

PAWAN HANS LIMITED

INTEGRITY PACT PROGRAM

I. INTRODUCTION

Pawan Hans Limited (PHL) is a Public Sector company engaged in Helicopter operations and maintenance in India. Pawan Hans conducts its business by benchmarking itself to the highest ethical standards, and adopting the best practices followed by the industry.

It does business with a number of domestic and international Bidders, Contractors and Vendors of goods and services (Counterparties). PHL is committed to fostering the most ethical and corruption free business environment. PHL values its relationships with all Counterparties and deals with them in a fair and transparent manner.

Pawan Hans prepared Integrity Pact Program and Integrity Pact, after CVC guidelines on the adoption of Integrity Pact concept, approval of Board of Directors in its 122nd Board Meeting held on 23-12-2009 and implemented the same in respect of all contracts of the value of Rs.1 crores and above.

Central Vigilance Commission issued revised Standard Operating Procedures vide circular NO. 02/01/2017 dated 13-01-2017 and revised Integrity Pact of SAIL for guidance vide letter no. 007/VGL/033/396514 dated 28-09-2018. Therefore, revised Integrity Pact Programme and Integrity Pact was implemented in PHL. Consequent upon issuance of "Adoption of Integrity Pact - Revised SOP – regarding vide Circular dated 03.06.2021 by CVC, the Integrity Pact Programme and Integrity Pact is being further revised and will be implemented.

As a part of this initiative, PHL, in consultation with CVC, will appoint Independent External Monitor (IEM) to help PHL in implementing the Integrity Pact Program.

A pre-signed Integrity Pact by the Principal will form part of the Tender document. The bidder(s) / contractor(s) would sign the Pact and submit it along with the financial and technical bids.

- II. The ingredients of the Company's Integrity Pact Program are broadly based on :-

- Commitments and Obligations of PHL and its employees.
- Commitments and Obligations of Counterparties
- Violation and Consequences
- Independent Monitor
- Implementation Guidelines
- Role of Independent Monitors

III. COMMITMENTS AND OBLIGATIONS OF PHL AND ITS EMPLOYEES

1. PHL is committed to have the most ethical and corruption free business dealings with its Counterparties.
2. In a competitive tender as well as in general procurement, PHL will deal with all Counterparties with equity, reason and fairness.
3. A pre-signed Integrity Pact by the PHL would form part of the Tender document. The bidder(s) / contractor(s) would sign the Pact and submit it along with the financial and technical bids.
4. The Integrity 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.
5. The Integrity Pact would be executed for all tender (contracts) of value of Rs. 1 crores and above.
6. Promise on the part of PHL as principal not to seek or accept any benefit, which is not legally available.
7. PHL and/or its Associates (employees, agents, consultants, advisors, etc.) will not seek or take bribes / undue benefit directly or indirectly for themselves or for third parties in connection with tender or execution of contract.
8. PHL will exclude all known persons who may be prejudiced in the process.
9. PHL will honour its commitments and make due payments to Counterparties in a timely manner.
10. PHL will initiate action and pursue it vigorously whenever cor-

ruption or unethical behaviour occurs

IV. COMMITMENTS AND OBLIGATION OF COUNTERPARTIES

1. The bidder(s)/ contractor(s) to commit themselves to take all measures necessary to prevent corruption.
2. Promise on the part of bidder(s)/ contractor(s) not to offer any benefit to the employees of PHL, involved in the tender process or execution of contract, or to any third person, which is not available to him/her legally to obtain in exchange any advantage of any kind.
3. The bidder(s)/ contractor(s) not to enter into any undisclosed agreement or understanding with other bidders with respect to prices, specifications, certifications, subsidiary contracts, etc.
4. The bidder(s)/ contractor(s) not to use improperly or pass any information provided by PHL as part of business relationship to others and not to commit any offence under Prevention of Corruption Act/IPC.
5. The foreign bidder(s)/ contractor(s) to disclose the name and address of agents and representatives in India, if any, and Indian bidders/ contractor(s) to disclose their foreign principals or associates, if any. Further, details as mentioned in 'Guidelines on Indian Agents of Foreign Suppliers' shall be disclosed by bidder(s)/ contractor(s).
6. The bidders/ contractor(s) to disclose the payments made, intend to make, to be made by them to agents / brokers or any other intermediary in connection with the Award of the Contract.
7. The bidder(s)/ contractor(s) who have signed the Integrity Pact shall not approach the Courts while representing the matter to IEM(s) and shall wait for their decision in the matter.
8. The bidder(s)/ contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.
9. The bidders/ contractor(s) to disclose any transgressions with any other company that may impinge on the anti corruption principle.

V. Implementation procedure

1. The provision for the Integrity Pact would be included by PHL in all Requests for Proposal/Tender documents issued in fu-

ture in respect of the tenders/contracts that meet the criteria decided by PHL.

2. Integrity Pact (IP) shall be operative from the date IP is signed by both the parties till the completion of contract for the contractor and for all other bidders 6 months after contract has been awarded. After award of work, the IEMs shall look into any issue relating to execution of contract, if specifically raised before them. Any violation of the Integrity Pact would entail disqualification of the bidders and exclusion from future business dealings by PHL.
3. Only those vendors/bidders, who commit themselves to Integrity Pact would be considered by PHL competent to participate in the bidding process. In other words, entering into this Pact would be a preliminary qualification.
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..
5. The Purchase / procurement wing of the PHL would be the focal point for the implementation of IP.
6. It would be ensured, through an appropriate provision in the contract to be executed by PHL, that IP is deemed as part of the contract so that the parties concerned are bound by its provisions.
7. The IP would be implemented through IEM(s), appointed by the PHL. The IEM(s) would review independently and objectively, whether and to what extent parties have complied with their obligations under the Pact.
8. A clause has been included in the IP that bidder(s)/ contractor() signing IP shall not approach the Courts while representing the matters to IEM(s) and he / she/ it will await their decision in the matter.
9. In case of sub-contracting, the Principal contractor shall take the responsibility of the adoption of IP by the sub-contractor.
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.

11. The PHL will provide to the IEM(s) sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the PHL and the Contractor. The parties offer to the IEM(s) the option to participate in such meetings.
12. The final responsibility for implementation of Integrity Pact / Program vests with the Chairman & Managing Director (CMD), PHL.

VI. Role and Duties of IEM

1. The IEM(s) 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.
2. It would be desirable to have structured meetings between the IEM(s) and CMD, PHL 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.
3. The IEM(s) would examine all complaints received by him and give his recommendations/ views to the CMD, PHL at the earliest. The IEM(s) may also send his report directly to the CVO, PHL, 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 directly reported to the Commission. IEM(s) are expected to tender his advice to PHL on the complaints within 30 days as far as possible.
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 would be examined by the IEM(s) as far as possible, who would look into the records, conduct an investigation, and submit their recommendations to the CMD, PHL.
5. IEM(s) would examine the process integrity, IEM(s) are not expected to concern himself/herself with fixing of responsibility of officers. Complaints alleging malafide on the part of any officer of PHL would be looked into by the CVO, PHL.
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.

7. Issues like warranty / guarantee etc. would be outside the purview of IEM(s).
8. IEM(s) would sign non-disclosure agreements with PHL. IEM(s) would also be required to sign a declaration of absence of conflict of interest
9. A person acting as an IEM(s) shall not be debarred from taking up other assignments such as consultancy with other organizations or agencies subject to his declaring that his / here additional assignment does not involve any conflict of interest with existing assignment in PHL. 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(s) would inform the CMD, PHL and recuse himself/herself from that case.
10. PHL would provide secretarial assistance to IEM(s) for rendering his/her job as IEM(s).
11. In case of any misconduct by IEM(s), the CMD, PHL would bring it to the notice of the CVC detailing the specific misconduct for appropriate action at the CVC's end.
12. The role of the CVO of PHL shall remain unaffected by the presence of IEM(s). A matter being examined by the IEM(s) 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 CVC.
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.

VII. Appointment of IEM(s)

1. The IEM(s) appointed would be eminent personalities of high integrity and reputation.
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.
- 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.
 4. The Commission would nominate IEMs for an organization, from the panel of IEMs maintained by it.
 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.
 - 6 A maximum of two IEMs may be appointed in PHL.
 - 7 A person may be appointed as an IEM in a maximum of three organizations at a time.
 - 8 An empanelled person cannot be appointed in one organization for a period of more than three years.
 - 9 Age of IEM should not be more than 70 years at the time of appointment.
 - 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 Inde-

pendent 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.

- 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.
- 12 At the time of appointment of an IEM, a copy of SOP shall be made available to the person being appointed by PHL 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 will also be provided to the IEMs at the time of their appointment, for guidance purpose.
- 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 PHL. 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.

- 14 The names of all the IEMs of PHL shall be available on its website.

VIII. VIOLATIONS & CONSEQUENCES

1. If the bidder(s)/ contractor(s), before award or during execution has committed a transgression of its commitments and obligations such as to put their reliability or credibility in question, PHL is entitled to disqualify the bidder(s)/ contractor(s) from the tender process or take action as per the procedure mentioned in the "Guidelines on Banning of business dealings".

2. In case of such disqualification of the bidder(s) from the tender process by PHL prior to the award, PHL is entitled to demand and recover the damages equivalent to Earnest Money Deposit/ Bid Security.
3. If PHL terminates the contract or is entitled to terminate the contract, PHL shall be entitled to demand and recover from the contractor liquidated damages of the contract value or the amount equivalent to Performance Bank Guarantee, whichever is higher.

IX. Review System

1. PHL while implementing IP would undertake a periodical review and assessment of implementation of IP and submit progress reports to the CVC. CVO of PHL would keep the CVC posted with the implementation status through his annual reports and special reports, wherever necessary.
2. PHL shall make sincere and sustained efforts to imbibe the spirit and principles of the Integrity Pact and carry it to its effective implementation.

INTEGRITY PACT

Between

Pawan Hans Limited (PHL) hereinafter referred to as "The Principal",
and

..... hereinafter referred to as "The Bidder/ Contractor"

Preamble

The Principal intends to award, under laid down organizational procedures, contract/s for The Principal values full compliance with all relevant laws laws of the land, rules, regulations, economic use of resources and of fairness / transparency in its relations with its Bidder(s) and / or Contractor(s).

In order to achieve these goals, the Principal will appoint Independent External Monitors (IEMs) who will monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

Section 1 - Commitments of the Principal

- (1) The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:-
 - a. No employee of the Principal, personally or through family members, will in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.
 - b. The Principal will, during the tender process treat all Bidder(s) with equity and reason. The Principal will in particular, before and during the tender process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential / additional information through which the Bidder(s) could obtain an advantage in relation to the tender process or the contract execution.
 - c. The Principal will exclude from the process all known prejudiced persons.
- (2) If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the IPC/PC Act, or if there be a substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer and in addition can initiate disciplinary actions.

Section 2 - Commitments of the Bidder(s)/ Contractor(s)

- (1) The Bidder(s)/ Contractor(s) commit themselves to take all measures necessary to prevent corruption. The Bidder(s)/ Contractor(s) commit themselves to observe the following principles during participation in the tender process and during the contract execution.
 - a. The Bidder(s)/ Contractor(s) will not, directly or through any other person or firm, offer, promise or give to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person any material or other benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.
 - b. The Bidder(s)/ Contractor(s) will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.
 - c. The Bidder(s)/ Contractor(s) will not commit any offence under the relevant IPC/PC Act; further the Bidder(s)/ Contractor(s) will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
 - d. The Bidder(s)/Contractors(s) of foreign origin shall disclose the name and address of the Agents/representatives in India, if any. Similarly, the Bidder(s)/ Contractors(s) of Indian Nationality shall furnish the name and address of the foreign principals, if any. Further details as mentioned in the "Guidelines on Indian Agents of Foreign Suppliers" shall be disclosed by the Bidder(s)/Contractor(s). Further, as mentioned in the Guidelines all the payments made to the Indian agent/representative have to be in Indian Rupees only. Copy of the "Guidelines on Indian Agents of Foreign Suppliers" is placed at (page nos.7-8)
 - e. The Bidder(s)/ Contractor(s) will, when presenting their bid, disclose any and all payments made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.

- f. Bidder(s) /Contractor(s) who have signed the Integrity Pact shall not approach the Courts while representing the matter to IEMs and shall wait for their decision in the matter.
- (2) The Bidder(s)/ Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

Section 3 - Disqualification from tender process and exclusion from future contracts

If the Bidder(s)/Contractor(s), before award or during execution has committed a transgression through a violation of Section 2, above or in any other form such as to put their reliability or credibility in question, the Principal is entitled to disqualify the Bidder(s)/Contractor(s) from the tender process or take action as per the procedure mentioned in the "Guidelines on Banning of business dealings". Copy of the "Guidelines on Banning of business dealings" is placed at (page nos. 9-17).

Section 4 - Compensation for Damages

- (1) If the Principal has disqualified the Bidder(s) from the tender process prior to the award according to Section 3, the Principal is entitled to demand and recover the damages equivalent to Earnest Money Deposit/ Bid Security.
- (2) If the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contract according to Section 3, the Principal shall be entitled to demand and recover from the Contractor liquidated damages of the Contract value or the amount equivalent to Performance Bank Guarantee.

Section 5 - Previous transgression

- (1) The Bidder declares that no previous transgressions occurred in the last three years with any other Company in any country conforming to the anti-corruption approach or with any Public Sector Enterprise in India that could justify his exclusion from the tender process.
- (2) If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or action can be taken as per the procedure mentioned in "Guidelines on Banning of business dealings".

Section 6 - Equal treatment of all Bidders / Contractors / Subcontractors

- (1) In case of Sub-contracting, the Principal Contractor shall take the responsibility of the adoption of Integrity Pact by the Sub-contractor.

- (2) The Principal will enter into agreements with identical conditions as this one with all Bidders and Contractors.
- (3) The Principal will disqualify from the tender process all bidders who do not sign this Pact or violate its provisions.

Section 7 - Criminal charges against violating Bidder(s) / Contractor(s) / Subcontractor(s)

If the Principal obtains knowledge of conduct of a Bidder, Contractor or Subcontractor, or of an employee or a representative or an associate of a Bidder, Contractor or Subcontractor which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal will inform the same to the Chief Vigilance Officer.

Section 8 - Independent External Monitor (IEM)

- (1) The Principal appoints competent and credible Independent External Monitor for this Pact after approval by Central Vigilance Commission. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.
- (2) The Monitor is not subject to instructions by the representatives of the parties and performs his/her functions neutrally and independently. The Monitor would have access to all Contract documents, whenever required. It will be obligatory for him / her to treat the information and documents of the Bidders/Contractors as confidential. He/ she reports to the Chairman & Managing Director, PHL.
- (3) The Bidder(s)/Contractor(s) accepts that the Monitor has the right to access without restriction to all Project documentation of the Principal including that provided by the Contractor. The Contractor will also grant the Monitor, upon his/her request and demonstration of a valid interest, unrestricted and unconditional access to their project documentation. The same is applicable to Sub-contractors.
- (4) The Monitor is under contractual obligation to treat the information and documents of the Bidder(s)/ Contractor(s)/ Sub-contractor(s) with confidentiality. The Monitor has also signed declarations on 'Non-Disclosure of Confidential Information' and of 'Absence of Conflict of Interest'. In case of any conflict of interest arising at a later date, the IEM shall inform Chairman & Managing Director, PHL and recuse himself / herself from that case.
- (5) The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an

impact on the contractual relations between the Principal and the Contractor. The parties offer to the Monitor the option to participate in such meetings.

- (6) The word 'Monitor' would include both singular and plural.

Section 9 - Pact Duration

This Pact begins when both parties have legally signed it. It expires on completion of the contract for the Contractor and for all other Bidders 6 months after the contract has been awarded. Any violation of the same would entail disqualification of the bidders and exclusion from future business dealings.

If any claim is made / lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified above, unless it is discharged / determined by Chairman & Managing Director of PHL.

Section 10 - Other provisions

- (1) This agreement is subject to Indian Law. Place of performance and jurisdiction is the Registered Office of the Principal, i.e. NOIDA.
- (2) Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.
- (3) If the Contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.
- (4) Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.
- (5) Issues like Warranty / Guarantee etc. shall be outside the purview of IEMs.
- (6) 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.
- (7) In the event of any contradiction between the Integrity Pact and its Annexure, the Clause in the Integrity Pact will prevail.

(For & On behalf of the Principal)

(For & On behalf of Bidder/Contractor)

(Office Seal)

(Office Seal)

Place _____

Date _____

Witness 1:

(Name & Address)

Witness 2:

(Name & Address)

Telegraphic Address :
"SATARKTA: New Delhi

E-Mail Address
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Website
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सत्यमेव जयते

केन्द्रीय सतर्कता आयोग
CENTRAL VIGILANCE COMMISSION



सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,
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सं./No. 015/VGL/091

दिनांक / Dated 03.06.2021

Circular No. 06/05/21

**Subject:- Adoption 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.

2. The present SOP would replace the earlier SOP issued vide Circular No. 02/01/2017 dated 13.01.2017.

(Rajiv Varma)
Officer on Special Duty

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.

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. 02/1/2017 dated 13.01.2017, the Commission issued a Comprehensive Standard Operating Procedure (SOP) for adoption and implementation of Integrity Pact.

Further, vide Circular no. 15/10/20 dated 20.10.2020, the eligibility criteria for consideration for empanelment as Independent External Monitor (IEM) was reviewed and revised.

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
- 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. 3.10
- 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 Secretary to Govt. of India or were in equivalent pay scale, at the time of retirement.
 - (ii) Officer who have held the post of Chief Secretary of any state of Union of India or were equivalent pay scale, at the time of retirement.
 - (iii) Officers who have held the post of Director General of Police or were in apex pay scale, at the time of retirement.
 - (iv) 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.
 - (v) 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.
 - (vi) Chief Executive Officer of an organization [other than listed above and were equivalent to Secretary to Govt. of India, at the time of retirement.

- (vii) Officers who were in the apex pay scale at the time of retirement in Central Government/State Government/Forest Service.
- (viii) Officers in the apex pay scale in all three Armed Forces.

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.

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 financial 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.

