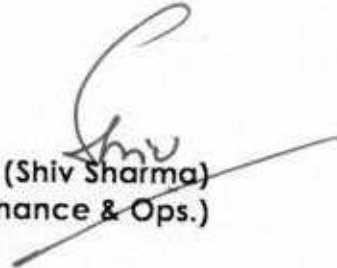


No. SAI/OPS./CIRCULAR/2021-22

January 31, 2022

CIRCULAR

Enclosed herewith please find a circular No. 05/01/22 dated 25.01.2022 from the Central Vigilance Commission regarding Adoption and Implementation of Integrity Pact-Revised Standard Operating Procedure with a request to ensure its implementation with immediate effect.


(Shiv Sharma)
Executive Director(Finance & Ops.)

Encls: **As Above.**

To,

All Heads of Institution/SAI Regional Centres

VIGILANCE CELL, SAI
संख्या / No. 172
दिनांक / Dt 28-1-2022



केन्द्रीय सतर्कता आयोग
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023
Satarkta Bhawan, G.P.O. Complex,
Block A, INA, New Delhi-10023

सं./No..... 015/VGL/091

दिनांक / Dated..... 25.01.2022

30/1/22
D. K. Singh

Circular No. 05/01/22

22/1/22

Subject:- Adoption and implementation of Integrity Pact-Revised Standard Operating Procedure:- regarding.

The Commission has reviewed the Standard Operating Procedure (SOP) for adoption of Integrity Pact (IP) by all Government Organizations, Public Sector Enterprises, Public Sector Banks, Insurance Companies, other Financial Institutions and Autonomous bodies etc. A copy of the revised SOP is enclosed, which would be applicable for adoption and implementation of the IP by the organizations concerned.

OSCM

2. The present SOP would replace the earlier SOP issued vide Circular No. 06/05/21 dated 03.06.2021.

(Rajiv Varma)
Director

Encl.: As above.

To

- (i) All Secretaries of Ministries/Departments. (The revised SOP may also be shared with the existing IEMs in the organizations concerned)
- (ii) All CMDs/Head of CPSUs/Public Sector Banks/Organizations. (The revised SOP may also be shared with the existing IEMs in the organizations concerned)
- (iii) All CVOs of Ministries/Departments/CPSUs/Public Sector Banks/Organizations. (The revised SOP may be brought to the notice of the Chief Executive of the organization concerned)
- (iv) All Independent External Monitors.

2022

STANDARD OPERATING PROCEDURE FOR ADOPTION OF INTEGRITY PACT

1.0 BACKGROUND

- 1.1 In order to ensure transparency, equity and competitiveness in public procurement, the Commission recommends adoption and implementation of the concept of Integrity Pact (IP) by Government organizations, Public Sector Enterprises, Public Sector Banks, Insurance Companies, other Financial Institutions and Autonomous Bodies etc.
- 1.2 Vide Circular No. 06/05/21 dated 03.06.2021, the Commission issued a Comprehensive Standard Operating Procedure (SOP) for adoption and implementation of Integrity Pact.
- 1.3 Deptt. of Expenditure vide OM dt. 19.7.2011, issued guidelines to all Ministries / Departments / Organizations including their attached/subordinate offices and autonomous bodies for implementation of IP. Also, vide OM dated 20.7.2011 Deptt. of Expenditure requested Department of Public Enterprises for directions to Central Public Sector Enterprises for use of IP.
- 1.4 Further, in view of the increasing procurement activities of Public Sector Banks (PSBs), Insurance Companies (ICs) and Financial Institutions (FIs), the Commission vide Circular No. 02/02/2015 dated 25.02.2015 advised that all PSBs, PSICs and FIs shall also adopt and implement the Integrity Pact.

2.0 INTEGRITY PACT

2.1 The Pact essentially envisages an agreement between the prospective vendors/bidders and the buyer, committing the persons/officials of both sides, not to resort to any corrupt practices in any aspect/stage of the contract. Only those vendors/bidders, who commit themselves to such a Pact with the buyer, would be considered competent to participate in the bidding process. In other words, entering into this Pact would be a preliminary qualification. The essential ingredients of the Pact include:

- Promise on the part of the principal not to seek or accept any benefit, which is not legally available;
- Principal to treat all bidders with equity and reason;
- Promise on the part of bidders not to offer any benefit to the employees of the Principal not available legally;
- Bidders not to enter into any undisclosed agreement or understanding with other bidders with respect to prices, specifications, certifications, subsidiary contracts, etc.
- Bidders not to pass any information provided by Principal as part of business relationship to others and not to commit any offence under PC/IPC Act;
- Foreign bidders to disclose the name and address of agents and representatives in India and Indian Bidders to disclose their foreign principals or associates;
- Bidders to disclose the payments to be made by them to agents / brokers or any other intermediary;
- Bidders to disclose any transgressions with any other company that may impinge on the anti corruption principle.

Any violation of Integrity Pact would entail disqualification of the bidders and exclusion from future business dealings, as per the existing provisions of GFR, 2017, PC Act, 1988 and other Financial Rules/Guidelines etc. as may be applicable to the organization concerned.

- 2.2 Integrity Pact, in respect of a particular contract, shall be operative from the date IP is signed by both the parties till the completion of contract. After award of work, the IEMs shall look into any issue relating to execution of contract, if specifically raised before them. As an illustrative example, if a contractor who has been awarded the contract, during the execution of contract, raises issue of delayed payment etc. before the IEMs, the same shall be examined by the panel of IEMs.

However, the IEMs may suggest systemic improvements to the management of the organization concerned, if considered necessary, to bring about transparency, equity and fairness in the system of procurement.

3.0 IMPLEMENTATION PROCEDURE

- 3.1 As stated in Department of Expenditure's O.M. dated 20.7.2011, Ministries/Departments may, in consultation with the respective Financial Adviser and with the approval of the Minister-in-charge, decide on and lay down the nature of procurements/contracts and the threshold value above which the Integrity Pact would be used in respect of procurement transactions/contracts concluded by them or their attached/sub-ordinate offices.

In case, any individual organization desires to lower the threshold value, they may do so with the approval of the competent authority of the organization.

Procurements/contracts would cover procurement of works, goods and services by the organization concerned.

- 3.2 The above provision is also applied for procurements/contracts made by autonomous bodies for which the Administrative Ministry/Department concerned should decide the type of procurement activities and the threshold value above which the Integrity Pact would be applicable.

The procurements/contracts would cover both purchases and works/services contracts being entered into by the organization concerned.

- 3.3 The provision for the Integrity Pact is to be included in all Requests for Proposal/Tender documents issued in future in respect of the procurements/contracts that meet the criteria decided in terms of para 3.1 and 3.2 above.
- 3.4 In all tenders covered under the Integrity Pact, particulars of all IEMs, including their email IDs, should be mentioned, instead of mentioning details of a single IEM.
- 3.5 The Purchase / procurement wing of the organization would be the focal point for the implementation of IP.
- 3.6 It has to be ensured, through an appropriate provision in the contract, that IP is deemed as part of the contract so that the parties concerned are bound by its provisions.
- 3.7 IP would be implemented through a panel of Independent External Monitors (IEMs), appointed by the organization. The IEM would review independently and objectively, whether and to what extent parties have complied with their obligations under the Pact.
- 3.8 A clause should be included in the IP that a person signing IP shall not approach the Courts while representing the matters to IEMs and he / she will await their decision in the matter.
- 3.9 In case of a joint venture, all the partners of the joint venture should sign the Integrity Pact. In case of sub-contracting, the Principal contractor shall take the responsibility of the adoption of IP by the sub-contractor. It is to be ensured that all sub-contractors also sign the IP.
- 3.10 A summary of procurement/contract awarded, which are covered under the IP shall be compulsorily shared with the IEMs on quarterly basis, during the meeting. Based on the specific requirement of the organisations and the no. of tenders floated, the meetings may be held on monthly or bi-monthly basis, instead of quarterly periodicity.

3.11 The final responsibility for implementation of IP vests with the CMD/CEO of the organization.

4.0 ROLE AND DUTIES OF IEMs

- 4.1 The IEMs would be provided access to all documents/records pertaining to the contract for which a complaint or issue is raised before them, as and when warranted. However, the documents/records/information having National Security implications and those documents which have been classified as Secret/Top Secret are not to be disclosed.
- 4.2 It would be desirable to have structured meetings of the IEMs with the Chief Executive of the Organisation on a half yearly basis to discuss / review the information on tenders awarded during the preceding six months' period. Additional sittings, however, can be held as per requirement.
- 4.3 The IEMs would examine all complaints received by them and give their recommendations/views to the Chief Executive of the organization, at the earliest. They may also send their report directly to the CVO in case of suspicion of serious irregularities requiring legal/administrative action. Only in case of very serious issue having a specific, verifiable Vigilance angle, the matter should be reported directly to the Commission. IEMs are expected to tender their advice on the complaints, within 30 days.
- 4.4 For ensuring the desired transparency and objectivity in dealing with the complaints arising out of any tendering process or during execution of contract, the matter should be examined by the full panel of IEMs jointly, who would look into the records, conduct an investigation, and submit their joint recommendations to the Management.
- 4.5 IEM should examine the process integrity, they are not expected to concern themselves with fixing of responsibility of officers. Complaints alleging malafide on the part of any officer of the organization should be looked into by the CVO of the concerned Organization.

- 4.6 The advisory role of IEMs is envisaged as that of a friend, philosopher and guide. The advice of IEM would not be legally binding and it is restricted to resolving issues raised by a bidder regarding any aspect of the tender which allegedly restricts competition or bias towards some bidders. At the same time, it must be understood that IEMs are not consultants to the Management. Their role is independent in nature and the advice once tendered would not be subject to review at the request of the organization.
- 4.7 Issues like warranty/guarantee etc. should be outside the purview of IEMs.
- 4.8 All IEMs should sign non-disclosure agreements with the organization in which they are appointed. They would also be required to sign a declaration of absence of conflict of interest.
- 4.9 A person acting as an IEM shall not be debarred from taking up other assignments such as consultancy with other organizations or agencies subject to his declaring that his / her additional assignment does not involve any conflict of interest with existing assignment. In case of any conflict of interest arising at a later date from an entity wherein he is or has been a consultant, the IEM should inform the CEO and recuse himself/herself from that case.
- 4.10 All organizations may provide secretarial assistance to IEMs for rendering his/her job as IEM.
- 4.11 In case of any misconduct by an IEM, the CMD/CEO should bring it to the notice of the Commission detailing the specific misconduct for appropriate action at the Commission's end.
- 4.12 The role of the CVO of the organization shall remain unaffected by the presence of IEMs. A matter being examined by the IEMs can be separately investigated by the CVO in terms of the provisions of the CVC Act or Vigilance Manual, if a complaint is received by him/her or directed to him/her by the Commission.

4.13 All the deliberations during the IEMs' meetings should be minuted and in the next meeting, the IEMs should confirm the recorded minutes of the previous meeting.

5.0 APPOINTMENT OF IEMs

5.1 The IEMs appointed should be eminent personalities of high integrity and reputation. A periodical notice inviting applications from eligible persons will be published on the Commission's website. After due scrutiny and verification of the applications and accompanying documents, as may be deemed appropriate by the Commission, the name(s) would be included in the panel for consideration for nomination as IEM.

All applications received after due date of notice issued by the Commission, shall be considered alongwith applications received in response to the subsequent notice.

5.2 The zone of consideration of eminent persons for empanelment as IEMs would consists of:-

- (i) Officer who have held the post of Additional Secretary to Govt. of India or were in equivalent or higher pay scale, at the time of retirement (whether serving with Govt. of India or any State Govt.).
- (ii) Persons who have held the post of CMD of Schedule 'A' Public Sector Enterprise and were equivalent to Additional Secretary to Govt. of India, at the time of retirement.
- (iii) Persons who have held the post of CMD/MD and CEO of Public Sector Banks, Insurance Companies and other Financial Institutions, at the time of retirement.
- (iv) Chief Executive Officer of an organisation (other than listed above and were equivalent or higher to Additional Secretary to Govt. of India, at the time of retirement).
- (v) Officers of Armed Forces, who were in the pay scale of equivalent or higher to Additional Secretaries to Govt. of India, at the time of retirement.

5.3 The Commission would not include a retired person in the panel being maintained by it for consideration for nomination as IEM, if that retired person had accepted a full time assignment, post retirement, either in government sector or private sector or elsewhere. All those empanelled persons have accepted full time employment elsewhere, would cease to remain on the panel, from the date on which they have accepted the said assignment.

5.4 The Commission would nominate IEMs for an organization, from the panel of IEMs maintained by it. The proposal for nomination of IEMs in the respective organizations should be sent by the concerned department responsible for ensuring implementation of Integrity Pact in the organization, after taking approval of the competent authority. The proposal for nomination of IEMs should preferably be sent 3 months prior to the completion of tenure of the existing IEMs, failing which the Commission would nominate IEM(s) on its own from the panel, maintained by it.

5.5 The Commission would not consider the name of a retired officer/executive for nomination as IEM in a particular organisation, in case that person has retired from the same organization or has conflict of interest in any form.

However, in case the person being appointed as IEM in a particular organization has a conflict of interest, which may have gone unnoticed, despite best efforts, he/she should inform the Appointing Authority about the same at the time of offer of appointment being given to him/her and should not accept the offer for appointment as IEM in that particular organization.

5.6 Three IEMs shall be nominated for appointment in Maharatna and Navratna PSUs and two IEMs shall be nominated in all other organizations.

5.7 A person may be appointed as an IEM in a maximum of three organizations at a time.

- 5.8 An empanelled person cannot be appointed in one organization for a period of more than three years.
- 5.9 Age should not be more than 70 years at the time of appointment.
- 5.10 In any organization, the IEMs shall be paid per sitting a fees of Rs. 25,000/- or fees as payable to Independent Board Members, whichever is less. However, in case, in any organization, the fee payable to Independent Board Members is less than Rs. 25,000/-, the organization concerned may, after due deliberation increase the fees payable to IEM, subject to the ceiling of Rs. 25,000/- per sitting.

However, the maximum amount payable to IEMs in a calendar year shall not exceed Rs. 3,00,000/- with respect to sitting fees.

Expenses on travel and stay arrangement of IEMs shall be equal to that of Independent Board Member of that organization.

- 5.11 The terms and conditions of appointment, including the remuneration payable to the IEMs, should not be included in the Integrity Pact or the NIT. This may be communicated individually to the IEMs concerned.
- 5.12 At the time of appointment of an IEM, a copy of SOP should be made available to the person being appointed by the organizations concerned. A copy of Commission's guidelines on "Illustrative check points for various stages of public procurement", available on Commission's website, i.e., www.cvc.gov.in, under CTE's corner may also be provided to the IEMs at the time of their appointment, for guidance purpose.
- 5.13 In the event of any dispute between the management and the contractor relating to those contracts where Integrity Pact is applicable, in case, both the parties are agreeable, they may try to settle dispute through mediation before the panel of IEMs in a time bound manner. If required, the organizations may adopt any mediation rules for this purpose.

In case, the dispute remains unresolved even after mediation by the panel of IEMs, the organization may take further action as per the terms & conditions of the contract.

The fees for such meetings shall be same as fee payable to IEMs otherwise and in addition to the fees for the regular meeting of IEMs, to be held otherwise and over and above the ceiling of Rs. 3,00,000/- annually, to be calculated as per calendar year. The travel and stay arrangement for such meetings shall be equal to that of Independent Board Member of the organization concerned. However, not more than five meetings shall be held for a particular dispute resolution. The fees/expenses on dispute resolution shall be equally shared by both the parties.

- 5.14 The names of all the IEMs of the organization should be available on the website of the organization concerned.

6.0 REVIEW SYSTEM

- 6.1 All organizations implementing IP would undertake a periodical review and assessment of implementation of IP and submit progress reports to the Commission. CVOs of all organizations would keep the Commission posted with the implementation status through their annual reports and special reports, wherever necessary.
- 6.2 All organizations are called upon to make sincere and sustained efforts to imbibe the spirit and principles of the Integrity Pact and carry it to its effective implementation.