better monitoring and also help identify potential problem areas.

(h) **EARLY DETECTION OF MISCONDUCTS:** Early detection of misconducts apart from bringing to light the damages to the system, will enable recouping the loss wherever possible and facilitate control of further damage.

(i) **TIME-BOUND AND EFFECTIVE PUNITIVE ACTION:** Punitive (disciplinary or criminal) action within short period of occurrence of misconduct and finalisation of such cases in a time-bound manner resulting in award of exemplary and adequate (commensurate with gravity of misconduct) punishment deters others from committing such misconduct. Delays and inefficiencies in such proceedings encourages and emboldens others to take risk of committing misconduct under the belief that nothing would happen to them.

(J) **PROVIDING NECESSARY INFRASTRUCTURAL FACILITIES:** Non-provision of adequate infrastructural facilities such as accommodation, conveyance, utilities, etc. also induce corruption.

(K) **TRAINING & AWARENESS:** Capacity building and sensitization at all levels and across all functional areas is important. Public officials should be made aware of their duties and responsibilities, code of conduct, rules and regulations through regular training and awareness programmes. A list of Dos & Don'ts for employees / officials is a simple yet effective tool. Likewise, familiarization with Standard Operating Procedures relating to different spheres of activity will enhance awareness and reduce procedural violations / inadvertent errors arising out of a lack of awareness. Knowledge sharing initiatives such as publishing / circulating information relating to areas where fraud / misconduct has been detected and sharing information on best practices are other effective awareness generation methods for more effective preventive vigilance. There should also be an effort to create awareness among all stakeholders.

(L) **CONDUCTIVE WORK ENVIRONMENT:** Conducive work environment for preventive vigilance may include drawing up a list of sensitive posts, rotation policy for sensitive posts, identification of persons of doubtful integrity and keeping them away from sensitive posts / public dealing. It would be necessary also to create an environment that promotes ethical behaviour. Protection to Whistle Blowers must be ensured in order to bring to light cases of corruption.

(M) **AWARENESS AMONG PUBLIC:** If public is made aware of their rights, and also of the rules and regulations, then they are able to resist unfair treatment and arbitrary behaviour by public officials. Public should be encouraged to demand the services due to them and to raise their voice when their rights are denied or powers are misused by public officers. Organisations should prominently display information relevant / useful to the common public on their office notice board / website.

## **VIGILANCE AWARENESS WEEK**

30<sup>th</sup> October 2017 - 4<sup>th</sup> November 2017

**Theme : MY VISION - CORRUPTION FREE INDIA.**

**(N) INCULCATING MORAL VALUES:** Inculcating ethical behaviour among public, particularly the younger generation is an important tool of preventive vigilance. Vigilance Awareness Week (VAW), celebrated every year during the last week of October is aimed at creating such awareness.

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