



INDIAN COUNCIL OF AGRICULTURAL RESEARCH
Krishi Bhavan, Dr. Rajendra Prasad Road, New Delhi – 110 001

F.No.105(5)/2018-Vigilance

Date : 08.10.2018

C I R C U L A R

Subject : Transparency in Works/Purchases/Consultancy contracts awarded on nomination basis – Regarding

Reference: (i) CVC Circular No. 15/05/06 dated 09.05.2006
(ii) CVC Office Order No. 23/07/07 dated 05.07.2007
(iii) CVC Office Order No. 19/05/10 dated 19.05.2010

Central Vigilance Commission, New Delhi has issued a Circular No. 06/07/18 dated 11.07.18 on the subject cited above. Inviting reference to its earlier circulars and Office Orders (as mentioned above), the Commission has reiterated that award of contract on nomination basis can be resorted to only in exceptional circumstances as laid down in Commission's O.O. No. 23/07/07 dated 05.07.2007. The Commission has also advised for strict compliance of these guidelines.

2. The above mentioned Circular is hereby circulated for compliance of all concerned.

(S.K. Sinha)
Under Secretary (Vigilance)
ICAR Hqrs.

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केन्द्रीय सतर्कता आयोग
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,
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Satarkta Bhawan, G.P.O. Complex,
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005/CRD/19-386121
सं./No.....

दिनांक / Dated 11.07.2018

Circular No.06/07/18

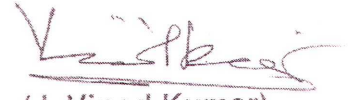
Subject: Transparency in Works/Purchases/Consultancy contracts awarded on nomination basis – reg.

Reference: (i) Commission's Circular No.15/5/06 dated 09.05.2006
(ii) Commission's Office Order No.23/7/07 dated 05.07.2007
(iii) Commission's Office Order No.19/05/10 dated 19.05.2010

Reference is invited to Commission's Circulars cited above wherein the need for award of contracts in a transparent and open manner has been emphasized. The Commission is still receiving representations reporting instances of award of contracts and procurements in a non-transparent manner on nomination basis by several Departments/CPSUs.

2. The award of contracts/procurements/projects on nomination basis without adequate justification amounts to a restrictive practice eliminating competition, fairness and equity. The Commission would reiterate its earlier instructions, that award of contracts on nomination basis can be resorted to only in exceptional circumstances as laid down in Commission's Office Order No.23/7/07 dated 05.07.2007.

3. All Ministries/Departments/CPSUs are therefore advised to apprise the aforementioned guidelines to the concerned officers for strict compliance.


(J. Vinod Kumar)
Director

To

- (i) The Secretaries of all Ministries/Departments of Govt.
- (ii) All Chief Executives of CPSUs.
- (iii) All CVOs of Ministries/Depts/CPSUs.

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No.005/CRD/19(part)
Government of India
Central Vigilance Commission

Satarkata Bhawan, GPO Complex,
INA, New Delhi,
Dated 19th May, 2010

OFFICE ORDER No.19/05/10

Sub: Transparency in Works/Purchase/Consultancy contracts awarded on Nomination basis.

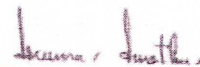
Commission vide Circular No.15/5/06 dated 09/05/2006 had prescribed certain measures to be followed on works/purchase/consultancy contracts awarded on nomination basis by PSUs. These instructions have since been reviewed in the Commission and the Commission is of the view that the Board of the PSU is not required to scrutinize or post facto vet the actions of the operational managers and their decisions to award work on nomination basis.

2. Therefore, the following amendment is being made in sub-para (i) of Para 2 of Commission's above circular:-

" All works awarded on nomination basis should be brought to the notice of the Board of the respective PSUs for scrutiny and vetting post facto"

Read as

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



(Vineet Mathur)
Director

All Chief Vigilance Officers of CPSUs.

Copy to:

- (i) All Secretaries of Govt. of India
- (ii) All CEOs/Heads of Organizations

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

Office Order 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 organizations, indicates that several of them believe that mere post-facto approval of the Board is sufficient to award a 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 requirements 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 judgement in the case of Nagar Nigam, Meerut Vs A1 Faheem Meat Export Pvt. Ltd. [arising out of SLP(civil) No.10174 of 2006] is reproduced below to reinforce this point.

"The law is well-settled that contracts 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 judgement is available on the web-site of the Hon'ble Supreme Court of India, i.e., 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 judgement 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.



(Rajiv Verma)
Under Secretary

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 9th May 2006

CIRCULAR No.15/5/06

Subject:- Transparency in Works/Purchase/Consultancy contracts awarded on nomination basis.

The Commission had, in its OM No. 06-03-02-CTE-34 dated 20.10.2003 on back to back tie up by PSUs, desired that the practice of award of works to PSUs on nomination basis by Govt. of India/PSUs needed to be reviewed forthwith. It is observed that in a number of cases, Works/Purchase/Consultancy contracts are awarded on nomination basis. There is a need to bring greater transparency and accountability in award of such contracts. While open tendering is the most preferred mode of tendering, even in the case of limited tendering, the Commission has been insisting upon transparency in the preparation of panel.

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

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

3. This may be noted for strict compliance.

(V. Kannan)
Director

All Chief Vigilance Officers

Copy to:

- (i) All Secretaries of Govt. of India
- (ii) All CEOs/Head of the organisation