



VIGEYE VANI

Monthly Newsletter of Central Vigilance Commission

JULY 2011

Message

Corruption is a major issue that impacts every citizen. In combating corruption punitive action needs to be supplemented with preventive measures, which calls for a more participative approach.

While corruption should be dealt with ruthlessly, vigilance should be conducted in a manner so that honest officers are able to function without fear. There should be enhanced focus on strengthening the systems and controls to reduce the vulnerabilities for corruption by eliminating arbitrariness and discretion in decision making. This also calls for leveraging of technology wherever possible.

I hope this newsletter of the Commission – ‘VIGEYE VANI’ will go a long way in engaging all the stakeholders in the Commission’s fight against corruption.

(Pradeep Kumar)
Central Vigilance Commissioner



Pradeep Kumar
Central Vigilance Commissioner

From the Editor's Desk



We live in an era of Information Technology being available freely and used widely. This has resulted in people being aware of systems and best practices followed in various countries. When Transparency International ranked India in the 87th position (out of 178 countries) in the Corruption Perception Index 2010 (with a score of 3.3 which was marginally lower compared to previous years), concern was expressed everywhere at the decline in moral values and at the lack of transparency and fair play in public administration. Rapid economic growth, entailing huge investments makes it imperative that shortcomings in the system are addressed urgently. A UNDP Report on Human Development on South Asia has shown that with reduction in corruption levels, GDP can grow by 1.5% and Foreign Direct Investment can go up by 12%.

Given such a scenario, the Commission on its part, has been relentlessly promoting transparency and fair play in the functioning of government organizations. One such tool used in this endeavour is the *Integrity Pact (IP)* devised by Transparency International to fight corruption in public procurement. 30% of India's GDP gets converted to public procurement contracts, with departments like the Railways, Defense and Telecommunications using 50% of their funds for procurement of goods and services. The IP envisages an agreement between prospective vendors/bidders and the buyers committing both parties not to exercise any corrupt influence on any aspect of the contract. Entering into the IP is a preliminary qualification for the vendor. The IP would be effective from the stage of invitation of bids to the execution of contract. At present nearly 40 major organization of the Government have adopted the IP. As reported by various PSUs, IP has emerged as an effective tool in tackling contractual irregularities in procurement.

A critical analysis of the success of the IP and course corrections required has been brought out in this issue.

Editor

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Presentation of the Commission's Annual Report to the President

- 1.** As per Section 14 of the CVC Act, 2003, the Commission has to present annually to the President a Report of the work done by the Commission within six months of the close of the year under report. The Annual Report also contains a special part regarding the superintendence of the Delhi Special Police Establishment in so far it relates to the investigation of offences alleged to have been committed under the PC Act 1988.
- 2.** The Report highlights the initiatives taken by the Commission, its activities during the year, and issues relating to its superintendence over vigilance administration of various Ministries/Departments. It also highlights areas of concern including non-compliance and delays in the implementation of the Commission's advice, brings out details of technical inspection conducted by the CTE's' Unit during the year including recoveries effected based on these inspections, etc.
- 3.** As per the CVC Act, on receipt of such Report, the President shall cause the same to be laid before each House of Parliament.



Presentation of the Commission's Annual Report for 2010 to the President on 30th June, 2011



Shri. J.M. Garg, Vigilance Commissioner visited Patiala on 06th May, 2011 and addressed senior officers of the State Bank of Patiala on the role of Preventive Vigilance in the Banking Industry.



Shri R. Sri Kumar, Vigilance Commissioner, at the Rampur Hydro Electric project (412 MW) of Satluj Jal Vidyut Nigam Limited, in June 2011. The project was also visited by Shri J.M. Garg, Vigilance Commissioner. The Commissioners appreciated the difficult conditions in which the construction work was being done and also lauded the fact that the project had minimal environmental impact on the local flora and fauna.

Commission's Annual Review Meeting of the Power Sector in Simla

1. The Central Vigilance Commission organised its annual zonal/sectoral meeting with CMDs/Chief Executives and CVOs of the Power Sector in Simla on June 8, 2011.
2. Apart from the Vigilance Commissioners and officers of the Commission, the meeting was attended by the CEOs and the CVOs of various power sector CPSUs, namely, NTPC, NHPC, Powergrid, PFC, NEEPCO, BBMB, REC, THDC, DVC and SJVN Limited.
3. In the review meeting, the Vigilance Commissioners pointed out that accountability was one of the major factors involved in effective administration. Increasing transparency in the decision making process through the effective use of Information Technology limited the possibilities of corruption.
4. The CEOs and CVOs outlined various vigilance activities and initiatives undertaken in their respective organisations especially with regard to leveraging of technology i.e., the increasing usage of e-procurement, e-payment, uploading of details of awarded tenders on websites, online invitation in respect of various applications, etc.
5. Allaying the concerns expressed by the participants with regard to apprehension about vigilance amongst PSU officials, the Vigilance Commissioners observed that vigilance functioning was to be conceived of as an essential management tool along with other organisational functions like project management, human resource, finance management etc.



Sectoral Review meeting by the Commission with CMDs, Chief Executives and CVOs of the Power Sector at Simla on 8.6.2011

Seminar on Public Sector Fraud and Corruption

Dr. Jaya Balachandran, Addl. Secy., CVC

Recently, I attended a two-day Seminar in Canberra on Public Sector Fraud and Corruption. The Seminar focused on implementing resilient anti-fraud and anti-corruption measures. A summary of some of the topics discussed is as follows:

1. Building a workplace culture that is resistant to fraud and corruption. This involves ethical leadership, identifying deficiencies in the work place environment, overcoming entrenched behavior (i.e., workplace bullying and harassment). Staff who feel aggrieved in an atmosphere of bullying will not regard ethics as a priority.

2. Creating an Internal Ombudsman. This would enhance accountability through independent and professional complaint handling, investigations and audit. It would also make systems recommendations and liaison with oversight agencies.

3. Anti-corruption training programmes. Training should be so designed so as to build an ethical culture and help in creating an ethical decision making model which would indicate if one's decision was able to withstand scrutiny, if it could ensure compliance, if it was lawful and if it was fair to all.

4. Data Mining – This is a technique that can be used for detecting fraud and is regarded as one of the greatest corporate assets. Though data mining has many applications in fraud detection(taxation, corporate functioning, etc.), it has limited application in employee fraud, since principles of privacy, personnel vs. corporate data, monitoring individuals, monitoring usage etc are involved. However, it can augment existing approaches and provide query tools to support audit and investigation.

5. Building an environment that supports Whistleblowing. Fear of reprisal and belief that nothing would be done are the biggest deterrents to disclosure. In order for the whistleblower system to become effective, what is required are (1) investigation capacity (2) commitment to protect reporters (3) setting targets within the organization for increasing reporting rates and reducing inactive rates (4) learning from the unpleasant reports rather than 'papering over the cracks' and (5) training line managers on how to handle confidentiality provisions and affording natural justice.



Attending the Seminar on Public Sector Fraud and Corruption in Canberra.

Integrity Pact

A Critical Analysis

K.Subramaniam, Director, CVC

Integrity Pact as a tool for addressing corruption in public procurement was conceived by Transparency International in the nineties. The Indian public sector has started implementing this concept from 2008 in nearly 40 PSUs. It is difficult to assess whether corruption in public procurement has reduced or not because of IP. It would be appropriate if TI engages professionals to undertake a credible impact assessment of the implementation of IP in India.

1. Integrity Pact – a one sided effort

Corruption in public procurement is driven by what is known as the “prisoners dilemma” among vendors wherein a vendor feels that if he does not bribe, someone else will bribe and win the contract. IP calls for an intensive engagement with vendors to allay their fears and take them into confidence in order to promote a corruption free public procurement regime.

2. Role Ambiguity of Independent External Monitors

Independent External Monitors are retired public officials with experience and credibility, and are nominated by the Central Vigilance Commission to monitor the adherence to the Pact by both the parties. However, there seems to be some ambiguity in the actual role played by IEMs. The IEM is seen more as an ombudsman who reacts to complaints and inquires into them. In most organizations, the IEM is involved by the management only when there is a complaint. This is a highly limited role and ends up duplicating the role of the Chief Vigilance Officer.

Ideally the Independent Monitor should perform, at a minimum, the following activities:

- review the terms of reference and other basic bidding documents, including the NIT
- take part in all meetings that take place with potential or current bidders;
- receive the unilateral integrity declaration from the bidders;
- serve as witness to the presentation of bids and also during the session in which the award decision is communicated;
- prepare a final report that is publicly available

3. Integrity Pact – A voluntary effort: The success of IP depends on the voluntary commitment of the Management as well as vendors. While public sector organisations perceive it as a CVC directive and do not want to be seen left out in the race to sign the IP, the vendors sign it because it is a mandatory prerequisite to participate in the bidding. This has reduced the Integrity Pact to a mere ritual. TI should have a system of cancelling the MOU with organisations which are not serious about IP.

4. Government as well as the oversight bodies should derive assurance from the system of IP and the IEMs. Other anti-corruption bodies and specially Vigilance Administration need to place sufficient reliance and derive assurance from the system of Integrity Pact just like external audit places reliance on internal audit or just as Quality Assurance relies on Quality Control. By depending on and synergising with the IP system Vigilance can redistribute its workload to focus on other priority areas.

5. Inadequate Resources : Considering the workload of the IEMs the present system of remuneration seems to be inadequate, apart from IEMs being given inadequate secretariat or team support. If the implementation of Integrity Pact, a tool in addressing corruption in public procurement, is to succeed, the above course correction is necessary

Implications of the RTI Act in Vigilance matters

Rajiv Verma, Under Secretary, CVC

The enactment of the RTI Act, 2005 has brought about a revolutionary change in people's approach towards Government organizations. Now, armed with the provisions of the RTI Act, a common man approaches a Govt Department with confidence, to obtain information relating to its functioning.

Although, the RTI Act has brought about transparency in the overall functioning of the Govt. machinery, it has also given rise to a situation where Govt. officials who are facing disciplinary action, obtain information relating to their case through RTI and which they use to wriggle out of the case against them. Parting with such information may sabotage the prosecution case and provide unnecessary advantage to the accused/charged officer. Further, disclosure of such information may not be in public interest.

The Vigilance Unit of an organization, is faced with a tricky situation when a charged officer approaches them for obtaining information relating to his case. The Central Information Commission has given various decisions on this aspect. In some cases it allowed the Appellant access to the information relating to the ongoing case against him. There have also been cases where the CIC denied access to information on the ground that the case had not reached its logical conclusion. However, the views of CIC in case No. CIC/AT/A/2008/01500 in the case of Shri N. Saini vs. LIC of India are of considerable importance. In this decision the CIC stated that "*there is also public interest in keeping the proceedings of an enquiry against the public servant confidential as any premature disclosure of the contents of such enquiry can compromise its objectivity as well as integrity. In fact, confidentiality is a key element of the enquiry.*"

Govt. organizations, while taking a decision regarding disclosure of information relating to an ongoing disciplinary case or otherwise, are making use of the aforementioned decision of CIC.



- ❖ "*Even a little untruth destroys a man, as a drop of poison ruins milk.*"
- ❖ "*Violence is the weapon of the weak, non-violence that of the strong.*"

--Mahatma Gandhi

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