

ALL INDIA COUNCIL FOR TECHNICAL EDUCATION
(A Statutory Body of the Govt. of India)
Vasant Kunj, Nelson Mandela Marg, New Delhi-110070

F.No.2(52)/Admin-III-2009-10

Dated: 12.07.2021


OFFICE MEMORANDUM

Sub:- Transparency in works/purchase/consultancy contracts awarded nomination basis.

The undersigned is directed to forward herewith a copy of Office Memorandum 13(1) 2020-MGMT dated 13.04.2021 of Ministry of Heavy Industries & Public Enterprises, OM No. C.30011/4/2019-Vig dated 01.07.2021 and a Circular No.4/4/2021 dated 06.04.2021 of Central Vigilance Commission regarding Transparency in works/purchase/consultancy contracts award on nomination basis.

All Bureau Heads/Cell Heads and Regional Officer are requested to take note of directions mentioned in the above OM as well as provisions of CVC Circular dated 06th April, 2021 and to ensure strict compliance with the same.

This is issued with the approval of Competent Authority


12/07/2021
(Gujju Manusree)
Director (Admin)

Encl:- As above

All Bureau Heads/Cell Heads and Regional Officer

Copy to: -

1. PS to Hon'ble Chairman, VCM and MS for kind information please.
2. e-Governance Cell is requested to upload the Circular on AICTE mailer.
3. Guard file.

889663(52)/2021/Vigilance Section



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

(Signature)
 13/4/21
 (Kailash Bhandari)
 Deputy Director
 Tel : 2436-6247

Department of Higher Education,
 (Shri Amit Khare, Secretary),
 Shastri Bhavan,
 New Delhi-110001

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Please put

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(Signature)
15/4/21

Mr. Kohli (ASO)

No.C.30011/4/2019-Vig.
Government of India
Ministry of Education
Department of Higher Education
Vigilance Section

Room No. 106-C, Shastri Bhavan
New Delhi, dated the 1st July, 2021

OFFICE MEMORANDUM

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

The undersigned is directed to forward herewith a copy of Ministry of Heavy Industries and Public Enterprises No. 13 (1)/2020/MGMT dated 13th April, 2021 on the above said subject wherein it has been stated that in order to ensure transparency, to promote healthy competition and to provide fair and equitable treatment to all interested parties in matters of public procurement, 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 organisations and the contracts being awarded on nomination basis are neither reported to the management, nor are being subjected to scrutiny by audit committee.

2. In view of above, CVC vide their circular dated 6th April, 2021 (copy enclosed) has reiterated its earlier guidelines on this subject for compliance by all concerned organisations. 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 organisations is not adequate justification for such action. Further, in 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. It is therefore, requested to direct CPSE/Autonomous Institutions/Subordinate office under the Bureau to take note of above directions as well as provisions of CVC circulars dated 6th April, 2021 and to ensure strict compliance with the same.

Encl : As above



(Sanjay Kumar)
Under Secretary (Vigilance)
Tel. No. 23386317

To

All Bureau Heads of Department of Higher Education and Department of School Education and Literacy

2021/Vigilance Section

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सत्यमेव जयते

 केन्द्रीय सतर्कता आयोग
 CENTRAL VIGILANCE COMMISSION

 सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,
 ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110001

 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:

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|-------|---------------------------------------|------------------|
| (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.

BT-1

 S/KC
 CVO

889663(52)/2021/Vigilance Section

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