

F.No. 13(1)/2020-MGMT
Government of India
Ministry of Heavy Industries and Public Enterprises
Department of Public Enterprises

Block No.14, CGO Complex,
Lodi Road, New Delhi-110003
Dated the 13th April, 2021

OFFICE MEMORANDUM

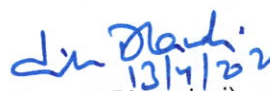
Subject : Transparency in Works/Purchase/Consultancy contracts awarded
nomination basis

The undersigned is directed to state that in order to ensure transparency, to promote healthy competition and to provide fair & equitable treatment to all interested parties in matters of public procurement, Central Vigilance Commission (CVC) has issued various guidelines emphasizing on the need to adopt tendering process as a basic requirement, before award of contract to any party. CVC has observed that in some cases, the guidelines issued by the Commission are not being adhered to by the organizations and the contracts being awarded on nomination basis are neither being reported to the management, nor are being subjected to scrutiny by audit committee.

2. In view of the above, CVC vide their circular dated 6th April, 2021 (copy enclosed) has reiterated its earlier guidelines on this subject for compliance by all concerned organizations. CVC has further directed that award of contracts on nomination basis should be done only under unavoidable and exceptional circumstances, which can be justified and mere reporting of tenders awarded on nomination basis to the Board/Chief Executive of the organization is not adequate justification for such action. Further, in the absence of logical reasons, nomination based contracts would amount to restrictive practices, eliminating competition and award of contracts through open competitive bids should remain the most preferred mode for procurement.

3. All Ministries/Departments are kindly requested to direct CPSEs under their respective administrative jurisdiction to take note of above directions as well as provisions of CVC circular dated 6th April, 2021 and to ensure strict compliance with the same.

Encl : As stated


(Kailash Bhandari)
Deputy Director
Tel : 2436-6247

To all administrative Ministries/Departments

Copy to :-

- (i) Chief Executives of CPSEs - for information and strict compliance
- (ii) Central Vigilance Commission, (Shri Otem Dai, Secretary), Satarkta Bhawan, GPO Complex, Block - A, INA, New Delhi - 110023 - w.r.t. CVC D.O. No. 005/CRD/19(Pt.)/480279 dated 6th April, 2021
- (iii) ☒ NIC, DPE - with a request to upload the OM on DPE's website

Telegraphic Address :
"SATARKTA: New Delhi

E-Mail Address
cenvigil@nic.in

Website
www.cvc.nic.in

EPABX
24600200

फैक्स/Fax : 24651186



सत्यमेव जयते

केन्द्रीय सतर्कता आयोग
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लैक्स,
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-1100
Satarkta Bhawan, G.P.O. Complex
Block A, INA, New Delhi 110023

सं./No.....005/CRD/19.....

दिनांक / Dated.....06.04.2021.....

Circular No. 04/04/21

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

Reference:

- | | | |
|-------|---------------------------------------|------------------|
| (i) | Commission's Circular No.15/05/06 | dated 09.05.2006 |
| (ii) | Commission's Office Order No.23/07/07 | dated 05.07.2007 |
| (iii) | Commission's Office Order No.19/05/10 | dated 19.05.2010 |
| (iv) | Commission's Circular No.18/12/12 | dated 11.12.2012 |
| (v) | Commission's Circular No.06/07/18 | dated 11.07.2018 |

Central Vigilance Commission, as part of its drive to ensure transparency, to promote healthy competition and to provide fair and equitable treatment to all interested parties in matters of public procurement, has issued guidelines from time to time emphasizing on the need to adopt tendering process as a basic requirement, before award of contract to any party.

2. Tendering process or public auction is a basic requirement for award of contract by any Government agency. 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. The award of contracts/projects/procurements on nomination basis without adequate justification amounts to restrictive practice eliminating competition, fairness and equity. Hence, award of contracts through open competitive bids should remain the most preferred mode of tendering.

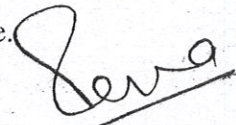
3. However, in some exceptional and inevitable circumstances, the contracts may be awarded on nomination basis; for instance, during natural calamities and emergencies declared by the Government; where procurement is possible from a single source only; where the supplier or contractor has the exclusive 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. [Ref: SPL(Civil)No. 10174 of 2006 in case of Nagar Nigam, Meerut Vs A1 Faheem Meat Export Pvt Ltd.].

4. But, it has been observed that in some cases, the guidelines issued by the Commission are not being adhered to by the organizations. Therefore, the Commission would reiterate its earlier guidelines and direct that:

- (i) All works/purchase/consultancy contracts awarded on nomination basis should be brought to the notice of following authorities for information:
 - a) the Secretary, in case of the ministries/departments;
 - b) the Board of Directors or equivalent managing body, in case of Public Sector Undertakings, Public Sector Banks, Insurance Companies, etc.;
 - c) the Chief Executive of the organization where such a managing body is not in existence.
- (ii) The report relating to such awards on nomination basis shall be submitted to the Secretary/Board/Chief Executive/equivalent managing body, every quarter.
- (iii) The audit committee or similar unit in the organization may be required to check at least 10% of such cases.

5. Details of all tenders awarded on nomination basis shall be posted on website of the organization concerned, in public domain, along with brief reasons for doing so.

6. The above guidelines may be noted for strict compliance.



(Rajiv Varma)

Officer on Special Duty

To

- (i) The Secretaries of all Ministries/Departments of GoI
- (ii) All Chief Executives of CPSUs/Public Sector Banks/Public Sector Insurance Companies/Autonomous Bodies etc.
- (iii) All CVOs of Ministries/Departments of GoI/CPSUs/Public Sector banks/ Public Sector Insurance Companies/Autonomous Bodies etc.
- (iv) Website of CVC