

# VIGEYE VANI

## Monthly Newsletter of Central Vigilance Commission SEPTEMBER 2012

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1. Shri Pradeep Kumar, Central Vigilance Commissioner, in his key-note address at the national workshop on “Integrity in Procurement and Whistleblower Protection in India” organized by Transparency International, India in August 2012 held that procurement of goods and services was a very important government activity in a developing economy. In India public procurement constituted 28% of the GDP. Integrity in public procurement therefore had to be a priority in any anti-corruption strategy.

2. The risk of corruption in public procurement was dependent on various factors like the cost of the procurement, complexity of the technology involved, the urgency to acquire the goods or immediacy of the project and the extent of discretion enjoyed by the procurement officials. A sound procurement system should be able to address these risk factors.

Public procurement system consists of three important components;- (1) a broad framework of laws and regulations at the federal and the state levels, (2) organizational structure and the process governing procurement in each organization and (3) the human resource involved in public procurement. A good Public Procurement Manual is one which explains the underlying principles and guides the procurement managers instead of merely prescribing controls.

3. The Commission in 2010 had recommended to the Government, the formulation of a comprehensive standard to guide public procurement. A Draft Public Procurement Bill is being legislated by the Government with detailed regulations in this regard.

4. In India public procurement has never been recognized as a specialized activity requiring specialized knowledge and skill. There is a need to have qualified staff handling procurement and to provide adequate professional training to convert procurement officials into professional procurement managers.

5. Encouraging whistleblowing has been recognized as another effective weapon in the anti-corruption armoury. It is a formal mechanism evolved with the realization that reporting of malpractice at the workplace by employees was more effective than through inspection.

According to CVC, providing for whistleblowing was an important corporate governance measure which was regulated by SEBI guidelines. The Government of India in 2004 passed the Whistleblower Resolution also called the Public Information Disclosure and Protection of Informer Resolution. Under this, the Commission is the designated authority to receive whistleblower complaints relating to corruption in the Central Government and its organizations.

6. The Commission had evolved a foolproof system to mask the identity of the complaint. According to CVC, even after this, if the whistleblower gets identified and faces physical threat, the Commission provides for police protection. Commission also intervenes to protect the complainant from harassment by the Management. Last year, the Commission had received about 900 such complaints out of which only 20% were found fit for investigation. Many of them led to successful investigation and punishment while at the same time protecting the whistleblower.



## From the Editor's Desk



1. As a part of its function, mandated by the CVC Act-2003, the Commission has been exercising superintendence over the vigilance administration of Central Government Organizations and Departments, by conducting yearly Zonal Review Meetings with the CVOs concerned. The issues thrown up in these meetings, time and again, relate to the following:-

i) there exists a knowledge gap in respect of matters relating to procurement, civil works, Financial Rules, Whistleblower Policy, reverse auction, facilities offered by Institutions, etc.

ii) lack of adequate vigilance machinery in terms of manpower and infrastructure to address the real time needs of vigilance in an Organization (like investigation of complaints, conducting of Inquiries, proper framing of charge-sheets etc).

iii) HRD issues relating to irregular appointments/recruitments, rotation of staff, posting to sensitive seats etc.

iv) lack of e-governance measures like e-banking, e-procurement, details of threshold value of tenders on website, computerising of file tracking system etc.

v) delay in sanction of prosecution, furnishing of investigation reports and implementation of the Commission's advice etc.

2. With regard to the above issues, the Commission has been consistently advising (i) conducting of workshops/interactive sessions in respect of matters where a knowledge gap exists, (ii) strengthening the vigilance set-up on priority (iii) fixing of accountability regarding irregular appointments/recruitments, scrupulously following the rotation policy (iv) introducing e-governance measures in a time-bound manner and (v) addressing pendencies on a war footing.

**Editor**

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



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

*Zonal Review Meeting of the Commission with the CVOs of the Petroleum Sector held on 07/09/2012 at Central Vigilance Commission, New Delhi*



## Second Biennial Meeting of the International Corruption Hunters Alliance (ICHA) in Washington DC

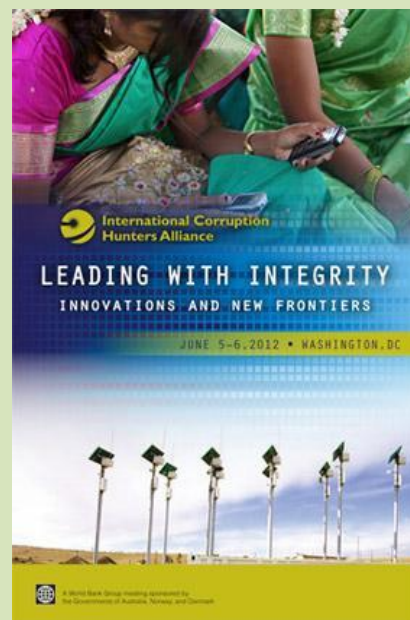
1. The International Corruption Hunters Alliance (ICHA), an initiative of the World Bank Integrity Division, is a grouping of prosecutors, investigators, heads of anti-corruption authorities, supreme audit institutions and international organisations involved in anti-corruption activities. The second ICHA conference held in Washington in June 2012, focussed on three themes, namely :-

- (i) international cooperation
- (ii) national enforcement; and
- (iii) innovative use of information technology in the fight against corruption



### 2. Presentation on VIGEYE

For the thematic session “Whistleblower Laws and Corruption Complaints Handling System”, Shri R.Sri Kumar, Vigilance Commissioner, Central Vigilance Commission made a detailed presentation along with live demonstration on the use of the VIGEYE Complaint Handling System and Global Project Management System (GPMS). He highlighted how a popular and easy to use device like the mobile phone can be used to report corruption along with the capture of voice and video clips and documents as evidence. Besides highlighting the technological innovation involved in VIGEYE, he also demonstrated how a complaint made in VIGEYE can be further linked with a data base of project information in the VIGEYE GPMS to facilitate quick action on the complaints being received. A filtering mechanism was required to distinguish between personal grievances arising out of administrative reasons and those arising due to corruption. The CVC had put in a careful scrutiny mechanism to filter out complaints touching upon privacy issues



3. The World Bank was appreciative of India's initiative and considered VIGEYE as a good technological innovation in the fight against corruption. The amount of attention received by VIGEYE was borne out by the fact that the cover page of the agenda booklet of the conference carried a photo of Indian women with mobiles, illustrating the use of VIGEYE. (photo on the right)

4. After the presentation, the World Bank officials expressed a desire to explore the possibility of applying VIGEYE in other contexts especially the development projects funded by World Bank. A business opportunity (including job creation) existed when Project VIGEYE was taken to the next phase both in India as well as in other parts of the world as an Indian offering to augment whistleblowing efforts through leveraging mobile technology. What was required was to carry it forward in an appropriate manner by addressing the technical and the administrative problems related to its implementation.

5. In this regard, the VIGEYE Complaint Management System could be suitably augmented and implemented at the earliest as VIGEYE 2.0. Also, a coordinated approach could be adopted for international corruption investigations by streamlining and further strengthening the process of mutual legal assistance and recovery of stolen assets. The various agencies involved in this process could be brought on one platform by the CVC both for coordinated action for stolen asset recovery as well as capacity building.





## 2<sup>nd</sup> Anniversary Celebration of Vigilance Study Circle, Mumbai

***M.B. Sagar, CVO, Shipping Corporation of India Ltd.***

1. Shri R. Sri Kumar, Vigilance Commissioner, CVC was the Chief Guest during the second anniversary celebration of VSC(M). Shri S. Hajara, Chairman & Managing Director, Shipping Corporation of India Ltd. was the Guest of Honour in the function. The function was attended by a large number of CMDs, CVOs and Nodal Officers of member organizations of the VSC (M) in addition to other invitees and guests including Directors, Executive Directors, Sr.Vice Presidents and Vice Presidents of SCI.



2. Vigilance Study Circle (VSC) was first established in Hyderabad on July 07, 2003 and was inaugurated by the Central Vigilance Commissioner. The mission of Vigilance Study Circle is to spread Vigilance awareness and develop the knowledge and skills of Vigilance professionals. Also it is an endeavour to strengthen the hands of Central Vigilance Commission (CVC) in combating ever increasing corruption in the country. Chapters of the VSC are already functioning in Bengaluru, Kolkata and Tamil Nadu.



3. Shri R. Sri Kumar, Vigilance Commissioner released a "SOUVENIR" of the Vigilance Study Circle Mumbai to mark the 2<sup>nd</sup> Anniversary celebrations of the VSC (M) Chapter.

4. Vigilance Excellence Awards were also given away by the Vigilance Commissioner as follows:

First Prize: Shri P.G. Joshi, CVO of LIC

Second Prize: Shri D.R. Harnagale, CVO of Bank of Maharashtra

Third Prize: There were 2 Third Prizes which were awarded to Shri Satish Kumar, AGM (Vigilance) of Mazagon Dock Ltd and Shri V. Shankar Bhat, VP (Vigilance) of The Shipping Corporation of India Ltd

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***Shri R. Sri Kumar, Vigilance Commissioner, CVC, at the Second Biennial Meeting of the ICHA, Washington D.C in June 2012.***



## Delay in the grant of sanction for prosecution

1. The Central Vigilance Commission has been emphasising the need for expeditious disposal of requests for sanction of prosecution received from CBI/other investigating agencies under the Prevention of Corruption Act, 1988. The Supreme Court had in the case of Vineet Narain & Ors. Vs. Union of India in its judgment dated 18.12.1997, issued directions to the effect that the time limit of three months for grant of sanction for prosecution must be strictly adhered to. However, additional time of one month may be allowed where consultation was required with the Attorney General (AG) or any other Law Officer in the AG's Office".

2. The Central Vigilance Commission under the CVC Act, 2003 has been empowered to review the progress of applications pending with the Competent Authorities for sanction of prosecution under the PC Act, 1988. Taking into account delays involved and the lack of appreciation on the part of the Competent Authorities as to what is to be done while processing such requests, the Commission had prescribed detailed guidelines vide its office order dated 12/05/05 based on various decisions of the Supreme court including the Vineet Narain case, to be followed strictly by the Competent Authorities in this regard.

3. The gist of the guidelines to be followed by the Authorities competent to grant sanction for prosecution (under section 19 of the PC Act) referred to in the above CVC order is as follows:-

a) Grant of sanction is an administrative act. The purpose is to protect the public servant from harassment by frivolous or vexatious prosecution and to not shield the corrupt. The question of giving opportunity to the public servant at that stage does not arise. The sanctioning authority has only to see whether the facts would prima-facie constitute the offence.

b) The competent authority cannot embark upon an inquiry to judge the truth of the allegations on the basis of representation which may be filed by the accused person before the Sanctioning Authority, by asking the I.O. to offer his comments or to further investigate the matter in the light of representation made by the accused person or by otherwise holding a parallel investigation/enquiry by calling for the record/report of his department.

c) When an offence alleged to have been committed under the PC Act has been investigated by the SPE, the report of the IO is invariably scrutinised by the DIG, IG and thereafter by DG (CBI). The matter is further scrutinised by the concerned Law Officers in CBI.

d) When the matter has been investigated by such a specialized agency and the report of the IO of such agency has been scrutinised so many times at such high levels, there will hardly be any case where the Government would find it difficult to disagree with the request for sanction.

e) The accused person has the liberty to file representations when the matter is pending investigation. When the representations so made have already been considered and the comments of the IO are already before the Competent Authority, there can be no need for any further comments of IO on any further representation.

f) A representation subsequent to the completion of investigation is not known to law, as the law is well established that the material to be considered by the Competent Authority is the material which was collected during investigation and was placed before the Competent Authority.

g) However, if in any case, the Sanctioning Authority after consideration of the entire material placed before it, entertains any doubt on any point the competent authority may specify the doubt with sufficient particulars and may request the Authority who has sought sanction to clear the doubt. But that would be only to clear the doubt in order that the authority may apply its mind proper and not for the purpose of considering the representations of the accused which may be filed while the matter is pending sanction.

h) If the Sanctioning Authority seeks the comments of the IO while the matter is pending before it for sanction, it will almost be impossible for the Sanctioning Authority to adhere to the time limit allowed by the Supreme Court.

4. As per details available on the CVC website, there are 21 cases (Involving 39 officials) pending for sanction of prosecution, over four months, as on 31/07/2012

# About Evidence

**K. Subramanian, Director, CVC**

1. Evidence is the information collected and used to support vigilance finding. The nature, quality and amount of evidence collected is therefore crucial to investigation. Evidence can be physical, oral, documentary and analytical.
2. The concept of reliability, relevance and reasonableness of evidence is elaborated below:

## a. Reliability:

Evidence is more reliable if it is corroborated with the help of different types of evidence obtained from other sources. Documentary evidence is more reliable than oral evidence. Evidence obtained through direct observation is more reliable than indirectly obtained evidence. The reliability of entity generated information is a function of reliability of internal control system within the entity. Oral evidence which is corroborated in writing is more reliable than oral evidence alone.

## b. Relevance

Evidence is relevant if it bears clear and logical relationship to the line of inquiry i.e the hypothesis which is aimed to be proved/disproved.

## c. Reasonableness

For the purpose of vigilance investigation the evidence need not be conclusive, but it has to be necessarily persuasive, i.e a reasonable person should be persuaded that the findings and conclusions are warranted.

3. Some factors that may affect the reasonableness, relevance and reliability of evidence are:-

- evidence is incomplete and does not establish a cause and effect relationship (reliability, sufficiency)
- evidence is conflicting (reliability)
- evidence is biased (reliability)



## 4.Types of Evidence:

a. Documentary evidence is the most common form of evidence. These could be both internal as well as external, though in most cases, external evidence is also available in the records of the entity.

b.Physical evidence is obtained by physical observation. Photographs, charts, maps, graphs or other pictorial representations, etc. are some examples. It is desirable to corroborate physical evidence, particularly if it is crucial to any findings. One of the desirable corroboration of physical evidence is the acceptance of such evidence by the concerned organisation.

c.Analytical evidence stems from analysis and verification of data, which can involve computations, analysis of rates, trends and patterns, comparisons against standards and benchmarks, etc. The analysis and comparisons can be both numerical and non-numerical. The source of data analysed to develop evidence should be indicated to facilitate acceptance by the entity.

d.Oral evidence is the statement in response to inquiries or interviews. The statements made can either provide a background or a lead for further examination that may not be available through documentary examination. Experts and consultations can be contacted to provide corroborative evidence.





## Annual Zonal Review Meeting of CVC with CVOs of Banking Sector-III at Kolkata

**Debashish Sarkar, CVO, Allahabad Bank**

**1.** The Annual Zonal Review Meeting of CVC with CVOs of Banking Sector III was held at Kolkata on 17<sup>th</sup> August 2012. Apart from the Commission, the CVOs of ten Public Sector Banks attended the review meeting.

**2.** The Commission reviewed the performance of all eastern and southern based Banks. While individual Banks were discussed separately, the Central Vigilance Commissioner expressed his satisfaction at the all-round improvement shown in the reduction of pendencies of vigilance cases. However, CVC made the point that new areas of fraud were emerging, particularly cyber related fraud, which was increasingly becoming a major challenge to the Banking system. Hence, the CVOs should gear-up their organization to meet the oncoming menace.

**3.** When specific fraud was discussed, CVO Allahabad Bank highlighted the lack of forex expertise in the Bank, which was a major contributor to the committing of fraud. CVO, Canara Bank, highlighted various systemic changes brought about to safeguard the system against fraud. CVO, Indian Overseas Bank presented his analysis of the basic lacunae which led to most of the NPAs in the Bank and the learning points thereof were also shared. Other CVOs raised Bank specific issues, which were discussed across the board for possible ways to meet the challenge.



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## Leveraging Technology



Shri R. Sri Kumar, Vigilance Commissioner, CVC delivered a lecture on the above subject at the Indian Institute of Science, Bangalore recently seeking support of IISc to fight Corruption by joining hands with the CVC through project Vigeye, a citizen-centric initiative which provided a user friendly platform for interaction between the Central Vigilance Commission and citizens. The project had been working well since its launch in December 2010. Now, it was possible to send SMSs only

through 100 mobile handsets. With the advent of Android technology and Blackberry there was a need to upgrade the system, besides linking them to mobile handsets to make the facility accessible to common people. Research should be conducted and technology should improve the audio and video quality, besides enabling fast and accurate processing of complaints since transparency and technology were essential in bringing about greater accountability in governance. According to the Vigilance Commissioner, if there were one lakh Vigeye volunteers in six lakh villages acting as the eyes of the CVC, then it would result in a strong movement against Corruption.

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# **Zonal Review Meeting of the Commission with the CVOs of Ministries and Departments held on 10/09/2012 in the Central Vigilance Commission, New Delhi**



❖ *In a gentle way, you can shake the world.*

❖ *The best way to find yourself is to lose yourself in the service of others*

❖ *Live as if you were to die tomorrow. Learn as if you were to live forever.*

-----*Mahatma Gandhi*



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