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**No. C-30019/6/2007-Vig**

***Dated, the 21 August, 2007***

**Sub: : Transparency in works/purchase/consulting contracts awarded on nomination basis.**

A copy of the Central Vigilance Commission's Circular No. 005/CRD/19/61516 dated 5th July, 2007 on the subject mentioned above is sent herewith for information and necessary action.

*(Enclosure to Ministry of Shipping, Road Transport & Highways, Department of Road Transport & Highways, letter No. C-30019/6/2007-Vig., dated 21st August 2007)*

**No. C-30019/6/2007**

***Dated, the 21st August, 2007***

**No. 005/CRD/19/61516  
Government of India  
Central Vigilance Commission**

**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. 15/5/08 (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 tendoring 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 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 Faheam 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 specifcations, 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 negotiation’.”

(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](http://www.supremecourtindia.nic.in))

5. The Commission advises all CVOs to formally apprise their respective Boards/managemnets 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 website ex-post-facto.