

# VIGEYE VANI

Monthly Newsletter of  
Central Vigilance Commission  
JULY 2012



*Zonal Review Meeting of the Commission with the CVOs of Power & Energy Sector held on 27.6.2012 at Central Vigilance Commission, New Delhi*



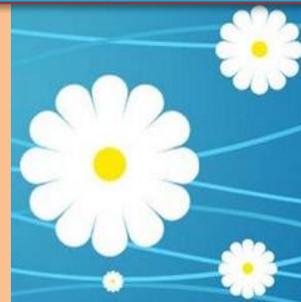
*Zonal Review Meeting of the Commission with the CVOs of Port & Shipping Sector held on 5.7.2012 at Central Vigilance Commission, New Delhi*

## From the Editor's Desk



The Commission has always advocated the importance of leveraging technology as a vital tool to be used in combating corruption.

2. As per CVC guidelines, the Commission while emphasizing the need to leverage technology as an effective tool in vigilance administration, in discharge of regulatory, enforcement and other functions,



had directed organizations to upload on their websites, information in respect of the rules and procedures governing the issue of licenses/permissions etc. and to make available application forms on the website in a downloadable form besides making available the status of individual application on the organization's website. As far as possible, arrangements should be put in place so that immediately after the receipt of the application, the applicant is informed about the deficiencies, if any, in the documents/information submitted. Repeated queries in a piece-meal manner should be viewed as a misconduct having vigilance angle. All organizations concerned are to give adequate publicity about these facilities in newspapers and such advertisement must give the website address of the organization concerned.

3. The Commission vide its circulars had also directed all organizations to post on their web-site a summary, every month of all the contracts/purchases made above the threshold value covering atleast 60% of the transactions every month. It is essential for all organizations to also put in place a computerized File Tracking System.

4. In this issue, usage of technology has been suggested in the submission of Earnest Money Deposit(EMD) through credit cards in tenders.

### *Editor*

**Dr. Jaya Balachandran**  
Additional Secretary, CVC

**Designed By :**  
**Verendra Singh,**  
DEO, CVC

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**CVC participated in the 'Retreat' at the National Academy of Audit & Accounts at Shimla held from 29.6.2012 to 1.7.2012**

## 9<sup>th</sup> Anniversary Celebrations of Vigilance Study Circle, Hyderabad and workshop on transparency in procurement



*Usha Chandrashekar, CVO, NMDC*

In his key note address at the 9<sup>th</sup> Anniversary Celebrations of Vigilance Study Circle, Hyderabad, a non-profit body set up for promoting vigilance concepts amongst stakeholders, Shri Pradeep Kumar, Central Vigilance Commissioner held that organizations should promote an ethical work culture in their workplace with the top leadership setting the tone. CVC stated that the last two years had witnessed increasing corruption involving highly placed public officials and large sums of money and which was being prominently highlighted in the media.

2. A host of reforms had been brought out by the government to combat this problem. Some of these measures were at par with global best practices, like the Right to Information Act, proposal to create a strong Lokpal Bill, enactment to regulate delivery of public services (which is already implemented by Delhi Govt), electoral reforms recommended by Election Commission and the proposed 'Prevention of Bribery of Foreign Public Officials Bill' etc., CVC further stated that earlier, anti-corruption efforts had been focused on the demand side of corruption i.e., on the public servant who receives or solicits bribe. Now, with changing dynamics, the supply side of corruption was under focus, with various regulatory changes in this direction being contemplated. CVC stated that while institutional and regulatory measures were essential to curb corruption, it was vital that these measures were supplemented by change in the value system. We need to graduate to a value based system rather than merely going by the rule-based approach, aptly denoted by Sanskrit words – 'Niti' and 'Nyaya'. Young Indians, both at industry or in business schools, must be exposed to business Ethics, corporate governance and corporate social responsibility. CVC recommended teaching of Ethics as part of the school curriculum, which is in practice in several developing countries.



### 3. Public Procurement

CVC stated that public procurement in India constitutes 28% of GDP. One of the major constraints in public procurement in India was a knowledge gap, which could result in impropriety or irregularity in procurement. This was mainly due to inadequate understanding of procurement procedures and guidelines both in letter and spirit. This was again due to the fact that public procurement had never been treated as a specialized activity requiring specialized knowledge. What was necessary was having professionally qualified staff or provide adequate professional training in respect of procurement matters. CVC applauded the effort made by the Vigilance Study Circle for knowledge sharing amongst officials of various Govt organizations. Vigilance Excellence Awards were given away at the function. Awards were also given for 'Exemplary dedication in Vigilance' to several awardees. Sri R Sri Kumar and Sri J M Garg, Vigilance Commissioners from CVC, Sri S V Prasad, Vigilance Commissioner, Andhra Pradesh, along with CMDs of Banks and other PSUs also participated in the function.



## On Corruption and Fraud

*K. Subramaniam, Director, CVC*

**1.** According to the Prevention of Corruption Act, corruption is the acceptance of illegal gratification (pecuniary or in kind) by a public servant in return for showing undue favour to any entity while discharging his / her official functions. It involves the following types of activity:

- i.** bribery i.e. accepting bribe from individuals and groups seeking government favours.
- ii.** theft or illegal appropriation of public resources by civil servants.
- iii.** nepotism, which is more prevalent in matters of recruitment, promotion or important appointments
- iv.** abuse of public authority and position to exact payment and privileges.
- v.** any other type of activity that illegally increases the public servant's compensation package.

**2.** The essential element in an act of corruption is "quid pro quo" wherein a public servant grants undue benefit to any entity (individual or organization) with the expectation of illegal gratification in return. An act of corruption would comprise one or more of the following elements:

- i.** there must be at least two parties to an act of corruption, namely the person who offers the inducement and the party accepting it;
- ii.** there must be misuse of office or position of authority for private gain;
- iii.** there is either an offer and/or acceptance of inducement;
- iv.** an attempt to solicit a benefit in return for performance of an official act;
- v.** any act through which public property is dishonestly misappropriated;
- vi.** there may be an attempt to camouflage, conceal or misrepresent information. This is what is called fraud and in most cases corruption is accompanied by some form of fraud as the corrupt often resort to fraud in order to cover their tracks.
- vii.** corruption involves breach of trust.

**3.** Fraud is any intentional act or omission designed to deceive others resulting in the victim suffering a loss and/or the perpetrator achieving a gain involving misrepresentation of facts. The following can be classified as instances of a fraudulent act.

- i.** Manipulation, falsification or alteration of records or documents.
- ii.** Misappropriation/ misapplication of assets.
- iii.** Suppression or omission of the effects of transactions from records or documents.
- iv.** Recording of transaction without substance.
- v.** Misapplication of accounting policies.

**4.** There is a distinction between fraud and corruption and the two are required to be dealt with differently. It is particularly important for Banking sector vigilance to understand this distinction because fraud is more prevalent in the Banking sector.

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## Performance of Chief Vigilance Officers

1. The Commission monitors the performance of Chief Vigilance Officers (CVOs) by means of the monthly and annual reports submitted by them to the Commission. The reports provide statistical data on the performance of the Vigilance wing of the organization. The reports not only reflect the volume of vigilance activity in the organization but also reflect the promptness with which the processing of vigilance cases and complaints are attended to along with the initiatives for system improvement undertaken by the CVOs. The shortcomings and the steps taken to plug them also get reflected in the monthly / annual reports of the CVOs.
2. The progress of complaints and vigilance cases against officers falling under the advisory jurisdiction of the Commission is monitored by the Commission through the CVOs who are an important link between the Commission and the organization. The CVOs have an important role to play as they are required to advise the Disciplinary Authority/ Chief Executive in all vigilance matters and also to ensure that cases pertaining to officials outside the jurisdiction of the Commission are also duly and properly attended. The report of the CVOs also include details regarding cases where Commission's direct intervention is not called for, thereby helping the Commission to keep a watch on the progress of such cases.
3. In addition to the above reports, the CVOs also send quarterly progress reports to the Chief Technical Examiner's Unit of the Central Vigilance Commission giving details about the major purchases/ procurement / works undertaken or being undertaken by the organization. From these reports the CTE selects some of the activities, as a test-check, to be undertaken for intensive examination. As a measure of vigilance administration the Commission has also issued guidelines to the CVOs to conduct CTE type inspections in order to ensure that the works are awarded in a transparent manner and with fair competition among bidders, placed on equal footing.
4. Based on the data as given in the annual report submitted by the CVOs during 2011, punitive action was taken in a total of 21668 cases (for all category of officers) dealt with by the CVOs. Major penalty was awarded in 5344 cases and minor penalty was awarded in 13939 cases.
5. Since the completion of action on vigilance matters/complaints rests with the disciplinary authority, the Commission periodically reminds them about the cases where undue delay has taken place and has been asking them to finalize such cases promptly. Wherever necessary, the Commission calls the Heads of the organization alongwith the CVOs to ascertain the reasons for unwarranted delay in the completion of cases. The officers of the Commission also conduct periodic reviews with CVOs pertaining to delay in complaint investigation, implementation of the Commission's advice, etc. The Commission has been impressing upon organizations that timely completion of investigation/cases ensures that guilty officials are punished promptly whereas honest officials caught in a vigilance case are absolved without delay.

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## Earnest Money Deposit (EMD) through Credit Cards in Tenders



*A. R. Srinivasa, Advisor, CVC*

1. EMD or Earnest Money Deposit is an amount required to be submitted by the bidder along with his bid as bid security, in tenders floated by Government departments, irrespective of whether the tender is for supply of goods or procurement of services. Submission of EMD is still in the manual mode despite organisations adopting e-tendering / e-procurement.

2. Deficiencies in the present manual system of submission of EMD.

- EMD instruments lie in the custody of officials, who return the same, even without encashing a DD, thus causing undue loss to the organisation and undue favour to the vendor.
- Physical submission of EMD can lead to cartel formation – i.e. one vendor may get EMD prepared for all the vendors including himself.
- If the person handling the EMD is corrupt, he may demand gratification for releasing information about other vendors / competitors. He may take bribe for release / return of EMD.

3. Advantages of Credit Card Payment of EMD:

a. For the bidder:

- Saving on Bank charges and involvement of Bank is reduced as transaction is between tenderer and the organization.
- Locking in of the amount can be avoided.
- Since it is through credit card facility, the standard advantage of credit periods can be availed.
- Paperless transaction with adequate alerts.



b. For the organisation:

- Reduction in work in terms of handling, record keeping, monitoring, updating, release of EMD.
- No notice in case of forfeiture of EMD.
- Just before opening of tender, take a bank account statement, mark the EMD submitted, and open the bids. Thus it avoids verification of EMD at the time of tender opening.
- Avoids cartel formation, by putting a restriction of only one EMD from one card against one tender can be deposited.
- Simplification of procedure, greater transparency and reduction in corruption.

4. Precautions to be taken:

- The bidder shall ensure credit of Tender Processing Fee and EMD into the respective receiving bank accounts of e-Procurement on or before the last date of bid submission.
- EMD Payments through e-Payment mode shall be made as one single transaction and payments made in part would be liable for rejection.
- The tenderer shall mention / furnish a statement in a proforma enclosed, indicating the transaction details of payment of EMD through credit card with the last 4 digits of the credit card, name of the Bank, name of the card holder, his relationship with tenderer, transaction date, time and transaction id.

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## Revisiting the Vigilance Framework

*Arun Jha, CVO, BHEL*



1. In every business or profession, institution or social system, there are rules or agreed codes of conduct, based on the guiding principles of honesty, decency and trust. The objective of making these provisions the bedrock of governance is to ensure efficient performance, healthy growth and progress for the benefit of all. Despite changes in economic policies & macro economic management, corruption, as a problem in the polity,

has only increased manifold. We need to re-visit the structural mechanisms developed earlier and provide them a focused perspective. Some solutions in this regard are addressed below:



### a) Redesigning of Anti corruption Initiatives

Anti-corruption initiatives fail because of a mismatch between the expectations built into their design as compared to the ground reality in the context of their deployment.

There is a need to constantly revisit and redefine regulatory guidelines so as to make them current and dynamic in nature. The aim should be to find ways to minimise or close the gaps between 'the expected standard of compliance' and 'the practice'.



### b) Revamping of the Surveillance Mechanism

The rise in the number of vigilance cases can be attributed to the fact that the existing surveillance checks are not proving to be effective enough in stopping deviant practices. It is incumbent on the Vigilance set-up to make a root cause analysis, every year, and provide course corrections to enable better surveillance. This would help in minimizing the gaps in implementation. We need to redesign surveillance checks to raise a red flag, in case of deviant practices detected, so as to bring the process to the desired standard, thereby eliminating error and increasing efficiency of the process. In a Vigilance framework, this is called predictive vigilance.

2. The Commission has been espousing the need for leveraging technology for better vigilance administration. In addition, Vigilance Officers should bring about a professional outlook in their surveillance work, broadly based on the following parameters:

- periodically customize surveillance checks to meet the requirements of the day.
- offer logical grounding for ethical and policy judgments regarding particular tactics and practices.

### 3. Conclusion

An important facet of effective vigilance administration is to have a vigilance set-up which is completely independent. There is a need to look at the existing mechanisms, rectify defects and strengthen them. Proactive measures will also lead to a much healthier society based on a foundation of solid trust and confidence. We must encourage each sector to develop and put in place the most appropriate mechanisms for attaining the highest possible standards of ethical behaviour not only in theory, but also in practice.

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## Vigilance Management – a different perspective



*Bhanu Raman, CVO, Canara Bank*

1. We have all experienced meeting someone whose life seems to be completely different from ours. However, all life is in essence the same, gift wrapped in an infinite variety of containers, wrapping paper, ribbons and bows. Everybody experiences loss, grief, happiness, excitement, anger and fear. Everyone can have money issues of one kind or another, and everyone struggles with difficult choices. Our lives show up differently for each one of us because we each learn in different ways. One person may need to learn about work and love, through experience and one's own perspective. Even if it appears that some people have it easy while others are in a continual state of struggle, the truth is that we are all learning. It is very difficult to tell, when looking only at the exterior of a person, what's going on inside.
2. Cultivating relations with people from all walks of life shows us how much of life's challenges and joys are universal. We begin to look beyond the packaging of skin colour, clothing preferences, socioeconomic differences etc to the heart of the human experience. It is important to honour and value the differences in our packaging, but it is as important to honour the gift of life inside us as well.
3. In our vigilance set-up also, it is very important that we recognise this gift and act with humility and compassion. We can then reduce stress and conflict/achieve a sense of balance and joy, in spite of the nature of the job we do, especially punitive vigilance.

SOURCE : PARTLY FROM "DAILY OM" and partly from my own practices.



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❖ *“When I despair, I remember that all through history the ways of truth and love have always won. There have been tyrants, and murderers, and for a time they can seem invincible, but in the end they always fall. Think of it-always.”*

❖ *“Freedom is not worth having if it does not connote freedom to err. It passes my comprehension how human beings, be they ever so experienced and able, can delight in depriving other human beings of that precious right.”*

---- Mahatma Gandhi

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