

# Module 3

## Vigilance Mechanism

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## Chapter 3

### Integrity Pact and Appointment of Independent External Monitor (IEM)

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Ensuring transparency, equity and competitiveness in public procurement has been an area of focus for the Central Vigilance Commission. Various steps have been taken by the Commission in this regard and one such step is issue of direction regarding adoption of Integrity Pact (IP) by Govt. Organizations engaged in major procurement activities.

Integrity Pact is an agreement between the prospective vendors/bidders and the buyer organization, who undertake not to indulge in any corrupt activity or to exert undue influence during the tendering/execution stage. The Commission advocated the use of IP by Govt. Organization, in their procurement activities Vide Office Order dated 04.12.2007. At that time Public Sector Banks (PSBs), Public Sector Insurance Companies (PSICs) and Financial Institutions (FIs) were exempted from IP.

Department of Expenditure vide OM No 14 (12)/2008 – E-II (A) dated 19.07.2011 issued guidelines to all Ministries/Departments/Organizations including their attached and subordinate offices and autonomous bodies for implementation of IP. Further Department of Public Enterprises vide their OM dated 09.09.2011, issued instructions to all Central Public Sector Enterprises (CPSEs) for implementation of IP. The Commission vide circular no. 02/02/201115 dated 25.02.2015 advised all PSBs, PSICs and FIs regarding adoption of IP.

The Commission issued a comprehensive Standard Operating Procedure (SOP) for adoption and implementation of Integrity Pact vide circular no. 02/1/2017 dated 13.01.2017. This SOP was further reviewed by the Commission vide circular no. 15/10/20 dated 20.10.2020, circular no. 015/VGL/091 dated 03.06.2021 and Circular No. 05/01/22 dated 25.01.22. The salient features of the latest SOP are given below:-

- ❖ Any violation of the IP would entail disqualification of the bidder and exclusion from future business dealings.
- ❖ IP to be operative from the stage of NIT till finalization of contract.
- ❖ The nature of procurements and threshold value may be decided in consultation with Financial Advisor (FA) and with the approval of Minister In-Charge.
- ❖ IP would be included in all Tender Documents above the threshold value and types of procurements as decided.
- ❖ Procurements/ contracts would cover procurement of works, goods and services by the organizations concerned.
- ❖ The IP to be made part of RFP/Tender Document in respect of procurements/ contracts. Further in all tenders covered under IP, particulars of all the IEMs should be mentioned.
- ❖ IP to be implemented through the procurement wing.
- ❖ In case of Joint Venture all the partners of the JV should sign the IP.
- ❖ IP would be implemented through a panel of Independent External Monitors (IEMs), appointed by the Central Vigilance Commission. The IEM would review independently and objectively whether and to what extent parties have complied with their obligation under the pact.

The Commission invites application from the retired officers of level of Addl. Secretary or equivalent pay, CMDs of Schedule 'A' PSUs, CMD/MD & CEO of PSBs, PSICs, PSFIs, CEOs of other organization and officers of Armed Forces in the pay scale of Addl. Secretary and above at the time of retirement and after due scrutiny and verification names are included in the panel of IEM. The Commission nominates the IEMs for an organization from this panel of IEM. Some of the salient features of the SOP in this regard are:

- ❖ Three IEMs shall be appointed in Maharatna and Navratna PSUs and two IEMs shall be appointed in other PSUs.
- ❖ A person can be appointed as an IEM in a maximum of three organizations at a time.
- ❖ A person cannot be appointed as IEM in one organization for more than 3 years.
- ❖ Age of IEM shall not be more than 70 years at the time of appointment.
- ❖ IEMs are paid sitting fees by the concerned organisations. However, the maximum amount paid to an IEM in a calendar year shall not exceed Rs. 3,00,000/- with respect to sitting fees. Expenses on travel and stay arrangement of IEMs for the sitting shall be equal to that of the Independent Board members of the organization.
- ❖ In case of dispute between the Management and contractor in respect of contracts covered under IP, the IEMs were allowed to settle dispute through mediation, if agreed to by both the parties. The IEM will be paid the same sitting fee for dispute resolution as for the normal sitting which is in addition to the ceiling of Rs. 3,00,000/- subject to a maximum of 5 sittings per case.
- ❖ A summary of all procurements / contracts awarded which are covered under IP shall be compulsorily shared with IEMs on quarterly basis. The IEMs must meet at least once in every quarter.
- ❖ IEM should examine the process integrity and should not be concerned with fixing of responsibility of officers.
- ❖ IEM should examine all complaints and give their recommendation /views to CEO of the organization. In matter of serious irregularity they may also send their report to CVO and only in cases of very serious issues having specific, verifiable vigilance angle, matter should be reported to the Commission by the IEM.

- ❖ The role of CVO to remain unaffected, after implementation of IP. Any matter being examined by IEMs can be simultaneously investigated by the CVO.
- ❖ The final responsibility for implementation of IP vests with the CMD / CEO of the organization.

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