



केन्द्रीय विद्यालय संगठन (सतर्कता विभाग)

18, संथागत क्षेत्र, शहीद जेत सिंह मार्ग

नई दिल्ली-110016-

☎ 011-26855532, 011-26858570 FAX: 26514179

Website: <http://kvsangathan.nic.in>

KENDRIYA VIDYALAYA SANGATHAN

(VIGILANCE SECTION)

18, INSTITUTIONAL AREA

SHAHEED JEET SINGH MARG

NEW DELHI - 110016

F.19061/ii-1/2012-KVS(Vig)

Dated 01/06/12

The Deputy Commissioner,
Kendriya Vidyalaya Sangathan,
ALL REGIONAL OFFICES/ZIET's.

Subject:- Transparency in works/purchase/consultancy contracts awarded on nomination basis - regarding.

Sir/Madam,

I am to refer to the subject cited above and to enclose herewith a letter No. F.3-32/2011-UT-2 dated 14-5-2012 received from the Ministry of HRD, Deptt. of School Education & Literacy, UT-2 Section alongwith two circulars No. A-34014/3/2011-Vigilance dated 28-4-2011 and 1-5-2012 in the matter of preventive vigilance in procurement of goods and services etc and transparency in works/purchase/consultancy contracts awarded on nomination basis respectively.

In the letter dated 1-5-2012, the Vigilance Wing of M/HRD has cited the Office Order No.23-7-07 issued by the CVC vide letter No.005/CRD/19 dated 5-7-2007 wherein it has been laid down that - "Tendering process or public auction is a basic requirement for the award of contract by a 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". By this letter, the CVC has advised all Autonomous Institutions/ Councils/Universities to sensitize to the rules of financial propriety as laid down in GFR and the CVC guidelines given in letters dated 5-7-2007, 28-4-2011 and 1-5-2012 (copies enclosed).

You are, therefore, requested to take necessary precaution in the matter for compliance of the directions therein in letter and spirit.

Yours faithfully,


(O.M.PRABHAKARAN)

ADDL.COMMISSIONER(ADMN) & CVO

ENCL: AS ABOVE

Copy to:-

1. All Sections of KVS(HQ)
2. The Statistical Officer, KVS(HQ) with directions to upload this letter & enclosures in the website of KVS under the head 'Circulars' of Administration.
3. Under Secretary, Ministry of HRD, Deptt. of School Education & Literacy, UT-2 Section for information.
4. P.S to Addl.Commissioner(Admn), KVS, New Delhi
5. Guard file.

F.No. 3-32/2011 - UT-2
Government of India
Ministry of Human Resource Development
Department of School Education & Literacy
UT-2 Section

New Delhi, dated 14.05.2012

To

The Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jit Singh Marg,
New Delhi - 110016

Subject:- Transparency in works/ purchase/ consultancy contracts awarded on nomination basis -regarding.

Sir,

I am directed to forward herewith a copy of the Note No. A-34014/3/2011-Vigilance dated 01st May, 2012 received from the Vigilance Wing, Department of Higher Education of this Ministry on the subject mentioned above for information and compliance.

Yours faithfully,


(Lakhmi Chand Mehra)

Under Secretary to the Govt. of India

Tel : 23386624

Encl:- As above.

No. A-34014/3/2011-Vigilance
Government of India
Ministry of Human Resource Development
Department of Higher Education
Vigilance Wing

Dated: 1 May 2012

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

Reference is invited to Vigilance Wing's Preventive Vigilance Circular of even number dated 28.4.2011 in the matter of procurement of goods and services etc. wherein Bureau Heads were advised to sensitize all Autonomous Institutions/Councils/Universities to the rules of financial propriety as laid down in GFR and various other Government and CVC instructions in the matter of such procurements. A copy of the same is enclosed for ready reference. Action taken in the matter may be advised to Vigilance urgently.

2. In this connection, attention is further invited to Central Vigilance Commission's Office Order No. 23/7/07 issued vide Commission's letter No. 005/CRD/19 dated 5.7.2007 on the aforesaid subject which lay down that tendering process or public auction is a basic requirement 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. To reinforce this point, the said Office Order refers to a Supreme Court judgement, the relevant extract of which is reproduced below:-

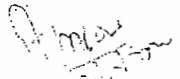
"The law is well-settled that contracts by the State, its corporations, instrumentalities and agencies must be normally granted through public auction/public tender by inviting tenders from eligible persons and the notifications of the public-auction or inviting tenders should be advertised in well known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

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Handwritten notes: VP-2, VP-3

Handwritten initials: KA, BT, AB, H, B, U, L

3. Bureau Heads are advised to sensitize all Autonomous Institutions/Councils/Universities under their charge to the rules of financial propriety as laid down in GFR and Central Vigilance Commission's guidelines including the one indicated above.


Amir Khare
Joint Secretary, G.O.

All Bureau Heads in the Ministry

All Directors/DS in the Ministry

Central Vigilance Commission (Ms. Lila Chandran, Deputy Secretary), Satarkta Bhavan, GPO Complex, INA, New Delhi

Chairman, University Grants Commission.

Chairman, All India Council for Technical Education.

Chairman, National Council for Teacher Education.

Copy for information to PSO to Secretary (HE)/ Secretary (School Education & Literacy)

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.

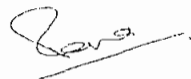
4. A relevant extract from the recent Supreme Court of India judgement in the case of Nagar Nigam, Meerut Vs A1 Faheem Meat Export Pvt. Ltd. [arising out of SLP(civil) No.10174 of 2006] is reproduced below to reinforce this point.

"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. A-34014/3/2011-Vigilance
 Government of India
 Ministry of Human Resource Development
 Department of Higher Education
 Vigilance Wing

Dated: the 28th April 2011

Subject: Preventive vigilance circular in the matter of procurement of goods and services etc.

Vigilance Wing receives, from time to time, complaints alleging irregularities in the purchases, fresh award of contracts, maintenance contracts, new projects, and procurement, Civil Works etc. involving not only non-official but even public sources. Such complaints are more pronounced in respect of various Autonomous Institutions and Councils under the administrative control of the Ministry. Vigilance investigation in such complaints often reveals violation of procedures and laid down guidelines. In one of the cases, it was found that a separate account in the name and style of Management Activity Network was created to procure laptops and the money was found to have been drawn from the said account in violation of established norms of financial propriety and the procurement were made in contravention of CVC guidelines.

While anxiety of the authorities to procure or avail goods and services of better quality can be understood, care needs to be taken to ensure that rules of financial propriety as laid down in GFR are adhered to both in letter and spirit. Where an Institute has framed its own financial rules, it needs to be ensured that such rules are compatible and are in consonance with the General Financial Rules of the Government.

As a measure of preventive Vigilance, all Bureau Heads are advised to be careful while dealing with or taking decisions in the aforesaid matters to ensure that the extent guidelines and instructions of Central Vigilance Commission are scrupulously followed both in letter and spirit.

It is further advised that Autonomous Institutions/Councils/Universities may be sensitized that the rules of financial propriety as laid down in GFR and various other Government instructions may be scrupulously adhered to.

(Amit Khare)
 JS & CVO/28.4.2011

All Bureau Heads in the Ministry

All Directors/DS in the Ministry

Central Vigilance Commission (Lila Chandran, Deputy Secretary, Saranika Bhawan, CPJ Complex, INA, New Delhi)

Chairman, University Grants Commission

Chairman, All India Council for Technical Education

Chairman, National Council for Teacher Education

Copy for information to PSO to Secretary, HE; Secretary, School Education & Literacy

(Amit Khare)
 Joint Secretary & CVO