

1 MAR 2013

MS 4998

V-17020/1/2013-ME II
Government of India
Ministry of Health & Family Welfare
(ME-II Section)

Nirman Bhawan, New Delhi
Dated the 26th February, 2013

To,

1. The Director, Post Graduate Institute of Medical Education and Research, Sector-12, Chandigarh-160012.
2. The Director, Govt. Medical College & Hospital, Sector - 32, Chandigarh-160032.
3. The Secretary, National Academy of Medical Sciences, Ansari Nagar, Mahatma Gandhi Marg, New Delhi-110029.
4. The Executive Director, National Board of Examination, Medical Enclave, Ansari Nagar, Ring Road, New Delhi-75.

Subject- Transparency in Works/Purchase/consultancy contracts awarded on nomination basis-reg.

Sir,

I am directed to forward herewith a copy of the CVC SI No. 005/CRD/19/1, CVC's Circular No.18/12/12 dated 11-12-2012 received of Central Vigilance Commission received from vigilance section of this ministry on the above subject, for appropriate necessary action.

Yours faithfully,

Valsamma K. Daniel

(Valsamma K. Daniel)
Deputy Secretary to the Govt. of India

Tel: 23062292

Encl: As above.

1000
No. 20318/13
Date 13/02/13

F.No. C-30019/02/2011-Vig.
Government of India
M/o Health & Family Welfare
(D/o Health & Family Welfare)

Nirman Bhawan, New Delhi
Dated February, 2013

OFFICE MEMORANDUM

13 FEB 2013

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

The undersigned is directed to forward herewith a CVC's Circular No. 18/12/12 dated 11/12/2012 alongwith its enclosure on the subject mentioned above. It is requested that instructions issued by CVC on the subject matter may please be brought to the notice of all concerned for strict compliance.

This issues with the approval of JS & CVO

Lalit Kapoor
(Lalit Kapoor)

Under Secretary to the Government of India

Encl: As above

Copy to:

1. All JSs
2. Director General, Dte.GHS

JS (SRN)
20318/13

DS/AS

DS (CVO)

Pl. circulate to all JSs
concerned.

US (H&F) [Signature]

[Signature]

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Tel: 2306 2292

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 20318/13

DS (AS) do
 DS (Cov) 2/10/13

Pl: circulate to all. 11/15
 concerned.
 US (M&I) 11/15/13
 19/2
 msd

Telegraphic Address :
"SATARKTA - New Delhi"



सत्यमेव जयते

केन्द्रीय सतर्कता आयोग
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023
Satarkta Bhawan, G.P.O. Complex
Block A, INA, New Delhi 110023
सं./No. 005/CRD/12/

दिनांक / Dated 11.12.2012

Circular No. 18/12/12

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

The Commission has been emphasising on the need for observing integrity, transparency, fairness and equity in all aspects of decision making including in tendering and award of contracts. However, the Commission is still receiving complaints regarding adoption of non-transparent methods in tendering and award of contracts. A number of such complaints pertain to award on nomination (single source procurement) basis instead of following process of open competitive bidding. The Commission in their earlier office order No. 237/01 dated 05.07.2007 (copy enclosed) had laid down the exceptional circumstances where 'single source procurement' can be resorted to. These guidelines were consequent to the Supreme Court's judgement in case of Nagar Nigam, Meerut v/s A1 Faheem Meat Export Pvt. Ltd. [SLP (Civil) No. 1074 of 2006].

2. In view of the complaints being received regarding award of contracts on 'nomination basis' without adequate justification, the Commission has decided to reiterate their earlier instructions for strict implementation. The Commission has also observed that there have been instances where government organisations/PSUs obtain contract from other government organisations/PSUs and further award the same to private entities on 'back to back tie up' basis without competitive tendering mechanism and without any significant value addition by the procuring government organisation/PSU. This practice subverts the Commission's emphasis on integrity, transparency, fairness and equity in decision making. It is therefore, necessary to curb this practice. Further, the Commission directs that details of all tenders awarded on nomination basis shall be posted on website in public domain as per Commission's office order of 5th July 2007 alongwith brief reasons for doing so.

3. Kindly acknowledge the receipt and circulate to all concerned in your organization.

(J. Vinod Kumar)
Officer on Special Duty

To,

- (i) The CMDs of all CPSUs/Public Sector Banks/Insurance Companies/Fls.
(ii) The CVOs of all the Ministries/Departments/Public Sector Undertakings

8/1/13

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

Safai Kala 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.15/5/03 (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

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Date. 13/02/13F.No. C-30019/02/2011-Vig.
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msl

Telegraphic Address :
"SATARKTA" New Delhi



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CENTRAL VIGILANCE COMMISSION



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Do we
circulate
this in the
ministry?
What's the
practice

US (Vigilance) 18/11/13

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Government of India
Central Vigilance Commission

Satarkla Bhawan, Block 'A',
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New Delhi- 110 023
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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.

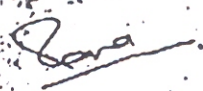
"The law is well-settled that contracts by the State, its corporations, instrumentalities and agencies must be normally granted through public auction/public tender by inviting tenders from eligible persons and the notifications of the public-auction or inviting tenders should be advertised in well known 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.supremecourtofindia.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